

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMIT AGARWAL,
Petitioner,

v.

IMMERSION CORPORATION,
Patent Owner.

Case IPR2016-00807
Patent 8,773,356 B2

Before MICHAEL R. ZECHER, BEVERLY M. BUNTING, and
MINN CHUNG, *Administrative Patent Judges*.

CHUNG, *Administrative Patent Judge*.

DECISION

Denying Institution of *Inter Partes* Review
35 U.S.C. § 314(a) and 37 C.F.R. § 42.108

I. INTRODUCTION

Amit Agarwal (“Petitioner”) filed a Petition (“Pet.”) requesting an *inter partes* review of claims 1–3, 5, 7, 9–13, 15, 17, 19–23, 25, and 26 of U.S. Patent No. 8,773,356 B2 (Ex. 1001, “the ’356 patent”). Immersion Corporation (“Patent Owner”) filed a Corrected Preliminary Response (Paper 15, “Prelim. Resp.”) accompanied by a Corrected Declaration of Nathan J. Delson, Ph.D. (Ex. 2009, “Delson Decl.”). We have jurisdiction under 35 U.S.C. § 314.

The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted unless the information presented in the Petition “shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” Upon consideration of the Petition and the Corrected Preliminary Response, we conclude that the information presented in the Petition does not establish a reasonable likelihood that Petitioner would prevail in showing the unpatentability of any of the challenged claims on the grounds set forth in the Petition. Accordingly, we deny Petitioner’s request to institute an *inter partes* review of claims 1–3, 5, 7, 9–13, 15, 17, 19–23, 25, and 26.

II. BACKGROUND

A. *Real Party In Interest*

Amit Agarwal, a *pro se* petitioner, identifies himself as the real-party-in-interest. Pet. 1.

B. Related Proceedings

The parties identify the following proceedings in which infringement of the '356 patent has been alleged: (1) *Immersion Corp. v. Apple*, No. 1-16-cv-00077 (D. Del.); and (2) *In the Matter of: Certain Mobile Electronic Devices Incorporating Haptics (Including Smartphones and Smartwatches) and Components Thereof*, ITC Investigation No. 337-TA-990 (USITC). Pet. 1; Paper 4, 2.

III. THE '356 PATENT

A. Described Invention

The '356 patent describes a system and method for providing tactile sensations to input devices, including non-mechanical input devices, such as soft-keys displayed on a screen. See Ex. 1001, Abstract; col. 3, ll. 10–15. Figure 5 of the '356 patent is reproduced below.

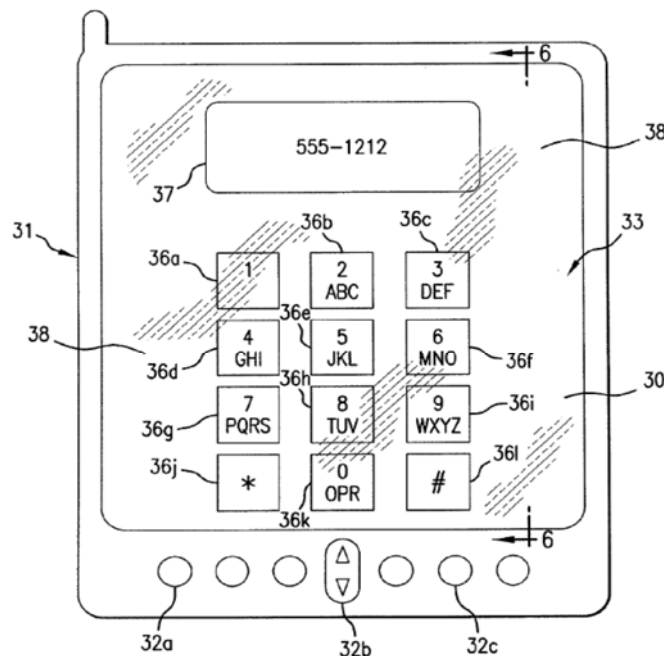


FIG. 5

Figure 5 depicts Personal Digital Assistant (PDA) 31 having pressure-sensitive touchpad 30 as an input device. *Id.* at col. 11, ll. 11–13. As shown in Figure 5, display 33 of PDA 31 displays software-generated buttons or keys, e.g., soft-keys 36a–36i, which provide a graphical user interface for the PDA. *Id.* at col. 11, ll. 40–43. As a graphical object, each soft-key occupies a distinct location on the display. *Id.* at col. 11, ll. 44–45. In the embodiment depicted in Figure 5, the PDA can function as a mobile telephone, and the soft-keys are arranged as a telephone keypad to provide the same functionality as the mechanical keys on a conventional telephone keypad. *Id.* at col. 11, ll. 45–48. PDA 31 also includes actuator 64 (not shown in Figure 5) that generates and transmits tactile sensations to display 33 and touchpad 30. *Id.* at col. 11, ll. 22–39; Fig. 6.

