

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INDUCTEV, INC.,
Petitioner,

v.

WITRICITY CORPORATION,
Patent Owner.

IPR2023-01208
Patent 8,912,687

Record of Oral Hearing
Held: November 19, 2024

Before: JAMESON LEE, ROBERT J. WEINSCHENK, and
SCOTT RAEVSKY, *Administrative Patent Judges*.

IPR2023-01208
Patent 8,912,687

APPEARANCES:

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P R O C E E D I N G S

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JUDGE WEINSCHENK: All right. Welcome, everyone. This is an oral hearing for IPR 2023-1208, InductEV v. WiTricity. I'm Judge Weinschenk, with me again are Judge Lee and Judge Raevsky. Let's start with some appearances. Who do we have for Petitioner?

MR. DAVIS: Good afternoon. This is Blake Davis from Latham & Watkins for Petitioner InductEV. Also with me are David Zucker and Steve Peters, also from Latham & Watkins.

JUDGE WEINSCHENK: Thank you, Mr. Davis. And who do we have for Patent Owner?

MR. CORBETT: Good afternoon, Your Honors. This is Ryan Corbett from Burr & Forman on behalf of the Patent Owner, WiTricity Corporation. With me, I have my partner, Lance Lawson, our technical expert, Dr. Horenstein, and in-house counsel for WiTricity Corporation, Mr. Misha Hill.

JUDGE WEINSCHENK: All right. Thank you, Mr. Corbett. Will you be doing the presenting for this one?

MR. CORBETT: Yes, Your Honor.

JUDGE WEINSCHENK: Okay. I know you probably recall this from our hearing this morning, but I'll go through very quickly some preliminary matters.

You know, as you know, our primary concern is to make sure you guys are being heard. So, if you're experiencing technical difficulties, please let us know. If you can't reach out to the Judges, please contact one of the

1 team members who provided you with your connection information. Please
2 try to remember to mute your mic when you're not speaking, and please try
3 to reintroduce yourself each time you start speaking, it helps for a clear
4 transcript. We have all the papers. Please just try your best to refer to page
5 numbers and/or slide numbers so that we can follow along.

6 There is a public line in this hearing as well. Again, I don't believe
7 there's any confidential information at issue. But if the public line presents a
8 problem at any point, please, let us know.

9 Lastly, each side will have 60 minutes per side. Please just let us
10 know how much time you'd like to reserve for your rebuttal. And I will
11 again endeavor to give you at least a five-minute warning when your time is
12 running out. So with that, any questions from the Petitioner's side, Mr.
13 Davis?

14 MR. DAVIS: No questions, Your Honor.

15 JUDGE WEINSCHENK: Anything from Patent Owner, Mr.
16 Corbett?

17 MR. CORBETT: No questions, Your Honor.

18 JUDGE WEINSCHENK: All right. Well, let's get started then.
19 Mr. Davis, you can begin when you're ready. Just let me tell him how much
20 time you'd like for your rebuttal.

21 MR. DAVIS: I'll reserve 20 minutes for rebuttal.

22 JUDGE WEINSCHENK: Great. Thank you.

23 MR. DAVIS: Thank you, Your Honors. Again, this is Blake
24 Davis on behalf of Petitioner here relating to the '687 patent. In the petition,
25 there are every -- all Claims of the '687 patent are challenged. Claims 1

1 through 18, there is one ground, which is based on the combination of Cook
2 and Bennett. As with the '719 patent that we discussed earlier today, the
3 disputes with respect to the '687 patent, they are limited to just one limitation
4 of the combination. And then Patent Owner also disputes motivations to
5 combine for that same limitation, which relates to confirming compatibility.

6 Turning to slide 5 of Petitioner's slides, again, just want to set the
7 stage briefly in terms of while there are 18 Claims, there are three
8 Independent Claims, and then each of the Independent Claims has an
9 identical set of five Dependent Claims associated with them. There is no
10 dispute that Claim 13 is representative of all of the other two Independent
11 Claims. As a brief explanation, Claim 13 is basically a superset of all of the
12 limitations that are found in Claims 1 and 7, it describes the whole system.
13 So, if Claim 13 is met, Claim 1 and Claim 7 are also met. Likewise, Patent
14 Owner has not made any independent arguments based on any of the
15 Dependent Claims. And so, all of the Claims 1 through 18, they rise and fall
16 with Claim 13. Or sorry, they rise and fall with Claim 13.

17 The only disputed limitation on slide 5 is the one that's highlighted
18 in yellow, it requires an authorization facility to confirm compatibility of the
19 resonators and provide authorization for the initiation of transfer of power.
20 And Patent Owner provided a claim construction dispute with respect to this
21 term, which I'll jump into first before addressing the combination itself.

22 If we can please turn to -- if I can direct the Board's attention to
23 slide 7. The constructions -- Petitioner proposes that the claim term confirm
24 compatibility of the resonators provide authorization for initiation of transfer
25 of power, should have its plain meaning. Patent Owner proposes that it

1 should be construed as verified that parameters of the resonators will permit
2 power transfer and provide authorization prior to initiating the transfer of
3 power.

