

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION and MICROSOFT MOBILE, INC.,
Petitioner,

v.

GLOBAL TOUCH SOLUTIONS, LLC,
Patent Owner.

Case IPR2015-01148
Patent 7,498,749 B2

Before JUSTIN BUSCH, LYNNE E. PETTIGREW, and BETH Z. SHAW,
Administrative Patent Judges.

SHAW, *Administrative Patent Judge.*

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

I. INTRODUCTION

In this *inter partes* review, instituted pursuant to 35 U.S.C. § 314, Microsoft Corporation and Microsoft Mobile, Inc. (collectively, “Petitioner”) challenge the patentability of claims 1, 2, 5–7, 14, 15, 21, and

23 (“the challenged claims”) of U.S. Patent No. 7,498,749 B2 (Ex. 1001, “the ’749 patent”), owned by Global Touch Solutions, LLC (“Patent Owner”). We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision is entered pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed below, Petitioner has shown by a preponderance of the evidence that claims 1, 2, 5–7, 14, 15, 21, and 23 of the ’749 patent are invalid.

A. Procedural History

Petitioner filed a Petition for *inter partes* review of claims 1, 2, 5–7, 14, 15, 21, and 23 of the ’749 patent. Paper 2 (“Pet”). Patent Owner did not file a Preliminary Response. On November 17, 2015, we instituted an *inter partes* review of claims 1, 2, 5–7, 14, 15, 21, and 23 of the ’749 patent on the sole asserted ground of unpatentability. Paper 12 (“Dec.”).

After institution, Patent Owner filed a Patent Owner Response, Paper 17 (“PO Resp.”), and Petitioner filed a Reply to the Patent Owner Response, Paper 20 (“Pet. Reply”). A consolidated oral hearing was held for this case and several others on August 4, 2016. A transcript of the hearing has been entered into the record. Paper 42 (“Tr.”).

B. Related Matters

Petitioner identifies the following district court proceedings in which the ’749 patent has been asserted: *Global Touch Solutions, LLC v. Microsoft Corp.*, No. 3:15-cv-02750-JD (N.D. Cal.); *Global Touch Solutions, LLC v. Toshiba Corp.*, No. 2:14-cv-00346-JD (N.D. Cal.); *Global Touch Solutions, LLC v. Vizio, Inc.*, No. 3:15-cv-02747-JD (N.D. Cal.); *Global Touch Solutions, LLC v. Apple Inc.*, No. 3:15-cv-02748-JD (N.D. Cal.); and *Global Touch Solutions, LLC v. Motorola Mobility LLC*, No. 3:15-cv-02749-JD

(N.D. Cal.). Pet. 4; Paper 7. Petitioner also has filed petitions for *inter partes* review of related U.S. Patent Nos. 7,329,970; 7,781,980; 7,994,726; and 8,288,952. Pet. 4. Patent Owner also identifies IPR2015-01172, which is a petition for *inter partes* review of the '749 patent filed by a different petitioner. *Id.*

C. The '749 Patent

The '749 patent is directed to portable electronic devices that operate on exhaustible power sources such as batteries. Ex. 1001, Abstract. The '749 patent describes using a microchip-controlled switch in an electronic device such as a flashlight. *Id.* at 3:45–50. A visible indicator such as a light emitting diode (LED) can be used to indicate the condition of the battery. *Id.* at 9:32–40, Fig. 11.

D. Illustrative Claims

Among the challenged claims, only claims 1 and 21 are independent. Claims 1 and 21 read:

1. An electronic unit for use with a product comprising connections for a power source and at least one energy consuming load, said unit comprising:
 - (a) a microchip connected to a user interface switch structure, said structure comprising at least one switch, being a touch sensor type switch that includes a sense pad;
 - (b) a visible indicator controlled by the microchip to provide at least an indicator activation function when a signal is received through said user interface switch, wherein the indicator is active when the load is not activated by the user;
 - (c) wherein the microchip at least partially implements the touch sensor switch and the user interface has at least one of:

(i) an automatic delayed deactivation of a function a predetermined period after the function was activated with an activation command received from the touch sensor switch;

(ii) the indicator, in response to the microchip receiving a user interface switch signal, activated to indicate conditions of the product; and

(iii) a touch sensor switch sense pad being integral with a housing of the product.

