

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONOS, INC.,
Petitioner

v.

GOOGLE LLC,
Patent Owner.

IPR2023-00806
Patent 11,050,615 B2

Record of Oral Hearing
Held: August 5, 2024

Before KEVIN F. TURNER, BARRY L. GROSSMAN, and SCOTT E.
RAEVSKY, *Administrative Patent Judges*.

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The above-entitled matter came on for hearing Monday, August 5, 2024, commencing at 1:00 p.m. EST, at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia/via Video-conference.

P-R-O-C-E-E-D-I-N-G-S

1:02 p.m.

USHER: Good morning, ladies and gentlemen. We are now going on record with IPR No. 2023-00806. Judge Turner, it's in your hands.

JUDGE TURNER: Thank you, Tarlise. Good morning, or afternoon. This is an oral hearing for IPR 2023-00806 involving US Patent 11,050,615 B2. I am Judge Turner and I'm joined by Judges Grossman and Raevsky. For the benefit of the judges and opposing counsel, as well as the court reporter, please identify yourself when you begin your argument and speak clearly into your microphones. Please do not speak when others are speaking, such as the judges. We have the entire record, including demonstratives.

When referring to demonstratives, papers or exhibits, please do so clearly and explicitly by slide or paper number. Also please pause for a second after identifying it to provide the time to find it. This helps in the preparation of an accurate transcript of the hearing. Please also bear in mind that the purpose of an oral hearing is to present your case based on the arguments and evidence of record. You may not introduce new evidence or arguments during the oral hearing. I note that there do not appear to be objections to the demonstratives from either side.

Please note that we do not permit standing objections to be raised by opposing parties during their arguments. If an advocate believes that new evidence or arguments are being raised, he or she may make that known to the panel during their principal argument or principal rebuttal argument. Please note that because Patent Owner has a LEAP participant, Patent Owner will have one hour of argument time and Petitioner will have 45

1 minutes of total argument time. Petitioner and Patent Owner may reserve
2 time for rebuttal. Petitioner will go first and present its case.

3 Thereafter, Patent Owner will argue its opposition to Petitioner's case.
4 Then if there's any rebuttal from Petitioner, we will hear it after Patent
5 Owner's opposition, and finally we will hear from Patent Owner's rebuttal,
6 if requested. Please note that I will seek clarification from Patent Owner's
7 counsel as to whether there is any clarification required from the LEAP
8 participant's arguments at the close of Patent Owner's arguments. I will
9 endeavor to provide each party with a five-minute warning to reduce (audio
10 cuts out) opening arguments and two-minute warning during rebuttal.

11 Once I've given you that your time is up, please finish your arguments
12 and end at that time. Please also note that arguments raised during rebuttal
13 or surrebuttal must be in response to the arguments made by the opposing
14 party. Neither period should be used to initiate new arguments. With that
15 introduction out of the way, let's get to the parties' appearances. May I find
16 out who is appearing for Petitioner on their behalf?

17 MR. HERMAN: This is Patrick Herman from Orrick Herrington &
18 Sutcliffe, here on behalf of Petitioner SONOS.

19 JUDGE TURNER: Thank you, Mr. Herman. Do you know how
20 much and any time you'd like to reserve for rebuttal?

21 MR. HERMAN: I'll say 10 minutes for rebuttal.

22 JUDGE TURNER: Okay, you won't be bound on that. You're
23 welcome to go over, but it's good to have. And with respect to Patent
24 Owner, who is representing Patent Owner, may I ask?

1 MR. AGGARWAL: Hello Judge. My name is Umber Aggarwal. I'm
2 representing Patent Owner, and I have Cory Bell with me in the room and
3 Erika Arner on video.

4 JUDGE TURNER: And do you know how much time, if any, you'd
5 like to reserve for surrebuttal?

6 MR. AGGARWAL: Ten minutes, as well.

7 JUDGE TURNER: And before we begin, are there any questions that
8 either side would like to raise or have any issue with respect to
9 communication or other issues? I'll begin with Petitioner?

10 MR. HERMAN: No, Your Honor.

11 JUDGE TURNER: And Patent Owner's counsel?

12 MR. AGGARWAL: No.

13 JUDGE TURNER: Petitioner, you may begin when you're ready.
14 Thank you very much.

15 MR. HERMAN: Good afternoon, Your Honors. We're here today to
16 talk about the '615 patent, and I'm going to start with Slide 2 of Petitioner's
17 demonstratives. I'll begin by providing a general overview of the '615
18 patent. Most of this is not actually in dispute. The parties do not disagree
19 about the scope of the patent's independent claims, and there is no dispute
20 that what those independent claims require is taught by the prior art. The
21 parties' dispute is limited to just one dependent claim limitation. This
22 overview of the patent and the brief overview of the prior art that I'll do
23 afterwards is simply meant to provide some context for this.

24 So what's the '615 patent's purported contribution? It teaches a
25 technique for commissioning a device onto an existing wireless local area
26 network. In an example, a network hub creating such a wireless network is

1 circled in red in Figure 3 from the patent on the slide. How is the ‘615
2 patent’s technique different from the prior art? Rather than requiring manual
3 entry of network credentials or some complicated button-pushing as shown
4 in yellow highlighting, the patent transmits packets containing the required
5 credentials from a device already on the network, the blue smart wireless
6 device, to the new device, the green target device.

7 The patent also explains that commissioning data can be transmitted
8 using a side band instead of the wireless network itself. This means that a
9 different transmission medium like near field communication or Bluetooth is
10 used instead of the wireless network to send along that network
11 configuration data. So moving on to Slide 3, this slide reproduces
12 Independent Claim 1. As shown, the claim is directed to a method for
13 commissioning a new target device onto an existing network. It starts with a
14 request for commissioning. Next a short-range transmission path, that’s the
15 NFC or Bluetooth connection is created independent of the network to be
16 joined.

17 Then network configuration packets are transmitted over the short-
18 range path. Finally, the target device decodes the packets and employs them
19 to enable it to join the network. The next slide, Slide 4, includes an
20 overview of the grounds in the Petition, and there are only two. The first
21 ground explains why the claims are obvious over Roberts and Asokan. The
22 second ground explains why the claims are obvious over a reference to
23 Suumaki. Slide 5 provides a brief overview of Roberts, and as can be seen
24 in the first quoted passage to the left, Roberts relates to a method for
25 establishing communication with a wireless network.

1 How does Roberts do this? Like the '615 patent, in Roberts the
2 device already connected to the wireless network, the registrar device that's
3 shown in blue transmits configuration data to a new device, the enrollee
4 device, which is shown in green. Roberts also teaches that different types of
5 communication methods can be used to relay that configuration information.

6 That can include the wireless network itself, and as shown on the bottom of
7 the slide, it can also include so-called out of band connections like a
8 Bluetooth connection. Slide 6 provides an overview of what Asokan adds to
9 Ground 1. Asokan also relates to methods for relaying configuration
10 information to devices seeking to join wireless networks.

11 As shown by the bottom text call-out, it supplements Roberts by
12 teaching that an out of band communication method is preferred when doing
13 so because it increases security and usability. Slide 7, the next slide,
14 provides an overview of Suumaki. Like both the '615 patent and Roberts,
15 Suumaki relates to a method for connecting a new device to an existing
16 wireless network. You can see a network hub that's creating such a network
17 circled in red in Figure 1D on the slide. Suumaki accomplishes this by
18 allowing a new device, that's the green Device B in the figure, to perform an
19 NFC tap with an existing device, that's the blue device in the figure.

20 This then triggers transmission of authentication information over the
21 NFC connection that allows Device B to join the network and receive
22 credentials. Moving on to Slide 8, as I explained at the beginning of my
23 presentation, the remaining disputes between the parties are very limited.
24 Slide 8 provides an overview of what is not in dispute. As shown, there's no
25 dispute that the prior art renders all the '615 patent's independent claims
26 obvious. Next, there's also no dispute that the limitations added by many

1 dependent claims are also obvious over the prior art. Finally, there are no
2 pertinent secondary considerations or anything else weighing against
3 obviousness, at least when it comes to the independent claims.

4 Slide 9, so what is in dispute? The only disputed issue is whether
5 Roberts and Suumaki teach the contacting limitation of Claims 6 and 19,
6 which I reproduced on the slide here. That limitation is the same in both of
7 the claims. Now Patent Owner's briefing also references Dependent Claims
8 7, 8 and 20, but it only does so because these claims depend on Claims 6 and
9 19, not because the prior art doesn't teach what they additionally require.
10 I'll start with Roberts and its teachings that apply to Claims 6 and 19. Patent
11 Owner makes a number of--

12 JUDGE TURNER: Counsel, this is Judge Turner. If you can go back
13 to Slide 9 for me, please?

14 MR. HERMAN: Yes, Your Honor.

15 JUDGE TURNER: Just a quick question. It doesn't appear from the
16 record that there has been any claim construction about what would be
17 successfully entering the communication network. I understand this lack of
18 construction, but what does the term mean in the context of the instant
19 patent? Let me get your perspective on that, please.

20 MR. HERMAN: So I can make two observations here, Your Honor.
21 The first is it can't mean that you are permanent and completely entered into
22 the wireless network because a claim that depends on Claim 6, Claim 7, says
23 that the wireless commissioning process continues after the entry into the
24 wireless network that Claim 6 requires. It can't require that you be
25 completely and totally done with the commissioning process because there
26 are dependent claims that require that commissioning continue after the

1 limitation of Claim 6 be performed. So it has to be an intermediate step, an
2 intermediate connection step.

