UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,
v.

DODOTS LICENSING SOLUTIONS LLC,
Patent Owner.

Case IPR2023-00756
U.S. Patent No. 9,369,545

PATENT OWNER'S RESPONSE TO PETITION FOR *INTER PARTES* REVIEW OF UNITED STATES PATENT NO. 9,369,545

TABLE OF CONTENTS

I. INTRODUCTION 1

II. BACKGROUND 3

A. The '545 patent.....3

B. Invention of the "Dot".....6

III. PERSON OF ORDINARY SKILL IN THE ART 9

IV. CLAIM CONSTRUCTION 9

A. "Networked information monitor".....9

B. "Networked information monitor template" 9

V. PETITIONER HAS NOT MET ITS BURDEN TO SHOW THAT THE CLAIMS OF THE '545 PATENT ARE OBVIOUS IN VIEW OF BROWN AND/OR WECKER in view of Beer (GROUNDS 1A/1B). 9

A. Brown 10

B. Wecker.....13

C. Beer.....16

D. There is no motivation to combine Brown and Wecker. 17

E. Brown and Wecker does not render obvious claims 1-10, 13-15, and 21 22

1. Brown and Wecker do not disclose or render obvious a NIM template. 22

2. Brown and Wecker do not disclose or render obvious a NIM...36

3. Brown and Wecker do not disclose or render obvious "content elements…" 40

4. Brown alone or with Wecker does not render obvious "transmitting a request to the server over the network, the request requesting networked information monitor template." .42

F. Brown and Wecker in view of Beer does not render obvious Claims 5, 11-12, and 16-21 of the '545 patent. 45

VI. PETITIONER HAS NOT MET ITS BURDEN TO SHOW THAT THE CLAIMS OF THE '545 PATENT ARE OBVIOUS IN VIEW OF SHIMADA AND BUCHHOLZ AND DARNELL AND KRISHNA (GROUND 2A/2B/2C) 47

A. Shimada. 48

B. Buchholz. 52

C. There is no motivation to combine Shimada and Buchholz. 55

D. The combination of Shimada and Buchholz does not render any of the claims obvious. 58

1. Shimada-Buchholz does not disclose or render obvious a NIM template. 59

2. Shimada-Buchholz does not teach a NIM. 69

E. Darnell in combination with Shimada and Buchholz does not render Claims 5, 8, and 12 of the '545 patent obvious. 71

F. Krishna in combination with Shimada and Buchholz does not render Claims 11 and 16-21 of the '545 patent obvious. 72

VII. FURTHER DISCUSSION OF DEPENDENT CLAIMS 73

VIII. Secondary Considerations further suggest the claims are not obvious. 74

A. There is a nexus between the claimed invention and the secondary considerations. 75

B. Long-Felt Need. 78

C. Industry Praise 81

D. Commercial Success.....82

E. Awards and Citations 83

IX. CONCLUSION.....84

PATENT OWNER'S EXHIBIT LIST

IPR2023-00756 (U.S. Patent No. 9,369,545)

Exhibit No.	Description
2001	*Lenovo Holding Co, Inc. et al. v. DoDots Licensing Sols.*, IPR2019-01278 (P.T.A.B. Jan. 19, 2021)
2002	*Lenovo Holding Co. v. DoDots Licensing Sols. LLC,* 2021 U.S. App. LEXIS 36126, at *2 (Fed. Cir. Dec. 8, 2021)
2003	Jones and Brown considered by Patent Examiner (IDS)
2004	Fintiv Memo, dated June 21, 2022
2005	Agreed Scheduling Order, dated December 29, 2022
2006	Excerpts from Dr. Schmidt's three declarations in support of Samsung's petitions in IPR2023-00621, IPR2023-00756, and IPR2023-00701
2007	Samsung's counsel's first email to DoDots' counsel regarding meet and confer on the alleged typographical error
2008	July 27, 2023 Order from the United States District Court, Western District of Texas in *DoDots Licensing Solutions LLC v. Samsung Electronics Co., Ltd. et al.,* 6:22-cv-00535-ADA, (W.D. Tex.)
2009	INENTIONALLY LEFT BLANK
2010	Declaration of Ted Selker, Ph.D.
2011	Curriculum Vitae of Ted Selker, Ph.D.
2012	INENTIONALLY LEFT BLANK
2013	INENTIONALLY LEFT BLANK
2014	Introduction to Active Channel Technology, dated 08/15/2017
2015	U.S. Patent No. 7,660,868
2016	What is Data Structure? (available at https://www.geeksforgeeks.org/data-structure-meaning/)
2017	HTML Data Guide, W3C Interest Group Note 08 March 2012

2018	Specifications of Personal Computers Over Time (available at https://www.hp.com/us-en/shop/tech-takes/specifications-personal-computers-over-time)
2019	Barnett, S., Palm VII: Like its predecessors, the Palm VII doesn't do all that a desktop does, but it just might do enough
2020	CNET: Windows CE to become "Windows powered" (available at https://www.itprotoday.com/windows-78/cnet-windows-ce-become-windows-powered#close-modal)
2021	Declaration of John Kembel
2022	Imagining a Web Beyond the Browser; Fortune Magazine, February 21, 2000
2023	Lyons, D., Browser Bashers; Forbes, May 15, 2000
2024	Baig, E., Bits of organization clear clutter; USA Today
2025	Heim, K., Tools turn browser into galaxy, July 7, 2000
2026	Mossberg, W., New Metabrowsers Allow You To Create a Quilt of Web Pages, May 18, 2000
2027	A New World Needs a New Internet
2028	DoDots Technical Overview
2029	How to Build Dots
2030	Declaration of George Kembel
2031	June 15, 1999 Email from Tom Kosnik to investors re: Periphio (next steps)
2032	SOFTBANK Venture Capital's Technology Fund Invests in DoDots, Inc., October 13, 1999
2033	DoDots Website
2034	DoDots Technology Embraced by ABC Television Network and ABC.com to Deliver Innovative ABC Dots on the Internet, October 2, 2000
2035	Leading Online Companies Do Dots With DoDots ; DoDots ' Technology Delivers Internet Packaging and Distribution for Internet Content, Applications and Services, March, 13, 2000

2036	Excite@Home Partners With DoDots to Enhance Service for Business Professionals On Work.com, March 13, 2000
2037	DoDots Announces Partnership With Wireless Solution Provider 2Roam at DEMOmobile 2000 Wireless Conference in Pasadena, California, September 7, 2000
2038	Dots Go Live; Web Sites Now Offer Internet Applications, Content, and Services in Dots, April 3, 2000
2039	Conference Guide to Demo 2000
2040	DemoMobile Conference Program, September 6-8, 2000
2041	Demo 2000: The innovation Continues, March 6, 2000
2042	DoDots Named "Investors' Choice" Winner at Telenelogic Partners' Internet Outlook Conference in Burlingame, California, September 20, 2000
2043	Stanford Business School Case Study of DoDots, June 2000
2044	Stanford Business School Case Study of DoDots, September 2001
2045	Dots Messaging and XML specification
2046	Yurko, C., DoDots: The Web without a browser, April 7, 2000
2047	Back to the launch pad: after a few dormant years, tech entrepreneurs are returning to the game.
2048	U.S. Patent No. 8,099,332
2049	U.S. Patent No. 8,935,690
2050	U.S. Patent No. 9,325,795
2051	U.S. Patent No. 9,817,545
2052	U.S. Patent No. 10,180,831
2053	U.S. Patent No. 10,955,994
2054	U.S. Patent No. 8,020,083
2055	The App Store turns 10, July 5, 2018

2056	Samsung Launches Its Own App Store for WM and Symbian Devices, February 4, 2009

I. INTRODUCTION

The '545 Patent is directed to the fundamental technology behind mobile apps. The technology dates back to at least April 26, 1999 – over seven years before Apple's first iPhone release in 2007 and over eight years before Apple's App Store was launched in mid-2008.

Despite the fact that neither of the industry leaders (Apple, Samsung) adopted this industry-shaping technology until years after DoDots, Samsung now claims the novel technology was "obvious." It was not. The nature of Samsung's prior art – which all involves presenting web pages – highlights the improper hindsight-based approach upon which Samsung bases it arguments. The claimed inventions were the antithesis of conventional browser and web page approaches. DoDots abandoned those approaches to content design and the prior art embracing those approaches is simply inapplicable.

At the time of the invention, people viewed web content through webpages using web browsers. The inventors, however, saw the existing web technology as the problem – because it limited how people could view web content. Contrary to the direction of the industry, the inventors took a different path and moved *away from* web browsers and web pages.

The inventors envisioned small applications that could be downloaded to a user device. Each application would enable users to view/control specific web content outside the confines of webpages and web browsers. The inventors referred to these applications as "Dots" or "Networked Information Monitors" (NIMs). DODOTS-2021, ¶¶32-35. Today, we refer to them as mobile "apps." The inventors also envisioned an application – which they called a "Home Dot" – that could be used to access a "Dot server" from which Dots could be downloaded to a user device. *Id.* Today, this server-based repository of apps is known as an app store. DODOTS-2054, 3:60-4:12; 22:61-63; 23:1-4.

The claimed inventions of the '545 patent thus disclosed an ecosystem for software developers to author and distribute, and for users to obtain, data structures which the inventors referred to as NIM templates. These templates defined the configuration of the NIM's display frame, content appearance, and controls. Content in the NIM could thus be viewed and navigated in entirely different ways that were unencumbered by the design, presentation and control limitations imposed by conventional web browsers.

"Dot" technology was ground-breaking and received favorable media coverage, won awards, attracted hundreds of independent Dot developers (app

developers), and was used by hundreds-of-thousands of users. DODOTS-2021, ¶¶36-40.

In a previous IPR, the challenged claims of the '545 patent were found patentable by the PTAB/Federal Circuit. SAMSUNG-1012; SAMSUNG-1014. The decision in this IPR should conclude the same.

As discussed below and in the supporting Declarations of Dr. Ted Selker (DODOTS-2010) and John/George Kembel (DODOTS-2021, DODOTS-2030), the '545 patent takes an approach to providing web content that is significantly different than the approaches described in Samsung's prior art references. No amount of rationalizing hindsight can justify finding the innovations described in the '083 patent to be obvious. They simply were not.

II. BACKGROUND

A. The '545 patent.

The '545 patent's Dot/NIM is "a fully configurable frame with one or more controls; the frame through which content is optionally presented" that "stands in contrast to present web browser…." *Id.*, 4:59-61.

Essential to a Dot/NIM is a NIM Template (also referred to as a NIM Definition). Each NIM template defines a *specific* Dot/NIM including a frame for the Dot/NIM and its elements and controls; the NIM template also specifies the

web location of content to be displayed within the frame of the Dot/NIM. SAMSUNG-1001, 6:34-38 ("Each NIM template defines the characteristics of a specific NIM, including fully configurable frame characteristics, viewer and control characteristics, and NIM content references."); 30:34-44; 6:34-38; Fig. 11; 10:11-19; 13:47-48; *See also* DODOTS-2010, ¶¶28-29.

A NIM template is a data structure, which is stored in a database, and is content, not an executable program (i.e., compiled code). DODOTS-2054, 7:14-23; 17:63-66; 13:48-52; 8:46-56; 14:32-37; 40:24-28. DODOTS-2010, ¶¶30-32.

Each Dot/NIM has its own NIM template that is executed separately from other NIM templates in order to render/display the Dot/NIM on a screen. DODOTS-2054, 5:41-44; 9:9-46; 20:25-37; 27:44-59.

Figure 11 of the '545 patent illustrates the process of how the NIM template is used to construct a NIM/Dot. SAMSUNG-1001, Fig. 11.

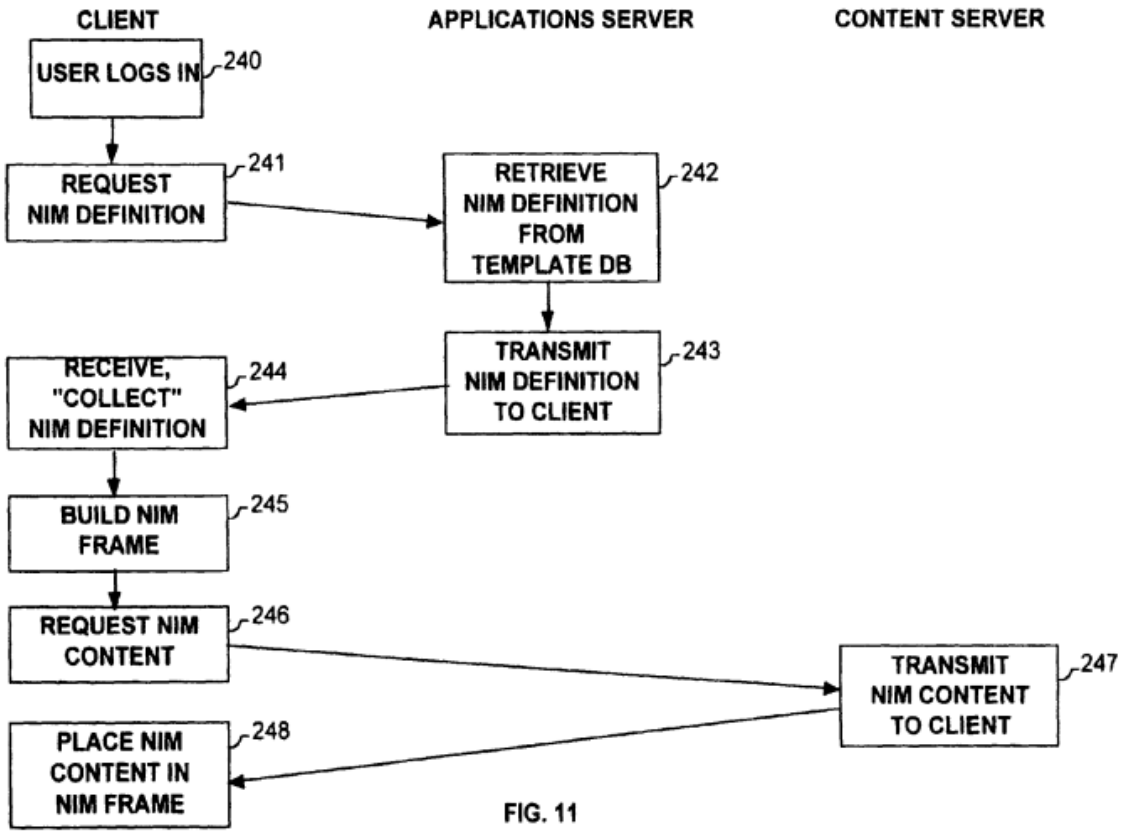


FIG. 11

As shown above, the Dot Definition (NIM template) is requested by a client device and transmitted to a client device (*e.g.*, a mobile device) from a server. After the NIM template is sent to the client, the client device instantiates the Dot/NIM (including its frame and controls) from the data found in the NIM template. SAMSUNG-1001, Col. 20-22; and DoDots2054, 20:35-37, 27:22-32. Web content identified in the NIM template is retrieved by the client device and displayed within the frame of the Dot/NIM. *Id.*, 14:16-29; DODOTS-2010, ¶32.

B. Invention of the "Dot"

In early 1999, Stanford-educated engineers John and George Kembel founded DoDots Inc. The Kembels (and their co-inventors) conceived and developed "Dots" or NIMs – today known as mobile apps.

The inventors saw conventional web browsers and web pages as a problem and recognized that there was a "growing desire for individual users to fully control the aggregation and presentation of content and web applications that appear on a client computer." *See, e.g,* DODOTS-2054, ('083 patent[1]) 2:32-35; DODOTS-2010, ¶33-36.

In particular, the inventors recognized that viewing web content was hindered by the fact that web content and web applications (web browsers) were designed to fill an entire web page displayed on full-screen web browser and one of their patents specifically called out many of the limiting factors

> Users and application developers therefore have limited control over the presentation of Internet content: content is typically trapped within the frame of the browser…the user is constrained to view the content that has been delivered in the manner provided by the server computer

[1] The Dot and Dot Definition of the '083 patent, as the Federal Circuit noted, is an analogous term to the NIM and NIM Template of the '545 patent (DoDots-2002, fn.2). As a result, any discussion in that patent is also applicable in this patent.

> hosting the web page…Currently, content providers and end users have limited tools to alter the browser in which content appears. That is, the controls associated with a browser are not fully configurable. . . the current browser applications provide very limited control to a user or content provide[r] to alter the frame and controls provided by the browser window.

DODOTS-2054, 2:21-32, 2:45-59.

To address the shortcomings of web browsers and web pages, the'545 patent discloses "a fully configurable frame utilized in accordance with the invention [that] stands in contrast to present web browsers which are branded by the browser vendor and which have limited means by which to alter the controls associated with the browser." Samsung-1001, 4:59-61; DODOTS-2010, ¶36.

An example Dot/NIM, which provided traffic information, is shown below:

These Dots were "web browser-readable code…executed on a non-browser-based installed client application" that used significantly less data than a traditional web page would use. DODOTS-2054, 3:51-54; *See also* DODOTS-2027.

In April 2000, CNN called the "Dots" technology the "Web without a browser" and noted that Dots "take advantage of the features and services offered by certain Web sites without visiting them through a browser" and that because "the dots are small and operate outside the browser, they provide a faster, more direct link to content providers…" DODOTS-2046

At its height, DoDots was valued at $275 million and employed more than 100 people. DODOTS- 2047. DoDots' customers included ABC, Bloomberg, Edmunds, CNET and Merriam-Webster. DODOTS-2030, ¶¶21-25.

DoDots' developer program cultivated a community of over 400 Dot developers (app developers). More than 250,000 end-users downloaded Dots. And DoDots' Dot-distribution platform (its app store) predated the Apple App Store by nearly eight years (DODOTS-2055) and the Samsung App Store by nine years (DODOTS-2056). *See also* DODOTS-2027. This ground-breaking technology was ahead of its time and garnered favorable media coverage and multiple awards. *See* DODOTS-2041, 2042.