21. A method of implementing a user interface for a product comprising connections for a power supply and at least one energy consuming load, using at least a touch sensor user interface switch and a visible indicator, wherein the method includes the steps of:

(a) activating the indicator in response to a user interface switch activation signal;

(b) activating the indicator when the load is not activated by the user;

(c) performing an automatic delayed deactivation of a function that was activated in response to an activation signal received via the user interface switch.

Id. at 12:14–36, 14:12–23.

E. Ground of Unpatentability Instituted for Trial

We instituted a trial on the ground that claims 1, 2, 5–7, 14, 15, 21, and 23 of the '749 patent are unpatentable under 35 U.S.C. § 103(a) as obvious over Jahagirdar¹ and Schultz.² Dec. 10.

¹ U.S. Patent 6,125,286, issued Sept. 26, 2000 (Ex. 1004, “Jahagirdar”).

² U.S. Patent 4,053,789, issued Oct. 11, 1977 (Ex. 1005, “Schultz”).

II. DISCUSSION

A. Claim Construction

In an *inter partes* review, we construe claim terms in an unexpired patent according to their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); *see also Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016) (holding that 37 C.F.R. § 42.100(b) “represents a reasonable exercise of the rulemaking authority that Congress delegated to the Patent Office”). Consistent with the broadest reasonable construction, claim terms are presumed to have their ordinary and customary meaning as understood by a person of ordinary skill in the art in the context of the entire patent disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). An inventor may provide a meaning for a term that is different from its ordinary meaning by defining the term in the specification with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994). Absent such a clear, deliberate and precise definition, it is one of the “cardinal sins” of patent law to import limitations from an embodiment in the specification into the claims. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1320 (Fed. Cir. 2005) (en banc).

Petitioner proposed a construction for “non mains,” recited in dependent claim 3. Pet. 11–12. In the Institution Decision, we adopted Petitioner’s proposed construction of “non mains” to mean “not from the AC utility wiring system of a building” as the broadest reasonable construction consistent with the Specification of the ’749 patent. *See* Dec. 4–5. After considering the complete record, we see no reason to change this construction. In its Patent Owner Response, Patent Owner does not propose

constructions for any other terms. We determine no other claim terms require express construction.

B. Overview of Asserted Prior Art References

1. Jahagirdar

Jahagirdar describes a mobile phone that has a microchip-controlled user interface and mechanical push-button switches. Ex. 1004, 3:59–67; Ex. 1011 ¶ 29. Figure 4 of Jahagirdar is reproduced below.

