

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICROSOFT CORPORATION AND MICROSOFT MOBILE, INC.,  
Petitioner,

v.

GLOBAL TOUCH SOLUTIONS, LLC,  
Patent Owner.

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Case IPR2015-01151  
Patent 8,288,952 B2

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

BUSCH, *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 1–4, 14, 16, 17, 19, 22–24, 26, 27, and 38–40 (“the challenged claims”) of U.S. Patent No. 8,288,952

B2 (Ex. 1001, “the ’952 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 the challenged claims of the ’952 patent are unpatentable.

#### *A. Procedural History*

Petitioner filed a Petition for *inter partes* review of the challenged claims of the ’952 patent. Paper 2 (“Pet.”). Patent Owner did not file a Preliminary Response. On November 17, 2015, we instituted an *inter partes* review of the challenged claims of the ’952 patent. Paper 8 (“Institution Decision” or “Dec.”). After institution, Patent Owner filed a Patent Owner Response, Paper 14 (“PO Resp.”), and Petitioner filed a Reply to the Patent Owner Response, Paper 16 (“Pet. Reply”). A consolidated oral hearing for this case and several others was held on August 4, 2016. A transcript of the hearing has been entered into the record. Paper 26 (“Tr.”).

#### *B. Related Matters*

The parties identify the following district court proceedings as related matters: *Global Touch Solutions, LLC v. Microsoft Corp.*, No. 3:15-cv-2750-JD (N.D. Cal.); *Global Touch Solutions, LLC v. Toshiba Corp.*, No. 3:15-cv-2746-JD (N.D. Cal.); *Global Touch Solutions, LLC v. VIZIO Inc.*, No. 3:15-cv-2747-JD (N.D. Cal.); *Global Touch Solutions, LLC v. Apple Inc.*, No. 3:15-cv-2748-JD (N.D. Cal.); and *Global Touch Solutions, LLC v. Motorola Mobility, LLC*, No. 3:15-cv-2749-JD (N.D. Cal.). Pet. 3–4; Paper 4, 2; Paper 7, 3. Petitioner also filed petitions for *inter partes* review of related U.S. Patent Nos. 8,035,623 B2 (IPR2015-01023), 7,772,781 B2

(IPR2015-01024), 7,265,494 B2 (IPR2015-01025), 7,994,726 B2 (IPR2015-01147), 7,498,749 B2 (IPR2015-01148), 7,329,970 B2 (IPR2015-01149), and 7,781,980 B2 (IPR2015-01150). Pet. 4. Institution of a trial was denied for IPR2015-01024 and IPR2015-01025. A final written decision was issued in IPR2015-01023. Trials were instituted in IPR2015-01147, IPR2015-01148, IPR2015-01149, and IPR2015-01150, each of which is an ongoing *inter partes* review. The parties also identify as a related matter IPR2015-01175, which is an ongoing *inter partes* review of the '952 patent filed by a different petitioner. *Id.*; Paper 4, 2.

### *C. The '952 Patent*

The '952 patent is directed to portable electronic devices that operate on exhaustible power sources such as batteries. Ex. 1001, Abstract. A visible indicator such as a light emitting diode (LED) can be used to indicate the condition of the battery. *Id.* at 9:46–54, Fig. 11.

### *D. Claims*

Independent claim 1 is illustrative and is reproduced below, with formatting added:

1. A method of implementing a user interface of a product, the product comprising a power source, or a connection for a power source and at least one energy consuming load, said method including the step of

using an electronic module comprising an electronic circuit including a microchip and a touch sensor forming part of the user interface, said microchip at least partially implementing the touch sensor functions and said method including the step of

activating a visible indication in response to an activation signal received from the user interface, wherein the visible indication provides information to a user on at least one item from the following group:

a state or condition of the product,  
location of the user interface,  
a battery power level indication.

