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 IPR2023-00701
Patent 8,510,407 B1

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

TABLE OF CONTENTS

I. INTRODUCTION 1

II. A POSITA WOULD HAVE COMBINED BROWN AND WECKER 1

III. BROWN AND BROWN-WECKER RENDER THE CLAIMS OBVIOUS .5

A. Brown and Brown-Wecker render obvious a NIM template.....5

1. Brown's HTML instructions include control characteristics.....5

2. Brown's HTML instructions are data structures.....9

B. Brown's desktop components render obvious a NIM, and have fully configurable frames 11

C. Brown's URLs are instructions for the transmission and reception of content over a network from a web server.....14

1. DoDots admits that XML is internet content, and CDF files are coded in XML 14

2. Patent Owner ignores other examples of content references in Brown 16

D. Brown and Wecker render claims 1-4, 7-16, and 19-24 obvious.....18

E. The combination of Brown and Beer, and Brown, Wecker, and Beer renders Claims 5-6 and 17-18 obvious 21

IV. A POSITA WOULD HAVE COMBINED SHIMADA AND BUCHHOLZ 23

A. The combination of Shimada-Buchholz does not rely on the "expanding device" 24

B. DoDots' alleged disparity between "HTML" templates and templates "similar" to HTML is unsupported on the record.....24

V. SHIMADA-BUCHHOLZ RENDERS THE CLAIMS OBVIOUS 25

A. Shimada-Buchholz renders obvious a NIM template.....25

1. Shimada's screen configuration data includes view characteristics 25

2. Shimada's screen configuration data includes control characteristics 26

3. Shimada's HTML is a "data structure," for the same reasons described above for Brown 28

4. Shimada's URLs are instructions for the transmission and reception of content over a network from a web server.....29

B. Shimada-Buchholz renders obvious a NIM.....29

C. Shimada-Buchholz renders obvious the dependent claims of the '407 Patent....30

VI. THERE ARE NO SECONDARY CONSIDERATIONS THAT SUPPORT PATENTABILITY....30

A. DoDots Fails to Establish Nexus....31

B. DoDots' Alleged Secondary Considerations Fail to Outweigh the Strong Evidence of Obviousness....32

VII. CONCLUSION....36

EXHIBIT LIST

SAMSUNG-1001 U.S. Patent No. 8,510,407 to Kembel, et al. ("the '407 Patent")

SAMSUNG-1002 Excerpts from the Prosecution History of the '407 Patent ("the Prosecution History")

SAMSUNG-1003 Declaration of Dr. Douglas C. Schmidt

SAMSUNG-1004 Curriculum Vitae of Dr. Douglas C. Schmidt

SAMSUNG-1005 U.S. Patent No. 6,278,448 B1 ("Brown")

SAMSUNG-1006 U.S. Patent No. 6,449,638 B1 ("Wecker")

SAMSUNG-1007 U.S. Patent No. 5,793,368 ("Beer")

SAMSUNG-1008 U.S. Patent No. 6,789,263 B1 ("Shimada")

SAMSUNG-1009 U.S. Patent No. 6,088,340 ("Buchholz")

SAMSUNG-1010 U.S. Patent No. 6,819,345 B1 ("Jones")

SAMSUNG-1011 *HTML 4 Unleashed* ("Darnell")

SAMSUNG-1012 IPR2019-01279 Final Written Decision

SAMSUNG-1013 U.S. Patent No. 6,342,907 B1 ("Petty")

SAMSUNG-1014 *Lenovo Holding Company, Inc. v. DoDots Licensing Solutions LLC*, No. 2021-1247, 2021 WL 5822248 (Dec. 8, 2021).

SAMSUNG-1015 U.S. Patent No. 6,311,058 B1 ("Wecker 2")

SAMSUNG-1016 U.S. Patent No. 5,737,560 ("Yohanan")

SAMSUNG-1017 CNET News, "PointCast unveils free news service," https://web.archive.org/web/20110616130215/http://news.cnet.com/PointCast-unveils-free-news-service/2100-1023_3-204658.html, last accessed Feb. 16, 2023

SAMSUNG-1018 Declaration of June Ann Munford

SAMSUNG-1019 *DoDots Licensing Solutions LLC v. Samsung Electronics Co., Ltd. et al.*, 6:22-cv-00535, W.D. Tex., filed May 24, 2022

SAMSUNG-1020 U.S. Patent No. 6,094,681 ("Shaffer")

SAMSUNG-1021 RESERVED

SAMSUNG-1022 U.S. Patent No. 6,185,614 B1 ("Cuomo")

SAMSUNG-1023 RESERVED

SAMSUNG-1024 Joint Claim Construction Statement, 6:22-cv-00535, W.D. Tex., filed May 15, 2023

SAMSUNG-1025 IPR2019-01279, Paper 40 (CAFC Decision)

SAMSUNG-1026 Email from Board dated November 15, 2023 authorizing Petitioner to file a Motion to Submit Supplemental Information

SAMSUNG-1027 Declaration of Michael Ballanco in Support of Pro Hac Vice Admission

SAMSUNG-1028 U.S. Patent No. 6,216,141 ("Straub")

SAMSUNG-1029 Declaration and Curriculum Vitae of Dr. Philip Greenspun

SAMSUNG-1030 Transcript of the deposition of Dr. Ted Selker

SAMSUNG-1031 Transcript of the deposition of John Kembel

SAMSUNG-1032 Transcript of the deposition of George Kembel

SAMSUNG-1033 Official Version PDF, "The Honorable Dr. Douglas C. Schmidt Director, Operational Test and Evaluation Office of the Secretary of Defense," https://www.dote.osd.mil/Portals/97/docs/bios/Schmidt_DOTE_BIO20240416.pdf?ver=gulFoMGyakgLeDTya8Wklw%3d%3d, last accessed May 25, 2024

SAMSUNG-1034 Microsoft's Computer Dictionary, 4th Edition

SAMSUNG-1035 *Inside Dynamic HTML*

SAMSUNG-1036	U.S. Patent No. 6,539,387 ("Oren")
SAMSUNG-1037	U.S. Patent No. 6,243,700 ("Zellweger")
SAMSUNG-1038	U.S. Patent No. 6,144,962 ("Weinberg")
SAMSUNG-1039	XHTML™ 1.0: The Extensible HyperText Markup Language, https://www.w3.org/TR/1999/PR-xhtml1-19991210/
SAMSUNG-1040	U.S. Patent No. 9,438,467 ("The '467 Patent")
SAMSUNG-1041	U.S. Patent No. 8,510,406 ("The '406 Patent")
SAMSUNG-1042	U.S. Patent No. 8,020,083 to Kembel, et al. ("the '083 Patent")
SAMSUNG-1043	Hypertext Markup Language - 2.0, https://datatracker.ietf.org/doc/html/rfc1866
SAMSUNG-1044	Declaration of Rakesh Ramde (in-house counsel of DoDots) submitted in IPR2019-01278
SAMSUNG-1045	Transcript of Deposition of Rakesh Ramde (in-house counsel of DoDots) conducted in IPR2019-01278

I. INTRODUCTION

Arguments advanced by Patent Owner ("DoDots") lack merit.

II. A POSITA WOULD HAVE COMBINED BROWN AND WECKER

Brown-Wecker is a straightforward combination of two Microsoft patents that are both directed to improving delivery of Internet content to user devices. As Drs. Schmidt and Greenspun explain, a POSITA would have considered their disclosures together and turn to Wecker for implementation techniques that would have been beneficial to Brown.[1] SAMSUNG-1003, ¶¶35-42; SAMSUNG-1029, ¶46.

In fact, because Brown's disclosure is so similar to the '407 patent, the combination relies on just two basic techniques that were well-known and part of a POSITA's general knowledge: (1) storing a template in memory and (2) requesting a template from a remote computer. Wecker clearly discloses these concepts and, when Brown's disclosure is viewed in the context of Wecker, it would have been

[1] After the POR, for which DoDots chose not to depose Dr. Schmidt, he was sworn in as Director, Operational Test and Evaluation—an advisor to the Secretary of Defense. SAMSUNG-1030. As such, Samsung has retained a new expert, Dr. Philip Greenspun, to provide additional testimony in support of this Petitioner's Reply.

obvious to implement Brown's templates using these two basic techniques. SAMSUNG-1003, ¶¶35-42; SAMSUNG-1029, ¶46.