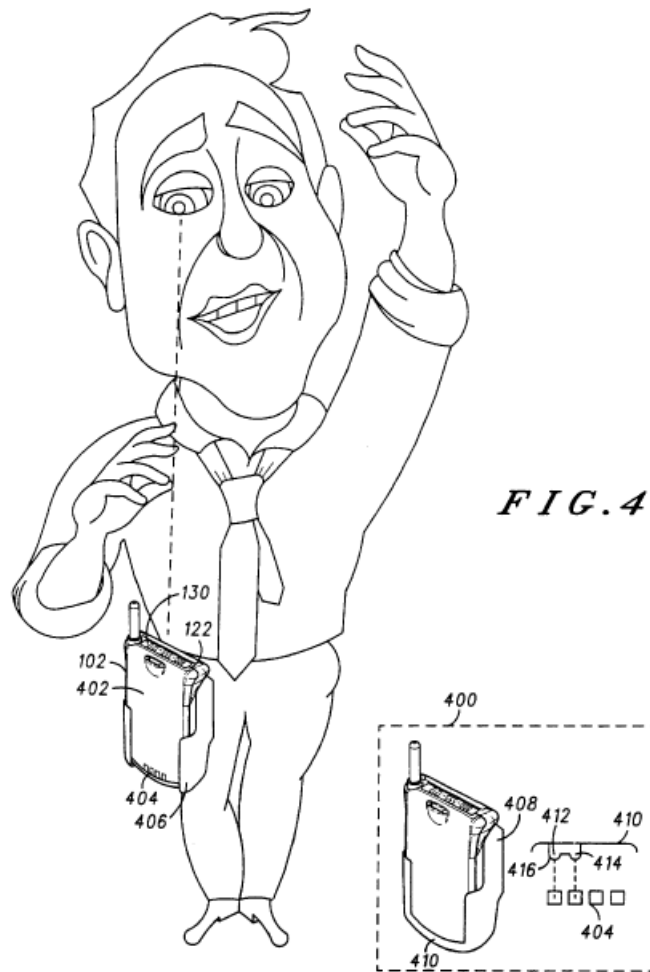


Figure 4 is an illustration of a mobile station being worn in a holster by a user. Ex. 1004, 1:44–45.

Figures 1, 2, and 8A of Jahagirdar are reproduced below (red annotations added by Petitioner). Pet. 34.