*E. Ground of Unpatentability Instituted for Trial*

We instituted an *inter partes* review based on Petitioner's contention that the challenged claims are unpatentable as obvious under 35 U.S.C. § 103(a) in view of Jahagirdar<sup>1</sup> and Schultz.<sup>2</sup> Dec. 9.

II. DISCUSSION

*A. Claim Construction*

We construe explicitly only those claim terms or phrases in controversy, and we do so only to the extent necessary to resolve the controversy. *See Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999). 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). 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

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<sup>1</sup> U.S. Patent 6,125,286, issued Sept. 26, 2000 (Ex. 1004, "Jahagirdar").

<sup>2</sup> U.S. Patent 4,053,789, issued Oct. 11, 1977 (Ex. 1005, "Schultz").

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).

In the Petition, Petitioner proposed a construction for “touch sensor functions” and “touch sensing functions.” Pet. 11–13. Patent Owner did not file a Preliminary Response. In the Institution Decision, we did not expressly construe any claim terms. Dec. 4. The proper construction of these terms is not in dispute and no explicit construction is necessary to resolve any matter in this proceeding.

Patent Owner proposes a construction for “activating”/“activate” and “deactivating.” PO Resp. 10–11. To the extent it is necessary to construe these terms, we do so below in the context of analyzing whether the prior art renders the claims unpatentable.

*B. Obviousness of the Challenged Claims over the  
Combination of Jahagirdar and Schultz*

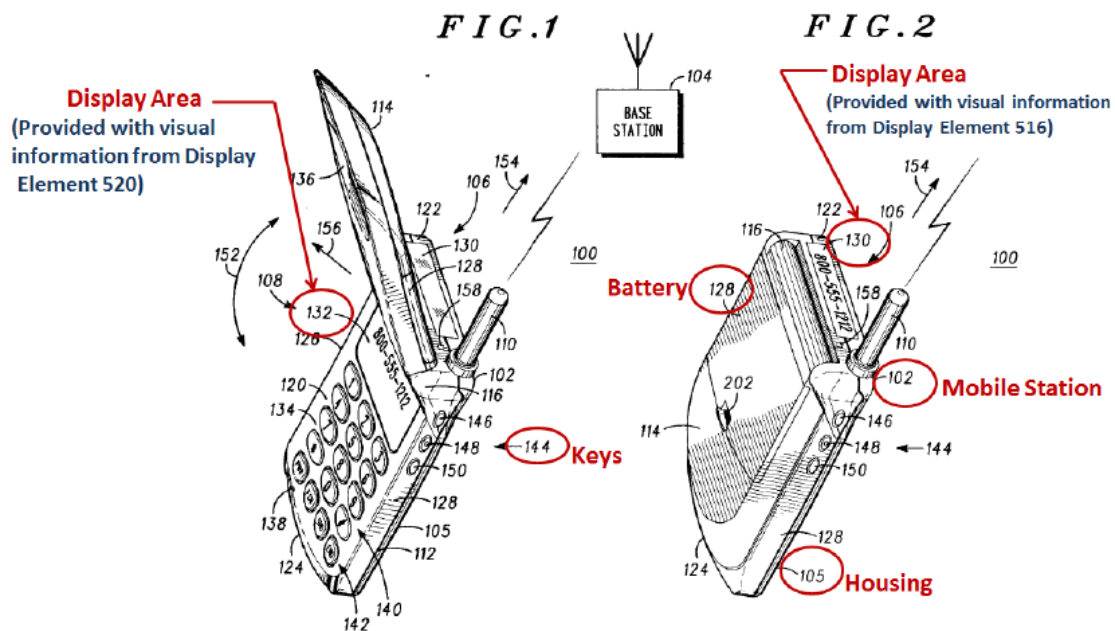
Petitioner contends the challenged claims are unpatentable under 35 U.S.C. § 103(a) as obvious over Jahagirdar and Schultz. Pet. 14–60. Relying on the declaration testimony of Mark N. Horenstein, Ph.D., Petitioner explains how Jahagirdar and Schultz allegedly teach all the claim limitations, and asserts an ordinarily skilled artisan would have combined the asserted teachings. *Id.* (citing Ex. 1014).