Brown uses templates to build "a composite desktop…from Web content retrieved from one or more Web sites," and Wecker uses templates to produce "a mobile channel" that is "a self describing web site that contains all the information necessary for efficient download of web content." Petition, 9-13. Brown's templates are similar to Wecker's because they each define the visual appearance of data on a screen. Petition, 10-12; SAMSUNG-1006, 2:8-36, 3:17-20. Understanding these similarities, a POSITA would have been motivated to apply Wecker's techniques of downloading template files stored on remote devices (e.g., as part of a channel) to Brown's templates and would have used the downloaded templates as part of Brown's composite desktop. Petition, 13-16. In this way, a user of Brown's composite desktop would achieve the benefits of using remotely stored HTML templates via a model similar to Wecker's mobile channel subscription model. Petition, 13-16; SAMSUNG-1003, ¶¶35-42; SAMSUNG-1029, ¶46. Benefits of remotely managing templates and making them available for download were well-known and would have led a POSITA to implement these techniques in Brown, particularly because Brown already suggests local storage and remote download of its templates. Petition, 14; SAMSUNG-1005, 4:16-21, 4:49-52, 5:45-47. Indeed, the benefits described by Wecker for managing its

templates remotely and separately from Internet content would have motivated a POSITA to apply these techniques to Brown's templates. Petition, 16; SAMSUNG-1006, 4:53-62, 10:41-56. And a POSITA would have understood and found it obvious that these techniques could be applied to various types of templates, including Brown's, and would not have needed to change Brown's templates simply to have them available for download. SAMSUNG-1029, ¶¶46-47.

DoDots attacks a strawman, wrongly describing the complexity of the combination and assuming bodily incorporation of Wecker's specific templates and content delivery process. But that is not the law, and a POSITA would have been able to readily apply the well-known techniques of template storage and remote template management to Brown's templates and desktop components. *Allied Erecting & Dismantling Co. v. Genesis Attachments, LLC*, 825 F.3d 1373, 1381 (Fed. Cir. 2016); *In re Mouttet*, 686 F.3d 1322, 1332 (Fed. Cir. 2012); *In re Etter*, 756 F.2d 852, 859 (Fed. Cir. 1985) (*en banc*). As detailed in the Petition and further explained below, a POSITA would have been motivated to make the Brown-Wecker combination. *Id.*; SAMSUNG-1003, ¶¶35-42.

Specifically, DoDots exaggerates the complexity of the combination of Brown and Wecker by erroneously alleging that the combination recites additional modifications, namely "us[ing] Wecker's more complex method [of script

templates] with Brown's personal computers." POR, 18. But the Petition never alleged that Brown's HTML desktop components must be transformed into script templates. Petition, 13-19. Rather, the required modification to Brown's HTML desktop components is that these components would have been downloaded and stored—something that DoDots' expert Selker admits is "absolutely" possible. Petition, 13-19; SAMSUNG-1030,[2] 91:4-6; SAMSUNG-1003, ¶¶35-42; SAMSUNG-1029, ¶48.

Additionally, DoDots alleges that "style templates" are exclusive to HTML. POR, 19. That is, DoDots argues "style templates" (or "style sheets") were not terms of art commonly used to describe HTML/XML templates. *Id*. This is simply not true, as evidenced by (1) multiple corroborating references in the Petition and (2) Selker, when asked about a "style template," readily confirming its relationship to HTML. Petition, 20, 35, 53, 58-60; SAMSUNG-1011, 202-220, 412; SAMSUNG-1030, 57:22-58:35; SAMSUNG-1035, 16-20; SAMSUNG-1039; SAMSUNG-1003, ¶¶48; SAMSUNG-1029, ¶49.

[2] Deposition testimony of Selker is equally applicable to the '083/'407/'545 Patents unless otherwise noted. SAMSUNG-1030, 66:18-22, 68:24-69:15, 133:10-21.

Finally, DoDots alleges that the differing operating systems (OS) disclosed by Brown/Wecker mean that they are "incompatible." POR, 19. First, a POSITA would naturally implement the combination in the most capable OS available (e.g., Windows 98), making DoDots' arguments against a particular OS moot. SAMSUNG-1029, ¶50. Indeed, Petitioner has never alleged that a particular OS is required. Petition, 13. Second, "both Brown and Wecker describe the Windows 95 OS as a suitable OS that can implement their techniques." Petition, 15; SAMSUNG-1005, 6:26-32; SAMSUNG-1006, 1:39-44, 8:15-21. Because Wecker uses its techniques for a desktop computer, DoDots arguments that a POSITA would not have considered Wecker for non-mobile implementations falls flat. Petition, 13-14; SAMSUNG-1006, 3:58-4:13, 6:45-7:26. Finally, Microsoft had already implemented "channels," as described by Wecker, on a Windows 95 OS. SAMSUNG-1028, 11:60-12:6, FIG. 9; SAMSUNG-1006, 9:38-48; SAMSUNG-1029, ¶¶50-52.

III. BROWN AND BROWN-WECKER RENDER THE CLAIMS OBVIOUS

A. Brown and Brown-Wecker render obvious a NIM template

1. Brown's HTML instructions include control characteristics

DoDots alleges that "a control characteristic is a characteristic of a control itself," "located 'in a [] control space' within a frame," and that these characteristics must be completely defined within the NIM template. POR, 26-34.

However, there is no disavowal or redefinition of the plain and ordinary meaning of the term "characteristic" in the '407 patent that would support such a narrow interpretation. POR, 26-34. Rather, a POSITA would have understood that "control characteristics" would include any data in the NIM template that dictate the existence/nature/functionality/appearance of a control. SAMSUNG-1029, ¶53.

The construction of "NIM template" does not limit the feature of a "control" with its use of the word "characteristic"—it broadens it by simply requiring definition of "control characteristics" of the NIM. Petition, 4-5. Additionally, the '407 patent makes clear that NIM templates can include "control calls" (the invoking of control functionality defined outside of the template). SAMSUNG-1001, 29:33-36. From this disclosure, a POSITA would understand that a control need not be fully defined within the NIM template. SAMSUNG-1003, ¶¶28-29; SAMSUNG-1029, ¶54.

Under its narrow interpretation, DoDots alleges that Brown's "resizable" characteristic is a "frame characteristic," not a "control characteristic." POR, 26-30. DoDots attempts to support its flawed argument by referring to a ***different*** DoDots patent (DODOTS-2015, 36:12-15, FIG. 28B)[3] while ignoring conflicting

[3] Although this patent supports the idea that "resizable" is an example "frame characteristic," it does not state that "resizable" cannot also be a "control

disclosure within the '407 patent, which clearly describes "resize" as a control. SAMSUNG-1001, 17:37-39 ("a control button…to resize"). Because Brown's "resizable" characteristic defines a resize control, it aligns precisely with the '407 patent's description of control characteristics. SAMSUNG-1029, ¶55. In contrast, the '407 patent does not describe "resizable" as being "a frame characteristic." SAMSUNG-1001, 7:11-13, 17:37-39; FIG. 28B. Thus, a POSITA would have understood Brown's "resizable" characteristic to be a "control characteristic" of its desktop components. SAMSUNG-1029, ¶55.

Other controls defined within Brown's HTML instructions are also control characteristics. Petition, 23-26; SAMSUNG-1005, 2:41-43, 4:20-24, 10:34-39, 13:22-29, 13:33-34, FIG. 3A. For example, the '407 patent describes "imbedded ActiveX…applications." SAMSUNG-1001, 4:63-66, 17:2-5, 23:58-62. Brown describes the use of Active-X controls in the same manner as the '407 Patent, which describes a nearly identical example to what is depicted in Brown. SAMSUNG-1001, 23:65-2, 26:55-59; SAMSUNG-1005, 2:41-43, 4:20-24, 10:34-39, 13:22-29, 13:33-34, FIG. 3A; Petition, 23-26, 42-43. Indeed, the '407 patent describes a "Web Conduit" control which is the rendering portion of the frame.

