

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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HTC CORPORATION AND HTC AMERICA, INC.,  
Petitioner,

v.

U.S. PHILIPS CORPORATION,  
Patent Owner.

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Case IPR2017-00856  
Patent 5,910,797

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Before KRISTEN L. DROESCH, BARBARA A. PARVIS, and  
MICHELLE N. WORMMEESTER, *Administrative Patent Judges*.

DROESCH, *Administrative Patent Judge*.

DECISION

Denying Institution of *Inter Partes* Review  
*35 U.S.C. § 314, 37 C.F.R. § 42.108*

## I. INTRODUCTION

### A. Background

HTC Corporation and HTC America, Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) for *inter partes* review of claims 1, 4, 6–9, and 11, (“the challenged claims”) of U.S. Patent No. 5,910,797 (“the ’797 Patent”). See 35 U.S.C. §§ 311–312. U.S. Philips Corporation (“Patent Owner”) timely filed a Preliminary Response (Paper 6, “Prelim. Resp.”).

We have authority under 35 U.S.C. § 314 and 37 C.F.R. § 42.4. An *inter partes* review may not be instituted unless it is determined that “the information presented in the petition filed under section 311 and any response filed under section 313 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).

After considering the Petition and the Preliminary Response, for the reasons discussed below, we do not institute an *inter partes* review.

### B. Related Matters

The parties indicate the ’797 Patent is asserted in the following proceedings (Pet. 2–3; Paper 3, 1–2):

*Koninklijke Philips N.V. v. ASUSTek Computer Inc.*, No. 1-15-cv-01125 (D. Del.);

*Koninklijke Philips N.V. v. HTC Corp.*, 1:15-cv-01126 (D. Del.);

*Koninklijke Philips N.V. v. Visual Land Inc.*, No. 1-15-cv-01127 (D. Del.);

*Koninklijke Philips N.V. v. Southern Telecom, Inc.*, No. 1-15-cv-01128 (D. Del.);

*Koninklijke Philips N.V. v. Digital Prods. Int'l, Inc.*, No. 1-15-cv-01129 (D. Del.);

*Koninklijke Philips N.V. v. Double Power Tech., Inc.*, No. 1-15-cv-01130 (D. Del.);

*Koninklijke Philips N.V. v. Yifang USA Inc. d/b/a E-Fun, Inc.*, No. 1-15-cv-01131 (D. Del.); and

*Koninklijke Philips N.V. v. Acer Inc.*, No. 1-15-cv-01170 (D. Del).

*C. The '797 Patent (Ex. 1001)*

The '797 Patent discloses a portable apparatus having an integrated screen for displaying one or more objects, a gravitation controlled sensor for measuring the spatial orientation of the apparatus, and a programmed data processor for, under control of a predetermined range of spatial orientations, imparting a non-stationary motion pattern to a selection of displayed objects based on the sensor data. *See Ex. 1001, Abstract.*

Figure 1 of the '797 Patent is reproduced below:

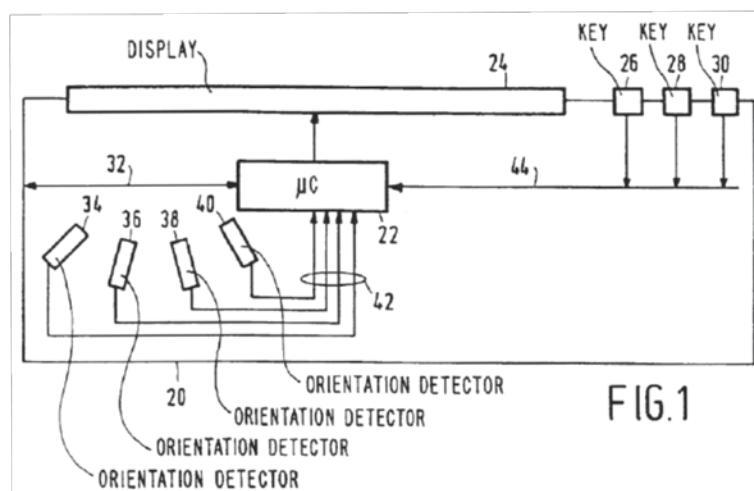


Figure 1 depicts the apparatus including housing 20, data microprocessor 22, display screen 24, gravitation-controlled detectors 34, 36, 38, and 40, and keys 26, 28, and 30. *See Ex. 1001, 2:42–45, 56–60.*

Gravitation-controlled detectors 34, 36, 38, 40, singly or collectively measure a spatial orientation around an axis that is perpendicular to the plane of Figure 1. *See id.* at 2:56–60.

Figure 4, of the '797 Patent is reproduced below:

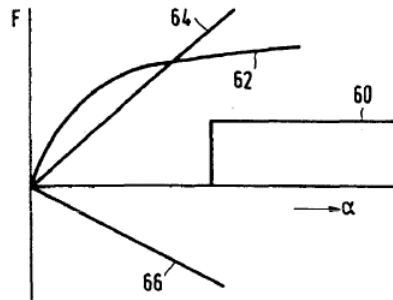


Figure 4 depicts “various motion characteristics realizable with the invention.” Ex. 1001, 4:1–2. The horizontal axis shows the inclination angle  $\alpha$  and the vertical axis shows the pseudo force exerted on the object. *See id.* at 4:2–4. “Such a force if steady, in combination with a pseudo mass of the object, would result in a uniform acceleration.” *Id.* at 4:4–6. For example, curve 64 provides a constant force that would make the object “fall” under constant acceleration, and curve 66 would make the object “fly like a balloon.” *See id.* at 4:6–9. Curves 60 and 62 provide other examples of motion characteristics. *See id.* at 4:9–11.

Figure 5 of the '797 Patent is reproduced below:

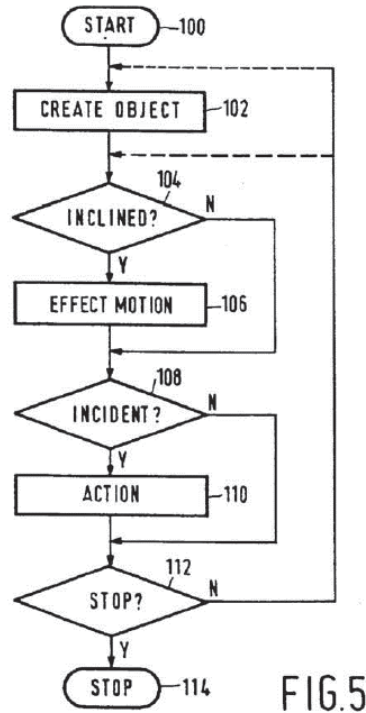


Figure 5 depicts “a flow chart for use with the invention, such as in a manipulatory game.” Ex. 1001, 4:15–16. The game is started in block 100, and in block 102 the object to be moved is created. *See id.* at 4:16–19. In block 104, the existence of non-zero inclination or a non-zero change of inclination is sensed. *See id.* at 4:21–23. “If yes, in block [106] the motion is amended.”<sup>1</sup> *Id.* at 4:23–24. “If the inclination is steady, the motion remains uniform.” *Id.* at 4:25–26. If, in block 108, an occurrence of an incident is detected, such as a collision with a constraint, appropriate action is taken in block 110. *See id.* at 4:26–28. If an occurrence of an incident is not detected in block 108, the process proceeds to block 112 to detect a termination situation. *See id.* at 4:31–33.

<sup>1</sup> Patent Owner’s reference to block 104 instead of block 106 in this passage appears to be a typographical error.

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