UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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META PLATFORMS, INC.,
Petitioner,

v.

IMMERSION CORPORATION,
Patent Owner.

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IPR2023-00945
Patent 10,664,143 B2

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Before PATRICK R. SCANLON, CHRISTOPHER L. OGDEN, and
IFTIKHAR AHMED, *Administrative Patent Judges.*

OGDEN, *Administrative Patent Judge.*

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

I. INTRODUCTION

Petitioner Meta Platforms, Inc. ("Meta") filed a Petition (Paper 2, "Pet.") under 35 U.S.C. §§ 311–319 requesting *inter partes* review ("IPR") of claims 1–3, 7–10, 14–17, and 20 of U.S. Patent No. 10,664,143 B2 (Ex. 1001, "the '143 patent"). Patent Owner Immersion Corporation ("Immersion") filed a Preliminary Response (Paper 10, "Prelim. Resp.").[1]

Under the authority delegated to us by the Director of the USPTO 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); *see also* 37 C.F.R. § 42.108(c) (2023). Applying that standard, we institute an *inter partes* review of the challenged claims of the '143 patent for the reasons explained below. This is a preliminary decision, and we will base our final written decision on the full trial record.

II. BACKGROUND

A.   THE '143 PATENT (EX. 1001)

The '143 patent describes "a system configured to present interactive content to a user that is manipulating a peripheral." Ex. 1001, 1:54–56. The system can adjust the interactive content, as well as haptic feedback to the

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[1] The parties identify themselves as the real parties in interest, and this is not contested on the preliminary record. *See* Pet. 1; Paper 8, 1.

user, based in part on the sensed position of the peripheral. *See id.* at 1:61–2:5. Haptic feedback, according to the '143 patent, "may include tactile and/or kinesthetic (force) feedback technology that takes advantage of a user's sense of touch by applying forces, vibrations, motions, and/or other touch feedback to the user" to create "a more compelling and complete user experience while interacting with interactive content." Ex. 1001, 3:9–14. A "peripheral" can include a device or physical object, including a body part, that can be manipulated by a user. *See id.* at 3:29–56.

Sensing the position of a peripheral may involve the use of a "position sensor" that is "configured to generate an output signal that conveys information related to the position of the peripheral." Ex. 1001, 5:48–50; *accord id.* at 5:56–58. The position sensors may be used for "remote sensing," such as by using an imaging device, triangulation with wireless signals, or other types of motion tracking. Ex. 1001, 5:35–45. Remote sensing may also include "access to data from device-embedded sensors such as magnetometer, accelerometer/gyroscope, and/or other remote sensing techniques." *Id.* at 5:45–48. Also, "[i]n some implementations, the position sensor . . . may include one or more sensors carried by [the] peripheral," such as "an accelerometer, a gyroscope, [or] a digital compass." *Id.* at 5:53–56.

B.   CHALLENGED CLAIMS AND GROUNDS

Representative claim 1 is as follows:

> 1. A system comprising:

1[a]   a position sensor;

1[b]   a processor; and

1[c] a non-transitory computer-readable medium comprising program code that is executable by the processor to cause the processor to:

1[d] output first interactive content to a display, the first interactive content comprising a virtual environment;

1[e] receive one or more sensor signals from the position sensor;

1[f] determine a position of a peripheral in real space based on the one or more sensor signals, the peripheral configured to be worn on a user's head;

1[g] output second interactive content to the display based on the position of the peripheral in real space, the second interactive content being different from the first interactive content;

1[h] determine a haptic signal based on the position of the peripheral in real space and the second interactive content; and

1[i] transmit the haptic signal to a haptic output device, the haptic output device being configured to receive the haptic signal and output haptic feedback.

Ex. 1001, 12:57–13:13 (Meta's reference numbers added).

Meta argues a single grounds for *inter partes* review, as summarized in the following table:

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1–3, 7–10, 14–17, 20	103(a)[2]	Nogami[3]

Pet. 3.

C. DECLARATORY TESTIMONY

Meta submits a declaration by Dr. Jeremy Cooperstock. Ex. 1002. Immersion submits a declaration by Dr. Gregory Abowd. Ex. 2002.

D. RELATED PROCEEDING

As related matters, the parties identify *Immersion Corp. v. Meta Platforms, Inc.*, No. 22-cv-00541 (W.D. Tex. filed May 27, 2022), *transferred within district*, No. 23-cv-00623 (W.D. Tex. effective June 1, 2023) ("related district court case"). Pet. 1; Paper 8, 1.

III. DISCRETIONARY GROUND FOR DENYING INSTITUTION

Institution of *inter partes* review is at the Director's discretion, which has been delegated to the Board under her guidance. *See* 35 U.S.C. § 314(a); *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1367 (Fed. Cir. 2016)

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[2] 35 U.S.C. § 103(a) (2006), *amended by* Leahy–Smith America Invents Act ("AIA"), Pub. L. No. 112-29 § 103, sec. (n)(1), 125 Stat. 284, 287, 293 (2011) (effective Mar. 16, 2013). This pre-AIA version of § 103 applies because the '143 patent issued from a chain of continuation applications reaching back to September 30, 2010, which is before the effective date of the AIA amendments. *See* Ex. 1001, code (63).

[3] Nogami et al., US 2009/0066725 A1 (published Mar. 12, 2009) (Ex. 1003).

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