When a soft-key is selected by touching touchpad 30 at an appropriate location on display 33, a controller determines the touched location on the display and identifies the soft-key corresponding to the touched location. Based on this information, the controller causes the actuator to provide a corresponding tactile sensation. *Id.* at col. 11, ll. 53–63. In addition, the pressure applied to a particular soft-key is detected by the controller or a separate pressure detector such that the detected pressure can be used to distinguish different inputs for soft-keys that represent multiple inputs—e.g., 2, A, B, or C for soft-key 36b. *Id.* at col. 12, ll. 6–12; Fig. 5. For such keys, each specific input corresponds to a distinct amount of pressure applied to a particular soft-key. *Id.* at col. 12, ll. 6–8.

Figure 8 of the '356 patent is reproduced below.

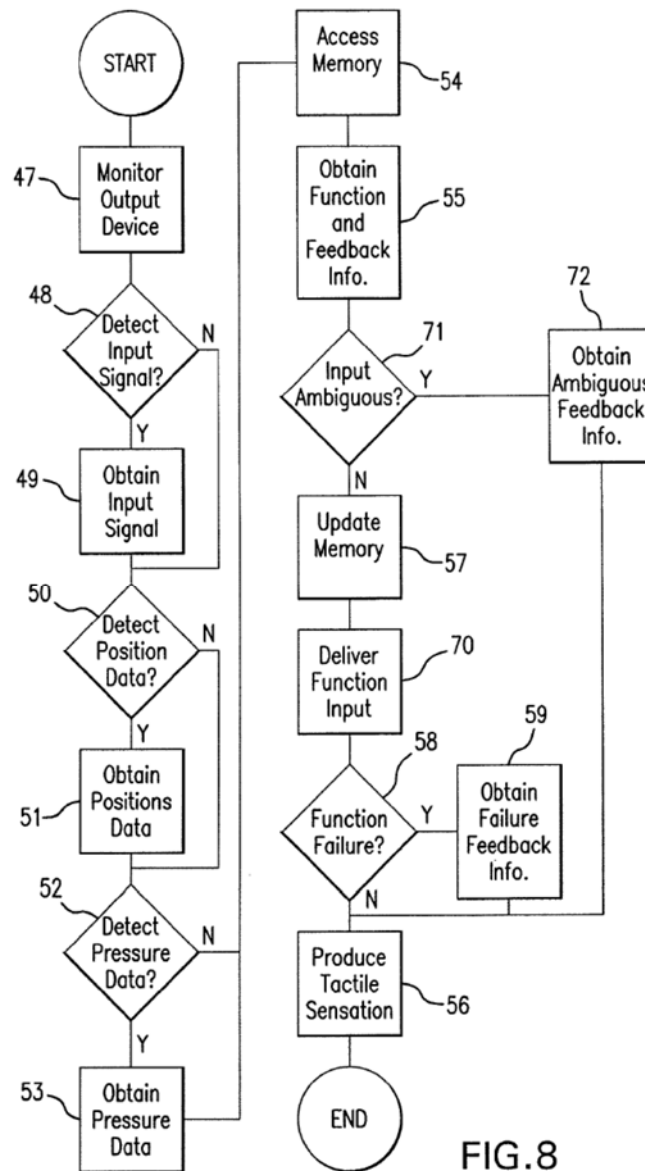


FIG.8

Figure 8 shows a flowchart illustrating a process of detecting an input signal, the input position or location data, and the pressure data; determining the desired function corresponding to the input device and the detected data; and producing a tactile sensation corresponding to the determined function. *Id.* at col. 13, l. 52–col. 14, l. 14. In steps 54 and 55 of Figure 8, the controller, having obtained the input data from the input device, accesses a memory

device and a database stored in the memory device, which contains information necessary to determine, based on the input data, the desired function and the corresponding tactile sensation. *Id.* at col. 14, ll. 15–20.

