

# Patent Owner's Demonstratives

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Nintendo Co. Ltd. and Nintendo of America Inc.,

Petitioners,

v.

Gamevice, Inc.,

Patent Owner.

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Case IPR2023-00643

U.S. Patent No. 10,391,393

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# Key Disputed Issues

Person of Ordinary Skill in the Art

Grounds I – III

- Claimed “confinement structures” are not disclosed or suggested
- No motivation to combine as Petition proposes
- Collateral estoppel does not apply
- The Board should disregard Nintendo’s new obviousness theories

Ground IV

- Claimed “confinement structures” are not disclosed or suggested
- Claimed “passageway” is not disclosed or suggested

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# The Board Should Adopt Gamevice's Position on the Person of Ordinary Skill in the Art

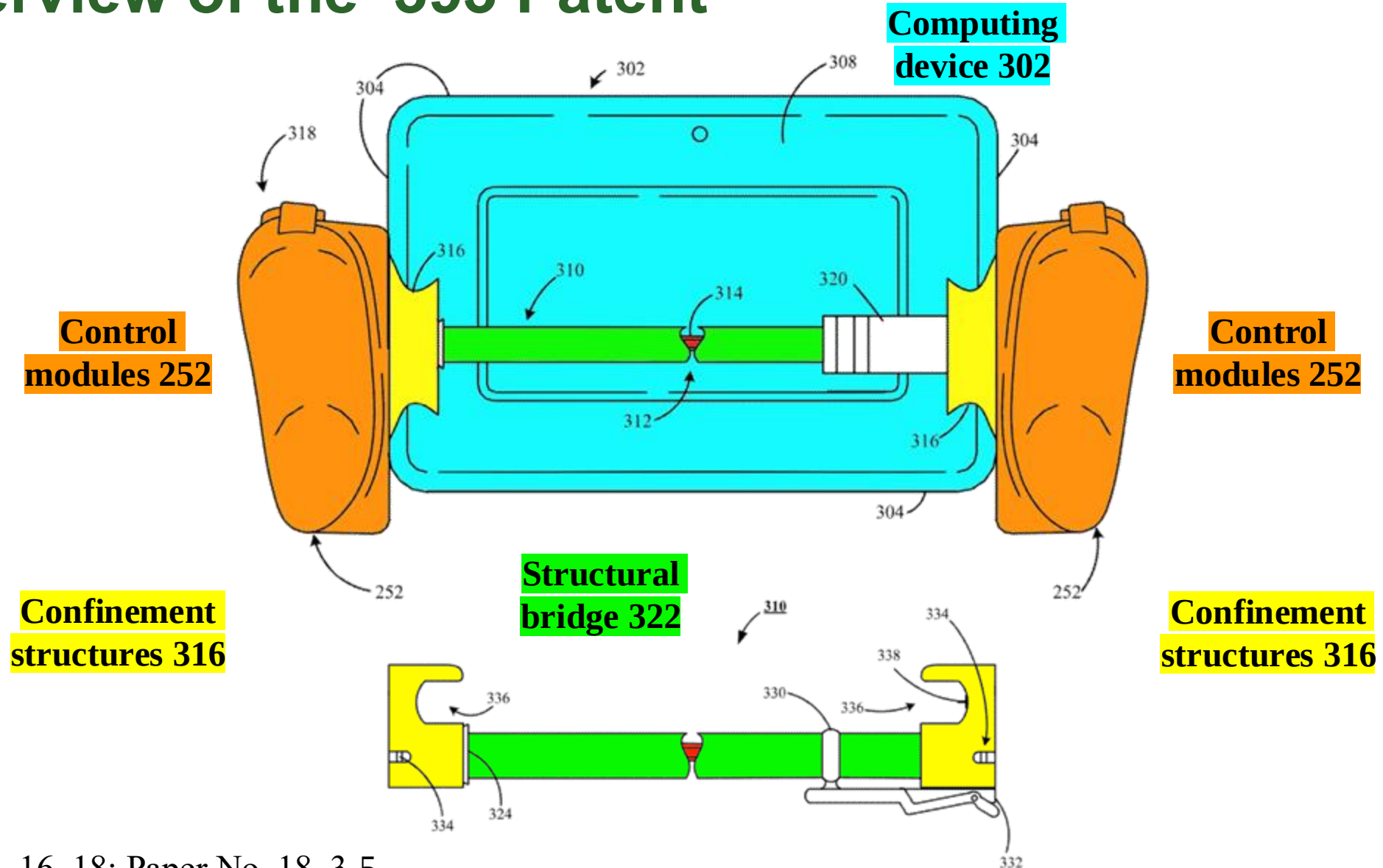
## Nintendo's Position

“A person of ordinary skill in the art as of the time of the alleged invention of the '393 patent application (“POSITA”) would have had an undergraduate degree in mechanical, electrical, or computer engineering or other technical training in product design or equivalent work experience in the development of interactive products. Such a person would have possessed at least one year of experience in developing and/or evaluating interactive products.”

## Gamevice's Position

“Ordinary artisans as of the February 2, 2015, effective filing date of the '393 Patent would have had an undergraduate degree in mechanical engineering and two years of industry or research experience in mechanical assemblies and hand-held consumer devices or other technology involving a physical device that allows humans to interface with electrical devices, where additional relevant experience can compensate for a lack of relevant education, and vice versa.”

# Overview of the '393 Patent



## Person of Ordinary Skill in the Art

Rather than software aspects of video games, the '393 Patent deals mostly with mechanical engineering concepts and terminologies

*E.g.:*

- “attachment stay 448”
- “soft draw latch”
- “fastening detent 264”
- “spring activated catch 268”
- “boss 430”

# Nintendo's Petitioned Grounds are Deficient

- I. Claims 1–7 are Not Obvious over Willner and Park
- II. Claims 1–7 are Not Obvious over Schoenith and Park
- III. Claims 1–7 are Not Obvious over Schoenith and Kessler
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# Disputed Claim Limitations

## Independent claim 1 is representative

1. A combination comprising:

a computing device;

**a pair of confinement structures, the pair of confinement structures interacting with the computing device and adjacent at least two opposing sides of the computing device, but not more than three sides of the sides of the computing device**, each of the pair of confinement structures comprising a communication link, each of the communication links configured for electronic communication with the computing device;

a rigid structural bridge disposed between and secured to the pair of confinement structures, the rigid structural bridge comprising a passageway between the pair of confinement structures, the passageway promotes electrical communication between the communication link of a first confinement structure of the pair of confinement structures and the computing device, the passageway further promotes electrical communication between the communication link of a second confinement structure of the pair of confinement structures and the computing device; and

a pair of electronic game control modules, each electronic game control module of the pair of electronic game control modules is secured to and interacts with a corresponding confinement structure of the pair of confinement structures, each electronic game control module in electronic communication with the communication link of its corresponding confinement structure, **wherein each electronic game control module is a separate and distinct structure from each of their corresponding confinement structures, forming no structural portion of their corresponding confinement structures**, and in which each of the pair of confinement structures are separate and distinct structures from the structural bridge, forming no structural portion of the structural bridge.

# Claim Construction

**“pair of confinement structures”**

physical component(s) that hold(s) a computing device

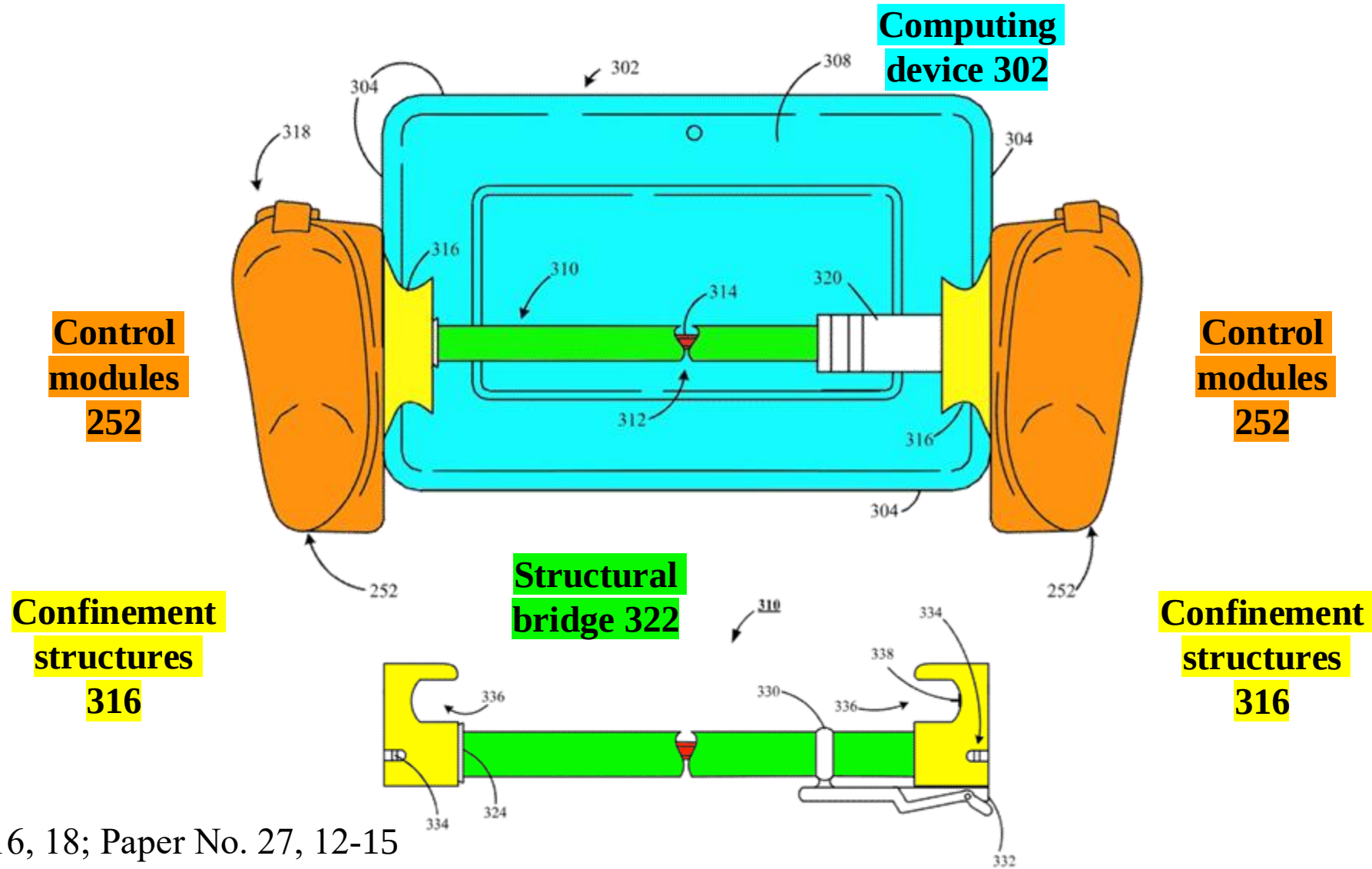
# Claim Construction

**“pair of confinement structures”**

physical component(s) that hold(s) a computing device

POSITAs would understand from the 393 Patent that physical components do not **hold** a “computing device” if they allow it to inadvertently come out during normal user operation

# Confinement Structures in the '393 Patent Hold the Computing Device, i.e., Prevent It From Coming Out



'393 Patent, Figs. 16, 18; Paper No. 27, 12-15

# Confinement Structures in the '393 Patent Hold the Computing Device, i.e., Prevent It From Coming Out

- The '393 Patent contrasts removing the computing device with “securely hold[ing]” it between the confinement structures

structures **316**. The expansion and contraction of the distance between the pair of confinement structures **316**, facilitates placement of the computing device **302** between the pair of confinement structures **316**, the application of sufficient compressive load being placed on the computing device **302** to securely hold the computing device between the pair of confinement structures **316**, and an ability to remove the compressive load and allow removal of the computing device from the communication port **310**.

# Confinement Structures in the '393 Patent Hold the Computing Device, i.e., Prevent It From Coming Out

- The '393 Patent contrasts “inadvertent removal” with “confine[ment]”

Returning to FIG. 1, preferably, the bridge structure 124 in combination with the pair of side structures 116 and 118 form a three sided structure 128 (of FIG. 5) (also referred to herein as a u-shaped structure 128 of the input device 114), in which the computing device 102 nests, such that the computing device 102 is confined by the u-shaped structure 128, and the u-shaped structure 128 mitigates inadvertent removal of the computing device 102 from the u-shaped structure 128 when the computing device 102 is fully nested within the three sided structure 128.

# Confinement Structures in the '393 Patent Hold the Computing Device, i.e., Prevent It From Coming Out

- Under the '393 Patent, “inadvertent removal” means that the computing device is not held by the confinement structures

the pair of sides to form a three sided structure. The third structure mitigates inadvertent removal of the computing device from the three sided structure when the computing device is fully nested within the three sided structure.