4 I want to jump into what the plain meaning is in the context of the
5 '687 patent, the intrinsic evidence. So, starting with the claims going to slide
6 8. The limitation where the confirm compatibility of the resonators and
7 provide authorization for initiation transfer of power. This is part of that
8 final limitation. What we know from the claim context is that confirming
9 compatibility of the resonators is part of an authorization facility. So, it's
10 related to the process of authorizing devices. That also is part of this
11 providing authorization. So, essentially what the claim, just the plain claim
12 text is requiring, is you look to see if the resonators are compatible, really in
13 any way. Are the resonators compatible? If they are, then you can authorize
14 power transfer for initiation of the transfer of power. And we see --

15 JUDGE WEINSCHENK: Mr. Davis?

16 MR. DAVIS: Yep.

17 JUDGE WEINSCHENK: This is Judge Weinschenk. So, you
18 seem to be acknowledging here, I think, on this slide that the disputed
19 limitation has sort of two separate components. One, are the resonators
20 compatible, and then separate from that authorizing the power transfer.
21 There's two parts to this limitation, correct?

22 MR. DAVIS: That's partially true. They are directly related. So,
23 if I confirm compatibility, then I can provide authorization. They are not as
24 Patent Owner has submitted to be two distinct and separate checks, which is
25 something that there's a dispute on. But yes, it is true that there are two

1 separate features of the authorization facility. The first is confirming
2 compatibility of the resonators and then providing authorization could be as
3 simple as just sending a signal that says I'm going to initiate the transfer of
4 power.

5 JUDGE WEINSCHENK: Okay. I understand.

6 MR. DAVIS: Turning to slide 9, of course with any Claim
7 construction, we need to look at the specification to understand how the term
8 is used in the context of the patent. And here, what we have, although the
9 patent is very long, it actually discusses this in a very sort of isolated place
10 this discussion of confirming compatibility. And that's at column 102, lines
11 14 through 17, it refers to authentication may be used to ensure that only
12 compatible sources and devices are able to transmit and receive power. And
13 we have from Patent Owner's expert that based on his own review of the
14 patent, the word authentication is a word used to describe the confirmed
15 compatibility of the resonators. And that's Exhibit 1055 at 35, 9 through 17.

16 Turning to slide 10, we have a broad number of ways that the
17 specification explains that you can authenticate and confirm the
18 compatibility of devices. For example, you could see if they are of a
19 specific manufacturer and not clones or devices and sources from other
20 manufacturers. You could check to see if the devices are part of a specific
21 subscription or plan, are able to receive power from a source.
22 Authentication can also be based on a cryptographic request and response
23 protocol. It can also be based on unique signatures of perturbations of
24 specific devices, allowing them to be used and authenticated based on
25 properties similar to physically unclonable functions.

1 So, what the specification is describing in what all of these things
2 relate to is that if you can confirm that the devices are designed to work
3 together, then they are compatible. That is what sort of marries all of these
4 different concepts and it's what's reflected in the claim. It is to confirm the
5 compatibility of the resonators, which, for example, if a resonator is able to
6 send a cryptographic request and receive a response, then we know that
7 those resonators are designed to work together and you can provide the
8 initiation for transfer of power as required by the claim.

9 JUDGE RAEVSKY: Mr. Davis, this is Judge Raevsky. What's
10 your theory for interpreting the claim based on the specification here? Are
11 you referring to lexicography? Is there some kind of disclaimer? Are you
12 just referring to the context of the specification? Help me understand what
13 your theory is.

14 MR. DAVIS: So, the construction we've proposed is the plain
15 meaning. Of course, the plain meaning is as a person would understand it in
16 the context of the patent. And what this provides is the context of the
17 various examples that confirming compatibility can be, which of course is
18 not limited strictly to as Patent Owner has suggested in their construction,
19 that it has to be parameters of a resonator that are verified. And that's
20 really -- we didn't propose this as a construction in the petition because we
21 think that confirming compatibility, a POSA would understand that to be
22 broad.

23 JUDGE RAEVSKY: Well, although you're pointing to the
24 specification, you're not saying that we should limit the claim based on a
25 specification, correct?

1 MR. DAVIS: That's correct. The specification provides examples
2 of the breadth of the term.

3 JUDGE RAEVSKY: Okay. So, and do you understand the words
4 confirm compatibility to have the same meaning as providing authorization?

5 MR. DAVIS: No.

6 JUDGE RAEVSKY: So, what would you say the difference
7 would be between those two terms?

8 MR. DAVIS: So, the difference between the two terms, the
9 confirming compatibility is going to be the actual the check. So, it's almost
10 like you can imagine it being sort of like a handshake. So, I'm going to see
11 are my resonators compatible by seeing if they're part of the same
12 subscription or manufacturing plan. And then I can provide authorization to
13 initiate power transfer. And the specification does describe initiating power
14 transfer can be as simple as just supplying a signal.

15 JUDGE RAEVSKY: Do you view compatibility as referring to
16 being part of the same subscription or some other financial arrangement?