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 the challenged claims would have been

obvious in view of the asserted combined teachings of Jahagirdar and Schultz.

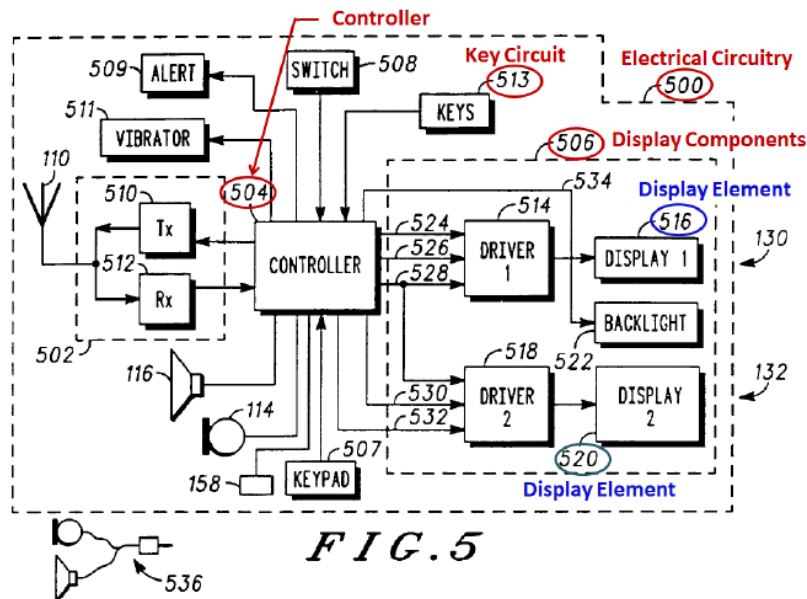
### 1. Jahagirdar

Jahagirdar describes a mobile phone that has a microchip-controlled user interface and mechanical push-button switches. Ex. 1004, 3:59–67; Ex. 1014 ¶ 33. Figures 1 and 2 of Jahagirdar (with Petitioner’s annotations) are reproduced below:



Pet. 25. Figures 1 and 2 are illustrations of a mobile station having a first display area and a second display area. Ex. 1004, 1:38–40, 3:33, 4:28–29.

Figure 5 of Jahagirdar (with Petitioner's annotations) is reproduced below:



Pet. 26. Figure 5 is a schematic block diagram of electrical circuitry 500 of mobile station 102. Ex. 1004, 1:46–47.

## 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. 1014 ¶ 40.

## 3. Claim 1

Petitioner asserts the combination of Jahagirdar and Schultz teaches all of the limitations of independent claim 1. Pet. 24–36; Pet. Reply 1–15. We agree with and adopt Petitioner’s contentions regarding claim 1, as set forth in detail in the Petition and as summarized below. See Pet. 24–36; Pet. Reply 1–15.

*The Preamble*

First, Petitioner contends Jahagirdar discloses a “method for implementing a user interface of a product, the product comprising a power source, or a connection for a power source and at least one energy consuming load,” as recited in claim 1. Pet. 24–26. Specifically, Petitioner asserts Jahagirdar discloses a user interface including plurality of keys 144 that are part of a product, namely mobile station 102. *Id.* at 25 (citing Ex. 1004, 3:29–31, Figs. 1, 2; Ex. 1014 ¶ 52). Petitioner further argues mobile station 102 includes battery 128 as its power source and display element 520, which Petitioner maps to the energy consuming load. *Id.* at 25–26 (citing Ex. 1004, 3:33–35, 3:59–62, 4:27–30, 4:40–41; Ex. 1014 ¶¶ 53, 54). Patent Owner does not dispute that Jahagirdar discloses the preamble of claim 1. Upon reviewing the parties’ arguments, we agree with and adopt Petitioner’s contentions that Jahagirdar teaches or suggests the recited preamble of claim 1. 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 30–31 (citing Ex. 1014 ¶¶ 63–65; *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007)).