3 So all that's required is that you be connected to the wireless network,
4 that you have entered the wireless network, not necessarily for full and free
5 communication with every single device that's connected to the wireless
6 network, but that you be entered into the wireless network for some purpose.

7 That purpose can be continuing to finalize your setup.

8 JUDGE TURNER: I understand that, but if you're communicating
9 through the communication network, have you entered or have you not? I'm
10 just trying to sort of feel out, because obviously signals are being sent. Is
11 that the same as successfully entering?

12 MR. HERMAN: So Your Honor, I believe if you are connected to the
13 wireless hub, the hub that's creating the wireless network, if you're
14 connected to that over wifi and you're sending messages to that wireless hub
15 over wifi, you will have entered the wireless network for purposes of Claim
16 6.

17 JUDGE TURNER: Okay, thank you.

18 MR. HERMAN: So moving to Slide 10, I'll start with Roberts and its
19 teachings that apply to Claims 6 and 19. Patent Owner makes a number of
20 arguments here. It argues that the Petitioner has somehow shifted position,
21 pointing to new portions of Roberts and making new claim construction
22 positions in its Reply. Next it argues that Roberts doesn't disclose
23 transmission of any success messages at all, or even if it did, the messages
24 wouldn't be sent over the wireless network or include the right type of
25 information. As I'll explain, each of those arguments are wrong and none
26 find support in the record.

1 First, Slide 11, before addressing what Patent Owner says in its
2 briefing, however, I'd like to revisit the claims. It's important because
3 Patent Owner's position is intentioned with what the claims themselves
4 actually require. So this slide reproduces Claims 1, 6 and 7. Claim 6
5 depends on Claim 1, and Claim 7 depends on Claim 6. The Claim 6
6 limitation that is the focus of the dispute here is highlighted in red on the
7 slide. I've highlighted in green certain surrounding limits that are
8 admittedly taught by the prior art. There's no dispute that Roberts teaches
9 the final limitation of Claim 1.

10 In Roberts, the new device is provided with network configuration
11 data that enables it to join the communication network. Next, there's also no
12 dispute that Roberts teaches the additional limitation of Claim 7, the new
13 device engages in communication with the existing device on the network
14 via the communication network. That's network adjoined at the end of
15 Claim 1 for purposes of continuing the commissioning process. So both the
16 prerequisite for Claim 6, which is network joining at the end of Claim 1, and
17 a later step for which Claim 6 itself is a prerequisite, the further
18 commissioning of Claim 7 are admittedly taught by Roberts.

19 Here Patent Owner makes no effort to explain how Roberts' existing
20 network device could possibly know to send the additional commissioning
21 data to the new device that it admittedly does per Claim 7 without first
22 receiving Claim 6's indication. It doesn't do so because this would've been
23 highly obvious, as the Petition explains.

24 JUDGE RAEVSKY: Mr. Herman, this is just a technical point, but is
25 it really fair to say that Patent Owner has not disputed Claim 7 when it
26 depends on Claim 6, which is disputed?

1 MR. HERMAN: So yes, Patent Owner has disputed Claim 7 because
2 it depends on Claim 6, but it hasn't separately contested that what Claim 7
3 requires occurs. So there's--

4 JUDGE RAEVSKY: I don't think we can say that Patent Owner has
5 admitted that that limitation in Claim 7 is in the prior art, can we?

6 MR. HERMAN: So the Petition had a separate explanation as to why
7 what that claim requires is taught by the prior art, and that's not disputed by
8 Patent Owner. So moving on to Slide 13, moving back to Roberts, Slide 13
9 reproduces the Petition's discussion of why Roberts teaches what Claim 6
10 requires. There's two primary reasons for this. First, the Petition points out
11 that Roberts employs special dedicated L2 data ports to convey network
12 configuration data. So Roberts' devices also exchange messages regarding
13 the creation and the deletion of these ports. Given the timing of port
14 deletion, the Petition explains that these exchanged messages would
15 obviously be sent over wifi and include an indication of successful network
16 entry.

17 You see that in the first two-thirds of reproduced text on Slide 13.
18 The Petition also pointed out that Roberts articulates why it exchanges
19 messages regarding port creation and deletion. According to Roberts, these
20 exchanges are meant to provide visibility into network commissioning set-up
21 progress. You see that in the bottom one-third of the text on Slide 13. Now
22 Patent Owner will try to argue that the Petition has somehow fundamentally
23 changed this position on obviousness. It has not. Petitioner started the
24 proceeding by arguing that Roberts' use of the L2 port creation and deletion
25 message exchange to relay setup status between a new and existing device
26 renders Claim 6 obvious.

1 That's also what Petitioner argued in reply and that's what I'm
2 arguing now. So Petitioner did point out errors in Patent Owner's response.
3 In particular, Patent Owner misconstrued Roberts' discussion of the use of
4 the special L2 ports as being limited to just commissioning methods that
5 employ in-band communications and nothing else. It tried to argue that
6 whatever exchanges Roberts makes regarding setup status are not detailed
7 enough for purposes of Claim 6. Both of those arguments are wrong.

8 As I'll explain when going through the next few slides, Roberts does
9 contemplate and render obvious messages relating to network entry. It also
10 does not limit the use of the L2 ports to just in band monuments. But
11 nothing about that, however, fundamentally changes the Petition's
12 arguments. Pointing out errors in Patent Owner's arguments and
13 highlighting how those arguments mischaracterize or ignore the prior art is
14 the prototypical reply. Slide 14, next it's also important to note that in
15 addition to pointing to Roberts itself, Petitioner also submitted expert
16 testimony that both one, confirms that the Petition is properly interpreting
17 Roberts and two, explains why a POSITA would have considered the claim
18 subject matter to be obvious.

19 You see that expert testimony on Slide 14. This contrasts sharply
20 with Patent Owner's approach. Patent Owner did not depose Petitioner's
21 expert. It did not submit any expert testimony of its own. In fact, it did not
22 submit any evidence at all of its own. Despite this, its response, its surreply
23 and likely here today during its arguments, Patent Owner repeatedly reads
24 teachings into Roberts that simply aren't there. It argues that Roberts'
25 dedicated L2 setup ports are used only in some cases, but not others.

1 Roberts does not say that, only Patent Owner does, and it does so without
2 evidence.

3 It also argues that Roberts' setup progress messages will only contain
4 very specific limited information, would never be transmitted over wifi, and
5 would only be transmitted at very specific times. Roberts again does not say
6 that, only Patent Owner does. Once again, it does so without evidence.
7 Simply put, Patent Owner has done nothing to rebut the Petition's showing
8 of obviousness besides point the Board to words in Roberts, but those words
9 do not mandate Patent Owner's interpretation of the reference. Instead, they
10 support obviousness, and the next few slides are going to show this.

11 Slide 15 reproduces the portion of Roberts discussing what happens
12 after setup of a new device succeeds. You see that as the first highlighted
13 step in yellow. Now after that setup success, Roberts explains that the
14 enrollee, that's the new target device seeking to join the network, performs
15 two sequential steps. As shown in red, it deletes the special dedicated L2
16 port that was used to receive network configuration information over the out
17 of band channel. Then, as shown in blue, that new device immediately uses
18 the configuration information it receives to connect to the wireless network.
19 There are no other intervening steps mentioned between setup port deletion
20 and connection to the network.

21 After this, Roberts explains that the registrar device deletes its
22 matching version of the L2 setup port. So the Petition explained that given
23 this order of events, the registrar device would obviously be informed of the
24 need to delete its special L2 setup port via a message transmitted from the
25 enrollee over the wifi network itself. As shown here, the new enrollee
26 device joins the network immediately upon deletion of its setup port without

1 any intervening steps. So of course the notification it sends to the registrar
2 informing it that setup succeeded such that the registrar's matching port can
3 be deleted would obviously be sent over wifi. So Patent Owner--

4 JUDGE RAEVSKY: Mr. Herman, on Pages 36 and 37 of the
5 Petition, which I believe you're referring to, it mentions that a POSITA
6 would understand and it would obviously include that notification step,
7 where in the Petition does it explain why that would've been obvious?

8 MR. HERMAN: The ordering of events.

9 JUDGE RAEVSKY: That there would obviously be included a
10 notification step that setup was successful?

11 MR. HERMAN: Your Honor, because the Petition explains that
12 special setup port deletion is occurring on the two different devices. Setup
13 port deletion is occurring first on the enrollee device, and then the matching
14 end of the port is deleted on the registrar device. Because both of those
15 devices are deleting their ports, they're doing it in a very specific
16 circumstance, in a circumstance in which setup succeeded. Messages are
17 obviously being transmitted from the one to the other to facilitate that port
18 deletion. So there--

19 JUDGE RAEVSKY: I'm sorry if I wasn't clear. My question was
20 where in the petition does it explain why it would've been obvious? On
21 Page 36 and 37, it just states without explanation that it would've been
22 obvious, but we need more than that under *KSR*.

23 MR. HERMAN: So Your Honor, I believe the explanation is twofold,
24 and I believe it's there on Pages 36 and 37. So on Page 37, the Petition
25 explains the purpose of message exchanges. The Petition says, for instance,
26 Roberts explains that its system operates to give system-wide visibility into

1 setup progress. So that is Roberts' explanation as to why it is exchanging
2 messages between the enrollee and the registrar. That's what Roberts says
3 and that's what the Petition is citing Roberts for. Messages are obviously
4 being passed back and forth because that's what Roberts says and the
5 Petition cited the portion of Roberts that says that.