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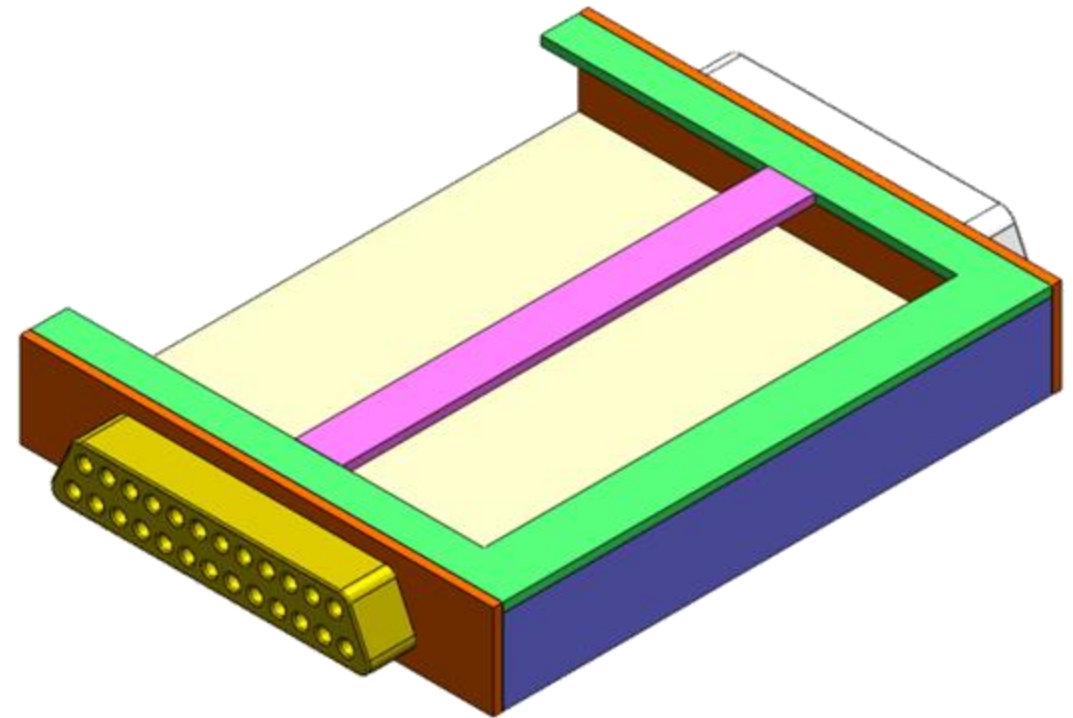
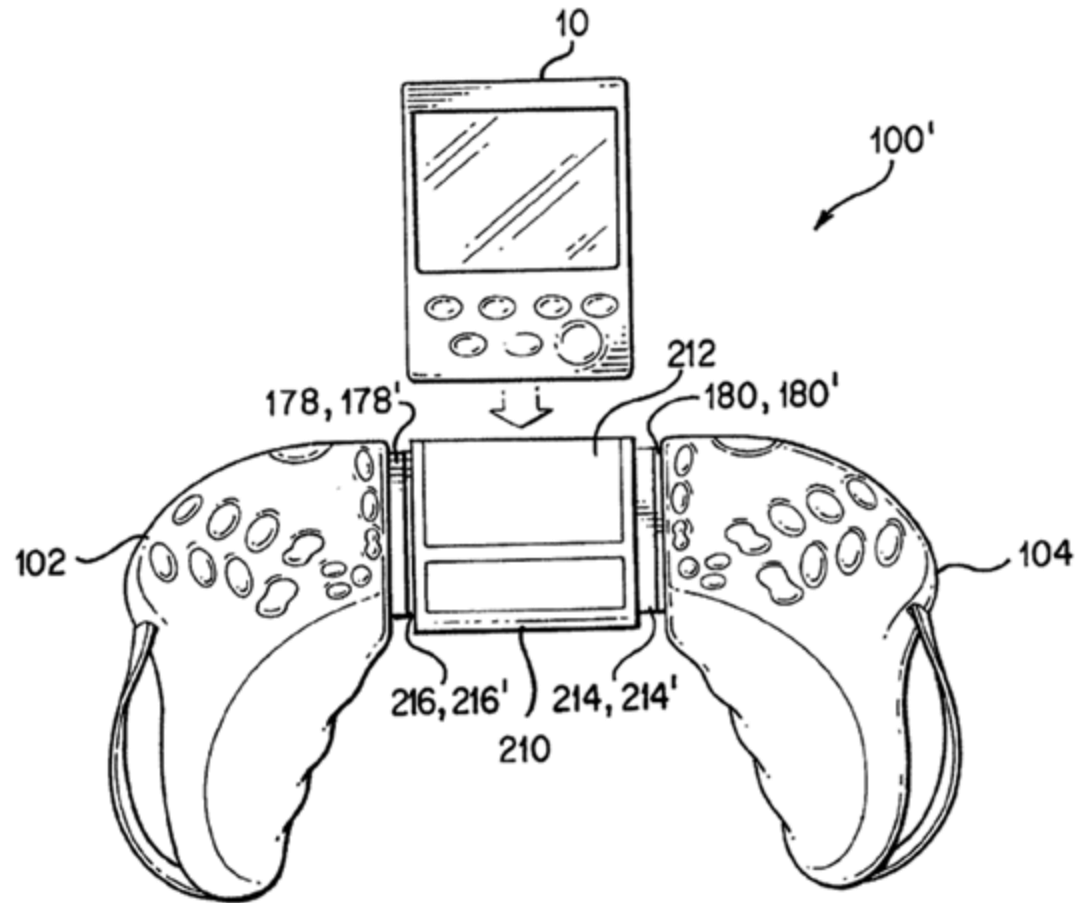
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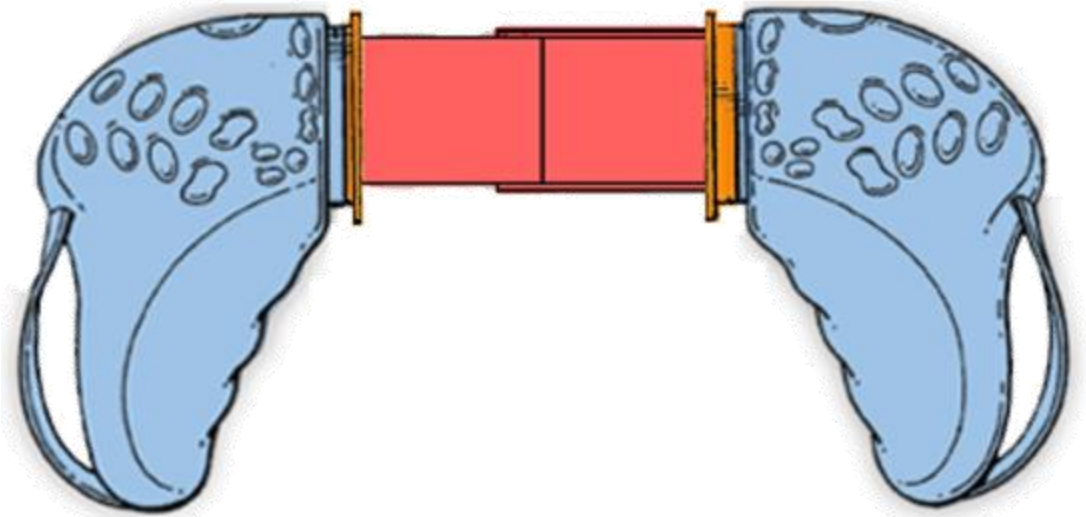
# Petitioned Combination of Willner and Park Does Not *Hold* the Computing Device—Allows Inadvertent Removal



Willner's adaptor 210 (3-D structure)<sup>2</sup>

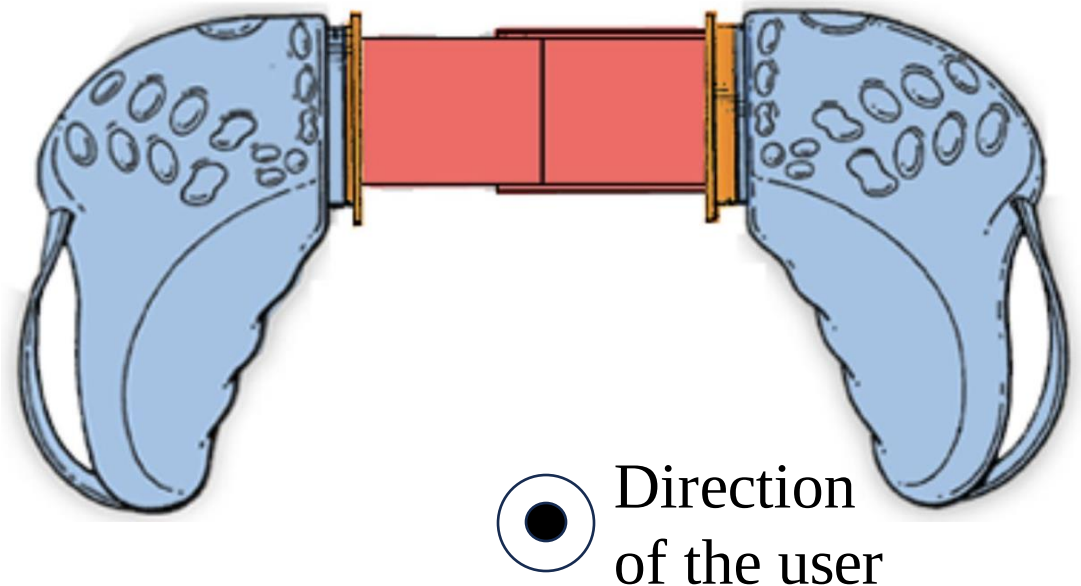
## Petitioned Combination of Willner and Park Does Not *Hold* the Computing Device—Allows Inadvertent Removal

- Nintendo removes the **retaining lips**, **retaining crossbar**, and **bottom** from its proposed combination
- Replaces the **back** with Park's bridge



## Petitioned Combination of Willner and Park Does Not *Hold* the Computing Device—Allows Inadvertent Removal

- Prof. Slocum: Computing device would come out in the direction of the user because the removed **retaining lips**, **retaining crossbar**, and **bottom** are structural elements required to retain the device in position
- Professor of Mechanical Engineering at MIT for 30+ years; Previously, mechanical engineer at NIST



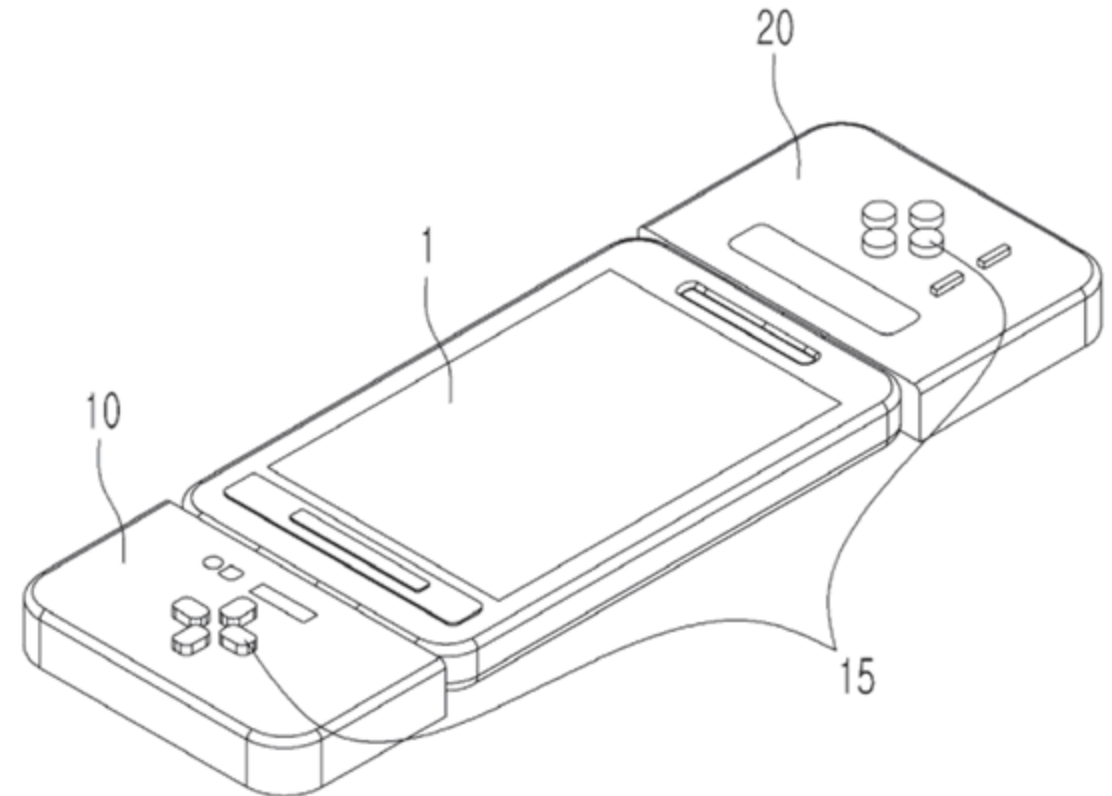
# Petitioned Combination of Willner and Park Does Not *Hold* the Computing Device—Allows Inadvertent Removal

- Park supports Prof. Slocum's Opinion

“Fig. 3 is a perspective view of a mobile phone mounted on the game pad device for a mobile phone according to the present invention . . .

Whereas the above configuration sufficiently allows for a mobile phone (1) to be mounted on the device according to the present invention and used, **as the mobile phone is not sufficiently in contact with the device according to the present invention when using the above configuration, the mobile phone (1) may come loose during gaming or become detached in severe cases, hindering comfortable and stable operation of a game.”**

Fig 3



## Petitioned Combination of Willner and Park Does Not *Hold* the Computing Device—Allows Inadvertent Removal

- Nintendo's proposed combination is structurally equivalent to Park's admittedly deficient design in terms of retaining the computing device

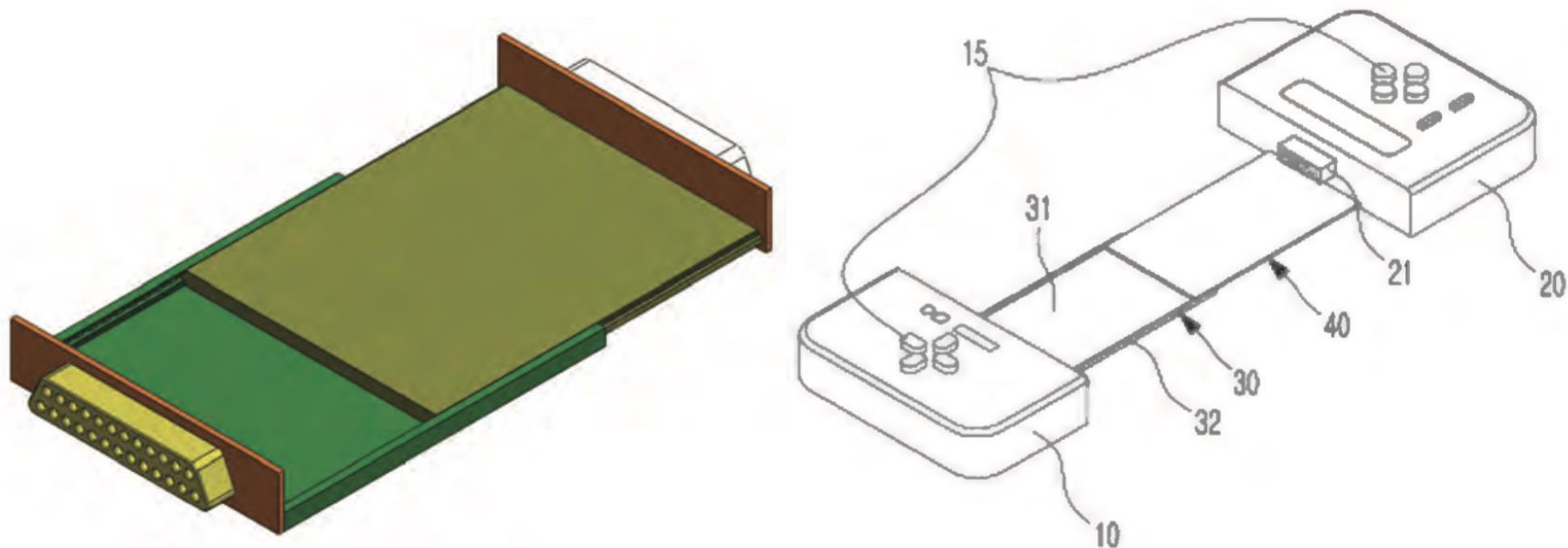
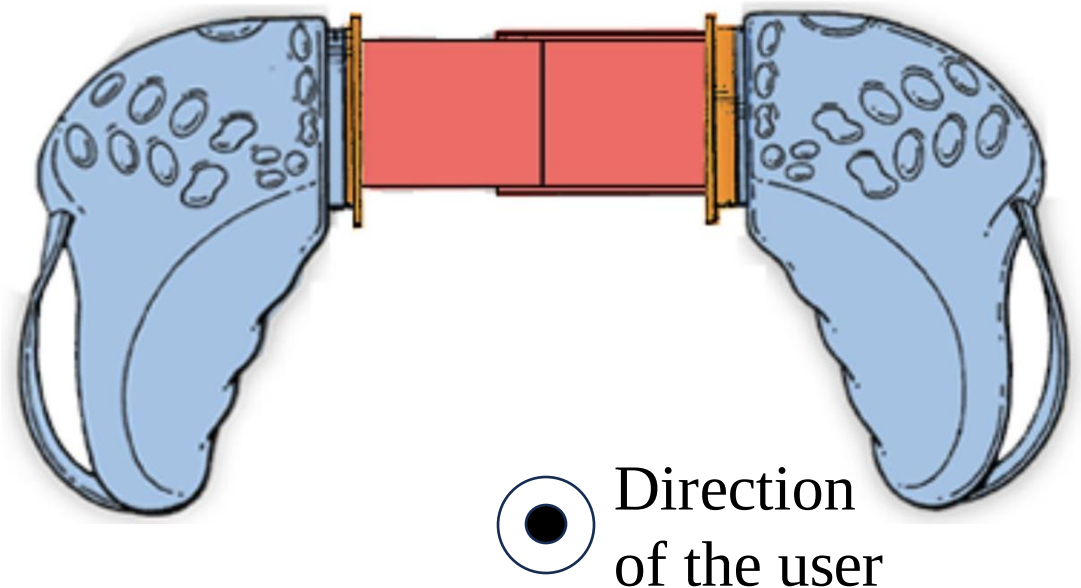


**Figure 5:** 3-D SolidWorks™ 3-D render of Mr. Kitchen's proposed combination, versus Park, Fig. 1

## Petitioned Combination of Willner and Park Does Not *Hold* the Computing Device—Allows Inadvertent Removal

- Prof. Slocum: Computing device would come out in the direction of the user because the removed **retaining lips**, **retaining crossbar**, and **bottom** are structural elements required to retain the device in position
- In its Petitioner reply, Nintendo cited no technical analysis to the contrary



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# Requirements for Collateral Estoppel



Collateral estoppel does not apply unless:  
“(1) a prior action presents an *identical issue*;  
(2) the prior action actually litigated and adjudged  
that issue; (3) the judgment in that prior action  
necessarily required *determination of the identical  
issue*; and (4) the prior action featured full  
representation of the estopped party.”