*The First Method Step (i.e., the “using an electronic module” Step)*

Petitioner further contends the combined teachings of Jahagirdar and Schultz teach or suggest “said method including the step of using an electronic module comprising an electronic circuit including a microchip and a touch sensor forming part of the user interface, said microchip at least partially implementing the touch sensor functions.” Pet. 26–34. Specifically, Petitioner argues Jahagirdar discloses that mobile station 102

has electronic circuitry 500, including “key circuit 513 in connection with controller 504 and plurality of keys 144” and a microchip, which Petitioner maps to the recited “electronic module comprising an electronic circuit including a microchip.” *Id.* at 27 (citing Ex. 1004, 3:59–64, Ex. 1014 ¶ 57). Petitioner also argues “Jahagirdar’s ‘key circuit 513 provides signals to controller [504] in response to actuations of the plurality of keys 144.’” *Id.* (quoting Ex. 1004, 4:19–20). Petitioner asserts the only aspect of the using an electronic module step that Jahagirdar fails to disclose is “that any of keys 144 included touch sensors that formed part of the user interface,” but that “touch sensors were well known in the art by the priority date of the ’952 patent.” *Id.* at 28 (citing Ex. 1014 ¶ 60).

Petitioner argues a person having ordinary skill in the art would have incorporated touch sensors into keys 144 in a way that controller 504 “at least partially implement[ed] the touch sensor functions,” as recited in claim 1. *Id.* 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 predictable results. *Id.* at 33–34 (citing Ex. 1014 ¶ 71). Petitioner points to various references and to 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 30–34.

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. 34 (citing Ex. 1014 ¶ 64). Petitioner further asserts claim 1 of the ’952 patent “does not

specify 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. 1014 ¶ 71). 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. 1014 ¶ 71 (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 yields no more than one would expect from such an arrangement.” *Id.* at 33–34 (citing Ex. 1014 ¶ 71).

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. 2002 ¶ 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 ’952 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. 12–19.

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 quotation marks omitted). “If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability.” *Id.* 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. 1004; Ex. 1014 ¶¶ 39–42. 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. See *KSR*, 550 U.S. at 417. In particular, we agree that the proposed 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.”). Patent Owner does not point us to objective evidence of nonobviousness to overcome the textbook case of obviousness here.

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. 1014 ¶ 63); 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. 1014 ¶ 63).

Patent Owner argues that none of Petitioner’s additional reasons for the combination are rational. PO Resp. 13–19. 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 13–16. 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 16–17 (citing Ex. 2002 ¶¶ 57, 58, 60–64; Ex. 1001, 8:13–24). Finally, 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. *Id.* at 18.

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. 2002 ¶ 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.* (citing Ex. 1022 ¶ 3). Moreover, Petitioner's 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. *Id.* at 9 (citing Ex. 1014 ¶ 71); Ex. 1022 ¶ 4. 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 such that touch sensor inputs were only recognized at appropriate times for example, depending on whether the mobile station 102 was opened or closed." Ex. 1014 ¶ 71. 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 nonobvious. 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. 32–33 (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. 14–16, 17 (“inadvertent actuation . . . would nonetheless deter or teach away”), 18 (“replacing the push-button keys . . . with touch sensors would have plainly led to an increase in inadvertent actuation, and therefore a decrease in convenience”). 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. 1014 ¶ 71. 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).