17 MR. DAVIS: That's right. That's one of the examples of
18 authentication. And we know that a POSA would understand that
19 confirming compatibility has the same breadth or at least includes
20 authentication. I mean, that's what we have from Dr. Horenstein at the
21 bottom of slide 9. And also --

22 JUDGE RAEVSKY: But you just said that providing
23 authorization and confirming compatibility are different. I just want to
24 clarify. Now you're saying that confirming compatibility includes
25 authorization.

1 MR. DAVIS: I'm sorry. I may have misspoke.

2 JUDGE RAEVSKY: Okay.

3 MR. DAVIS: Confirming compatibility includes authentication --

4 JUDGE RAEVSKY: Understood.

5 MR. DAVIS: -- not authorization. So, authorization and
6 authentication are not the same thing. Authorization is am I authorized? I
7 use a key card to get into a building. I'm sure that your offices has
8 something similar. I use a key card. It says I'm authorized. I have an
9 authenticated key card and then the door will open. So, I've been authorized
10 to enter the building as a virtue of scanning my key card.

11 JUDGE RAEVSKY: Understood.

12 JUDGE WEINSCHENK: Mr. Davis?

13 MR. DAVIS: Yes.

14 JUDGE WEINSCHENK: This is Judge Weinschenk. You kind of
15 picked apart these portions of the specification. It sounds like you're saying
16 that, you know, determining that the devices of a specific manufacturer or
17 part of a specific plan is a way to confirm compatibility. But one way to
18 read this specification is that those are different things. It has a line, a
19 sentence that talks about confirming compatibility, and then a separate
20 sentence that talks about, you know, authenticating it as part of a specific
21 plan. Why wouldn't it be that those are different and not one way of
22 accomplishing the other, if you understand what I'm saying.

23 MR. DAVIS: Yes. So, I think one of the ways that we can
24 actually see that is looking at the claim context that's provided by the
25 Dependent Claims. So, for example, if we turn to slide 14 of Petitioner's

1 demonstratives, for example, we can see Claim 14. It says that the
2 authorization facility where the is referring to antecedent basis in Claim 13,
3 the authorization facility uses public key infrastructure, or for Claim 14 and
4 for Claim 15, the authorization facility uses a secure communication
5 channel. And so, what it is saying is the authorization facility to confirm
6 compatibility of the resonators and provide authorization for initiation of
7 transfer of power uses those features, public key infrastructure or secure
8 communication channel, to perform those functions of Claim 13, which
9 again, maps to then looking back at the specification which explains that
10 authentication can be performed using secure communication channels as
11 well.

12 JUDGE WEINSCHENK: But you could use, for example, a
13 public key infrastructure to verify parameters, couldn't you? That's not -- it's
14 not just because this Dependent Claim says you're using a public key
15 infrastructure, you could use that to verify parameters of the resonator.
16 They're not mutually exclusive, I don't think.

17 MR. DAVIS: That's not necessarily mutually exclusive, but it's
18 not disclosed in the intrinsic evidence. There's no discussion or disclosure
19 of, as part of authentication, the transmission or the sending or the verifying
20 of specific parameters. That's not to say that identifying specific parameters
21 is excluded. We think that the scope of confirming compatibility is broad.
22 And so, of course, you could confirm compatibility, but these are other ways
23 that you can confirm compatibility of the resonators simply by virtue of the
24 fact that the resonators are able to communicate using the same public key
25 infrastructure. They're designed to work together. That means that they're

1 going to be -- have compatibility confirmed.

2 JUDGE WEINSCHENK: Right. If you weren't compatible, you
3 wouldn't be able to use a secure communication channel between them at all
4 if they weren't compatible.

5 MR. DAVIS: That's right.

6 JUDGE WEINSCHENK: I understand your point.

7 JUDGE RAEVSKY: Mr. Davis, why are you tying using public
8 key infrastructure to confirm compatibility? Claim 14, for instance, does not
9 say wherein the authorization facility uses public key infrastructure to
10 confirm compatibility. It just says the authorization facility uses the public
11 key infrastructure. Couldn't it be read to be using public key infrastructure
12 independent of confirming compatibility? For instance, just to provide
13 authorization?

14 MR. DAVIS: So, I think that that's another place where I think in
15 the abstract, I think you're right. I think that is something that you could
16 interpret this to be, but I think then when you place it in the context of the
17 specification and what the specification is describing, that authentication can
18 use these things and that a POSA would understand authentication and
19 confirming compatibility to have, those are the same thing in the context of
20 this patent. Then when you put this claim context in the -- when you put the
21 claims into the context of the specification, that's what provides the clarity as
22 to what confirming compatibility means.

23 I think if you also look at, for example, figure -- oh, before I
24 actually get to that, I think also Judge Raevsky, to your point, it doesn't say
25 use the public key infrastructure to confirm compatibility, but again, that's in

1 Claim 13. That's the only thing that authorization facility does. And so, you
2 would basically be left with an open-ended, what is this used for? Using
3 public key infrastructure presumptively would have some sort of a target
4 function. Those target functions are what are provided in Claim 13 itself.