In one embodiment, this information—i.e., the associations between the detected input data, the functions of the input device, and the corresponding tactile sensations to be generated—is maintained in a table, such as the table shown in Figure 9. *Id.* at col. 14, ll. 21–25. Figure 9 of the '356 patent is reproduced below.

INPUT DEVICE	INPUT SIGNAL	POSITION DATA	PRESSURE DATA	FUNCTION	TACTILE SENSATION
1	--	Location 1	< Pressure 1	Search	Sensation 1
	Input 1	Location 1	Pressure 1 <=	Select	Sensation 2
2	--	Position 1	--	On	Sensation 3
	--	Position 2	--	Off	Sensation 4
3	Input 2A	--	Pressure 1	9	Sensation 5
	Input 2B	--	Pressure 2	W	Sensation 6
	Input 2C	--	Pressure 3	X	Sensation 7
	Input 2D	--	Pressure 4	Y	Sensation 8
	Input 2E	--	Pressure 5	Z	Sensation 9
4	Input 3	--	Pressure 1	Menu 1	Sensation 10
		--	Pressure 2	Menu 2	Sensation 11
		--	Pressure 3	Menu 3	Sensation 12
5	--	--	Pressure 1	2	Sensation 13
		--	Pressure 2	A	Sensation 14
		--	Pressure 3	B	Sensation 15
		--	Pressure 4	C	Sensation 16
6	Input 4	Position 1	Pressure 1	Function 1	Sensation 17
	Input 5	Position 2	Pressure 2	Function 2	Sensation 18
	Input 6	Position 3	Pressure 3	Function 3	Sensation 19
7	Input 7	Location 1	Pressure 1	Function 1	Sensation 20
	Input 8	Location 2	Pressure 2	Function 2	Sensation 21
--	AMBIGUOUS	--	--	--	Sensation 22
--	Function Failure	--	--	--	Sensation 23

FIG.9

Figure 9 shows a table of exemplar grouping of associations for various input devices. As shown in Figure 9, the table maintains, for each input device, the possible combinations of input signals, position data, and pressure data, as well as the specified function and the distinct tactile sensation corresponding to each combination. *Id.* at col. 14, ll. 23–30. Based on the data obtained from monitoring the input device, the controller

reads the table and determines the associated function and the corresponding tactile feedback. *Id.* at col. 14, ll. 32–35. The controller then causes the actuator to generate the specified tactile sensation. *Id.* at col. 11, ll. 53–66; col. 14, ll. 46–50.

B. Illustrative Claim

Of the challenged claims, claims 1, 12, and 22 are independent. Claim 1 is illustrative of the challenged claims and is reproduced below with the key disputed limitation emphasized in *italics*:

1. A method, comprising:
 - outputting a display signal configured to display a graphical object on a touch-sensitive input device;
 - receiving a sensor signal from the touch-sensitive input device, the sensor signal indicating an object contacting the touch-sensitive input device;
 - determining an interaction between the object contacting the touch-sensitive input device and the graphical object; and
 - generating an actuator signal based at least in part on the interaction and haptic effect data in a lookup table.*

Ex. 1001, col. 20, ll. 16–26.

IV. PETITIONER'S CHALLENGES

A. Prior Art Cited in Petitioner's Challenges

Petitioner cites the following references in its challenges to patentability:

Reference	Designation	Exhibit No.
U.S. Patent Application Pub. No. 2001/0035854 A1 (filed Jan. 19, 2000)	Rosenberg ¹	Ex. 1002
U.S. Patent Application No. 09/103,281 (filed June 23, 1998)	'281 Application	Ex. 1003
User's Manual for Simon (© Copyright 1994) ²	Simon	Ex. 1005

B. Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability (Pet. 1):

Claims Challenged	Statutory Basis	Reference(s)
1–3, 9–13, 19–23, 25, and 26	§ 102(e)	Rosenberg
5, 7, 15, and 17	§ 103(a)	Rosenberg and Simon

V. CLAIM CONSTRUCTION

In an *inter partes* review, claim terms in an unexpired patent are given their broadest reasonable construction in light of the specification of the

¹ For clarity and ease of reference, we only list the first named inventor.

