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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 IPR2018-00185
Patent RE43,564 E

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

TURNER, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

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I. INTRODUCTION

Microsoft Corporation and Microsoft Mobile Inc. (collectively, "Petitioner") filed a Petition (Paper 2, "Pet.") requesting *inter partes* review of claims 1–7 of U.S. Patent No. RE43,564 E (Ex. 1001, "the '564 Patent"). Koninklijke Philips N.V. ("Patent Owner") filed a Preliminary Response (Paper 6, "Prelim. Resp."). We have jurisdiction under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a). Under 35 U.S.C. § 314(a), an *inter partes* review may not be instituted "unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." For the reasons that follow, we decline to institute an *inter partes* review.

II. BACKGROUND

A. Related Proceedings

The parties identify several federal district court cases involving the '564 Patent. Pet. 1–2; Paper 4, 2–3. The parties also identify several other petitions for *inter partes* review relating to the '564 Patent, including two previous petitions filed by Google, Inc., IPR2017-00388 and IPR2017-00389, upon which no trials were instituted. *Id.*

B. The '564 Patent

The '564 Patent is entitled "Hand-Held With Auto-Zoom For Graphical Display Of Web Page," and relates to a graphical user interface for devices "with a relatively small screen real estate, such as handheld information appliances" including mobile phones and palmtop computers. Ex. 1001, 1:20–24. The graphical user interface is designed to implement an "auto-zoom" functionality that magnifies an image "on a display too small

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for the total information content, given the display's resolution and size." *Id.* at 2:27–30. The '564 Patent details that the inventor realized that such an "auto-zoom" feature was useful not only with respect to elements of the user interface, but can be used to zoom in portions of retrieved information which are of interest to the user, such as hyperlinks. *Id.* at 2:24–39.

The graphical user interface of the '564 Patent utilizes a touchscreen and "is operative to enable the user to select via the touch screen a portion of the image when displayed at a first scale," and thereafter "renders the selected portion on the display at a second scale larger than the first scale." *Id.* at 2:51–55. According to specific embodiments, the zoomed-in area "is centered around the touch location." *Id.* at 4:26.

The '564 Patent reissued as a patent on August 7, 2012, based on a reissue application for U.S. Patent No. 6,466,203 B2 (Ex. 1009) filed December 29, 2010. During that proceeding, Patent Owner amended previously-issued claims 1–6 to clarify that the zoomed-in portion of the image was "substantially centered around the touch *location*," rather than the "touch screen," and to add claim 7 directed to the scrolling magnification embodiment. Ex. 1016, 4–7 (emphasis added).

C. Challenged Claims

Petitioner challenges claims 1–7 of the '564 Patent. Claim 1 is independent and illustrative of the claims under challenge:

> 1. A handheld communication device comprising:
>
> a wireless modem for receiving data;
>
> a display that has a substantially small size suitable for the handheld communication device;

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a data processing system connected to the modem and to the display for processing the received data and for rendering an image corresponding to the data received;

a touch screen for enabling a user to interact with the device;

wherein:

the system is operative to enable the user to select through a touch location on the touch screen a portion of the image, when displayed at a first scale, for rendering the selected portion on the display at a second scale larger than the first scale thereby facilitating a selection of a feature; and

the selected portion when rendered at the second scale is a zoomed-in version of part of the image at the first scale substantially centered around the touch location.

Ex. 1001, 5:50–6:16.

D. Asserted Grounds of Unpatentability

Petitioner challenges claims 1–7 of the '564 Patent on the following grounds. Pet. 3–4, 29–81.

Reference(s)	Basis	Claim(s) Challenged
Murase[1] and Heikkinen[2]	§ 103	1, 2, 6, and 7
Murase, Heikkinen, and Priestman[3]	§ 103	3–5
Björk[4]	§ 103	1, 3, 4, and 6
Björk, Robertson,[5] and Seidensticker[6]	§ 103	1–4, 6, and 7

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[1] Japanese Pat. App. Pub. No. H10-269022, published October 9, 1998 (Ex. 1003, "Murase"). Petitioner has provided a certified translation of Murase from Japanese into English (Ex. 1004).
[2] U.S. Patent No. 6,073,036, issued Jun. 6, 2000 (Ex. 1005, "Heikkinen").
[3] Int'l Pat. App. Pub. No. WO 99/59312, published Nov. 18, 1999 (Ex. 1006, "Priestman").
[4] Staffan Björk et al., *WEST: A Web Browser for Small Terminals*, The 12th Annual ACM Symposium on User Interface Software and Technology (1999) (Ex. 1007, "Björk").
[5] U.S. Patent No. 5,670,984, issued Sept. 23, 1997 (Ex. 1010, "Robertson").
[6] U.S. Patent No. 5,920,327, issued July 6, 1999 (Ex. 1011, "Seidensticker").

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Reference(s)	Basis	Claim(s) Challenged
Björk and Brooks[7]	§ 103	5
Björk, Robertson, Seidensticker, and Brooks	§ 103	5

In support of its arguments, Petitioner relies on the Declaration of Dr. Loren Terveen (Ex. 1002). *See id.*

E. Claim Construction

We construe claims in an unexpired patent by applying the broadest reasonable interpretation in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs. LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016) (upholding the use of the broadest reasonable interpretation standard). Under this standard, claim terms generally are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *See In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). A "claim term will not receive its ordinary meaning if the patentee acted as his own lexicographer," however, and clearly set forth a definition of the claim term in the specification. *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366 (Fed. Cir. 2002).

In conjunction with the prior petitions submitted by Google, Inc., we construed the claim terms "feature" and "facilitating selection of a feature," which the present Petitioner adopts for purposes of this Petition; Patent Owner does not dispute those constructions for purposes of this Decision. *See* Pet. 25; Prelim. Resp. 8.

[7] U.S. Patent No. 7,339,993 B1, issued Mar. 4, 2008 (Ex. 1012, "Brooks").

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