

Paper No. _____
Filed: July 21, 2022

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,

Petitioner,

v.

NEONODE SMARTPHONE LLC,

Patent Owner.

Case No. IPR2021-01041
U.S. Patent No. 8,095,879

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

TABLE OF CONTENTS

I.	Introduction.....	1
II.	The Robertson Grounds Render Obvious the Challenged Claims.....	1
A.	Robertson Is Analogous Art.....	1
1.	Robertson is in the same field as the '879 patent	1
2.	Robertson is reasonably pertinent to the '879 patent's problem	4
B.	Robertson Discloses the “Gliding ... Away” Limitation.....	7
1.	The '879 patent lacks written description for Neonode's construction	7
2.	Robertson's “flick” gesture discloses the “gliding ... away” limitation under the plain meaning and under Neonode's construction	9
3.	Robertson's “insert” gesture discloses the “gliding ... away” limitation.....	11
4.	Robertson's “insert” gesture activates a represented function	12
C.	Robertson discloses the “one option” limitation.....	13
D.	Robertson and Maddalozzo Render Obvious the Preamble.....	15
1.	Robertson and Maddalozzo render obvious “a mobile handheld computer unit”	15
a.	Robertson's gesture activations apply to mobile handheld computer units.....	15
b.	A POSITA would have found it obvious to implement Robertson's gesture activations in mobile handheld computer units	17

2.	Robertson teaches and Maddalozzo renders obvious computer program code being “read by a mobile handheld computer unit”	18
III.	The Tarpenning Grounds Render Obvious the Challenged Claims	19
A.	Tarpenning Discloses “Gliding ... Away”	19
B.	A POSITA Would Have Modified Tarpenning as Claimed	21
IV.	The Dependent Claim Are Unpatentable	23
V.	Neonode’s Secondary Considerations Do Not Overcome Obviousness.....	23
A.	There Is No Nexus with the Claims	24
1.	The N1/N2 phones do not practice every claim limitation.....	24
2.	Neonode’s phones implement other critical technology	25
B.	There Is No Industry Praise for the Claimed Features.....	26
C.	No Evidence of Commercial Success	28
VI.	Conclusion	30

TABLE OF AUTHORITIES

	Page(s)
Federal Cases	
<i>Allen Eng'g Corp. v. Bartell Indus., Inc.</i> , 299 F.3d 1336 (Fed. Cir. 2002)	15
<i>In re Applied Materials, Inc.</i> , 692 F.3d 1289 (Fed. Cir. 2012)	29
<i>Biogen Idec, Inc. v. GlaxoSmithKline LLC</i> , 713 F.3d 1090 (Fed. Cir. 2013)	3
<i>In re Clay</i> , 966 F.2d 656 (Fed. Cir. 1992)	5
<i>D Three Enters., LLC v. SunModo Corp.</i> , 890 F.3d 1042 (Fed. Cir. 2018)	8
<i>Demaco Corp. v. F. Von Langsdorff Licensing Ltd.</i> , 851 F.2d 1387 (Fed. Cir. 1988)	24
<i>Donner Tech., LLC v. Pro Stage Gear, LLC</i> , 979 F.3d 1353 (Fed. Cir. 2020)	4, 6
<i>Eon Corp. IP Holdings v. Silver Spring Networks, Inc.</i> , 815 F.3d 1314 (Fed. Cir. 2016)	10
<i>Fox Factory, Inc. v. SRAM, LLC</i> , 944 F.3d 1366 (Fed. Cir. 2019)	25
<i>In re GPAC Inc.</i> , 57 F.3d 1573 (Fed. Cir. 1995)	29
<i>In re Huang</i> , 100 F.3d 135 (Fed. Cir. 1996)	28-29
<i>In re ICON Health & Fitness, Inc.</i> , 496 F.3d 1374 (Fed. Cir. 2007)	4

<i>InterDigital Commc'ns, LLC v. ITC</i> , 690 F.3d 1318 (Fed. Cir. 2012)	13
<i>In re Kao</i> , 639 F.3d 1057 (Fed. Cir. 2011)	27
<i>In re Klein</i> , 647 F.3d 1343 (Fed. Cir. 2011)	6
<i>KSR Int'l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007).....	18
<i>Medichem, S.A. v. Rolabo, S.L.</i> , 437 F.3d 1157 (Fed. Cir. 2006)	22
<i>Merck & Cie v. Gnosis S.P.A.</i> , 808 F.3d 829 (Fed. Cir. 2015)	26, 29
<i>In re Mouttet</i> , 686 F.3d 1322 (Fed. Cir. 2012)	17
<i>Novozymes A/S v. DuPont Nutrition Biosciences APS</i> , 723 F.3d 1336 (Fed. Cir. 2013)	8
<i>PAR Pharm., Inc. v. TWI Pharms., Inc.</i> , 773 F.3d 1186 (Fed. Cir. 2014)	23
<i>PGS Geophysical AS v. Iancu</i> , 891 F.3d 1354 (Fed. Cir. 2018)	16
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005) (en banc)	13
<i>Power-One, Inc. v. Artesyn Techs., Inc.</i> , 599 F.3d 1343 (Fed. Cir. 2010)	26
<i>Profectus Tech. LLC v. Huawei Techs. Co.</i> , 823 F.3d 1375 (Fed. Cir. 2016)	10
<i>Ruckus Wireless, Inc. v. Innovative Wireless Sols., LLC</i> , 824 F.3d 999 (Fed. Cir. 2016)	7

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.