UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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ACER INC., ACER AMERICA CORPORATION, ASUSTEK
COMPUTER INC., ASUS COMPUTER INTERNATIONAL, GOOGLE
INC., MICROSOFT CORPORATION, and MICROSOFT MOBILE INC.,
Petitioner,

v.

KONINKLIJKE PHILIPS N.V.,
Patent Owner.
_____

Case IPR2017-00386, IPR2017–01766
Patent RE44,913
_____

Record of Oral Hearing
Held: February 28, 2018
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Before DAVID C. McKONE, ROBERT J. WEINSCHENK, and KAMRAN
JIVANI, *Administrative Patent Judges.*

APPEARANCES:

ON BEHALF OF THE PETITIONER:

    AARON P. MAURER, ESQUIRE
    Williams & Connolly, LLP
    725 12th Street, N.W.
    Washington, D.C. 20005

ON BEHALF OF THE PATENT OWNER:

    JUSTIN J. OLIVER, ESQUIRE
    JASON M. DORSKY, ESQUIRE
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    The above-entitled matter came on for hearing on Wednesday, February 28, 2018, commencing at 9:00 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

P R O C E E D I N G S

1   -   -   -   -   -

2   JUDGE WEINSCHENK: Good morning, everyone. This is a

3   hearing for IPR2017-00386. Let's start with appearances. And when you

4   make your appearance, please step up to the center podium. Who do we

5   have for petitioner?

6   MR. MAURER: Good morning, Your Honors. Aaron Maurer on

7   behalf of petitioner, Google, Inc. With me here today is my colleague, Chris

8   Suarez, and also John Colgan from Google.

9   MR. McKEEVER: Good morning, Your Honor. Patrick

10   McKeever on behalf of the Microsoft petitioners in the joined proceedings.

11   JUDGE WEINSCHENK: Who do we have for patent owner?

12   MR. OLIVER: Good morning, Your Honor. Justin Oliver of

13   Fitzpatrick Cella. With me at counsel table is Jason Dorsky, also of

14   Fitzpatrick Cella, on behalf of patent owner.

15   JUDGE WEINSCHENK: Thank you. So just a few housekeeping

16   matters, first. As you can see, Judges McKone and Jivani are appearing

17   remotely. So when you make your presentations, please step up to the center

18   podium so they can hear you. Please also refer to any slide numbers in your

19   demonstratives so they can follow along.

20   Per our order, each side will have 45 minutes to make their

21   presentation. We'll start with petitioner and then follow up with patent

22   owner. Petitioner, before you begin, just let us know how much time, if any,

23   you would like to reserve for rebuttal. You can begin when you are ready.

1   MR. MAURER: Good morning, Your Honors. I would like to

2   reserve 15 minutes for rebuttal.

3   Let's start, if we can, with slide 2, which is claim 1 of the reissued

4   '413 [sic] patent. It's not disputed that every element of this claim except for

5   the last element is found in the prior art Sakata II reference. So if I may, I

6   would like to start with the primary question facing the Board, which is

7   would a person of ordinary skill in the art have been motivated to modify the

8   Sakata II reference to remove its character substitution step, thereby

9   satisfying the "returning the keypad to the default state" element of the claim

10   of the '913 patent. As shown by the evidence here, the answer is absolutely

11   yes.

12   JUDGE JIVANI: Counsel, I understand that you would like to

13   start at that position, but since you have put the language of the claim up in

14   front of us, I wonder if you might instead address, please, patent owner's

15   position on construction of the term "secondary character." I understand

16   from their briefing that their position is that a secondary character can only

17   be displayed in a second state. It's not particularly clear for me from your

18   briefing what petitioner's position is on that proposition.

19   MR. MAURER: Sure. So the plain meaning as to the -- there's

20   actually two claim terms. I would like to address them together. I think that

21   makes sense since they are related.

22   JUDGE JIVANI: Please.

23   MR. MAURER: There's two terms at issue here. One is "primary

24   character" and the second is "secondary character." And we respectfully

25   request they be given their plain meaning, which is that the primary

4

1 characters are ones that appear in the default state, and the secondary

2 characters are ones that appear in the secondary state.

3 I think there's two distinctions between our construction, the plain

4 meaning construction, and what the patent owner suggests. With respect to

5 the primary character, they suggest that the primary character is -- can be

6 selectable in either the default state or in the secondary state. And that is

7 incorrect. And then they suggest that the secondary characters are only

8 selectable in the secondary state. I think they are putting a lot of weight on

9 that word "only" in their proposed construction.

10 Let's take a look at how this patent works. Let's look at Figure 1, if

11 we can, slide 5. So this is the default state as described in the patent. When

12 you look at Figure 1, if you long press on one of these keys, the patent uses

13 the 5 key as the example, you then switch to a secondary state.

14 So let's look at, if we could, slide 6, which is Figure 2, which is a

15 secondary state that's associated with long press of the 5 key. And where

16 does Figure 2 come from? Well, the patent describes that it comes from a

17 key character table. And they provide an example of that in table 2, which

18 we have in slide 13. The patent says that the key character table provides

19 the information to build out that display in Figure 2.

20 If you look at table 2, there's two columns. The left column is key,

21 and that refers to the position on the telephone keypad. And then the second

22 column is display secondary character, and that is the actual character that is

23 then displayed, enabled for selection. Table 2 clearly labels all of those as

24 secondary characters. Patent owner would suggest that the 5 key here would

25 be a primary character, but that is contrary to what table 2 shows.

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