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Paper 29
Date: October 25, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

DDC TECHNOLOGY, LLC,
Patent Owner.

IPR2023-00708
Patent 9,811,184 B2

Before KALYANK. DESHPANDE, *Acting Deputy Chief Administrative Patent Judge*, PATRICK M. BOUCHER, and JULIET MITCHELL DIRBA, *Administrative Patent Judges*.

DESHPANDE, *Acting Deputy Chief Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. §314

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I. INTRODUCTION

Google LLC (“Petitioner”) filed a Petition (Paper 2 (“Pet.”)), seeking *inter partes* review of claims 1–5, 7–10, 12, and 16–18 of U.S. Patent No. 9,811,184 B2 (Ex. 1001 (“the ’184 patent”)). *See* Pet. 1. DDC Technology, LLC (“Patent Owner”) filed a Preliminary Response. Papers 12 (public), 14 (confidential) (“Prelim. Resp.”). With our authorization (Ex. 3003), Petitioner filed a Reply (Papers 16 (confidential), 17 (public) (“Reply”)), and Patent Owner filed a Sur-reply (Papers 21 (confidential), 22 (public) (“Sur-reply”)).

Institution of an *inter partes* review is authorized by statute when “the information presented in the petition . . . and any response . . . 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); *see* 37 C.F.R. § 42.108. Upon consideration of the Petition, Preliminary Response, Reply, and Sur-reply, we conclude that the information presented shows that there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of at least one challenged claim of the ’184 patent.

A. Related Matters

The parties identify that the ’184 patent is involved in *DDC Tech. LLC v. Landsberg Orora, et al.*, 3-23-cv-01160 (N.D. Cal. 2022) (“the California litigation”) and *DDC Tech., LLC v. Emerge Techs., Inc. d/b/a Utopia 360, et al.*, 3-22-cv-01263 (N.D. Tex. 2022). Pet. 4; Paper 3, 3–4.

The parties identify that the ’184 patent was involved in *MerchSource, LLC, et al. v. DODOcaseVR, Inc., et al.*, PGR2018-0020

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(PTAB 2018); *DDC Tech., LLC v. Mattel, Inc.*, 1-21-cv-01781 (D. Del. 2021); *DDC Tech., LLC v. Unofficial Cardboard, Inc.*, 1-21-cv-05596 (N.D. Ill. 2021); *DDC Tech., LLC v. Merge Labs, Inc.*, 6-21-cv-00850 (W.D. Tex. 2021); *DDC Tech., LLC v. DPI, Inc.*, 4-21-cv-00402 (E.D. Mo. 2021); *DDC Tech., LLC v. Sanho Corp.*, 1-21-cv-00152 (D. Del. 2021); *DODOCASE VR, Inc. f/k/a DODOcase, Inc. v. MerchSource, LLC*, 3-17-cv-07088 (N.D. Cal. 2017); and *DODOcase, Inc. v. DGL Grp., LLC, et al.*, 1-17-cv-01188 (D. Del. 2017). Pet. 3–6; Paper 3, 3–5.

The parties identify U.S. Patent Nos. 9,420,075, 9,723,117, 10,528,199, 11,093,000, 11,093,001, and 11,449,099 as patents related to the '184 patent. Pet. 2–3; Paper 3, 2. In addition to identifying the judicial proceedings above as also variously involving, or having involved, these related patents, the parties identify that U.S. Patent Nos. 9,420,075 and 9,723,117 were variously involved in *MerchSource, LLC, et al. v. DODOcase VR, Inc., et al.*, IPR2018-00494 (PTAB 2018); *MerchSource, LLC, et al. v. DODOcase VR, Inc., et al.*, PGR2018-00019 (PTAB 2018); and *DODOcase, Inc. v. DGL Grp., LLC, et al.*, 1-17-cv-01188 (D. Del. 2017). Pet. 3, 6; Paper 3, 3, 5.

Additionally, the following proceedings before the Board involve the same parties as the instant proceeding: IPR2023-00707 (U.S. Patent No. 9,420,075 B2), IPR2023-00709 (U.S. Patent No. 10,528,199 B2), IPR2023-00710 (U.S. Patent No. 11,093,000 B2), and IPR2023-00711 (U.S. Patent No. 11,093,001 B1).

