

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 IPR2015-01023
Patent 8,035,623 B2

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

PETTIGREW, *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 24, 30, and 31 of U.S.

Patent No. 8,035,623 B2 (Ex. 1001, “the ’623 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 30 and 31 of the ’623 patent are unpatentable. We also enter judgment against Patent Owner with respect to claim 24 of the ’623 patent in view of Patent Owner’s statutory disclaimer of that claim.

A. Procedural History

Petitioner filed a Petition for *inter partes* review of claims 24, 30, and 31 of the ’623 patent. Paper 2 (“Pet.”). Patent Owner did not file a Preliminary Response. On September 28, 2015, we instituted an *inter partes* review of claims 24, 30, and 31 of the ’623 patent on all asserted grounds of unpatentability. Paper 10 (“Institution Decision” or “Dec.”). After institution, Patent Owner filed a Patent Owner Response, Paper 13 (“PO Resp.”), and Petitioner filed a Reply to the Patent Owner Response, Paper 14 (“Pet. Reply”). An oral hearing was held on July 13, 2016. A transcript of the hearing has been entered into the record. Paper 24 (“Tr.”).

Subsequent to the hearing, Patent Owner filed a Notice of Filing of Statutory Disclaimer, indicating it had filed a statutory disclaimer of claim 24 of the ’623 patent. Paper 23. Patent Owner also submitted a copy of the statutory disclaimer filed under 37 C.F.R. § 1.321(a). Ex. 2003.

B. Related Matters

The parties identify the following district court proceedings in which the ’623 patent has been asserted: *Global Touch Solutions, LLC v. Microsoft Corp.*, Case No. 3:15-cv-02750 (N.D. Cal.); *Global Touch Solutions, LLC v.*

Motorola Mobility, LLC, Case No. 3:15-cv-02749 (N.D. Cal.). Pet. 3–4; Paper 9, 3.

C. The '623 Patent

The '623 patent is directed to an electronic circuit including a microchip that uses touch sensor technology to detect proximity and physical contact events. Ex. 1001, Abstract. A touch sensor interface or switch that allows a user to operate a device and select functions may allow the user to select or give a signal to the microchip based on user proximity and not necessarily physical contact or touch. *Id.* at 13:37–41. For example, a flashlight operated by a push button switch may have a touch sensor for proximity detection so that the push button is illuminated when the user's hand is close to the switch. *Id.* at 14:23–27, 14:57–59. The user then may press the push button to activate the flashlight. *Id.* at 14:62–64. The proximity-based indication (e.g., illumination of the switch) may be discontinued a certain period of time after the proximity signal has disappeared. *Id.* at 14:38–40.

D. Challenged Claims

Claim 24 is independent, claim 30 depends directly from claim 24, and claim 31 depends from claim 30. The challenged claims read:

24. A method of using a touch sensor circuit that forms a user interface switch as part of a product, wherein a microchip and a touch sensor switch structure are used in the implementation of the user interface switch, the method comprising the steps of:

(1) detecting a proximity event through an object approaching the touch sensor switch, and

(2) displaying information regarding the modes and/or functions associated with the switch in response to the detection of the proximity event.

30. The method of claim 24, wherein multiple touch sensor switches are used and the step of operating a display in response to a proximity event further comprises displaying information on said display that guides the user towards a next likely switch selection to be made through physical contact.

31. The method according to claim 30, further comprising a step of automatically de-activating a function that was activated upon receiving a proximity detection signal from the user interface switch.

Id. at 18:48–56, 19:15–20:7 (formatting added).