² Petitioner asserts that Simon was published in 1994. Pet. 1.

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 . . . Office”). Under the broadest reasonable interpretation (BRI) standard, and absent any special definitions, claim terms generally are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in view of the specification. *In re Translogic Tech. Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

Petitioner contends that “no claim interpretation is needed” (Pet. 1), and Patent Owner does not propose any claim constructions in this case (Prelim. Resp. 10). Having considered the arguments and evidence presented, we determine that no claim terms require express interpretation for purposes of this Decision. *See, e.g., Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999) (only those terms that are in controversy need to be construed, and only to the extent necessary to resolve the controversy).

VI. ANALYSIS OF PETITIONER’S PRIOR ART CHALLENGES

A. Anticipation By Rosenberg

Petitioner contends claims 1–3, 9–13, 19–23, 25, and 26 are unpatentable under 35 U.S.C. § 102(e) as anticipated by Rosenberg. Pet. 2–17. We have reviewed the parties’ contentions and supporting evidence. Given the evidence of record, we are not persuaded that Petitioner has established a reasonable likelihood of prevailing on this asserted ground for the reasons explained below.

1. Principles of Law

A claim is anticipated only if a single prior art reference expressly or inherently describes each and every limitation set forth in the claim. See *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005); *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir. 1987). Further, a reference cannot anticipate “unless [it] discloses within the four corners of the document not only all of the limitations claimed[,] but also all of the limitations arranged or combined in the same way as recited in the claim.” *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1371 (Fed. Cir. 2008). Although the elements must be arranged in the same way as in the claim, “the reference need not satisfy an *ipsissimis verbis* test,” i.e., identity of terminology is not required. *In re Gleave*, 560 F.3d 1331, 1334 (Fed. Cir. 2009); *In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990). We analyze this asserted ground based on anticipation with the principles identified above in mind.

2. Overview of Rosenberg (Ex. 1002)

Rosenberg describes a touch input device, such as a touchpad or a touch screen, which is coupled to an actuator that provides haptic feedback. Ex. 1002, Abstract. The touch input device can be integrated in a housing of a computer or a handheld device. *Id.* ¶ 9. For example, a touchpad can be placed on the housing of a portable computer separate from the display screen. *Id.* ¶¶ 7, 9. Figure 1 of Rosenberg is reproduced below.

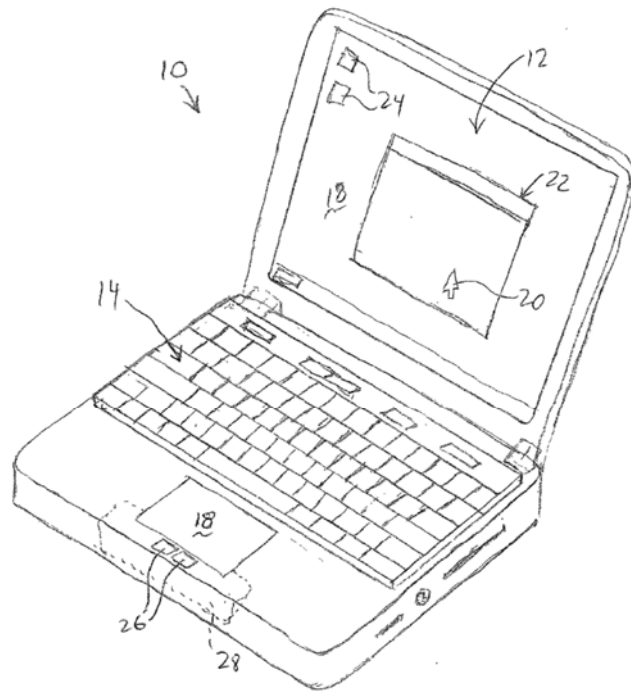


FIG. 1

Figure 1 depicts a portable computer including a haptic touchpad. *Id.* ¶ 21. As shown in Figure 1, touchpad 16 and buttons 26 are placed on the housing of portal computer 10, separate from display device 12 that displays graphical environment 18.³ *Id.* ¶¶ 22, 29. In one embodiment, haptic sensations are provided to the entire touchpad 16 as a single unit. *Id.* ¶ 27. In another embodiment, the touchpad comprises individually-moving portions, each of which is provided with its own actuator such that haptic sensations can be conveyed to only a particular portion of the touchpad. *Id.*

