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Paper 27
Entered: November 16, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION AND MICROSOFT MOBILE, INC.,
Petitioner,

v.

GLOBAL TOUCH SOLUTIONS, LLC,
Patent Owner.

Case IPR2015-01151
Patent 8,288,952 B2

Before JUSTIN BUSCH, LYNNE E. PETTIGREW, and BETH Z. SHAW,
Administrative Patent Judges.

BUSCH, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

In this *inter partes* review, instituted pursuant to 35 U.S.C. § 314, Microsoft Corporation and Microsoft Mobile, Inc. (collectively, "Petitioner") challenge the patentability of claims 1–4, 14, 16, 17, 19, 22–24, 26, 27, and 38–40 ("the challenged claims") of U.S. Patent No. 8,288,952

B2 (Ex. 1001, "the '952 patent"), owned by Global Touch Solutions, LLC ("Patent Owner"). We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision is entered pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed below, Petitioner has shown by a preponderance of the evidence that the challenged claims of the '952 patent are unpatentable.

A. Procedural History

Petitioner filed a Petition for *inter partes* review of the challenged claims of the '952 patent. Paper 2 ("Pet."). Patent Owner did not file a Preliminary Response. On November 17, 2015, we instituted an *inter partes* review of the challenged claims of the '952 patent. Paper 8 ("Institution Decision" or "Dec."). After institution, Patent Owner filed a Patent Owner Response, Paper 14 ("PO Resp."), and Petitioner filed a Reply to the Patent Owner Response, Paper 16 ("Pet. Reply"). A consolidated oral hearing for this case and several others was held on August 4, 2016. A transcript of the hearing has been entered into the record. Paper 26 ("Tr.").

B. Related Matters

The parties identify the following district court proceedings as related matters: *Global Touch Solutions, LLC v. Microsoft Corp.*, No. 3:15-cv-2750-JD (N.D. Cal.); *Global Touch Solutions, LLC v. Toshiba Corp.*, No. 3:15-cv-2746-JD (N.D. Cal.); *Global Touch Solutions, LLC v. VIZIO Inc.*, No. 3:15-cv-2747-JD (N.D. Cal.); *Global Touch Solutions, LLC v. Apple Inc.*, No. 3:15-cv-2748-JD (N.D. Cal.); and *Global Touch Solutions, LLC v. Motorola Mobility, LLC*, No. 3:15-cv-2749-JD (N.D. Cal.). Pet. 3–4; Paper 4, 2; Paper 7, 3. Petitioner also filed petitions for *inter partes* review of related U.S. Patent Nos. 8,035,623 B2 (IPR2015-01023), 7,772,781 B2

(IPR2015-01024), 7,265,494 B2 (IPR2015-01025), 7,994,726 B2 (IPR2015-01147), 7,498,749 B2 (IPR2015-01148), 7,329,970 B2 (IPR2015-01149), and 7,781,980 B2 (IPR2015-01150). Pet. 4. Institution of a trial was denied for IPR2015-01024 and IPR2015-01025. A final written decision was issued in IPR2015-01023. Trials were instituted in IPR2015-01147, IPR2015-01148, IPR2015-01149, and IPR2015-01150, each of which is an ongoing *inter partes* review. The parties also identify as a related matter IPR2015-01175, which is an ongoing *inter partes* review of the '952 patent filed by a different petitioner. *Id.*; Paper 4, 2.

C. The '952 Patent

The '952 patent is directed to portable electronic devices that operate on exhaustible power sources such as batteries. Ex. 1001, Abstract. A visible indicator such as a light emitting diode (LED) can be used to indicate the condition of the battery. *Id.* at 9:46–54, Fig. 11.

D. Claims

Independent claim 1 is illustrative and is reproduced below, with formatting added:

> 1. A method of implementing a user interface of a product, the product comprising a power source, or a connection for a power source and at least one energy consuming load, said method including the step of
>
> using an electronic module comprising an electronic circuit including a microchip and a touch sensor forming part of the user interface, said microchip at least partially implementing the touch sensor functions and said method including the step of
>
> activating a visible indication in response to an activation signal received from the user interface, wherein the visible indication provides information to a user on at least one item from the following group:

a state or condition of the product,
location of the user interface,
a battery power level indication.

E. Ground of Unpatentability Instituted for Trial

We instituted an *inter partes* review based on Petitioner's contention that the challenged claims are unpatentable as obvious under 35 U.S.C. § 103(a) in view of Jahagirdar[1] and Schultz.[2] Dec. 9.

II. DISCUSSION

A. Claim Construction

We construe explicitly only those claim terms or phrases in controversy, and we do so only to the extent necessary to resolve the controversy. *See Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999). We construe claim terms in an unexpired patent according to their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b). Consistent with the broadest reasonable construction, claim terms are presumed to have their ordinary and customary meaning as understood by a person of ordinary skill in the art in the context of the entire patent disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). An inventor may provide a meaning for a term that is different from its ordinary meaning by defining the term in the specification with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994). Absent such a clear, deliberate and precise

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[1] U.S. Patent 6,125,286, issued Sept. 26, 2000 (Ex. 1004, "Jahagirdar").
[2] U.S. Patent 4,053,789, issued Oct. 11, 1977 (Ex. 1005, "Schultz").

definition, it is one of the "cardinal sins" of patent law to import limitations from an embodiment in the specification into the claims. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1320 (Fed. Cir. 2005) (en banc).

In the Petition, Petitioner proposed a construction for "touch sensor functions" and "touch sensing functions." Pet. 11–13. Patent Owner did not file a Preliminary Response. In the Institution Decision, we did not expressly construe any claim terms. Dec. 4. The proper construction of these terms is not in dispute and no explicit construction is necessary to resolve any matter in this proceeding.

Patent Owner proposes a construction for "activating"/"activate" and "deactivating." PO Resp. 10–11. To the extent it is necessary to construe these terms, we do so below in the context of analyzing whether the prior art renders the claims unpatentable.

B. Obviousness of the Challenged Claims over the Combination of Jahagirdar and Schultz

Petitioner contends the challenged claims are unpatentable under 35 U.S.C. § 103(a) as obvious over Jahagirdar and Schultz. Pet. 14–60. Relying on the declaration testimony of Mark N. Horenstein, Ph.D., Petitioner explains how Jahagirdar and Schultz allegedly teach all the claim limitations, and asserts an ordinarily skilled artisan would have combined the asserted teachings. *Id.* (citing Ex. 1014).

We have reviewed the Petition, Patent Owner Response, and Petitioner's Reply, as well as the relevant evidence discussed therein. For the reasons that follow, we determine Petitioner has shown, by a preponderance of the evidence, that the challenged claims would have been

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