

**Case Information**

Case	MULTI-TOUCH DEVICE HAVING DYNAMIC HAPTIC EFFECTS CASE
Court, case no.	Intellectual Property High Court (H26 (Gyo-Ke) 10232),
Date of judgment	July 16, 2015
Parties	Plaintiff: X Defendant: Japan Patent Office

**FACTS**

The plaintiff was the Applicant of Patent Application No. 2010-527017 (WO/2009/042424, Priority: 11/863,741 28.09.2007 US), which was rejected by the Examiner of JPO. An appeal against the decision of rejection was filed and examined by the Board of Appeal, which rendered a decision to dismiss the appeal and to uphold the decision of rejection. The plaintiff filed a lawsuit to seek rescission of the Board's decision.

**ISSUE**

The reason for refusal of the application was lack of an inventive step based on cited documents. The issues were (1) whether there was any misunderstanding with the interpretation of the invention of the cited document, (2) whether there was any misunderstanding with the identification of the difference between the invention of this application and the invention identified from the cited document, and (3) whether the judgment for the inventive step based on the difference was correct.

**HOLDING**

- (1) The invention of the cited document was identified based on the Japanese translation of the original PCT application. However, there was a misunderstanding with the interpretation of the invention of the cited document in the decision of the Board, since the cited document should be translated into Japanese as "In one

embodiment, the process can be activated by a user who touches a touch-sensitive panel possibly in a predetermined location or locations (same as in the original PCT document)” not as “In one embodiment, the process can be activated by a user who touches a predetermined location or locations of a touch-sensitive panel.”

- (2) There is another difference between the invention of this application and the invention identified from the cited document, which was overlooked in the Board’s decision.
- (3) In view of the above factors, the Board’s decision should be cancelled.

February 23, 2016

Original document (Japanese):

[http://www.courts.go.jp/app/files/hanrei\\_jp/217/085217\\_hanrei.pdf](http://www.courts.go.jp/app/files/hanrei_jp/217/085217_hanrei.pdf)

English Translation:

N/A