UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO. LTD, SAMSUNG ELECTRONICS
AMERICA, INC., and APPLE INC.,
Petitioner,

v.

NEONODE SMARTPHONE LLC,
Patent Owner.

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IPR2021-00144
Patent 8,095,879 B2

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Before MICHELLE N. ANKENBRAND, KARA L. SZPONDOWSKI, and
CHRISTOPHER L. OGDEN, *Administrative Patent Judges*.

ANKENBRAND, *Administrative Patent Judge*.

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

I. INTRODUCTION

Samsung Electronics Co. Ltd., Samsung Electronics America, Inc., and Apple Inc. (collectively, "Petitioner") filed a Petition requesting an *inter partes* review of claims 1–6 and 12–17 of U.S. Patent No. 8,095,879 B2 (Ex. 1001, "the '879 patent"). Paper 6 ("Pet."). Neonode Smartphone LLC ("Patent Owner") filed a Preliminary Response. Paper 23 ("Prelim. Resp.").

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314 (2018); 37 C.F.R. § 42.4(a) (2020). The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted "unless the Director determines . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least [one] of the claims challenged in the petition."

For the reasons set forth below, upon considering the Petition, Preliminary Response, and evidence of record, we determine the information presented in the Petition does not establish a reasonable likelihood that Petitioner would prevail with respect to at least one of the challenged claims. Accordingly, we deny the Petition, and do not institute an *inter partes* review.

II. BACKGROUND

A. Related Matters

The parties identify the following district court proceedings related to the '879 patent: *Neonode Smartphone LLC v. Apple Inc.*, Case No. 6:20-cv-00505 (W.D. Tex.) and *Neonode Smartphone LLC v. Samsung Electronics Co. Ltd.*, Case No. 6:20-cv-00507 (W.D. Tex.). Pet. 92–93; Paper 7, 2.

Patent Owner also identifies as related IPR2021-00145 (challenging U.S. Patent No. 8,812,993 B2). Paper 7, 2.

B. Overview of the '879 Patent

The '879 patent, titled "User Interface for Mobile Handheld Computer Unit," issued on January 10, 2012. Ex. 1001 at [45], [54]. The '879 patent describes a user interface for a mobile handheld computer that has a touch sensitive area divided into a menu area and a display area. *Id.* at 1:6–9. The menu area shows a representation of a first, a second, and a third predefined function that "can be activated when the touch sensitive area detects a movement of an object with its starting point within the representation of the function on the menu area and with a direction from the menu area to the display area." *Id.* at 1:65–2:5, 2:11–14. "The first function is a general application dependent function, the second function is a keyboard function, and the third function is a task and file manager." *Id.* at 2:7–10.

The user interface is "specifically adapted to be used with a small computer unit" having a touch sensitive area that is approximately 2–3 inches and also is adapted so that a user can operated it with one hand. *Id.* at 3:1–6.

We reproduce Figure 1 of the '879 patent below.
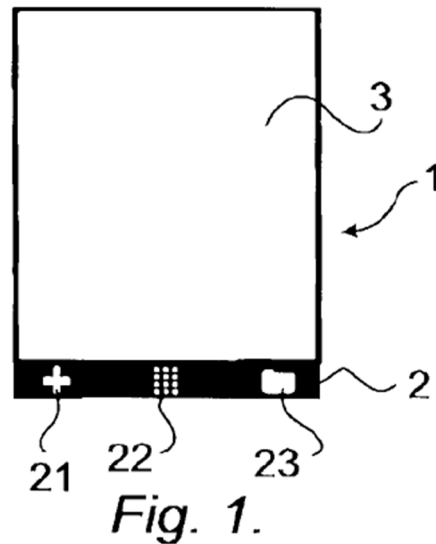
Fig. 1.

Figure 1 is a schematic view of touch sensitive area 1 on a mobile handheld computer unit, depicting menu area 2 adapted to present a representation of first 21, second, 22, and third 23 predefined functions. *Id.* at 3:21–22, 4:1–3. We reproduce Figure 2 of the '879 patent below.
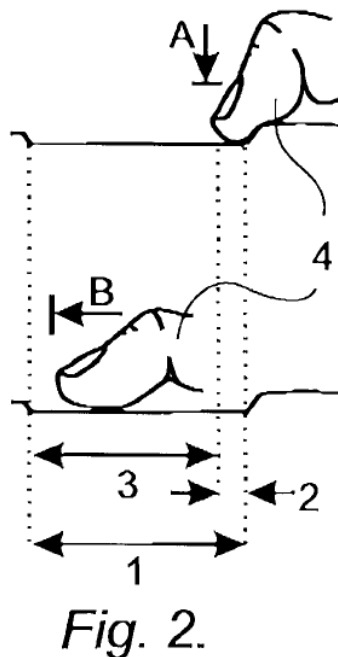

Fig. 2.

Figure 2 is a schematic side view illustrating how a user activates a function. *Id.* at 3:24–25. A user can activate any one of functions 21, 22, or 23 when

touch sensitive area 1 detects a movement of object 4 with its starting point
A within the representation of a function on menu area 2 and with direction
B from menu area 2 to display area 3. *Id.* at 4:7–11. Object 4 can be a
finger, a pen, or another pointing device. *Id.* at 6:11–15.

The '879 patent explains that when a user activates, for example, the
first function, the display area is adapted to display icons representing
services or settings, depending on the current active application. *Id.* at 2:18–
20. Figure 3, which we reproduce below, illustrates first function 21
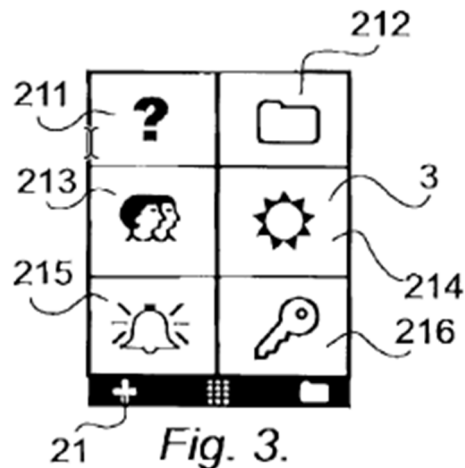activated.

Fig. 3.

Figure 3 is a schematic illustration of the first function. *Id.* at 3:26. Figure 3
shows that after a user activates first function 21 with the movement
depicted in Figure 2, display area 3 displays icons 211–216, each
representing services or functions depending on the current active
application. *Id.* at 4:12–15. If, for example, the active application handles a
picture, then the icons showing on display area 3 after a user activates the
first function "can be services such as 'save to disk', 'send as SMS', or
'delete', and they can be setting such as 'resolution', 'colour', or
'brightness'." *Id.* at 4:24–28. If no application is active on the computer,

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