III. PERSON OF ORDINARY SKILL IN THE ART

A POSITA would have a bachelor's degree in Electrical Engineering, Computer Engineering, Computer Science, or a related field and have three or more years of corresponding industry work experience. Ex. 1012, 8. DODOTS-2010, ¶24-25.

IV. CLAIM CONSTRUCTION

A. "Networked information monitor"

A "network information monitor" (NIM) is "a fully configurable frame, with one or more controls, through which content is presented to the user." Samsuang-1012; DODOTS-2010, ¶40.

B. "Networked information monitor template"

A "network information monitor template," is "a data structure that defines the characteristics of a NIM, including the NIM frame, view, and control characteristics, and that excludes executable applications/compiled code." Samsung-1012, 10; Samsung-1014, 9; DODOTS-2010, ¶41.

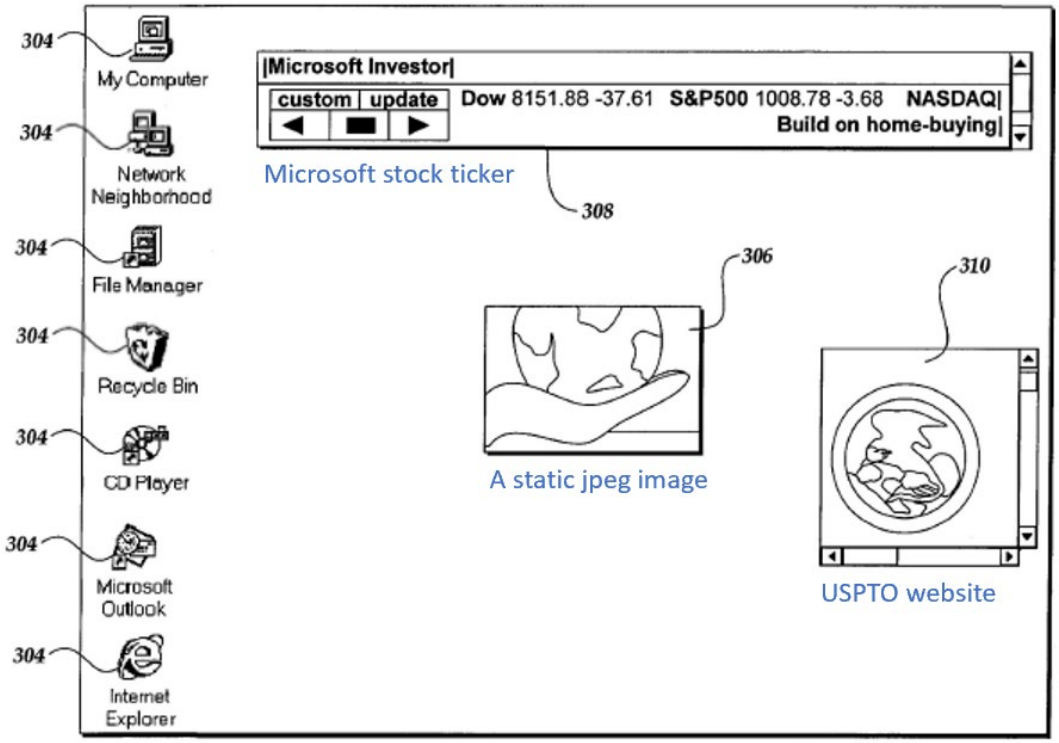
V. PETITIONER HAS NOT MET ITS BURDEN TO SHOW THAT THE CLAIMS OF THE '545 PATENT ARE OBVIOUS IN VIEW OF BROWN AND/OR WECKER IN VIEW OF BEER (GROUNDS 1A/1B).

Samsung asserts that claims 1-4, 6-10, and 13-15 of the '545 patent are rendered obvious by Brown and Wecker (Ground 1A) (*see generally* (*(* and claims

5, 11-12, and 16-21 are rendered obvious by Brown and Wecker in view of Beer (Ground 1B). Samsung fails to meet its burden to make these arguments. *See generally*, DODOTS-2010, ¶¶43-173.

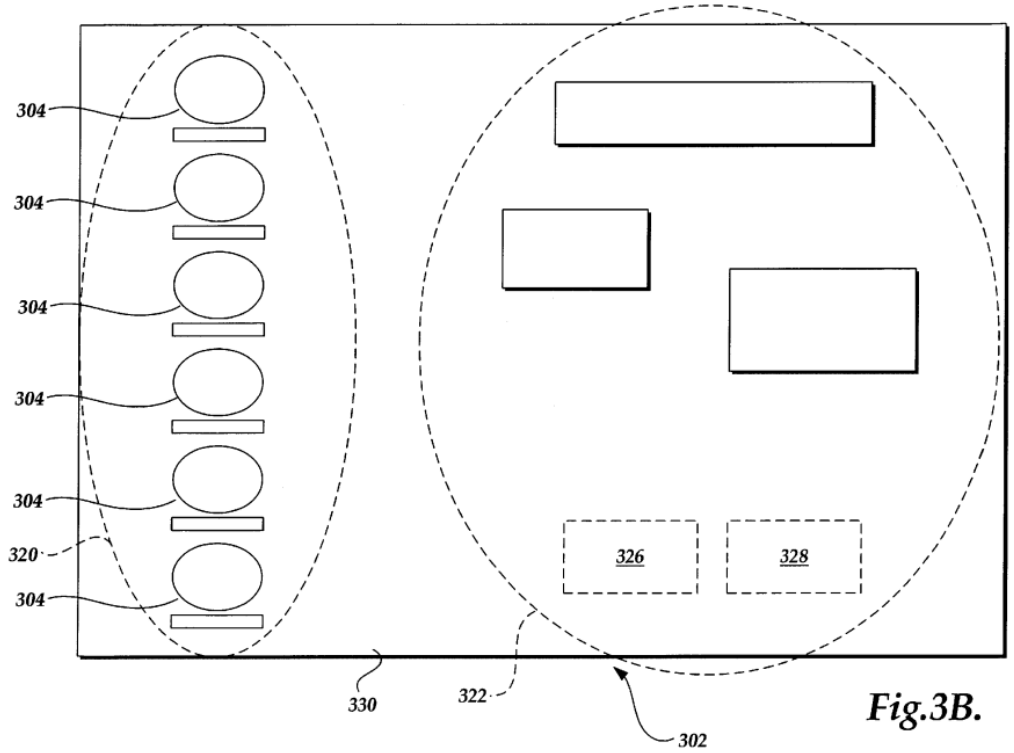
A. Brown

U.S. patent no. 6,278,448 ("Brown") discloses a way to present a web page to a user. In particular, Brown disclosed a type of computer desktop – a composite desktop - where a computer's desktop is overlayed on top of a web page. DODOTS-2010, ¶43.



SAMSUNG-1005, Fig. 3A (annotated)

As shown above, Brown's composite desktop includes traditional icons 304 (in an icon layer) overlayed on top of a single web page (in an HTML layer) made up of various "components" – static desktop component 306, an active desktop component 308, and an desktop component 310 (with an entire embedded webpage). DODOTS-2010, ¶¶45-46, 48.



SAMSUNG-1005, Fig. 3B

"FIG. 3B illustrates the layers that comprise the composite desktop 302 of FIG. 3A. As depicted in FIG. 3B, an icon layer 320, comprising the icons 304, is the topmost layer of the composite desktop 302. Behind the icon layer, an HTML

layer comprises two sublayers: a desktop components sublayer 322 and a background [i.e., wallpaper] layer 330." SAMSUNG-1005, 7:48-55.

Notably, Brown states that "[t]he composite desktop is implemented as ***a Web page***, and the creation of the composite desktop includes building a composite ***Web page*** made up of one or more components selected and retrieved from one or more locations." SAMSUNG-1005, 4:15-19. And because the composite desktop is implemented as a web page, all of the desktop components 306, 308, 310 are defined within the same HTML file/document – the desktop.htt file. *Id.*, 11:42-12:43; DODOTS-2010, ¶¶45, 51.

The desktop.htt file is used to create the entire HTML layer – a single web page – for displaying on the computer's desktop. *Id.*, 11:28-29; 6:33-37. The "desktop.htt file 210 contains the HTML instructions necessary to display the composite desktop…An HTML viewer 212 reads the desktop.htt file 210, interprets the instructions, and generates a composite desktop display." *Id.*, 6:38-41. DODOTS-2010, ¶¶46, 50.

Petitioner points to Brown's desktop.htt file and desktop components 306, 308, 310 as teaching the elements of the claims including the NIM/NIM template. Samsung's reliance on Brown, however, is misplaced. Brown's approach simply pertains to how to display a web page as part of a computer's desktop. This

approach is significantly different from the approach claimed in the '545 patent which sought to avoid the use of web pages and, instead, displayed web content in separately defined and rendered mini applications (Dots/NIMs). DODOTS-2010, ¶¶51-54.

B. Wecker

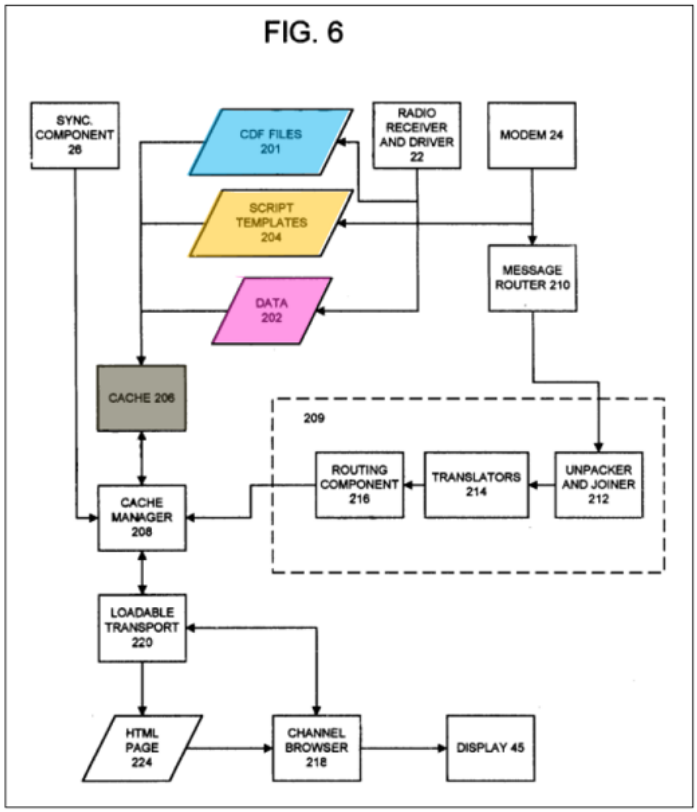
U.S. patent no. 6,449,638 ("Wecker") discloses a system/method for delivering content to a mobile device "referred to as personal digital assistants [PDAs]." SAMSUNG-1006, 1:13-24.

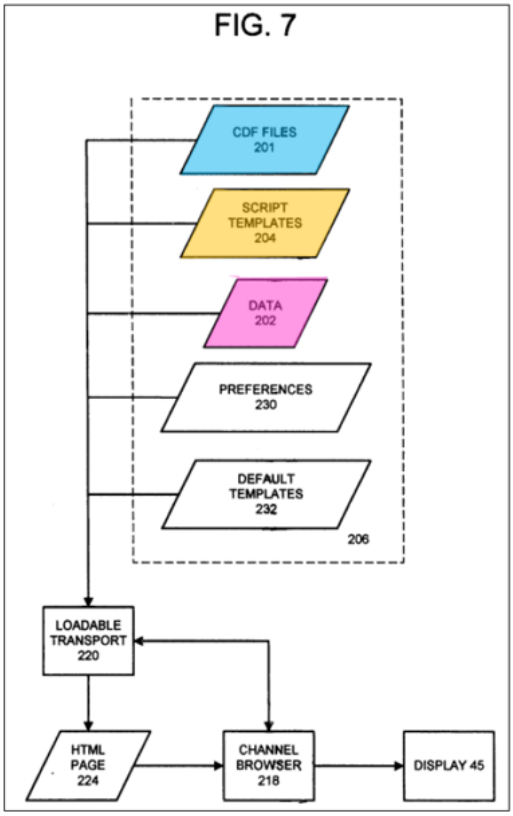
Wecker discloses how to deliver web content wirelessly where, e.g., bit rates of wireless channels can be very low and delivery of large content is "highly impractical." *Id.*, 1:44-45, 50-61. In particular, Wecker addresses the delivery/ display of web content on mobile devices, which have limited resources (e.g., memory, bandwidth, screen size) compared to desktop computers. *See e.g.*, SAMSUNG-1006, 1:58-59 ("The bit-rate of conventional wireless channels is very low."); 6:10-17 ("display 45 for the mobile device as shown in FIGS. 3 and 4 . . . would typically be much smaller than a conventional display used with a desktop computer. DODOTS-2010, ¶¶124-129.

Wecker discloses a "mobile channel," (*e.g.*, for news, weather, business, sports, traffic) which is a "self-describing web site that contains all of the

information necessary for efficient download of web content to a mobile device 18." *Id*., 2:9-11; 3:8-16; 3:34-35; 4:8-13; 9:45-48; 9:20-26; 10:59-66. DODOTS-2010, ¶¶130-131.

A mobile user can use a "channel browser" (a web browser specialized to the mobile device) to view a channel/content. *Id.*, 4:8-13; 9:20-26, 45-48; Fig. 8; 1:45-57; 20:1-14. Wecker involves the delivery of "content in small segments of data instead of full HTML pages."*Id*., 10:45-47; DODOTS-2010, ¶¶132-134.





(SAMSUNG-1006, Figs. 6, 7 (annotated))

Wecker discloses sending "a content structure file, a data file and a script file" to the mobile device, which then uses these files to construct an HMTL page to display web content. *Id*., Abstract; 2:8-10; 4:47-51. By separating the delivery of the script file from the data file, web content can be transmitted "over very low bit-rate channels." *Id*., 4:52-61.

Specifically, as shown above, in Figures 6 and 7, a mobile device receives CDF files 201 (blue), data files 202 (pink), and script templates 204 (orange), which are provided to cache memory 206 (brown). *Id*., 8:34-53. The script templates 204 are executable code used to generate HMTL instructions. *Id*., 3:19-20. "By examining the CDF file for the top-level channel 242, the loadable transport 220 determines which script file will be executed from the script templates 204." *Id*., 20:23-27; DODOTS-2010, ¶¶133-134

"In response to the user requesting to view information provided via the chosen channel," web content information corresponding to that channel – in the form of script templates files 204 (orange) and data files 202 (pink) – is retrieved from cache 206 (brown). *Id.*, 9:30-34. The CDF file (blue) is then used in conjunction with the script template and data to construct the HTML page. *Id.*, 10:26-29. The HTML page 224 is then provided to the channel browser 218 for

viewing on the display 45 of the mobile device 18. Id., 9:44-47. DODOTS-2010, ¶¶137-138.

C. Beer

United States Patent Nov. 5,793,368 ("Beer") ostensibly discloses "a method and system for allowing a user to retrieve a user interface and a visual style from a local or remote storage unit, rapidly display the visual stylized user interface, and dynamically switch between visual styles, without comprising security over a network system." SAMSUNG-1007, abstract. In practice, Beer allowed users to overlay their preferred interface over various applications, such as a word processor. *Id.* at 3:15-35. DODOTS-2010, ¶135

To achieve this, Beer teaches "The UIL user interface description is preferably a text file, in a format similar to various text-markup languages, such as HTML (Hyper Text Markup Language). Since the UIL user interface description is a text file that is parsed during interpretation, corruption of the file can be readily detected and handled in error routines. However, the UIL description may also be compiled to a binary format and/or compressed to reduce size." *Id.* at 3:35-55. Importantly, Beer is not related to a stand-alone application or the retrieval of internet content. Instead, Beer is focused solely on the visual appearance of a pre-existing application. DODOTS-2010, ¶136

D. There is no motivation to combine Brown and Wecker.

A POSITA would not combine Brown and Wecker. The goals of Brown and Wecker, along with the manner/environment in which each of them implement their respective solutions, are vastly different. DODOTS-2010, ¶¶139, 154-157.

Brown pertains to a new type of computer desktop – a composite desktop that integrates desktop icons and a web page. Wecker, on the other hand, addresses the issue of delivering an HTML page (web page) to mobile devices/PDAs, which have limited resources. Wecker is using *executable* script files/templates to display a complete web page of a website on a computer screen (not as part of a computer's desktop). The disparate purpose of Brown and Wecker alone negates combining these two references. DODOTS-2010, ¶137-144, 154

Moreover, Brown's composite desktop is implemented as a web page that is layered underneath icons of a computer's desktop. Brown discloses storing a complete HMTL document/file – desktop.htt file – for a full HTML/web page. SAMSUNG-1005, 6:33-41; DODOTS-2010, ¶¶145-148. On the other hand, the entire purpose of Wecker is to avoid storing a complete HTML document/file for a full HTML/web page. Specifically, Wecker discloses sending "a content structure file, a data file and a script file" to the mobile device. *Id.*, Abstract; 2:8-10; 4:47-51. The script files are used to build an HTML/web page on the fly using the data

in the data file. Notably, because Wecker's method addresses the limited capabilities of mobile devices, Wecker states that its method is "*more complex* than conventional systems and method where full HTML pages are transferred from a server to a client." *Id.*, 10:41-46. A POSITA would not be motivated to use Wecker's more complex method with Brown's personal computers which, unlike mobile devices, did not have limited capabilities. There is no reason to do so. DODOTS-2010, ¶¶149-152.

Given the vastly different approaches taken by Brown and Wecker, a POSITA would not be motivated to combine them. DODOTS-2010, ¶¶146.

Dr. Schmidt, however, notes that Brown and Wecker both are assigned to Microsoft and "a POSITA would therefore have reasonably expected their techniques to be compatible…." SAMSUNG-1003, ¶40. Dr. Schmidt then concludes "that a POSITA would have had a reasonable expectation of success in implementing features of Wecker into Brown's composite desktop." *Id.*, DODOTS-2010, ¶159. But such a superficial conclusion is incorrect.