B. The '184 Patent (Ex. 1001)

The '184 patent discloses an improved virtual reality viewer for use

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with a touchscreen-enabled mobile device. Ex. 1001, Abstract. The viewer includes two lenses, an enclosure, and a touchscreen input. *Id.* at 12:66–13:11. The touchscreen input is made of a conductive material and physically contacts the touchscreen upon receipt of the mobile device by the enclosure. *Id.* at 5:37–42. The disclosed virtual reality viewer is shown in Figures 1 and 6A as follows:

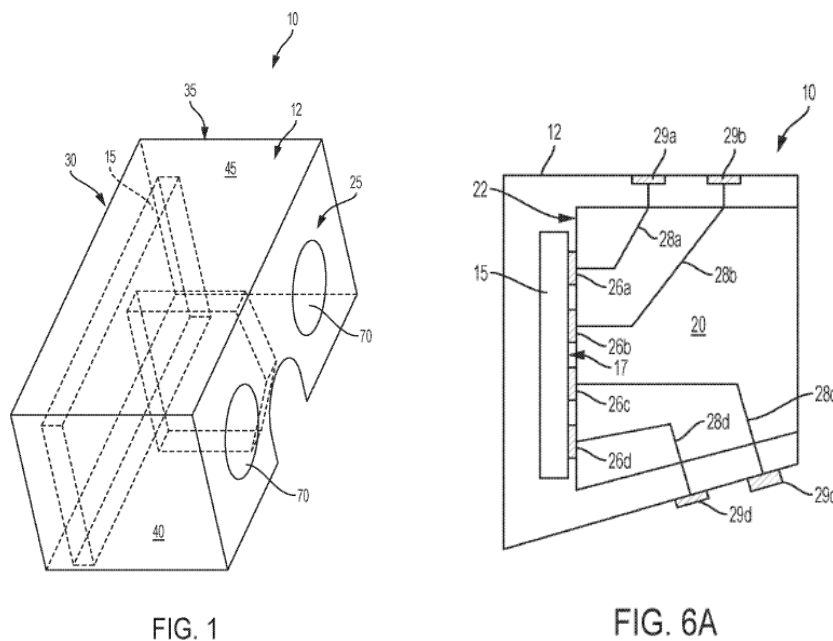


Figure 1 (left) illustrates virtual reality viewer 10 with enclosure 12 having first and second sides, 25 and 30. *Id.* at 3:49–4:35. The first side holds first and second lenses 70, and the second side is configured to receive mobile device 15. *Id.* Figure 6A (right) is a side-view cross-section of the viewer, illustrating touchscreen inputs 26a–d in physical contact with touchscreen 17 of the mobile device. *Id.* at 5:23–6:14. The touchscreen inputs are electrically coupled, via leads 28a–d, to user inputs 29a–d, thereby relaying user interaction to the touchscreen. *Id.* The '184 patent discloses a

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second embodiment in Figure 7, seen as follows:

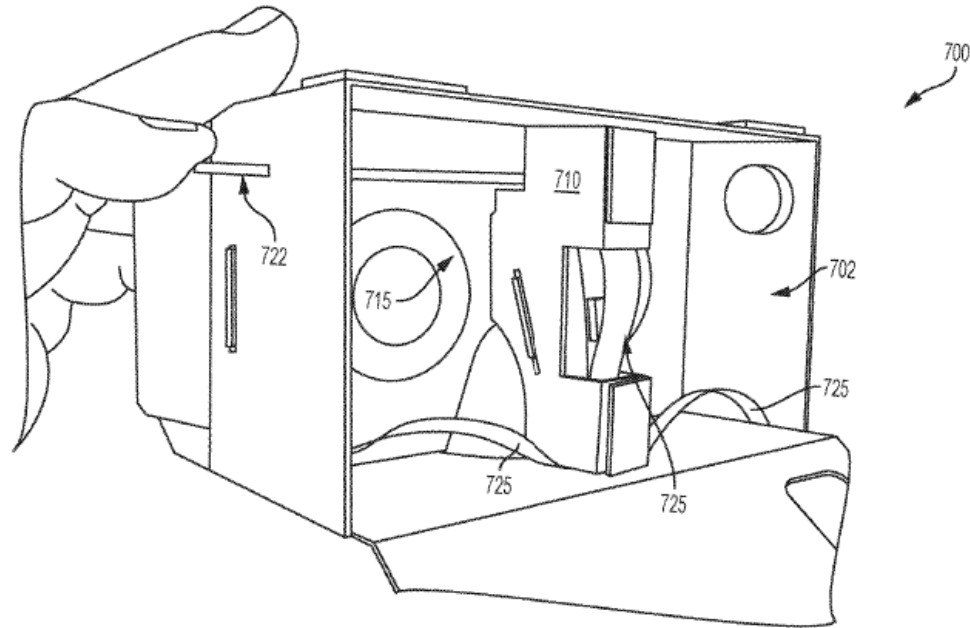


FIG. 7C

Figure 7 illustrates viewer 700 comprising a moveable user input in the form of lever 722. *Id.* at 10:1–11:42. When actuated from a first to a second position, the lever causes touchscreen input, metallic shield 725, to come into physical contact with the touchscreen of the mobile device. *Id.* The touchscreen input is located at a separator between the eyes, view divider 710. *Id.*

C. Challenged Claims

Petitioner challenges claims 1–5, 7–10, 12, and 16–18 of the '184 patent. Pet. 38–103.

Subsequent to the filing of the Petition, Patent Owner filed a statutory disclaimer, a first corrected statutory disclaimer, and a second corrected statutory disclaimer under 35 U.S.C. § 253(a) to disclaim claims 1–5 and 7–

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