

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SONY CORPORATION, SONY MOBILE COMMUNICATIONS (USA) INC.,  
SONY MOBILE COMMUNICATIONS AB & SONY MOBILE  
COMMUNICATIONS INC.

Petitioners

v.

CREATIVE TECHNOLOGY LIMITED

Patent Owner

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Case No. IPR2016-01407

Patent No. 6,928,433

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**RESPONSE TO PATENT OWNER'S MOTION FOR OBSERVATIONS ON  
CROSS-EXAMINATION**

Petitioners submit this Response to the Motion for Observations on Cross-Examination filed by Patent Owner (“Creative”). Paper No. 33.

**A. Dr. Bederson Testified that the ’433 Patent Did Not Present Any New Solution to Any Problem.**

**Response to Observation Nos. 1 and 2:** These observations are irrelevant because the inventor’s identification of a purported problem need not be the basis, in an obviousness analysis, for combining prior art references. Further, these observations mischaracterize Dr. Bederson’s full testimony. The first observation omits the following portion of the cited testimony: “I certainly do disagree to the extent that [Mr. Bear] claimed that there was any novelty.” Ex. 2045 at 20:14-18. Consistent with that testimony and paragraph 3 of his reply declaration (Ex. 1020), Dr. Bederson testified at deposition that the ’433 patent (1) described a problem that was known in the prior art and (2) did not present any new solution to that known problem. Ex. 2045 at 10:22-24; 13:8-9; 19:22-20:8; 140:16-24. In both observations, Creative implies that Dr. Bederson agreed with Mr. Bear that the ’433 patent contributed to the field by solving a problem; however, Dr. Bederson explicitly disagreed and testified that the ’433 patent identifies a known problem and “merely recycled existing functionality according to known uses of that functionality” *Id.* at 20:1-4.

**B. Dr. Bederson Accurately Analyzed ISO 9241-14.**

**Response to Observation No. 3:** This observation mischaracterizes Dr. Bederson’s full testimony by implying that Dr. Bederson agreed that the ISO 9241-14 standard is limited in “scope” to “typical office tasks.” To the contrary, Dr. Bederson testified that the “Scope” section of ISO 9241-14 “is over a page long and describes in much more detail the range of things that this standard applies to” and that “there’s no question that it would be clear that the vast majority of these recommendations would be highly relevant *to all uses* of menu dialogues on video display terminals [(“VDTs”).”<sup>1</sup> Ex. 2045 at 28:17-29:17; *see also id.* at 30:10-22; 31:18-32:2. Indeed, Dr. Bederson specifically testified that it was “quite clear” that “these [design principles] actually apply to a much broader set of interface designs” and were not “exclusive to office tasks.” *Id.* at 33:8-16; *see also id.* at 34:1-15; 34:16-35:11; 36:6-20; 141:1-14. Moreover, Dr. Bederson explained that “mobile devices” and “handheld electronic devices” such as the Palm Pilot, which is a VDT, were used in office work before 1999. *Id.* at 139:3-140:3.

**Response to Observation No. 4:** The observation is misleading and incorrect. The observation’s assertion that a POSA “would not have relied on ISO 9241-14’s disclosures ... in light of the document’s failure to ... disclose any applicability to portable devices” is contradicted by Dr. Bederson’s testimony.

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<sup>1</sup> All emphasis herein added unless noted otherwise.

First, Creative selectively quotes from the cited testimony, omitting Dr. Bederson's explanation that "an earlier section of this standard described VDTs, or visual display terminals, in a fairly inclusive manner." Ex. 2045 at 38:8-16. Second, Dr. Bederson testified that the "earlier section of the standard" ("Part 1," the "General Introduction") defined "video display terminals ... without referring to the specific size" and therefore was not "restricted to any particular size." *Id.* at 37:5-17. Finally, Dr. Bederson testified that a POSA "would have considered the hierarchal menu and related recommendations of the ISO 9241-14 applicable to devices with small screens" and would "have considered those recommendations applicable to portable or handheld devices." *Id.* at 141:1-14.

**Response to Observation No. 5:** This observation is misleading and incorrect. The observation's assertion that ISO 9241-14 is limited to input devices for conventional desktop computers is contradicted by the text of ISO 9241-14 and by Dr. Bederson's full testimony. Contrary to Creative's assertion, ISO 9241-14 contemplates that its teachings apply to input devices other than alphanumeric keyboards, function keys, and cursor keys. Ex. 1023 at 1 ("other [input] devices are not excluded"); Ex. 2045 at 41:18-21. Indeed, ISO 9241 has an entire section dedicated to nonkeyboard input devices. Ex. 1023 at iv ("Part 9: Requirements for nonkeyboard input devices"). This observation also mischaracterizes Dr. Bederson's full testimony by omitting Dr. Bederson's testimony that such input

devices were “present on *portable* computers” (Ex. 2045 at 42:2-8) *and* were present on *handheld portable* devices in the 1990s (*id.* at 43:23-44:8). Further, as discussed above in the Responses to Observations Nos. 3 and 4, Dr. Bederson explained why a POSA would have known to apply the teachings of ISO 9241-14 to portable or handheld devices.

**Response to Observation No. 6:** This observation is misleading and incorrect. The observation’s assertion that a POSA “would not have found ISO 9241-14 applicable to ... a user interface for a portable media player” is contradicted by Dr. Bederson’s full testimony. As discussed above in the Responses to Observations Nos. 3 and 4, Dr. Bederson explained why a POSA would have considered the teachings of ISO 9241-14 applicable to handheld devices. *See also* Ex. 2045 at 49:22-50:7 (applicable to “controlling music”); 50:14-51:1 (same for “media content and music”). Further, the observation’s assertion that articles cited in ISO 9241-14 relate to desktop computers ignores Dr. Bederson’s testimony that “a focus in the 1980’s of [human-computer interface] research [was] to go beyond specific design solutions *to understanding general principles*” (*id.* at 46:22-47:5), which is further supported by one author “doing work on touchscreen mobile interfaces” in the mid-90’s (*id.* at 45:17-46:10) and Dr. Bederson’s experience that disclosures for large screen user interfaces are directly applicable to smaller screens (*id.* at 46:15-48:8). *See also id.* at 56:5-57:1

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