A POSITA would know that Microsoft offered multiple, incompatible product lines, and would not infer that simply because two patents were assigned to Microsoft, the technology would be compatible. For example, Windows CE (disclosed in Wecker) and Windows 95 (disclosed in Brown) are different

operating systems. DODOTS-2010, ¶¶ 155, 156, 159. Windows CE will not run Windows applications or use the same drivers. *See* DODOTS-2020. Therefore, Brown and Wecker describe and use incompatible technology.

Dr. Schmidt asserts that "a POSITA would have found it obvious to leverage Wecker's disclosure of a cache to store HTML style templates." SAMSUNG-1003, ¶35. Not so. Brown does not disclose or suggest using "style templates." DODOTS-2010, ¶¶160-161. Instead, the disclosure of "style templates" comes from the Beer and Petty references[2] – one of those is a background reference that Petitioner does not rely on for invalidity. *Id.*, ¶46; DODOTS-2010, ¶¶161-163.

Dr. Schmidt asserts that a "POSITA also would have found it obvious that Brown's desktop components could be implemented as mobile channels…." SAMSUNG-1003, ¶35. Dr. Schmidt asserts that Wecker's script files/templates are similar in objective to Brown's HTML instructions. *Id.*, ¶37 (citing SAMSUNG-1005, 12:61-62; SAMSUNG-1006, 3:17-20). Further, Dr. Schmidt asserts that Wecker describes that a personal computer can subscribe to channels and "periodically retrieve or receive new and updated script, data and CDF files" *Id.* (citing SAMSUNG-1005, 3:63-66, 4:3-6). Dr. Schmidt concludes "that a POSITA would have recognized or found obvious that the 'desktop,' as contemplated by

[2] Reliance of these references improperly injects a new, unexplained ground.

Wecker, would have possessed similar features to the 'composite desktop' of Brown and that these features of Wecker's desktop could be incorporated into Brown with a reasonably high expectation of success." *Id.* Dr. Schmidt also concludes that a "POSITA would have been prompted to pursue this combination because doing so is merely the application of known techniques (e.g., rendering content using templates/script files) to a known structure (e.g., Brown's composite desktop) to yield predictable results." *Id.*, ¶38. Dr. Schmidt's opinions are incorrect.

As a preliminary matter, Dr. Schmidt's conclusion that Wecker's desktop "would have possessed similar features to the 'composite desktop' of Brown" is wrong because it is based on a misreading/misunderstanding of the word "desktop." The word "desktop" in Wecker and Brown refer to different things. DODOTS-2010, ¶¶145-146, 158. "Desktop" in Wecker is a type of computer – "desktop computer" (SAMSUNG-1006, 3:58) – while "desktop" in Brown is the computer's desktop - i.e., the graphical user interface to a computer's operating system. DODOTS-2010, ¶¶149.

Moreover, Dr. Schmidt's opinion that Wecker's script files/templates are similar in objective to Brown's HTML instructions is erroneous. Brown's objective in using an HTML document/file to create web page (and HTML layer) was to

incorporate *into a computer's desktop* icons (in an icon layer) overlayed on the web page. Brown does not use an executable script file to construct an HTML document/file for that web page. Wecker, on the other hand, uses an executable script file to build an HTML page to display a channel on a mobile device; there are no layers or overlay of icons over the channel. DODOTS-2010, ¶153. As a result, it is incorrect to equate Brown's HTML instructions with Wecker's script files/templates. *Id.*, ¶¶153, 165-166.

Finally, Dr. Schmidt asserts that because U.S. Patent 5,737,560 ("Yohanan") is cited in Brown, this provides motivation to combine Brown with Wecker "to improve the usability of graphical displays that present internet content."[3] SAMSUNG-1003, ¶41 citing SAMSUNG-1016, 2:18-23. His analysis is incorrect. If anything, a POSITA would look to Brown's own technology, not references within Brown, to find a reason to combine Brown/Wecker. DODOTS-2010, ¶¶166-167. Nevertheless, as explained above, Brown and Wecker are very different and would not be combined. SAMSUNG-1006, 9:21-66; DODOTS-2010, ¶¶167.

[3] The Petitioner's use of Yohanan improperly injects a new unexplained ground.

E. Brown and Wecker does not render obvious claims 1-10, 13-15, and 21

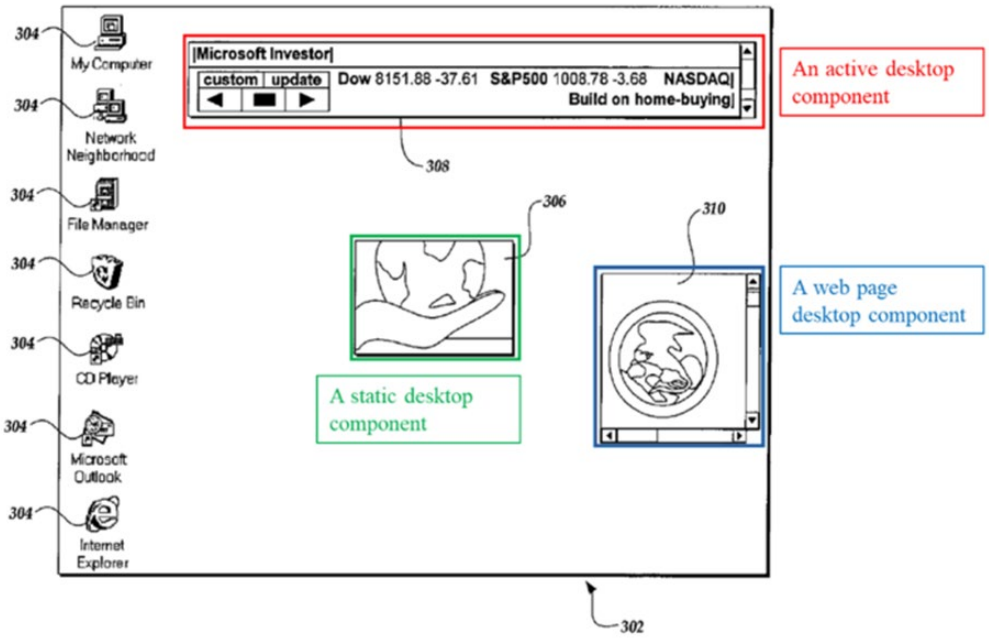
Brown and Wecker fails to teach numerous claim elements of the '545 patent and, therefore, cannot render the challenged claims obvious. *See generally,* DODOTS-2010, ¶¶ 55-123, 168-182.

1. Brown and Wecker do not disclose or render obvious a NIM template.

All the claims recite a "networked information monitor template" which is "a data structure that defines the characteristics of a NIM, including the NIM frame, view, and control characteristics, and that excludes executable applications/compiled code." SAMSUNG-1014; DODOTS-2010, ¶170-171.

a. The alleged NIM template.

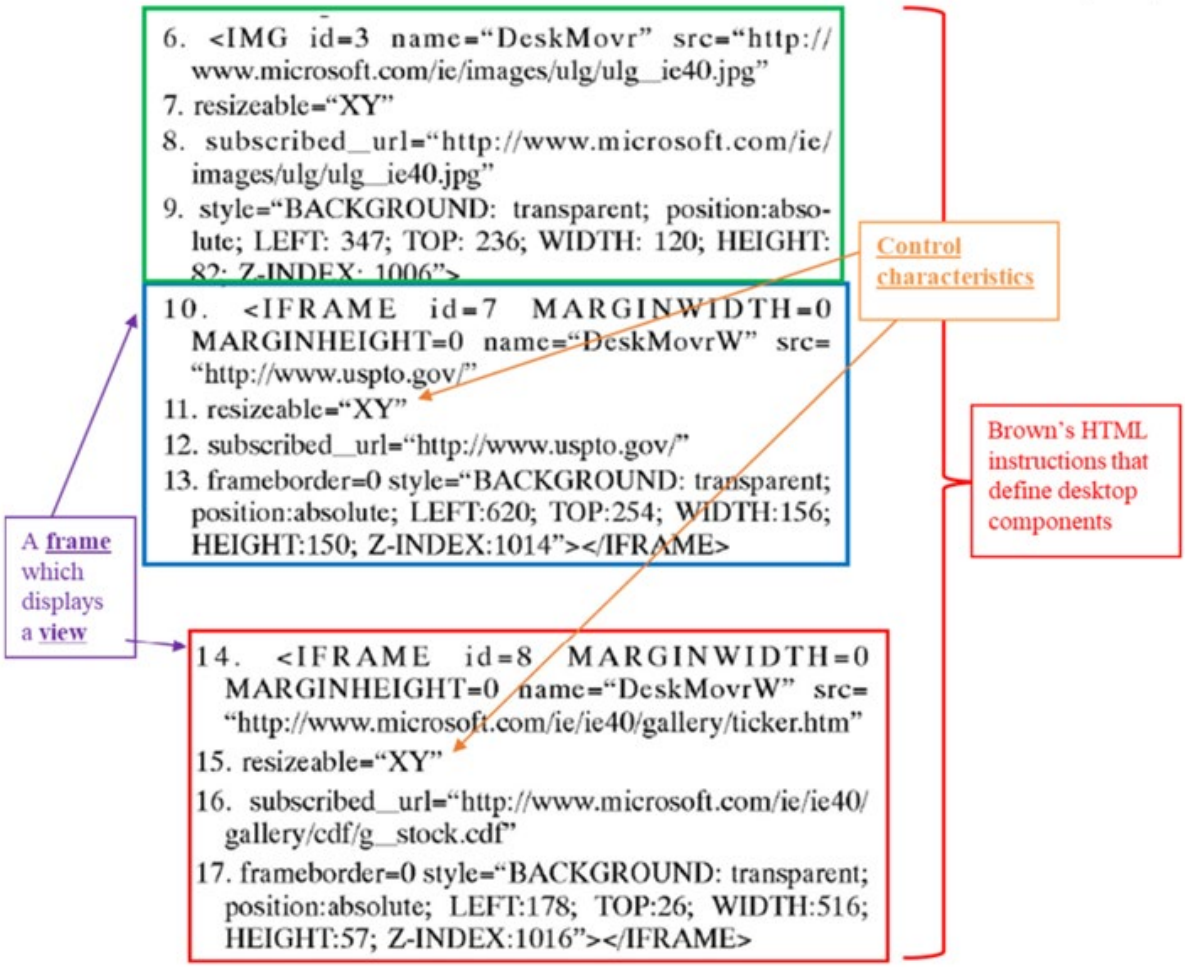
The Petition alleges that the three desktop components of Brown (red, green, and blue boxes below) are each a NIM. Petition, 21.



(Excerpted from Petition, 9; (annotations by Petitioner)

The Petition then asserts that "the 'HTML instructions' that define Brown's 'desktop components'" 306, 308, and 310 are each a NIM template. Petition, 22-26; SAMSUNG-1003, ¶¶54-55.

The sections of the desktop.htt file that the Petitioner alleges correspond to each desktop component. Petition, 24-25.



(Excerpted from Petition, 24 (annotations by Petitioner)

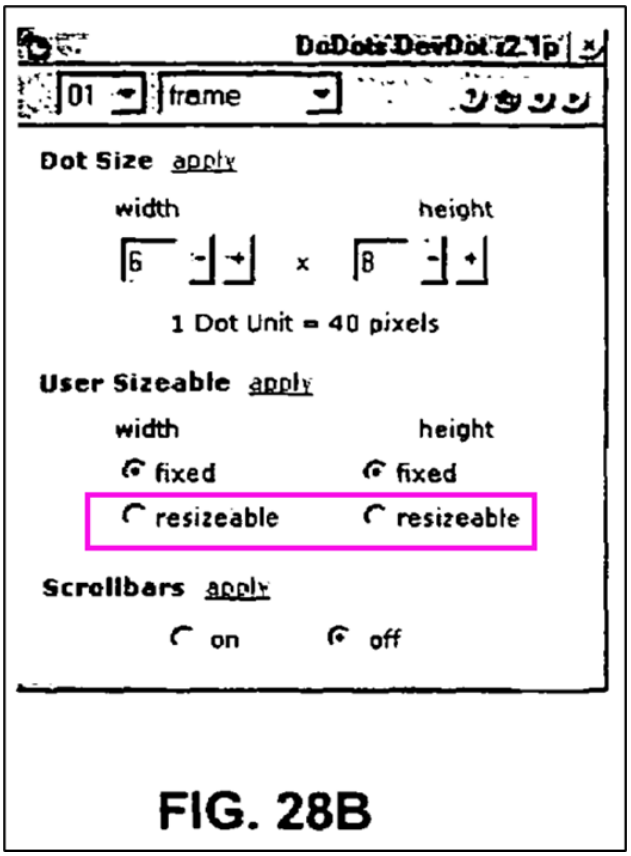
According to Petitioner, (1) the HTML in lines 6-9 of the desktop.htt file (green boxes) is the NIM template for the static desktop component 306, (2) the HMTL in lines 14-17 of the desktop.htt file (red boxes) is the NIM template for the active desktop component 308; and (3) the HTML in lines 10-13 of the desktop.htt file (blue boxes) is the NIM template for the webpage desktop component 310.

a. Control characteristics.

Petitioner only identifies *resizable = "XY"* in the alleged NIM templates as the alleged control characteristic (*see* lines 11, 15 of HTML above (orange arrows)). Petition, 39. Petitioner and its expert, Dr. Schmidt, do not identify anything else in the alleged NIM templates as a control characteristic. But *resizable = "XY"* is not a control characteristic for several reasons. DODOTS-2010, ¶¶ 64, 68.

First, a POSITA would understand that resizable = "XY" indicates that the frame generated by the IFRAME command has the capability of being resized (i.e., a user can resize the desktop component's frame) in both width and height (X and Y directions). DODOTS-2010, ¶ 71. That a frame is *capable* of being resized is a characteristic of a frame itself (i.e., a feature of the frame). DODOTS-2010, ¶¶ 72-74.

The '545 patent incorporates by reference Application No. 09/558,925 (U.S. Patent No. 7,660,868 ("'868 patent"). The '868 patent expressly explains that "resizable" is a frame characteristic. Specifically, it describes Figure 28B (below) as showing "frame characteristics." DODOTS-2010, ¶¶ 65-66 (citing DODOTS-2015, 36:12-15).



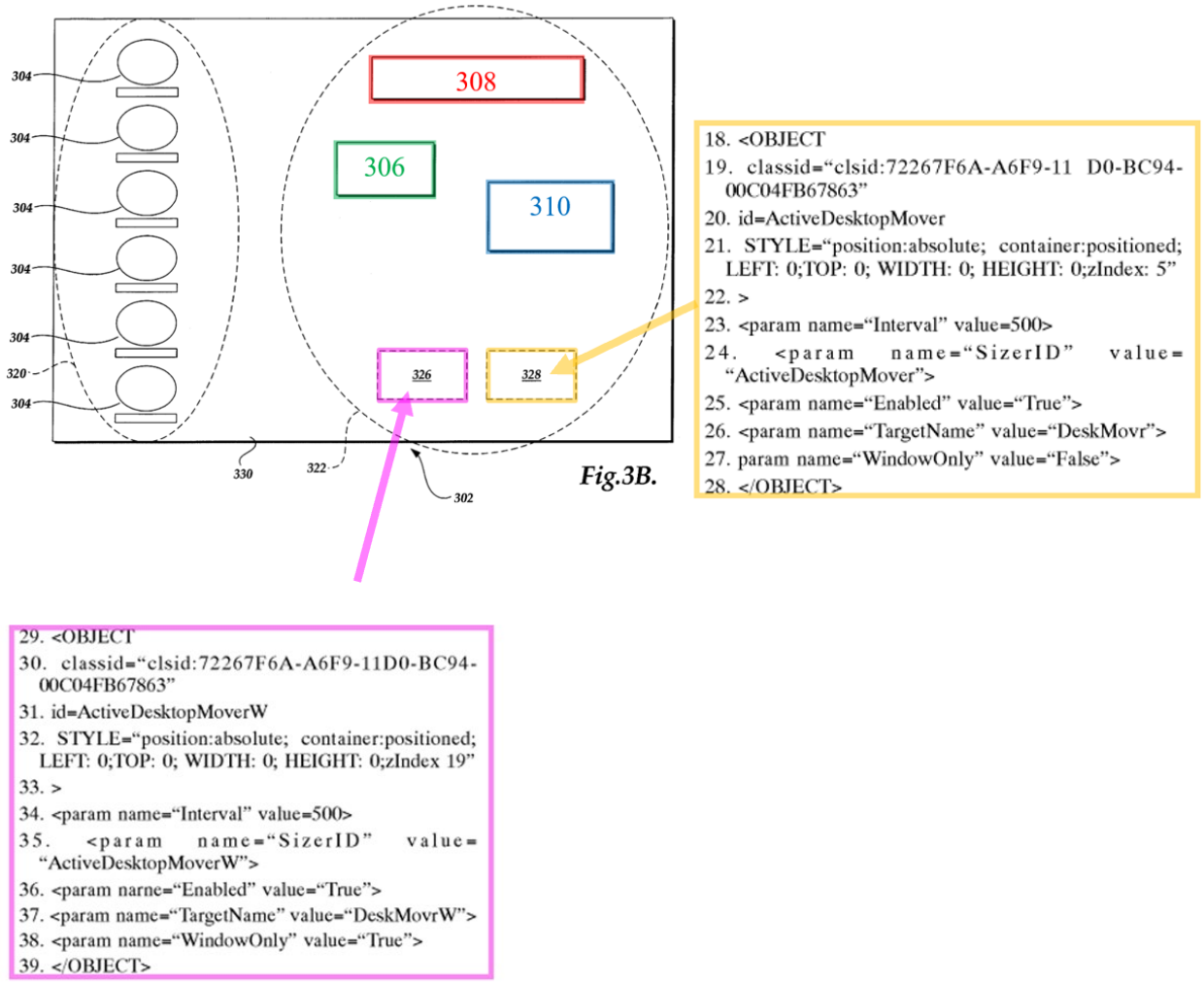
(DODOTS-2015, Fig. 28B (annotated))

Figure 28B includes as a frame characteristic the capability of being "resizable" in either or both "width" and "height" (pink box). This "resizeable" is identical to the *resizable="XY"* in Brown's desktop.htt file. Thus, based on the patent's disclosures, a POSITA would understand that *resizable="XY"* is a frame characteristic, not a control characteristic. DODOTS-2010, ¶65.