6 That passage appears on Page 36 at the bottom, moving onto 37. The
7 Petition also explains that it's the timing of events that makes it obvious that
8 the messages that are passing back and forth would one, relate not only to
9 setup success, but also would be transmitted over the wifi network. So on
10 Page 36, the Petition explained that there's a very specific procedure that's
11 followed when setup succeeds, and there are two steps that happen right
12 after each other on the enrollee. First, the enrollee deletes its setup port and
13 second, the enrollee joins the wifi network. Because it joins the wifi
14 network immediately after deleting its setup port, the most obvious way for
15 that message to pass from one place to the other is via the wifi network.

16 So that's the argument that the Petition was trying to make, and that's
17 why the Petition was pointing to these two different portions of Roberts
18 because these portions are explaining one, why Roberts is exchanging
19 messages about setup port creation and deletion and two, it's specifically
20 explaining what it does when network setup succeeds and is doing so in a
21 way that renders it obvious that a success message is being sent, not just in
22 any which way, but over the wifi network. That's the import of those
23 passages from Roberts that are cited on Pages 36 and 37, Your Honor.

24 JUDGE RAEVSKY: As far as I can tell, that's reading a lot into the
25 Petition, but if there's nowhere else in the Petition that explains that, I'll
26 understand your position.

1 MR. HERMAN: So--

2 JUDGE TURNER: This is Judge Turner. I'm game to try, as well.
3 Let me give you a hypothetical. Let's just say that the registrar, what if that
4 L2 port just times out? What if I'm a bad enrollee when I don't care about
5 the network and I'm not going to send a message. I'm going to be a rebel
6 and I'm not going to send a message, so maybe the L2 port eventually just is
7 like okay, the registrar, I'm not needed anymore. It's been 20 seconds, 50
8 seconds, however long you have for a timeout. Why does there have to be a
9 message sent? Why--you're saying well, it would have to if it's going to
10 have any further communication, it's going to be over the wireless network.
11 Fine, but why does it have to? Why does it have to be there? Why is it
12 necessary? Why is it obvious?

13 MR. HERMAN: So Your Honor, this is a point that Patent Owner has
14 made. So Patent Owner has argued that the registrar will always close its
15 version of the L2 port, but that's not what Roberts says. So Roberts
16 identifies three specific situations in which it closes its L2 port. One of the
17 situations is the situation that you just references, Your Honor. It closes its
18 L2 port when it does not hear back from the enrollee after a certain period of
19 time. That's specifically referenced as a situation in which the L2 port is
20 closed in Roberts, and Patent Owner points Your Honors to that in both its
21 Response Brief and its Surreply Brief.

22 There is another situation in which the registrar closes its L2 port,
23 that's when setup fails. So Roberts says that the registrar will close the setup
24 port when it receives an indication that setup fails. Then there's a third
25 situation where Roberts says the registrar closes the setup port, that's when
26 setup succeeds. So according to Roberts, there's three distinct situations

1 when that setup port can be closed. Number 1, when it times out, the setup
2 process, and never hears back from the enrollee. Number 2, when setup
3 fails, and Number 3, when setup succeeds.

4 The clear implication from that is the registrar is able to distinguish
5 those three different situations. It will be able to determine when there's
6 been a timeout because it hasn't heard back after a given amount of time. It
7 will be able to determine when setup has failed, and it's also able to
8 determine when setup succeeds. How then does it close its setup port when
9 setup succeeds? When it receives an exchange or a message from the
10 enrollee indicating that that happens.

11 The fact that there are three different circumstances in which the ports
12 close is just a further indication of obviousness because the registrar is able
13 to tell the difference between those circumstances because it closes the port
14 in those specific circumstances. That's what Roberts teaches. Otherwise it
15 will leave the port open to allow setup to continue. It doesn't just close the
16 port when setup is continuing. It closes the port when it no longer needs the
17 port to be open. One of the circumstances in which it does that is when
18 setup succeeds.

19 JUDGE TURNER: And let me just--a quick clarification. Is it
20 obvious or is it inherent? You're sort of making an argument that in the one
21 instance where it's successful that there would be a message that would be
22 inherently sorted is the argument that you're making. But you also seem to
23 say well, it would be obvious, and maybe there's no real distinction between
24 those and you can help me out.

25 MR. HERMAN: The position that Petitioner takes here is that it
26 would've been obvious. Number 1, given the fact that the registrar is

1 concerned with setup status, Number 2, knows that setup succeeded such
2 that it can close its port, and it knows that happens only at a time when it's
3 able to communication with the enrollee via the wifi network obviously
4 leads to the transmission of the type of the message that the claims require. I
5 think maybe there are other things that could theoretically be done, but one
6 of the most obvious ways to relay the information that that registrar needs to
7 Number 1, know that setup succeeds, and Number 2, to facilitate closing its
8 port, is by getting the type of message that Claim 6 requires. That's
9 Petitioner's position.

10 JUDGE TURNER: Thank you.

11 MR. HERMAN: So moving on to Slide 16, the Patent Owner is also
12 wrong when it argues that Roberts limits its discussion of use of the L2 port
13 to relay its setup information to just its embodiments that employ an in band
14 channel for setup; instead it says the opposite. This is a passage from
15 Column 11 of Roberts that's reproduced here on Slide 16. You can see in
16 the yellow highlighting at the top and the bottom of the slide that use of a
17 dedicated L2 port for setup allows, according to Roberts, for the use of other
18 wireless technology. At the bottom of the slide, it applies equally to setup
19 using either out of band and in band communication channels.

20 Again, this is not a new argument. Petitioner is not proposing that
21 embodiments be combined or that Roberts somehow be modified. Petitioner
22 has always argued, starting in the Petition, that messages exchanged
23 regarding L2 port creation and deletion satisfy Claim 6. Petitioner has also
24 always explained that Number 1, the commissioning information would
25 obviously be sent over an out of band channel, while 2, the message
26 indicating network entry that Claim 6 requires would be sent over wifi. So

1 that does not change from the Petition to the Reply. Petitioner is not relying
2 on anything new in the Reply.

3 Instead, the cited passages in Column 11 are only showing that
4 regardless of whether setup information is relayed via wifi, Bluetooth or
5 some other means, Roberts always uses dedicated L2 ports during setup.
6 Not only that, but as you see in the middle of the slide, Roberts explains that
7 “exchanges” about the creation and deletion of the L2 ports are going to be
8 used and are used to “give systemwide visibility into setup progress.” Now
9 there’s nothing about this that is any different from what Claim 6 requires.
10 All that Claim 6 requires is contacting the wireless net device to indicate
11 successful network entry.

12 Roberts, here in Column 11, is referencing exchanges so it’s
13 obviously contemplating contact or actual messages that are transmitted
14 between the enrollee and the registrar. Next Roberts says that these
15 messages are about setup progress as underlined in red. This progress
16 obviously includes the fact that the enrollee device successfully entered the
17 network as Claim 6 requires. In fact, Roberts itself says that immediately
18 below the red underlining, explaining that the exchanged status messages
19 can indicate not just the successful receipt of network credentials, as Patent
20 Owner argues, but more specifically “setup and creating a new” L2 data port
21 for actual data using the credentials acquired after setup is complete.

22 That passage is cited in the Petition on Page 15 and 26. It’s cited by
23 Patent Owner in the Response at Page 12, and it’s cited on both Slides 34
24 and 40 of Patent Owner’s demonstratives that they’re going to show you
25 here today. Moving on to the Suumaki reference, here Patent Owner does
26 not dispute that various messages relating to setup status are passed back and

1 forth between a device seeking to join the network and a device already on
2 the network. Its only argument is that these messages are sent too soon for
3 purposes of Claim 6 in Patent Owner's view, before the new device actually
4 enters the network.

5 Slide 18, just like it did with Roberts, Patent Owner is reading things
6 into Suumaki that again, are not there. Unlike Petitioner, who supports its
7 arguments with expert testimony, Patent Owner is making inferences about
8 the art's teachings without the support of expert testimony. So what does
9 Suumaki actually say? This slide shows passages from Columns 13, 14 and
10 27, and the passages discuss the use of a wifi protected setup procedure that
11 is triggered after the performance of an NFC touch event. The passage from
12 Column 13 in the upper left explains that this procedure entails "in band
13 communication."

14 So this part of the setup procedure entails communications over the
15 wifi network itself as opposed to some other communication channel. Then
16 Suumaki explains that when performing this procedure, the new device
17 "associates" with the wireless network points. You see that in the passage
18 on the bottom left or "connects to" the hub device, and you see that in the
19 passage on the right, to perform the setup procedure. This same explanation
20 and choice of words is repeated elsewhere in Suumaki. For instance, in
21 Column 8 at Line 1, Suumaki explains that the hub "grants network access
22 to Device B" at the beginning of the setup procedure and does so before
23 sending permanent formal network credentials.

24 Similarly, in Column 13 at Line 34, Suumaki explains that the
25 enrollee "connects" to the network at the start of the wifi protected setup
26 procedure. So Suumaki repeatedly explains that a new device temporarily

1 associates with or connects to an existing network. This temporary network
2 connection for setup purposes is then followed by an exchange of a series of
3 messages. Again, these are all in band messages transmitted over wifi, and
4 it concludes with a done message that's referenced on the slide here.

