

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

IMMERSION CORPORATION,
Patent Owner.

Case IPR2016-01372
Patent No. 8,659,571

**IMMERSION CORPORATION'S MOTION FOR
OBSERVATION ON CROSS EXAMINATION**

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Pursuant to the Scheduling Order in IPR2016-01372, Paper 8, the Parties' Joint Stipulation to Modify Due Date 4, Paper 19, and the Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012), Patent Owner Immersion Corporation ("Immersion") respectfully brings this motion for observations on cross-examination of Apple's expert witness, Dr. Patrick Baudisch. Immersion submits the following observations on Dr. Baudisch's testimony:

Observation # 1

In Exhibit 2012, at page 24 lines 20-23, Dr. Baudisch testified that the Tinfo signal in Burrough can contain more information than signal S1 in Burrough: "Q: So then, if they're just a repackaging of each other, then S1 is the same as Tinfo? A: I said, 'in some embodiments.' Tinfo can be more. More processing can happen along the way." This is relevant to Petitioner's argument at page 16 of its Reply (and Dr. Baudisch's corresponding opinion at paragraph 28 of Ex. 1014) that "signals S and Tinfo may simply be different representations of the same gesture signal." This cross examination testimony is relevant because it shows that S and Tinfo are not the "same" and thus are not the "same gesture signal."

Observation # 2

In Exhibit 2012, at page 25 lines 9-12, Dr. Baudisch confirmed that "S1 is definitely one representation of a form of gesture signal." This is relevant to

Petitioner's argument at page 15 of its Reply (and Dr. Baudisch's corresponding opinion at paragraph 26 of Ex. 1014) that "PO contends that the 'only' signals that the Petition and Dr. Baudisch's declaration identify as the claimed 'gesture signals' in Burrough are the signal(s) S generated by sensing device 124." This cross examination testimony, in conjunction with Dr. Baudisch's testimony above that Tinfo contains different information than S1, is relevant because it shows that Patent Owner did not mischaracterize the Petition as identifying the claimed "first gesture signal" and "second gesture signal" in Burrough as the signal(s) S.

Observation # 3

In Exhibit 2012, at page 20 line 12 through page 21 line 13, Dr. Baudisch testified that Burrough does not expressly disclose that S1 includes direction information, speed information, or acceleration information because "Burrough doesn't really say what exactly is contained in S," and "in the simplest case, the gesture signal or touch signal S1 may just contain position or pressure, probably both." This is relevant to Petitioner's argument at page 21 of its Reply (and Dr. Baudisch's corresponding opinion at paragraphs 33-35 of Ex. 1014) that the first and second gesture signals comprise vector signals because they contain information about "magnitude" and "direction." This cross examination testimony is relevant because it establishes that the signals "S" that Petitioner alleges are first

and second gesture signals for purposes of claim 1 are not described by Burrough as including information about speed or direction.

Observation # 4

In Exhibit 2012, at page 19 line 24 through page 20 line 10, Dr. Baudisch testified that Burrough's Tinfo signal can contain information showing whether the distance between the fingers is increasing or decreasing. This is relevant to Petitioner's argument at page 16 of its Reply (and Dr. Baudisch's corresponding opinion at paragraph 28 of Ex. 1014) that "Burrough discloses that signals representing the motion of the user's fingers may be included in a Tinfo signal." This cross examination testimony is relevant because it shows that if Petitioner is relying on Tinfo as a "gesture signal" of claim 1, only one "gesture signal" (rather than a "first gesture signal" and a "second gesture signal") would be necessary to determine whether a zoom in or zoom out gesture is occurring as shown by Figure 11 of Burrough.

Observation # 5

In Exhibit 2012, at page 41 lines 21-23, Dr. Baudisch testified: "Q: So then it's your opinion that S1 always conveys user intent? A: . . . Following you down the path of Patent Owner's misinterpretation of claim constructions, I could certainly imagine cases where [Burrough's] S1 indicates an accidental gesture, like an accidental touching of the screen. And we're really deep in hypotheticals at that

point. I can imagine cases where it seems to convey meaning where, in reality, the touch was accidental, situations like this.” This is relevant to Petitioner’s argument at pages 4-7 of its Reply (and Dr. Baudisch's corresponding opinion at paragraphs 9-12 of Ex. 1014) that a gesture signal need only indicate a gesture, and need not itself convey meaning or user intent. This cross examination testimony is relevant to whether Petitioner’s interpretation accurately reflects the “conveys meaning or user intent” portion of the Board’s claim construction, because it shows that accidental touches do not convey meaning or user intent. This cross examination testimony is also relevant as to whether Petitioner’s claim interpretation conflicts with the Board’s interpretation, when the Board previously rejected Petitioner’s argument for Rosenberg 373 on the ground that “the Petition contains no discussion of any meaning or user intent that may be conveyed by the ‘sensor data’ of Rosenberg 373.” Paper 7 at 43.

Observation # 6

In Exhibit 2012, at page 45 lines 17-22, Dr. Baudisch testified: “So every touching of the screen generates a gesture signal in the Burrough system; correct? Well, that's what the inventor calls the simplest case.” This is relevant to Petitioner’s argument at pages 4-7 of its Reply (and Dr. Baudisch's corresponding opinion at paragraphs 9-12 of Ex. 1014) that a gesture signal need only indicate a gesture, and need not itself convey meaning or user intent. This cross examination

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