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Paper 24
Date: June 16, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

NEONODE SMARTPHONE LLC,
Patent Owner.

IPR2021-00145
Patent 8,812,993 B2

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

OGDEN, *Administrative Patent Judge*.

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

I. INTRODUCTION

Petitioners Samsung Electronics Co. Ltd., Samsung Electronics America, Inc., and Apple Inc. (collectively, "Petitioner")[1] filed a Petition (Paper 6, "Pet.") under 35 U.S.C. §§ 311–319 requesting *inter partes* review of claims 1–8 of U.S. Patent No. 8,812,993 B2 (Ex. 1001, "the '993 patent"). Patent Owner Neonode Smartphone LLC ("Neonode")[2] filed a Preliminary Response (Paper 23, "Prelim. Resp.").

Under the authority delegated to us by the Director under 37 C.F.R. § 42.4(a), we may institute an *inter partes* review when "the information presented in the petition . . . and any response . . . 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); *see also* 37 C.F.R. § 42.108(c) (2019). Applying that standard, we institute an *inter partes* review of all the challenged claims of the '993 patent for the reasons explained below. This is a preliminary decision, and we will base our final written decision on the full trial record, including any timely response by Neonode.

II. BACKGROUND

A. RELATED PROCEEDINGS

The parties identify the following as related matters: *Neonode Smartphone LLC v. Apple Inc.*, No. 6:20-cv-00505 (W.D. Tex. filed June 8,

[1] According to the Petition, the named Petitioners are the real parties in interest. Pet. 93.

[2] Neonode identifies itself as the real party in interest. Paper 7, 2.

2020); and *Neonode Smartphone LLC v. Samsung Electronics Co. Ltd.*, No. 6:20-cv-00507 (W.D. Tex. filed June 8, 2020). Pet. 93–94; Paper 7, 2.

B. THE '993 PATENT (EX. 1001)

The '993 patent relates to a user interface on a device that has a touch-sensitive display screen. *See* Ex. 1001, 1:14–17, code (57). Figure 1 of the '993 patent, reproduced below, illustrates such a user interface:

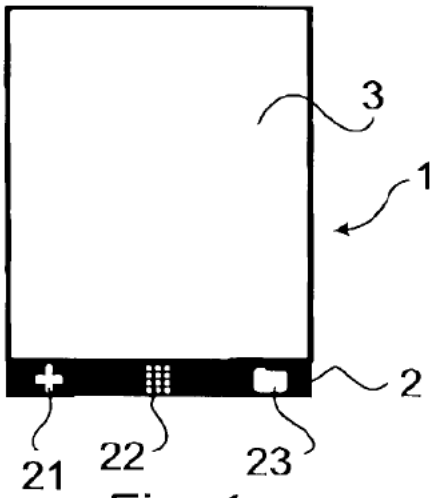

Fig. 1.

Figure 1 depicts a touch-sensitive area (1) on a mobile handheld device. Ex. 1001, 3:30–31, 3:57–60. It is divided into a menu area (2) and a display area (3). *Id.* at 3:60–61. Menu area 2 is a narrow strip along the lower part of touch-sensitive area 1 that contains predefined functions 21 (a general application-dependent function), 22 (a keyboard), and 23 (a task and file manager). *Id.* at 4:9–14.

Figure 2, reproduced below, shows how to activate the functions in menu area 2:

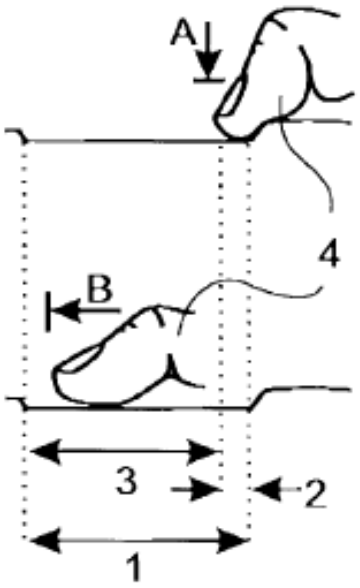

Fig. 2.

Figure 2 of the '993 patent illustrates a touch gesture by which a user may activate functions 21, 22, or 23 in area 2. *See* Ex. 1001, 4:15–19. This gesture begins when object 4 (in this case a finger) touches the display at point A within representation 21, 22, or 23, and moves in direction B away from menu area 2 into display area 3. *Id.*

Figure 3, reproduced below, illustrates the touch screen after function 21 has been activated:

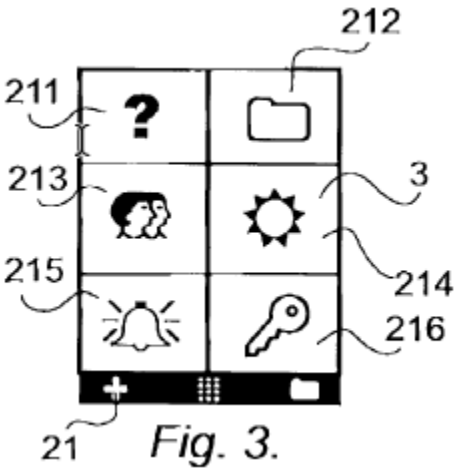

Fig. 3.

Ex. 1001, 3:33. Figure 3 shows that after a user activates function 21 with the gesture as illustrated in Figure 2, display area 3 displays icons 211–216, which each represent services or functions depending on the currently active application. *Id.* at 4:20–23. If there is no currently active application, the icons may represent services or settings of the operating system, such as background picture, clock alarm 215, users 213, and help 211. *Id.* at 4:36–40. Analogously, selecting function 22 activates a keyboard, and selecting function 23 activates a library of available applications and files on the device. *Id.* at 4:43–45, 5:3–5, Figs. 5–6.

Figure 4, reproduced below, illustrates how a user selects one of icons 211–216 in Figure 3:

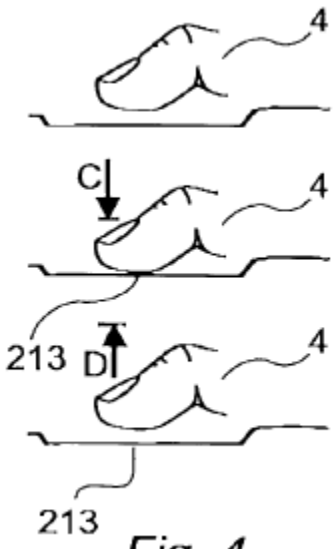

Fig. 4.

Figure 4 is a schematic illustration showing object 4 (a finger) selecting function 213 by "tapping C, D on corresponding icon 213." Ex. 1001, 4:41–42.

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