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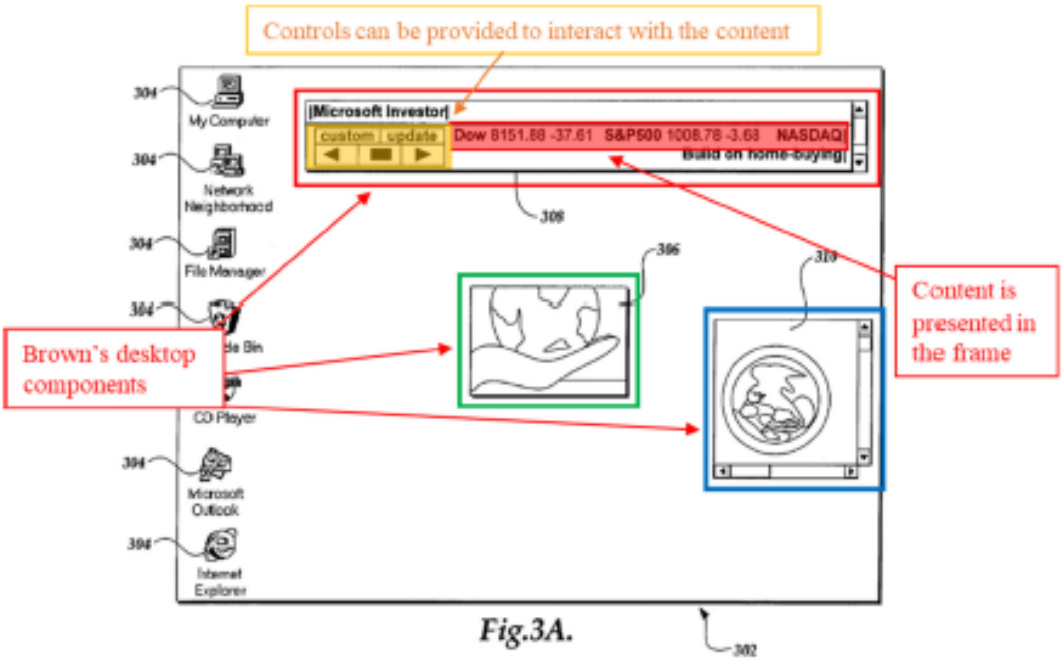
characteristic" of a NIM, for example, changing the size of the control area by resizing the NIM. DODOTS-2015, 36:12-15, FIG. 28B.

SAMSUNG-1001, 35:38-43, 36:35. Brown's HTML instructions clearly define the rendering portion of the frame and Brown's Active-X controls aligns directly with the '407 patent's Web Conduit. SAMSUNG-1029, ¶56.



SAMSUNG-1005, FIG. 3A (color added).

Finally, characteristics of the scroll bar controls in Brown's desktop components are defined by Brown's HTML instructions. Petition, 42-43; SAMSUNG-1005, 7:49-65, 9:13-27, 11:43-12:43, 13:22-44. As Dr. Greenspun explains, whether these controls are present and the size of the scroll element are defined by the frame size specified in Brown's HTML instructions. SAMSUNG-1029, ¶57. Although the characteristics of these controls are indirectly defined by frame size, the '407 patent does not exclude that type of indirect definition. SAMSUNG-1001, 22:35-40 (describing "a fixed height and width ***that is a***

function of the NIM's width"). Because characteristics of Brown's scroll bars are functions of a frame's width and height, Brown's definition of the frame size in its HTML instructions defines control characteristics in a manner similar to the '407 patent. SAMSUNG-1029, ¶57.

2. <u>Brown's HTML instructions are data structures</u>

DoDots alleges that HTML is not a data structure. POR, 34-37. This position cannot be reconciled with the '407 patent, which (1) depicts HTML as an example NIM format, and (2) offers no disavowal or redefinition of "data structure." SAMSUNG-1001, 6:25-27, 21:32-35, FIG. 29A; SAMSUNG-1029, ¶58.

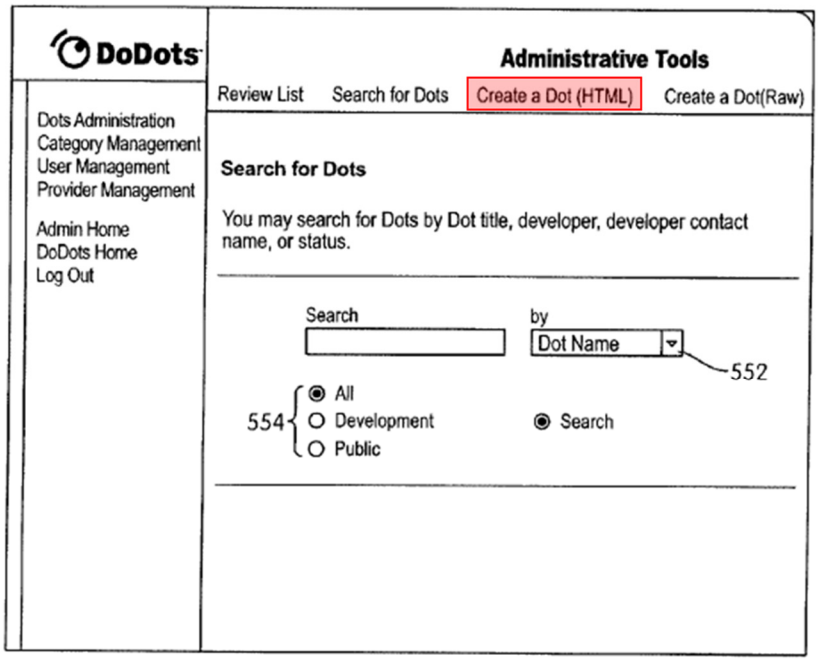


FIG. 29A

SAMSUNG-1001, FIG. 29A (annotated).

Additionally, DoDots' own exhibits corroborate that HTML is a data structure. DODOTS-2017, 5, 11, 13, 17; DODOTS-2025, 2; DODOTS-2033, 42. Finally, a POSITA would have understood that HTML is an example of a data structure as HTML documents are structured and include data.[4] SAMSUNG-1029, ¶59.

> George and John Kembel, twin brothers and graduates of the same Stanford University product design program, founded Sunnyvale start-up DoDots Inc. to give Web sites better packaging.
>
> In their analogy, surfing the Web is like trolling the supermarket aisles for lettuce, croutons and dressing. They aim to combine everything into a single bag of mixed salad.
>
> The dot icons they offer are like those bags, serving up bite-size applications written with the widely used HTML code. Companies use the dots to package their content and services, and then send them out to users as miniature versions of their Web pages.

DODOTS-2025, 2 (annotated).

Brown's HTML instructions are "data structures," at least because (1) DoDots has availed themselves of HTML as a suitable NIM template format, and (2) a POSITA would understand that "data structure" is a genus term that encompasses many different types of data formats, to include the HTML

[4] DoDots' own exhibit frequently mentions "HTML data," and repeatedly uses the word "structure" in relation to this HTML data. DODOTS-2017, 5, 11, 13, 17.

Document Object Model—a hierarchical structure. Petition, 24; SAMSUNG-1001, FIG. 29A; SAMSUNG-1030, 83:19-84:18; DODOTS-2025, 2; DODOTS-2033, 42; SAMSUNG-1003, ¶¶55, 110; SAMSUNG-1029, ¶¶60-61; SAMSUNG-1034; SAMSUNG-1035, 3, 82-92; SAMSUNG-1036, Cover, 1:15-40, 3:54-4:6; SAMSUNG-1037, Cover, 2:47-56, 3:14-28, 4:32-41; SAMSUNG-1038, Cover, 2:27-48, 6:52-65, 12:17-39; SAMSUNG-1043, 20.

B. Brown's desktop components render obvious a NIM, and have fully configurable frames

DoDots alleges that none of the desktop components of Brown include "a fully configurable frame" because the "frame shape and content [cannot] be wholly defined by the Dot developer." POR, 37-41; SAMSUNG-1029, ¶62.

In support of this argument, DoDots cites to several areas of the '407 patent, none of which specify that a NIM frame ***must*** include a configurable control defined by a "developer." SAMSUNG-1001, 5:21-28; 17:15-26; 17:32-43; 17:62-65. At best, these passages suggest that NIMs "may" include controls that are specifically designed by a developer, but that such a feature is not a requirement. SAMSUNG-1001, 5:21-28, 17:15-26, 17:62-65. Additionally, none of these passages are directly tied to what it means to be a "fully configurable frame," much less offer a definition of "fully configurable frame" or disavow coverage of NIMs where the frame shape and content is not wholly defined by the Dot developer. *Id*. In fact, DoDots' exhibits provide examples of NIMs that do not include a

configurable control added by a developer. SAMSUNG-1001, Appendix A, 3 (depicting "zero or more <CONTROL> tags"); DODOTS-2021, 15, citing DODOTS-2028, Technical Overview at 1. SAMSUNG-1029, ¶63.

<MENU>

Contains zero or more <ITEM> tags.

<ITEM>

TITLE= "string"

TOOLTIP="string"

ICON="URL"

ID=" string"

Must be unique.