5 Now the Petition and Petitioner's expert explained that while other
6 earlier messages also qualify for purposes of Claim 6, at least this done
7 message is what Claim 6 requires. It is an in band wifi message sent at a
8 time when a new device is already connected, at least temporarily, to the
9 network's hub. It confirms that network setup has been successfully
10 completed. Turning on to Slide--

11 JUDGE TURNER: Counsel, this is Judge Turner. I just wanted to let
12 you know you have five minutes until you get to your rebuttal time.

13 MR. HERMAN: Thank you, Your Honor. Moving on to Slide 19, the
14 Patent Owner's citations to Suumaki do not say anything to the contrary.
15 This is a passage from Colum 27 which Patent Owner discusses at length in
16 its briefing and its slides today, and it shows the sequence of events followed
17 by Suumaki during device commissioning. First, as shown in yellow, the
18 new Device B performs an NFC touch event and gets information it needs to
19 contact the hub over wifi for purposes of performing that wifi protected
20 setup procedure.

21 Second, as shown in blue, the new Device B actually contacts the hub
22 via wifi using the information it got via the NFC touch. Then in red
23 Suumaki says the hub will grant network access and Device B "connects to
24 the hub device." Once that temporary network connection is made, as
25 shown in green, a series of messages are exchanged via wifi, and the Petition

1 pointed out that at least the last of these, the done message, is what Claim 6
2 requires.

3 Once again this can be seen at the time that message has been sent,
4 Device B already connected to the hub over wifi, meaning that it at least
5 temporarily and provisionally entered the network, and sends a message to
6 the hub via wifi indicating that it has been successfully set up. So Patent
7 Owner will point the Board to the final yellow passage and argue that this is
8 when Device B really joins the wireless network. Now that passage explains
9 that after successfully completing setup, the device disassociates and
10 reconnects to the hub.

11 That merely confirms that the device was previously connected during
12 setup. A device cannot disassociate and reconnect to a network unless it was
13 associated and connected to that network in the first place. All that has
14 changed is that the temporary provisional connection for network setup
15 purposes has been replaced with a permanent connection with a complete set
16 of network credentials. Slide 20, I'd like to conclude by reminding the Board
17 that Claim 6 does not require that the setup of a new device be totally
18 finished at the time the claimed contacting occurs.

19 That's because Claim 7 depends on Claim 6 and specifies that the
20 commissioning process continue after the new device contacts the wireless
21 device via the communication network. So in Petitioner's view, this further
22 confirms that the claims embrace what Suumaki discloses. Yes, Suumaki
23 states that a further disassociation and reconnection step occurs after the
24 done message is sent by the new device over wifi. But that does not read
25 Suumaki's done message out of the scope of the claims. The claims are

1 open to further messages and further commissioning steps after Claim 6's
2 contacting occurs.

3 With that, Your Honors, unless there's further questions, I'll reserve
4 the rest of my time for rebuttal.

5 JUDGE TURNER: Okay, it doesn't look like we have any questions
6 from the rest of the panel. I have 11 minutes on rebuttal, and we'll move
7 over to Mr. Aggarwal for Patent Owner. You may begin when you're ready,
8 please.

9 MR. AGGARWAL: Thank you, Your Honor. I'm going to share the
10 slides on the screen if that's okay?

11 JUDGE TURNER: Okay.

12 MR. AGGARWAL: Please let me know if you can see them. Thank
13 you. Before diving into the specific points SONOS raised with respect to
14 Suumaki and Roberts, I'd like to just walk back a little bit and talk about the
15 claims and specification itself. I'll be flipping through Google's slides and
16 SONOS slides, but I'll be sure to call them out to make sure everyone can
17 follow along. I'd like to start with Slide 4 from Google's slides. This slide
18 shows what is required for Claims 6 and 19. It breaks down the three
19 relevant elements, and as SONOS pointed out, Claim 1 has many steps.

20 But Claim 6 only has one action that's happening here, which is the
21 target device contacting the wireless device via the communication network
22 to indicate the target advice has successfully entered the communication
23 network. So it breaks down into three separate elements, with the first one
24 being the target device contacts the wireless device, the second one being
25 that contact occurring over the communication network, and then third being

1 that the contact indicates the target device has successfully entered the
2 communication network.

3 I know there was some brief discussion about what this specification
4 explains about this claim limitation, and Column 11, Lines 54 to 59 in the
5 ‘615 patent helps explain that, gives some context to what this limitation
6 requires. It explains that once the device to be commissioned, which is the
7 target device, once that has successfully joined the wireless network. Then
8 the device proceeds to contact the commissioning device, which is the
9 wireless device, via the wireless network to indicate success.

10 JUDGE GROSSMAN: Mr. Aggarwal?

11 MR. AGGARWAL: Yes?

12 JUDGE GROSSMAN: This is Judge Grossman. I just want to ask
13 you the question that was asked to the Petitioner. On your Step 3 in Claim
14 6, indicating successful network entry, does the Patent Owner have any
15 specific suggestions for what successfully entering means?

16 MR. AGGARWAL: Yes, Your Honor. We think this portion of the
17 specification explains that that requires connecting or joining the wireless
18 network using the credentials that the target device receives. So it is, as the
19 specification explains, joining or connecting to that wireless network itself
20 that the target device wants to be commissioned onto.

21 JUDGE GROSSMAN: Okay, thank you.

22 JUDGE RAEVSKY: Mr. Aggarwal, does that--sorry, this is Judge
23 Raevsky. Does that connection require a complete connection or is it
24 possible that there are additional steps that could be performed after that
25 connection?

1 MR. AGGARWAL: There are additional steps considered as spoken
2 about for Claim 7, but that can happen after the connection actually is made.

3 As the '615 patent discusses, there is supplemental information that is
4 exchanged between the target device and the wireless device or the wireless
5 network, but that doesn't mean that the connection required in Claim 6
6 doesn't mean the connection to the wireless network itself.

7 JUDGE RAEVSKY: Okay.

8 JUDGE GROSSMAN: Mr. Aggarwal, this is Judge Grossman again.
9 But there's two distinct steps that you've identified. The first step is
10 contacting and then you go down to the third step is successful network
11 entry. But in that contacting step, it's contacting over the network, so
12 there's some entry into the network. It's letting the network know that it's at
13 the front door and it wants to come in so it can further show its full
14 credentials at Step 1. Then Step 3 is where it has the opportunity to further
15 show some more credentials and that appears to be what you mean by
16 successfully entering the communication network.

17 It's already on the network at Step 1 when it contacts it. There's got
18 to be some way for the communication signal to go from the device you
19 want to connect up and let it know that it's ready to be connected, and it
20 does that over the wifi network.

21 MR. AGGARWAL: That's absolutely correct. This communication
22 in Claim 6 is talking about after the target device has entered and joined the
23 wireless network, as is kind of shown in this diagram on the bottom right.
24 The communication is happening over the wireless network itself, so it's
25 after the target device has joined. I'm sorry if this slide has made it seem
26 like--this is not a specific order of steps, but just three elements that are

1 required in Claim 6. So the contact in Number 1 is happening over the
2 wireless network itself and that contact itself is also indicating successful
3 entry.

4 So all that's happening together. It's not three separate steps. It's that
5 the target device has entered the wireless network and what Claim 6 requires
6 is that it's contacting the wireless device. That same contact is indicating
7 successful network entry and it's over the wireless network itself. So it's all
8 one step, but three different things are required of that one step.

9 JUDGE GROSSMAN: Okay, thank you.

10 MR. AGGARWAL: I'd like to just go back a couple of--

11 JUDGE TURNER: This is Judge Turner, just to put I guess maybe a
12 finer point on it. Successfully entering and joining in Patent Owner's
13 parlance, they're complete synonyms or is there any difference between
14 successfully entered and joined?

15 MR. AGGARWAL: Not based the portion of the specification that we
16 were looking at. We think they would be synonyms, yes.

17 JUDGE TURNER: Okay, thank you.

18 MR. AGGARWAL: And just to kind of build off the connection
19 point, I know this came up a few times in the opening, there is a difference
20 in what's happening in Claim 1 with how the target device is communicating
21 with the wireless device, and what's happening in Claim 6. In Claim 1, the
22 target device is being set up to be commissioned onto the wireless network,
23 and what's happening is it's directly communicating with the wireless device
24 over a direct connection.

25 This is not over the wireless network, this is direct connection that is
26 between the target device and the wireless device, kind of like a walkie-

1 talkie connection between the two devices itself. So that's very different
2 from what's happening in Claim 6, where the target device is
3 communicating to the wireless device over the wireless network itself. If we
4 go to SONOS' slide Number 2, it provides some helpful context to this
5 connection point, as well. As SONOS is explaining, this slide explains what
6 the '615 patent says about the target device and a few different
7 communications that are happening.

8 First you'll see in highlight there's direct connection between the
9 target device and the wireless device that's a connection 322. The quote on
10 the bottom left explains that this connection is a side band proximity-based
11 communication channel. Now that's separate from the wireless network
12 304, which is seen below the green box, so below the target device. There's
13 a wireless network 304 which is distinct and different from the side band
14 short range connection that's initially happening during the setup process.
15 So there's two real important--

16 JUDGE TURNER: This is Judge Turner, I'm sorry. I apologize for
17 interrupting you, but just to actually go back to my last question, since you
18 did highlight the language of Claim 1, it does say to enable the target device
19 to join the communication network, but we have different language in Claim
20 6. You're saying that they're synonyms. I think there's Federal Circuit
21 precedent that if a patentee is using different terms, don't we have to assume
22 that they mean something different? When you're sort of saying that they're
23 synonyms, help me understand how I should approach that since perhaps as
24 a panel we don't really want to get reversed.

