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Trials@uspto.gov
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO. LTD.,
SAMSUNG ELECTRONICS AMERICA, INC. and APPLE, INC.,
Petitioner,

v.

NEONODE SMARTPHONE LLC,
Patent Owner.

IPR2021-00145
Patent 8,812,993 B2

Before MICHELLE N. ANKENBRAND, KARA L. SZPONDOWSKI, and
CHRISTOPHER L. OGDEN, *Administrative Patent Judges*.

OGDEN, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining All Challenged Claims Unpatentable
35 U.S.C. § 318(a)

I. INTRODUCTION

In response to a Petition (Paper 6, “Pet.”) filed by Petitioners Samsung Electronics Co. Ltd., Samsung Electronics America, Inc., and Apple Inc. (collectively, “Petitioner”),¹ the Board instituted an *inter partes* review of claims 1–8 of U.S. Patent No. 8,812,993 B2 (Ex. 1001, “the ’993 patent”). Paper 24. Patent Owner Neonode Smartphone LLC (“Neonode”)² filed a Patent Owner Response under seal (Paper 29, “PO Resp.”; redacted version as Ex. 1047), Petitioner filed a Reply to the Patent Owner Response (Paper 49, “Pet. Reply”), and Neonode filed a Sur-reply (Ex. 2028, “PO Sur-reply”; public redacted version as Paper 55).

We held an oral hearing on March 17, 2022, and the transcript is entered on the record. Paper 67 (“Tr.”).

This is a final written decision under 35 U.S.C. § 318(a) as to whether the claims challenged in the *inter partes* review are unpatentable. For the reasons below, we conclude that Petitioner has shown that all the challenged claims are unpatentable on at least one ground of the Petition.

We also deny Petitioner’s Motion to Exclude Evidence (Paper 60; Neonode’s Opposition filed as Paper 61; Petitioner’s Reply filed as Paper 62), we grant Neonode’s unopposed Motion to Submit Supplemental Information (Paper 63; Petitioner’s Opposition filed as Paper 66), and we grant Neonode’s unopposed Motion to Seal (Paper 65).

¹ The Petition identifies the named Petitioners as the real parties in interest. Pet. 93.

² Neonode identifies itself as the real party in interest. Paper 7, 2.

II. BACKGROUND

A. RELATED PROCEEDINGS

The parties identify the following as related matters: *Neonode Smartphone LLC v. Apple Inc.*, No. 6:20-cv-00505 (W.D. Tex. filed June 8, 2020); and *Neonode Smartphone LLC v. Samsung Electronics Co. Ltd.*, No. 6:20-cv-00507 (W.D. Tex. filed June 8, 2020). Pet. 93–94; Paper 7, 2.

B. THE '993 PATENT (EX. 1001)

The '993 patent relates to a user interface on a device that has a touch-sensitive display screen. *See* Ex. 1001, 1:14–17, code (57). Figure 1 of the '993 patent, reproduced below, illustrates such a user interface:

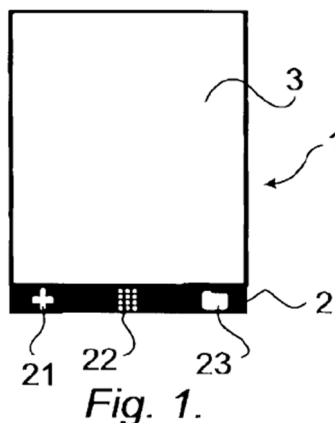


Figure 1 depicts a touch-sensitive area (1) on a mobile handheld device. Ex. 1001, 3:30–31, 3:57–60. It is divided into a menu area (2) and a display area (3). *Id.* at 3:60–61. Menu area 2 is a narrow strip along the lower part of touch-sensitive area 1 that contains predefined functions 21 (a general application-dependent function), 22 (a keyboard), and 23 (a task and file manager). *Id.* at 4:9–14.

Figure 2, reproduced below, shows how to activate the functions in menu area 2:

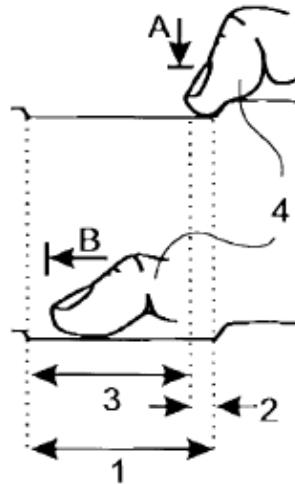


Fig. 2.

Figure 2 of the '993 patent, above, illustrates a touch gesture by which a user may activate functions 21, 22, or 23 in area 2. See Ex. 1001, 4:15–19. This gesture begins when object 4 (in this case a finger) touches the display at point A within representation 21, 22, or 23, and moves in direction B away from menu area 2 into display area 3. *Id.*

Figure 3, reproduced below, illustrates the touch screen after function 21 has been activated:

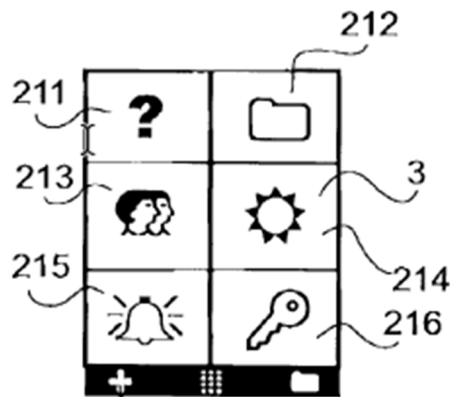


Fig. 3.

Ex. 1001, 3:33. Figure 3, above, shows that after a user activates function 21 with the gesture as illustrated in Figure 2, display area 3 displays icons 211–216, which each represent services or functions depending on the currently active application. *Id.* at 4:20–23. If there is no currently active application, the icons may “represent services or settings of the operations system of the computer unit, such as background picture, clock alarm 215, users 213, help 211, etc.” *Id.* at 4:36–40. Analogously, selecting function 22 activates a keyboard, and selecting function 23 activates a library of available applications and files on the device. *Id.* at 4:43–45, 5:3–5, Figs. 5–6.

Figure 4, reproduced below, illustrates how a user selects one of icons 211–216 in Figure 3:

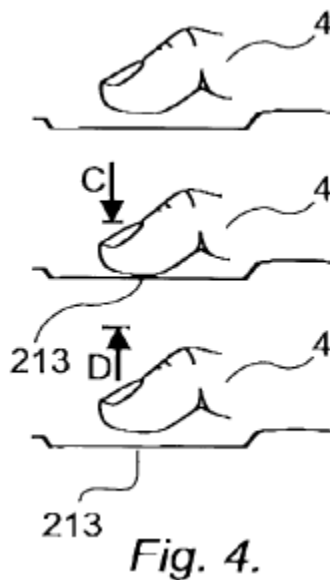


Figure 4, above, is a schematic illustration showing object 4 (a finger) selecting function 213 by “tapping C, D on corresponding icon 213.”

Ex. 1001, 4:41–42.

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