*VirnetX Inc. v. Apple, Inc.*,  
909 F.3d 1375, 1378 (Fed. Cir. 2018)

## Factual Inquiries Underlying Obviousness Determination Must be Identical for Collateral Estoppel to Apply



“Where obviousness is the basis for the prior invalidity holding, an inquiry into the identity of the validity issue is more properly phrased in terms of the factual inquiries mandated by *Graham v. John Deere Co.*, 383 U.S. 1, 17, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966), as a prerequisite to such a validity determination. ”

*Interconnect Plan. Corp. v. Feil*,  
774 F.2d 1132, 1136 (Fed. Cir. 1985)

# IPR2018-01522 of the '119 Patent Did Not Determine the Identical Factual Inquiry

## Board's Analysis:

### Claim Construction

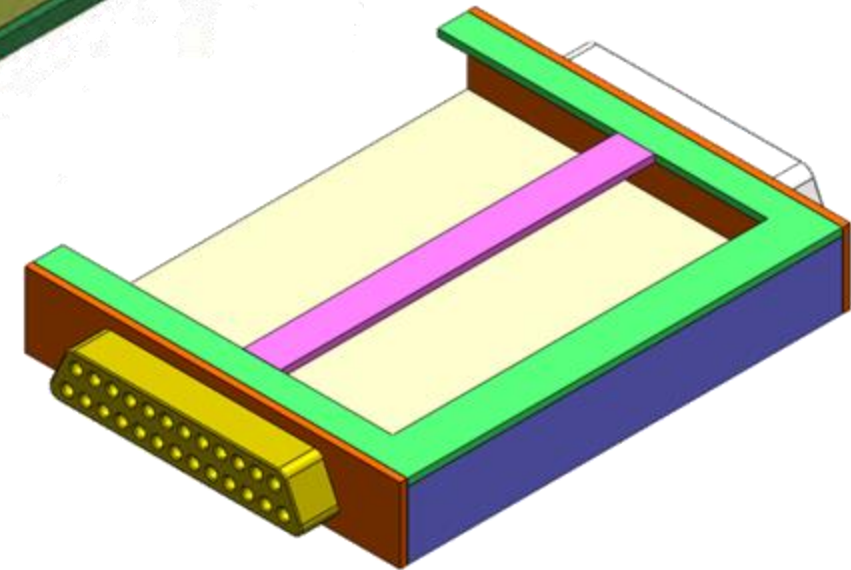
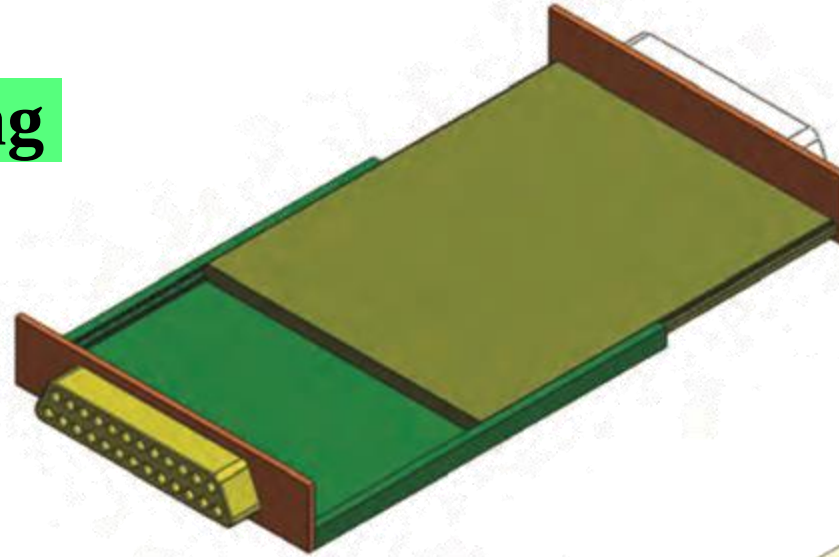
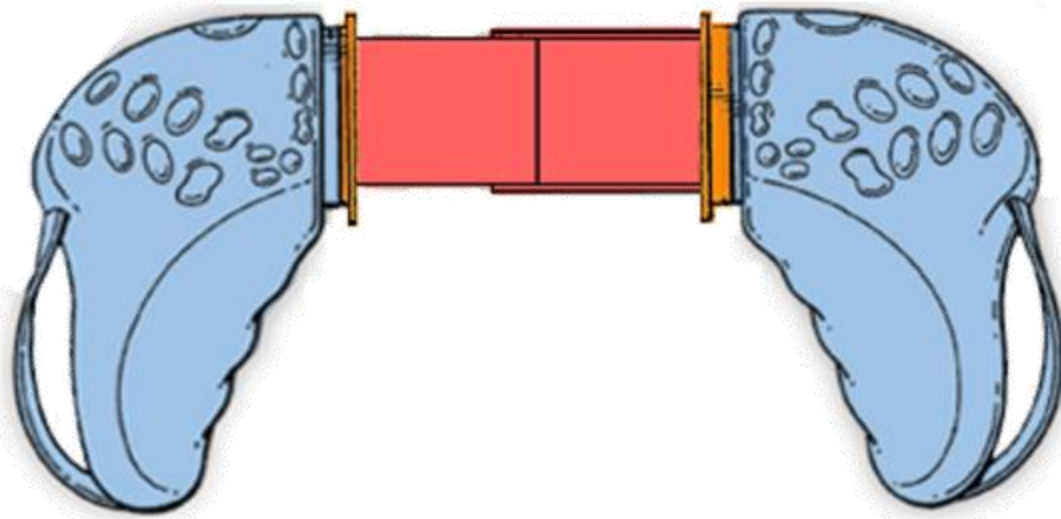
“Because it is necessary to our analysis of the prior art, we note only that the term ‘confinement structures,’ as used in the claims [of the '119 Patent] and read in light of [its] specification, encompasses a ‘three-sided structure’ in which the computing device ‘is fully nested’, as well as structures that serve as a ‘cradle’ to ‘securely hold’ the computing device”

### Analysis of Willner and Park

- “Willner’s adaptor has ‘a *bottom*, a rear, facing side, and a *front cross-beam*”
- “the sidewalls of Willner’s adaptor are additionally connected by a bridge structure spanning the *bottom*, *front*, and rear sides of the computing device”
- “as Willner clearly illustrates, once the computing device is received within the opening, movement of the computing device is *confined not only by the adaptor’s opposing sidewalls but also by front, rear, and bottom walls bridging the two sidewalls.*”

# The Petition Proposes a Different Overall Combination of Willner and Park that Presents a Different Factual Inquiry

- Nintendo removes the **retaining lips**, **retaining crossbar**, and **bottom**
- Replaces the **back** with Park's bridge



Willner's adaptor 210 (3-D structure)<sup>2</sup>

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# Nintendo's Reply Introduces New Obviousness Theories

1

Similarly, Willner taught “lips” (circled in red) on the sidewalls of its adaptor, as shown in annotated Figure 4 below. Ex. 1033 ¶56. For the reasons described in Schoenith, a POSITA would have retained the lips on the sidewalls of Willer’s adaptor when combining Willner/Park (if necessary). Ex. 1033 ¶56.

Kessler also disclosed this known technique, including “lips” (circled in red) that retain a computing device, as shown in annotated Figure 11 below. Ex. 1033 ¶57. Kessler taught this approach provided “a controller apparatus 10 that is well balanced and stable.” Ex. 1006 ¶76. These teachings would have motivated a POSITA to retain the lips disclosed in Schoenith and Willner. Ex. 1033 ¶57.

# Nintendo's Reply Introduces New Obviousness Theories

2

Park also disclosed simple mechanical devices to keep a computing device in place. In Park's main embodiment, the computing device is secured by adjusting the length of Park's sliding bridge so the attached controllers contact the device. Ex. 1004 ¶39, claims 1-2. But the specification also taught using "a cushioning pad (60) or connecting assembly" to increase stability. Ex. 1004 ¶¶42-43, Figs. 4, 5; Ex. 1033 ¶60. Based on these teachings, a POSITA would have used a cushion or connecting assembly with Willner's or Schoenith's sidewalls in Nintendo's combinations. Ex. 1033 ¶61. In fact, Mr. Kitchen described Park's connecting assembly and its benefits in describing the Schoenith/Park combination. Ex. 1002 ¶263.

# Nintendo's Reply Introduces New Obviousness Theories

3

To prevent a computing device from coming out during normal use, a POSITA also would also have pursued the simple solution of broadening Park's or Kessler's bridge or including a lock switch to offer additional stability. Ex. 1003 ¶¶58-59. As shown in Kessler's Figures 10 and 11 below, at its broadest point the bridge had the same width as the mobile phone described in the reference. In this arrangement, the bridge stabilizes the device. Ex. 1003 ¶59. To do the same for larger devices (such as tablets), a POSITA would have increased the width (i.e., north to south in Fig. 10 below) of the bridge in Nintendo's combinations. Ex. 1003 ¶¶58-59. Kessler taught a POSITA to "scale[] up" a device "to accommodate ... tablet computers." Ex. 1006 ¶18.

# Nintendo's Reply Introduces New Obviousness Theories

4

right.” *Id.* 208:8-209:4. As another example, Kessler taught using tensioning to bias the bridge toward closing. Ex. 1006 ¶¶99-100. Combining Park’s bridge with Willner’s device or Schoenith’s device, a POSITA would have implemented a tensioning mechanism to ensure the bridge would stabilize a computing device and not pull apart easily. Ex. 1033 ¶¶90-91. Park’s adjustable bridge was a suitable option with the known advantage. Ex. 1011, 19. The law requires no more. *PAR*, 773 F.3d at 1197-98.

# Nintendo's Reply Introduces New Obviousness Theories

5

378. A POSITA exercising ordinary creativity would have known how to connect the sidewalls and bridges in Nintendo's combinations, just as Prof. Slocum ultimately admitted in his deposition. Ex. 1041, 224:3-7. Indeed, Schoenith itself supports that a POSITA would have used screws or snap-fit connectors. Ex. 1005, 7:16-26, 8:27-37; Ex. 1033 ¶¶77-78. Schoenith recognized that these connectors were within the skill in the art and did not provide unnecessary details about them, noting instead that the snap-fit connection "can be any shape, size, configuration or a combination thereof." Ex. 1005, 7:23-26; Ex. 1033 ¶77. As Schoenith suggests, connecting the sidewalls and bridges in Nintendo's combinations using screws or snap-fit connectors would have been straightforward. Ex. 1033 ¶78. To the extent connector size and placement or sidewall/bridge shape or thickness would have required adjustments to facilitate connections, a POSITA would have simply made those changes. Ex. 1033 ¶78.

# Shifting Obviousness Theories in the Petitioner Reply is Improper



“It is of the utmost importance that petitioners in the IPR proceedings adhere to the requirement that the initial petition identify with particularity the evidence that supports the grounds for the challenge to each claim.... Unlike district court litigation—where parties have greater freedom to revise and develop their arguments over time and in response to newly discovered material—the expedited nature of IPRs bring with it an obligation for petitioners to make their case in their petition to institute.”

*Wasica Finance GmbH v. Continental Automotive Systems, Inc.*,  
853 F.3d 1272, 1286 (Fed. Cir. 2017)

# Shifting Obviousness Theories in the Petitioner Reply is Improper



“Rather than explaining how its original petition was correct, [Petitioner’s] subsequent arguments amount to an entirely new theory of *prima facie* obviousness absent from the petition. Shifting arguments in this fashion is foreclosed by statute, our precedent, and Board guidelines.”

*Wasica Finance GmbH v. Continental Automotive Systems, Inc.*,  
853 F.3d 1272, 1286-87 (Fed. Cir. 2017)

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# Petitioned Combination of Schoenith and Park Violates the “Forming No Structural Portion of” Claimed Requirement

1. A combination comprising:

a computing device;

a pair of confinement structures, the pair of confinement structures interacting with the computing device and adjacent at least two opposing sides of the computing device, but not more than three sides of the sides of the computing device,

\* \* \* \* \*

wherein each electronic game control module is a **separate and distinct structure** from each of their corresponding confinement structures, **forming no structural portion** of their corresponding confinement structures, . . .

