

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY COMPUTER ENTERTAINMENT AMERICA LLC
Petitioner

v.

APLIX IP HOLDINGS CORPORATION
Patent Owner

Case No. IPR2015-00476
Patent 7,218,313

**PETITIONER'S RESPONSE TO PATENT OWNER'S
MOTION FOR OBSERVATION**

I. INTRODUCTION

Petitioner respectfully requests that the Board consider the record, rather than Patent Owner's ("PO") characterizations of the record, in determining patentability of U.S. Patent No. 7,218,313 ("the '313 Patent"). PO's observations are misleading, because the observations either mischaracterize the record, or include assertions that are not supported by the record.

II. RESPONSES TO OBSERVATIONS

1. PO's observation is not relevant. As Dr. Welch explained, his reliance on Rekimoto is just as an exemplary reference used to rebut opinions offered by Dr. MacLean. *See Ex. 2051, Welch Dec. 17 Tr.* at 8:9-18; **Ex. 1042**, *Welch Supp. Decl.* at ¶ 15. Specifically, the reference is used to rebut Dr. MacLean's opinion that multi-touch technology was not available in October 2003. *See id.* There is no rule that rebuttal evidence is limited to prior art used in instituted grounds.

2. PO's observation is not relevant, and PO's assertion about the impact of this testimony on the significance of Dr. Welch's testimony is not accurate. Petitioner has not argued, and Dr. Welch has not opined, that Itaya explicitly discusses using multi-touch on a hand-held scale. *See Paper 21, Petitioner's Reply* at 11-12; **Ex. 1042**, *Welch Supp. Decl.* at ¶ 13; **Ex. 2051**, *Welch Dec. 17 Tr.* at 16:20-17:25. As Dr. Welch testified, a PHOSITA would understand that "everything taught in [Itaya] could be realized at a variety of scales and probably was." **Ex. 2051**, *Welch Dec. 17*

Tr. at 17:16-20.

3. PO's characterizations of this testimony are not accurate. The quotation included in PO's motion is not Dr. Welch opining on what the document "shows," as PO suggests. *See Ex. 2051, Welch Dec. 17 Tr.* at 19:3-12. Dr. Welch was simply asked to read a portion of the document into the record. *Id.*; *see also Ex. 1051, AMD Specification Sheet* at p. 2. The purpose of Dr. Welch's supplemental declaration on this point was simply to show that Mr. Lim's assumption that Intel/AMD x86 based processors would not work on anything other than a PC was unfounded. *See Ex. 1042, Welch Supp. Decl.* at ¶ 20. Nothing in this testimony or in the document contradicts Dr. Welch's opinion or supports Mr. Lim's assumption. *See Ex. 2051, Welch Dec. 17 Tr.* at 19:3-12. Further, nothing in this testimony contradicts Dr. Welch's other opinions that other processor families supported I/O controllers for small handheld devices. *See Ex. 1042, Welch Supp. Decl.* at ¶ 21.

4. PO's observation is not relevant. Petitioner has not argued, and Dr. Welch has not opined, that Aebli teaches an input controller inside a mobile phone. *See generally Paper 21, Petitioner's Reply; Ex. 1042, Welch Supp. Decl.* at ¶ 21; *Ex. 2051, Welch Dec. 17 Tr.* at 20:11-21:14. Rather, Dr. Welch simply opines that Aebli "provides a further example of handheld devices using input controllers...." *Ex. 1042, Welch Supp. Decl.* at ¶ 21. Nothing in this testimony contradicts or limits Dr. Welch's opinion. *Ex. 2051, Welch Dec. 17 Tr.* at 20:11-21:14.

Respectfully submitted,
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ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE ON PATENT OWNER
UNDER 37 C.F.R. § 42.6

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on January 8, 2016 the foregoing *Petitioner's Response to Patent Owner's Motion for Observation* was served via electronic filing with the Board on the following counsel of record for Patent Owner:

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