UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,
Petitioner,

v.

IMMERSION CORPORATION,
Patent Owner.

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Case IPR2017-01310
Patent 8,749,507 B2

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Before MICHAEL R. ZECHER, BRYAN F. MOORE, and MINN CHUNG,
Administrative Patent Judges.

CHUNG, *Administrative Patent Judge.*

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314(a) and 37 C.F.R. § 42.108

I. BACKGROUND

A. Introduction

Apple Inc. ("Petitioner") filed a Petition (Paper 1, "Second Petition" or "Second Pet.") requesting an *inter partes* review of claims 1–18 (the "challenged claims") of U.S. Patent No. 8,749,507 B2 (Ex. 1101, "the '507 patent"). As discussed further below, the Second Petition challenges most of the same claims of the '507 patent that Petitioner challenged in its prior petition filed in Case IPR2016-01777 ("First Petition" or "First Pet."). Immersion Corporation ("Patent Owner") filed a Preliminary Response (Paper 7, "Prelim. Resp.").

Institution of *inter partes* review is discretionary. *See* 35 U.S.C. § 314(a); 37 C.F.R. § 42.108(a). Under the circumstances of this case, for the reasons explained below, we exercise our discretion to not institute an *inter partes* review on any of claims 1–18 of the '507 patent.

B. Related Proceedings

According to the parties, the '507 patent is the subject of the following proceedings: (1) *Immersion Corp. v. Apple Inc.*, Nos. 1:16-cv-00077 and 1:16-cv-00325 (D. Del.); and (2) *In re Certain Mobile and Portable Electronic Devices Incorporating Haptics (Including Smartphones and Laptops) and Components Thereof*, ITC Investigation Nos. 337-TA-990 and 337-TA-1004 (consolidated) (USITC). Second Pet. 1; Paper 6, 2.

The '507 patent was also the subject of the First Petition filed by Petitioner in Case IPR2016-01777, in which we denied institution as to claims 1–5, 9–12, and 14–17 of the '507 patent. *Apple Inc. v. Immersion*

Corp., Case IPR2016-01777 (PTAB Mar. 23, 2017) (Paper 7) ("1777 Dec. on Inst.").

C. The '507 Patent

The '507 patent describes a system and method for adaptively interpreting a user's intent based on parameters supplied by a touch-sensitive input device. Ex. 1101, Abstract. Figure 1 of the '507 patent is reproduced below.
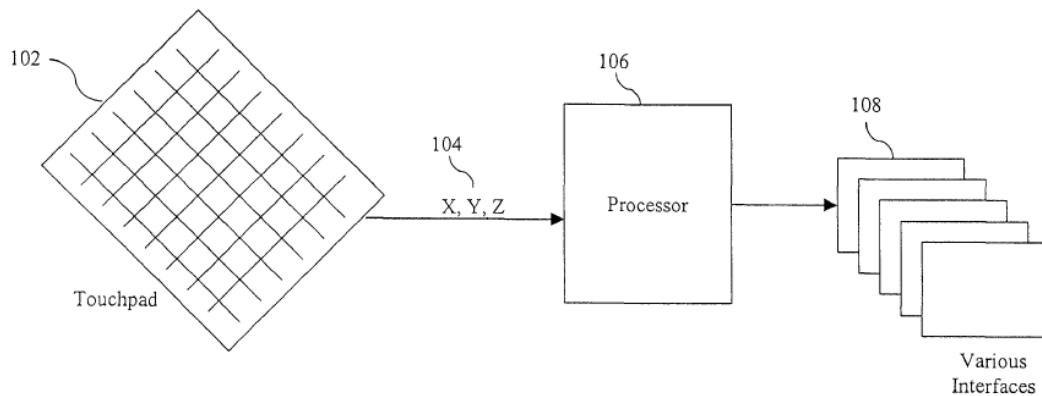

FIG. 1

Figure 1 depicts an exemplary system for implementing embodiments of the '507 patent. *Id.* at col. 2, ll. 23–25, 37–39. As shown in Figure 1, touchpad 102 senses the positions of a touch on the surface of the touchpad, and provides an output signal comprising position data (X and Y parameters) and pressure data (Z parameter) to processor 106. *Id.* at col. 2, ll. 41–45, col. 3, ll. 51–52. According to the '507 patent, in order to address the difficulties faced in attempting to determine the intent of a user based on the X, Y, and Z parameters, the disclosed invention provides systems and methods for adaptive interpretation of the intent of a user of a touch-sensitive input device. *Id.* at col. 4, ll. 56–58, 64–66.