5 JUDGE RAEVSKY: Couple issues. I think one, you might be
6 begging the question by saying that because the authorization facility
7 arguably performs two functions. But second, it also feels like you're
8 relying very heavily on the context of the specification for the plain meaning
9 when I think we're looking at what could be argued to be non-limiting
10 embodiments, so.

11 MR. DAVIS: I completely agree with you that they are non-
12 limiting embodiments. And that's our point is that the specification is broad.
13 It's providing examples of what confirming compatibility are, which sort of
14 confirm the breadth of the confirm compatibility. We are not arguing that
15 the claims are limited to any of those disclosed embodiments. We're saying
16 that they are broad enough that they encompass them, which is what a claim
17 construction needs to do. It also is why, one of the reasons, why Patent
18 Owner's construction is improper is what Patent Owner's construction does,
19 if we go to slide 13 of Petitioner's slides, they are adding in that the
20 parameters that need to be -- that you have to verify parameters of the
21 resonators and such that they will permit power transfer. The claim doesn't
22 say anything about parameters of the resonators. So, that's something that's
23 getting read in. And then the will permit power transfer, really that is
24 actually conflating the confirming compatibility portion with the providing
25 authorization.

1 So, the providing authorization to initiate the transfer of power is
2 really that second portion, and they're trying to dovetail it into the first
3 portion, which isn't supported by the specification.

4 JUDGE RAEVSKY: I suppose from a technical standpoint, it's
5 difficult to understand why looking at the compatibility of two resonators
6 involves a financial question. And so, it makes me wonder if Patent Owner
7 has point that there is something that needs to be compared physically
8 amongst these resonators which, whether we describe it as parameters or
9 some other aspect of their power transfer capability. I wonder if you could
10 address that.

11 MR. DAVIS: So, I think -- so, the reason why that there is a --
12 there doesn't need to be -- in addition -- the reason why there doesn't need to
13 be a confirmation of some sort of a physical parameter is because based on
14 what's disclosed in the specification, and also I think, this is a matter of the
15 plain meaning. If I know that a resonator has an account that's associated
16 with a plan or charging, then I know that the resonator is compatible because
17 people who have accounts to charge using the wireless power of a resonator,
18 it would be associated with a compatible resonator. And that's also reflected
19 in the manufacturer or the manufacturer that's associated with a resonator. If
20 I know that two resonators are made by the same company, that doesn't in
21 and of itself necessitate. You could think of an example where you have a
22 device that can't physically work with the other one, but in the context of
23 this patent, the broad use of the term confirming compatibility and
24 authentication, it's really just looking, is this a known device? Can I verify
25 that this is a device that they're supposed to be, which is also the plain

1 meaning of authentication, which we have on slide 11 of the demonstratives,
2 the dictionary of inter-networking terms and acronyms, authentication is the
3 verification of the identity of a person or a process in the context of the
4 claims at issue, the verification is going to be of the resonator or of the
5 device that's to be charged.

6 JUDGE RAEVSKY: But Mr. Davis, the claims don't actually use
7 the term authentication anywhere. So, I'm not sure why this is relevant.

8 MR. DAVIS: Right. So, the reason why that is relevant is because
9 both of the experts agree that in the context of the '687 patent, upon reading
10 the specification, a POSA would understand that authentication that in, and
11 this is going back to slide 9, in the context of the patent, authentication is a
12 word used to describe confirmed compatibility of the resonators. So again,
13 that's what a POSA would have understood upon reading the specification.
14 That's what's undisputed amongst the experts.

15 What I'll also say is to Judge Raevsky's point, that in the context of
16 the combination we don't think that requiring some sort of a notion of the
17 specific parameters of the resonator is required. However, in the prior art
18 that is actually disclosed, Bennett does disclose to the extent that's
19 necessary, the combination of Cook and Bennett, in fact, discloses under
20 both Petitioner's construction and Patent Owner's construction.

21 And I can jump into that and explain how that is.

22 JUDGE LEE: Before you do that --

23 JUDGE WEINSCHENK: It's okay if we get to that later.

24 JUDGE LEE: I want to ask you, it's Judge Lee. What exactly is
25 your basis? Is there enough basis for you to say, well, if you're the right

1 account holder, we'll assume you have the right equipment. I mean, it
2 sounds a little presumptuous.

3 MR. DAVIS: So, I think that's why there are two functions of the
4 authorization facility as well, which is, one is going to be to authorize the
5 device, and then the second is going to be to authorize the transfer of power.
6 But I do think that, again, looking in the context of the specification and the
7 limited description of what it means to authenticate, it is broad, and
8 authentication is what it means by confirming compatibility.