To understand why *resizable ="XY"* is a frame characteristic, it is important to understand the difference between frame characteristics and control characteristics. DODOTS-2010, ¶¶62-66.

A POSITA understands that a frame characteristic is a characteristic of the frame itself, - *e.g.*, resizeability, size - while a control characteristic is a characteristic of a control. In the context of the '545 patent, one use of the term "control" is a user interface element that is used to control the frame itself (*e.g.*, resize handle, close button, etc.) or that is within a frame (*e.g.* a menu). In particular, the '083 patent states that a control is "arranged within the frame" and a control being located "in a [] control space" within a frame. DODOTS-2054, 9:61-63; 14:47-53. Thus, a control characteristic is a characteristic of a control itself – *e.g.,* a characteristic of the resize handle, menu, close button, or control space. DODOTS-2010, ¶¶ 65-67.

Second, a POSITA would not recognize or find it obvious that the alleged NIM templates would define control characteristics because the actual controls for resizing/moving the alleged NIMs are defined *outside* of the HMTL for the alleged NIM templates. As the Petition admits, the components that are responsible for resizing the frames in Brown are manipulation controls 326 and 328: "[t]he resizing of desktop components is enabled by 'a windowed component manipulation control 326 and a windowless component manipulation control 328.'" Petition, 23-24, 38-40; SAMSUNG-1003, ¶58; DODOTS-2010, ¶¶ 51-53, 67-70.



(SAMSUNG-1005, Fig. 3B; 12:10-42, (annotated))

As shown above in Brown's Figure 3B, controls 326 and 328 (pink, orange boxes) are separate from desktop components 306, 308, and 310 (green, red, blue boxes). DODOTS-2010, ¶¶51-53. Importantly, the description/definition of controls 326, 328 are HTML OBJECTS defined separately from the HTML fragments of Petitioner's alleged NIM templates. *Id.*

Whereas the alleged NIMs (desktop components 306, 308, 310) are defined in lines 6-9, 10-13, 14-17 of the desktop.htt file, as shown above, controls 326, 328 are defined outside the alleged NIM templates. Controls 326, 328 are defined in lines 18-28 (orange box above) and lines 29-39 (pink box above). SAMSUNG-1005, 12:10-42.. DODOTS-2010, ¶¶ 51-53, 68-69.

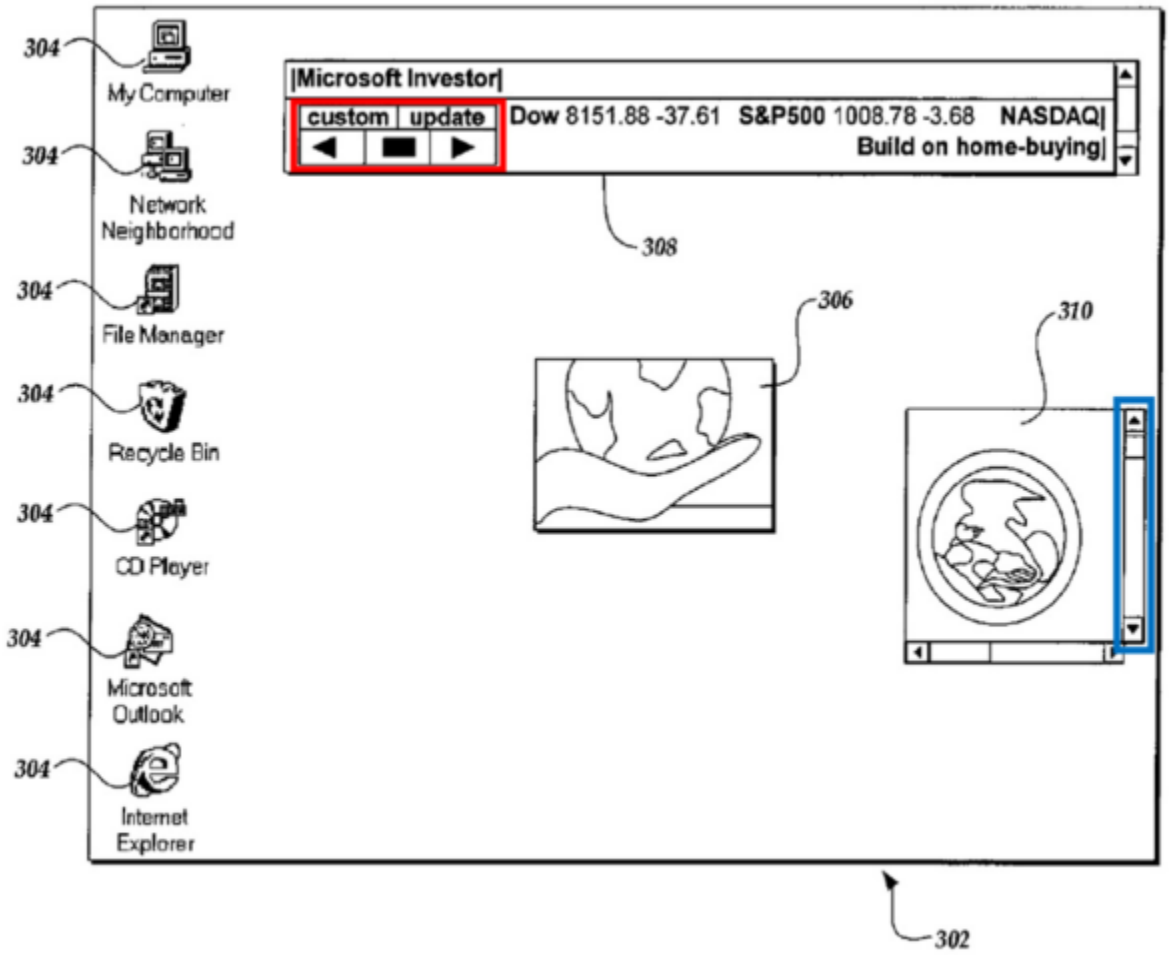
Thus, Brown's alleged NIM templates do not define any controls/control characteristics for manipulating the NIM because the controls are defined elsewhere – in separate and distinct HMTL fragments defining controls 326, 328. DODOTS-2010, ¶69.

Accordingly, the alleged NIM templates cannot be NIM templates as construed. *Id.*

.

b. Other alleged controls.

Petitioner mentions other alleged controls in passing. In particular, Petitioner points to the red box and blue box below as allegedly showing controls.



(Excerpted from Petition, 40 (annotations by Petitioner))

None of these alleged controls (nor their characteristics), however, are defined within the alleged NIM templates. DODOTS-2010, ¶80-82

With regard to the alleged controls (red box above), these are displayed on Brown's composite desktop as content of a third-party web page. A POSITA

understands these alleged controls are not defined in the alleged NIM template for desktop component 308. Moreover, these controls have nothing to do with resizing/moving component 308. *Id.*, ¶79-81

To the extent that Petitioner alleges that *resizable = "XY"* is what results in the alleged controls shown in the red box above, Petitioner is wrong. *resizable = "XY"* is also found in the HTML for desktop components 306 and 310 but these do not have the same alleged controls. *Id.*, ¶81-82.

With regard to the scroll bars (*e.g.*, blue box above) next to desktop component 310 (or component 308), a POSITA understands that these scroll bars are not characteristics/features specified anywhere within the alleged NIM templates (or anywhere within Brown's desktop.htt file). *Id.*, ¶83-84. Instead, a POSITA understands that the scroll bars are a standard feature of the Windows operating system, implemented by software not disclosed by Brown. A POSITA

would understand that nothing in the alleged NIM templates has any relation to whether a scroll bar was presented on the composite desktop. *Id.*

```
typedef struct_tagCOMPONENT
        {
         DWORD dwSize;       //Size of this structure
         DWORD dwID;       //Reserved: Set it always to zero.
         int iComponentType; //One of COMP_TYPB_*
         BOOL fChecked;       // Is this component enabled?
         BOOL fDirty;       // Had the component been modified and
        not yet saved to disk?
         BOOL fNoScroll;       // Is the component scrollable?
         COMPPOS cpPos;       // Width, height etc.,
         WCHAR wszFriendlyName[MAX_PATH];       // Friendly
        name of component.
        WCHAR wszSource[INTERNET_MAX_URL_
        LENGTH]; //URL of the component.
        WCHAR wszSubscribedURL[INTERNET_MAX_URL_
        LENGTH]; //Subscribed URL
        }
```

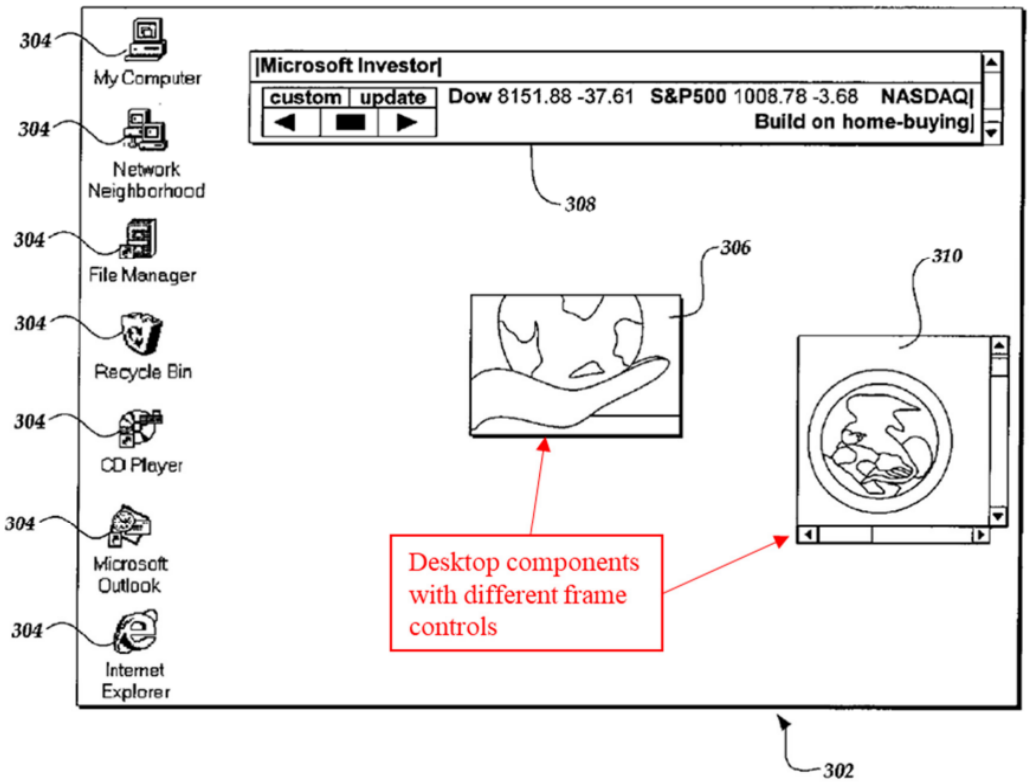
Scroll bars can be implemented for desktop components.

(Excerpted from Petitioner, 43(annotations by Petitioner))

The property specification in the blue box above is also not contained in any of the alleged NIM templates. DODOTS-2010, ¶¶87-89.

Petitioner also discusses Jones (SAMSUNG-1010), which discloses a user's ability to put a cursor on the edge/border of a desktop component and resize the desktop component by dragging the cursor. Petition, 41 (citing Ex. 1010, 5:1-7, FIG. 4). To the extent Petitioner alleges that this is some sort of control, any control characteristic related to this are not defined in the alleged NIM templates. DODOTS-2010, ¶90.

As shown below, Petitioner appears to allege that controls associated with the thickness of the borders, scroll bars, and/or resizing or moving desktop components 306, 308, 310 are frame controls. Petition, 21.



(Excerpted from Petition, 3 (annotations by Petitioner))

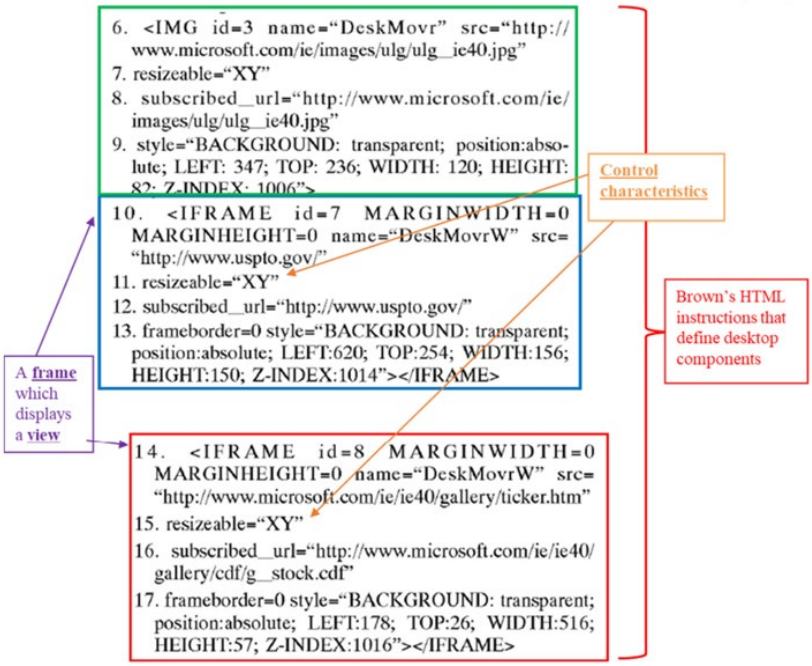
None of these alleged controls are defined in the alleged NIM templates. DODOTS-2010, ¶¶91-92.

c. Data structures

A POSITA would understand that "a data structure is a way of organizing and storing data in a computer so that it can be accessed and used efficiently. It

refers to the logical or mathematical representation of data, as well as the implementation in a computer program." This stands in contrast with HTML, which is code for displaying a webpage. DODOTS-2010, ¶96, 99 (citing DODOTS-2016).

The Petition alleges that Brown's NIM templates are the three HTML fragments below (red, green, blue boxes below).



(Excerpted from Petition, 24 (annotations by Petitioner))

According to the Petition, each of the HTML instructions is a data structure because they are "generated from the data stored in the registry 208." Petition, 22-23 (citing Ex. 1005, 14:7-8). Not so. That HTML instructions are generated using data in a data structure (registry 208) does not mean the HTML instructions

themselves are data structures. DODOTS-2010, ¶¶98-100. The Petition provides no explanation or reasoning why Brown's HTML instructions in the alleged NIM templates would be considered a data structure or even what a data structure is. *Id.,* ¶101-102.

To determine whether Brown's HMTL instructions are a data structure, a POSITA would look at how HTML instructions are being used. Brown's HTML is written and read sequentially from beginning to end. *Id.,* ¶101 (citing Samsung-2005, 2:16-18). Given this, a POSITA would not understand Brown's HTML instructions to be a data structure. DODOTS-2010, ¶102-103.

Unlike a data structure, (1) Brown's HMTL instructions are simply written and read sequentially from beginning to end, and (2) Brown's HTML instructions are not being used for data organization. *Id.*, ¶101.

Indeed, the organization responsible for publishing the HTML standards describes "parsing data from an HTML page into a data structure." *Id.*, ¶102 (citing Ex. 2017). That data from an HTML page (data that would be found in Brown's HTML instructions) can be parsed to create a data structure indicates to a POSITA that the HTML code disclosed in Brown is not itself a data structure. *Id.*

To the extent that Petitioner is alleging that using data from registry 208 to generate Brown's HTML instructions makes the resulting HTML instructions a

data structure, Petitioner is incorrect. A POSITA would not understand that extracting data from a data structure to generate HTML makes the resulting HTML instructions data structures. *Id.*, ¶103.

Indeed, Brown makes no mention (nor does Brown imply) that Brown's HTML is a data structure. Brown specifically refers to "HTML *documents*." SAMSUNG-1005, 2:18-26; DODOTS-2010, ¶104. Because Brown's HTML is not a "data structure," Brown and Wecker cannot render the claims of the '545 patent obvious. DODOTS-2010, ¶104.

2. Brown and Wecker do not disclose or render obvious a NIM.

All the claims of the '545 patent recite a "networked information monitor" (NIM). A "NIM" is "a fully configurable frame, with one or more controls, through which content is presented to the user." SAMSUNG-1012. None of the alleged NIMs meets this construction and, thus, Brown alone or in combination with Wecker cannot render obvious any of the claims of the '083 patent. DODOTS-2010, ¶105.

None of the alleged NIMs of Brown is "a fully configurable frame . . . through which content is presented to the user." The '083 patent discloses that the frame of the Dot/NIM can be customized such that the web content and controls can be configured/presented in different ways depending on how a Dot/NIM

developer wants them to appear to a user. DODOTS-2054, 10:55-57 ("[T]he frame shape and content may be wholly defined by the Dot developer."); 11:11-15, 65-67; 12:20-45; 16:61-65. This is what it means to be a fully configurable frame. So, for example, within the frame of a Dot/NIM, web content can be arranged completely differently from the original web page(s) that contains the content and the frame can include different controls than are found in the web page(s). DODOTS-2010, ¶106. Contrary to Petitioner's assertion (Petition, 20-21), a fully configurable frame is note one that can simply be moved around, resized, or that can be affected by controls located/defined external to the NIM/NIM template. DODOTS-2010, ¶106

Whereas the web page that makes up the HTML layer of Brown's composite desktop can itself be configured with different desktop components, that configuration is not relevant to the construction of NIM. The desktop components 306, 308, 310 (the alleged NIM) themselves must be fully configurable. They are not. The content for each desktop component appears exactly as it appears on the original web page from where the content is retrieved. For example, there is no HMTL in Brown that can make the stock ticker in desktop component 308 or the USPTO website in desktop component 310 appear any differently than they appear on the web page from which it came. Thus, Brown's desktop components (the

alleged NIMs) are not fully configurable frames as required by the construction of NIM. DODOTS-2010, ¶106.