<ACTION>

RECIPIENT="address"

MESSAGE="string"

<CONTROL_LAYOUT>

Contains zero or more <CONTROL> tags.

WIDTH= "integer"

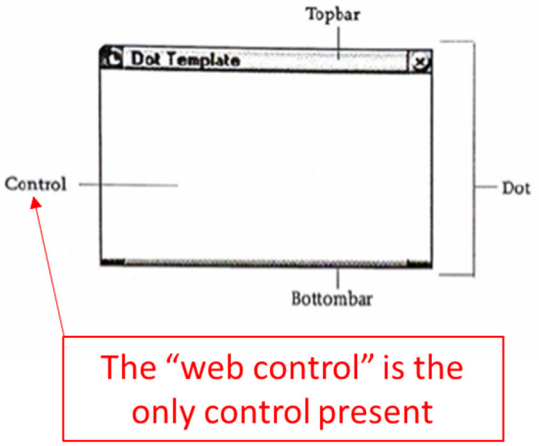
Divides control space into this many evenly spaced columns. Default is 1.

SAMSUNG-1001, Appendix A, 3.

DoDots Technical Overview

THE DOT™ DEFINES THE PACKAGE FOR CONTENT AND APPLICATIONS

Dots™ are packaged pieces of branded Internet content and applications. The Dot descriptions are 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, and can create branded, smart packages targeted to specific customers.



The "web control" is the only control present

DODOTS-2021, 15, citing DODOTS-2028, Technical Overview at 1.

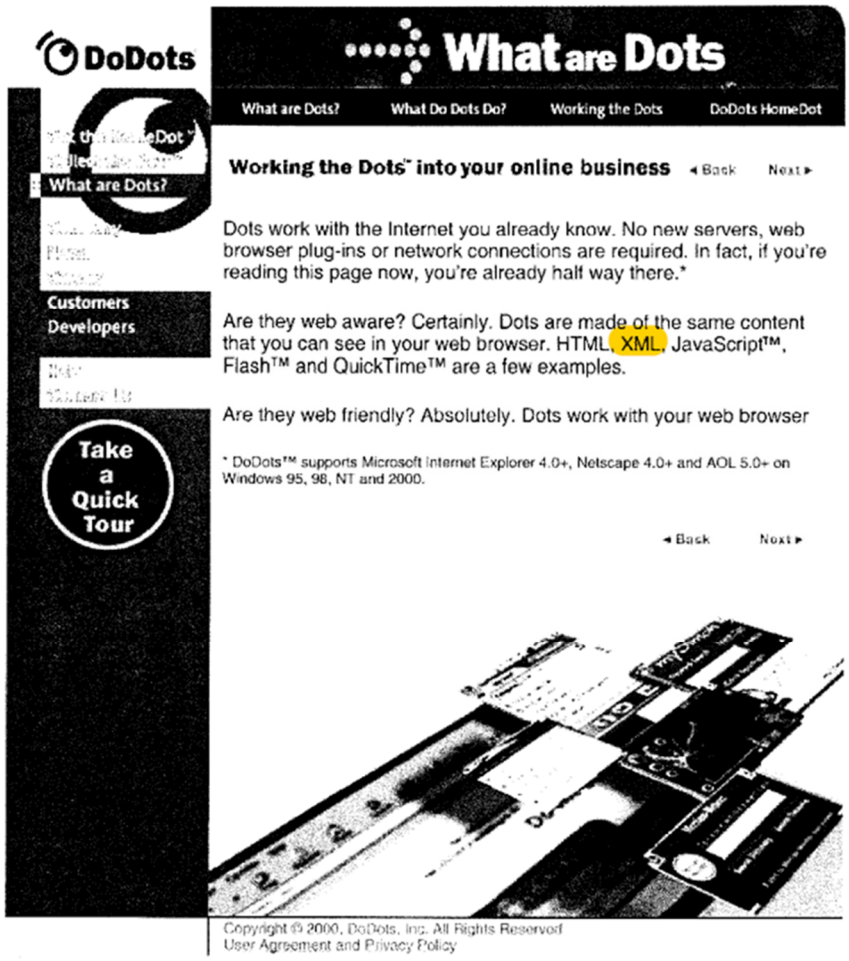
DoDots construction of NIM merely requires "a fully configurable frame, with one or more controls." Petition, 3-4. As explained in the Petition, Brown places no restriction on the frames of its desktop components and, thus, Brown discloses fully configurable frames. Petition, 21-23. Moreover, Brown does not place any restrictions on the HTML included in its desktop components and, without restrictions, a POSITA would have understood that standard controls defined by HTML are available for addition in Brown's desktop components. SAMSUNG-1005, 7:9-47; 8:10-16; 10:9-15; 12:44-13:21; SAMSUNG-1029, ¶64.

C. Brown's URLs are instructions for the transmission and reception of content over a network from a web server

DoDots alleges that Brown's "CDF subscription" is not "internet content," and therefore, not "a network location of content," and that the URL of the CDF subscription is not a "transmission, over a network to a web server at a network location, of a content request for content to be displayed within the frame of the viewer graphical user interface defined by the networked information monitor template" and "reception, over the network from the web server at the network location, of content transmitted from the web server in response to the content request, the content being time-varying." POR, 41-43; SAMSUNG-1029, ¶65.

1. DoDots admits that XML is internet content, and CDF files are coded in XML

Selker's testimony confirms that XML is "internet content." SAMSUNG-1030, 107:19-25. Moreover, DoDots' own exhibits corroborate that XML was understood to be internet "content" around the time of the critical date. DODOTS-2033, 12; SAMSUNG-1029, ¶66.



DODOTS-2033, 12.

CDF is based on XML, as corroborated by Wecker. SAMSUNG-1006, 10:57-60. DoDots does not explain why an XML file, in the context of CDF, is ***not*** internet content. POR, 41-43. The claim simply requires "a content request for content to be displayed within the frame of the viewer graphical user interface" and "reception…of content transmitted from the web server in response to the content request." *Id*. Brown's CDF file is certainly for Brown's desktop component GUI and, as discussed above, is content. DoDots' assertion that CDF

