

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

HTC CORPORATION AND HTC AMERICA, INC.,  
Petitioner,

v.

KONINKLIJKE PHILIPS N.V.,  
Patent Owner.

---

Case IPR2017-00857  
Reissued Patent RE44,006 E

---

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

DROESCH, *Administrative Patent Judge*.

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

## I. INTRODUCTION

We have jurisdiction to hear this *inter partes* review under 35 U.S.C. § 6, and this Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that claim 1 (“the challenged claim”) of U.S. Reissued Patent No. RE44,006 E (Ex. 1001, “the ’006 Reissued Patent”) is unpatentable.

### A. Procedural History

HTC Corporation and HTC America, Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) for *inter partes* review of the challenged claim. Paper 2 (“Pet.”). Koninklijke Philips N.V. (“Patent Owner”) timely filed a Preliminary Response. Paper 6. Pursuant to 35 U.S.C. § 314, we instituted trial on September 6, 2017, as to the challenged claim of the ’006 Reissued Patent (Paper 7, “Institution Decision” or “Dec.”), and on May 2, 2018, we modified the Institution Decision to institute review of the challenged claim on all grounds presented in the Petition (Paper 23, “SAS Order”).

Accordingly, this *inter partes* review includes the following challenges:

- (1) claim 1 as unpatentable under 35 U.S.C. § 103(a) over O’Neill<sup>1</sup>;
- (2) O’Neill and Robertson<sup>2</sup>; (3) O’Neill and Freeman<sup>3</sup>; and (4) Naughton<sup>4</sup> and O’Neill. *See* Dec. 5, SAS Order 2.

Following institution of trial, Patent Owner filed a Patent Owner Response (Paper 14, “PO Resp.”), to which Petitioner filed a Reply (Paper

---

<sup>1</sup> Ex. 1007, US Patent 5,621,906, issued Apr. 15, 1997 (“O’Neill”).

<sup>2</sup> Ex. 1009, US Patent 5,295,243, issued Mar. 15, 1994 (“Robertson”).

<sup>3</sup> Ex. 1010, US Patent 6,006,227, issued Dec. 21, 1999 (“Freeman”).

<sup>4</sup> Ex. 1008, US Patent 5,995,106, issued Nov. 30, 1999 (“Naughton”).

IPR2017-00857

Reissued Patent RE44,006 E

17, “Reply”). Petitioner relies on Declarations of Jacob O. Wobbrock (Ex. 1005; Ex. 1016) to support its positions, and Patent Owner relies on a Declaration of Ravin Balakrishnan, Ph.D. (Ex. 2005). Patent Owner filed a Motion for Observations regarding the Testimony of Jacob O. Wobbrock (Paper 25), and Petitioner filed a Response (Paper 28). Oral argument was held on June 1, 2018. A transcript of the oral argument is included in the record. Paper 32 (“Tr.”).

### *B. Related Matters*

The parties indicate the ’006 Reissued 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. 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 ’006 Reissued Patent (Ex. 1001)*

The ’006 Reissued Patent is a reissue of U.S. Patent No. 6,211,921, which issued on April 3, 2001, from Application No. 08/772,080, filed December 20, 1996. *See* Ex. 1001, [64]. The ’006 Reissued Patent

discloses a user interface screen including rotating menu options. *See id.* at Abstract. Options are highlighted and therefore selectable as they rotate past a fixed selection position on the screen. *See id.*

Figure 2 of the '006 Reissued Patent is reproduced below:

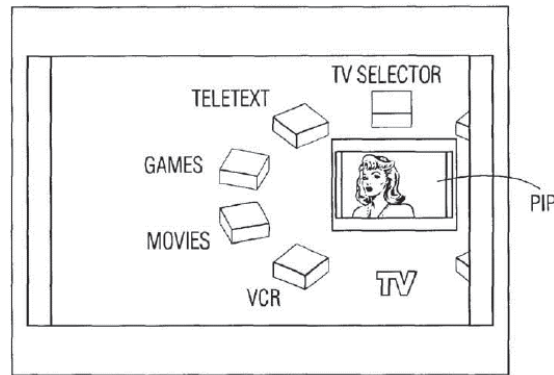


Figure 2 depicts a television screen displaying a menu. *See Ex. 1001, 1:61–62.* The menu appears as a carousel that rotates on the screen and is displayed in a perspective that creates an apparent plane of rotation that is not parallel to the screen face. *See id.* at 1:61–66. Due to the apparent plane of rotation, a highlighted option appears to be in front and is easier to find. *See id.* at 1:66–2:1. Although “the menu is actually elliptical, the menu appears to be in a circle, because of the perspective.” *Id.* at 2:4–5. The center of the apparent circle is off center on the screen, so that at least one menu option can be rotated off the screen, and any number of menu options can be added to the menu without affecting the shape of the display. *See id.* at 2:16–22. “The menu options can be displayed in any fashion desired. They can, for instance, be boxes, as shown, or icons, or letters.” *Id.* at 2:31–32. To maintain perspective, the appearance of the menu options change during rotation, for example, the boxes of the menu change in size, shape, and apparent orientation during rotation. *See id.* at 2:8–11. “During

operation of the menu, the options rotate, with a selectable option appearing highlighted at the bottom front, as shown in Figure 2.” *Id.* at 2:33–35.

#### *D. The Challenged Claim*

Claim 1 is reproduced below (brackets indicate deletions and italics indicate additions to the claim in the ’006 Reissued Patent):

An electronic device comprising:  
at least one display apparatus; and  
a controller arranged to cause the display *apparatus* to show a rotating *elliptical* menu comprising a plurality of menu options, *wherein the menu is displayed with a perspective in which* all of the menu options that are displayed [being displayed so as to] appear to lie substantially [upon] *in an elliptical arrangement located on* a single apparent plane disposed about a menu center, the menu center being displayed offset from a display center of the display apparatus, so that at least one menu option appears to be rotatable off an edge of the display *apparatus* at any one time; *and,*  
*wherein a sense of perspective is maintained by changing the shape or size of the displayed menu options during rotation of the menu.*

Ex. 1001, 3:55–4:3.

## II. ANALYSIS

### *A. Claim Construction*

Claims of an unexpired patent that will not expire before issuance of a final written decision are interpreted using the broadest reasonable interpretation in light of the specification. *See* 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016).

Petitioner and Patent Owner agree that the ’006 Reissued Patent expired and is, therefore, subject to a district court-type claim construction. *See* Pet. 17–18; PO Resp. 8 (both citing *In re Rambus, Inc.*, 694 F.3d 42, 46 (Fed. Cir.

# 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.