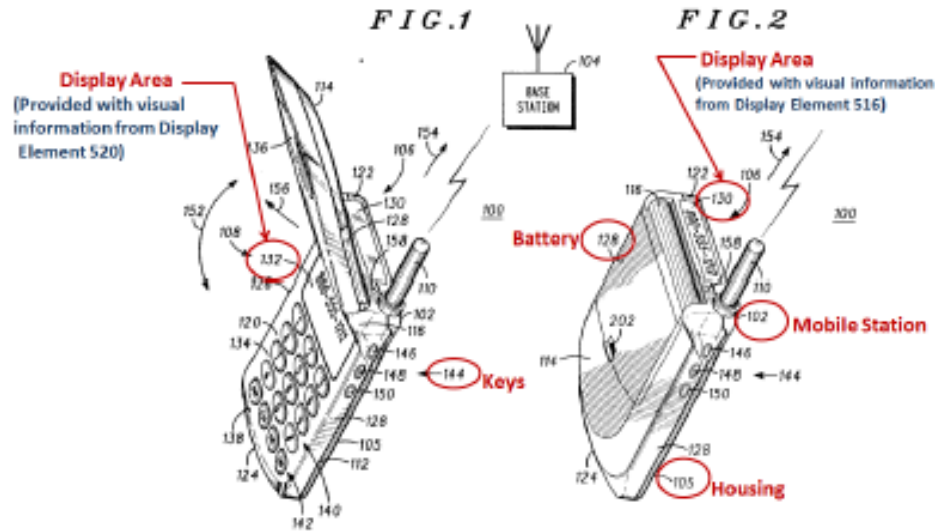


FIG. 8A

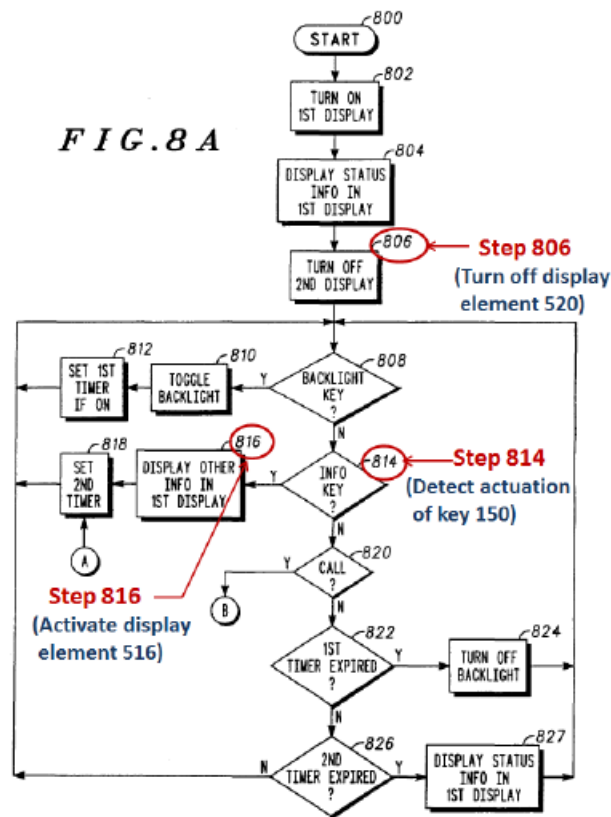


Figure 1 is an illustration of a mobile station having a first display area and a second display area, and Figure 2 is an illustration of the mobile station of Figure 1. Ex. 1004, 1:38–40. Figure 8A is a flowchart describing the operation of the mobile station. *Id.* at 1:53–54. “Mobile station 102 also includes a removable battery 128.” Ex. 1004, 3:33. Further, mobile station 102 includes display elements 516 and 520. *Id.* at 4:28–29.

2. Schultz

Schultz describes “a reliable touch actuated system . . . responsive to the touch of an animal . . . [such as] human beings, pets and domestic animals.” Ex. 1005, 1:27–31. Schultz discloses touch responsive area 67. *Id.* at 4:47–48; Ex. 1011 ¶ 37.

C. Obviousness of Claims 1, 2, 5–7, 14, 15, 21, and 23 over the Combination of Jahagirdar and Schultz

Petitioner contends that claims 1, 2, 5–7, 14, 15, 21, and 23 are unpatentable under 35 U.S.C. § 103(a) as obvious over Jahagirdar and Schultz. Pet. 12–60. In its analysis, Petitioner relies on the declaration testimony of Mark N. Horenstein, Ph.D. See Ex. 1011. Petitioner explains how the combination of Jahagirdar and Schultz allegedly teaches all the claim limitations and provides rationales for combining the references. Pet. 12–60 (citing Ex. 1011).

We have reviewed the Petition, Patent Owner Response, and Petitioner’s Reply, as well as the relevant evidence discussed therein. For the reasons that follow, we determine Petitioner has shown by a preponderance of the evidence that claims 1, 2, 5–7, 14, 15, 21, and 23 would have been obvious in view of the asserted combinations of prior art references.

*1. Combination of Jahagirdar's Mobile Phone and
Schultz's Touch Sensors*

Petitioner contends that the combination of Jahagirdar and Schultz teaches all of the limitations of claims 1, 2, 5–7, 14, 15, 21, and 23. Pet. 12–60. We agree with and adopt Petitioner's contentions regarding these claims, set forth in detail in the Petition and summarized below. *See id.* We also agree with and adopt the reasoning set forth in the Petition and Dr. Horenstein's declaration for why a person of ordinary skill in the art would have modified Jahagirdar with the cited teachings of Schultz. *See id.* at 28 (citing Ex. 1011 ¶ 58; *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007)).

Claim 1 requires “a microchip connected to a user interface switch structure, said structure comprising at least one switch, being a touch sensor type switch that includes a sense pad.” Ex. 1001, 12:17–19. Claim 21 requires “[a] method of implementing a user interface for a product comprising connections for a power supply and at least one energy consuming load, using at least a touch sensor user interface switch and a visible indicator.” *Id.* at 14:12–15.