files themselves cannot be internet content is at odds with their own evidence. POR, 41-42; SAMSUNG-1030, 107:19-25, 110:21-111:23 (Selker admitting that he was not aware CDF files were written in XML); SAMSUNG-1006, 10:57-60; Petition, 38. DoDots' argument about Brown's content being "time-varying" are entirely based upon the faulty assumption that XML CDF files are not "content." POR, 43; SAMSUNG-1029, ¶¶67-68.

```
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.

Petition, 38 (annotated).

2. <u>Patent Owner ignores other examples of content references in Brown</u>

Although Brown's CDF subscription was relied upon in the Petition as an illustrative example, the Petition clearly articulates that: (1) according to Dr. Schmidt, "a POSITA would have understood that a Uniform Resource Locator ('URL') [is a] 'network location,'" and that content is available at these network locations, and (2) Brown depicts multiple desktop components, each with its own content reference. Petition, 42-43; SAMSUNG-1003, ¶¶23, 52-53, 64-67. DoDots offers no explanation of why the other desktop components of Brown, as presented

in the Petition, do not also include content references (e.g., http://www.uspto.gov/). POR, 41-43. Indeed, even Selker recognizes that Brown's FIG. 3A displays "three kinds of active desktop items" where "content is retrieved from a URL." SAMSUNG-1030, 126:5-127:19, 130:17-21; SAMSUNG-1029, ¶69.

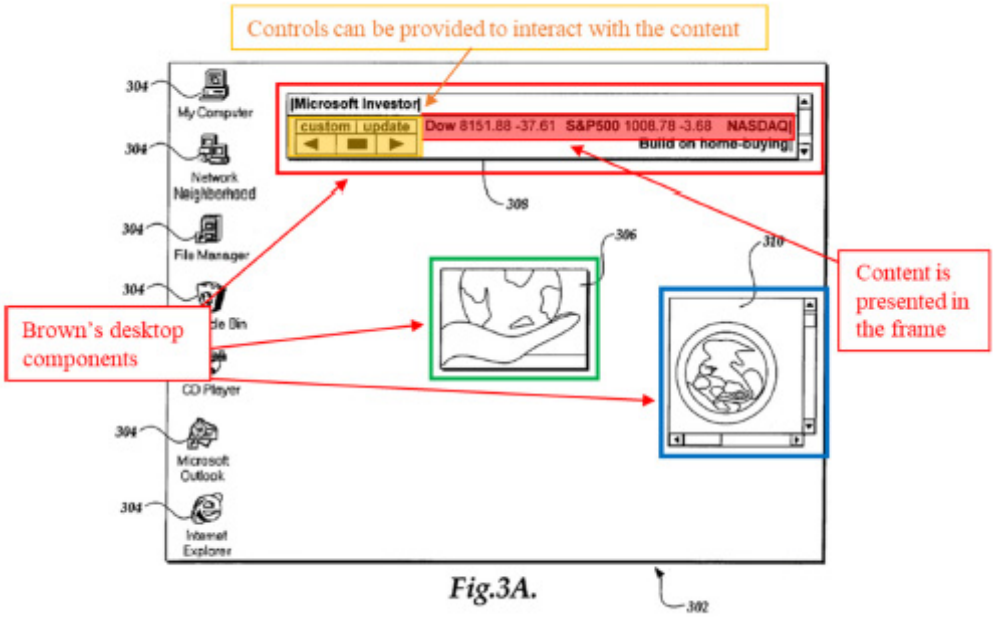
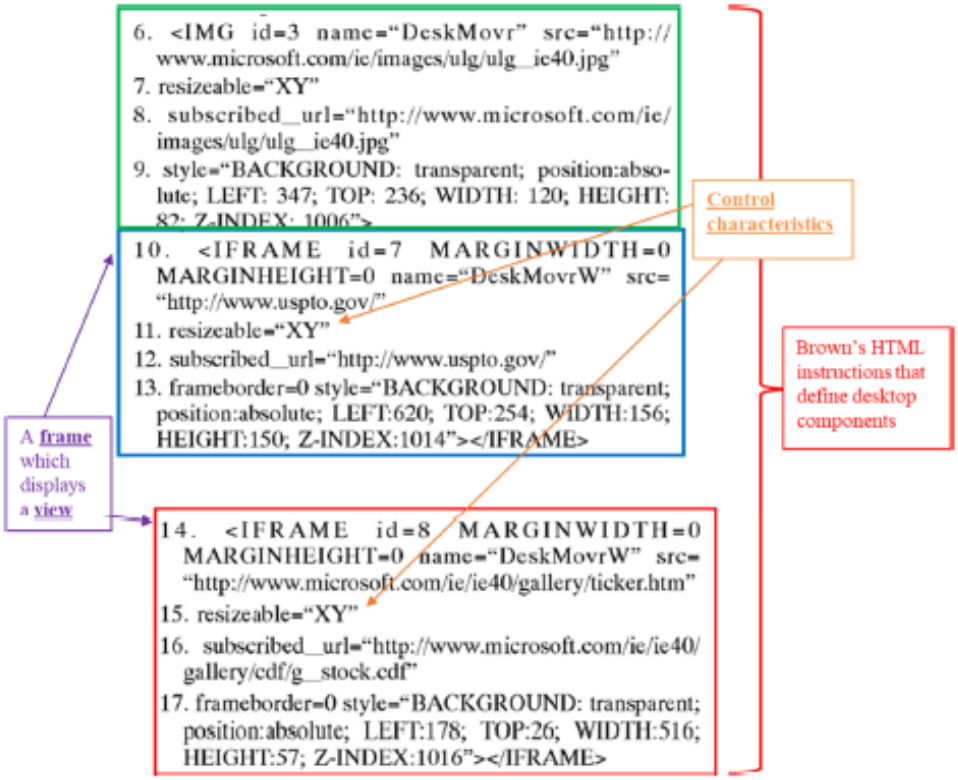


Fig.3A.

Petition, 23.



Petition, 26.

D. Brown and Wecker render claims 1-4, 7-16, and 19-24 obvious

For claim 1, DoDots argues that Wecker does not teach "electronic storage having stored thereon a plurality of networked information monitor templates," and that "Petitioner appears to imply that Wecker's script/default templates are NIM templates" and "the Petition fails to discuss Wecker's templates having all of the claimed features of a NIM template." POR, 43-45; SAMSUNG-1029, ¶70.

The Petition never alleges that Wecker's "scripts" are NIM templates and makes clear that HTML instructions for Brown's desktop components are the claimed NIM template, and that "a user could download desktop components, and

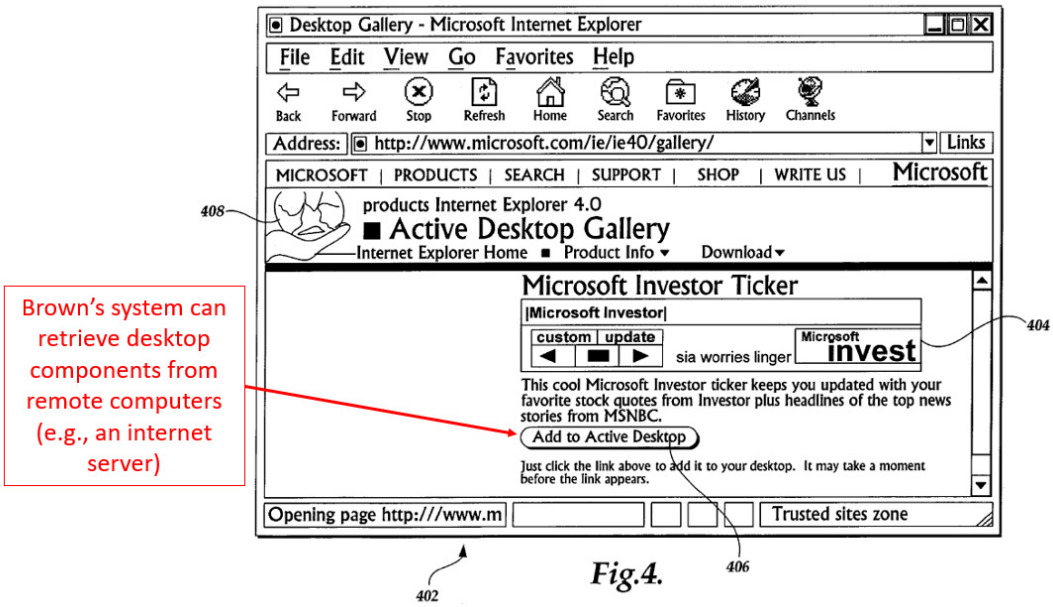
their associated HTML instructions, to their composite desktop," similar to Wecker's teachings of its script templates. POR, 43-45; Petition, 12-16, 31. Accordingly, DoDots arguments are moot as they are premised on the above faulty assumption. POR, 43-45; SAMSUNG-1029, ¶71.

DoDots then argues that "Wecker storing script templates in 'cache memory' does not teach a POSITA anything about where or how to store Brown's alleged NIM templates." POR, 44-45. DoDots provides no evidence why storing HTML templates in a cache is beyond the general knowledge and skill of a POSITA, and Selker provides no supporting testimony (but acknowledged that storing HTML is "absolutely" possible). POR, 44-45; DODOTS-2010, ¶170; SAMSUNG-1030, 91:4-6; SAMSUNG-1029, ¶72.

For claims 12 and 24, DoDots argues that "[n]othing in Dr. Schmidt's opinion or the Petition describes a server that receives a request for a NIM template and transmits a NIM template in response to this request" because "an HTML file is not a NIM template." POR, 45. This circular argument depends entirely on DoDots' arguments above and fails with them. *See supra*, §III.A. The Petition makes clear that "the users of desktop 16 can preferably subscribe to channels"—sending a "user request" for a template that defines the channel's content (via a "subscription"), and that Brown and Wecker both disclose

"download[ing] digital information from 'server' computers." Petition, 13, 37, 52-53; SAMSUNG-1003, ¶¶35-42; SAMSUNG-1029, ¶73.

DoDots also argues that "Brown fails to disclose any details on what is transmitted to Brown's computer when a user requests the alleged NIM template." POR, 45. Brown makes clear in its disclosure, as cited in the Petition, that desktop components can be retrieved from "remote computers," which, as noted in the Petition, supports its combination with Wecker. Petition, 15-16; SAMSUNG-1005, FIG. 4; SAMSUNG-1003, ¶¶35-42; SAMSUNG-1029, ¶74.



SAMSUNG-1005, FIG. 4.

DoDots also argues that "Wecker does not resolve" this alleged deficiency of Brown because (1) "[t]he petition fails to provide any evidence that Wecker's scripts, data, and CDF files are transmitted based in response to a user request," (2)

"neither the Petition nor Wecker explain the contents of the scripts, data, or CDF files," and (3) "the scripts, CDF files, script templates, and default templates are not NIM templates." POR, 46. All of these arguments fail because, as explained above, the Petition never alleges that Wecker's "scripts" are NIM templates and makes clear that HTML instructions for Brown's desktop components are the claimed NIM template. POR, 43-45; Petition, 12-16, 31; SAMSUNG-1003, ¶¶35-42. Moreover, contrary to what is alleged by DoDots, Wecker discloses that "the users of desktop 16 can preferably subscribe to channels in a standard fashion which provide the user with certain channel content." POR, 43-45; Petition, 12-16 (emphasis added). SAMSUNG-1029, ¶75.

E. The combination of Brown and Beer, and Brown, Wecker, and Beer renders Claims 5-6 and 17-18 obvious

DoDots' arguments for these claims are entirely based on the combination of Brown, Wecker, and Beer. POR, 46-48. DoDots first argues that "there would be no motivation to combine" because "Beer is concerned with obtaining user interface templates, which is not the same as internet content." POR, 46-47; SAMSUNG-1029, ¶76.

First, it assumes that references must have the exact same purpose to be combined. POR, 46-47. This is not what is required for obviousness. Petition, 59-62 ("the application of known techniques (e.g., Beer's PGUI parser) to a known structure (e.g., Brown's client computer) to yield predictable results"); *KSR Int'l*

