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WRITER'S DIRECT LINE

June 30, 2010

VIA EMAIL

Sean P. DeBruine, Esq.
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Palo Alto, CA 94306

Re: ***Certain Electronic Devices with Multi-Touch Enabled Touchpads and Touchscreens, ITC Inv. No. 337-TA-714***

Dear Sean:

Pursuant to Order Nos. 8 and 9, Respondent Apple Inc. proposes the following constructions for each claim term, phrase, or clause that the parties have identified for claim construction purposes with respect to U.S. Patent No. 5,825,352:

Claim Term	Apple's Proposed Construction
"identify a first maxima in a signal corresponding to a first finger" (claims 1, 18) ¹	"identify a first peak value in a finger profile taken on an axis obtained from scanning the touch sensor"

¹ Elan has identified for construction the phrases "scanning the touch sensor to . . . identify a first maxima in a signal corresponding to a first finger," "scanning the touch sensor to . . . identify a minima following the first maxima," and "scanning the touch sensor to . . . identify a second maxima in a signal corresponding to the second finger following said minima." Apple disagrees with this phrasing of the proposed claim terms. First, the claim term "scanning the touch sensor" does not appear three times in claim 1

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Claim Term	Apple's Proposed Construction
"identify a minima following the first maxima" (claims 1, 18)	"identify the lowest value in the finger profile taken on said axis that occurs after the first peak value, and before another peak value is identified"
"identify a second maxima in a signal corresponding to the second finger following said minima" (claims 1, 18)	"after identifying the lowest value in the finger profile taken on said axis, identify a second peak value in the finger profile taken on said axis"
"identify" (claims 1, 18)	"recognize a value to be"
"in response to" (claims 1, 18)	"after and in reaction to"
"means for selecting an appropriate control function" (claim 19)	<p>This limitation is governed by 35 U.S.C. § 112(6).</p> <p>The recited <u>function</u> is selecting an appropriate control function based on a combination of a number of fingers detected, an amount of time said fingers are detected, and any movement of said fingers.</p> <p>Because the specification does not disclose a corresponding structure, this limitation is indefinite.</p>
"pointing device click function" (claim 2)	"function that would normally result from a mouse button click"
"a 'select' function" (claim 4)	"a selection of an item"
"control function" (claims 14, 19)	"function that would normally be provided by the actuation of the buttons or switches on a mouse"

or in claim 18. Second, the parties have previously agreed to a construction for the claim term "scanning the touch sensor" in the co-pending U.S. District Court case, and there is no need to include "scanning the touch sensor" in other claim terms for additional, redundant construction. Apple's proposed constructions of the multiple claim terms encompassed by Elan's proposed terms are provided in this table.

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Claim Term	Apple's Proposed Construction
<p>"means for providing an indication of the presence of two fingers . . ." (claim 18)</p>	<p>This limitation is governed by 35 U.S.C. § 112(6).</p> <p>The recited <u>function</u> is providing an indication of the simultaneous presence of two fingers in response to identification of said first and second maxima.</p> <p>The <u>corresponding structure</u> is the algorithm found in Fig. 8-1, which sets a Finger value equal to two after determining if a scan in either the X direction or the Y direction has detected two fingers.</p>
<p><u>Apple's Proposed Term</u> "means for detecting a distance between said first and second maxima" (claim 24)</p> <p><u>Elan's Proposed Term</u> "means for detecting a distance . . ." (claim 24)</p>	<p>This limitation is governed by 35 U.S.C. § 112(6).</p> <p>The recited <u>function</u> is detecting a distance between said first and second maxima.</p> <p>Because the specification does not disclose a corresponding structure, this limitation is indefinite.</p>
<p><u>Apple's Proposed Term</u> "means for providing a click function in response to the removal and reappearance of said second maxima within a predetermined period of time" (claim 26)</p> <p><u>Elan's Proposed Term</u> "means for providing a click function . . ." (claim 26)</p>	<p>This limitation is governed by 35 U.S.C. § 112(6).</p> <p>The recited <u>function</u> is providing a click function in response to the removal and reappearance of said second maxima within a predetermined period of time.</p> <p>Because the specification does not disclose a corresponding structure, this limitation is indefinite.</p>

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Claim Term	Apple's Proposed Construction
<p><u>Apple's Proposed Term</u> "means for calculating first and second centroids corresponding to said first and second fingers" (claim 30)</p> <p><u>Elan's Proposed Term</u> "means for calculating first and second centroids . . ." (claim 30)</p>	<p>This limitation is governed by 35 U.S.C. § 112(6).</p> <p>The recited <u>function</u> is calculating first and second centroids corresponding to said first and second fingers.</p> <p>Because the specification does not disclose a corresponding structure, this limitation is indefinite.</p>
<p>"scanning the touch sensor" (claims 1, 18)</p>	<p>"measuring the values generated by a touch sensor to detect operative coupling and determining the corresponding positions at which measurements are made"</p> <p>(construction agreed to by the parties)</p>
<p>"means for scanning the touch sensor" (claim 18)</p>	<p>This limitation is governed by 35 U.S.C. § 112(6).</p> <p>The recited <u>function</u> is scanning the touch sensor.</p> <p>The <u>corresponding structure</u> is an analog multiplexer, a circuit to measure changes in capacitance of sensor conductors, an analog to digital converter, a microcontroller, and equivalents thereof.</p> <p>(construction agreed to by the parties)</p>

Best regards,



Michael R. Franzinger

cc: Kevin Baer, Esq.