25 MR. AGGARWAL: Sure. Maybe I was a bit unclear. With Claim 1,
26 I believe what's happening is that the target device receives the

1 configuration information, so the credentials, for example, to be able to later
2 join the wireless network. Then in Claim 6 we're at a different step where
3 the target device has already joined the wireless network and it's just
4 contacting the wireless device to be able to indicate successful entry into the
5 network itself. Then the Claim 1, the target device only has the
6 configuration information to be able to subsequently join, so it's only
7 enabled to be joined onto the network.

8 JUDGE TURNER: It sounds again--again, I feel like I'm--it sounds
9 like perhaps joined and fully entered the communication maybe are not
10 really synonyms, but maybe they are? I'm having some trouble here.

11 MR. AGGARWAL: I'll try to address that point as I go through and
12 maybe I can clarify it as we walk through some additional claim language.

13 JUDGE TURNER: Okay, well, we'll return to this later. Thank you.

14 MR. AGGARWAL: So there's really two main aspects of the '615
15 patent that are important here. It's how the target device is communicating
16 with the wireless network itself, whether it's a direct connection over a side
17 channel or whether it's communicating over the wireless network that it's
18 commissioned onto.

19 JUDGE GROSSMAN: Mr. Aggarwal?

20 MR. AGGARWAL: Yes.

21 JUDGE GROSSMAN: This is Judge Grossman. If it's
22 communicating by a side channel, are you indicating that it's communicating
23 with the wireless network over the side channel or it's communicating with
24 something else? Is the wireless network involved in that side channel
25 communication?

1 MR. AGGARWAL: No. So the communication, the side channel
2 communication is completely distinct from the wireless network. What's
3 happening at the side channel is that the wireless device is providing the
4 target device with additional information to enable the target device to
5 connect to the wireless network itself. So these are two separate and distinct
6 ways of communicating between the two devices, the first one being the
7 direct communications, the side channel, and the second one being after the
8 target device has actually entered the wireless network itself. Then it can
9 communicate with the wireless device over the wireless network at that
10 point. So it's two separate ways of communicating between the devices.

11 JUDGE GROSSMAN: Thank you.

12 MR. AGGARWAL: I'd like to move on to SONOS' Suumaki
13 arguments. I'd first like to move on to Slide 19 from SONOS' slides. On
14 this slide, SONOS is pointing to the second step highlighted in blue as the
15 claim contact in Claim 6, but one thing we want to point out is we think
16 there's a few misrepresentations of what Suumaki actually discloses versus
17 how SONOS is characterizing them. One of the critical differences between
18 what SONOS is saying and what Suumaki says is Step 5, where SONOS
19 says that Device B disassociates from and then reconnects to the wifi
20 network, we think that's incorrect. What Suumaki is actually saying is that
21 Device B disassociates and reconnects to the hub device.

22 Again, as we were talking about, there's different connections that
23 happen between the target device and the wireless device, the two being the
24 direct connection and the communication over the wireless network itself.
25 The same is true in Suumaki. There's two different connections, and Steps 1
26 through 4 are occurring on the direct connection portion, whereas Step 5 is

1 the first time that the Device B actually disassociates from the hub device
2 and connects using the network credentials and connects to the wireless
3 network itself. So Step 5 is the first time that Device B is actually connected
4 to the wireless network and can use that network to communicate.

5 I'd like to go to Google's Slide 10 to kind of detail this understanding
6 of Suumaki itself.

7 JUDGE GROSSMAN: Mr. Aggarwal?

8 MR. AGGARWAL: Yes.

9 JUDGE GROSSMAN: This is Judge Grossman. Staying on the
10 Petitioner's Slide 19 on that language you were just talking about,
11 highlighted in yellow, it says that Device B disassociates and reconnects to
12 the hub device using its new wireless authentication credentials. So if it's
13 using the new wireless authentication credentials, does that indicate that it
14 was connected at some point to the wireless network to receive those
15 credentials, or are you saying that those wireless credentials somehow got
16 sent over to the hub device using some other kind of network connection?

17 MR. AGGARWAL: The latter is correct, Judge. The wireless
18 credentials are being sent over a short range connection, which is different
19 than the wireless network connection itself.

20 JUDGE GROSSMAN: And so that next sentence, the one that's not
21 highlighted where it says Device B is now connected to the network, it's
22 your position that that's the first time when that Device B becomes
23 connected to the network in the context of Claims 6 and 19?

24 MR. AGGARWAL: That's correct. At the now connected point, that
25 is when it connects to the wireless network.

26 JUDGE GROSSMAN: Thank you.

1 MR. AGGARWAL: I'm on Google's Slide 10, and this is addressing
2 the first Suumaki mapping that SONOS presented. On the left side, you'll
3 see the relevant claim elements we just walked through for Claim 6, and
4 then on the right side is what SONOS is mapping from Suumaki to Claim 6.
5 For this mapping, what SONOS points to is that Device B issues a request
6 frame that includes authentication information to the hub device. For that
7 mapping to map to Claim 6, that request frame must be sent over the
8 wireless network and indicate successful wireless network connection. But
9 it does not do either of those, as this request frame is sent before Device B is
10 ever connected to the wireless network, as we were just discussing.

11 Moving on to Slide 11, you'll see on the left side the Figure 1G from
12 Suumaki is again represented there with the transmission of the request
13 frame 130B in purple. On the right side it's Figure 1H, which is a step that
14 happens after Figure 1G. So Figure 1G is what SONOS is pointing to in
15 Suumaki as the claim contact, and Figure 1H is what's happening after.
16 What you'll see in Figure 1H is kind of two steps happening in Figure 1H.
17 After the Device B transmits request frame 130B with authentication
18 information, what happens is that the hub device, which is in green here, the
19 hub device reviews the authentication information and if it recognizes it, it
20 will provide Device B with the network credentials 28 and Device B uses
21 those credentials to then connect to the wireless network itself.

22 After it uses those credentials, it is then connected to the wireless
23 network at that step. You'll see the difference between Figure 1H and 1G.
24 In Figure 1H after using the network credentials, Device B is actually
25 connected to the wireless network as shown by the blue box highlighted in
26 the middle, whereas in Figure 1G, that connection is not existent. This

1 understanding is highlighted in the Petition itself for SONOS' Claim 1
2 mapping. On Pages 61 and 62, SONOS explains that the purpose of
3 transmitting the request frame 130B, which is what it's pointing to for the
4 alleged contact, the purpose of that transmission is to enable the connection
5 of Device B to the existing wireless network.

6 It also explains that after transmitting that request frame 130B, the
7 hub device then provides Device B with the network credentials it needs to
8 connect to the wireless network. This confirms the understanding we just
9 walked through in the previous slide, that the network credentials and
10 connection to the wireless network happens well after Device B actually
11 transmits the request frame 130B. In Slide 13--

12 JUDGE RAEVSKY: Mr. Aggarwal?

13 MR. AGGARWAL: Yes.

14 JUDGE RAEVSKY: Is the hub part of the communications network?

15 MR. AGGARWAL: Is the hub connected to the wireless network at
16 this time?

17 JUDGE RAEVSKY: No, is the hub in Suumaki part of the
18 communication network?

19 MR. AGGARWAL: Yeah, it's connected with the connection
20 network.

21 JUDGE RAEVSKY: Okay, so once the device connects to the hub,
22 whether it's through NFC or otherwise, it's connected, it's entered the
23 communication network, hasn't it?

24 MR. AGGARWAL: No, because it's communicating, it's sending a
25 message to the hub outside the communication network. So it's just pinging
26 the hub. It's asking for information about the communication network, like

1 the credentials that it needs to actually connect or enter into the
2 communication network.

3 JUDGE RAEVSKY: But the device is communicating with the hub,
4 correct?

5 MR. AGGARWAL: It is communicating with the hub. It sends the
6 request frame 130B to the hub device.

7 JUDGE RAEVSKY: So if it's communicating with the hub and the
8 hub is part of the communication network, then hasn't the device entered the
9 communication network?

10 MR. AGGARWAL: No, Judge, it's actually communicating not over
11 the communication network. It's communicating at the side band. So you'll
12 see--and let me move to Slide 15? As part of the process for Device B
13 before it connects to the wireless network, it receives connection information
14 that's a direct connection, a short range direct connection to the hub device.
15 What it has for the hub device is it has the short range connection parameters
16 to be able for it to ping the hub device to ask the hub device to give it the
17 wifi credentials, and that communication is happening not on the wireless
18 network that the hub device might be on, but the separate short range
19 connection itself.

20 JUDGE RAEVSKY: I am struggling to see how the side band aspect
21 of Suumaki is relevant because you admit that the hub is part of the
22 communication network and that the device communicates with it. We know
23 that the hub sends, I believe it's an authentication successful message--I
24 might have misstated that--but it sends a message back to the device. So I
25 struggle to see how that doesn't satisfy contacting the device then it's
26 successfully entered the communication network.

1 MR. AGGARWAL: It's similar to how if it used Bluetooth instead of
2 the wireless network. So if it was a communication over Bluetooth and the
3 hub is also connected to the wireless network, that communication over
4 Bluetooth would not be a communication entering the wireless network. It
5 would be a distinct communication over a different connection channel.

6 JUDGE RAEVSKY: Where does the claim even, either in Claim 6 or
7 Claim 1, require us to distinguish those two networks?

