

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

IMMERSION CORPORATION,
Patent Owner.

Case IPR2023-00946
U.S. Patent No. 9,727,217

**PATENT OWNER'S SUR-REPLY
TO PETITION FOR INTER PARTES REVIEW**

By ignoring the fact that the '217 patent claims an **“input device”**—not a “peripheral”—Petitioner's Reply (“Pet. Reply”) repeatedly disregards the bedrock principle that the claims define the invention. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005). During prosecution, Applicants expressly amended the claims by replacing the broader term “peripheral,” which includes **both** “physical objects” and “physical devices,” with the narrower term of **only** a “manipulatable input device.” EX1012, 338. Petitioner (“Meta”) has not rebutted the presumption that the terms “peripheral” and “manipulatable input device” have different meaning. *See SimpleAir, Inc. v. Sony Ericsson Mobile Communs. AB*, 820 F.3d 419, 431 (Fed. Cir. 2016). Meta nevertheless wrongly equates the term “input device” with the broadest meaning of “peripheral” by citing inapplicable embodiments relating to physical objects and not devices. *See* Pet. Reply, 2 (citing the inapposite peripheral 202 relating to physical objects and not peripheral 302 relating to devices). Moreover, Meta shoehorns certain examples, including a stylus or the patent's “identifying features 214,” into the category of physical objects as input devices, despite those being listed together with only hardware examples. These forced interpretations run counter to the general interpretative canon, *noscitur a sociis*, that a word is known by the company it keeps, and where “general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words.” *See Secure Axxess, LLC v. PNC Bank Nat'l Ass'n*, 859

F.3d 998, 1017 (Fed. Cir. 2017). Thus, an “input device” means “hardware that actively inputs information.”

Meta also alleges that Patent Owner (“PO”) excludes “express” embodiments in the specification, namely an alleged embodiment consisting solely of identifying features. Pet. Reply, 2. Rather than citing to such a specific embodiment, Meta relies on permissive language to create a hypothetical one. Even if this embodiment existed, Meta argues that “nothing in the patent suggests that an identifying feature requires hardware or electronic circuitry.” *Id.* To the contrary, the patent describes a base “device” by listing “identifying features” along with a list consisting *solely of* hardware examples, i.e., an actuator, an actuator control, and a wireless transmitter/receiver. *See id.*, 2-3. Again, a natural reading of this list suggests that the generic “identifying feature” also includes hardware like all of the preceding specific examples. *See Secure Access*, 859 F.3d at 1017. Meta cites to no support for an identifying feature lacking circuitry to rebut this natural reading. Indeed, under the plain and ordinary meaning, a mere identifying feature *without hardware*, such as for example a driver’s license or a bar code, is not a “device.” EX2002, ¶¶54-55.

Further, Meta relies on dependent claim 11 to argue that the input device need not by itself provide the input of information, i.e., that an input device may be a passive device whose position and identification are detected by other separate components. Pet. Reply, 3. But again, the position and identification sensors recited

in claim 11 are separate limitations with presumably different scope and functions. Claim 11 does not require *all* aspects of input functionality to be dispersed from the input device of claim 1 to render it a passive device. Meta overlooks other user input functionality that facilitate active input such as those related to “buttons, dials, touch pads,” or other exemplary input devices. ’217 patent, 10:15-17.

Lastly, Meta also relies on a dictionary definition of “input device” to show purported examples of passive devices such as a “stylus.” Pet. Reply, 3. But extrinsic evidence cannot alter claim meaning that is clear in the intrinsic record. *Seabed Geosolutions Inc. v. Magseis FF LLC*, 8 F.4th 1285, 1287 (Fed. Cir. 2021). Moreover, Meta nakedly asserts that the exemplary stylus “could simply be a physical pen without accompanying electronic circuitry.” Pet. Reply, 2-3. Nothing from this dictionary definition supports this argument. The definition uses the word “device” to define itself, which does not support Meta’s positions. Tellingly, this does not include, for example, passive, non-devices such as a driver’s license or a barcode. Instead, a plain interpretation of this dictionary definition naturally reads all of the listed example devices as “hardware for active user input,” consistent with PO’s construction. Indeed, the stylus in this dictionary definition presumably refers to “active” hardware-based styluses given all of the adjacent active hardware devices listed, e.g., keyboards, mice, and joysticks, supporting a reading “input device” as “hardware that actively inputs information.” *See Secure Access*, 859 F.3d at 1017.

Patent Owner's Preliminary Sur-Reply
IPR2023-00946 (U.S. Patent No. 9,727,217)

Dated: October 27, 2023

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2023, a copy of this document has been served in its entirety by electronic mail on Petitioner's lead and backup counsel.

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