Moreover, based on the disclosures in the '545 patent specification, a POSITA understands that a "fully configurable frame, with one or more controls" means that the NIM must include its own configurable control(s). The Petition, however, does not identify any such controls/control characteristics and, thus, the Petition fails to identify a NIM as that term is construed. Indeed, instead of identifying a fully configurable frame with one or more controls, the Petition identifies controls/ control characteristics that are visually shown to be external to, and defined separately from, the alleged NIMs. *Id.*, ¶107.

The patent explains the problem with existing browsers was that "the controls associated with a browser are not fully configurable." DODOTS-2010, ¶108. To address this problem, the patent discloses a NIM/NIM template, where each NIM template "defines the characteristics of a specific [NIM], including… control characteristics…." DODOTS-2010, ¶109.

The alleged NIMs in Brown, however, are not fully configurable frames with their own controls. Instead, the alleged NIMs in Brown share controls that are defined external to the NIM and/or have controls defined other than by the alleged

NIM templates. Thus, none of the alleged NIMs of Brown is a "fully configurable frame, with one or more controls." DODOTS-2010, ¶110.

And as assertion discussed in Section V.D.1.b and V.D.1.c, a NIM is not just a frame that has some external controls that work with the NIM in some way. A POSITA understands that each NIM is fully configurable and must include at least one or more of its own controls, which are defined in the NIM template for that NIM.. DODOTS-2010, ¶111.

Indeed, the '083 patent specification, which is highly relevant to this patent, states "A Dot [NIM] comprises of at least one control, each of which is arranged within the frame according to the Dot Definition [NIM template]." DODOTS-2054, 9:61-63. The specification also states that: "The Dot Definition [NIM template] contains data used to … specify and lay out the controls. *Id.*, 15:26-29; 24:11-14; *see id*., 7:19-23; Fig. 8; 10:11-19; 13:47-48; DODOTS-2010, ¶112.

Thus, if the NIM template does not define a control, the NIM cannot have a control. *Id.*

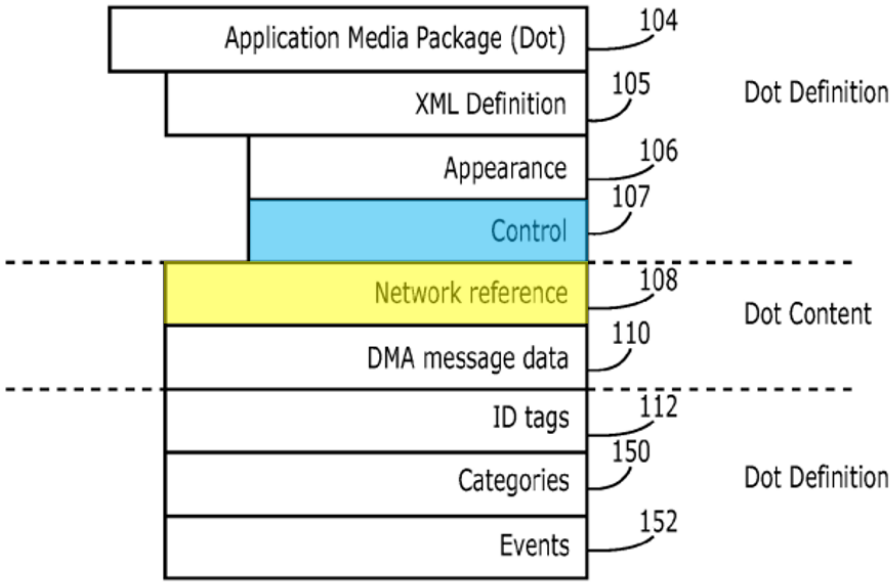


FIG. 3

(DODOTS-2054, Fig. 3 (annotated))

Figure 3 above shows that control 107 (blue) is defined within the NIM template separate from web content 108 (yellow). Petitioner alleges that controls are components for resizing/moving the desktop components, scroll bars, frame border, or "rewind, stop, and play buttons." None of these alleged controls, however, are defined within the alleged NIM templates in Brown and, thus, none of the desktop's components are NIMs. DODOTS-2010, ¶113-114.

3. Brown and Wecker do not disclose or render obvious "content elements…"

All the challenged claims require a NIM template to include "a definition of a first content element for the networked information monitor template, the

definition of the first content element referencing a first network location..." SAMSUNG-1001, Claims 1-24. Brown, however, fails to disclose this limitation.

Based on the '545 patent specification, a POSITA understands this language requires that the NIM template itself must identify/include the network location of the content to be displayed in the NIM. The Petition, however, fails to identify this limitation. DODOTS-2010, ¶116.

```
14.  <IFRAME  id=8  MARGINWIDTH=0
     MARGINHEIGHT=0  name="DeskMovrW"  src=
     "http://www.microsoft.com/ie/ie40/gallery/ticker.htm"
15. resizeable="XY"
16.  subscribed_url="http://www.microsoft.com/ie/ie40/
     gallery/cdf/g_stock.cdf"
17. frameborder=0 style="BACKGROUND: transparent;
     position:absolute;  LEFT:178;  TOP:26;  WIDTH:516;
     HEIGHT:57; Z-INDEX:1016"></IFRAM
```

A URL corresponding to a CDF file.

(Excerpt from Petition, 25 (annotations by Petitioner)

In particular, the Petition asserts that the "content reference" is a "CDF subscription" and the "network location" is a URL referenced in the CDF subscription. Petition, 29-30. DODOTS-2010, ¶116-117. The Petition points to the URL in the red box below as the network location of content.

This URL, however, is not a network location of content that is displayed in the NIM. Instead, the URL is the network location of a CDF file, which is not itself content. In other words, the content for the alleged NIM is not accessible at the URL that the Petition identifies; only a CDF file is accessible there. DODOTS-2010, ¶117-118. This is not what the claims require. *Id.* Petitioner points to Wecker's disclosure that web content is "described" in a CDF file. Petition, 29. But describing web content does not make it accessible at the CDF file's URL. *Id.*

To the extent Petitioner asserts that the CDF file includes a URL/network location of content, Petitioner has failed to provide the actual CDF file referenced in Brown let alone identify any network location in this undisclosed file. *Id.,* ¶118. And even if Petitioner asserts that the CDF file includes a URL that is the network location of content, that is not what the claim requires. Nor would it be obvious to take a URL found in a CDF file and put it in Brown's HTML. Such an assertion would require a POSITA to abandon the teachings of Brown. *Id.*

4. Brown alone or with Wecker does not render obvious "transmitting a request to the server over the network, the request requesting networked information monitor template."

All of the claims require "transmitting a request to the server over the network, the request requesting networked information monitor template."

Brown fails to disclose these limitations. DODOTS-2010, ¶¶164. The Petition argues that these limitations are disclosed by Brown's shell user interface control 220 that can be selected in order to add a corresponding desktop component to the composite desktop. Petition, 56-58 (citing Fig. 2 SAMSUNG-1005, 7:3-7). But Brown fails to provide any details of what is transmitted to a client computer running Brown's composite desktop when the shell user interface control is selected. DODOTS-2010, ¶¶164-165. There is certainly no disclosure or suggestion in Brown that, in response to a user request using control 220, the alleged NIM templates are transmitted to Brown's computer. For this reason, claims 6 and 14 are not obvious from Brown. *Id.*

Indeed, Brown provides no details whatsoever (and the Petitioner points to none) showing what would be returned and stored when the control 220 is used. Thus, Brown fails to teach the limitations of claims 7 and 15. *Id.*

Additionally, a POSITA would understand from Brown that the alleged NIM template for (i) the static desktop component 306 was generated from data already resident on the client computer; (ii) the alleged webpage desktop component 310 was generated from a URL typed into the client computer (SAMSUNG-1005, 10:46-57, 11:1-14); and (iii) for the active desktop component 308, and for an alternative method of generating a static desktop component 306, Brown discloses

that "the API described above" would be employed. SAMSUNG-1005, 10:29-45, 10:57-62; DODOTS-2010, ¶¶165-167. Accordingly, Brown fails to disclose the receiving of NIM templates from a server and storing of those NIM templates, as required by the claims. DODOTS-2010, ¶167.

Other than through hindsight with the '545 patent in mind, a POSITA would not understand that the alleged NIM template is being transmitted from a server in response to a user requesting the alleged NIM. DODOTS-2010, ¶167.

Wecker does not resolve these deficiencies. The Petition merely points to the fact that Wecker periodically retrieves new/updated scripts, data, and CDF files. Petition, 43. The Petition also asserts that the subscription of Wecker would be implemented in a Brown-Wecker combination for the HTML instructions of Brown. Petition, 36, 54-56; DODOTS-2010, ¶167.

First, the Petition points to no evidence that Wecker's scripts/templates, are transmitted in response to a user request. DODOTS-2010, ¶168. Second, Wecker's scripts/templates are not NIM templates as construed nor has the Petitioner alleged that they are. *Id.* Third, Wecker provides no details regarding what would be contained in any scripts/templates that are transmitted from a server and whether what is transmitted and stored is a NIM template as construed. *Id.* Finally, other than speculation/hindsight, there is no teaching/suggestion in Wecker or Brown

that the subscription of Wecker would be implemented as Brown's HTML instructions that are the alleged NIM template. *Id.* Both Brown and Wecker are silent with regard to the details of what is transmitted/stored, and a POSITA would not understand that NIM template as construed would be transmitted from a server and stored. *Id.*

Therefore, Brown alone or in combination with Wecker does not render obvious "transmitting a request to the server over the network, the request requesting networked information monitor template."

F. Brown and Wecker in view of Beer does not render obvious Claims 5, 11-12, and 16-21 of the '545 patent.

As a threshold matter, there would be no motivation to combine Beer with either Brown or Brown in combination with Wecker. The Petition argues that the reference could be combined because both related to the "accessing and viewing internet content." Petition, 51; SAMSUNG-1003, ¶123. This is false. Beer does not discuss or address the accessing of internet content. Rather, as discussed above, Beer is concerned with obtaining user interface templates, which is not the same as internet content, such as news, weather, or sports scores. Thus, Petitioners initial reasons for combining are without merit. DODOTS-2010, ¶ 170.

The Petition also argues that Brown and Beer could be combined because the UIL of Beer is similar to HTML template of Brown. There is no merit to this

suggestion. Beer's UIL is a custom language related to a user interface, while HTML is markup language used to build a webpage. Both of these are fundamentally different goals. As such, one would not consider combining one with the other. DODOTS-2010, ¶ 171.

Additionally, the Petition suggest that the reference could be combined because a POSITA would recognize that "same content may be displayed in multiple styles across operating systems." Petition, 53. This argument is disingenuous because it mischaracterizes Beer and Brown. First, Beer is solely concerned with changing the visual appearance of applications by rapidly downloading a user interface. And, Beer indicates that it was necessary because "the Windows 95 system from Microsoft Corporation differs in "look and feel" from the Macintosh System 7 operating system from Apple Corporation, both of which differ from the Motif GUI often used on UNIX systems," and "such differences present a problem for employers who may have widely disparate types of computer systems, due to the cost of training employees on how to use different user interfaces." DODOTS-1007, 1:15-40. DODOTS-2010, ¶ 172.

On the other hand, Brown is concerned with the implementation of the a computer' desktop incorporating a webpage. Brown's passing mention that the invention could be "practiced with other computer system configurations" does not

eliminate the fact that it is tied to an a computer desktop. In view of this, there would be no reason to implement Beer, because there were no issues arising from appearance created by different operative systems. Likewise, Wecker is solely related to the Windows CE operating system, so there would be no need or desire to implement the Beer solution on a Windows CE device. For these reasons, Beer would not render claims 5, 11-12, and 16-21 of the '545 patent obvious because there would be no reason or motivation to combine. DODOTS-2010, ¶ 173.

VI. PETITIONER HAS NOT MET ITS BURDEN TO SHOW THAT THE CLAIMS OF THE '545 PATENT ARE OBVIOUS IN VIEW OF SHIMADA AND BUCHHOLZ AND DARNELL AND KRISHNA (GROUND 2A/2B/2C)

Samsung asserts that Claims 1-4, 6-7, 9-10, and 13-15 are rendered obvious by Shimada and Buchholz (Ground 2A); Claims 5, 8, and 12 are rendered obvious by Shimada, Buchholz, and Darnell (Ground 2B); and Claims 11 and 16-21 are rendered obvious by Shimada, Buchholz, and Krishna (Ground 2C)

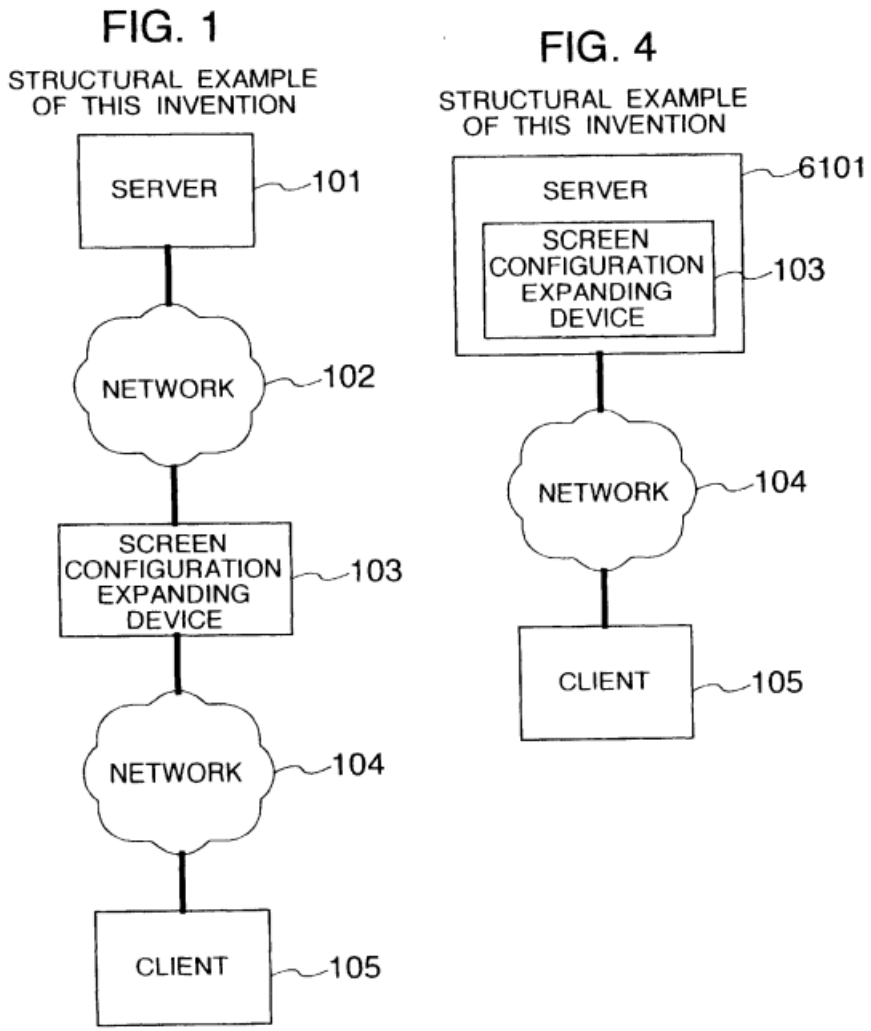
Shimada's approach pertains to composing an HTML document that will change media, change formatting, and add user interface elements to display a web page that might need to be viewed on multiple screens. DODOTS-2010, ¶174. Buchholz's approach, on the other hand, pertains to how to display time-varying web content on mobile devices by separating data from a template that uses that data to create a display on a screen. DODOTS-2010, ¶196. These approaches are

significantly different from each other as well as from the approach claimed in the '083 patent. DODOTS-2010, ¶211.

Samsung fails to meet its burden to make these arguments. *See generally*, DODOTS-2010, ¶¶174-275.

A. Shimada.

U.S. Patent No. 6,789,263 ("Shimada") discloses a way to create *a web page* for presenting on a user device. Specifically, Shimada describes a "data converting device" which converts data transmitted from a server. SAMSUNG-1008, 2:15-19. Shimada notes that when information, such as a web page is requested in an "environment having a small network transmission capacity, the problem develops in that an extremely long time is necessary for the data transfer." *Id.*, 1:40-44. Shimada describes using the data converting device to reduce the data access time by reducing the amount of data transmitted between the server and the client. *Id.*, 1:50-54. This data converting device, also referred to as a screen configuration expanding device 102, is positioned between server 101 and a client 105. *Id.*, Figs. 1, 4 (below). DODOTS-2010, ¶174-176



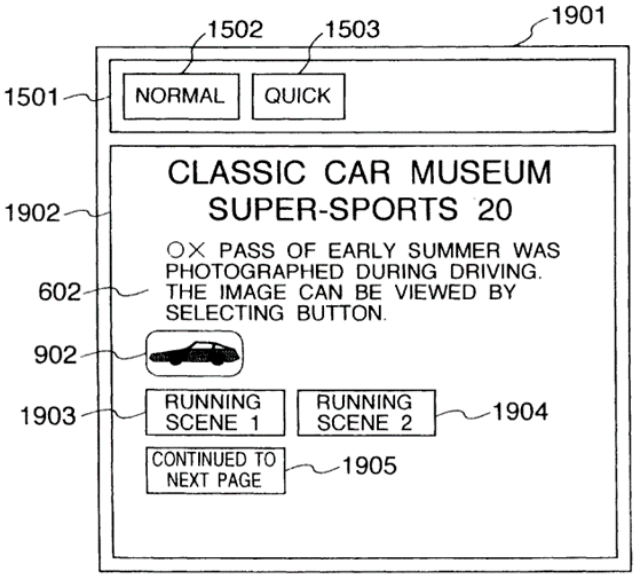
(SAMSUNG-1008, Figs. 1,4)

Shimada notes that server 101 stores screen configuration data 501 and uses it for defining the screen configuration when displaying a web page on a client screen. 105. *Id*., 6:4-62; Fig. 5. Shimada generally explains how client 105 uses screen configuration data 501 *to display a web page* on a screen. *Id*., Fig. 6; 6:63-7:28. When expanding device 103 is being used, a screen configuration data file is

transmitted from server 101 to the expanding device 103. The expanding device 103 modifies the screen configuration data before providing it to the client 105. *Id.*, 8:29-39. In particular, the expanding device 103 contains templates that are used in a multi-step process to provide screen configuration data to the client 105 so that the client can display the web page. *See id.*, Figs. 11, 15, 18; 8:56-9:3. DODOTS-2010, ¶177-180.