8 MR. AGGARWAL: The claims require the communication to be over
9 the wireless network itself, so to meet the claim requirements, the target
10 device would have to--Device B in Suumaki--would have to send a message
11 over the wireless network to the wireless device. What's happening is that
12 there's a message being sent over a side band channel, a side channel, a
13 short range channel, that's even though the wireless device is in the
14 communication network, that's a separate channel that's not being sent over
15 the communication network itself.

16 JUDGE RAEVSKY: I think I understand your argument. My struggle
17 is that the claims refer generally to a communication network, so I'm not
18 sure it parses them so finely as you have. In other words, you have
19 Bluetooth, a device that's communicating with Bluetooth, but it's also in
20 communication, the hub is also in communication with the wireless network.
21 So it's all one communication network.

22 MR. AGGARWAL: The communication network is like the WLAN
23 or the wifi network, so it's not--what SONOS mapped to the communication
24 network was the wifi network. So any communications not on the wifi
25 network would not be over the wifi network itself. So because the

1 communications are on a short range side band channel, that's not over the
2 wifi network itself.

3 JUDGE RAEVSKY: Okay, I understand.

4 JUDGE TURNER: Let me ask a follow-up question. This is Judge
5 Turner. So if I am Device B in Suumaki, I assume I learn about the hub
6 through the 802.11 network, yes?

7 MR. AGGARWAL: This is through 802.11. It's the same protocol,
8 but a different communication channel. It's a direct channel rather than the
9 wireless network or a wifi channel.

10 JUDGE TURNER: Sure, but how do I--okay, but I'm going to be
11 using 802.11, which is the wireless communication method. Let's say
12 there's a whole bunch of stuff out there. How do I know what I want to
13 connect to, what's the node I want to connect to? I can have hundreds of
14 devices. If I go to a conference and I sit down and open my laptop, I may
15 see lots of wireless networks, and I may not necessarily be in
16 communication with any of those, but I'm only going to know about them
17 through the 802.11. Or are you saying all the notification in this case and
18 Suumaki is coming from the NFC? So the NFC connection is what's telling
19 me what's out there on the 802.11 network?

20 MR. AGGARWAL: So what's happened there is as a device, you're
21 broadcasting a signal saying that you're ready to be configured onto the
22 wireless network itself. There might be many wireless networks to connect
23 to, but at that point you're just broadcasting a signal to want to be connected
24 to one of those networks. You're not connected to one of those networks
25 until you receive the credentials you need to be able to log into, to provide
26 those credentials to get into the network itself.

1 So it's different when you're broadcasting a signal saying I want to
2 join the network versus receiving credentials and using them to actually join
3 the network. So that's the difference between entering the communication
4 network, here the wifi network versus just broadcasting a signal saying I
5 want to join.

6 JUDGE TURNER: I'm going to renew what I said to Petitioner that I
7 think a claim construction about fully entering a wireless network might
8 have been extremely helpful here, but I don't think either party provided
9 that. But let me go ahead since I'm interrupting you, is Patent Owner's
10 counsel, are they open to additional briefing on claim construction or do they
11 think it's not needed?

12 MR. AGGARWAL: We're open to it if it would be helpful.

13 JUDGE TURNER: Okay, thank you.

14 JUDGE RAEVSKY: Mr. Aggarwal, I have another follow-up
15 question for you. Back to your point about Petitioner's mapping, you, I
16 believe, noted that Petitioner maps the WLAN network to a communication
17 network. Looking at Page 48 of the Petition, I see a statement to that effect.
18 I also see an image from Figure 1B of Suumaki with a blue box around it
19 that says communications network that includes the 802.11 connection as
20 well as the hub device. So in that case, it seems to me that Petitioner's
21 mapping includes that hub device. So as soon as there's a connection made
22 to the hub device and an indication that that connection is successful, doesn't
23 Suumaki meet the fully entered portion of the claim? Successfully entered, I
24 meant to say.

25 MR. AGGARWAL: No, Judge. Because it's still different--when
26 you're sending a message over a different direct connect, like the short band

1 connection, that's still not being sent--the target device that's sending that
2 message is not entering, itself entering the wireless network or the
3 communication network. It's communicating over a completely different
4 channel that's separate, and to actually enter the channel it has to use
5 credentials and log into the wireless network itself.

6 JUDGE RAEVSKY: Am I correct in remembering that on your
7 papers you did not dispute the characterization in the Petition with the hub as
8 part of the communications network?

9 MR. AGGARWAL: I don't think we disputed that.

10 JUDGE RAEVSKY: Okay, thank you.

11 JUDGE GROSSMAN: Mr. Aggarwal?

12 MR. AGGARWAL: Yes.

13 JUDGE GROSSMAN: This is Judge Grossman. I just want to clarify
14 in my mind your characterizations, which I think are helpful, but I'm
15 looking at in the context of Claim 1, and Claim 6, of course, depends on
16 Claim 1. Claim 1 says that the communication network, it starts out
17 identifying just a single communication network, and one of the method
18 steps is receiving a request to initiate the commissioning process with the
19 target device. And so at that point, receiving a request, the only network
20 that's been mentioned is the communication network. But the next step is
21 that you make reference to a short range signal transmission path.

22 The key language there for me is independently of the communication
23 network. That's where you're getting the concept that this hub or whatever
24 we want to call it is independent of the communication network. That's the
25 short range signal. The hub is that short range signal that's in the next
26 paragraph of Claim 1, and that's the one that's kind of the intermediary

1 negotiator because the device, let's say, wants to join the network but the
2 network says first you have to go through an intermediary who's going to
3 check you out and see if you have the right credentials.

4 The intermediary is the hub that gets the credentials from the wireless
5 network, sends it to the Device B. Then when you get down to the end of
6 Claim 1, after it receives the network configuration packets, it's only then
7 that it enables the target device to join the communication network, which is
8 where we started in the preamble of Claim 1. Is that the way that you're
9 saying that the system works?

10 MR. AGGARWAL: That's correct, Judge, that's exactly right. The
11 hub device is just a separate device and the communication network is the
12 eventual wireless network that the target device is being commissioned on,
13 but it's separate. The target device does not join that network until after it
14 receives the credentials. That's correct.

15 JUDGE GROSSMAN: And that all comes out of the clause that says
16 establishing a short range signal transmission path that's about the second or
17 third paragraph of Independent Claim 1.

18 MR. AGGARWAL: That's correct, yes, the establishing limitation.

19 JUDGE GROSSMAN: All right, thank you.

20 MR. AGGARWAL: I'd like to move on to the Roberts grounds, and
21 I'd like to move to Slide 28 of Google's slides. Before diving into the
22 arguments SONOS raised regarding Roberts in the opening, I do want to just
23 remind the Board that we have three separate arguments. If the Board
24 agrees with any one of these three arguments, they should reject the Roberts
25 ground that SONOS raises. The first point I want to address for Roberts, I

1 think one of the things that was brought up was that the registrar unilaterally
2 closing its own L2 port after a preset time.

3 That contradicts both the SONOS' Petition mapping itself and also
4 what the expert says. We think that is a very accurate statement that
5 undermines both the mapping and the expert testimony in this case. If we
6 can move to SONOS' Slide 15, SONOS primarily relies on this disclosure in
7 Roberts and alleges that it teaches an ordered process. SONOS' entire
8 argument depends on this ordered process being there. However, this
9 disclosure doesn't actually teach an ordered process. What it
10 teaches/discloses is that setup succeeds and then a few things happen at the
11 enrollee device, and then something happens at the registrar device.

12 At the enrollee device, the enrollee deletes its L2 port and it connects
13 to the wifi, and at the registrar device, the registrar deletes its L2 port. But
14 there's no connection between what's happening between these two devices.

15 These activities are just happening. What Roberts actually tells us is that
16 the registrar device brings down and deletes its own L2 port on its own after
17 a preset time. I'd like to move to Slide 31 from Google's slides. On the
18 right side here is the same disclosure we saw before in Roberts, Colum 13,
19 Lines 51 to 62.

20 As I was explaining after setup succeeds, there's a few things happen
21 at the enrollee device and one thing happens at the registrar device, but
22 there's no disclosure or suggestion in Roberts that these steps are in any
23 order or process. This is critical to SONOS' mapping because what SONOS
24 argues is that because of this order of process that it alleges, that the enrollee
25 would send a message to the registrar so the registrar can delete its own L2
26 port.

1 But as we discussed, Roberts tells us that the registrar deletes its L2
2 port no matter what, and SONOS has not provided any evidence or
3 testimony explaining why it would still require this messaging sent from the
4 enrollee to the registrar when Roberts tells us that no such message is
5 needed. It contradicts what SONOS' entire reasoning is. I know SONOS
6 raised an argument that there's three different ways that Roberts could bring
7 down its L2 port, two of them being based on a preset time limit and a third
8 being a message, but that argument was not raised in SONOS' briefing.
9 That seems to be a new argument raised today during argument.

10 What Roberts does tell us is that there's only really two ways, but
11 using a preset time limit is the only disclosure in Roberts that tells us how
12 the L2 port of the registrar is being taken down. Moving to Slide 32, on the
13 left side you'll see--

14 JUDGE GROSSMAN: Mr. Aggarwal?

15 MR. AGGARWAL: Yes.

16 JUDGE GROSSMAN: This is Judge Grossman. If you could go
17 back to the previous slide for a minute, I think you were on your Slide 31,
18 and you were talking about the difference--let me get this slide up that I
19 thought you had up on the screen.