9 JUDGE LEE: Okay. Thank you.

10 MR. DAVIS: So, jumping into the -- so, we think that the
11 construction of confirming compatibility, it's broad. It includes these
12 various different ways of authenticating a device. We think that Patent
13 Owner's construction, it reads in limitations. We think it's inconsistent with
14 the Dependent Claims. Another thing I'll note is, even if we look at slide 15,
15 where Patent Owner sort of got its construction from its expert, Dr.
16 Horenstein. Dr. Horenstein himself says that one of the parameters that are
17 part of the compatibility check, and I'm reading from Dr. Horenstein's
18 declaration at paragraph 25, as part of the compatibility check, the
19 authorization facility may confirm such parameters as, and he says, resonant
20 frequency, quality factor Q, coupling efficiency, physical dimensions, safety
21 metrics, and manufacturer of the resonators. And so, while maybe the first
22 couple are parameters of the resonator, like the physical parameters of the
23 resonator, safety checks in the manufacturer of the resonator that goes again
24 directly to what the specification is describing is authentication, and it's not
25 checking what the specific parameters are. So again, what the -- a POSA

1 reading this is not that it's limited to determining, for example, the resonant
2 frequency or the quality factor, it is in fact broader than that in view of the
3 specification.

4 Now jumping into the actual prior art, Patent Owner contends and
5 I'll go to slide 19. So, Patent Owner contends that Cook and Bennett -- they
6 don't dispute that Cook and Bennett the combination discloses each of the
7 limitations of the claim, other than that final limitation. And for that final
8 limitation of confirming compatibility Patent Owner disputes whether either
9 reference discloses it. We disagree. We think that actually both references
10 would disclose it under the plain meaning. However, in an abundance of
11 caution in the petition what we rely on is that Bennett's disclosure of the
12 authentication and compatibility functions, as well as related things like
13 safety checks and secure communication channels, that's what we rely on as
14 disclosing the claimed authorization facility. And just to explain that at just
15 a very sort of high level, the basis for the combination is that Cook discloses
16 the resonators, it discloses all of the limitations up until that final limitation.
17 And then Bennett discloses the final limitation, as well as the Dependent
18 Claims that provide sort of various details. The reason why a POSA would
19 be led to use Bennett is because Cook is a very high level reference itself. It
20 does disclose the resonators. It discloses that resonators can be used to
21 charge vehicles, describes where you would put a resonator. It describes
22 that you would want to monetize, because you're providing a lot of power
23 for vehicles, you'd want to monetize it, you'd want to have a system in place
24 where you can verify whether charging is enabled and then charge the
25 person who is actually using the power.

1 But that's sort of where the details stop in Cook. Cook sort of
2 assumes that somebody else has provided the details about how you actually
3 implement the system and provided those types of details. Those are the
4 details that are in Bennett. And we're going to see that in the motivations to
5 combine, which I'll get to after first addressing the question of where in
6 these references, does it actually disclose confirming compatibility and
7 providing authorization.

8 And so with that, I'll jump to first slide 22. And so, just looking at
9 the plain language of the claims, what Cook discloses that satisfies
10 confirming compatibility. For example, in paragraph 14 of Cook, there's an
11 information detecting part that would wirelessly detect a unique identifier
12 indicative of the vehicle. The vehicle has a resonator on it. And then going
13 down to paragraph 15 that's cited on slide 22, the controller that is on the
14 power supplying side would verify the ID as being one that is associated
15 with an account at 205, meaning charging is enabled. And then Cook goes
16 on, this causes power to be delivered from the AC main through a meter to
17 the charging device. And so, we have the sequence that is described in the
18 claim itself of an authorization facility to confirm compatibility to the
19 resonators, and then provide authorization for the initiation of transfer of
20 power. We see another example of that in paragraph 18, which is that power
21 is allowed only to be dispensed if an encrypted value, which would be an
22 encrypted value from the vehicle, properly agrees with the proper encryption
23 code and proper token time. We think that that's likely sufficient under the
24 plain meaning of the term. However, in an abundance of caution in the
25 petition, we explained that a why -- how, and why a POSA could have and

1 would have taken the Bennett's authorization, compatibility, communication,
2 and safety functions, because those are described in significantly more
3 detail, but for a type of system that is both analogous but also interoperable
4 with one another. Bennett is describing a system that provides for wireless
5 charging of batteries, much like Bennett, or much like Cook. The reason
6 why -- but Bennett, the only thing that it's really not saying is that you could
7 specifically implement a resonator in a vehicle, which again is something
8 that Cook provides.

9 JUDGE WEINSCHENK: Mr. Davis, this is Judge Weinschenk. I
10 think you mentioned this point before. I just want to clarify it. This
11 communication you've talked about here in Cook, where you're having this
12 communication that verifies the ID, could that happen if the resonators were
13 not compatible? I think you sort of indicated before that they couldn't even
14 do that if they were not compatible. Is that right?

15 MR. DAVIS: That's right.

16 JUDGE WEINSCHENK: Is there evidence in the record that we
17 could cite to that says that, you know, resonators that are not compatible
18 would not be able to even exchange the unique identifier and confirm it as
19 Cook discloses?

20 MR. DAVIS: So, I can identify -- so, when we discussed this
21 limitation in the petition at page 47, that is what we are describing is that
22 Cook is contemplating that there's an authorization component for
23 transmitting, and I'm reading from page 47, Cook contemplates the wireless
24 power receiver in the vehicle included related authorization components for
25 transmitting and encrypt message indicating that charging is enabled for the

1 vehicle, indicating that it has a compatible resonator.