*The Second Method Step (i.e., the “activating a visible indication” Step)*

Petitioner asserts Jahagirdar teaches the recited step of “activating a visible indication in response to an activation signal received from the user interface, wherein the visible indication provides information to a user on at least one” of a “condition of the product, location of the user interface, [or] a battery power level indication.” Ex. 1001, 12:34–41. Specifically, Petitioner contends Jahagirdar discloses “activating a visible indication” (display element 516 displaying information as described by step 816 of Figure 8A) “in response to an activation signal received from the user interface” (signal received when pressing key 150, which is one of keys 144 that are part of Jahagirdar’s user interface). Pet. 35 (citing Ex. 1004, 5:54–64; Ex. 1014 ¶¶ 73, 74). Petitioner further argues Jahagirdar discloses “wherein the visible indication provides information to a user on at least one item from the following group: a state or condition of the product, location of the user interface, a battery power level indication” because Jahagirdar discloses displaying “battery status information such as a battery level indication and/or a low battery warning indication” on display 516. *Id.* at 35–36 (citing Ex. 1004, 5:59–61; Ex. 1014 ¶ 75).

Patent Owner argues Jahagirdar’s first display element 516 (alleged to display the visible indication) “is not activated (turned on) in response to an activation signal received *from the user interface*.” PO Resp. 20. Specifically, Patent Owner argues “first display element 516 is turned on by

flipping the phone closed, which is not an operation of the keys 144 alleged to correspond to the claimed user interface.” *Id.*

Petitioner replies that Jahagirdar describes “a configuration in which display element 516 was not activated prior to actuation of key 150.” Pet. Reply 12 (emphasis omitted). In particular, Petitioner argues that, when Jahagirdar’s phone is flipped closed, display area 130 displays status information, but “the status information may include little or no information, where display area 130 is cleared.” *Id.* at 12–13 (quoting Ex. 1004, 5:43–44) (emphases omitted). In the case where display area 130 is cleared, Petitioner asserts that pressing key 150 to display new visual information results in display element 516 changing from displaying nothing to displaying information, and thus is activated (or turned on) in the process. *Id.* at 13 (citing Ex. 1004, 5:43–57; Ex. 1022 ¶ 5).

We agree with Petitioner. Claim 1 recites, in part, “activating a visible indication in response to an activation signal received from the user interface, wherein the visible indication provides information to a user on . . . a battery power level indication.” Jahagirdar discloses providing information regarding battery power level in response to a user actuating key 150. Ex. 1004, 5:54–64 (new visual information, which may include battery level indication, is displayed after a user presses key 150); see Pet. 35 (Petitioner mapping the recited “activating a visible indication in response to an activation signal received from the user interface” to Jahagirdar’s disclosure of sending data to display element 516 in response to actuation of key 150. Accordingly, any reasonable interpretation of “activating” the visible indication is met by Jahagirdar’s displaying of new visual information in response to actuation of key 150 because the visible indicator

is not activated (i.e., not providing the recited information) until both display 516 has power and key 150 was actuated, which causes display 516 to display new visual information. *See* Pet. Reply 14; Tr. 114:7–8 (Patent Owner’s counsel responding that “activation would require both power to the display and display of information”).

Thus, we agree with Petitioner that Jahagirdar teaches “activating a visible indication in response to an activation signal received from the user interface, wherein the visible indication provides information to a user on at least one” of a “condition of the product, location of the user interface, [or] a battery power level indication,” as recited in claim 1. Petitioner has shown sufficiently that the combination of Jahagirdar and Schultz teaches all the limitations of claim 1. For the foregoing reasons, we conclude Petitioner has shown, by a preponderance of the evidence, that claim 1 would have been obvious in view of Jahagirdar and Schultz.