Buttons 26 provided on the housing of the computer can be used in conjunction with touchpad 16 in ways similar to how the buttons on a mouse input device are used. *Id.* ¶ 29. In one embodiment, the housing of the

³ Touchpad 16 appears to be mislabeled with number 18 in Figure 1.

computer in which buttons 26 are placed comprises one or more movable portions 28, as illustrated in Figure 1 above. *Id.* ¶ 30; Fig. 1. The moveable portions of the housing can be used to convey haptic sensations separate from the haptic feedback provided by touchpad 16. *Id.* For example, a vibration of a low frequency can be conveyed through the moveable housing portions, distinct from high frequency vibrations provided on touchpad 16. *Id.*

For touch screen input devices, one or more actuators can be coupled to the underside of a touch screen to provide haptic feedback to touch screen interactions. *Id.* ¶ 74. For example, an actuator can be placed near each corner of the touch screen. *Id.*

3. Discussion

a. Claims 1, 12, and 22

Independent claims 1, 12, and 22 all recite “generating [or generate] an actuator signal based at least in part on the interaction [between the object contacting the touch-sensitive input device and the graphical object] and haptic effect data in a lookup table” (the “actuator signal generation limitation” or “disputed limitation”). Ex. 1001, col. 20, ll. 25–26, col. 21, ll. 9–10, col. 22, ll. 20–22. Petitioner contends that Rosenberg discloses “generating an actuator signal based at least in part on the interaction,” as recited in claim 1. Pet. at 5 (citing Ex. 1002 ¶¶ 59, 74). For the remainder of the disputed limitation, i.e., “haptic effect data in a lookup table,” Petitioner relies on another reference, namely, the ’281 Application. *Id.* at

6–7 (citing Ex. 1003, p. 17, ll. 11–12).⁴ According to Petitioner, Rosenberg discloses the “actuator signal generation limitation” because Rosenberg incorporates the ’281 Application by reference. *Id.* (citing Ex. 1002 ¶ 30).

i. Incorporation by Reference

Patent Owner asserts that the lookup table disclosed in the ’281 Application is not incorporated by reference in Rosenberg because paragraph 30 of Rosenberg cited by Petitioner only refers to the disclosure of “having a moveable portion of a housing [for haptic feedback]” as the material being incorporated by reference from the ’281 Application. Prelim. Resp. 23. Citing the testimony of Dr. Delson, Patent Owner further argues that a person of ordinary skill in the art would have understood that the lookup table disclosed in the ’281 Application has nothing to do with using moveable portions of a housing for haptic feedback, and, therefore, was not incorporated by reference in Rosenberg. *Id.* at 25 (citing Ex. 2009 ¶¶ 64–66). We are persuaded by Patent Owner’s argument that Petitioner does not establish that the lookup table disclosed in the ’281 Application is incorporated by reference in Rosenberg.

“To incorporate material by reference, the host document must identify with detailed particularity what specific material it incorporates and clearly indicate where that material is found in the various documents.” *Apple Inc. v. Int’l Trade Comm’n*, 725 F.3d 1356, 1362 (Fed. Cir. 2013) (citation omitted). Whether, and to what extent, a host document

⁴ The page numbers for the ’281 Application refer to the page numbers inserted by Petitioner at the bottom-center of each page.

incorporates material by reference is a question of law. *Id.* In making that determination, “the standard of one reasonably skilled in the art should be used to determine whether the host document describes the material to be incorporated by reference with sufficient particularity.” *Zenon Env'tl., Inc. v. U.S. Filter Corp.*, 506 F.3d 1370, 1378–79 (Fed. Cir. 2007).