2 JUDGE WEINSCHENK: Yeah, I guess it sounded like you were
3 saying that they couldn't even -- you couldn't even perform this function of
4 Cook if they weren't compatible. Is that is that true? The resonators couldn't
5 even exchange the ID information between the target and the power supply
6 if the resonators weren't compatible, or maybe there's some other
7 communication channel that's doing that outside of the resonators, you
8 know. I'm not sure that I understand that point.

9 MR. DAVIS: Yeah, and let me clarify. So, we're not saying that
10 you must provide compatibility for every single aspect of the system. So, I
11 don't think that it would be -- I don't think what we would say is that if you
12 are unable to have -- that the resonators are necessarily incompatible if they
13 don't have that communication signal, because there are other ways you
14 could confirm compatibility of resonators. I think in the context of Cook the
15 way that the system is designed is that the way is that confirming
16 compatibility does require an exchange of information using that secure
17 communication channel. That's what allows the monetization of the system
18 itself.

19 JUDGE WEINSCHENK: Okay. I understand.

20 MR. DAVIS: So, turning to slide 23, Bennett also discloses the
21 authorization facility under the plain meaning. So, what Bennett describes,
22 for example, and it provides a number of examples, two of them are in
23 paragraphs 37 and 39 of Bennett. In paragraph 37, the confirming
24 compatibility is done using a user authorization module 121, which
25 facilitates the authentication of the target electronic device for resonant

1 power delivery with the target device authenticator 199 of the power
2 transmitting unit. And so, what that is is you have an authorization facility
3 component that's on the device, which would be the vehicle in Cook. And
4 you also have an authorization facility component that exists on the power
5 transmitting unit which would be the charger in Cook. And that -- those two
6 modules will exchange what Bennett describes as authorization, or sorry,
7 what Bennett describes is authentication information. And then what the
8 authorization facility is going to do in Bennett is it's going to verify that the
9 authentication information that it received corresponds to a compatible
10 device. If there's a match, and this is at the bottom of paragraph 37, if a
11 match is determined, then resonant power delivery is initiated. That very
12 closely aligns with what the claim language itself requires, which is to
13 confirm the compatibility and then provide authorization for initiation of
14 transfer of power.

15 The second way on paragraph 39 of Bennett that it describes
16 confirming compatibility of the resonators is via a power control signal
17 exchange operation, which Bennett describes is required for the
18 authentication of the target electronic device. And as with the claim, that
19 authentication and power control signal exchange operation must occur
20 before a successful resonant power delivery. If the resonators have to
21 exchange power, a power control signal operation, and that has to be
22 successful, that also directly indicates that the resonators are in fact
23 compatible, and it is confirming compatibility of those resonators in Bennett.

24 Turning to Patent Owner's construction. Under Patent Owner's
25 construction, Bennett still discloses verifying parameters of the resonators

1 that will permit power transfer. One example of that is on slide 27, where
2 we have Bennett at paragraphs 57 through 58, which is in reference to
3 Figure 3. And Figure 3, this is sort of a quintessential example of where
4 Bennett provides the details that Cook is lacking. So, Bennett actually
5 describes exactly how you would do this authorization and authentication of
6 a device for it to work. And what Bennett describes on the -- or Patent
7 Owner's construction of verifying that parameters of the resonator will
8 permit power transfer is that, and looking at the top of slide 27, during the
9 step 307, the target electronic device will send its identity and it's tuned
10 resonant frequency information to the power transmitting unit. Then at step
11 311, which is down on Figure 3, the power transmitted unit will then
12 generate power employing the requested resonant frequency and delivers it
13 in the form of the magnetic field waves of the next block 311.

14 So, what Bennett is describing is it will check the resonant
15 frequency of the target device, it will confirm that it's compatible so that it
16 can provide power at that same resonant frequency from the source
17 resonator.

18 JUDGE WEINSCHENK: Mr. Davis, I don't see where it says it
19 would check the resonant frequency. It seems to just be sending the
20 resonant frequency information. How is sending something equivalent to
21 verifying something?

22 MR. DAVIS: So, that's clarified in another part of -- I agree that in
23 specific paragraphs 57 and 58, it just doesn't say those words expressly.
24 That is provided, for example, if we turn to slide 31 in Bennett paragraph 67.
25 What Bennett describes there is that there is a target device identification

1 database. That database contains, for example, a preferred magnetic
2 resonant frequency for the input device. And then at the bottom, we see that
3 if the communicated information matches the database contents, then the
4 resonant power delivery is initiated. So again, what paragraph 67 is
5 explaining is that missing detail that you're seeing in paragraph 57 and 58,
6 which is once I get that information, I am in fact going to check those
7 resonant frequencies. I think it is also implicit in paragraphs 57 and 58,
8 because if I'm going to deliver power at a resonant frequency, then I'm going
9 to also have that power. I'm going to verify that that resonant frequency is
10 something that I'm actually compatible to provide.

11 JUDGE WEINSCHENK: Mr. Davis, this is Judge Weinschenk.
12 This argument you just made about paragraph 67. Did you make that in the
13 papers somewhere?