Co. v. Teleflex Inc., 550 U.S. 398, 417 (2007). DoDots fails to explain what is not "predictable" about the combination. POR, 46-47; Petition, 59-62; SAMSUNG-1003, ¶¶138-144; SAMSUNG-1029, ¶77.

Second, contrary to DoDots' argument (which is improper), Beer describes that its PGUI "displays the user interface rendered in the specified style for response to events and for display of content." SAMSUNG-1007, 2:33-35, 14:11-22; Petition, 58-59. Accordingly, even if DoDots' misguided requirement for obviousness was applied, the references would still be combinable. POR, 46-47; SAMSUNG-1003, ¶145; SAMSUNG-1029, ¶78.

DoDots then argues that "Beer's UIL is a custom language related to a user interface, while HTML is markup language" which are "fundamentally different." POR, 47. However, Beer discloses that "[t]he UIL user interface description is preferably a text file in a format similar to various text-markup languages, such as HTML." SAMSUNG-1007, 3:42-44 (emphasis added). DoDots provides no explanation of why a format that is similar to HTML is "fundamentally different" than HTML itself. POR, 47; *see also infra* §IV.B; SAMSUNG-1029, ¶79.

Finally, DoDots argues "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 a computer desktop" and "there would be no reason to implement Beer, because there were no issues arising from appearance [*sic*]

created by different operative [*sic*] systems." POR, 48. DoDots appears to be alleging that Beer's disclosure that different OS "present a problem for employers who may have widely disparate types of computer systems" would dissuade a POSITA from implementing Beer's techniques on a personal computer, and that a user would have no need to display multiple OS styles. *Id*. This argument overlooks that (1) Beer specifically mentions its techniques can be practiced on "personal computers," and (2) Beer does not describe multiple OS operating on the same computer, but rather implementing a style of an OS on a computer not running that OS ("a Windows95 style for applications running under the UNIX operating system"). SAMSUNG-1007, 1:15-40, 3:16-33; SAMSUNG-1003, ¶¶138-139; SAMSUNG-1029, ¶80.

IV. A POSITA WOULD HAVE COMBINED SHIMADA AND BUCHHOLZ

The Petition explained how the combination of Shimada and Buchholz would involve "implementing the 'screen configuration data' of Shimada into the 'subscriber units' of Buchholz." Petition, 68-69. As detailed in the Petition and explained below, a POSITA would have been motivated to make such a combination. *Id*.; SAMSUNG-1003, ¶¶157-161; SAMSUNG-1029, ¶81.

A. The combination of Shimada-Buchholz does not rely on the "expanding device"

DoDots presents multiple arguments that Buchholz does not have an expanding device positioned between the server and client. POR, 56-63; SAMSUNG-1029, ¶82.

DoDots appears to reverse the roles of the two references. POR, 56-63. It appears DoDots argues that Petitioner relies on the structure of Shimada to implement the techniques of Buchholz, when in fact, it is the opposite. Petition, 62; SAMSUNG-1003, ¶¶157-161. Shimada's techniques ("screen configuration data") are implemented in the structure of Buchholz's system ("subscriber units"). *Id*. Shimada's "expanding device" is not part of the combination. *Id*. Indeed, as described in the Petition, Buchholz's subscriber units are already configured to store, parse, and display collections of HTML-like templates. Petition, 70-71, 80-81; SAMSUNG-1029, ¶83.

B. DoDots' alleged disparity between "HTML" templates and templates "similar" to HTML is unsupported on the record

DoDots alleges that Buchholz, when discussing something "similar" to HTML, proposes "some custom variant of HTML for a mobile device" that would be incompatible with HTML techniques. POR, 57-58. The POR does not elaborate on what this "custom variant" could be, and neither does Selker's testimony. POR, 57-58; DODOTS-2010, ¶238. As DoDots admits, "Buchholz is

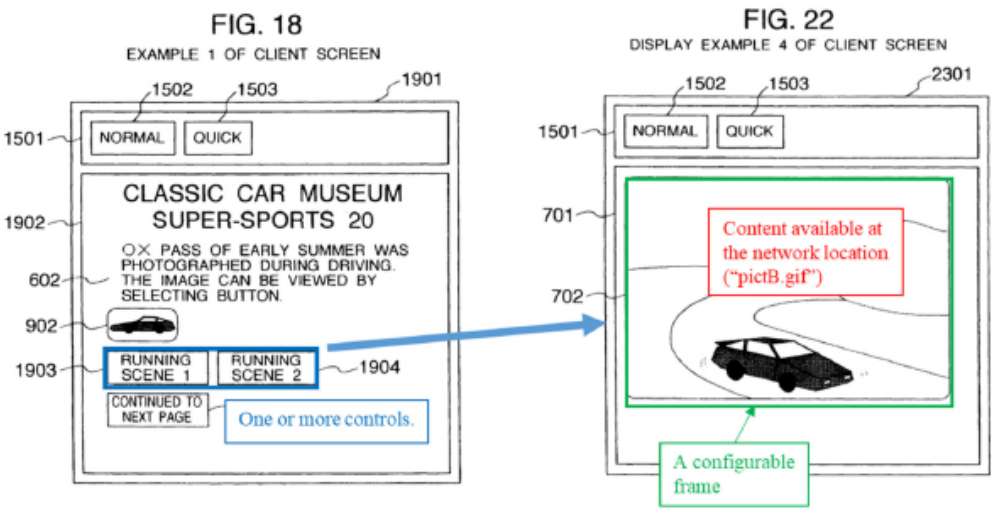
completely silent regarding any details of its templates." POR, 60. DoDots' conclusion that Buchholz is using "some custom variant of HTML" is unfounded. POR, 57-58; DODOTS-2010, ¶238; SAMSUNG-1029, ¶84.

V. SHIMADA-BUCHHOLZ RENDERS THE CLAIMS OBVIOUS

A. Shimada-Buchholz renders obvious a NIM template

1. Shimada's screen configuration data includes view characteristics

DoDots argues that "[t]he Petition provides no discussion of what a view characteristic means to a POSITA." POR, 63. However, as can be seen from Shimada's figures, the frame of screen configuration data bounds a "view." Petition, 76-77. DoDots appears to be arguing that "view characteristics" takes on special meaning in the '407 patent. POR, 63-65. However, details of "view characteristics" do not appear in the '407 patent, which simply describes that the content of a NIM may be "view[ed]" in a "viewer." SAMSUNG-1001, 11:28-38, 16:65-17:1, 20:33-36. Accordingly, Shimada-Buchholz satisfies this feature simply because its content can be observed ("viewed") based on the characteristics defined in its templates. *Id.*; Petition, 76-77; SAMSUNG-1003, ¶¶169-171; SAMSUNG-1029, ¶85.



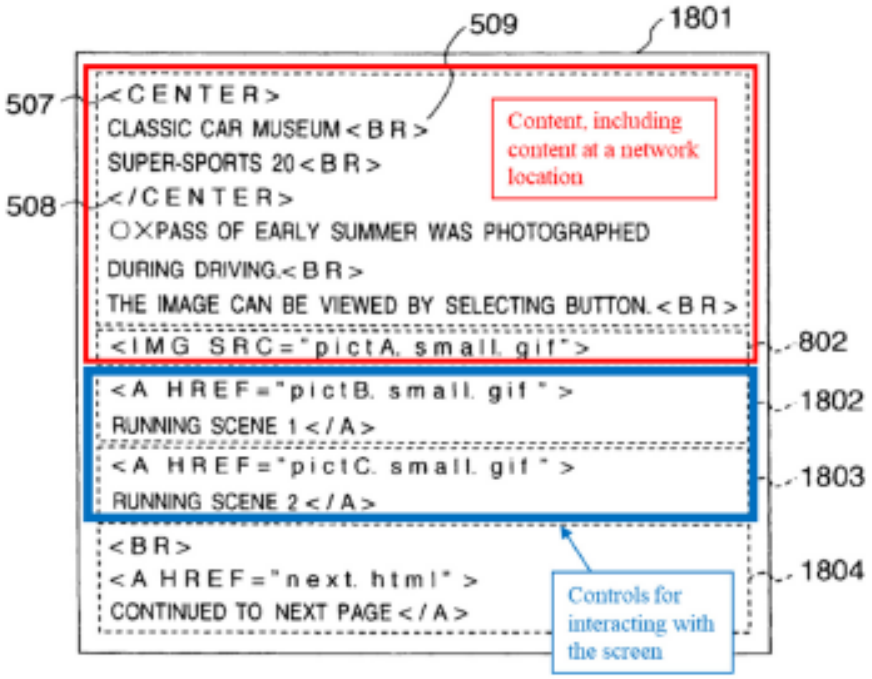
SAMSUNG-1008, FIGS. 18 and 22 (annotated).

2. <u>Shimada's screen configuration data includes control characteristics</u>

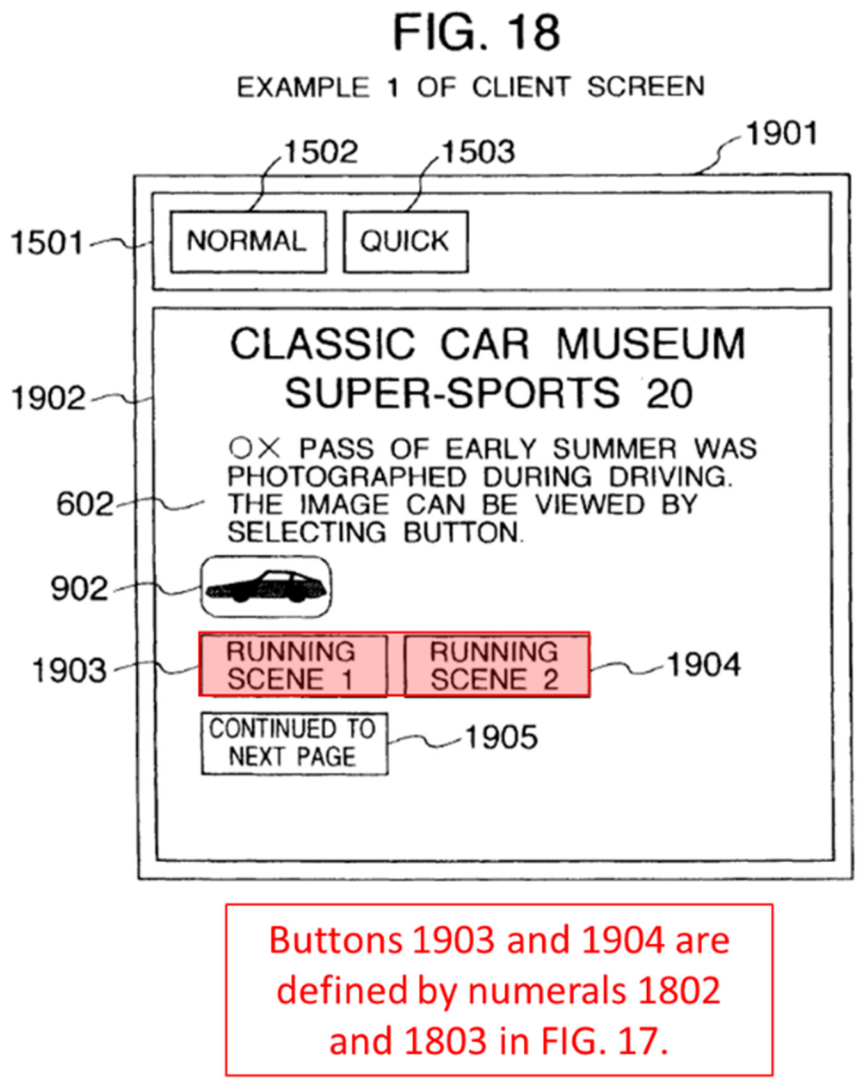
DoDots alleges that "[t]he Petition does not identify anything in the Shimada/Buchholz specifications/figures as being a 'control' characteristic," yet the POR cites the controls the Petition identified. POR, 65-66. DoDots appears to argue that the Petition allegedly does not identify the "characteristic" of these controls. POR, 66. The distinction DoDots makes is insignificant and does not change the fact that Shimada's screen configuration data includes controls that are presented to a user (manifesting "characteristics"). POR, 65-66; Petition, 73-74; SAMSUNG-1003, ¶¶165-168; SAMSUNG-1029, ¶86.

FIG. 17

EXAMPLE OF CONVERTED SCREEN CONFIGURATION DATA (QUICK MODE)