#### *4. Claim 26*

The structural limitations recited in independent claim 26<sup>3</sup> each appear in method claim 1, and Petitioner has mapped various aspects of Jahagirdar and Schultz to those elements. Pet. 45–55. Patent Owner relies on the same arguments for claim 26 as it asserted regarding claim 1. PO Resp. 9–24. Therefore, for the same reasons as discussed above with respect to claim 1, we determine Petitioner has demonstrated, by a preponderance of the

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<sup>3</sup> Some terminology in claim 26 is slightly different than the terminology used in claim 1, but neither party argues the claims should be construed differently. *See* Ex. 1001, 12:27–41, 13:64–14:10. The differences in terminology in claims 1 and 26 do not affect our analysis of Petitioner’s challenges.

evidence, that claim 26 would have been obvious in view of the combined teachings of Jahagirdar and Schultz.

### 5. *Claim 23*

Petitioner further contends Jahagirdar discloses the additional limitation of claim 23, Pet. 43; Pet. Reply 15–16, which depends directly from claim 1 and further recites “automatically deactivating the visible indication a predetermined period of time after it was activated.” Ex. 1001, 13:52–55. In particular, Petitioner asserts Jahagirdar displays a blank screen on display element 516, then displays new display information after actuation of key 150, and finally redisplay a blank screen when controller 504’s timer times out. Pet. 43; Pet. Reply. 16.

Patent Owner argues first display element 516 is never automatically deactivated, but is only deactivated manually by the user flipping the phone open. PO Resp. 22–23. Patent Owner’s argument relates to its previous argument that “activating a visible indication” is not met by Jahagirdar because flipping the phone closed is the only way to activate display element 516.

However, as discussed above with respect to claim 1, Petitioner asserts Jahagirdar’s disclosure of sending new information to display 516 in response to actuation of key 150 teaches “activating a visible indication in response to an activation signal received from the user interface,” as recited in claim 1. Pet. 35; Ex. 1004, 12:27–41, 13:52–55. When new information is sent to display 516, Jahagirdar discloses setting a timer such that when the timer times out and the new display information is deactivated, the display of information on display element 516 is automatically deactivated, because it returns either to a blank screen or to a screen with different information

displayed. Ex. 1004, 5:55–65; Ex. 1022 ¶ 7. Thus, we agree that Jahagirdar teaches “the step of automatically deactivating the visible indication a predetermined period of time after it was activated,” as recited in claim 23.

Accordingly, we determine Petitioner has demonstrated, by a preponderance of the evidence, that claim 23 of the ’952 patent would have been obvious in view of the combined teachings of Jahagirdar and Schultz.

*6. Claims 2–4, 14, 16, 17, 19, 22, 24, 27, and 38–40*

Patent Owner presents no additional arguments for claims 2–4, 14, 16, 17, 19, 22, 24, 27, and 38–40 beyond its arguments with respect to claims 1 and 26, from which they ultimately depend. We have reviewed Petitioner’s assertions regarding the alleged disclosure of Jahagirdar with respect to the additional limitations recited in claims 2–4, 14, 16, 17, 19, 22, 24, 27, and 38–40, and we agree with and adopt Petitioner’s assertions regarding the combined teachings of Jahagirdar and Schultz. As discussed above, we agree with Petitioner that an ordinarily skilled artisan would have looked to Schultz for the teaching of a touch sensor and would have been motivated to combine the touch sensor with Jahagirdar for the reasons stated. For the foregoing reasons, we determine Petitioner has shown, by a preponderance of the evidence, that claims 2–4, 14, 16, 17, 19, 22, 24, 27, and 38–40 of the ’952 patent would have been obvious in view of the combined teachings of Jahagirdar and Schultz.

### III. CONCLUSION

Based on the evidence and arguments, Petitioner has demonstrated by a preponderance of the evidence that claims 1–4, 14, 16, 17, 19, 22–24, 26, 27, and 38–40 of the ’952 patent are unpatentable under 35 U.S.C. § 103(a) as obvious over Jahagirdar and Schultz.

#### IV. ORDER

Accordingly, it is:

ORDERED that claims 1–4, 14, 16, 17, 19, 22–24, 26, 27, and 38–40 of the '952 patent 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.

IPR2015-01151  
Patent 8,288,952 B2

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