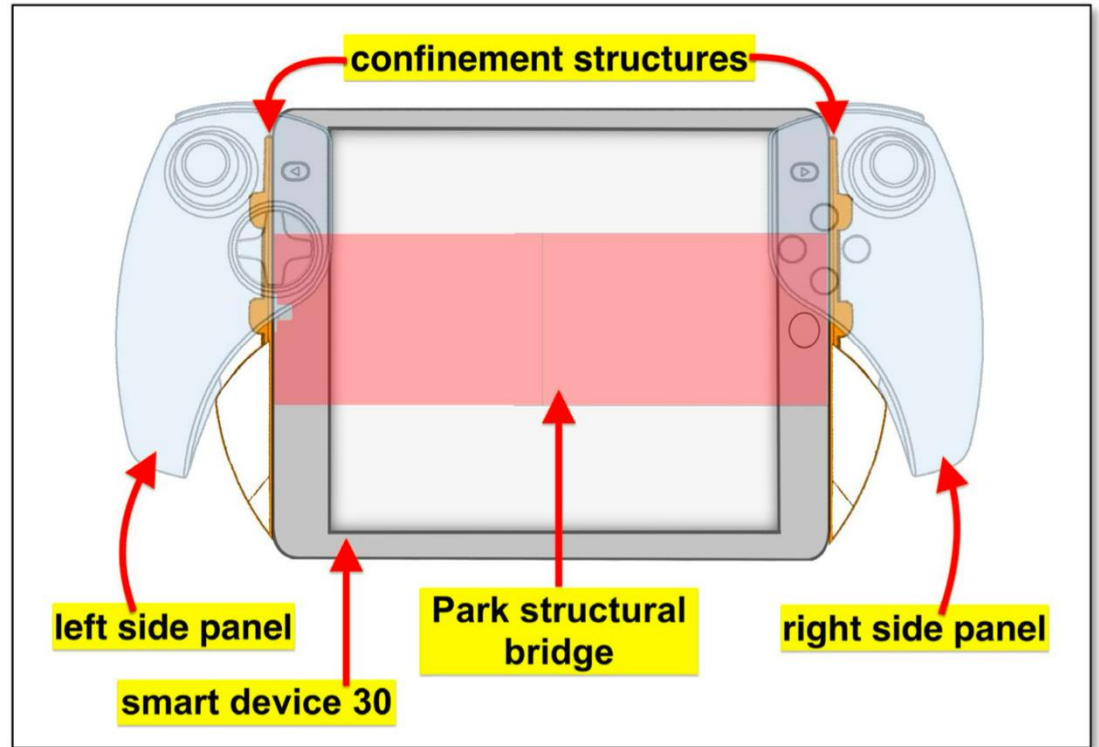
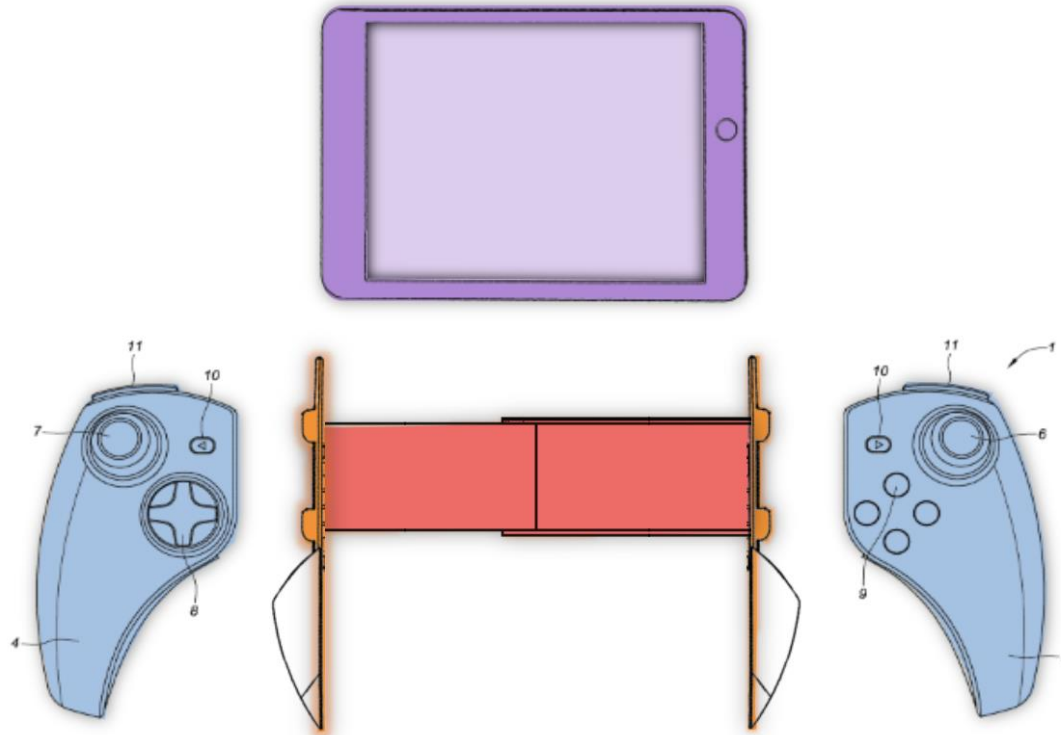
## Petitioned Combination of Schoenith and Park Violates the “Forming No Structural Portion of” Claimed Requirement

“pair of confinement structures”

physical component(s) that hold(s) a computing device

- The electronic game control modules must “form[] no structural portion of” the “confinement structures”
- *Thus, they cannot be included among the physical components that hold the computing device*

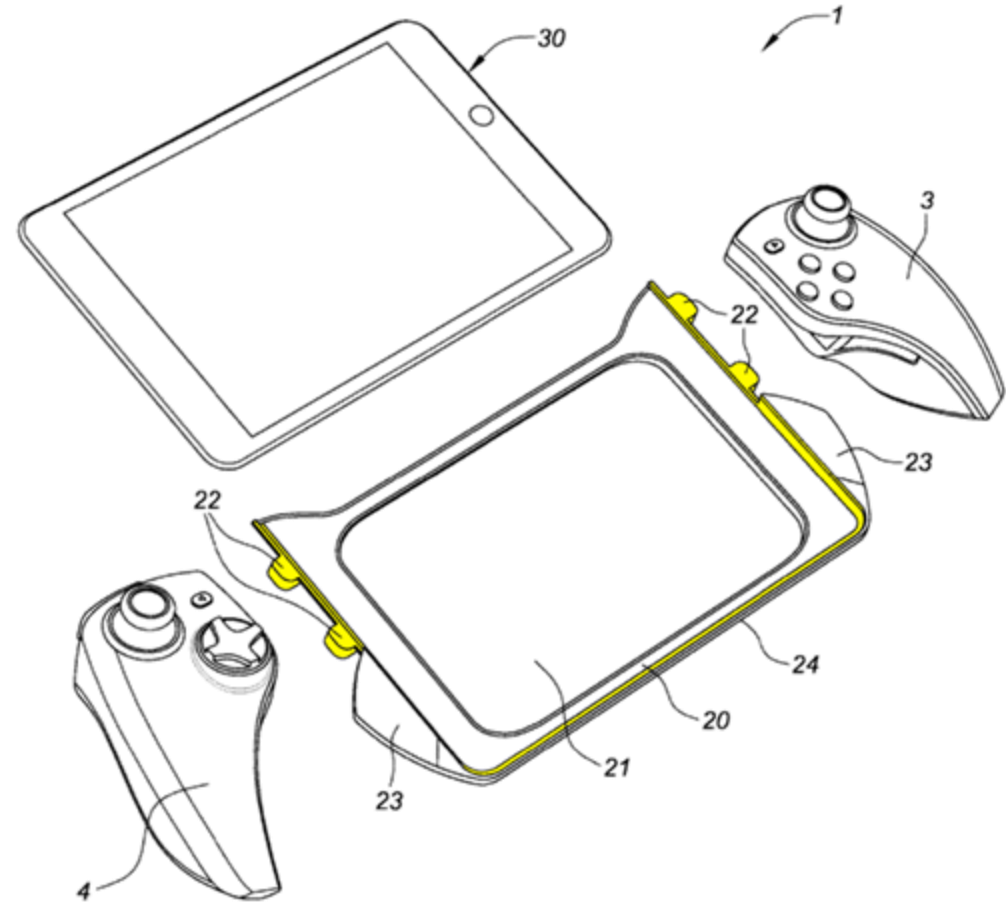
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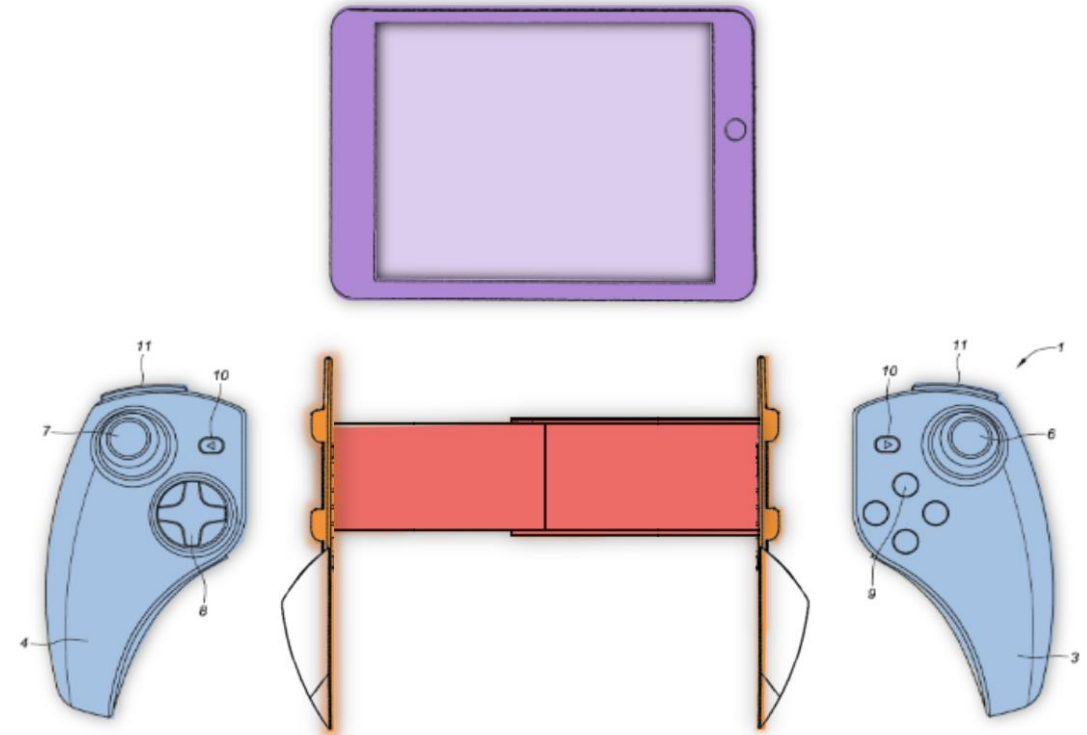
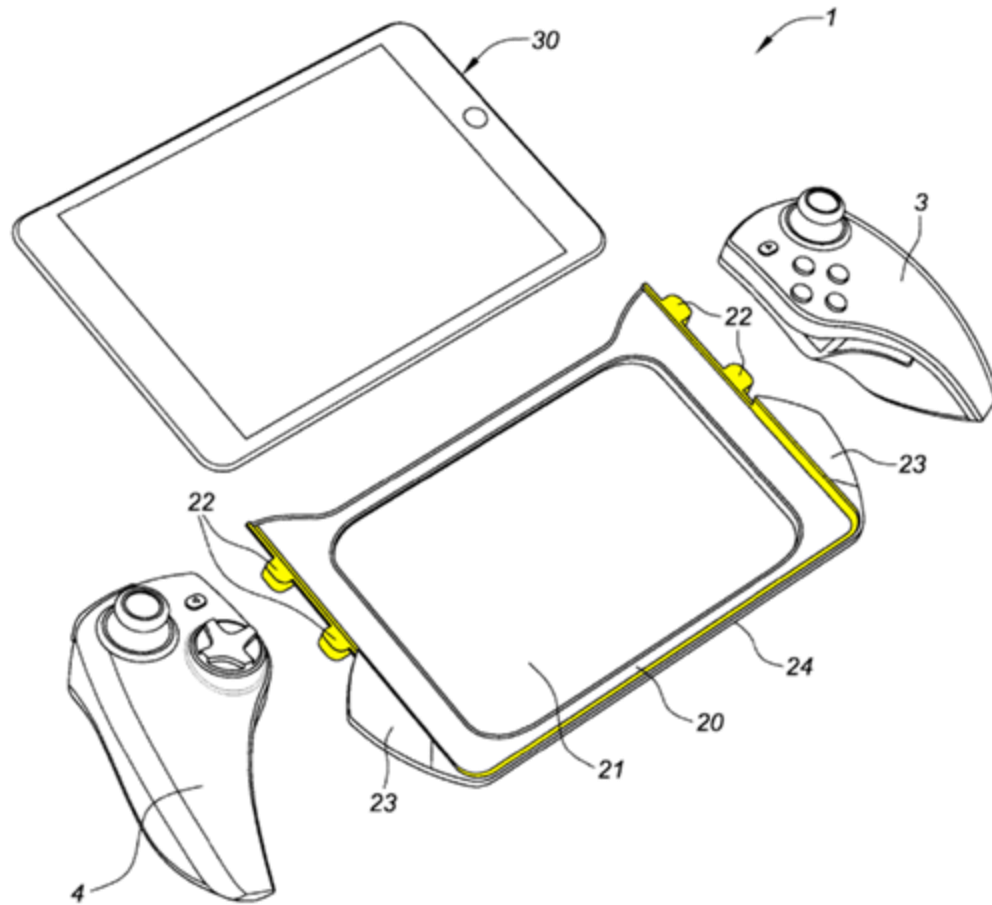
Potential combination of Schoenith and Park  
with game control modules secured to confinement structures

## Petitioned Combination of Schoenith and Park Does Not *Hold* the Computing Device—Allows Inadvertent Removal

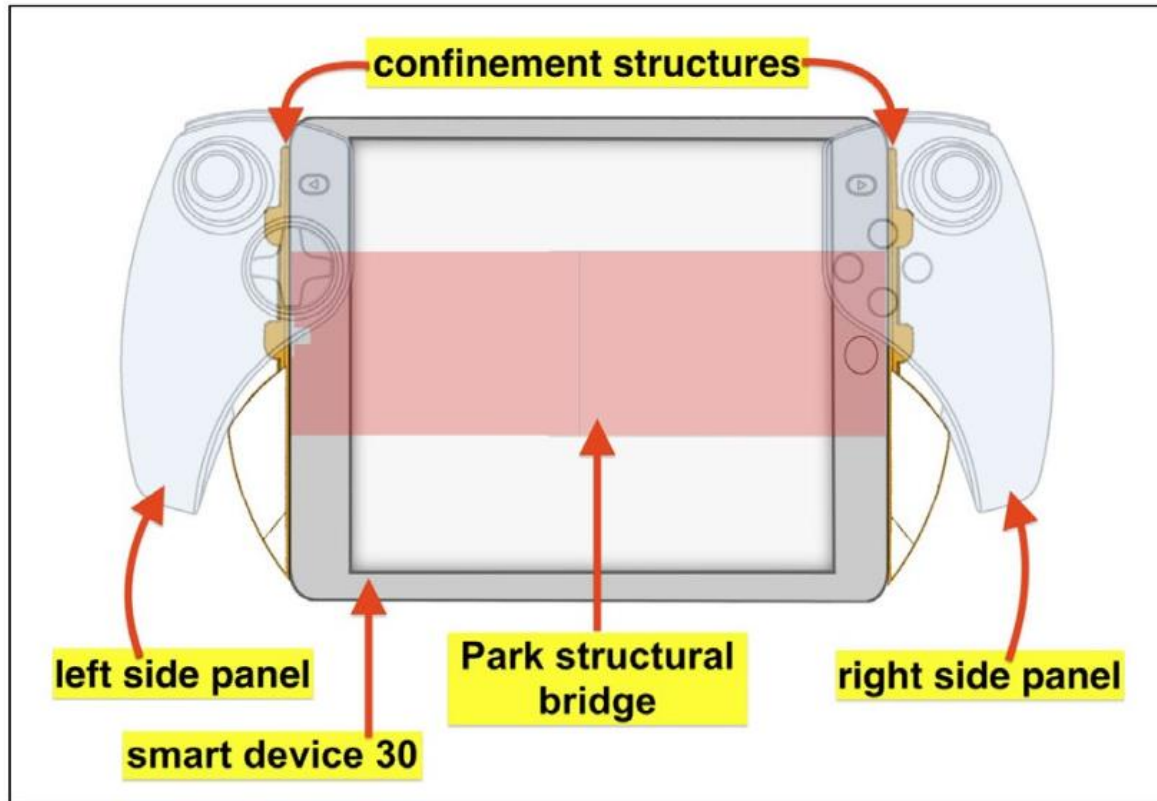
- Nintendo keeps only the raised side walls 24 on the left and right sides, and removes all of the remaining structure of Schoenith's cradle 20
- Replaces the entire back with Park's bridge