SAMSUNG-1008, FIG. 17 (annotated).



SAMSUNG-1008, FIG. 18 (annotated).

3. <u>Shimada's HTML is a "data structure," for the same reasons described above for Brown</u>

DoDots alleges that "HTML (and certainly fragments of HTML) are not data structures for the reasons set forth above with regard to Brown." POR, 67-68. This argument is flawed for the same reasons discussed above. *See supra*, §III.A.2; SAMSUNG-1029, ¶87.

4. Shimada's URLs are instructions for the transmission and reception of content over a network from a web server

DoDots argues that Shimada-Buchholz does not render obvious "transmission…of a content request for content…" and "reception…of content…in response to the content request, the content being time-varying" because "Shimada does not disclose any URLs in the screen configuration data," but rather "file names." POR, 69-71; SAMSUNG-1029, ¶88.

This argument in the POR simply repackages DoDots unsuccessful pre-institution argument. As noted by the Board,, "[t]his argument does not address…Dr. Schmidt's testimony that Shimada's network could be the Internet or that the URL requests content over a network to a web server at a network location. Institution Decision, 46-47; Petition, 68-69, 86, 96–98; SAMSUNG-1003 ¶¶ 22, 157, 162, 184, 207–209; SAMSUNG-1029, ¶89. Contrary to what DoDots alleges, a POSITA would not need to "abandon the express teaching of Shimada." *Id*.

B. Shimada-Buchholz renders obvious a NIM

DoDots argues that Shimada's screen configuration data is not "fully configurable" because "Shimada's screens all have a similar and specific layout" and that this "indicat[es] that they are not fully configurable frames." POR, 71-72. This is a circular argument with no supporting analysis, and Selker's testimony simply parrots the POR. POR, 71-72; DODOTS-2010, ¶280. Also, as discussed

above, DoDots' implicit construction of this feature requiring that a developer "wholly define" the frame should be rejected. *See supra*, §III.B; SAMSUNG-1029, ¶90.

C. Shimada-Buchholz renders obvious the dependent claims of the '407 Patent

DoDots arguments for the dependent claims of the '407 Patent in the Shimada-Buchholz ground depend entirely on their flawed arguments for the independent claim. POR. 73; *see supra* §§V.A-B; SAMSUNG-1029, ¶91.

VI. THERE ARE NO SECONDARY CONSIDERATIONS THAT SUPPORT PATENTABILITY

DoDots' attempt to put forward secondary considerations evidence to salvage the claims of the '407 patent fails because DoDots does not establish a nexus between any of the purported secondary considerations evidence and the claims. *Ormco Cor v. Align Techs*., 463 F.3d 1299, 1311–12 (Fed. Cir. 2006). DoDots does not even attempt to tie its secondary considerations evidence to the claims of the '407 patent and, instead, relies on a presumption of nexus.

But to prove a presumption of nexus to a product, DoDots must show that the asserted secondary considerations evidence is tied to a specific product and that product embodies the claimed features, and ***is coextensive with them***. *Polaris Indus., Inc. v. Arctic Cat, Inc*., 882 F.3d 1056, 1072 (Fed. Cir. 2018). DoDots misses these requirements and fails to carry its burden.

A. DoDots Fails to Establish Nexus

DoDots' analysis on nexus is essentially limited to a single conclusory sentence: "Because each claim element is present in the commercialized Dots, there is a concrete nexus to all the patent claims." POR, 76. Selker provided a similar conclusory analysis in reiterating that "all of the claim elements for the [challenged patent] are found in the DoDots technology." SAMSUNG-1030, 133:4-21. Having all claimed features in a product, however, is insufficient to establish a presumption of nexus. The law requires coextensiveness.

DoDots ignores this requirement. Indeed, DoDots failed to even consider unclaimed features in the DoDots technology/product in evaluating nexus, thereby unequivocally rebutting its allegations of nexus. *Demaco Corp. v. F. Von Langsdorff Licensing Ltd*., 851 F.2d 1387, 1392 (Fed. Cir. 1988).

In fact, John and George Kembel, the co-founders/inventors of DoDots, testified about various unclaimed features of DoDots technology that were critical to its alleged success. For example, John Kembel attributed the alleged success of DoDots to the "Dot infrastructure," where such infrastructure included critical, unclaimed elements called "Home Dot," "Dot sharing," and "DevDot," to name a few examples. SAMSUNG-1031, 19:6-20:5, 28:16-32:11, 49:12-51:18. As he repeatedly acknowledged, an unclaimed "Home Dot" was "***needed***" to "Dot-enable" a computer prior to practicing the alleged invention. *Id*., 28:16-32:11. He

further testified that the DevDot supported "a whole developer ecosystem," which was a key to DoDots' alleged success. *Id*., 58:2-17. None of these features appear in any of the claims of the '407 patent. Rather, these allegedly critical elements of DoDots technology appear to be claimed in *other* patents assigned to DoDots, including U.S. 9,438,467 (SAMSUNG-1040) and U.S. 8,510,306 (SAMSUNG-1041). *See, e.g.*, SAMSUNG-1037, Claim 1; SAMSUNG-1038, Claim 16. Selker confirmed he did not review these or any other DoDots patents in his nexus analysis, despite confirming that such an analysis would have been necessary to establish coextensiveness. DODOTS-2010, 292-293; SAMSUNG-1030, 134:13-18.

George Kembel pointed to the "visual design of the Dots" as "one ingredient of many ingredients of why [DoDots] was successful." SAMSUNG-1032; 39:12-40:25. He further acknowledged that the DoDots technology was encompassed by patents beyond the three asserted in the instant IPR proceedings, thus further casting doubt on any alleged nexus between the DoDots product and the invention claimed in the '407 patent. *Id.*, 44:16-45:20.

B. DoDots' Alleged Secondary Considerations Fail to Outweigh the Strong Evidence of Obviousness