E. Asserted Grounds of Unpatentability

We instituted an *inter partes* review of claims 24, 30, and 31 of the '623 patent on the following grounds of unpatentability:

Reference	Basis	Challenged Claim(s)
Hinckley ¹	35 U.S.C. § 102(b)	24 and 30
Hinckley	35 U.S.C. § 103(a)	31

II. DISCUSSION

A. Statutory Disclaimer of Claim 24

A party may request judgment against itself at any time during a proceeding. 37 C.F.R. § 42.73(b). We treat Patent Owner's statutory

¹ U.S. Patent App. Pub. No. 2001/0011995 A1, published Aug. 9, 2001 (Ex. 1005, "Hinckley"). Because the earliest effective filing date of the challenged claims is October 12, 2004, Hinckley is prior art to the challenged claims under 35 U.S.C. § 102(b). See Dec. 7–8.

disclaimer of independent claim 24 as a request for adverse judgment as to that claim. *See id.* § 42.73(b)(2); Paper 23; Ex. 2003. Accordingly, we enter judgment against Patent Owner with respect to claim 24. The remainder of this decision addresses Petitioner’s challenge to the patentability of claims 30 and 31.

B. 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 Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144 (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).

1. Claim Language Construed in the Institution Decision

In the Institution Decision, we preliminarily construed two claim limitations for which Petitioner had proposed constructions in the Petition. Dec. 5–6. First, we construed “detecting a proximity event through an object approaching the touch sensor switch,” recited in independent claim 24, as “detecting an object that is proximate, but not in physical contact with, the touch sensor switch.” *Id.* at 5. Second, we construed “the step of operating a display in response to a proximity event,” recited in dependent claim 30, as referring to, and having antecedent basis in, the step

in independent claim 24 of “displaying information regarding the modes and/or functions associated with the switch in response to the detection of the proximity event.” *Id.* at 5–6. We also determined that “the step of operating a display” in claim 30 provides antecedent basis for “said display,” recited later in claim 30. *Id.* at 6.

Patent Owner agrees with these constructions. PO Resp. 6. Petitioner does not further address the construction of these phrases in its Reply. *See* Pet. Reply 3–16. For this Final Written Decision, after considering the complete record, we maintain the constructions set forth in our Institution Decision.

2. “*a next likely switch selection*” (claim 30)

In claim 30, the step of operating a display “further comprises displaying information on said display that guides the user towards *a next likely switch selection* to be made through physical contact.” Ex. 1001, 20:1–3 (emphasis added). Patent Owner contends that “a next likely switch selection” in that claim should be construed as “a next likely *touch sensor* switch selection.” PO Resp. 7 (emphasis added). In support of its proposed construction, Patent Owner cites only the surrounding words of claim 30 and the deposition testimony of Dr. Mark N. Horenstein, Petitioner’s retained expert. *Id.* at 7–11 (citing Ex. 2001, 53:11–54:2, 54:21–55:20). Petitioner urges us to reject Patent Owner’s narrow construction because it “ignores the claim language, the specification and its embodiments, the plain meaning, and the evidence of record.” Pet. Reply 2. For the following reasons, we agree with Petitioner that under the broadest reasonable construction, the disputed claim language is not limited to a next likely selection of a *touch sensor* switch.

We begin our analysis with the language of the claims. Patent Owner's only argument in this regard is that "a next likely switch selection" refers to a touch sensor switch because "the claim as whole must be taken into account, and claim 30 previously recites a context of 'multiple touch sensor switches.'" PO Resp. 7. As Petitioner asserts, however, Patent Owner does not address the language of claim 24, from which claim 30 depends. See Pet. Reply 6. Claim 24 recites both a "user interface switch" and a "touch sensor switch," and claim 30 adds the limitation that "multiple touch sensor switches are used." Ex. 1001, 18:48–51, 19:15–16. Even though the touch sensor switch in claim 24 appears to be part of the claimed user interface switch, the modifiers "user interface" and "touch sensor" illustrate that the '623 patent uses descriptors when claiming particular types of switches. See Pet. Reply 5–6. As another example, claim 32, which also depends from claim 24, specifically recites an "electromechanical switch." Ex. 1001, 20:9–10; see Pet. Reply 5.