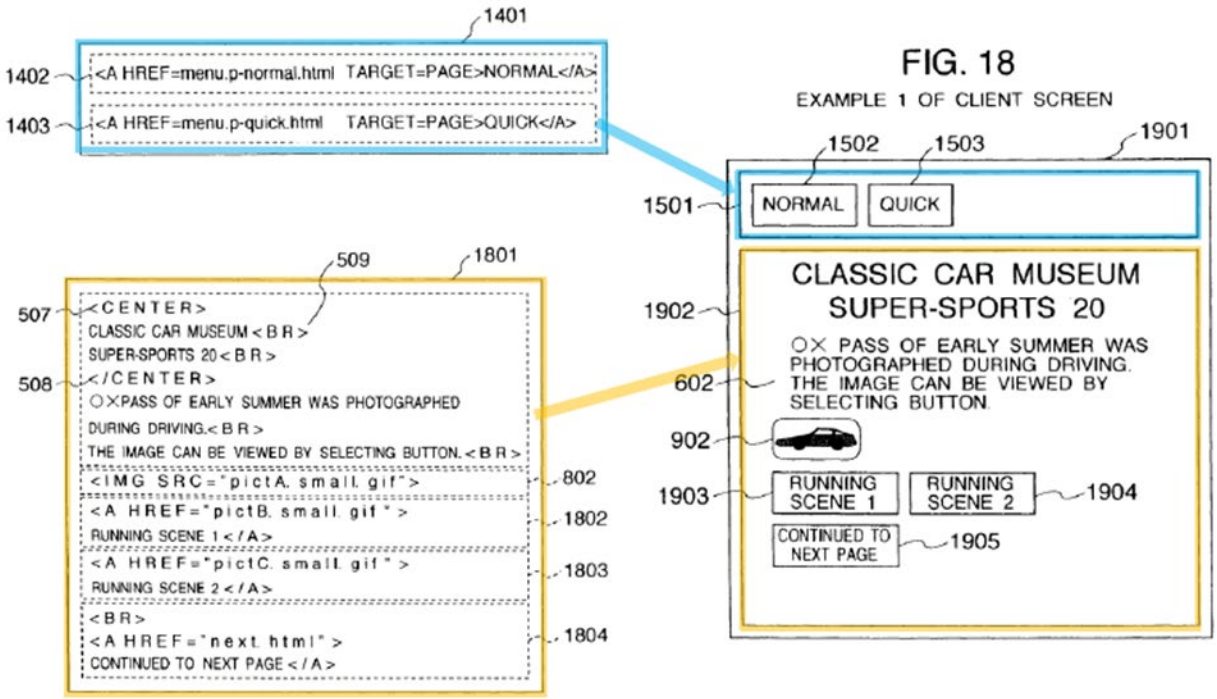
FIG. 18

EXAMPLE 1 OF CLIENT SCREEN



The eleven-step process for generating the client screen display 1901 (a modified version of the web page) of Figure 18 (above) begins when the client first requests web content for a server. The expanding device 103, however, intercepts the request and this is the start of extensive back-and-forth communications with the client 105. DODOTS-2010, ¶181.

During this process, the expanding device 103 retrieves stored templates that includes details about what data needs to be obtained for analysis. *Id*., Figs. 34; 10:25-65. In particular, in response to the request from client 105, the expanding device 103 engages in a cycle of retrieving templates, filling in blanks in the templates, and obtaining data to send to the client. *Id*. Based on this process the expanding device 103 sequentially/separately sends multiple/different screen configuration data (multiple/different HTML fragments) to the client. DODOTS-2010, ¶182-193.



(SAMSUNG-1008, Figs. 13, 17, 18, (annotated))

Finally, as shown above, when client 105 has the data receives all necessary HTML fragments, client 105 employs that data (in an undisclosed process) to display the content shown in Figure 18. *Id.*, 12:17-26. As shown in blue, client 105 uses data 1401 to generate screen portion 1501; as shown in orange, client 105 uses data 1801 to generate screen portion 1902. DODOTS-2010, ¶182-193.

Shimada's screen configuration data are fragments of HTML and not a syntactically valid HTML document. Thus, a POSITA would know that rendering software for standard HTML could not render the display without additional processing to embed the HTML fragments within a valid HTML document. DODOTS-2010, ¶194-195.

B. Buchholz.

U.S. Patent No. 6,088,340 to Buchholz ("Buchholz") describes a method/apparatus for sending data to devices having limited capabilities (*e.g.*, pager or mobile device). Notably, Buchholz is assigned to Motorola and when Motorola challenged the patent in its own IPR (which upheld patentability), Motorola did not assert the reference as relevant. And it is not. DODOTS-2010, ¶196.

In particular, Buchholz discloses controlling a display of time-varying web content on a mobile device using a template stored on that device. Ex. 1009,

Abstract, 1:7-10; 1:57-59. Buchholz's method seeks to "reduce the size of data downloads" and "allow customization [of] the display of the data according to the desires of the end user." *Id.*, 1:48-53; 6:63-67. DODOTS-2010, ¶197-201.

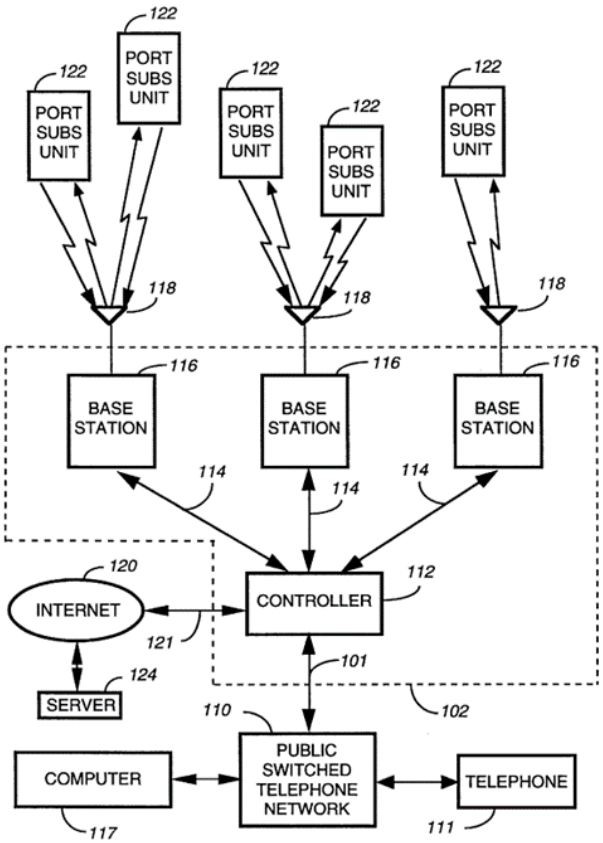


FIG. 1

Figure 1 above illustrates a wireless communication architecture having portable subscriber units 122 that can be connected wirelessly to base stations 116. The portable subscriber units 122 can access web content from server 124 over the Internet 120. Buchholz discloses using (1) multiple templates (referred to as a "pack"), and (2) template data (time-varying data – stocks, sports, news

information) in order to display web content on a screen of units 122. *Id.*, Abstract; 1:57-67; 5:16-22. DODOTS-2010, ¶202-203.

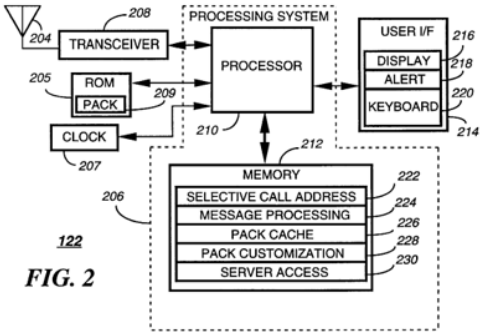


FIG. 2

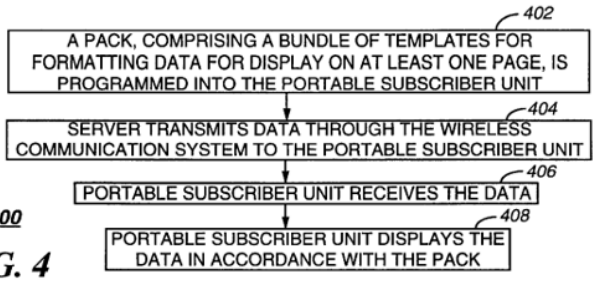


FIG. 4

As shown in Figures 2 and 4 (above), a pack of templates is programmed into a portable subscriber unit 122 and stored in pack cache 226. *Id.*; *see also* Fig. 8; 5:1-6. Storing the pack in portable subscriber unit 122 reduces latency for the template data. *Id.*, 5:37-41. Template data is transmitted from server 124 to the portable subscriber unit 122 separately from the templates. *Id.*, Abstract; Figs. 1, 3; 1:57-67; 5:29-35. Upon receiving the template data, portable subscriber unit 122 uses the templates to format the template data for display on unit 122. *Id.*; *see also id.*, 2:11-30; 4:50-64. Buchholz allows for customization of the templates. *Id.*, Figs. 5, 6; 4:26-31, 50-64; 5:11:16, 47-67; 6:15-24. DODOTS-2010, ¶ 202-210.

Samsung points to Buchholz's mere use of the word "template" as teaching the elements of the challenged claims including the NIM template and NIM. Samsung's reliance on Buchholz, however, is misplaced. Buchholz's approach

pertains to how to display time-varying web content by separating data from a template that uses that data to create a display on a screen. This approach is significantly different from the approach claimed in the '545 patent which sought to display web content in separately defined and rendered mini applications (Dots/NIMs). DODOTS-2010, ¶¶ 218-221.

C. There is no motivation to combine Shimada and Buchholz.

A POSITA would not be motivated to combine Shimada with Buchholz. The goals of Shimada and Buchholz, along with the manner in which each of them implement their respective solutions, are significantly different. DODOTS-2010, ¶211.

Shimada seeks to reduce the amount of time to transfer data to a client device in an environment having "a small network transmission capacity." SAMSUNG-1008, 1:40-43; DODOTS-2010, ¶224-226. On the other hand, Buchholz seeks to provide time-varying content (data that changes over time *e.g.*, stocks, sports, and news) in a customized display while reducing the size of data downloads. SAMSUNG-1009, 1:13-19, 29-37, 43-53; DODOTS-2010, ¶215-219.

Given this differing purpose, each uses a disparate approach to accomplish their respective goals that is ultimately incompatible with each other. DODOTS-2010, ¶220-222.

Shimada's solution involves positioning an expanding device between a server and a client. The expanding device affects how a screen is displayed on a client by using a series of HTML templates *stored in the expanding device*, sequentially creating multiple/different HTML fragments using those templates, and sequentially/separately sending those HTML fragments to the client. The client uses those HTML fragments to build/display a screen. *Id.*, ¶212-215

Buchholz, however, does not have a device positioned between the server and client that works with a client to build/display a page. Buchholz's client builds a page by itself. And while Buchholz uses templates, those templates are different (and used for a different purpose) than the templates used in Shimada. Buchholz's templates do not even use HTML. Buchholz's templates defines where and in what size/color, data is displayed. SAMSUNG-1009, 5:11-22. These templates are sent to and stored *in the client device* prior to the client receiving data for display. This way, the system does not need to send the template every time data is transmitted. To build/display a page, the client configures the data that it receives using the templates stored therein. Thus, Shimada and Buchholz are incompatible and would not be combined. DODOTS-2010, ¶215-220.

Dr. Schmidt's assertion that a POSITA would combine Shimada and Buchholz is wrong. DODOTS-2010, ¶¶220-222

Dr. Schmidt's conclusion that both references are directed to accessing and viewing internet content and reducing data transfer times is superficial and not probative on whether a POSITA would ultimately combine these references. DODOTS-2010, ¶¶220-222.

Dr. Schmidt bases his opinion in part on an erroneous reading of these two references. He suggests that "a POSITA would have recognized that the 'screen configuration data' of Shimada and the 'templates' of Buchholz are both implemented in HTML." SAMSUNG-1003, ¶146 (citing Ex. 1008, 6:59-62; Ex. 1009, 5:9-13). This is incorrect. DODOTS-2010, ¶¶223-224. While Shimada's "screen configuration data" may written in the format and syntax of HTML, Buchholz specifically states it is not using HTML but rather something "similar" to HTML. Ex. 1009, 5:9-11; DODOTS-2010, ¶¶224. Thus, a POSITA would understand that Buchholz is using some custom variant of HTML mark-up language for a mobile device as opposed to HTML. Therefore, any suggestions that one would have a reasonable expectation of combining the two references because of passing mentions about HTML (SAMSUNG-1003, ¶123) is based on a false premise and incorrect. DODOTS-2010, ¶¶235-236.

Dr. Schmidt also asserts that a "POSITA would have recognized that both Shimada and Buchholz complement each other's ability to mitigate long download

times in networks with 'small network transmission capacity'" and be "complementary, and each would enhance the abilities of the other." SAMSUNG-1003, ¶147 (citing SAMSUNG-1008, 1:40-44 and SAMSUNG-1009, 1:26-37); DODOTS-2010, ¶¶225.

Dr. Schmidt fails to explain how the distinct designs of Shimada and Buchholz for reducing download times would be complementary, as opposed to contradictory. DODOTS-2010, ¶¶225-226. A POSITA would understand that Shimada and Buchholz are configured differently, not compatible, and would require significant experimentation to determine if they complement each other. *Id*. In other words, a POSITA would not be motivated to combine Shimada's eleven-step process (involving an expanding device working with a client to build/display a screen) with Buchholz's approach of storing templates on a client device and letting the client do all of the work. DODOTS-2010, ¶¶227-230. And such reasonable expectation of success cannot exist in a POSITA's mind given the disparate nature of Shimada and Buchholz. *Id.*

D. The combination of Shimada and Buchholz does not render any of the claims obvious.

Shimada-Buchholz fails to disclose/render obvious numerous claim elements and, therefore, cannot render the claims obvious. DODOTS-2010, ¶¶ 242-244.

1. Shimada-Buchholz does not disclose or render obvious a NIM template.

Shimada-Buchholz fails to disclose or render obvious a NIM template because the alleged NIM template(s) do not define view or control characteristics and is not a "data structure."

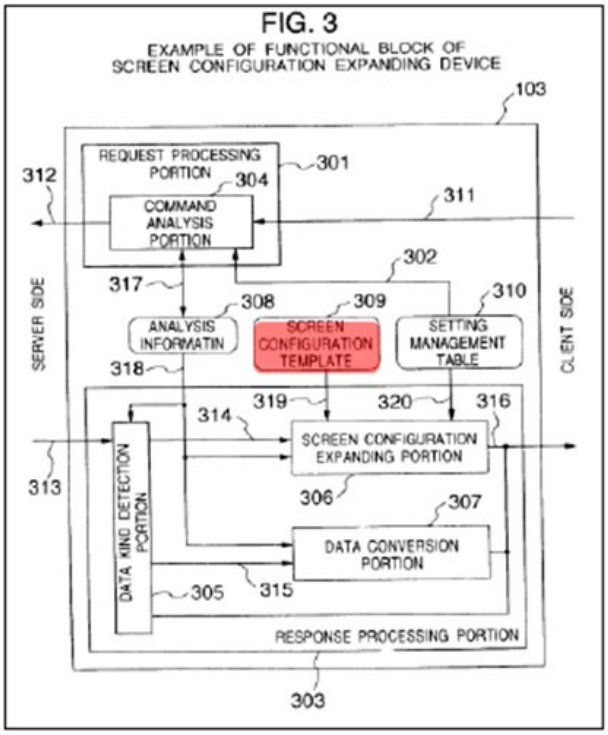
Indeed, the Petition provides no analysis whatsoever to suggest that Buchholz's "template" can be a "NIM template" as construed.

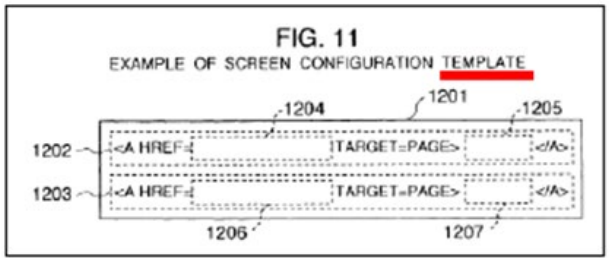
Moreover, the Petitioner appears to have a fundamental misunderstanding regarding NIMs/NIM templates - a NIM is not contained within a NIM template. DODOTS-2010, ¶¶ 234-235.

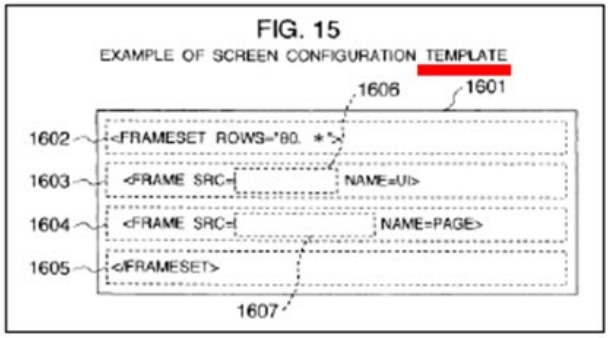
a. Petitioner mischaracterizes Shimada's screen configuration data.

Petitioner asserts that Shimada's "screen configuration data" (that define Shimada's "screens" and includes "anchor tags") is the same as Buchholz's "template." Petition, 68-69, 74. But, in doing so, Petitioner engages in "sleight of hand," mischaracterizing Shimada in an attempt to support combining Shimada and Buchholz. DODOTS-2010, ¶¶ 236.

