UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC. & MICROSOFT CORPORATION,
Petitioner,

v.

NEODRON LTD.,
Patent Owner.

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IPR2020-01000
Patent 8,749,251 B2

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Before MIRIAM L. QUINN, PATRICK M. BOUCHER, and
SCOTT B. HOWARD, *Administrative Patent Judges.*

HOWARD, *Administrative Patent Judge.*

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

INTRODUCTION

A.   Background and Summary

Apple Inc. and Microsoft Corporation ("Petitioner") filed a Petition to institute an *inter partes* review of claims 1–20 of U.S. Patent No. 8,749,251 B2 (Ex. 1001, "the '251 patent"). Paper 1 ("Petition," "Pet."). Neodron Ltd. ("Patent Owner") did not file a Patent Owner Preliminary Response.

We have authority, acting on the designation of the Director, to determine whether to institute an *inter partes* review under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a). *Inter partes* review may not be instituted unless "the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a) (2018). A decision to institute under 35 U.S.C. § 314 may not institute on fewer than all claims challenged in the Petition. *SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348, 1359–60 (2018).

For the reasons set forth below, upon considering the Petition and the evidence of record, we determine that the information presented in the Petition establishes a reasonable likelihood that Petitioner will prevail with respect to at least one of the challenged claims. Accordingly, we institute *inter partes* review on all of the challenged claims based on all of the grounds identified in the Petition.

B.   Real Parties in Interest

Petitioner identifies Apple Inc. and Microsoft Corporation as the real parties in interest. Pet. 44.

Patent Owner identifies Neodron Ltd. as the real party in interest. Paper 6, 1 (Patent Owner's Mandatory Notices).

C. *Related Matters*

Petitioner and Patent Owner each identify a number of district court proceedings and an International Trade Commission proceeding in which Patent Owner asserts the '251 patent. Pet. 44; Paper 6, 2.

We take official notice of a second petition filed by Petitioner requesting *inter partes* review of claims 1–20 of the '251 patent. *See Apple Inc. v. Neodron Ltd.*, IPR2020-00998, Paper 1 (Petition). In a decision issued concurrently with this one, we institute *inter partes* review in that proceeding. *Apple Inc. v. Neodron Ltd.*, IPR2020-00998, Paper 8 (Institution Decision).

D. *The '251 Patent*

The '251 patent, which is entitled "Proximity Sensor," issued from Application 13/116,764 ("the '764 application"), which was filed on May 26, 2011. Ex. 1001, codes (21), (22), (54). The '764 application is a continuation of application 12/179,769 ("the parent '769 application") and claims the benefit of the filing date of provisional application 60/952,053 ("the provisional '053 application"). *Id.* at 1:5–9, codes (60), (63).

The '251 patent states that "[c]apacitive position sensors have recently become increasingly common and accepted in human interfaces and for machine control." Ex. 1001, 17–19. According to the '251 patent, "in the fields of portable media players it is now quite common to find capacitive touch controls operable through glass or plastic panels. Some mobile telephones are also starting to implement these kinds of interfaces." *Id.* at 1:19–24.

The '251 patent further describes how capacitive touch sensors may be used:

Many capacitive touch controls incorporated into consumer electronic devices for appliances provide audio or visual feedback to a user indicating whether a finger or other pointing object is present or approaches such touch controls. A capacitive sensing microprocessor may typically be comprised in touch-controlled devices which are arranged to provide an "on" output signal when a finger is adjacent to a sensor and an "off" output signal when a finger is not adjacent to a sensor. The signals are sent to a device controller to implement a required function dependent on whether a user's finger is in proximity with or touching an associated touch control.

Id. at 1:25–36. According to the '251 patent, a problem with those devices is that some "remain 'on' or 'active' despite the user having moved away from the device or a particular function no longer being required. This results in the device consuming a large amount of power, which is not efficient." *Id.* at 1:37–41.

The '251 patent addresses that problem by using a control circuit to "determine whether an object or a user's finger is no longer in proximity with the sensor." Ex. 1001, 4:47–54. "[B]ased on a predetermined time duration, the control circuit can produce an output signal automatically to prevent the capacitance measurement circuit from continually measuring changes in capacitance due to, for example, the perceived presence of an object in proximity with the sensor." *Id.* According to the '251 patent, this allows the control circuit "to deactivate, turn-off, or power down the capacitance measurement circuit where an apparatus has inadvertently been left on or with the erroneous perception that a user is still present. This may, for example, be referred to as an 'auto-off' feature." *Id.* at 4:55–59; *see also id*. at 10:41–13:57 (providing details of the auto-off feature).

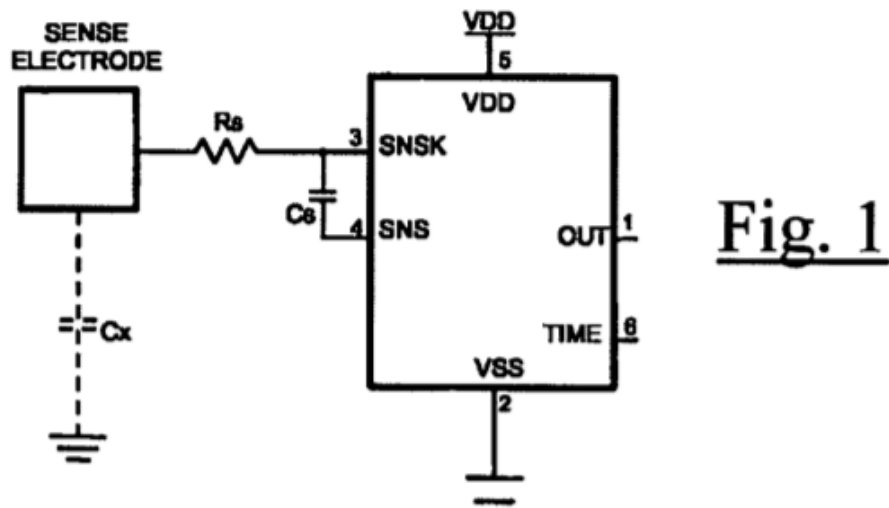Figure 1 of the '251 patent is reproduced below.

Figure 1 "schematically shows sense electrode connections for an example chip for implementing an auto-off function." Ex. 1001, 3:13–15.

E.   *Illustrative Claims*

Of the challenged claims, claims 1, 10, and 16 are independent. Each of challenged claims 2–9, 11–15, and 17–20 depends, directly or indirectly, from claim 1, 10, or 16.

Claim 1 is illustrative and reads as follows:

> 1. An apparatus comprising:
>
> a sensing element of a touch screen; and
>
> one or more computer-readable non-transitory storage media coupled to the sensing element and embodying logic that is operable when executed to:
>
>> determine an amount of time that has elapsed since the sensing element last detected a change of capacitance indicative of a key touch on the touch screen; and
>>
>> if the amount of time that has elapsed exceeds a predetermined time duration, then initiate a particular function of the apparatus.

Ex. 1001, 17:44–54.

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