Petitioner contends that the combination of Jahagirdar and Schultz teaches all the elements of independent claims 1 and 21, with Schultz teaching the touch sensor switch. *See* Pet. 25–55. Petitioner argues a person having ordinary skill in the art would have incorporated Schultz's touch sensors into Jahagirdar's keys 144 so as to form a user interface switch structure comprising a touch sensor type switch that includes a sense pad. Pet. 28. Petitioner asserts the combination of Schultz's touch sensor with Jahagirdar's mobile phone is merely the combination of known elements

performing known functions and yielding no more than one would expect from such an arrangement. *Id.* at 2–3 (citing Ex. 1011 ¶¶ 27, 29, 37, 40). Petitioner points to various references and Dr. Horenstein’s testimony regarding an ordinarily skilled artisan’s knowledge and understanding of the prior art and ability to combine the respective teachings from that prior art. *Id.* at 21–35.

Specifically, Petitioner argues “[i]ncorporating a touch sensor into Jahagirdar would have asked little of a person of ordinary skill, because a touch sensor would have improved Jahagirdar in the same way a touch sensor would have improved any such electronic device.” Pet. 24 (citing Ex. 1011 ¶ 59). Petitioner further asserts claim 1 of the ’749 patent “does not specify the details of the claimed touch sensor” and “Schultz’s touch sensor could have been integrated into Jahagirdar’s keys 144 in multiple ways depending upon what might have been convenient or desirable.” *Id.* (citing Ex. 1011 ¶ 66). In particular, Petitioner contends Jahagirdar’s keys 144 could have been replaced by one or more touch sensors, such that the touch sensors would perform the functions that Jahagirdar’s keys 144 perform. *Id.* (citing Ex. 1011 ¶ 66 (testifying that, if a person having ordinary skill in the art were to integrate Schultz’s touch sensors into Jahagirdar’s keys 144, it would have been within that person’s technical grasp and knowledge of options to relocate keys 144 or program Jahagirdar’s controller to recognize input to keys 144 when mobile station 102 was in either an open or closed position)). Accordingly, Petitioner argues combining Schultz’s touch sensor with Jahagirdar’s mobile phone would have been obvious because “Jahagirdar and Schultz demonstrate that the elements of claim 1 were well known, and the combination of the techniques described therein would have

yielded no more than one would expect from such an arrangement.” Pet. 34 (citing Ex. 1011 ¶ 66).

Patent Owner’s expert, Dr. Morley, agrees with Petitioner’s underlying assertions as to why the challenged claims would have been obvious: the flip-phone of Jahagirdar and touch sensor of Schultz are prior art; there was no technical barrier to combining the prior art elements; and the result of combining the prior art elements was predictable. Ex. 1017, 176:2–177:13; Ex. 2005 ¶ 32 (correctly stating that combining “prior art elements according to known methods to yield predictable results” is one exemplary rationale for obviousness). As Dr. Morley explains, the Schultz touch sensors were not limited by size or arrangement, and a person of ordinary skill could have taken the Schultz sensors and put them into touch sensors the size of the buttons on Jahagirdar. Ex. 1017, 138:17–21, 140:2–13. Additionally, as Dr. Morley acknowledges, the claims of the ’749 patent contain no limitations as to the physical form, internal architecture, or arrangement of the touch sensors. *Id.* at 172:12–173:10. Patent Owner presents no argument that the proposed combination would have been beyond the capabilities or knowledge of a person having ordinary skill in the art. See PO Resp. 2–14.

As the Supreme Court has stated, “when a patent simply arranges old elements with each performing the same function it had been known to perform and yields no more than one would expect from such an arrangement, the combination is obvious.” *KSR*, 550 U.S. at 417 (internal quotations omitted). “If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability.” *Id.* at 417. As illustrated by Schultz, the use of a touch sensor as an alternative to a

mechanical push button was well known in the prior art. *See* Ex. 1005; Ex. 1011 ¶ 27. We agree that the combination of Jahagirdar and Schultz teaches the elements of claim 1 as arranged, and we are persuaded the proposed combination would have been obvious, because it merely involves substitution of familiar elements, the combination of which yields predictable results. *KSR*, 550 U.S. at 417. *See id.* In particular, we agree that the combination is the simple substitution or modification of Jahagirdar’s keys with Schultz’s known touch sensor. This is, in other words, a textbook case of obviousness. *See Agrizap, Inc. v. Woodstream Corp.*, 520 F.3d 1337, 1344 (Fed. Cir. 2008) (“This is a textbook case of when the asserted claims involve a combination of familiar elements according to known methods that does no more than yield predictable results.”).