20 MR. AGGARWAL: Was it this slide, Judge?

21 JUDGE GROSSMAN: No, it was not. It was the one that had the two
22 images, the signal going there. There was an amorphous kind of a cloud
23 behind it. On the left was it's a communication, there we are. I think this is
24 the one you were talking about. The big difference here is that you've got
25 the devices going back and forth sending signals, but in the background
26 you've got one thing labeled a communication network on the left, and on

1 the right it's labeled wifi. Now keeping that in mind, the wifi and
2 communication network you're telling us are different, I want to go back to
3 the language of the claim.

4 When we look at Claim 1, it starts out in that preamble that you've got
5 a communication network that comprises a whole bunch of other elements.
6 One of the things that are part of the communication network under the
7 broad preamble is establishing a short range signal transmission path.
8 Doesn't that suggest that the short range transmission path is part of the
9 broader communication network? And so if you're communicating with the
10 short range signal transmission path, you are, in fact, communicating with
11 the communication network because the short range signal transmission path
12 is part of the communication network, as Claim 1 tells us. Is there something
13 wrong with that analysis?

14 MR. AGGARWAL: Judge, I think that would not be correct under the
15 claim language. Claim 1 tells us there are two different communication
16 channels, the short range communication path and the--as we were
17 discussing earlier, the establishing limitation in Claim 1 discusses
18 establishing a short range signal transmission path with a wireless device
19 independently of the communication network. So there are two separate
20 ways the devices can communicate, one way through the short range path
21 and another way through the communication network.

22 JUDGE GROSSMAN: So--

23 MR. AGGARWAL: Maybe--

24 JUDGE GROSSMAN: Go ahead, finish your thought, I'm sorry.

1 MR. AGGARWAL: Here on Page 20 of the Petition, what SONOS
2 mapped to the communication network was the wifi or the WLAN network
3 itself. That's separate from the short range direct communication path.

4 JUDGE GROSSMAN: So even though the short range signal
5 transmission path is listed under--the network or the communication network
6 comprises, one of the steps includes establishing that short range signal
7 transmission path. What you're saying is the other language in that Claim 1
8 establishes that, in fact, the short range signal transmission path is
9 independent of the broader, more generic term communication network.

10 MR. AGGARWAL: Yes, Judge, and I think in Claim 1 the preamble
11 is actually saying the method for commissioning a target device onto a
12 communication network comprising, so I don't think that Claim 1 is saying
13 that the communication network comprises the short range path. It's just
14 saying the method to commission onto the communication network
15 comprises a bunch of different steps, one of them being establishing a short
16 range communication path. So I would still say there are two distinct ways
17 the devices communicate with each other.

18 JUDGE GROSSMAN: All right, thank you.

19 MR. AGGARWAL: Just to kind of reiterate the earlier point we were
20 discussing, SONOS' argument for Roberts is alleging an obvious success
21 notification, but it doesn't provide any technical reasoning or explanation of
22 why this message needs to be sent. The one reason it kind of mentions is
23 that the enrollee needs to--what SONOS alleges is that the enrollee needs to
24 tell the registrar a message so the registrar can delete its own matching L2
25 port, but that's contradicted by Roberts itself, which tells us that the registrar
26 can delete its own L2 port unilaterally.

1 JUDGE RAEVSKY: Mr. Aggarwal, I want to explore this point a bit.
2 So as I asked Petitioner's counsel about this, I pointed Petitioner to Pages
3 36 and 37 of the Petition where it says that a POSITA would understand that
4 it would be obvious to send this notification. But what I didn't hear you
5 address is, Petitioner at the end of that section says that Roberts explains that
6 its system operates to give systemwide visibility into the setup progress. I
7 think the larger statement in Roberts is that using this exchange gives
8 systemwide visibility into the setup process. So is that not an explicit
9 motivation because there's systemwide visibility to send a notification to
10 any component within that system, including the user device?

11 MR. AGGARWAL: Judge, I'll address that point directly and one
12 slide that's helpful to look at is Slide 34 in Google's slides. There's a few
13 issues with that argument. First, the systemwide visibility is just general
14 visibility into the setup progress, which is distinct in Roberts than what
15 actually happens for entering the wireless network itself. What Roberts is
16 telling us is that setup is just providing the network credentials to the
17 enrollee device and not actually talking about the setup--talking distinctly
18 from actually connecting or entering the wireless network itself.

19 But more importantly, this systemwide visibility doesn't talk about
20 any messages at all or any messages between the enrollee and the registrar,
21 which the claims require. So there's nothing in here that tells us that
22 visibility means a specific message as Claim 6 actually requires. I know
23 briefly moving on to Slide 35, there was some discussion about some
24 messages being sent back and forth for the L2 port deletion process, but that
25 kind of goes back to our initial point where there is no actual messages being
26 sent between these devices.

1 What happens after setup succeeds is that both devices delete their
2 ports, but Roberts does not suggest any message being sent from the enrollee
3 to the registrar device so the registrar can delete its port, but instead the
4 registrar deletes its port on its own after a preset time limit, as Roberts
5 clearly tells us in Colum 10, Lines 25 to 28. I'd like to move on to one other
6 argument that wasn't really discussed during the opening. Even if we
7 assume that Roberts did disclose a success message, which we dispute, even
8 if we assume that, Roberts fails to suggest that the contact indicates
9 successful wireless network connection or occurs over the wireless network
10 itself.

11 What's helpful to see on Slide 38 of Google's slides is that the claims
12 require indicating that the target device has successfully entered the
13 communication network, but the Petition only alleges that there's a success
14 indication indicating that setup was successful, nothing about entering the
15 communication network itself. Moving to Slide 39, this same critical flaw
16 happens with the expert testimony, as well. It's only alleging that setup was
17 successful, not that there was a successful entry into the communication
18 network.

19 JUDGE TURNER: Counsel, this is Judge Turner. This is your five-
20 minute warning before you go into your prearranged rebuttal time.

21 MR. AGGARWAL: Thank you, Judge. I did want to point out that the
22 claim construction argument that SONOS raised was raised the first time on
23 reply, so it was improperly raised on the Reply itself. As we did discuss on
24 Claim 7, Google is not arguing--Google's arguments don't render Claim 7
25 meaningless. Google is not requiring the entire commissioning process to be

1 complete, but rather just that the target device joins or connects to the
2 wireless network itself.

3 There's additional steps that could be required later on for the
4 commissioning process after joining the network, but not necessarily that the
5 commissioning process is completely complete. So Google's arguments do
6 not render Claim 7 meaningless as SONOS alleges. I'll rest on the briefs for
7 the rest of our arguments unless there's any other questions?

8 JUDGE GROSSMAN: This is Judge Grossman, Mr. Aggarwal. Was
9 this new claim construction issue that you just mentioned saying that the
10 Petitioner's claim construction in its Reply was a new argument, was that
11 something that you had raised before in your Surreply or in some other
12 document? Or is that something we're just hearing for the first time this
13 afternoon?

14 MR. AGGARWAL: We raised that in our Surreply, sir, Judge.

15 JUDGE GROSSMAN: Thank you.

16 MR. AGGARWAL: It was on Page 12 of the Surreply.

17 JUDGE GROSSMAN: Thank you, that's helpful.

18 JUDGE TURNER: Okay, it doesn't appear that there's any additional
19 questions. Mr. Aggarwal, you will have 13 minutes for surrebuttal should
20 you choose to use it. Let me, before we go back, let me also poll Patent
21 Owner's counsel, were there any clarifications or corrections that you
22 wanted to make regarding the LEAP participant's arguments at this point?

23 MR. BELL: No, thank you, Your Honor. This is Cory Bell. No
24 clarifications at this time.

1 JUDGE TURNER: Okay, thank you. Again, Mr. Aggarwal, you will
2 have 13 minutes when we come back for surrebuttal. Mr. Harmon, you
3 presently have 11 minutes and you may begin when you're ready.

4 MR. HERMAN: Thank you, Your Honor. So I'll spend a little bit of
5 time discussing the construction or understanding of the term successfully
6 entered the communication network, and I'll begin by noting that Patent
7 Owner had two opportunities to discuss the construction of this element,
8 both in its Response and in its Surreply brief, and both times it explicitly
9 declined to do so, explaining in its view that the term could be afforded--the
10 term is clear on its face and can be afforded its plain meaning. But then
11 when it went wrong was when it tried to apply that plain meaning to the
12 prior art.

13 All that Petitioner did was point out how Patent Owner was departing
14 from the plain meaning of the claim term in its Reply brief. So the Petitioner
15 did not make new claim construction arguments in its Reply. It simply
16 pointed out that Patent Owner was interpreting the term in a way that is not
17 possible given its context within the other claims in the '615 patent. Again,
18 as I explained, Claim 6 and the successfully entered the communication
19 network claim language cannot mean that the target device has completely
20 and fully joined the wireless network for all purposes such that it can
21 communicate with any device and communicate freely with any device on
22 the network.

23 It can't mean that because that would render Claim 7 of the '615
24 patent meaningless, and Claim 7 explains that the network commissioning
25 process is not yet done and must continue after this step of Claim 6 is
26 performed. It's Petitioner's view that there is nothing about the specification

1 that requires a different understanding of Claim 6, and I've got the two
2 portions of the specification that Patent Owner points to reproduced on Slide
3 12 of Petitioner's demonstrative. Neither of these requires any sort of
4 special claim construction, and neither requires that the network be fully
5 joined or entered for all purposes for Claim 6 to be satisfied.

