Paper No. __

Filed on behalf of Patent Owner by:
Gerald B. Hrycyszyn, Reg. No. 50,474
Richard F. Giunta, Reg. No. 36,149
Curtis R. Powell, Reg No. 73,995
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210
(617) 646-8000 Phone
(617) 646-8646 Fax

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

LENOVO (UNITED STATES) INC.,
Petitioner,

v.

LITL LLC,
Patent Owner.

_____

IPR Case No. IPR2021-00822
U.S. Patent No. 8,624,844

_____

PATENT OWNER'S PRELIMINARY RESPONSE

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

TABLE OF CONTENTS

I. INTRODUCTION 1

A. The Petition Is Procedurally Improper 1

B. The Petition's Grounds Fail on the Merits 3

II. LITL'S '844 PATENT 4

A. Challenged Claims 5

B. The Challenged Claims Cover LiTL's Webbook 5

C. Claimed Aspects of LiTL's Webbook Received Contemporaneous Praise 8

III. THE PETITION FAILED TO IDENTIFY WITH PARTICULARITY HOW THE PRIOR ART IS ALLEGED TO MEET THE CHALLENGED CLAIMS 9

A. The Petition's Conclusory Analysis Improperly Relied on a Web of Nested Cross-References 9

B. The Web of Nested Cross-References Improperly Shifts the Burden of Deciphering Petitioner's Arguments onto Patent Owner and the Board 15

C. The Petition Fails to Map the Language of the Challenged Claims to Its Prior Art Combinations 17

1. A Mismatch Between Claim Element Labels in the Petition and Claim Listing Results in the Petition Failing to Align Its Prior Art Allegations with Claims 1-9 18

2. The Board Should Reject the Petition's Invitation to Launch an Archaeological Expedition Simply to Ascertain How Petitioner Alleges the Claims Are Mapped to Its Prior Art Combinations 19

IV. LENOVO'S EXPERT TESTIMONY CANNOT SAVE THE PETITION 20

A. The Testimony Merely Parrots the Petition 20

B. The Declaration Cannot Be Incorporated by Reference into the Petition 21

C. Exhibits Cannot Be Incorporated by Reference into the Petition 22

DOCKET ALARM

Find authenticated court documents without watermarks at docketalarm.com.

V. THE PETITION IMPROPERLY MOVED ARGUMENT TO AN EXHIBIT 22

VI. THE PETITION FAILED TO DEMONSTRATE UNPATENTABILITY OF ANY CHALLENGED CLAIM 23

A. Ground 1 Fails for Claims 1, 3-5, and 7-9 23

1. Independent Reason 1: Lenovo Failed to Establish that the Cited Prior Art Discloses a Frame Mode 23

a. Frame Mode 24

b. Tablet Mode 24

c. Lenovo Mischaracterized Shimura's Tablet Mode as a Frame Mode 27

d. The Petition's Obviousness Arguments Fail Because They Are Based on Shimura's Teaching of Tablet Mode 29

e. Lenovo Failed to Establish that the Alleged Shimura-Tsuji Computer's Hinge Supports Frame Mode 31

2. Independent Reason 2: Lenovo Failed to Show that a POSA Would Have Formed the Alleged Shimura-Tsuji Computer Relied upon in Every Ground 33

a. Tsuji's Push Buttons Support Thumb Typing on a Handheld Device 34

b. The Petition Fails to Establish that a POSA Would Have Put Tsuji's Buttons on Shimura's Laptop 35

i. Lenovo's Assertion that Shimura and Tsuji Are in the Same Field Is Factually Wrong and Legally Irrelevant 36

ii. The Petition's Assertion that Tsuji Motivates Adding Tsuji's Buttons to Shimura Ignores Disclosures in Tsuji and Shimura 36

iii. Tsuji Buttons Would Not Improve Shimura Operability in Easel Mode 39

iv. The Petition Identifies No Supportable Reason to Combine Tsuji with Shimura in the Manner the Petition Alleged 40

DOCKET ALARM

Find authenticated court documents without watermarks at docketalarm.com.

(1) The Petition Never Identifies a Reason a POSA Would Have Looked to Tsuji to Modify Shimura....40

(2) The Shimura-Tsuji Computer Is Not a Combination of Elements According to Known Methods....42

(3) The Federal Circuit Rejects Conclusory "build something better" as Motivation to Combine....42

c. Without the Shimura-Tsuji Computer All Grounds Fail....43

3. Independent Reason 3: Lenovo Failed to Show that a POSA Would Have Formed the Shimura-Tsuji-Pogue Computer with a Reasonable Expectation of Success....44

a. The Petition Provides No Supportable Reason to Use Windows XP in the Shimura-Tsuji Computer....45

b. Citation To Its Expert Cannot Save Lenovo....48

c. Pogue's 2004 Windows XP OS Does Not Accept Pen Input that Shimura's Tablet Mode Requires Which Is Fatal to Lenovo's Combination....48

d. Lenovo Never Explains Why a POSA Would Have Selected *Pogue's* Windows XP as a Suitable Operating System for the Shimura-Tsuji Computer....50

e. Lenovo Never Explains How the Shimura-Tsuji-Pogue Computer Meets the Hardware Requirements to Run XP....51

f. Conclusion....53

4. Independent Reason 4: Lenovo Failed to Establish that the Prior Art Discloses a Portable Computer Having a Rotatable Navigation Control....53

i. The Navigation Control Must Be Rotatable Relative to the Base....54

ii. The Trackpad, Keyboard Start Menu Button, Keyboard Arrow Keys, and the R and L Buttons of the Shimura-Tsuji-Pogue Computer Are Not Rotatable Navigation Controls....56

B. Ground 1 Fails for Claims 10 and 13-16....57

DOCKET ALARM

Find authenticated court documents without watermarks at docketalarm.com.

1. Independent Reason 1: Lenovo Failed to Establish that the Cited Prior Art Discloses a Frame Mode 57
2. Independent Reason 2: Lenovo Failed to Show that a POSA Would Have Made the Shimura-Tsuji Computer 58
3. Independent Reason 3: Lenovo Failed to Show a POSA Would Have Made the Shimura-Tsuji-Pogue Computer with a Reasonable Expectation of Success 58
C. Ground 2 Fails 59
D. Ground 3 Fails 59
E. Ground 4 Fails 60
1. Independent Reason 1: Lenovo Failed to Establish that the Cited Prior Art Discloses a Frame Mode 62
2. Independent Reason 2: Lenovo Failed to Show that a POSA Would Have Made the Shimura-Tsuji Computer upon Which Ground 4 Relies 62
3. Independent Reason 3: Lenovo Failed to Show that a POSA Would Have Made the Shimura-Tsuji-Pogue Computer on which Ground 4 Relies with a Reasonable Expectation of Success 63
F. Ground 5 Fails 64
G. Ground 6 Fails 65
VII. CONCLUSION 65

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.