Furthermore, Petitioner offers additional reasons an ordinarily skilled artisan would have modified or replaced Jahagirdar’s keys with Schultz’s touch sensor. In particular, Petitioner contends Schultz explicitly identified certain advantages of its touch sensor, including minimizing accidental actuation and eliminating contamination and mechanical failures associated with switches having moving parts. Pet. 30 (citing Ex. 1011 ¶ 58); Ex. 1005, 1:9–24. Petitioner further contends an ordinarily skilled artisan would have incorporated Schultz’s touch sensor switches into Jahagirdar’s mobile phone “to enhance convenience and aesthetics for the user.” Pet. 30 (citing Ex. 1011 ¶ 58).

Patent Owner does not point us to objective evidence of nonobviousness to overcome the textbook case of obviousness here. Rather, Patent Owner argues that the combination is based on hindsight and

challenges Petitioner's additional reasons for the combination. PO Resp. 2–3. Specifically, Patent Owner argues that replacing Jahagirdar's keys 144 with Schultz's touch sensor would actually increase accidental actuations because a user would contact the touch sensors while carrying or using the phone due to the location of touch sensors on the side of the phone. *Id.* at 6–8. Patent Owner also contends there is no evidence that Jahagirdar's keys 144 are subject to contamination or mechanical failure and, to the extent they are, a person of ordinary skill in the art would have replaced keys 144 with switches other than touch sensors, such as membrane switches. *Id.* at 8–9 (citing Ex. 2005 ¶¶ 68–71; Ex. 1001, 8:4–10). Patent Owner argues the record does not provide an evidentiary basis to conclude that Jahagirdar's mobile device would be improved aesthetically by incorporating Schultz's touch sensor, and that incorporating the touch sensor would decrease convenience due to increased accidental actuation. PO Resp. 8. Finally, Patent Owner argues that the combination “is taught away from” because “the art adopted a different solution, membrane switches.” PO Resp. 10–11.

Notwithstanding Patent Owner's position that Petitioner's proposed combination would increase accidental actuations when grabbing or holding Jahagirdar's mobile station, Petitioner points to Dr. Morley's testimony that touch sensors would alleviate accidental actuation by *inanimate* objects (e.g., “clothes, objects in a bag, [and] surfaces of furniture”). Pet. Reply 2 (citing Ex. 1017, 157:20–158:23; Ex. 2005 ¶ 60). Accordingly, Petitioner argues a person having ordinary skill in the art looking to reduce inadvertent actuation by inanimate objects would be motivated to incorporate Schultz's touch sensor. *Id.* at 2–3 (citing Ex. 1019 ¶ 3). Moreover, Petitioner points out that unrebutted evidence in the record demonstrates Schultz's touch

sensor could have been integrated into Jahagirdar's keys 144 in multiple ways, depending upon what might have been convenient or desirable. Pet. 34, 54 (citing Ex. 1011 ¶ 66). For example, a person of ordinary skill would have been readily able to relocate those touch sensors to different locations, or "one of skill could have easily programmed Jahagirdar's controller, for example, such that touch sensor inputs were only recognized at appropriate times, depending on whether the mobile station 102 was opened or closed." Ex. 1011 ¶ 66. In such a way, inadvertent actuation of the touch sensors would be minimized or eliminated.

