Filed on behalf of: Apple Inc., *et al.*

Entered: June 6, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC. and MOTOROLA MOBILITY LLC,
Petitioner

v.

GLOBAL TOUCH SOLUTIONS, LLC,
Patent Owner

_____

Case IPR2015-01175
U.S. Patent No. 8,288,952 B2

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

**PETITIONERS' REPLY IN SUPPORT OF THEIR PETITION FOR
INTER PARTES REVIEW OF U.S. PATENT NO. 8,288,952**

Case IPR2015-01175
U.S. Patent No. 8,288,952

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I. INTRODUCTION

Patent Owner Global Touch Solutions, LLC's opposition is noteworthy for what it does not say. Global Touch and its expert witness do not dispute that all the basic technical elements of its alleged invention were known and used by those skilled in the field of portable, battery-powered devices in the late 1990s: batteries, switches, microchips, touch sensors. Global Touch and its expert also nowhere dispute that there was ample motivation among those in the field to combine references with complementary disclosures to solve the familiar problem of how to readily determine and indicate to a user the remaining battery power in a portable device. Rather, Global Touch tries to save the claims of its patent from being found invalid by adopting a familiar but flawed legal tactic: advocating an improperly narrow construction of a central claim term to avoid the prior art by improperly importing embodiments from the specification. This is improper under the *Phillips* claim construction standard and the Broadest Reasonable Interpretation standard governing in this proceeding.

Global Touch seeks to construe the simple term "energy consuming load," which appears in every claim, to require not just a load that consumes energy, but also that a microchip controls the flow of power to the load. This proposed construction, with its extraneous new limitation, finds no basis in the plain English words of the claim, is flatly contradicted by the claims of Global Touch's own

related patents, and epitomizes a "cardinal sin" of patent law: reading a limitation from an embodiment of the specification into the claims. Further, Global Touch distorts the word "function" in an attempt to avoid the prior art, relying on a tortured reading of the claims that is factually and legally unsound. These flawed arguments should be rejected and the Board should invalidate all of the challenged claims of the '952 patent.

II.   THE PRIOR ART DISCLOSES THE CLAIMED "ENERGY CONSUMING LOAD."

A.   Global Touch's Proposed Construction Should Be Rejected.

The Board previously determined that the term "energy consuming load" does not require construction. (Paper No. 8, "Inst. Dec." at 4-5.) Global Touch now asks the Board to reverse itself and construe the term, not by explaining or clarifying any of those three words, but by adding a new limitation: "an energy-consuming component *that receives power from the power source under the control of the microchip*."[1] (Paper No. 14, "Response" at 20.) This construction is not supported by the claims or specification, and is contradicted by the claims of related patents. It should be rejected.

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[1] All emphasis added, unless otherwise noted.

1. The Claim Language Does Not Support Global Touch's Construction.

Nothing in the claims supports Global Touch's new requirement. First, the claims do not include any language requiring that the microchip controls power to the load. Claim 1, for example, is reproduced below:

> 1. A method for implementing a user interface of a product, the product comprising a power source, or a connection for a power source and at least one energy consuming load, said method including the step of using an electronic module comprising an electronic circuit including a microchip and a touch sensor forming part of the user interface, said microchip at least partially implementing the touch sensor functions and said method including the step of activating a visible indication in response to an activation signal received from the user interface, wherein the visible indication provides information to a user on at least one item from the following group:
>
> a state or condition of the product,
>
> location of the user interface,
>
> a battery power level indication.

(Ex. 1001, "'952 patent" at 12:27-41.) The claim states that the electronic circuit includes a microchip, the microchip "at least partially implementing the touch sensor functions . . . ." The claim does not require, or even suggest, that the microchip controls power to the load—a fact confirmed by Global Touch's expert during deposition. (Ex. 1033, "Morley Tr." at 99:17-22.)

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