6 You see in the passage from Column 11 on the right of the slide that
7 additional configuration data can be sent to the device that's seeking to join
8 the network after the indication of success is sent. So that's essentially
9 saying the same thing that's required by the interplay of Claims 6 and 7.
10 Moreover, the passage on the left talks about "connecting to the network,"
11 and that's the very same language that Suumaki uses to explain the state of
12 its new device during the setup process.

13 JUDGE TURNER: Mr. Herman, this is Judge Turner. If I can maybe
14 slightly paraphrase your response, I think Petitioner is saying that you relied
15 on the plain meaning, you didn't do a claim construction. You just basically
16 said Patent Owner is wrong in their implicit construction. Is that a fair
17 reading?

18 MR. HERMAN: That's right, Your Honor.

19 JUDGE TURNER: Okay, no, I just wanted to make sure I understood.
20 And because I asked Patent Owner's counsel, would Petitioner be open or
21 think it's necessary should we require extra briefing regarding claim
22 construction or any terms in the claims?

23 MR. HERMAN: So if the Board believes that that's something that
24 would be helpful to it and that it requires to reach its decision, I'd be more
25 than happy to provide whatever briefing the Board requires.

26 JUDGE TURNER: Thank you.

1 MR. HERMAN: Mm-hmm. So Petitioner submits that Claim 6 does
2 not require that the target device joins the wireless network for all purposes.
3 All that is required is that the wireless network have been successfully
4 entered. We know, because Claim 7 is part of the '615 patent that that entry
5 step can be an intermediate step in the commissioning process. So I agree
6 with Your Honors' implication during Patent Owner's presentation that
7 connection to the network hub device and sending messages to that hub and
8 receiving messages back over wifi are exactly what Claim 6 requires.

9 I'll briefly move on to address one point regarding Suumaki. So
10 Patent Owner argued--

11 JUDGE GROSSMAN: Before we leave that--this is Judge Grossman,
12 Mr. Herman--let's go back to the language of Claim 1 again that you were
13 just talking about. I understand exactly what you were just saying. What
14 are we to make, though, of the phrase in the establishing a short range signal
15 clause of Claim 1 at the end of it where it says that short range signal
16 transmission path is independently of the communication, it's created
17 independently of the communication network?

18 MR. HERMAN: So what Claim 1 is referring to is it's referring to a
19 new device that's seeking to join an existing wireless network. So that's one
20 network. There's an existing wireless network. It needs to receive the
21 information that's necessary to join that network via a separate
22 communication channel, and that's the claimed short range signal
23 transmission path. So what the claim says is that the new device is seeking
24 to join a wireless network. It gets information or data that is required to join
25 that network from another device via a separate short range path, and that's
26 what Claim 1 requires.

1 So the short range path in Claim 1 is of the path that's outside of the
2 wireless network that's used to send commissioning data or configuration
3 data to the wireless device. Claim 6 is referring to communications that then
4 occur over wifi, so you're trying to join a wifi network and Claim 6 is
5 requiring wifi communications. You'll see in the Petition when we're
6 talking about Roberts, Roberts engages in two different types of
7 communications. Both the devices in Roberts communicate over wireless
8 networks and they communicate over out of band networks for purposes of
9 relaying commissioning information.

10 So there's a separate Bluetooth or an NFC connection that's used to
11 relay configuration information or what the claim calls network
12 configuration data. That data is what's sent over the NFC or the Bluetooth
13 path. Does that make sense? Does that answer your question?

14 JUDGE GROSSMAN: It does. I do understand what you're saying.
15 So the Bluetooth is what the claim--is that what the claim calls a short range
16 signal transmission path that's independent of the communication network?

17 MR. HERMAN: That's right. In the claim, the Bluetooth or the NFC
18 or a blinking light from a camera is all examples of a separate short range
19 signal transmission path that is independent of the communication network.
20 So the communication network is the wifi network. There's a separate
21 means of communication between the new device and the existing device
22 that's used to relay that network configuration data from one place to the
23 other, so two different communication channels.

24 JUDGE GROSSMAN: Okay, thank you.

25 MR. HERMAN: Moving on to Suumaki, so Patent Owner argued that
26 the connection between the new device and the hub in Suumaki during setup

1 is some sort of special short range connection or channel that is different
2 from a standard wifi network connection. While admittedly the language is
3 similar to what the claims require, which potentially is a source of
4 confusion, what Suumaki is referring to as a short range carrier
5 communication connection is the actual wifi network connection. You can
6 see that in Column 7 at Line 28 going through Line 35. In that particular
7 passage in Suumaki, which is cited in the Petition, Suumaki characterizes the
8 wifi 802.11 network as a “in band short range carrier communication
9 connection.”

10 So the wifi network in Suumaki is referred to as an in band short
11 range carrier communication network. There is a separate means of
12 communication in Suumaki, that’s near field communication, and it uses
13 different language to describe that. That near field communication is the
14 claimed short range signal transmission path. But the actual wifi network,
15 so the communication network that Claim 1 requires, Suumaki refers to that
16 as an IEE 802.11 in band short range carrier communication network.

17 So the wireless network that the new device is seeking to join in
18 Suumaki is what Suumaki calls the short range carrier communication
19 connection, and the new device provisionally connects to the hub via the
20 exact same type of short range carrier communication connection during the
21 setup procedure. So the exact same type of connection exists both during
22 the wifi protected procedure, which happens after that NFC tap, and later
23 during device use once the device has been fully configured to participate in
24 the network. This connection is with Suumaki’s network hub device, which
25 admittedly forms and manages the wireless network that is being joined.

1 So I'll briefly address the Roberts grounds with my remaining time,
2 and here I'll note that it's Patent Owner who has repeatedly argued that
3 Roberts' registrar always and unilaterally closes its special setup port. In
4 doing so, Patent Owner itself points to the passages in Roberts explaining
5 that two of the circumstances where the registrar closes its port are when
6 setup times out and when setup fails. So Petitioner is not making any new
7 arguments. It only pointed out here today that Roberts expressly identifies
8 another circumstance where the port is closed when setup succeeds, and
9 that's the circumstance that the Petition cites when lining Roberts up with
10 Claim 6.

11 Because Roberts is able to identify this circumstance, Petitioner
12 explained that it was obviously contacted by the enrollee indicating success.
13 This isn't just speculation by the Petitioner, it's what Roberts says. Robert
14 specifically explains in Column 11 that there are "exchanges" regarding the
15 special setup port creation and deletion and that these exchanges are
16 specifically used to provide systemwide visibility into setup progress.
17 Unless there are further questions, I believe I have used all my time.

18 JUDGE TURNER: I don't see any more questions. You had one
19 more minute, but thank you. You didn't have to use all your time. Since it
20 doesn't appear we have any more questions, we're going to go back to Mr.
21 Aggarwal, and you'll have 13 minutes and you may begin when ready.

22 MR. AGGARWAL: Thank you, Judge. I'd like to first start with just
23 going back to SONOS' Slide 12 that discusses the specification, the context
24 the specification provides for Claim 6. One of the portions that is not
25 highlighted on the right side of this slide is that quote starts with "once the
26 device to be commissioned has successfully joined the WLAN, then the

1 device proceeds to contact the commission device by the WLAN to indicate
2 success.” These two portions of the ‘615 patent are what provides context
3 for the claim, and they both discuss successfully joining before indicating
4 success. That indicates that the claims require joining the network itself, not
5 just the entry means joining itself.

6 JUDGE RAEVSKY: Mr. Aggarwal, do you require that the word or
7 phrase communication network in the claims must mean WLAN?

8 MR. AGGARWAL: I’m sorry, can you repeat that, Judge?

9 JUDGE RAEVSKY: The phrase communication network in the
10 claims, must that be interpreted to only include WLAN?

11 MR. AGGARWAL: Yes, that’s what they mapped to in the Petition
12 and that’s a key distinction between what’s being communicated to before
13 the alleged target devices actually join the WLAN. A point that stems off
14 that is 802.11 is a protocol that has different networks that you can use. You
15 can use a short range network or the wireless network itself, but when the
16 devices are being set up, what’s happening is they’re using the short range
17 network to receive the communication network. That’s distinct and separate
18 from the wireless network that you’re being commissioned onto eventually.

19 With that, unless there’s any other questions, I can leave it at that.

20 JUDGE GROSSMAN: I have no further questions. This is Judge
21 Grossman.

22 JUDGE TURNER: Okay, and anything else from any other panel
23 member? Okay, thank you, Mr. Aggarwal. The case is submitted. Please
24 hang on. I’m going to talk to the court reporter and find out if there’s any
25 spelling or clarifications needed.

1 MR. BELL: This is Cory Bell. I think you said you just want to have
2 confirmation that we had no clarifications and I confirm that we have no
3 clarifications from Mr. Aggarwal's rebuttal.

4 JUDGE TURNER: Yes, that's absolutely fine. It was a very short
5 rebuttal, so I had hoped there wasn't going to be any corrections. There
6 wasn't a lot that he said, but thank you for that. Yes, I did say we wanted to
7 have that mentioned so that does appear on the record. Thank you very much
8 to the parties for their attention. The case is submitted. The panel did
9 discuss potential additional briefing, but if the panel decides to seek
10 additional briefing, we will contact the parties separately. Thank you for
11 your attendance and the case is submitted. Thank you.

12 MR. HERMAN: Thank you.

13 MR. AGGARWAL: Thank you, Judge.

14 (Whereupon, the above-mentioned matter went off the record at 2:42
15 p.m.)

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