Even assuming that other switches, such as membrane switches, would have been available or preferable for reducing contamination and mechanical failures, Petitioner argues that would not render the proposed combination non-obvious. Pet. Reply at 3–4. Finally, regarding the argument that a person having ordinary skill would look to add Schultz's touch sensor to Jahagirdar's keys 144 due to aesthetic concerns, Petitioner asserts Dr. Morley admitted aesthetics might be a reason to design a product with touch sensors and has offered no reasons why some phone designers or users would ignore aesthetics. *Id.* at 4 (citing Ex. 1017, 171:24–172:3). Petitioner also points to examples of products that integrated touch sensors into user interfaces. Pet. 21–34 (citing Exs. 1006, 1008, 1009); Pet. Reply 4.

We have reviewed the parties' arguments and evidence and find that the preponderance of the evidence in the record supports a conclusion that it would have been obvious to combine the asserted teachings. Patent Owner's primary argument against Petitioner's additional reasons for its proposed combination is that touch sensors on Jahagirdar's mobile phone would increase inadvertent actuations when grabbing or holding the modified

mobile phone. See PO Resp. 2 (“inadvertent actuation . . . is in fact exacerbated by the proposed substitution”); *id.* at 7 (“combination of art . . . would increase, not decrease, accidental or inadvertent actuation”); *id.* at 8, 10. However, we find an ordinarily skilled artisan would have been capable of assessing any benefits and harms of integrating a touch sensor into Jahagirdar’s mobile phone and, using ordinary creativity, deciding whether to modify the arrangement of keys 144 or program the phone to recognize touch sensor inputs only in certain circumstances in order to minimize or eliminate inadvertent actuation. See *KSR*, 550 U.S. at 417 (“If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability”); *id.* at 421 (“A person of ordinary skill is also a person of ordinary creativity, not an automaton.”); Ex. 1011 ¶ 66. Moreover, we agree with Petitioner that one of ordinary skill in the art would have been motivated to pursue the desirable properties of touch sensors, as taught by Schultz, even at the potential expense of forgoing a benefit of the push buttons taught by Jahagirdar. See *In re Urbanski*, 809 F.3d 1237, 1243 (Fed. Cir. 2016).

2. Activation of the Visible Indicator

Claim 1 requires a “visible indicator . . . [that provides] an indicator activation function when a signal is received through said user interface switch, wherein the indicator is active when the load is not activated by the user.” Ex. 1001, 12:20–24. Claim 21 requires “activating the indicator in response to a user interface switch activation signal . . . when the load is not activated by the user.” *Id.* at 14:19–23.

Petitioner contends electrical circuitry 500 of mobile station 102 of Jahagirdar includes display components 506, including “the load” as recited

in claim 1, which Petitioner contends is display element 520, and a visible indication via display element 516. Pet. 33 (citing Ex. 1004, 3:60–62, 4:27–30; Ex. 1011 ¶ 68). “Display elements 516 and 520 provide visual information in display areas 130 and 132, respectively.” Ex. 1004, 4:40–41; Ex. 1011 ¶ 68.

Petitioner contends that Jahagirdar discloses that its visible indication is activated in response to an activation signal received from key 150 (of keys 144, which are part of Jahagirdar’s user interface). Pet. 35 (citing Ex. 1004, 5:54–65; Ex. 1011 ¶ 68). Petitioner asserts Jahagirdar further discloses that display element 516 can be activated in response to an activation signal received from the user interface when the load (display element 520) is not activated by the user. Pet. 37 (citing Ex. 1004, 5:35–37; Ex. 1011 ¶ 69). Specifically, Petitioner argues, Jahagirdar discloses that prior to the key actuation detection (step 814) and the step of displaying a visible indication (step 816), display element 520 was turned off at step 806. *Id.* Petitioner contends that, because display element 520 (the load) was already off at step 806, the indicator could be active when the load was not activated by the user. *Id.* (citing Ex. 1011 ¶ 69).

Patent Owner argues that display 516 was activated or turned on when the phone is closed, and not in response to a user interface switch activation as recited in the claims. PO Resp. 13. Patent Owner argues that sending data to display screen 516 is not activation of the screen but simply the provision of new data. *Id.* Moreover, Patent Owner argues, the presentation of data in display 516 is not done in response to a signal received through the user interface switch. *Id.* at 14.