In its POR, DoDots entire case for secondary considerations relies on the testimony and cherry-picked exhibits provided by two interested witnesses—co-

founders/inventors John and George Kembel. POR, 80-88; DODOTS-2021; DODOTS-2030.

DoDot's sole "independent" expert Selker based his entire secondary considerations analysis on declarations provided by the co-founder/inventor duo. DODOTS-2010, 292; SAMSUNG-1030, 134:13-18. But when pressed during deposition for related testimony based on his own personal knowledge, Selker painted a very different picture of the actual circumstances surrounding DoDots.

For instance, regarding long-felt need and praise, Selker praised Microsoft, not DoDots, acknowledging that "[t]here was something very special about" the browser eliminating technology described by Brown and pursued by Microsoft, whose "goal was to kill browsers." SAMSUNG-1030, 115:17-116:7. With regard to praise and commercial success, Selker acknowledged during deposition that he had never even heard of DoDots before starting work on this case. *See* SAMSUNG-1030, 62:19-25.

Beyond Selker's admissions, the evidence does not support DoDots' contentions. As to long-felt need, DoDots cites just three articles. DODOTS-2022-2024. But each of these articles was published in 2000—after the Critical Date—and each discusses DoDots. Evidence that comes ***after*** the Critical Date and references the alleged invention does not demonstrate a ***long-felt*** need for the invention and failure by others. In fact, DoDots' evidence suggests

prior/contemporaneous recognition of the same problem by other companies (including Microsoft) that solved the problem at least as well as DoDots. DODOTS-2023, 1-5 ("Amaze Ltd.," "Xerox," "Inxight Software," "Microsoft's 3-D effort, TaskGallery," "Unext.com," "The-Brain," "ZigZag"); DODOTS-2024, 1 ("Several start-ups - DoDots, iWare, NetSanity, Snippets.com and Winfire among them"). That supports obviousness. And the fact that Apple and Samsung "received hordes of [apps and app store] patents" suggests that Apple and Samsung invented apps, not DoDots. POR, 85 (citing DODOTS-2048-2053). There was no long-felt need for anything invented by DoDots.

As to industry praise, DoDots leads with evidence from a "Stanford" professor that served on the Kembel's "board of advisors," as well as praise offered by Softbank ***after*** Softbank agreed to fund DoDots. DODOTS-2031, 1; DODOTS-2032, 1. It is hardly surprising that DoDots would be praised by its own "board of advisors" and its investor. This is not industry praise; it is praise by DoDots itself. DoDots also ignores criticism offered by others. DODOTS-2023, 5 ("But big sites present a tough challenge for seamless navigation."); DODOTS-2024, 3 ("Relatively few partners so far. Can't create Dots for your own sites."); DODOTS-2026, 2 ("The main weakness of DoDots is that you can only get the Dots from a limited number of sites the company has signed up....")

As to commercial success, DoDots "must be armed with evidence of market share, growth in market share, and replacement of prior sales by others." *Brand Mgmt, Inc. v. Menard, Inc.*, No. 97-1329, 1998 WL 15241 at *11 (Fed. Cir. 1998). But DoDots offers no evidence of market share, much less any sales. This is not surprising, as DoDots attempted to demonstrate commercial success in a prior IPR and was soundly rebutted. As established in that proceeding, DoDots had "no revenue," but was instead operating with monthly net losses of over $1.1 million. SAMSUNG-1045, 43:17-45:16; 46:20-47:5; 48:13-49:6; DODOTS-2043, 3; SAMSUNG-1044, Exhibit C (below).

DoDots, Inc

Income statement
Month of March 2000

	actual	forecast	variance	
	$'000	$'000	$'000	%
Revenue	-	1	(1)	-100%
Cost of revenue	-	-	-	n/a
Gross profit	-	1	(1)	-100%
Operating expenses:				
Product development	(602)	(402)	(200)	50%
Sales and marketing	(268)	(439)	171	-39%
General and administrative	(226)	(269)	43	-16%
Total operating expenses	(1,097)	(1,110)	13	-1%
Operating loss	(1,097)	(1,109)	12	-1%
Interest income	1	8	(7)	-88%
Interest expense	(23)	(46)	23	-50%
Net loss	(1,119)	(1,147)	28	-2%

In contrast to its large expenditures, DoDots "product" was offered to customers in beta-form "free of charge." SAMSUNG-1045, 20:13-25; 21:7-22. Although DoDots alleges that it raised $18.5M ($17M completely uncorroborated and supported only by interested investor testimony), there is no evidence of any

revenue and only evidence of that funding being quickly depleted with failed attempts to enhance it. DODOTS-2030, 33-43. A limited amount of funding with a series of alleged investment offers that all ultimately failed is not commercial success, it is failure. Tellingly, when asked during deposition whether DoDots was ever profitable, George Kembel—the ***CEO and co-founder*** of DoDots—refused to provide an answer. SAMSUNG-1032, 50:5-53:9.

For at least the reasons above, DoDots has failed to carry its burden to prove secondary considerations tied to the ’407 patent claims outweigh Petitioner’s strong evidence of obviousness. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007).

VII. CONCLUSION

For the foregoing reasons, Petitioner requests that the Board issue a Final Written Decision canceling the Challenged Claims of the ’407 patent.

Respectfully submitted,

Dated: May 31, 2024

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CERTIFICATION UNDER 37 CFR § 42.24

Under the provisions of 37 CFR § 42.24(d), the undersigned hereby certifies that the word count for the foregoing Petitioner's Reply to Patent Owner's Response totals 5,599 words, which is less than the 5,600 allowed under 37 CFR § 42.24(c)(1).

Dated: May 31, 2024

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e), the undersigned certifies that on May 31, 2024, a complete and entire copy of this Petitioner's Reply to Patent Owner's Response and accompanying exhibits were provided by email, to the Patent Owner, by serving the correspondence addresses of record as follows:

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