In contrast to the more narrowly claimed "user interface," "touch sensor," and "electromechanical" switches, the claim language at issue—"a next likely switch selection"—simply uses the term "switch" without qualification, which indicates that the phrase refers to any type of switch. See Pet. Reply 5. Significantly, the disputed claim language does not clearly refer back to an earlier recited switch by specifying, for example, that the switch selection be from among "*the* multiple touch sensor switches." See *id.* at 7. Instead, the claim leaves open whether "a next likely switch selection" refers to the antecedent "user interface switch" or "touch sensor switch," or, as suggested by the introductory "a," an entirely new switch not

previously recited in the claim. *See id.*; Ex. 1022 ¶¶ 13–14 (Second Decl. of Dr. Horenstein).

Indeed, the language of claim 30 places only one restriction on “a next likely switch selection”—that it “be made through physical contact.”

Ex. 1001, 20:3. In the context of claims 24 and 30, that language refers to selection of a switch through physical contact, such as pushing or touching, in contrast to detection of a “proximity event” when an object approaches a touch sensor switch. *See* Pet. Reply 8; Ex. 1022 ¶ 15. Nothing in the claim language requires the physically contacted switch to be a *touch sensor* switch, as would be the case under Patent Owner’s proposed construction.

We turn now to the written description, which is “highly relevant” and often, as here, is “the single best guide to the meaning of a disputed term.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1315 (Fed. Cir. 2005) (en banc) (quoting *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)). Patent Owner cites no portion of the written description of the ’623 patent in support of its proposed construction. *See* PO Resp. 7–11. Petitioner, on the other hand, identifies several embodiments disclosed in the ’623 patent that relate to the method in claim 30. Pet. Reply 9–14. In each embodiment, a touch sensor detects proximity of an approaching object (e.g., a user’s hand), and, in response, a display provides information “that guides the user towards a next likely switch selection to be made through physical contact,” as recited in claim 30. And in each embodiment, the switch selected through physical contact is something *other than a touch sensor switch*.

In one example, the ’623 patent describes a find-in-the-dark (“FITD”) indicator used in, for example, a flashlight. Ex. 1001, 14:13–37. The FITD

indicator has a “pb” (i.e., a push button) and a touch sensor. *Id.* at 14:14–16. As a user’s hand approaches, the FITD indicator detects proximity and becomes brighter or more intense. *Id.* at 14:32–35. “The FITD indicator may be part of the button to be pressed when activating the pb switch.” *Id.* at 14:35–37. As the ’623 patent explains, “[s]pecific illumination of the pb switch . . . assists the user in the location of the switch that must be activated in order to start operation. The pb switch in a specific embodiment must still be pressed to activate the light or main energy consuming load.” *Id.* at 14:59–64.

In another embodiment, the ’623 patent describes using a proximity sensor “in the casing of a traditional switch mechanism,” such as a switch that requires movement for activation, e.g., “a switch for the defrosting of a window in a vehicle, a turn signal indicator activation mechanism or a window wiper activation lever.” *Id.* at 16:1–6. When proximity of a body part (e.g., a user’s finger) is detected, a find-in-the-dark indicator is activated. *Id.* at 16:6–8. “The find-in-the-dark indicator may be specifically designed to illuminate the contact area of the switch in the vicinity where the user must physically make contact to activate the switch,” e.g., “a lever used to operate a wiper or turn signal indicator.” *Id.* at 16:13–17. Thus, the find-in-the-dark indicator “guides the user towards a next likely switch selection to be made through physical contact,” as recited in claim 30.

In yet another disclosed embodiment, the ’623 patent describes using a proximity sensor on a radio “to guide the user towards a button or a sequence of buttons likely to be operated next.” *Id.* at 16:35–37. For example, if the radio is off, “the detection of a user finger in proximity of the radio will illuminate the on switch and possibly no other switch.” *Id.* at

16:37–40. On the other hand, if the radio is already on, “a proximity detection . . . will illuminate the off switch or volume control switch but not the on switch.” *Id.* at 16:40–42. We credit Dr. Horenstein’s testimony that a person of ordinary skill in the art reading the ’623 patent would understand the term “button” to mean a physical (i.e., mechanical) button that is “operated” by pressing it. *See* Ex. 1022 ¶ 19 (citing Ex. 1001, 16:50–55); Pet. Reply 13. We also agree with Petitioner and Dr. Horenstein that there is no support in the specification for the term “button” to refer to a touch sensor. Pet. Reply 14; Ex. 1022 ¶ 19.