14 MR. DAVIS: Yes, we did. In paragraph 67, it's in the reply at 17.
15 It's also cited in the petition at paragraph 48 for the authorization facility
16 limitation.

17 JUDGE WEINSCHENK: Thank you.

18 MR. DAVIS: So then, turning back to slide 29, there's really no
19 dispute that a POSA would have understood that this checking of resonant
20 frequencies that a POSA would have and could have implemented that in
21 Cook. And the reason why is because in Cook, what Cook describes is that
22 it is automatically charged whenever the antenna comes into range of a
23 wireless charging circuit of appropriate type, e.g., the right frequency. So,
24 what Cook is saying is that it wants to know what the frequency is that it
25 should be at and to be able to address multiple different kinds of vehicles

1 with different resonant frequencies. And what we see from Patent Owner's
2 expert, which is Exhibit 1035 at 52, 9 through 17, is that Cook is just saying
3 that the resonators have to have the same resonant frequency. He goes on
4 and says, which is kind of basic knowledge, but if Cook doesn't talk about
5 all of the other aspects and compatibility that are important to more
6 sophisticated systems, those details that Cook doesn't provide are what are
7 provided in Bennett. And that forms the basis of the motivation to combine,
8 which if we turn to slide 34 of Petitioner's slides, again, we have Cook, that
9 same paragraph 12 on the right side, which is automatically charging when
10 you're at the right frequency. And what Bennett explains, for example, in
11 paragraph 55, is that the power source will deliver the resonant power signal.
12 And in one embodiment, different frequencies are assigned to a plurality of
13 the magnetic resonant target devices. The assigned frequency value is
14 configured into the magnetic resonant target device. And sending of this
15 information, the resonant frequency information, to the power source with a
16 request for power helps in resonant locking/effective resonant coupling by
17 the power source with magnetic resonant target device 211.

18 So, one of the reasons why a POSA would have been motivated to
19 apply Bennett's authorization compatibility and tuning functionalities is
20 because it will first check and verify the compatibility of the resonator --
21 resonant frequencies of the resonators, and it can use that to promote
22 resonant locking slash effective resonant coupling.

23 There's also a address -- I want to address one other motivation to
24 combine for Bennett. And that is on slide 38. Oh, sorry. I misspoke. Slide
25 39. Another thing that Cook discloses is the concept of sending information

1 in order to detect whether a vehicle is authorized for power transfer and to
2 detect the identification of the vehicle. What Cook doesn't disclose is how
3 do you send those signals to a device when you have a magnetic field when
4 you're also transmitting power via a magnetic field right next to it. Cook
5 doesn't provide that detail, but Bennett does. What Bennett explains is
6 there's two ways that you can provide power and the information associated
7 with authorizing a device and authenticating it. And that's through either
8 doing it in band, where you would provide power, and the sort of
9 information within the same frequency that power is delivered, or you could
10 send them basically on parallel frequencies separate from one another. And
11 as we described in the petition, these details of Bennett, they would provide
12 flexibility to Cook's system, including when you want to maximize Q versus
13 other factors. And I think one of the disputes that Patent Owner --

14 JUDGE WEINSCHENK: Mr. Davis, can I interrupt you for just a
15 minute?

16 MR. DAVIS: Yes.

17 JUDGE WEINSCHENK: I just want you to know you're about a
18 minute into your rebuttal time already. I kind of missed your warning there.
19 Apologies for that, but I just want to give you the heads up that you're into
20 your rebuttal time.

21 MR. DAVIS: Thank you, Your Honor. And I just --

22 JUDGE WEINSCHENK: You could finish.

23 MR. DAVIS: Thank you. What I just want to address with this
24 communication link is I think that Patent Owner has challenged some of the
25 motivations combined that are provided in the petition as not being strictly

1 related to confirming compatibility. The explanation for that I think is
2 twofold. One is the law doesn't require that you provide a motivation
3 specific only to one element and one element exclusively, particularly when
4 the petition is looking at this without -- is attempting to look at this without
5 the benefit of hindsight. I think that if you had every motivation was strictly
6 directed to a single limitation, it would almost beg the question of well,
7 where did you get those motivations from. It, for Cook and Bennett, the key
8 is that what Bennett provides are all sort of additive explanations and details
9 that are lacking in Cook. The systems, they're complimentary in that
10 fashion. The other thing that --

11 JUDGE WEINSCHENK: Mr. Davis, this is Judge Weinschenk.
12 There is a specific motivation I believe in your petition about, for example,
13 verifying the frequency though right, because Cook talks about how, you
14 know, it's cars are going to encounter different -- there's different cars so the
15 charger is going to encounter different types of cars with different
16 frequencies. So, there's a reason you would want to be able to tune your
17 power delivery device to the appropriate frequency, right?

18 MR. DAVIS: That's exactly right. And that is one of the
19 motivations that we provide, which goes directly to this confirming
20 compatibility limitation. All I was saying with respect to the communication
21 link, they -- Patent Owner says that that doesn't relate at all to the claimed
22 authorization facility. And I think that that is refuted. If we go to slide 40,
23 it's specifically refuted because if you look at the Dependent Claims, even if
24 you were to interpret the claims as not requiring the use of a secure
25 communication channel to specifically confirm compatibility, all of these

1 relate to the use of an authorization facility as confirmed by the fact that
2 these are in the Dependent Claims parts of the authorization facility as well.