# Petitioned Combination of Schoenith and Park Does Not *Hold* the Computing Device—Allows Inadvertent Removal

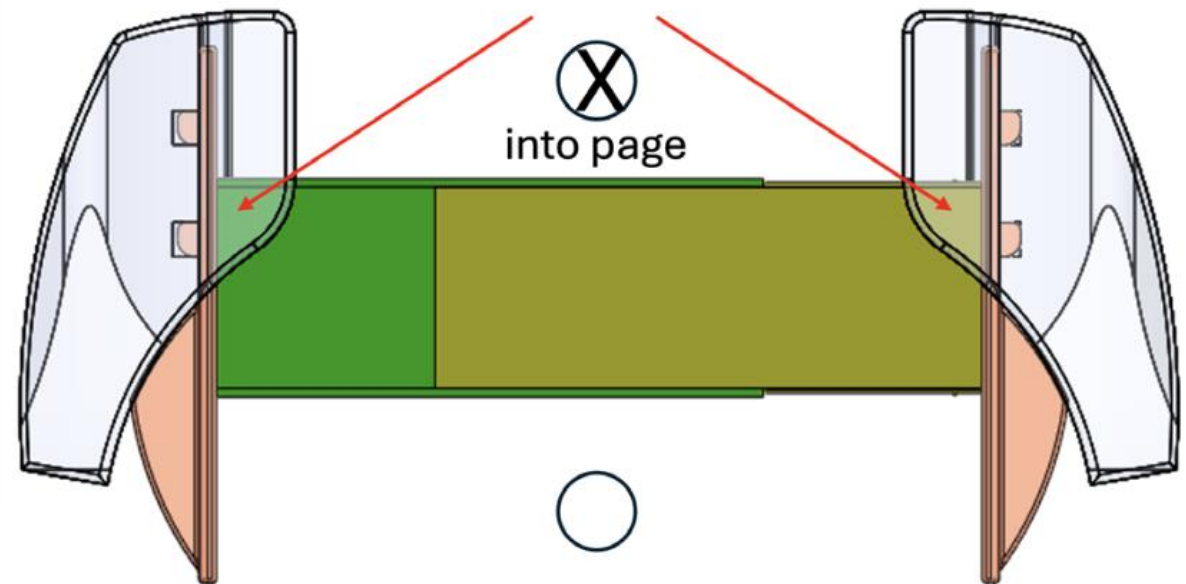


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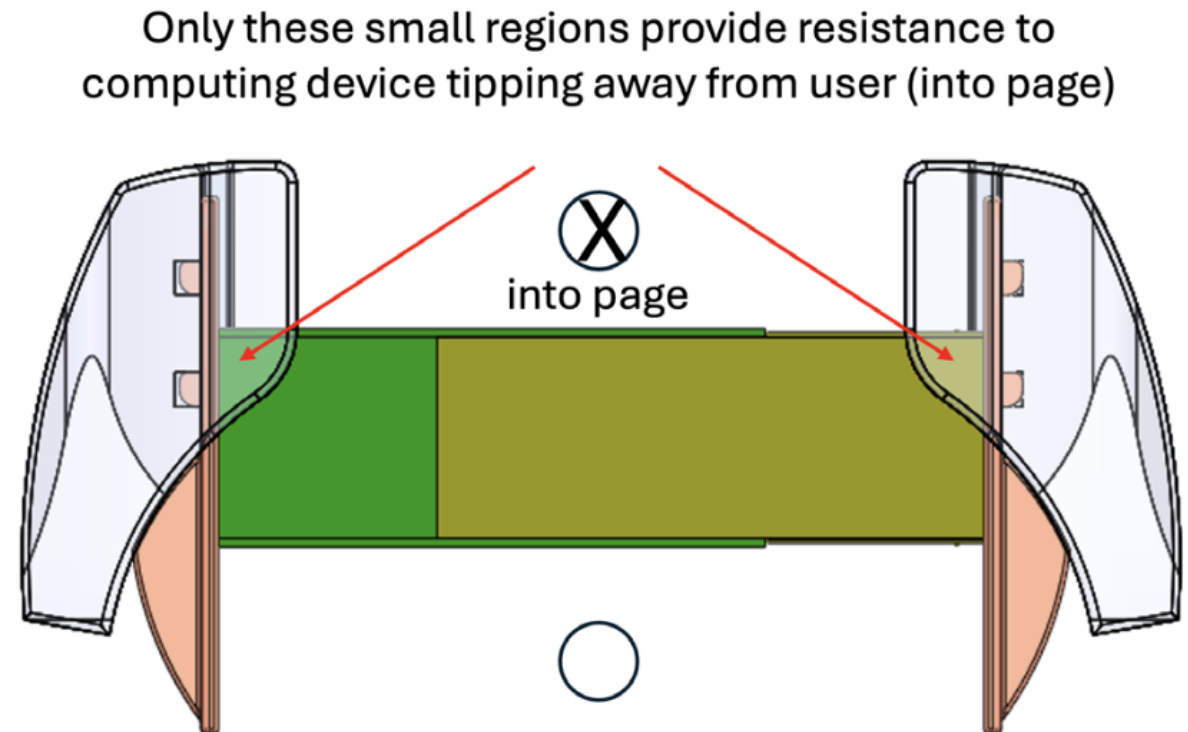
Potential combination of Schoenith and Park  
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Only these small regions provide resistance to  
computing device tipping away from user (into page)



## Petitioned Combination of Schoenith and Park Does Not *Hold* the Computing Device—Allows Inadvertent Removal

- Prof. Slocum: Computing device is prone to tipping into the page, because Schoenith's panels 3 and 4 would overlap only a small portion of Park's narrower adjustable bridge (30, 40)
- Weak tilting moment capacity



# Petitioned Combination of Schoenith and Park Does Not *Hold* the Computing Device—Allows Inadvertent Removal

- Prof. Slocum explained the mechanics of resistance to tipping with diagrams and equations
- In its Petitioner reply, Nintendo cited no technical analysis to the contrary

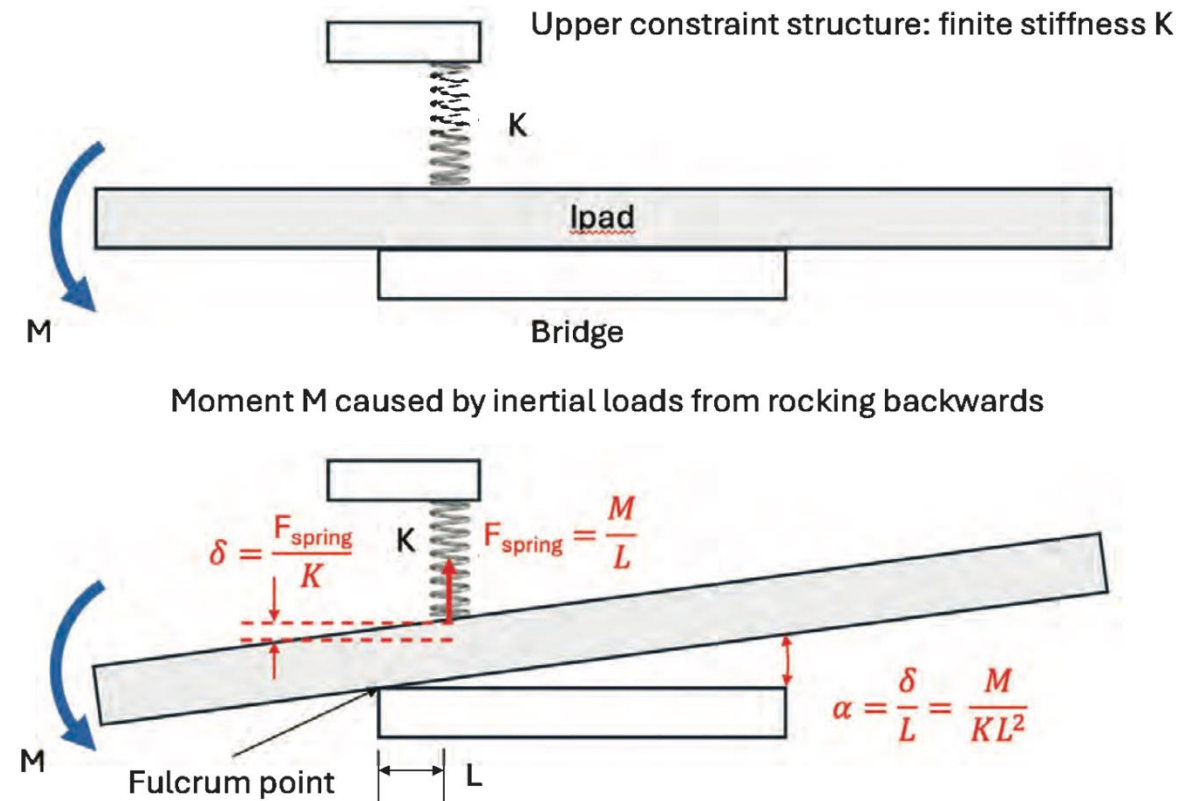


**Figure 12:** Mechanics of resistance to tipping (tilt stiffness)

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*Interconnect Plan. Corp. v. Feil*,  
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# IPR2018-01521 of the '119 Patent Did Not Determine the Identical Factual Inquiry

## Board's Analysis:

### Claim Construction

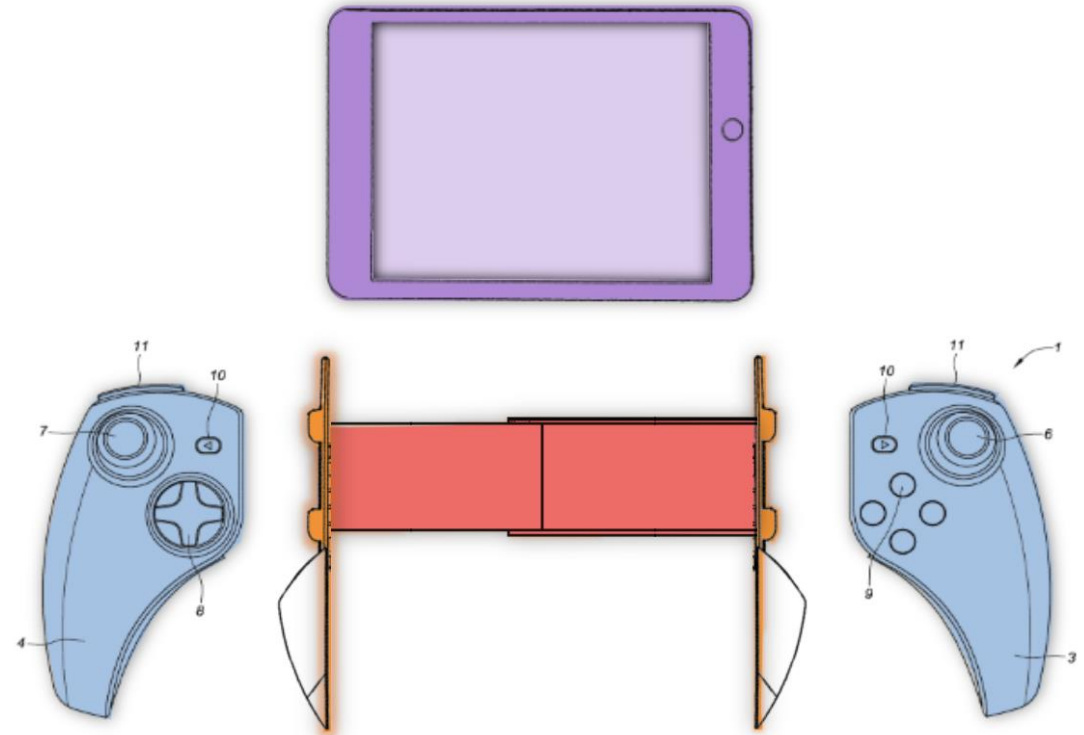
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### Analysis of Schoenith and Park

- “Importantly, Schoenith teaches that the raised wall may be ‘on the cradle’s right side, left side, *front side, back side, and/or a combination thereof*’ so as to ‘provide support *along the whole perimeter of the smart device* or along certain parts of the perimeter of the smart device.’”

## The Petition Proposes a Different Overall Combination of Schoenith and Park that Presents a Different Factual Inquiry

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In fact, the prior art itself identifies simple mechanical solutions to prevent a device from “coming out,” and so there can be no reasonable debate that a POSITA would have applied such minor, known modifications when combining the references. Ex. 1033 ¶¶50, 54. For example, Schoenith taught a POSITA that the raised walls “may have any size, shape, configuration, or a combination thereof so that the cradle can accommodate a smart device securely.” Ex. 1005, 6:33-43; Ex. 1002 ¶126; Ex. 1033 ¶¶55-56. Annotated Schoenith Figure 10 below shows “raised walls” that have “lips” (red arrows) to restrain a device. Ex. 1033 ¶50. In the Schoenith/Park and Schoenith/Kessler combinations, a POSITA would have retained these lips (if necessary). Ex. 1033 ¶¶54-55.

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2

Park also disclosed simple mechanical devices to keep a computing device in place. In Park's main embodiment, the computing device is secured by adjusting the length of Park's sliding bridge so the attached controllers contact the device. Ex. 1004 ¶39, claims 1-2. But the specification also taught using "a cushioning pad (60) or connecting assembly" to increase stability. Ex. 1004 ¶¶42-43, Figs. 4, 5; Ex. 1033 ¶60. Based on these teachings, a POSITA would have used a cushion or connecting assembly with Willner's or Schoenith's sidewalls in Nintendo's combinations. Ex. 1033 ¶61. In fact, Mr. Kitchen described Park's connecting assembly and its benefits in describing the Schoenith/Park combination. Ex. 1002 ¶263.

# Nintendo's Reply Introduces New Obviousness Theories

3

To prevent a computing device from coming out during normal use, a POSITA also would also have pursued the simple solution of broadening Park's or Kessler's bridge or including a lock switch to offer additional stability. Ex. 1003 ¶¶58-59. As shown in Kessler's Figures 10 and 11 below, at its broadest point the bridge had the same width as the mobile phone described in the reference. In this arrangement, the bridge stabilizes the device. Ex. 1003 ¶59. To do the same for larger devices (such as tablets), a POSITA would have increased the width (i.e., north to south in Fig. 10 below) of the bridge in Nintendo's combinations. Ex. 1003 ¶¶58-59. Kessler taught a POSITA to "scale[] up" a device "to accommodate ... tablet computers." Ex. 1006 ¶18.

# Nintendo's Reply Introduces New Obviousness Theories

4

right.” *Id.* 208:8-209:4. As another example, Kessler taught using tensioning to bias the bridge toward closing. Ex. 1006 ¶¶99-100. Combining Park’s bridge with Willner’s device or Schoenith’s device, a POSITA would have implemented a tensioning mechanism to ensure the bridge would stabilize a computing device and not pull apart easily. Ex. 1033 ¶¶90-91. Park’s adjustable bridge was a suitable option with the known advantage. Ex. 1011, 19. The law requires no more. *PAR*, 773 F.3d at 1197-98.

# Nintendo's Reply Introduces New Obviousness Theories

5

378. A POSITA exercising ordinary creativity would have known how to connect the sidewalls and bridges in Nintendo's combinations, just as Prof. Slocum ultimately admitted in his deposition. Ex. 1041, 224:3-7. Indeed, Schoenith itself supports that a POSITA would have used screws or snap-fit connectors. Ex. 1005, 7:16-26, 8:27-37; Ex. 1033 ¶¶77-78. Schoenith recognized that these connectors were within the skill in the art and did not provide unnecessary details about them, noting instead that the snap-fit connection "can be any shape, size, configuration or a combination thereof." Ex. 1005, 7:23-26; Ex. 1033 ¶77. As Schoenith suggests, connecting the sidewalls and bridges in Nintendo's combinations using screws or snap-fit connectors would have been straightforward. Ex. 1033 ¶78. To the extent connector size and placement or sidewall/bridge shape or thickness would have required adjustments to facilitate connections, a POSITA would have simply made those changes. Ex. 1033 ¶78.

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# Key Disputed Issues

## Person of Ordinary Skill in the Art

### Grounds I – III

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# Petitioned Combination of Schoenith and Kessler Violates the “Forming No Structural Portion of” Requirement

1. A combination comprising:

a computing device;

a pair of confinement structures, the pair of confinement structures interacting with the computing device and adjacent at least two opposing sides of the computing device, but not more than three sides of the sides of the computing device,

\* \* \* \* \*

wherein each electronic game control module is a **separate and distinct structure** from each of their corresponding confinement structures, **forming no structural portion** of their corresponding confinement structures, . . .