Thus, in these disclosed embodiments of the ’623 patent, the next likely switch is a physical switch, such as a push button or lever, rather than a touch sensor switch. Patent Owner’s proposed construction limiting the next likely switch to a touch sensor would improperly exclude these embodiments. *See Broadcom Corp. v. Emulex Corp.*, 732 F.3d 1325, 1333 (Fed. Cir. 2013) (holding that an interpretation that “excludes a [disclosed] embodiment from the scope of the claim is rarely, if ever correct” (alteration in original) (quoting *Accent Packaging, Inc. v. Leggett & Platt, Inc.*, 707 F.3d 1318, 1326 (Fed. Cir. 2013))). Moreover, the written description of the ’623 patent nowhere discloses an embodiment corresponding to the method of claim 30 in which the next likely switch selection refers to selection of a touch sensor switch. *See* Pet. Reply 10; Ex. 1022 ¶ 16. The written description, therefore, supports Petitioner’s position that “a next likely switch selection” is not limited to a touch sensor switch. *See* Pet. Reply 14.

Based on the intrinsic evidence of record—the language of the claims and the written description of the '623 patent²—we agree with Petitioner that “a next likely switch selection” in claim 30 is not limited to selection of a touch sensor switch. In support of its proposed construction, Patent Owner also relies on extrinsic evidence in the form of deposition testimony of Petitioner’s expert, Dr. Horenstein. *See* PO Resp. 8–11 (citing Ex. 2001, 53:11–54:2, 54:21–55:20). It is improper, however, to rely on expert testimony that is at odds with the intrinsic record. *See Phillips*, 415 F.3d at 1318. Moreover, even if we consider the proffered extrinsic evidence, we find that it supports Petitioner’s position rather than Patent Owner’s.

The only expert testifying in this case is Petitioner’s declarant, Dr. Horenstein. *See* Exs. 1021 (Decl. of Dr. Horenstein), 1022 (Second Decl. of Dr. Horenstein), Ex. 2001 (deposition testimony of Dr. Horenstein). In his first Declaration, submitted with the Petition, Dr. Horenstein’s analysis makes clear that, in his view, the claimed “next likely switch selection” encompasses selection of a switch that is not a touch sensor. Ex. 1021 ¶¶ 52, 71 (opining that Hinckley’s disclosure of “physically contacting the volume control knob to adjust the volume” satisfies the “next likely switch selection to be made through physical contact” limitation of claim 30 (citing Ex. 1005 ¶ 133)); *see* Pet. 32. Dr. Horenstein reiterates this position in his second Declaration, submitted with Petitioner’s Reply. Ex. 1022 ¶ 9.

² Neither party argues that the prosecution history of the '623 patent has any bearing on the construction of “a next likely switch selection.” *See* PO Resp. 7–11; Pet. Reply 5–16; Tr. 15:24–16:2.

At Dr. Horenstein's deposition, Patent Owner's counsel asked him the following question: "So it's your understanding that the displaying information . . . on said display that guides the user toward the next likely switch selection [in claim 30] is guiding the user toward the next touch sensor switch from among multiple touch sensor switches that are recited in the claim?" Ex. 2001, 54:10–17. Dr. Horenstein responded that he did not agree with that characterization. *Id.* at 54:19–20 ("Not exactly. I think that is not what the claim says."). Upon further questioning, however, Dr. Horenstein stated that "claim 30 is saying . . . that whatever sensor apparatus or sensor pads exist, they are operated as proximity detectors, and then when a proximity event occurs then the display guides the user to which touch sensor to touch to make some decision about what to do next." *Id.* at 55:15–20; *see also id.* at 53:14–54:2 ("[C]laim 30 addresses the use of proximity sensors and touch sensors in the same apparatus [W]hen you have detected the proximity event then information is displayed on a display that tells the user what touch sensor you should next touch, where the touch sensors are operating as switches that provide what is described in the claim as switch selection.").