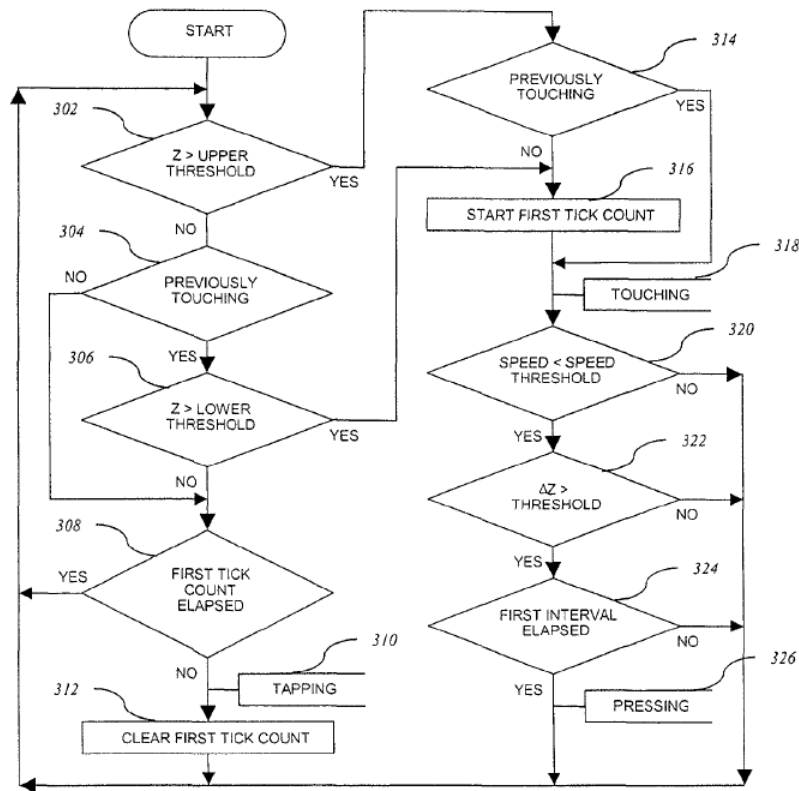Figure 3 of the '507 patent is reproduced below.

FIG. 3

Figure 3 depicts a flowchart illustrating a process for detecting a finger press by a user on a touchpad. *Id.* at col. 2, ll. 28–30, col. 7, ll. 7–9. At step 302 shown in Figure 3, the processor determines if the output signal received from the touchpad indicates that the pressure of a user touch exceeds an upper threshold. *Id.* at col. 8, ll. 21–22. If so, the processor checks at step 314 if the user was touching the touchpad previously. *Id.* at col. 8, ll. 22–24. If the user was not previously touching the touchpad, the processor starts the first tick counter and decides the user is now touching the touchpad. *Id.* at col. 8, ll. 25–27. Once the processor concludes that the user is touching the touchpad, the processor compares the speed of the finger movement on the

touchpad to a speed threshold value. *Id.* at col. 8, ll. 31–33; *see also id.* at col. 7, l. 65–col. 8, l. 4 (describing a method of determining the speed of the finger movement and stating that until the speed falls below a speed threshold the processor will not recognize a press). If the speed is less than the speed threshold, the change in pressure (from the previously received value) is compared to a change threshold. *Id.* at col. 8, ll. 41–42. If the change in pressure is determined to be greater than the change threshold at step 322, the processor determines whether a first interval (in the first tick counter) has elapsed at step 324. *Id.* at col. 8, ll. 44–47. If so, the processor concludes that the user is pressing. *Id.* at col. 8, ll. 47–48.

In other words, in order to determine that a user is pressing, the following three conditions must be met: (1) the pressure exceeds the pressure threshold; (2) the change in pressure is greater than the change threshold; and (3) the first interval has elapsed. In the process described in Figure 3, the first two conditions must be maintained for the duration of the first interval, i.e., the user must continue to touch for the duration of the first interval, before a press is recognized.

D. Illustrative Claim

Of the challenged claims, claims 1, 9, and 14 are independent. Claim 1 is illustrative of the challenged claims and is reproduced below.

1. A method comprising:

    receiving contact data from an input device;

    determining an interaction with a displayed object on a screen based on the contact data;

    responsive to determining the interaction, determining a gesture based on the contact data comprising:

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