Buchholz is completely silent regarding any details of its templates. Shimada specifically identifies "templates" as screen configuration template 309, 1201 (Figure 11), 1601 (Figure 15), not "screen configuration data." *Id.*



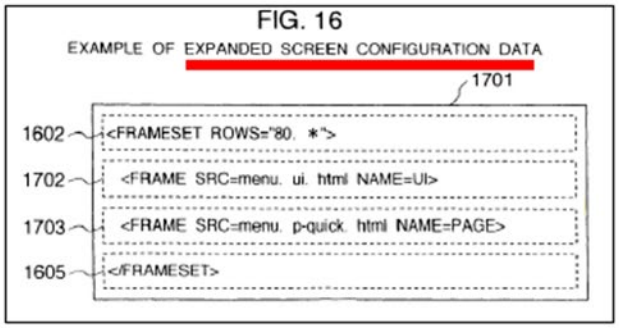


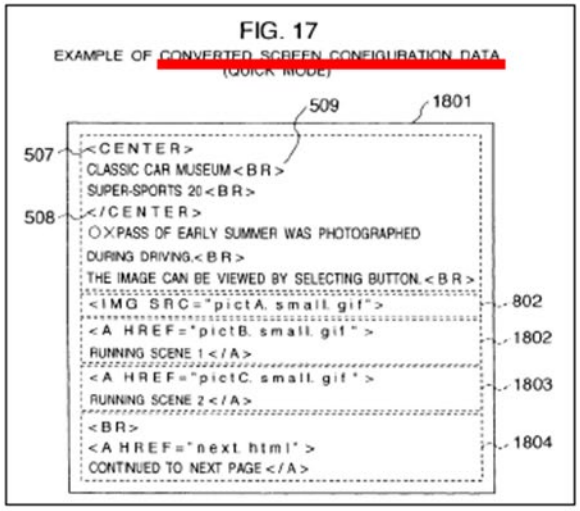


As shown in Figure 3, Shimada's templates are stored in (and only exist in) expanding device 103. SAMSUNG-1008, 8:56-57. The "templates" are not stored in client 105. And because Shimada's "templates" are not stored on client 105 (where Buchholz's templates are stored), the Petition ignores what Shimada itself identifies as templates. Instead, the Petition asserts that Shimada's templates are something else – "screen configuration data." DODOTS-2010, ¶¶238-239.

This is a mischaracterization of "screen configuration data." DODOTS-2010, ¶238. Expanding device 103 stores templates and fills them in to create HTML fragments. According to Shimada, once filled in, the templates are no longer templates – they are HTML fragments referred to as "screen configuration

data" (see Figures 16 and 17 below (red underline)), which is sent to a client. DODOTS-2010, ¶¶239-240.





Petitioner, however, ignores this because Shimada's and Buchholz's teachings regarding templates are inconsistent. DODOTS-2010, ¶241.

The Petition also asserts that a POSITA would understand that Shimada's screen configuration data would be a Buchholz "template" because "screen configuration data is also an HTML data structure that defines the presentation of content." Petition, 74. Buchholz is explicit that it does not use HTML but, instead, uses something "similar" to HTML. SAMSUNG-1009, 5:9-11; DODOTS-2010, ¶¶241-242. And a POSITA understands that such a variant of HTML would not be compatible with the HTML standard because it would not conform to the specific format/syntax of HTML. *Id.* Shimada's screen configuration data is not the same

as the templates as Buchholz. *See also* Section VI.C. Accordingly, it would not be obvious to a POSITA that Shimada's screen configuration data would be supplemented for Buchholz's "templates" or vice versa. DODOTS-2010, ¶241-242.

b. View Characteristics.

The Petition is completely silent as to what constitutes "view" characteristics in Shimada-Buchholz. *Id.*, ¶ 244 The Petition's only reference to view characteristics in Shimada-Buchholz is a vague reference to "view" with regard to Shimada: "[S]creen configuration data also specifies the content frame ("NIM frame [and] view")." Petition, 80-81; DODOTS-2010, ¶244. The Petition provides no discussion of what a view characteristic means to a POSITA in the context of the '545 patent, Shimada, or Buchholz. DODOTS-2010, ¶245.

FIG. 16
EXAMPLE OF EXPANDED SCREEN CONFIGURATION DATA

1701
1602 <FRAMESET ROWS="80, *">
1702 <FRAME SRC=menu. ui. html NAME=UI>
1703 <FRAME SRC=menu. p-quick. html NAME=PAGE>
1605 </FRAMESET>
Frame size and characteristics

FIG. 17
EXAMPLE OF CONVERTED SCREEN CONFIGURATION DATA (QUICK MODE)

509 1801
507 <CENTER>
CLASSIC CAR MUSEUM
SUPER-SPORTS 20
508 </CENTER>
○×PASS OF EARLY SUMMER WAS PHOTOGRAPHED
DURING DRIVING.
THE IMAGE CAN BE VIEWED BY SELECTING BUTTON.
<IMG SRC="pictA. small. gif">
802
<A HREF="pictB. small. gif">
RUNNING SCENE 1</A>
1802
<A HREF="pictC. small. gif">
RUNNING SCENE 2</A>
1803

<A HREF="next. html">
CONTINUED TO NEXT PAGE</A>
1804
Content, including content at a network location
Controls for interacting with the screen

(Excerpt from Petition, 80-81 (annotations by Petitioner))

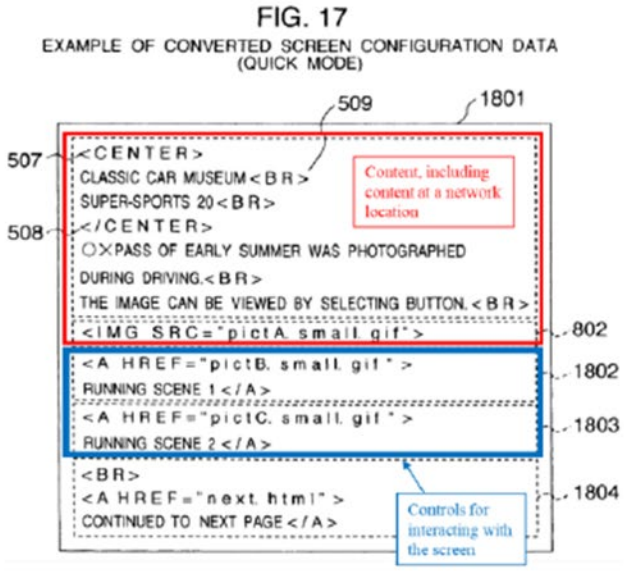
Indeed, as shown above, despite stating that the "view" is shown in its annotations of Shimada (above), there is nothing identified by Petitioner in its annotated Figures 16 and 17 as specifying a view, let alone being "view" characteristics. The only mention of any sort of characteristics in Petitioner's annotations is Figure 16 refers to "frame" characteristics. DODOTS-2010, ¶246. Even then, Petitioner identifies all the elements shown in Figure 16 as specifying "frame size and characteristics," which are not view characteristics. *Id*

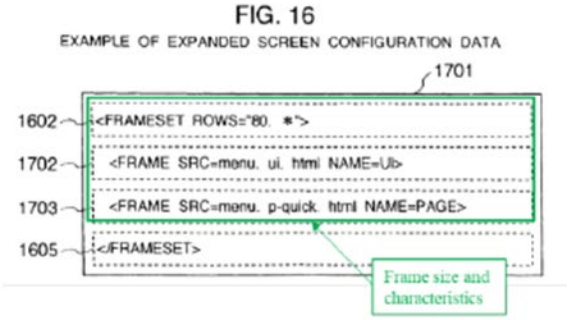
The'545 patent makes it clear that "size" of the frame is a "frame" characteristic, not a "view" characteristic": "frame characteristics defining one or more a color, a size, . . ." Samsung-1001, 22:34-336 ("The NIM definition also includes the definition of a frame 271, which specifies the frame size and shape…") DODOTS-2010, ¶¶247-248. . Accordingly, the Petition fails to identify "view" characteristics in the Shimada/Buchholz combination and, thus, has not identified a NIM template as that term has been construed. DODOTS-2010, ¶¶246-249.

c. Control Characteristics.

The Petition provides no discussion of what a "control" characteristic means to a POSITA in the context of the '545 patent, Shimada, or Buchholz. *Id.*, ¶ 253

Instead, the Petition merely states in a conclusory manner that "Shimada's screen configuration data possesses" this feature. Petition, 79. The Petition does not identify anything in the Shimada/Buchholz specification or figures as being a "control" characteristic. *Id.*, ¶ 254-256





(Excerpt from Petition, 80-81 (annotations by Petitioner))

As shown above, there is nothing identified by Petitioner in its annotated Figures 16 or 17 (above) as being "control" characteristics nor has Petitioner explained how Figures 16 or 17 disclose a "control" characteristic. The Petition makes the conclusory allegation that what is in the blue box in Figure 17 are controls, but does not identify anything in the blue box as being a "characteristic."

Id., ¶ 257. Accordingly, the Petition fails to identify a "control" characteristic and, thus, has not identified a NIM template as construed. *Id.*, ¶ 258-261.

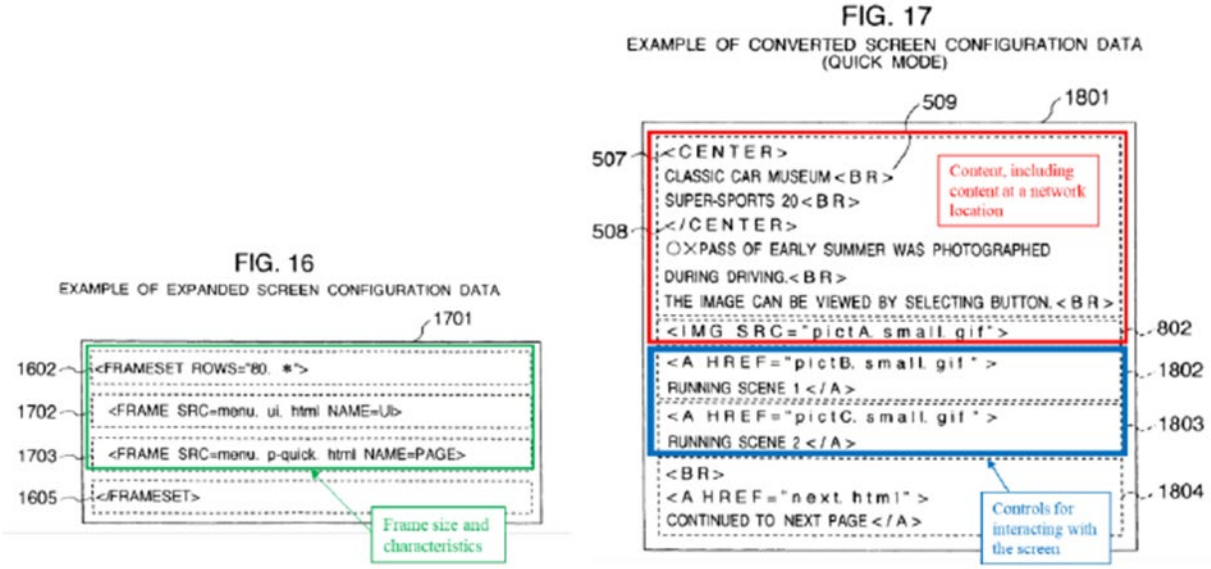
d. Data structure.

The Petition provides no discussion of what a "data structure" means in the context of the '083 patent or Shimada-Buchholz. Instead, the Petition merely states in a conclusory manner that "Shimada's screen configuration data possesses" this feature. Petition, 79.

The Petition does not set forth the reasons "screen configuration data" is a "data structure" or includes a "data structure." DODOTS-2010, ¶250. Shimada's "screen configuration data" is merely HTML fragments. The Petition incorrectly assumes without support/justification that a file with a .html suffix is a data structure. HTML (and certainly HTML fragments) are not data structures for the same reasons set forth in Section V.D.1.d regarding Brown. DODOTS-2010, ¶251. Accordingly, the Petition fails to identify "a data structure" and, thus, has not identified a NIM template as construed. *Id.*, ¶252.

The Petition also does not identify any single data structure that includes "frame, view, and control characteristics." Instead, the Petition points to separate HMTL fragments of Figs. 16 and 17. But these are not part of the same structure.

Even then, the Petition only purports to identify frame characteristics and controls. DODOTS-2010, ¶¶ 253-254



(Excerpt from Petition, 80-81 (annotations by Petitioner))

Notably, the screen configuration data of Figure 17 does not even exist at the time that screen configuration data of Figure 16 is transmitted to client 105. DODOTS-2010, ¶254-255. The screen configuration data 1801 of Figure 17 is only created after a series of communications between the client 105 and expanding device 103. In particular, the file names of 802 and 1802 of Fig. 17 are added by the expanding device 103 after screen configuration data 1701 of Figure

16 has been transmitted to the client 105. *Id*. Accordingly, the Petition fails to identify a NIM template as construed. *Id.*, ¶257 DODOTS-2010, ¶274..

e. Content Element.

All challenged claims require "a first content element referencing a first network location." Shimada-Buchholz does not disclose or render obvious this element. DODOTS-2010, ¶262.

The Petition merely asserts that "both Shimada's IMG and anchor tags include a URL" because Shimada describes these tags as including an 'address representing a static image' which is obtained from a 'server.'" Petition, 83; SAMSUNG-1003, ¶171. This, however, is wrong. DODOTS-2010, ¶262 The claim language requires the URL that Petitioner identifies (the alleged network location) to be in the alleged NIM template itself. But Shimada does not disclose any URLs in the screen configuration data (the alleged NIM template). To the contrary, a POSITA would understand that Shimada employs file names in the screen configuration data (the alleged NIM templates) and obtains content without referencing URLs in the screen configuration data. Shimada is completely silent regarding the details of how content is obtained or where any URLs are located. *Id.*

FIG. 17

EXAMPLE OF CONVERTED SCREEN CONFIGURATION DATA (QUICK MODE)

509 1801

507 <CENTER>
CLASSIC CAR MUSEUM
SUPER-SPORTS 20
508 </CENTER>
○×PASS OF EARLY SUMMER WAS PHOTOGRAPHED
DURING DRIVING.
THE IMAGE CAN BE VIEWED BY SELECTING BUTTON.
<IMG SRC="pictA. small. gif"> 802
<A HREF="pictB. small. gif" >
RUNNING SCENE 1 </A> 1802
<A HREF="pictC. small. gif" >
RUNNING SCENE 2 </A> 1803

<A HREF="next. html" >
CONTINUED TO NEXT PAGE </A> 1804

(SAMSUNG-1008, Fig. 17 (annotated))

Shimada, however, is very clear as to what is in the screen configuration data because it shows it in its figures. As shown in Figure 17 above in the yellow highlights, Shimada's IMG tag only contains "pictA.small.gif" and the two anchor tags (HREF) only contain "pictB.small.gif" and "pictC.small.gif." "pictA.small.gif," "pictB.small.gif" and "pictC.small.gif" are file names, not URLs or addresses of a server (a network location) at which content is accessible. DODOTS-2010, ¶263.

A POSITA understands that the file names above are not a network location from which content is accessible. *Id.* Yet, Shimada specifically decided to use a

file name and not a URL in its screen configuration data (the alleged NIM templates). Indeed, Shimada is completely silent regarding how it would use these file names to access content from a server. Shimada just says that content is being retrieved from a server. SAMSUNG-1008, 6:34-35, 42-44, DODOTS-2010, ¶263. A POSITA would not abandon the express teaching of Shimada, which uses file names, and replace it with a URL. DODOTS-2010, ¶263.

The Petition notes that Shimada describes a file name as an "address representing a static image." Petition, 83. A POSITA understands that "address" simply refers to a file name of a file that exists in the world, not the address of a network location – e.g., not the address of the server at which content is accessible.

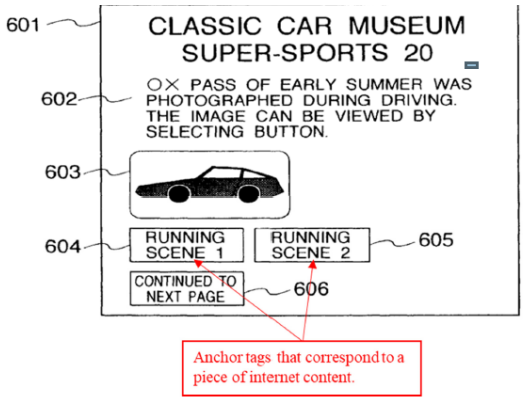
2. Shimada-Buchholz does not teach a NIM.

The Petition identifies Shimada's "screens" (*e.g.*, Figure 18) and "anchor tags" as the alleged NIM. Petition, 76-77.

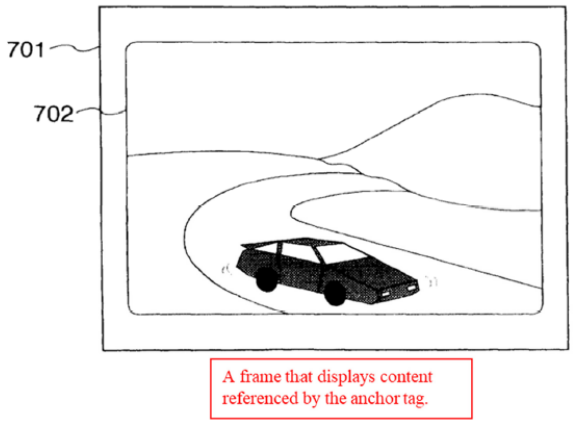
A POSITA would not understand that the screens of Shimada are fully configurable frames. As shown in the figures, Shimada's screens all have a similar and specific layout indicating that they are not fully configurable frames. DODOTS-2010, ¶265

Anchor tags are not fully configurable frames through which content is presented and, thus, are not NIMs. A POSITA understands that "through which

content is presented to the user" in the definition of NIM requires that content must be displayed within the fully configurable frame itself, not that a frame is merely used to display content outside the frame or on another page as Petitioner shows below. *Id.* DODOTS-2010, ¶266



SAMSUNG-1008, FIG. 6 (annotated)



SAMSUNG-1008, FIG. 7 (annotated)

(Excerpt from Petition, 64 (annotations by Petitioner))

As shown above in Petitioner's annotations, content is not presented within the anchor tags (shown in blue) nor do the anchor tags cause a frame with one or more controls to be rendered. Rather, the anchor tags results in buttons labelled "running scene" and "continue to next page" being displayed on a screen. DODOTS-2010, ¶266 Anchor tags also include the files names of pictures or the next HTML page to display upon clicking the button. The anchor tags are not fully configurable frame that include control(s). *Id.* The image (green) is just an image that appears after a "running scene" button is clicked; what is shown is not a fully

configurable frame or even a frame, nor are there controls within the frame. *Id.* Additionally, whereas each NIM must be instantiated by a separate NIM templates, the anchor tags are all part of the same alleged NIM template. *Id.*

Accordingly, Shimada and Buchholz, either separately or in combination, fail to teach the inventions claimed in the '545 patent. DODOTS-2010, ¶266.