Citing this latter testimony, Patent Owner argues that "Petitioner[']s own expert agreed that, to one of ordinary skill in the art, the 'next likely switch selection' as recited in claim 30 is understood as a 'next likely touch sensor switch selection.'" PO Resp. 11. Petitioner responds that Dr. Horenstein's comments "are taken out of context" because immediately prior to his testimony regarding claim 30, Dr. Horenstein answered questions regarding the technical differences between touch and proximity sensors. Pet. Reply 16; Ex. 1022 ¶ 11; *see* Ex. 2001, 46:1–51:7. Petitioner

also argues that the cited testimony merely describes one example that would read on the claim, and that Dr. Horenstein's declaration and deposition testimony show that claim 30 encompasses guiding the user to a touch sensor to touch next, as well as guiding the user to another type of switch to be selected through physical contact, such as those taught in the '623 patent specification and in Hinckley. Pet Reply 15; Ex. 1022 ¶ 10.

Based on our review of the record, we are not persuaded Patent Owner has taken Dr. Horenstein's comments "out of context" because it is apparent that the cited testimony relates to claim 30. Nevertheless, Dr. Horenstein's second Declaration clarifies that in discussing claim 30 during his deposition, he was focusing on the differences between touch and proximity sensing functions, rather than addressing the full scope of claim 30. Ex. 1022 ¶ 11. Furthermore, Dr. Horenstein testifies that "a next likely switch selection" in claim 30 can refer to both touch sensor switches and other switches, such as push buttons. *Id.* Finally, we agree with Petitioner and Dr. Horenstein that his initial Declaration resolves any question regarding his interpretation of claim 30 to encompass selection of switches other than touch sensor switches, and we credit his testimony that his views have not changed since his initial Declaration. Pet. Reply 14–15; Ex. 1022 ¶ 12.

We have considered all of the parties' arguments and supporting evidence regarding the construction of "a next likely switch selection" as recited in claim 30. For the reasons discussed, we agree with Petitioner that the scope of the claim language is not limited to selection of touch sensor switches, as asserted by Patent Owner.

C. Asserted Grounds of Unpatentability Based on Hinckley

Petitioner contends that claim 30 is unpatentable under 35 U.S.C. § 102(b) as anticipated by Hinckley and claim 31 is unpatentable under 35 U.S.C. § 103(a) as obvious over Hinckley. Pet. 23–37. Relying on the testimony of Dr. Horenstein, Petitioner explains how Hinckley discloses all the claim limitations. *Id.* (citing Ex. 1021).

1. Hinckley

Hinckley describes input devices for computer systems having touch-sensitive auxiliary controls that sense a physical presence and provide visual feedback (e.g., on an on-screen display), acoustic feedback (e.g., voice or music), or tactile feedback (e.g., vibration). Ex. 1005 ¶ 12. In one embodiment, Hinckley depicts a touch sensor circuit that connects multiple touch sensor switches to a microcontroller, which connects to the serial port interface of a computer. *Id.* ¶¶ 80, 85, Figs. 1, 2. Hinckley discloses that its touch sensors may be proximity sensors that generate electrical signals “based on extreme proximity between the user and the sensor.” *Id.* ¶ 76. “When a user’s hand approaches a touch sensitive input device, feedback can be displayed on a display screen.” *Id.* at Abstract. Hinckley also describes multiple examples of using proximity sensing to trigger certain functions, such as displaying information to the user regarding the functions of a particular control. *Id.* ¶¶ 133–35. In one example, when a user approaches a volume control knob, a graphical user interface (“GUI”) for the volume control, including a volume indicator, appears on a screen. *Id.* ¶ 133.