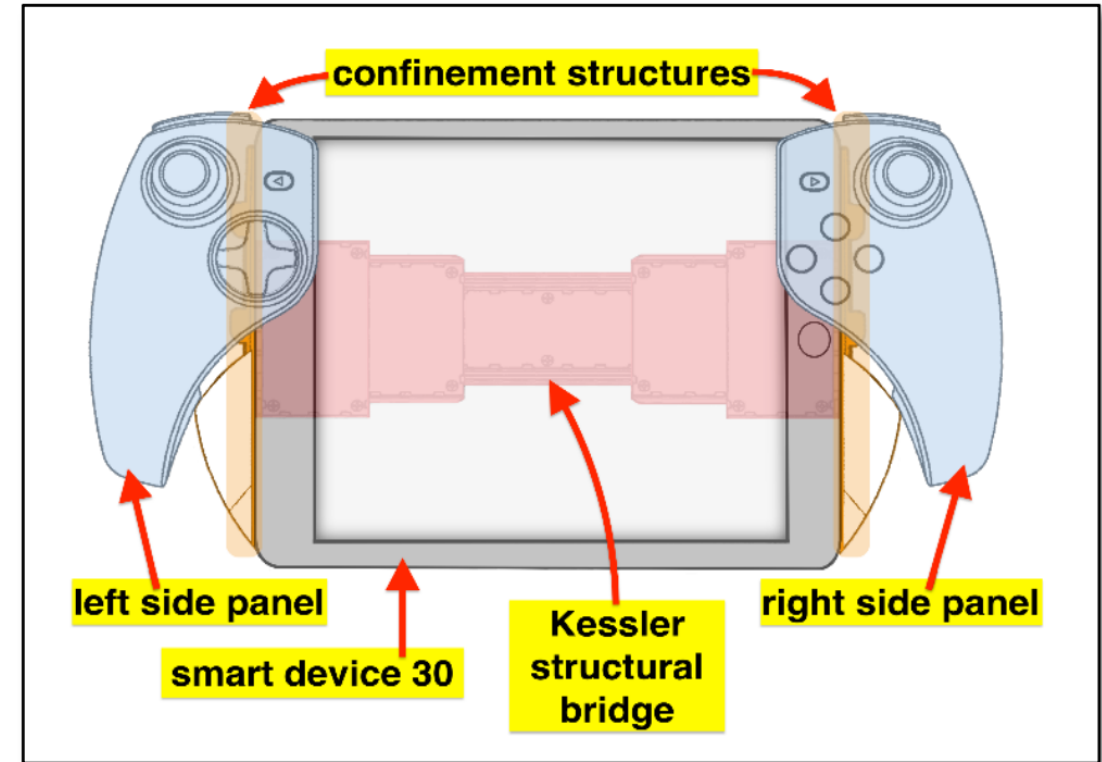
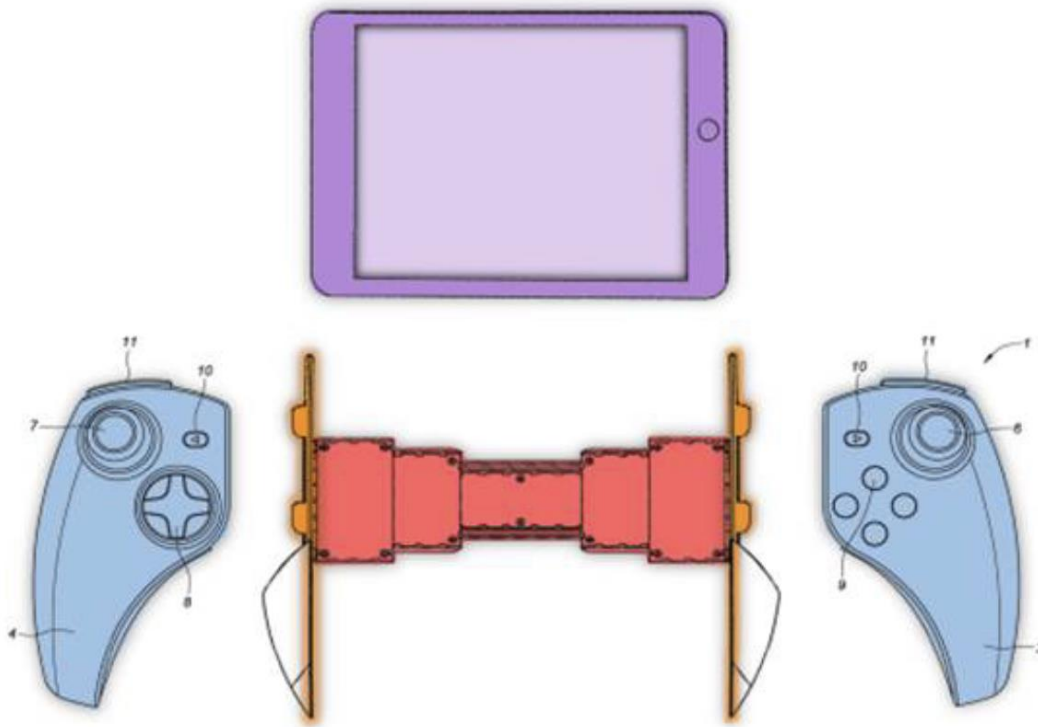
## Petitioned Combination of Schoenith and Kessler Violates the “Forming No Structural Portion of” Requirement

“pair of confinement structures”

physical component(s) that hold(s) a computing device

- The electronic game control modules must “form[] no structural portion of” the “confinement structures”
- *Thus, they cannot be included among the physical components that hold the computing device*

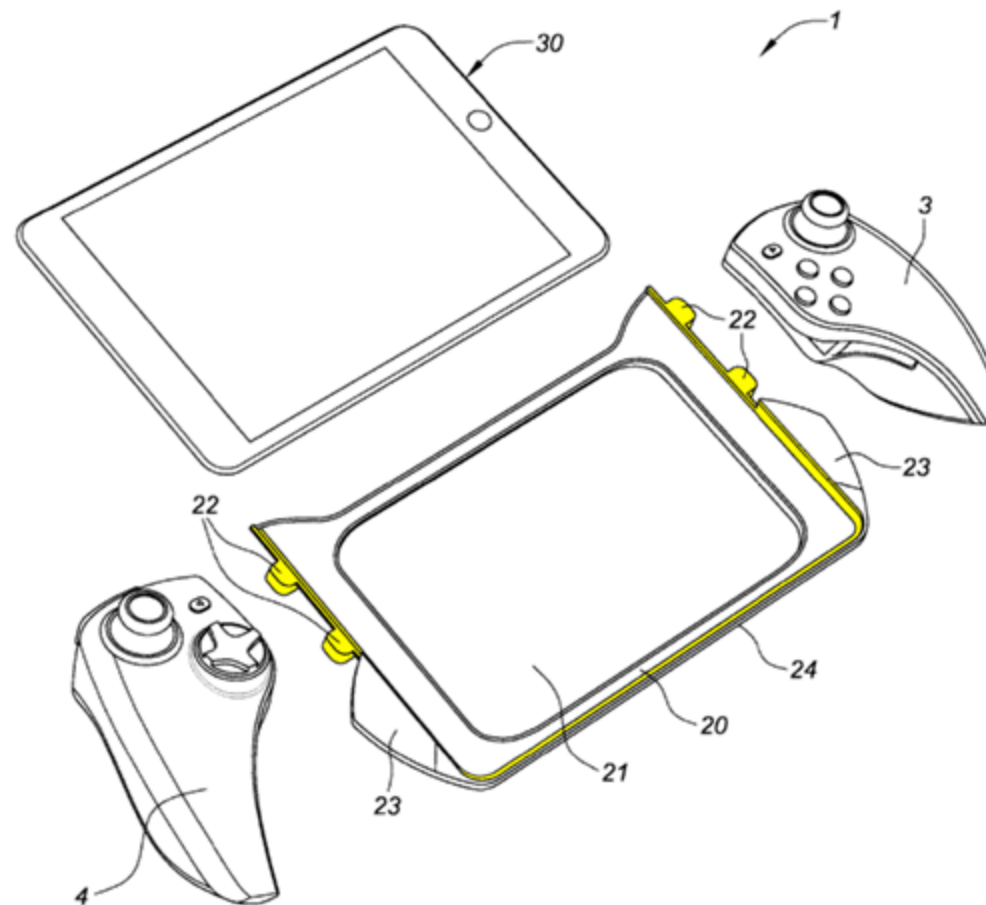
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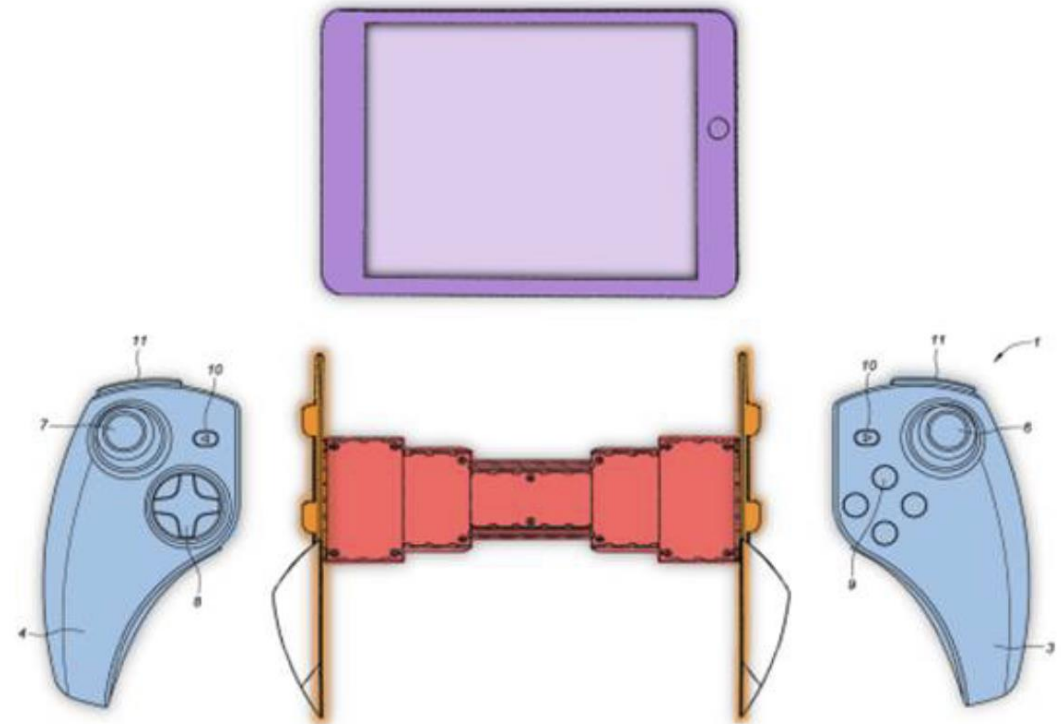
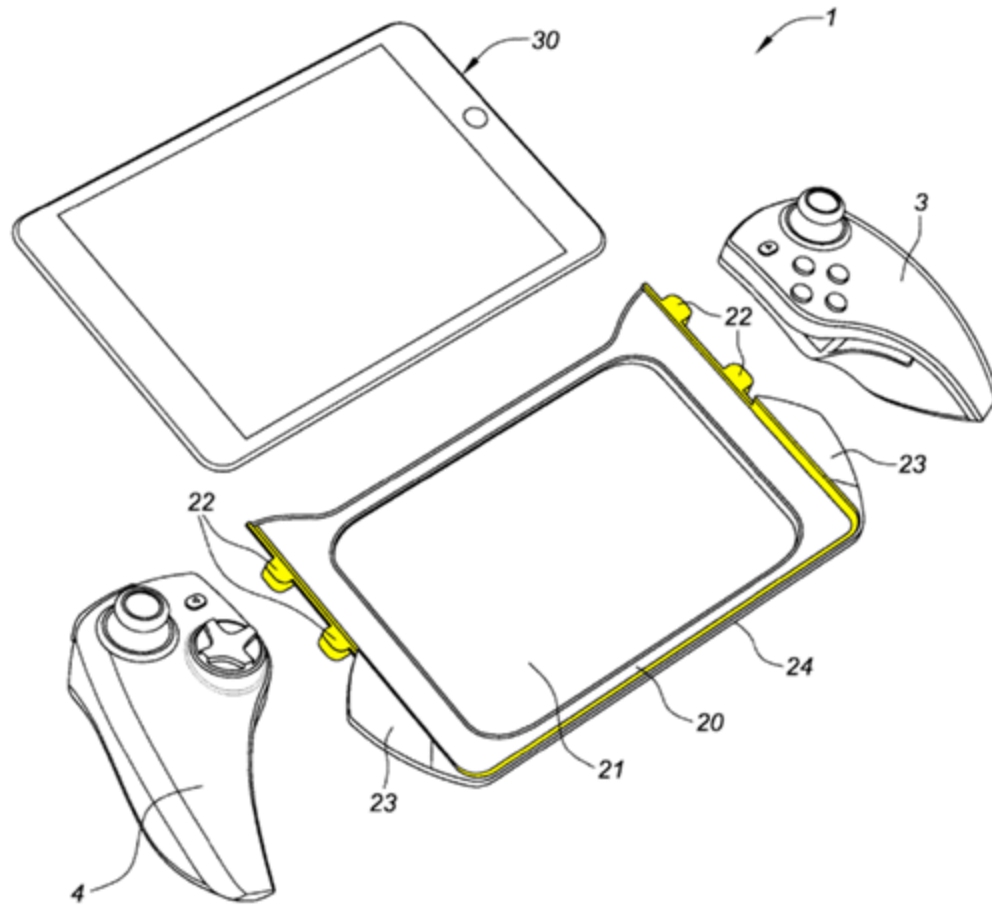
**Potential combination of Schoenith and Kessler  
with smart device 30 installed**

## Petitioned Combination of Schoenith and Kessler Does Not *Hold* the Computing Device—Allows Inadvertent Removal

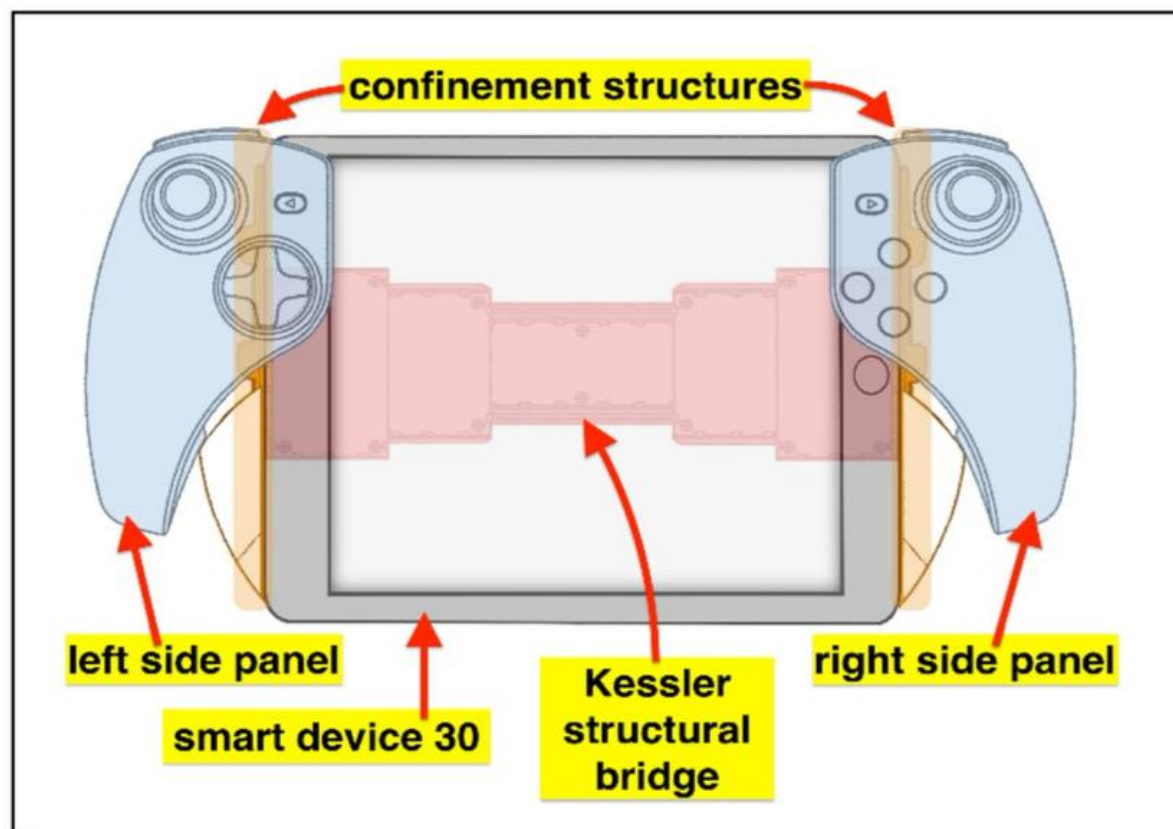
- Nintendo keeps only the raised side walls 24 on the left and right sides, and removes all of the remaining structure of Schoenith's cradle 20
- Replaces the entire back with Kessler's extension mechanism