E. Darnell in combination with Shimada and Buchholz does not render Claims 5, 8, and 12 of the '545 patent obvious.

Darnell is a commercial textbook entitled HTML 4 Unleashed. Darnell is a nearly thousand page book covering various aspects of HTML development. The Petition cites Darnell in combination with Shimada and Buchholz to allege that claims directed towards "parsing" (claim 5), " presenting the received the first content element at least in part within the image," (claim 8), and " causing the networked information monitor to communicate with another networked information monitor" (claim 12). Petition, 94-99, DODOTS-2010, ¶269

As a threshold matter, there would be no motivation to combine these references. Notably, Darnell is directed solely towards HTML development. Indeed, it bears repeating that Buchholz explicitly states that it does not use HTML, and Shimada's disclosures consist of fragments of HTML and do not in themselves constitute a valid HTML document. Thus, the teachings of Darnell are

wholly inapposite to Shimada and Buchholz. Thus, for this reason, claims 8 and 12 are not rendered obvious by this combination. DODOTS-2010, ¶270

Additionally, although Darnell is cited as part of the combination for Claim 5, the relevant arguments are actually from another patent, Petty. And Petty is actually discussing the parsing of an XML document, not HTML. As such, there is nothing in the disclosure that related to how one would parse to alleged templates of Shimada and Buchholz. For this reason, Darnell (which is actually Petty) in combination with Shimada and Buchholz would not render the claim obvious. DODOTS-2010, ¶271

F. Krishna in combination with Shimada and Buchholz does not render Claims 11 and 16-21 of the '545 patent obvious.

United States Patent No. 6,055,522 ("Krishna") discloses " A Page Builder software program that operates in connection with a dynamic content publishing program such as FutureTense Designer™. The Page Builder program accepts a dynamic content publication file as input and generates one or more hypertext markup language (HTML) pages for each navigable state of the dynamic content file." Samsung-1022, Abstract, DODOTS-2010, ¶272

The primary purpose of Krishna was to "provide a way for publishers to view the production of Web pages as a dynamic content process, while at the same time permitting users of browsers located at the client computers to have such

dynamic content functionality delivered to them without requiring embedded Viewer programs." *Id.* 3:10-25, DODOTS-2010, ¶273

The Petition relies on Krishna to argue that limitations directed towards "executing on the client computing device client parser" (claim 16) and "executing a client parser application that is separate from the networked information monitor template." Petition, 101-103, DODOTS-2010, ¶274

On this, there would be no reason to combine Krishna with Shimada and Buchholz. Notably, Krishna is concerned with the conversion of more complex webpages into HTML so that it could be read by an older and outdated browsers that were incapable of reading ActiveX or JavaScript. This is not what Shimada and Buchholz are directed towards As a result, the patents are wholly incompatible and a POSITA would neither have the motivation to combine or a reasonable expectation of success. DODOTS-2010, ¶275

Accordingly, because there would have been no motivation to combine, Krishna in combination with Shimada-Buchholz would not render Claims 11 and 16-21 of the '545 patent obvious.

VII. FURTHER DISCUSSION OF DEPENDENT CLAIMS

Claims 2-15 and 17-21 depend from Claims 1 and 16, respectively. Because the Petition fails to identify disclosure of the claim elements identified above, the

Petitioner fails to demonstrate that the references it cites, alone or in combination, render obvious dependent claims 2-15 and 17-21 for the same reasons set forth above with regard to the independent claims. DODOTS-2010, ¶276

VIII. SECONDARY CONSIDERATIONS FURTHER SUGGEST THE CLAIMS ARE NOT OBVIOUS.

The secondary considerations in this case powerfully demonstrate that the challenged claims were not obvious. *See generally,* DODOTS-2010, ¶¶277-312.

The Kembel brothers founded DoDots in 1999 with the explicit goal of disrupting and changing the paradigm of how Internet/web content was created by companies and delivered to users. The Standford graduates (with deep experiential design experience) realized that existing web browsers had significant limitations – they trapped content in monolithic documents and required users to navigate from site to site, one page at a time. DODOTS-2021, ¶3 (J. Kembel Dec.). Their novel Internet technology broke the model of page-based browsing and instead packaged interactive content in flexible forms that felt more like "apps". *Id.* Other companies were acutely aware of the problems presented by the web browsing model and took different approaches to overcoming them, including: developing portals, media channels, news streams, and pursuing the webification of operating systems. *Id.* ¶4. None (except DoDots) succeeded and their new, more app-centric, technology

was met by fanfare and accolades – and forever changed the direction of content communication on mobiles devices.

A. There is a nexus between the claimed invention and the secondary considerations.

The inventors addressed the problems identified above through the inventions claimed in the '545 patent. *Id.*, ¶23. DoDots provided companies with "Dots" (referred to as NIMs in the claims) to enable web content to be "packaged, branded, and distributed" to customers outside of a web browser. *Id.*, ¶24. These Dots were small windows which delivered information and interactive features regarding subject matter such as weather, games, and financial information. *Id.*, ¶25. These packages allowed companies to maintain their own branding and style rather than the formats used by conventional web browsing platforms. *Id.*, ¶26.

Id., ¶24 (citing DODOTS-2027 at DODOTS0025768)

The Dots could be generated so that its display was separate from other Dots, and multiple dots could be running at the same time. *Id.*, ¶25-28. Dots could also be configured, based on instructions in the Dot description, to include controls for a user to navigate through the applications as seen in the excerpt below:

DoDots Technical Overview

Dots Run On Personal Computers
Dots and DotPacks are actively displayed on your online customers' desktops and can be viewed while using any other application, eliminating the need for your customers to stop other work to access your Internet content. Any number of Dots or DotPacks can be open and running simultaneously, providing your customer with a rich Internet experience. Dots provide you with direct access to your customer and a persistent presence on their desktop.

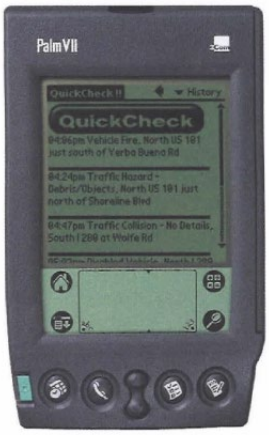
THE DOT ™ DEFINES THE PACKAGE FOR CONTENT AND APPLICATIONS
Dots™ are packaged pieces of branded Internet content and applications. The definition of a Dot is constructed of three primary elements, the Topbar, the Bottombar and the Web Control. Groups of Dots, called DotPacks™, can work together, using Dot messaging, to give users a full, application experience. Through the DevDot and Dot messaging developers have access to all the elements of Dots and DotPacks, which means they can create branded, smart packages targeted to specific customers.

(Id., ¶26; citing DODOTS-2027 at DODOTS0024868)

Additionally, the Dots could be configured through the Dot descriptions to present information on various displays of all sizes, as noted below:

New Distribution for New Devices
DoDots technology will allow you to distribute content and applications to a wide range of portable and other next-generation Internet access devices. With Dots, it's easy to scale and optimize your content and applications for delivery, display, and performance on any device.

Id., ¶30 (citing DODOTS-2027 at DoDots0025780). Importantly, this also allowed for Dots to be used/accessed on customer mobile devices as seen in the excerpt below:



Dots Go Mobile
The DoDots digital infrastructure allows you to automatically extend Dot-based content and applications to your customers' mobile devices, letting you reach your customers with relevant, branded content or applications anytime and anywhere. Our solution allows you to optimize content delivery for each device, while providing a seamless customer experience, on and off the desktop.

Wherever the Internet Goes, Dots Go
The DoDots extensible architecture will allow you to deliver Dot-based solutions to virtually any Internet-enabled device and is designed to accommodate the future innovations of the industry, our partners, and our developers. As the Internet moves off the desktop and as customer behavior evolves, our technology assures long-term viability for your content, applications, and services. Wherever the Internet goes, Dots will go.

Id., ¶36 (citing DODOTS-2027 at DoDots0025769). In view of this, that the DoDots technology met each and every element of claim 1 of the '545 patent, which is exemplary of the other claims. DODOTS-2010, ¶ 278-285

Notably, the DoDots technology was on a computer implemented method with a client device having (1) electronic storage that could store NIM Templates (2) an electronic display; and (3) one or more processors to instantiate the NIM

Templates. DoDots2010, ¶ 281. Additionally, the DoDots technology used NIM Templates, which were known as Dot Definitions *(*DoDots2010, ¶ 282). Those NIM Templates allowed the creation and instantiation of NIMs, known as Dots that were fully configurable frames (i*d.*), and the Dots Definitions included a content reference (*id.*), definitions of the graphical user interface for the NIM (*id.*) and instructions to obtain content from the network location (*id.*).

Furthermore, the DoDots Technology included the ability to transmit and receive from a server a NIM Template along with content for a NIM after instantiating the NIM Template. *(Id.,* ¶ 283*)* Thus, each and every element of claim 1 of the '545 patent. For similar reasons, all of the other claims were practiced by the DoDots technology. DoDots2010, ¶ 283-285

Because each claim element is present in the commercialized Dots, there is a concrete nexus to all the patent claims. DODOTS-2010, ¶278-285. The substantial impact this technology had on the direction of the industry should be considered when assessing the novelty of the inventions. *Id.*, ¶38; DODOTS-2010, ¶285.

B. Long-Felt Need

At the time of the invention, change was needed – and sought. DODOTS-2021, ¶2-4; DODOTS-2010, ¶286. The primary means of accessing internet content, a web browser, was not meeting the needs of consumers interacting with

Internet content. DODOTS-2021, ¶5. Web browsers and page-based web sites kept companies from engaging customers directly, content creators from developing more interactive experiences, and users from easily accessing the information and functionality they wanted from the burgeoning internet. *Id.* The ''083 patent specifically recognized that "internet content and web applications are designed to fill the entire web page" and "Users and application developers therefore have limited control over the presentation of internet content: content is typically trapped within the frame of the browser." *Id.*, ¶6 (citing DoDots2054, 2:5-35). The internet and web pages at the time of the invention were undesirable because:

a) content was one page at a time, with each page displayed serially in a browser window which took up most of a user's screen;

b) content was designed for delivery in the form of web pages and even when modularized, was reassembled into full web pages;

c) visually and architecturally, browser windows were not tailored to the content being displayed;

d) Internet content was trapped within the "frame" of the browser (viewer application) which limited how interactive content could be and what types of user experiences could be offered;

e) the pages had limited access to application functionality such as controlling the window and frame, the size of the frame, content branding, and application behavior such as size and menu items.

Id., ¶6 (citing SAMSUNG-1001, 2:60-3:29); DODOTS-2010, ¶287

These deficiencies of web browsers and web-page navigation were fully appreciated by industry experts as holding the internet back, frustrating consumers and creating tedium in user experiences. DODOTS-2021, ¶8 (citing DODOTS-2022) ("Tim Berners-Lee, the creator of the World Wide Web, thinks [the browser] stifles creativity. Jakob Nielsen, the reigning guru of Web usability, thinks [web browsers are] a disgrace. Bill Gates wishes it would just go away and become "part of the operating system."); *Id*., ¶11, 12 (citing DODOTS-2022) (people "hate[d] the browser because it turns the Web into nothing more than 'pages.'…It does little to help people exchange information… adapting software to the "page" makes for clunky design."); *Id.,* ¶13 (citing DODOTS-2024) ("There's too much happening, and accessing even the simplest stuff - a quickie stock quote or weather forecast - takes too long…Why must I be exposed to a full Web page each time I want to digest a slice of the material on display?"); *Id.*, ¶14-15 (citing DODOTS-2023) (it takes too many mouse clicks to get from one place to another; the arrangement of information sometimes makes no sense). *Id.*, ¶18 (citing DODOTS-2023); *see also* DODOTS-2021, ¶16-19; DODOTS-2010, ¶¶288-296 (blaming the browser for technological and experiential deficiencies).

Dots technology solved these problems and ushered in a sea change in the creation and presentation of internet content. DODOTS-2010, ¶297. Given the

tech-bubble financial crisis which hampered DoDots' financial viability, these needs were not fully met until others – like Apple and Samsung – adopted DoDot's technology years later. And, contrary to their positions now, these companies filed for and received hoards of patents related to the ecosystem that DoDots created. *Id.* citing DODOTS-2048-2053 (Apple and Samsung app and app store patents).

C. Industry Praise

The novelty of DoDot's inventions and their industry-shaping effect was reflected in the universal praise received for the inventions and products embodying them. A professor at Stanford University said that he was "More excited about the [Dots] concept than any I have seen since Netscape browser first gave us graphical access to the WWW. In fact, MORE excited. Their concept creates enormous leverage for anyone who multitasks on computer-based task in real-time business, as well as anyone who channel surfs!" DODOTS-2030, ¶15, (citing DODOTS-2031). Prominent investor Softbank noted that "DoDots has the potential to revolutionize the way people use the Internet", summarizing the novelty of the technology that "[u]nlike the full-screen document model of the Web which forces users to a single page at a time, DoDots enables online companies to engage users with a simultaneous collection of content, services, and Web applications." *Id.*, ¶16 (citing DODOTS-2032). Forbes also remarked that

"the ideas of DoDots, a Palo Alto startup, [were] interesting. The company unveiled the prototype of a platform that online companies can use to develop Internet applications that don't feel like Web pages but like handy virtual appliances." *Id.*, ¶17 (citing DODOTS-2022); DODOTS-2010, ¶¶299-309. Users of the technology also praised it. DODOTS-2031, ¶¶21-22 citing DODOTS-2035 (assorted customer statements).

D. Commercial Success

Because of its potential to revolutionize an industry, the initial success of the Dots product was rapid. At its peak, DoDots had 60+ customers. *See also* DODOTS-2010, ¶¶310-312; DODOTS-2030, ¶18-23, 25 (citing DODOTS-2033-2036, 2038). In 2000, a Business Wire article explained that "DoDots enables online companies to exploit the multibillion-dollar opportunity that exists 'outside the browser' with a whole new approach for Internet content. DoDots technology delivers the benefits of consumer packaging and distribution to the Internet, enabling online companies to fully brand and appropriately package their content so it can be instantly distributed and shared between users." DODOTS-2030, ¶18 (citing DODOTS-2033). One customer, 2Roam, noted that "DoDots technology is a killer application for wireless devices as it supports the information needs of the on-the-go mobile professional and, like 2Roam, enables users to maintain a

constant state with their wireless content or application, insuring the optimal user experience. We look forward to working closely with DoDots to help reach millions of wireless users." *Id.*, ¶24, (citing DODOTS-2037).

E. Awards and Citations

DoDots received awards and peer-recognition for its novel developments. For example, at the preeminent invitation-only Demo conferences for tech start-ups at the turn of the century, DoDots twice received a "DemoGod" award-- an award selected by start-up investors, experts in the fields, and competitors who thought that the Dots product was among the best of the best. DODOTS-2030, ¶26-27 and ¶31 (citing Ex. 2041). The conference guides for the Demo conferences noted that the "[i]nternet is a vast source for information, yet most people connect to one site at a time. DoDots is an innovative way to connect to multiple sites allowing anyone to track fast changing information and other forms of internet content" and that "DoDots extensible software architecture is a rare find in today's world. It increases the power and capabilities of handheld computers and other small form factor internet devices. And what makes DoDots more remarkable is that it uses a tool to extend web presence to new emerging form factors. *Id.*, ¶26-30 (citing DODOTS-2039-2040); *see also* DODOTS-2030, ¶31 (citing Ex. 2041).

The DoDots inventions thus satisfied long-felt needs in the industry by providing an elegant solution to the limitations of web browsing, received industry

praise, adoption, and awards for its novel Dot products, and exhibited immediate and rapid success through the adoption of its technology by over 60 companies. DODOTS-2010, ¶¶306-307. DoDots innovations, in real world ways, thus provided solutions that allowed content creators and users to break free of the traditional web browsers of the time. DODOTS-2030, ¶¶44-45. The technology cited in the prior art by Samsung – which clung to those outdated browsers and webpages – cannot render DoDots claimed inventions invalid. Even after DoDot's proved the value of its novel technology in the early 2000s, it would be many years before Samsung (or Apple) would grasp on to the concepts that they now denigrate as "obvious."

IX. CONCLUSION

For all of these reasons, the Board should reject Petitioners' arguments and uphold the validity of the challenged claims of the '545 patent.

Dated: February 21, 2024

Respectfully submitted,

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CERTIFICATE OF WORD COUNT

The undersigned hereby certifies that the portions of the above-captioned PATENT OWNER'S RESPONSE TO PETITION FOR *INTER PARTES* REVIEW OF UNITED STATES PATENT NO. 8,020,545 specified in 37 C.F.R. § 42.24 has _____ words in compliance with the 14,000 word limit set forth in 37 C.F.R. § 42.24. This word count was prepared using automated count of typed words using Microsoft Word for Office 365.

Dated: February 21, 2024

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing PATENT OWNER'S RESPONSE TO PETITION FOR *INTER PARTES* REVIEW OF UNITED STATES PATENT NO. 8,020,545 was served electronically via email on February 21, 2024, on the following counsel of record for Petitioner:

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