2. Claim 30

As noted, claim 30 depends from independent claim 24. We agree with and adopt Petitioner's contentions regarding Hinckley's disclosure of all the limitations of claim 24. *See* Pet. 24–30. For example, Hinckley discloses a user interface containing a microchip and touch sensor switch structure (i.e., microcontroller and touch sensors shown in Figure 2 of Hinckley). *See id.* at 24–25; Ex. 1005 ¶¶ 80, 85, Figs. 1, 2. Hinckley also describes “detecting a proximity event through an object approaching the touch sensor switch” (i.e., detecting a user's hand approaching a touch sensor). *See* Pet. 26; Ex. 1005, Abstract. Finally, Hinckley discloses “displaying information regarding the modes and/or functions associated with the switch in response to the detection of the proximity event” (Hinckley's multiple embodiments of using proximity sensing to trigger certain functions). *See* Pet. 27; Ex. 1005 ¶¶ 133–35. One example is a GUI for volume control that appears on a screen when a user approaches a volume control knob. Ex. 1005 ¶ 133.

We also agree with Petitioner that Hinckley discloses the additional limitations of dependent claim 30. *See* Pet. 31–33. As described above, Hinckley discloses “multiple touch sensor switches.” Ex. 1005 ¶¶ 80, 85, Fig. 2. In addition, Hinckley's volume control knob example “display[s] information” (i.e., a volume control indicator) “that guides the user towards a next likely switch selection to be made through physical contact” (i.e., physically contacting the volume control knob to adjust the volume). *Id.* ¶ 133; *see* Pet. 32; Ex. 1021 ¶ 71.

Patent Owner's only argument with respect to claim 30 is that Hinckley does not disclose “displaying information . . . that guides the user

towards a next likely switch selection.” PO Resp. 11–19. Patent Owner’s argument, however, depends on its proposed construction of the claim language as limited to a touch sensor switch, which we have not adopted. *See id.* at 11–12; Tr. 48:5–18 (Patent Owner conceding that Hinckley anticipates claim 30 if we do not agree with Patent Owner’s proposed construction). Thus, for the foregoing reasons, we conclude that Petitioner has shown by a preponderance of the evidence that Hinckley anticipates claim 30 of the ’623 patent.

3. Claim 31

Claim 31 depends from claim 30 and further recites “a step of automatically de-activating a function that was activated upon receiving a proximity detection signal from the user interface switch.” Ex. 1001, 20:4–7. We agree with and adopt Petitioner’s contentions regarding Hinckley’s disclosure of this limitation. *See* Pet. 34–35. In particular, Hinckley describes an on-screen display in the form of a GUI that “may eventually disappear . . . after a predefined period (e.g., 5 seconds) of inactivity in which no input is received by [the] computer such as movement of a mouse.” Ex. 1005 ¶ 159. Hinckley also describes a volume control indicator that disappears after a brief time-out. *Id.* at Table 1.

According to Petitioner, Hinckley does not disclose a single embodiment that includes both a proximity-sensing control and an automatically deactivating feedback display. Pet. 35. Nevertheless, we 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 combined different compatible embodiments from Hinckley. *Id.* at 35–37; Ex. 1021 ¶¶ 77–80. Moreover, Hinckley itself states that “[i]t

should be understood that the various responses to making contact with or being in extreme proximity to a touch sensitive control may be used in combination.” Ex. 1005 ¶ 148.

Patent Owner presents no additional arguments for claim 31 beyond its argument with respect to claim 30. For the foregoing reasons, we conclude that Petitioner has shown by a preponderance of the evidence that claim 31 of the ’623 patent would have been obvious in view of Hinckley.

III. CONCLUSION

Based on the evidence and arguments, Petitioner has demonstrated by a preponderance of the evidence that claim 30 of the ’623 patent is anticipated by Hinckley and claim 31 of the ’623 patent would have been obvious over Hinckley. In view of Patent Owner’s statutory disclaimer of claim 24, adverse judgment is entered with respect to that claim.

IV. ORDER

Accordingly, it is:

ORDERED that judgment is entered against Patent Owner with respect to claim 24 of U.S. Patent No. 8,035,623 B2;

FURTHER ORDERED that claims 30 and 31 of U.S. Patent No. 8,035,623 B2 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.

IPR2015-01023
Patent 8,035,623 B2

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