As Petitioner acknowledges, Rosenberg identifies expressly the disclosure of “[h]aving a moveable portion of a housing for haptic feedback” as the material being incorporated by reference from the ’281 Application. Pet. 6 (quoting Ex. 1002 ¶ 30). Petitioner argues, without evidentiary support, that this description incorporates the lookup table disclosed in the ’281 Application because materials generally relating to providing haptic feedback, “applicable to moveable portions and non-moveable portions of the housing alike,” also are incorporated by reference. *Id.* at 6–7 (citing Ex. 1003, p. 17, ll. 11–12). Petitioner’s argument is unpersuasive because Petitioner does not provide sufficient evidence or explanation as to how or why one of skill in the art would consider the disclosure of the lookup table in the ’281 Application to be related to the disclosure of using a moveable portion of a housing for haptic feedback. Indeed, Petitioner does not cite or discuss disclosures regarding moveable portions of a housing in the ’281 Application, much less explain why the disclosure of the lookup table in the ’281 Application cited by Petitioner is part of, or applicable to, the disclosure regarding moveable portions. Petitioner’s conclusory statement in this regard is not sufficient, by itself, to establish that Rosenberg incorporates by reference the disclosure regarding the lookup table.

Petitioner’s argument is unpersuasive even if we accept, *arguendo*, that one of skill in the art would consider the lookup table as a generally included feature of providing haptic feedback in the context of the ’281 Application. As discussed above in Section VI.A.2 (Overview of Rosenberg), paragraph 30 of Rosenberg, in which the incorporation language relied upon by Petitioner appears, describes an embodiment where moveable portions of the housing of a portable computer are used to convey distinct haptic sensations separate from the haptic feedback provided by the touchpad. Ex. 1002 ¶ 30. In this context, Rosenberg identifies specifically the disclosure of “[h]aving a moveable portion of a housing for haptic feedback” as the material being incorporated by reference from the ’281 Application. *Id.* (emphasis added). Hence, the plain language of Rosenberg, read in the context in which it appears, narrowly defines the subject matter being incorporated by reference specifically to “[h]aving a moveable portion of a housing” when providing haptic feedback, indicating that disclosures relating to other aspects of haptic feedback are not necessarily incorporated by reference. *See Zenon*, 506 F.3d at 1379–80 (finding that the plain language of a patent limits the incorporation to disclosures relating to a specific feature of a water filtration system).

We also contrast the incorporation language used here with the incorporation language used earlier in Rosenberg—“[U.S. Patent Application No. 09/467,309] . . . is incorporated herein by reference *in its entirety*” (Ex. 1002 ¶ 1) (emphasis added). Thus, when the drafter of Rosenberg intended to incorporate a broad range of materials it did so expressly. Similarly, here, the drafter incorporated expressly only a

specified portion of disclosure on “[h]aving a moveable portion of a housing,” as indicated by the plain language discussed above. *See Harari v. Lee*, 656 F.3d 1331, 1335–36 (Fed. Cir. 2011) (considering the differences in incorporation language in determining whether the entirety or only a portion of the disclosure in a cited patent application is incorporated by reference). Petitioner does not cite, nor do we discern, anything in Rosenberg that overrides the plain language and compels incorporation of other aspects of providing haptic feedback from the ’281 Application, including the disclosure relating to the lookup table. Therefore, Petitioner does not proffer sufficient arguments and evidence to establish that the lookup table disclosed in the ’281 Application is incorporated by reference in Rosenberg. Accordingly, for at least this reason, we are not persuaded by Petitioner’s contention that Rosenberg discloses the “actuator signal generation limitation” recited in claims 1, 12, and 22.

ii. Disclosure of Claim Limitations As Arranged in the Claim

Patent Owner argues additionally that, even if Rosenberg incorporates the lookup table by reference from the ’281 Application, Rosenberg does not disclose the “actuator signal generation limitation,” because Petitioner improperly combines different embodiments to show anticipation. Prelim. Resp. 26–31. We are persuaded by Patent Owner’s arguments in this regard.

“Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim.” *SynQor, Inc. v. Artesyn Techs., Inc.*, 709 F.3d 1365, 1375 (Fed. Cir. 2013) (citations omitted). To anticipate, a prior art reference must disclose more than

“multiple, distinct teachings that the artisan might somehow combine to achieve the claimed invention.” *Net MoneyIN*, 545 F.3d at 1371.

