

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner

v.

IMMERSION CORPORATION
Patent Owner

U.S. Patent No. 8,773,356

Filing Date: January 31, 2012

Issue Date: July 8, 2014

Title: Method and Apparatus for Providing Tactile Sensations

Case IPR2016-01381

**PETITIONER'S RESPONSE TO PATENT OWNER'S CORRECTED
MOTION FOR OBSERVATION ON CROSS EXAMINATION**

Mail Stop Patent Board
Patent Trial and Appeal Board
P.O. Box 1450
Alexandria, VA 22313-1450

Petitioner Apple Inc. submits the following responses to Patent Owner's Corrected Motion for Observation (Paper No. 28) regarding the August 14, 2017 deposition of Petitioner's expert, Dr. Patrick Baudisch (Exhibit 2013).

1. Observation #1

Patent Owner's selected portion of Dr. Baudisch's testimony (Exhibit 2013 at 54:3-13), that Rosenberg 737 does not "exclude" networked computing, does not support Patent Owner's new argument that networked computing is "present" in Rosenberg 737, and is not relevant to the fact that Exhibit 2007 does not use a lookup table because it merely communicates information directly to another user. *See* Reply at 16-17 and Exhibit 1025 at ¶ 20.

2. Observation #2

Patent Owner's selected portion of Dr. Baudisch's testimony (Exhibit 2013 at 52:13-53:3; 54:15-21), that he is aware of networked computer gaming, does not support Patent Owner's new argument that networked computer gaming is "present" in Rosenberg 737, and is not relevant to the fact that Exhibit 2007 does not use a lookup table because it merely communicates information directly to another user. *See* Reply at 16-17 and Exhibit 1025 at ¶ 20.

3. Observation #3

Patent Owner's selected portion of Dr. Baudisch's testimony (Exhibit 2013 at 12:9-23) includes Dr. Baudisch's testimony that he assumes that a noun can

serve as an adjective in “some examples.” *See* Exhibit 2013 at 12:11-12. This testimony does not support, and actually refutes, Patent Owner’s new assertion that Dr. Baudisch did not consider the “possibility” that “interaction” was an adjective.

4. Observation #4

Patent Owner’s selected portion of Dr. Baudisch’s testimony (Exhibit 2013 at 16:10-17:6) regarding the open-ended nature of “comprising” confirms the breadth of the “based at least in part on” limitation. *See* Reply at 4; Exhibit 1025 at ¶ 9.

5. Observation #5

Patent Owner’s selected portion of Dr. Baudisch’s testimony (Exhibit 2013 at 19:2-5; 23:20-23:3), regarding his understanding of the meaning of the label “embodiment” in the specification, is not relevant to the stated issue, i.e., that certain disclosed embodiments are within the scope of the claim under Petitioner’s proposed construction and excluded by Patent Owner’s proposed construction. *See* Reply at 6-7 and Exhibit 1025 at ¶ 10. As Dr. Baudisch testified, “I certainly did analyze which parts of disclosure would be included or excluded, depending on particular constructions of claim 1.” Ex. 2013 at 25:2-6.

6. Observation #6

Patent Owner’s selected portion of Dr. Baudisch’s testimony (Exhibit 2013 at 25:12-19), regarding whether claim 1 necessarily encompasses all disclosed

embodiments, is not relevant to the stated issue, i.e., that certain disclosed embodiments (e.g., the dwell to select embodiment) are within the scope of the claim under Petitioner's proposed construction and excluded by Patent Owner's proposed construction. *See Reply at 6-7 and Exhibit 1025 at ¶ 10.* As Dr. Baudisch testified, "I certainly did analyze which parts of disclosure would be included or excluded, depending on particular constructions of claim 1." Ex. 2013 at 25:2-6; 75:11-25.

7. Observation #7

Patent Owner's selected portion of Dr. Baudisch's testimony (Exhibit 2013 at 37:2-11; 39:6-10) is not relevant to the stated issue, i.e., that certain disclosed embodiments (e.g., Figure 8 and accompanying text and function failure embodiments) are within the scope of the claim under Petitioner's proposed construction and excluded by Patent Owner's proposed construction. *See Reply at 6-7 and Exhibit 1025 at ¶ 10.* As Dr. Baudisch testified, "I certainly did analyze which parts of disclosure would be included or excluded, depending on particular constructions of claim 1." Ex. 2013 at 25:2-6; 83:17-25.

8. Observation #8

Patent Owner's selected portion of Dr. Baudisch's testimony (Exhibit 2013 at 67:7-17) includes the answer "Yes, that would be my understanding. If you look at the literature in touchscreens broadly, you realize that, typically, the screen is

redesigned in a way that targets on the screen are enlarged so as to make acquisition using a touch easier.” This testimony supports the arguments and testimony at Reply at 15 and Exhibit 1025 at ¶ 18. Patent Owner’s new argument that Rosenberg 737 also discloses that in “some” embodiments the PDA screen could have more or different functionality is not relevant to the stated issue.

9. Observation #9

Patent Owner’s selected portion of Dr. Baudisch’s testimony (Exhibit 2013 at 58:25-59:10; 161:13-18), regarding other embodiments in Rosenberg 737, is not relevant to the stated issue, which is directed to the menu selection embodiment in Rosenberg 737. *See* Reply at 15 and Exhibit 1025 at ¶ 18. Additionally, as Dr. Baudisch testified, the additional teachings of Rosenberg 737 relate to functionality that would be digitized, sequenced, and quantized such that the rate of change would be “very moderate” for the computer. Exhibit 2013 at 61:25-62:12.

10. Observation #10

Patent Owner’s selected portion of Dr. Baudisch’s testimony (Exhibit 2013 at 64:13-20), that he could not recall pointing out in his declarations where nonlinear equations were “needed” is not relevant to the stated issue, as the stated issue is obviousness, not inherency. *See* Reply at 15 and Exhibit 1025 at ¶ 16.

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