Petitioner replies that Patent Owner ignores the portion of Jahagirdar that describes a configuration where display element 516 was not activated prior to actuation of key 150. Pet. Reply 10. Specifically, Jahagirdar describes that while display area 130 may display status information when the phone is flipped closed, “[a]lternatively, the status information may include little or no information, where display area 130 is cleared” when the phone was closed. Ex. 1004, 5:43–44. In this alternative configuration, when key 150 is pressed to display “new visual information” relative to the cleared screen, display element 516 changes from blank to displaying information, and thus is activated (or turned on) in the process. *Id.* at 5:43–57; Ex. 1019 ¶ 5.

We agree with Petitioner. Claim 1 requires a “visible indicator . . . [that provides] an indicator activation function when a signal is received through said user interface switch, wherein the indicator is active when the load is not activated by the user.” Jahagirdar describes that when key 150 is pressed to display “new visual information” relative to a cleared screen, display element 516 changes from blank to displaying information, and thus is activated, or turned on. *Id.* at 5:43–57; Ex. 1019 ¶ 5.

We agree that Jahagirdar’s Figure 8A discloses turning off the second display at step 806. Ex. 1004, Fig. 8A (step 806). As Petitioner points out, Jahagirdar also describes the configuration in which in response to the phone being closed, “the status information [on display 130] may include little or no information, where display area 130 is cleared.” *Id.* at 5:43–44. When “controller 504 [later] detects an actuation of key 150 (step 814), controller 504 sends display data to driver 514, which sends display data to display element 516 for displaying new visual information in display area 130,” and

thus operation of the load (display element 520) is not activated by the user—because it simply stayed off. *See id.* at 5:54–57; Ex. 1011 ¶ 69.

Thus, we agree with Petitioner that Jahagirdar teaches a “visible indicator . . . [that provides] an indicator activation function when a signal is received through said user interface switch, wherein the indicator is active when the load is not activated by the user,” as recited in claim 1. For the same reasons, we agree that Jahagirdar teaches “activating the indicator in response to a user interface switch activation signal . . . when the load is not activated by the user,” as recited in claim 21.

Petitioner has shown sufficiently that the combination of Jahagirdar and Schultz teaches all the limitations of independent claims 1 and 21. Patent Owner does not present any arguments with respect to these claims other than those already discussed. For the foregoing reasons, we conclude that Petitioner has shown by a preponderance of the evidence that claims 1 and 21 would have been obvious in view of Jahagirdar and Schultz.

3. Dependent Claims 2, 5–7, 14, 15, and 23

Claims 2, 5–7, 14, and 15 depend directly from claim 1. Claim 23 depends directly from claim 21. Petitioner relies on the combination of Jahagirdar and Schultz for teaching the additional limitations of these claims. Pet. 39–45, 57–58. Patent Owner does not present any arguments with respect to these claims other than those already discussed. *See* PO Resp. 2–14. We agree with and adopt Petitioner’s contentions regarding Jahagirdar’s and Schultz’s teachings of the limitations of these claims. *See* Pet. 39–45, 57–58. Accordingly, we conclude that Petitioner has shown by a

preponderance of the evidence that claims 2, 5–7, 14, 15, and 23 would have been obvious over the combination of Jahagirdar and Schultz.

III. CONCLUSION

Based on the evidence and arguments, Petitioner has demonstrated by a preponderance of the evidence that claims 1, 2, 5–7, 14, 15, 21, and 23 of the '749 patent are unpatentable under 35 U.S.C. § 103(a) as obvious over Jahagirdar and Schultz.

IV. ORDER

Accordingly, it is:

ORDERED that claims 1, 2, 5–7, 14, 15, 21, and 23 of U.S. Patent No. 7,498,749 have been shown to be unpatentable; and

FURTHER ORDERED that, because this is a final written decision, parties to the proceeding seeking judicial review of the decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

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