## Petitioned Combination of Schoenith and Kessler Does Not *Hold* the Computing Device—Allows Inadvertent Removal

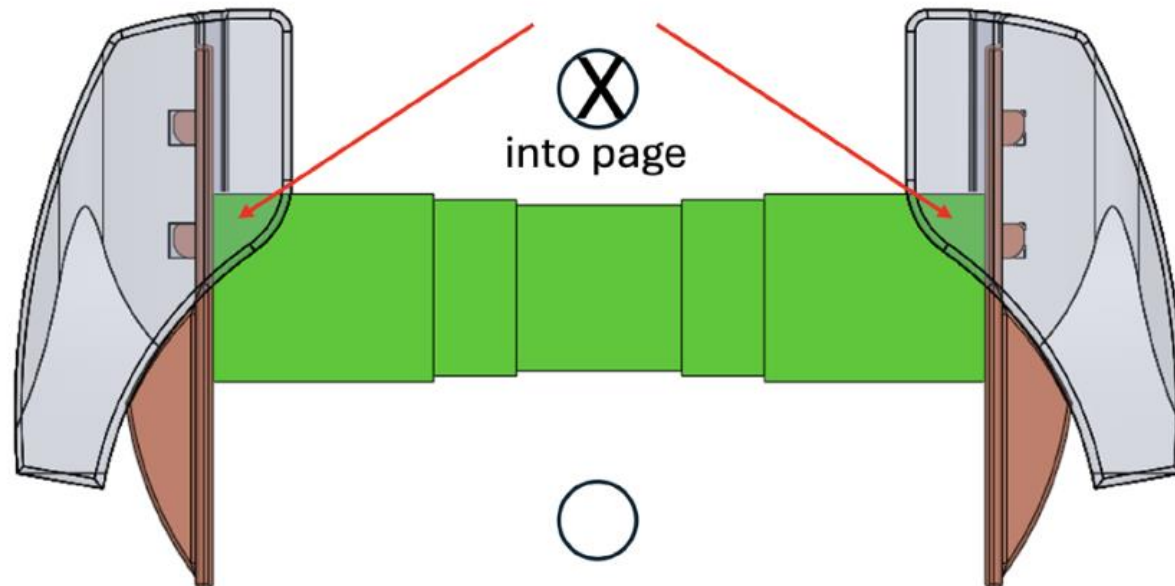


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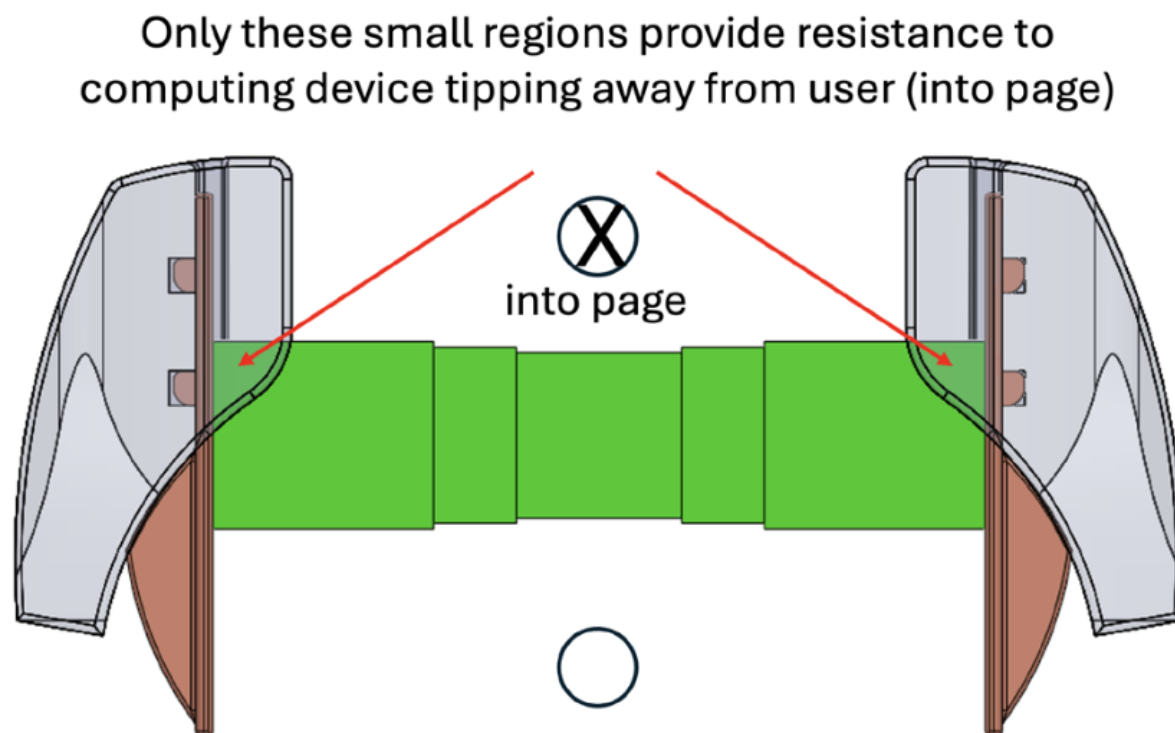
**Potential combination of Schoenith and Kessler  
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Only these small regions provide resistance to  
computing device tipping away from user (into page)



## Petitioned Combination of Schoenith and Kessler Does Not *Hold* the Computing Device—Allows Inadvertent Removal

- Prof. Slocum: Computing device is prone to tipping into the page, because Schoenith's panels 3 and 4 would overlap only a small portion of Kessler's narrower extension mechanism 82
- Weak tilting moment capacity



## Petitioned Combination of Schoenith and Kessler Does Not *Hold* the Computing Device—Allows Inadvertent Removal

- Prof. Slocum explained the mechanics of resistance to tipping with diagrams and equations
- In its Petitioner reply, Nintendo cited no technical analysis to the contrary

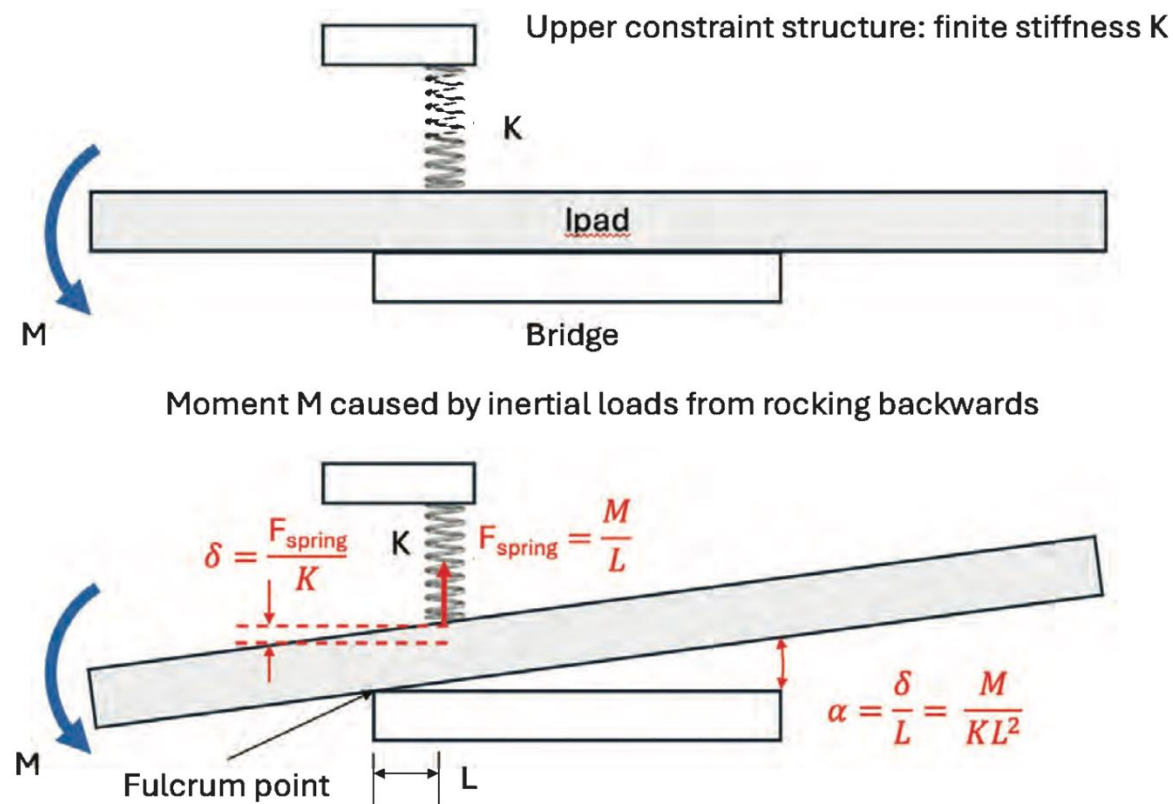


**Figure 12:** Mechanics of resistance to tipping (tilt stiffness)

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# IPR2018-01521 of the '119 Patent Did Not Determine the Identical Factual Inquiry

- Same materially different factual inquiries underlying obviousness analysis as for Ground II

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Kessler also disclosed this known technique, including “lips” (circled in red) that retain a computing device, as shown in annotated Figure 11 below. Ex. 1033 ¶57. Kessler taught this approach provided “a controller apparatus 10 that is well balanced and stable.” Ex. 1006 ¶76. These teachings would have motivated a POSITA to retain the lips disclosed in Schoenith and Willner. Ex. 1033 ¶57.

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To prevent a computing device from coming out during normal use, a POSITA also would also have pursued the simple solution of broadening Park's or Kessler's bridge or including a lock switch to offer additional stability. Ex. 1003 ¶¶58-59. As shown in Kessler's Figures 10 and 11 below, at its broadest point the bridge had the same width as the mobile phone described in the reference. In this arrangement, the bridge stabilizes the device. Ex. 1003 ¶59. To do the same for larger devices (such as tablets), a POSITA would have increased the width (i.e., north to south in Fig. 10 below) of the bridge in Nintendo's combinations. Ex. 1003 ¶¶58-59. Kessler taught a POSITA to "scale[] up" a device "to accommodate ... tablet computers." Ex. 1006 ¶18.

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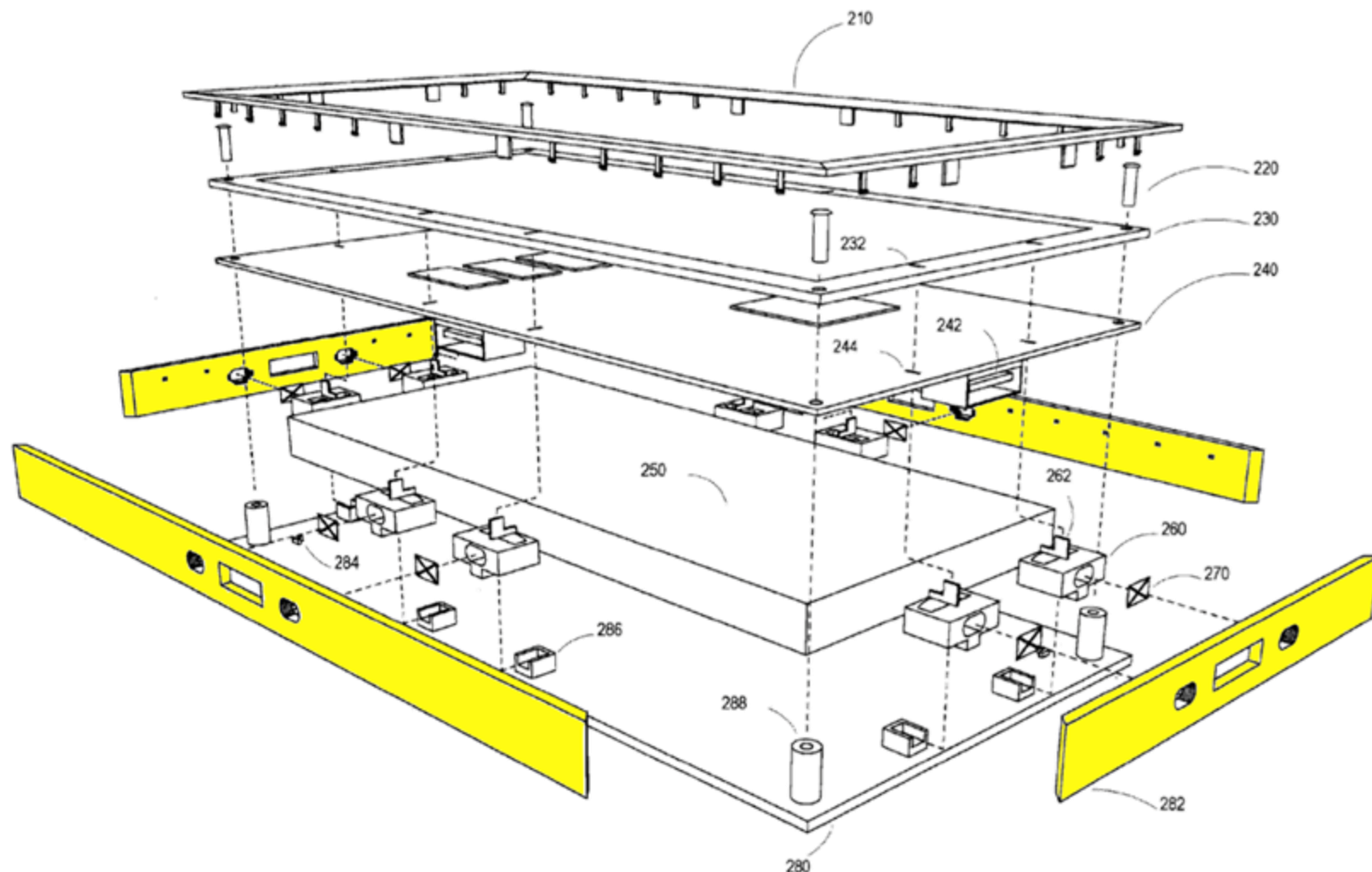
# Hirschman Fails to Disclose or Suggest the Claimed Arrangement of “Confinement Structures”

1. A combination comprising:  
a computing device;

a pair of confinement structures, the pair of confinement structures interacting with the computing device and adjacent at least two opposing sides of the computing device, but not more than three sides of the sides of the computing device . . .

