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Paper 13
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC., MOTOROLA MOBILITY LLC, and
TOSHIBA AMERICA INFORMATION SYSTEMS, INC.,
Petitioner,

v.

GLOBAL TOUCH SOLUTIONS, LLC,
Patent Owner.

Case IPR2015-01173
Patent 7,329,970 B2

Before JUSTIN BUSCH, LYNNE E. PETTIGREW, and BETH Z. SHAW, *Administrative Patent Judges*.

PETTIGREW, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Apple Inc., Motorola Mobility LLC, and Toshiba America Information Systems, Inc. (collectively, "Petitioner") filed a Petition for

inter partes review of claims 1, 3–5, 10–14, 19, 48, 49, 51, and 52 ("the challenged claims") of U.S. Patent No. 7,329,970 B2 (Ex. 1001, "the '970 patent"). Paper 4 ("Pet."). Global Touch Solutions, LLC ("Patent Owner") did not file a Preliminary Response. Institution of an *inter partes* review is authorized by statute when "the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a); *see* 37 C.F.R. § 42.108. Upon consideration of the Petition, we conclude the information presented shows there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of claims 1, 3–5, 10–14, 19, 48, 49, 51, and 52 of the '970 patent.

A. Related Matters

Petitioner identifies the following district court proceedings that may be affected by a decision in this proceeding: *Global Touch Solutions, LLC v. Toshiba Corp.*, No. 3:15cv2746-JD (N.D. Cal.); *Global Touch Solutions, LLC v. VIZIO, Inc.*, No. 3:15cv2747-JD (N.D. Cal.); *Global Touch Solutions, LLC v. Apple Inc.*, No. 3:15cv2748-JD (N.D. Cal.); *Global Touch Solutions, LLC v. Motorola Mobility LLC*, No. 3:15cv2749-JD (N.D. Cal.); *Global Touch Solutions, LLC v. Microsoft Corp., et al.*, No. 3:15cv2750-JD (N.D. Cal.). Paper 8, 1–2. Petitioner also has filed petitions for *inter partes* review of related U.S. Patent Nos. 7,994,726 (IPR2015-01171), 7,498,749 (IPR2015-01172), 7,781,980 (IPR2015-01174), and 8,288,952 (IPR2015-01175). The parties also identify as a related matter IPR2015-01149, which is a petition for *inter partes* review of the '970 patent filed by a different petitioner. Paper 7, 2; Paper 8, 2.

B. The '970 Patent

The '970 patent is directed to portable electronic devices that operate on exhaustible power sources such as batteries. Ex. 1001, Abstract. The '970 patent describes using a microchip-controlled switch that manages both current-conducting and user-interface functions in an electronic device such as a flashlight without the switch itself conducting current to the load. *Id.* at 3:41–46. A visible indicator such as a light emitting diode (LED) can be used to indicate the condition of the battery. *Id.* at 9:47–55, Fig. 11.

C. Illustrative Claim

Among the challenged claims, only claims 1 and 52 are independent. Claim 1 is illustrative and reads:

> 1. An electronic module for use with a product comprising an energy consuming load and a power source or a connection to a power source, said module comprising a microchip, and a switch;
>
> said switch being a user interface and does not form a serial link in a circuit that transfers power from the power source to power the load, and said microchip controlling a luminous visible location indicator that is not the load according to at least one configuration selected from the following group:
>
> a) wherein the visible indicator at least indicates a condition of the product upon receiving a signal from the user interface switch, and wherein the switch is a touch sensor type switch;
>
> b) wherein the visible indicator is activated at least to indicate an activation signal from the switch when the load is not activated; and

> c) wherein the visible indicator is also used to indicate a power level of the power source when the load is switched off and the product is not connected to a mains supply.

Id. at 13:60–14:13.

D. Asserted Grounds of Unpatentability

Petitioner contends that claims 1, 3–5, 10–14, 19, 48, 49, 51, and 52 of the '970 patent are unpatentable based on the following specific grounds (Pet. 28–50):

References	Basis	Challenged Claims
Beard[1] and Rathmann[2]	35 U.S.C. § 103(a)	1, 3, 5, 10–12, 14, 19, 48, and 49
Beard, Rathmann, and Danielson[3]	35 U.S.C. § 103(a)	4, 13, 51, and 52

In its analysis, Petitioner relies on the declaration testimony of Mr. Paul Beard. *See* Ex. 1003.

II. DISCUSSION

A. Claim Construction

In an *inter partes* review, we construe claim terms in an unexpired patent according to their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b). Consistent with the broadest reasonable construction, claim terms are presumed to have their ordinary and customary meaning as understood by a person of ordinary skill in the art in the context of the entire patent

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[1] U.S. Patent No. 5,898,290, issued Apr. 27, 1999 (Ex. 1005, "Beard").
[2] U.S. Patent No. 5,955,869, issued Sept. 21, 1999 (Ex. 1006, "Rathmann").
[3] U.S. Patent No. 5,710,728, issued Jan. 20, 1998 (Ex. 1007, "Danielson").

disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). An inventor may provide a meaning for a term that is different from its ordinary meaning by defining the term in the specification with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

Petitioner proposes constructions for "energy consuming load" and "mains." Pet. 8–10. For purposes of this decision, we determine that only "mains" requires express construction.

Petitioner contends that the broadest reasonable construction of "mains," recited in claim 1, includes "the power source provided by a main distribution network, such as a utility." *Id.* at 10. As Petitioner points out, the written description of the '970 patent does not use the term "mains." *Id.* Petitioner, however, asserts that a person of ordinary skill in the art would have understood "mains" in the context of the claims to refer to the power provided by a main utility distribution network. *Id.* (citing Ex. 1003 ¶ 125). Petitioner contends its proposed construction "follows from the distinction drawn in the specification between 'an electronic device, such as a flashlight' which is battery-operated, and a 'switch on the wall' that runs on mains power." *Id.* (comparing Ex. 1001, 3:41–4:53, 6:31–9:34, with Ex. 1001, 4:54–63, 11:24–48). For purposes of this decision, we adopt Petitioner's proposed construction of "mains" as the broadest reasonable construction consistent with the Specification of the '970 patent.

B. Obviousness over Beard and Rathmann
Claims 1, 3, 5, 10–12, 14, 19, 48, and 49

Petitioner contends that claims 1, 3, 5, 10–12, 14, 19, 48, and 49 are unpatentable under 35 U.S.C. § 103(a) as obvious over Beard and

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