As discussed above, Petitioner relies on the passages in Rosenberg regarding the touchpad and touch screen embodiments to satisfy the claim term “generating an actuator signal based at least in part on the interaction” (Pet. 5 (citing Ex. 1002 ¶¶ 59, 74)), and then relies upon the ’281 Application to satisfy the “haptic effect data in a lookup table” claim term (*id.* at 6–7 (citing Ex. 1003, p. 17, ll. 11–12)). The ’281 Application describes a force feedback system for a mouse or joystick (referred to as “user object[s]”) that uses an actuator placed inside the mouse or joystick. Ex. 1003, p. 9, ll. 7–16. The cited portion of the ’281 Application states “force profiles can be stored in memory 27, such as a sequence of stored force values that can be output by the microprocessor, or *a look-up table of force values to be output based on the current position of the user object.*” *Id.* at p. 17, ll. 10–12 (emphasis added). We observe that the “position of the user object” mentioned in this sentence refers to the position of a mouse or joystick. *See id.* at p. 9, ll. 27–28; p. 10, ll. 3–6; p. 16, ll. 11–13. Hence, the cited portion of the ’281 Application describes using a lookup table of force values to be sent to an actuator based on the current position of a mouse or joystick.

Petitioner’s anticipation argument is deficient because, even if Rosenberg is deemed, *arguendo*, to incorporate the lookup table by reference from the ’281 Application, the Petition does not explain sufficiently how “picking, choosing, and combining” the disparate disclosures not directly related to each other—i.e., the disclosures of the

touchpad and touch screen embodiments in Rosenberg and the disclosure in the '281 Application of a lookup table of feedback force values dependent on the position of a mouse or joystick—is justified to show anticipation. *See In re Arkley*, 455 F.2d 586, 587 (CCPA 1972) (“[T]he [prior art] reference must clearly and unequivocally disclose the claimed [invention] or direct those skilled in the art to the [invention] without *any* need for picking, choosing, and combining various disclosures not directly related to each other by the teachings of the cited reference.”). Thus, for this additional reason, we are not persuaded by Petitioner’s contention that Rosenberg discloses the “actuator signal generation limitation” recited in claims 1, 12, and 22.

4. Summary

Accordingly, on this record, the information presented in the Petition does not demonstrate a reasonable likelihood of Petitioner prevailing in its challenge to claims 1, 12, and 22 under 35 U.S.C. § 102(e) as anticipated by Rosenberg.

b. Dependent Claims 2, 3, 9–11, 13, 19–21, 23, 25, and 26

Claims 2, 3, 9–11, 13, 19–21, 23, 25, and 26 depend from claims 1, 12, or 22. Petitioner’s arguments and evidence presented with respect to these dependent claims do not remedy the deficiencies in Petitioner’s analysis of the challenged independent claims. Therefore, Petitioner does not demonstrate a reasonable likelihood of Petitioner prevailing in its challenge to claims 2, 3, 9–11, 13, 19–21, 23, 25, and 26 under 35 U.S.C. § 102(e) as anticipated by Rosenberg.

B. Obviousness Based on the Combination of Rosenberg and Simon

Petitioner asserts that claims 5, 7, 15, and 17 are unpatentable under 35 U.S.C. § 103(a) over the combination of Rosenberg and Simon. Pet. 17–20. Claims 5 and 15 depend from claims 1 and 12, respectively, and further recite “wherein the display signal is configured to display a keypad comprising a plurality of softkeys.” Claims 7 and 17 depend from claims 1 and 12, respectively, and further recite “wherein the plurality of softkeys comprises one softkey for each digit from 0 to 9.” Similar to its challenges based on anticipation discussed above, Petitioner relies on Rosenberg as disclosing all of the limitations of underlying independent claims 1 and 12. *Id.* at 17. Simon is relied upon by Petitioner only to teach the additionally recited limitations of claims 5, 7, 15, and 17. *Id.* at 17–19. Hence, Simon cannot and does not remedy the above-identified deficiencies in Petitioner’s analysis of challenged independent claims 1 and 12.

Accordingly, on this record, the information presented in the Petition does not demonstrate a reasonable likelihood of Petitioner prevailing in its challenge to claims 5, 7, 15, and 17 under 35 U.S.C. § 103(a) as obvious over the combination of Rosenberg and Simon.

VII. CONCLUSION

Based on the arguments and evidence presented in the Petition, we conclude Petitioner has not demonstrated a reasonable likelihood that Petitioner would prevail in showing at least one of the challenged claims of the ’356 patent is unpatentable based on any asserted ground of

unpatentability. Therefore, we do not institute an *inter partes* review with respect to any of the challenged claims of the '356 patent.

VIII. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Petition is denied as to all challenged claims of the '356 patent.

IPR2016-00807
Patent 8,773,356 B2

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