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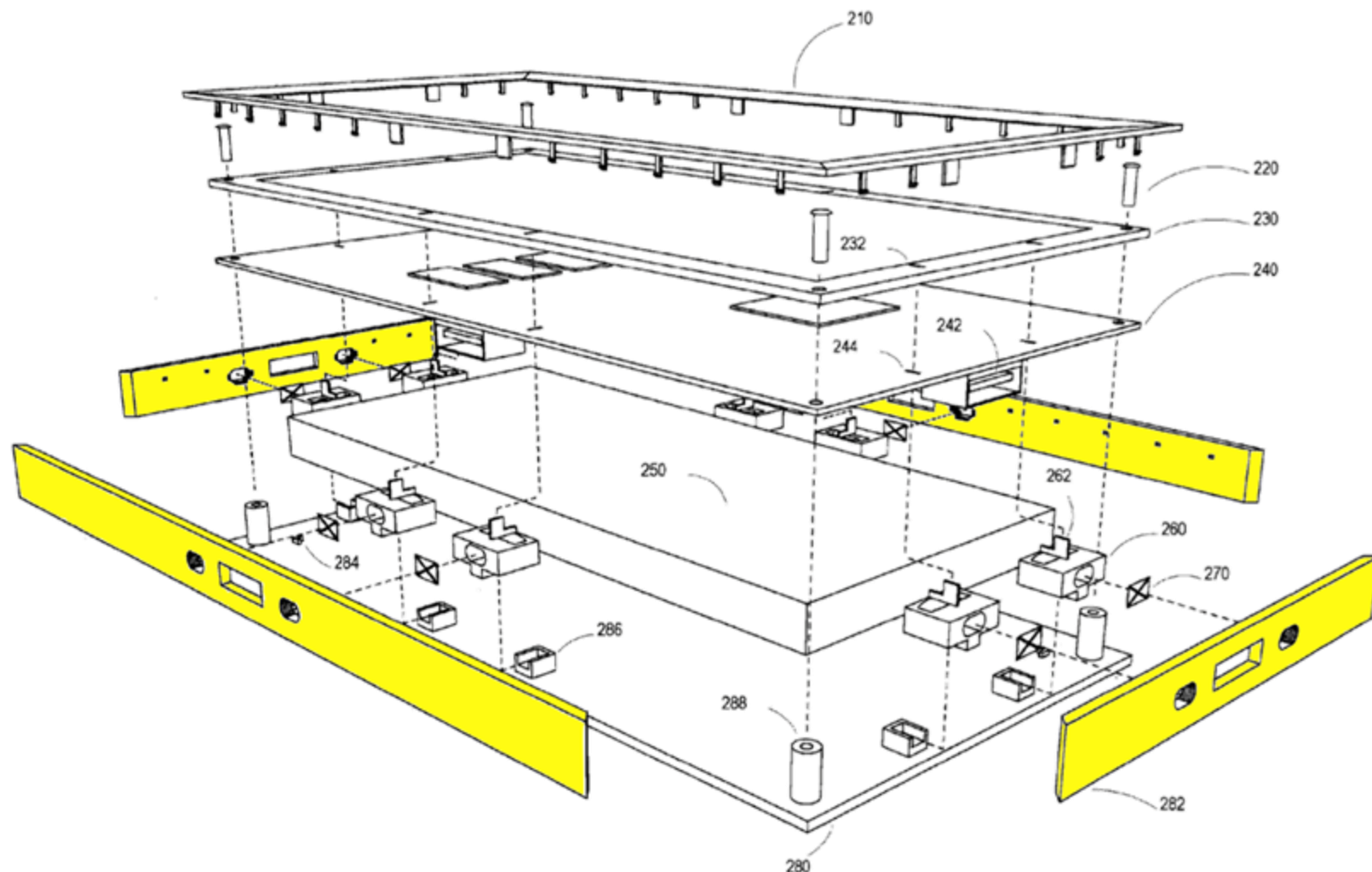
- Sidewalls 282 are on all four sides, i.e., adjacent more than three sides of the computing device (circuit board 240)



Hirschman, Fig. 3 (annotated)

## Hirschman Fails to Disclose or Suggest the Claimed Arrangement of “Confinement Structures”

- Nintendo argues the retention structures 260 need not be on all four sides
- But that doesn't make the sidewalls 282 on all four sides any less “confinement structures”



Hirschman, Fig. 3 (annotated)

## Hirschman Fails to Disclose or Suggest the Claimed Arrangement of “Confinement Structures”

- ALJ in 337-TA-1197 found all sidewalls 282 to be “confinement structures,” even if only two have associated retention structures 260

Nintendo contends that Hirschman’s side walls, which Nintendo equates with the claimed confinement structures, interact with not more than three sides of the computing device. *See* Resps. Br. at 161-62. However, Hirschman’s side walls surround all four sides of Hirschman’s computing device, and therefore, fail to satisfy “interacting with . . . not more than three sides of the sides of the computing device.” *See* CX-0182C (Singhose RWS) at Q/A 311; Cameron Tr. 702-703. Nintendo argues that only two of Hirschman’s side walls have retention ports, *see* Resps. Br. at 162, but Nintendo has not shown that that the Hirschman console can have fewer than four sidewalls, *see* CX-0182C (Singhose RWS) at Q/A 312.

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- Claimed “passageway” is not disclosed or suggested

# Hirschman Fails to Disclose or Suggest the Claimed “Passageway”

1. A combination comprising:  
a computing device;

\* \* \* \* \*

a rigid structural bridge disposed between and secured to the pair of confinement structures, the rigid structural bridge comprising **a passageway between the pair of confinement structures**, . . . .

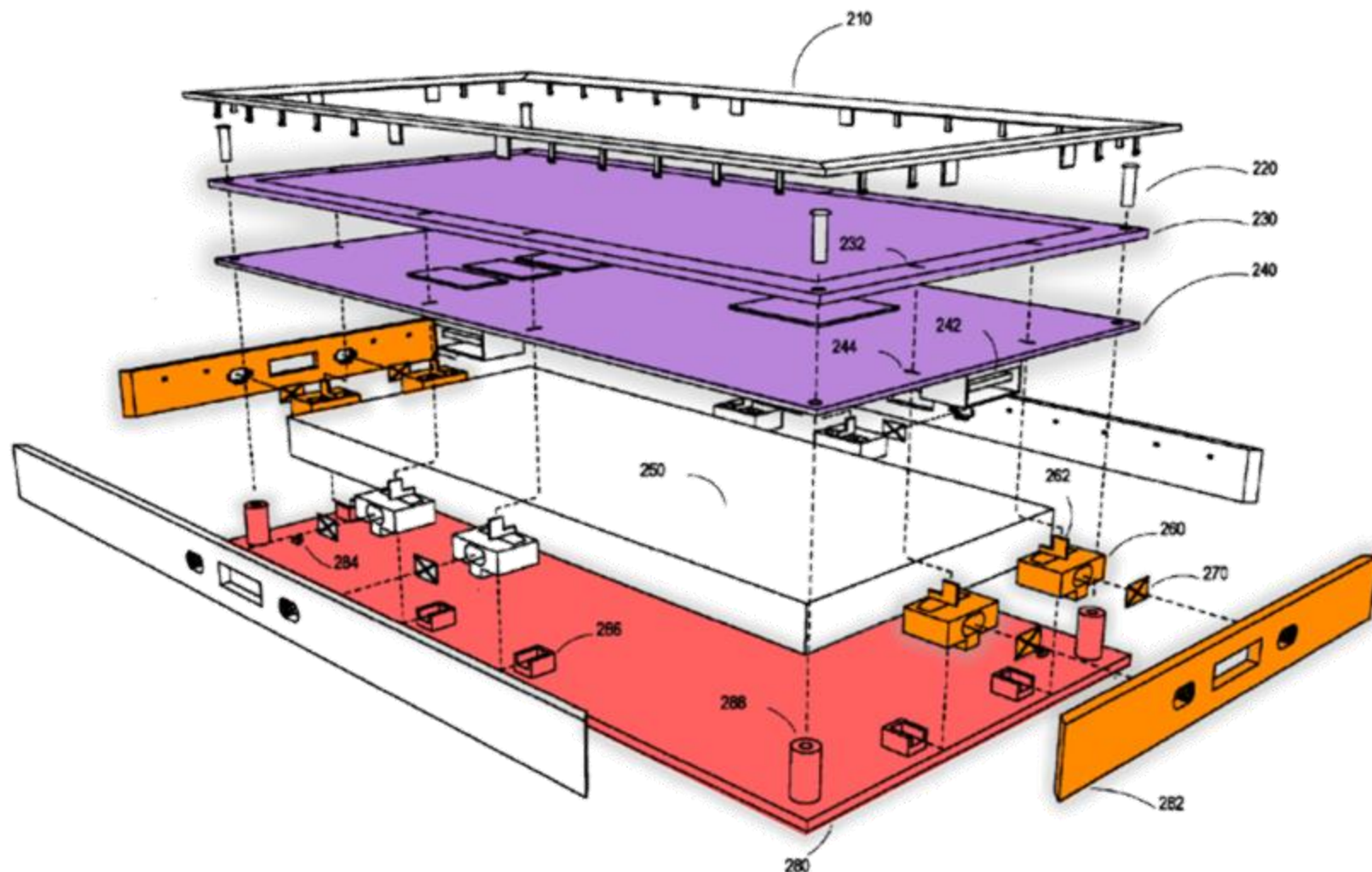
# Claim Construction

**“passageway”**

a space that accommodates a communication wire

## Hirschman Fails to Disclose or Suggest the Claimed “Passageway”

- Nintendo argues a space on chassis 280 accommodates wired connections between retention structures 260 and circuit board 240
- But there are no such communication wires in Hirschman



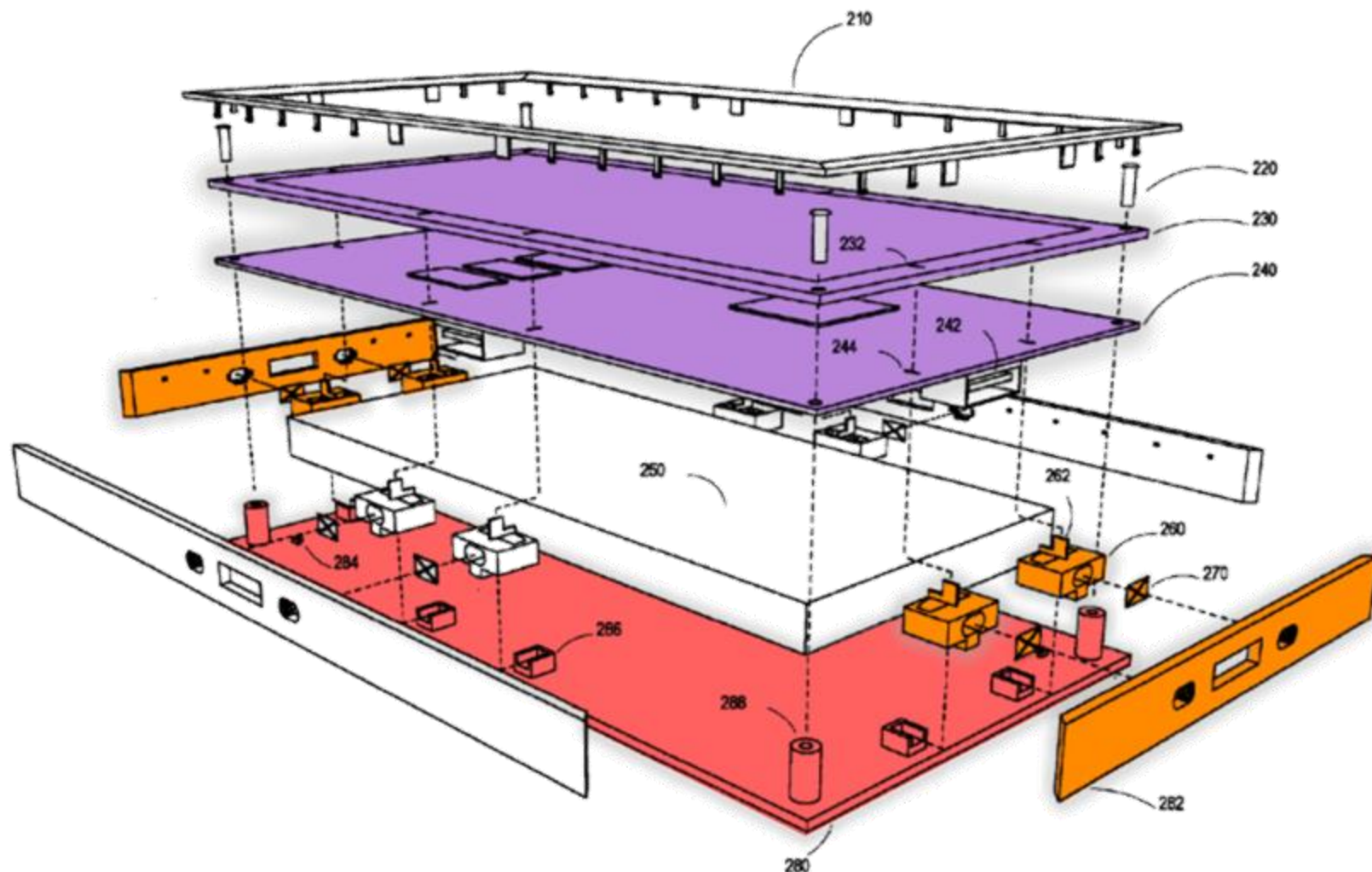
## Hirschman Fails to Disclose or Suggest the Claimed “Passageway”

- Instead, connections between retention structures 260 and circuit board 240 are accomplished using “hard pin contacts”

[0058] Retention structures 260 may also secure the touch-screen 230 and circuitboard 240. The retention structures 260 may have a “dorsal fin” structure 262, which may fit into slots 232 and 244. Other interlocking configurations for the retention structures 260 and slots 232 and 244 may be provided in other embodiments. The slots 232 and 244 may be electrically conductive and may be part of at least one of the circuits contained within the touch-screen 230 and circuitboard 240. The retention structures 260 may be fabricated of metal or other conductive material in some embodiments, and may serve as conduits for electrical power as well as electrical signaling.

## Hirschman Fails to Disclose or Suggest the Claimed “Passageway”

- Dorsal fin structure 262 of retention structure 260 fits directly into slots 232 and 244 to form electrical connections
- Without any communication wire



## Hirschman Fails to Disclose or Suggest the Claimed “Passageway”

- Prof. Slocum testified that there are no communication wires going between retention structures 260 and circuit board 240

3 Q Now, if you read paragraph 58, do you have  
4 an understanding, from that paragraph, as to how  
5 retention structure 260 may communicate such signals  
6 to circuit board 240?

7 A Well, it says because: "The slots 232 and  
8 240 [sic] may be electrically conductive..." So  
9 there is the part on the circuit boards. And then  
10 it says: "The retention structures 260 may be  
11 fabricated of metal or other conductive material..."  
12 So that's telling me you have metal on the retention  
13 structures and contact with metal on the circuit  
14 board, and metal to metal can make electrical  
15 contact, which is power or signaling.

16 Q In paragraph 58, do you see any mention of  
17 wiring to do -- effect that communication of  
18 electrical signals or power?

19 A No. This would be what you would call a  
20 hard pin contact.

21 Q Okay.

22 A Excuse me. Point contact, which is usually

274

1 with a pin.