

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION and MICROSOFT MOBILE INC.,
Petitioner,

v.

KONINKLIJKE PHILIPS N.V.,
Patent Owner.

Case IPR2018-00023
Patent 6,690,387 B2

Before KEVIN F. TURNER, DAVID C. MCKONE, and
MICHELLE N. WORMMEESTER, *Administrative Patent Judges*.

WORMMEESTER, *Administrative Patent Judge*.

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

I. INTRODUCTION

Microsoft Corporation and Microsoft Mobile Inc. (collectively, “Petitioner” or “Microsoft”) filed a Petition (Paper 2, “Pet.”) requesting *inter partes* review of claims 1–12 of U.S. Patent No. 6,690,387 B2 (Ex. 1001, “the ’387 patent”). We initially instituted an *inter partes* review as to claims 9, 11, and 12 based on two of the six grounds presented in the Petition. Paper 7, 5, 47 (“Institution Decision” or “Inst. Dec.”); *see* 35 U.S.C. § 314. After institution of trial, in light of the Supreme Court’s decision in *SAS Institute Inc. v. Iancu*, 138 S. Ct. 1348 (2018), we modified our Institution Decision to include review of all the challenged claims and all the grounds presented in the Petition. Paper 10.

Koninklijke Philips N.V. (“Patent Owner”) filed a Patent Owner Response (Paper 15, “PO Resp.”), and Petitioner filed a Reply (Paper 17, “Pet. Reply”). With our authorization, Patent Owner subsequently filed a Sur-Reply (Paper 20, “PO Sur-Reply”). Patent Owner also filed a Motion to Exclude (Paper 23), which we address below.

On December 20, 2018, we conducted an oral hearing. A copy of the transcript (Paper 30, “Tr.”) is included in the record.

We have jurisdiction under 35 U.S.C. § 6(b). For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that claims 1–12 of the ’387 patent are unpatentable. This final written decision is issued pursuant to 35 U.S.C. § 318(a).

II. BACKGROUND

A. *Related Proceedings*

The parties identify several related district court cases. Pet. 1–2; Paper 4, 2.

B. *The '387 Patent*

The '387 patent describes a touchscreen system where an image, such as a list, displayed on a screen begins to scroll when a user applies a sweeping motion of his finger along the screen. Ex. 1001, 1:8–12, 1:53–57, 1:65–2:1. The speed and direction of the finger along the screen determines the initial speed and direction of the list. *Id.* at 1:58–60. After the finger separates from the screen, the list continues to scroll in the same direction at a gradually decreasing speed until scrolling is stopped by the user touching the screen without moving his finger along the screen, or when the speed decreases to zero or to a predetermined minimum speed, or when the list reaches its end. *Id.* at 1:60–65. The user may continue scrolling by repeating the sweeping motion of his finger along the screen, and he may control the speed of scrolling with the speed of the sweeping motion. *Id.* at 1:65–2:1, 2:8–12.

In addition to scrolling, the user may also select or drag an item on the list by touching the screen, depending on the duration of the touch and any movement of the finger accompanying the touch. *Id.* at 2:4–8, 3:24–4:3.

C. Illustrative Claims

Petitioner challenges claims 1–12 of the '387 patent. Claims 1 and 7–9 are independent. Claims 1 and 9 are illustrative of the claims under challenge:

1. An improved touch-screen image scrolling system, comprising:
 - an electronic image display screen;
 - a microprocessor coupled to said display screen to display information thereon and to receive interactive signals therefrom;
 - timer means associated with said microprocessor to provide timing capacity therefor;
 - a source of scroll format data capable of display on said display screen;
 - a keyboard coupled to said microprocessor to provide input control signals thereto;
 - finger touch program instructions associated with said microprocessor for sensing the speed, direction and time duration of a finger touch contact with said display screen;
 - scrolling motion program instructions associated with said microprocessor responsive to said duration of said finger touch contact such that, when said duration exceeds a first given preset minimum time and is accompanied by motion along the surface of said screen followed by separation of said finger touch from said screen, a scroll format display on said screen is caused to begin to scroll in said sensed direction and at said sensed initial speed;
 - time decay program instructions associated with said microprocessor for reducing the rate of scrolling displacement on said display screen at a given rate until motion is terminated;
 - stopping motion program instructions associated with said microprocessor for terminating scrolling displacement of

the image on said screen upon first occurrence of any signal in the group of signals comprising:

- (a) a substantially stationary finger touch on the screen enduring for a period longer than a preset minimum time, and
- (b) an end-of-scroll signal received from said scroll format data source.

9. An improved method of controlling the scroll-like display of data on an electronic display screen, said method comprising the steps of:

sensing the duration of finger touch contact time with an electronic display screen having scrollable data displayed thereon;

sensing the speed and direction of motion of said finger touch contact with said display screen;

initiating scrolling motion of said scrollable data on said display screen in said sensed direction and at said sensed speed;

slowing the speed of said scrolling motion from the initiated speed thereof, at a predetermined rate; and

terminating said scrolling motion when one of the conditions comprising the following group of conditions is sensed:

- (a) a substantially stationary finger touch having a finite duration is sensed;
- (b) an end-of-scroll signal is sensed.

D. *The Instituted Grounds*

Petitioner asserts in its Petition six grounds based on obviousness under 35 U.S.C. § 103. Pet. 5, 22–65. Although we initially instituted *inter partes* review on fewer than all claims challenged in the Petition, we subsequently modified our Institution Decision to include review of all the

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