3 And with that, I will reserve the rest of my time for rebuttal.

4 JUDGE LEE: Well, Mr. Blake, it's Judge Lee. I have one more
5 question. What if I'm not persuaded by your argument that Cook says
6 anything about compatibility between resonators? Where will we be?

7 MR. DAVIS: I mean --

8 JUDGE LEE: That wouldn't completely doom your case because
9 you've got other theories, is that right?

10 MR. DAVIS: That's right. The Claims would still be invalid
11 because that's what Bennett provides, including in checking the resonant
12 frequency and providing the verification of resonant frequencies prior to
13 initiation of the transfer of power, which is also what the petition is based on
14 that combination.

15 JUDGE LEE: So, the POSITA would nonetheless combine that
16 feature from Bennett into Cook anyways, regardless of whether Cook itself
17 says anything about checking for compatibility?

18 MR. DAVIS: That's exactly right, because that's where Cook is
19 lacking the details and Bennett provides them.

20 JUDGE LEE: Thank you.

21 JUDGE WEINSCHENK: Mr. Davis, something else to consider
22 on rebuttal. You don't need to address it now, but when I'm looking at page
23 16 of your reply, I may be missing where you're talking in detail about
24 Bennett paragraph 67, but I don't really see a discussion on my brief review
25 of the database lookup and checking that the frequency is compatible. I'd

1 like you to address that on your rebuttal, please.

2 MR. DAVIS: I will. Thanks.

3 JUDGE WEINSCHENK: All right. Thank you, Mr. Davis. You
4 have about 14 minutes left for your rebuttal. All right, Mr. Corbett,
5 whenever you're ready, just let us know how much time you'd like for sur-
6 rebuttal.

7 MR. CORBETT: Thank you, Your Honor. I'd like to save 20
8 minutes for sur-rebuttal.

9 JUDGE WEINSCHENK: Okay. Thank you.

10 MR. CORBETT: I'll direct the Board's attention to the
11 demonstrative exhibit from Patent Owner that was submitted, and I'll start on
12 slide 2, and I'll start where Petitioner began with the description of the
13 authorization facility and what that claim limitation means. And so, in
14 Claim 2, as Your Honors already alluded to earlier, there are two specific
15 functions that are recited in the claims, and that is confirming compatibility
16 of the resonators and provide authorization for the initiation of transfer of
17 power. And as explained in more detail in Patent Owner's papers,
18 Petitioner's argument improperly collapses these two functions into a single
19 authorization or authentication step.

20 In terms of claim construction, the place to begin is, of course,
21 with the claim language itself. And the claim language itself here is on slide
22 3 of Patent Owners' demonstrative. And we highlight here that the
23 authorization facility is, quote, to confirm compatibility of the resonators
24 and provide authorization for initiation of transfer of power. That and
25 indicates that these are two separate functions. This is not an authorization

1 or authentication that necessarily or inherently confirms the compatibility, or
2 that the confirmation of the compatibility of the resonators is somehow
3 subsumed within the authorization. These are two different steps. And the
4 specification confirms that. We've, on slide 4 of Patent Owner's
5 demonstrative, I've highlighted here a number of the aspects that are
6 included or could be included within this authentication capability. And this
7 is in column 2, I'm sorry, column 102 of the '687 patent. And my colleague
8 on the other side, unless I misunderstood, it seemed that at first Petitioner
9 was taking the position that this authentication that's described here in
10 column 102 is something different than authorization that's in the claim. But
11 then I understood my colleague to say that, no, they are the same thing. And
12 the experts agree that this part of the specification that talks about
13 authentication is the relevant portion of the specification that's describing the
14 authorization.

15 So, there's a slight difference in the terminology there,
16 authentication versus authorization. But it's Patent Owner's position that this
17 portion of the specification talking about authentication does describe this
18 authorization facility that's in the claims. And I think in the parties' papers
19 and the expert declarations, both the parties and the experts agree that this is
20 the relevant part of the specification.

21 JUDGE WEINSCHENK: Mr. Corbett, this is Judge Weinschenk.
22 I have a question about this part of the spec. You'll see at the top there what
23 you've highlighted, and this is, you know, column 102, lines 14 to 31, it
24 says, authentication may be used to ensure that only compatible sources and
25 devices are able to transmit and receive power. And it says authentication

1 may be used to ensure that only authentic devices, and not clones or devices
2 or sources from other manufacturers, are able to receive power. That's kind
3 of telling me what authentication is used for. And I think the next sentence
4 says how it's done. It says, authentication may be based on cryptographic
5 request and respond protocols. And I think this is kind of Petitioner's point
6 as well. You can confirm compatibility and authenticity and manufacturer
7 using a cryptographic protocol. So, you don't need to actually check
8 parameters if you have this sort of protocol that's exchanged between them
9 that, you know, authenticates the device, then you know that they're
10 compatible. Why isn't that the correct reading of the specification?

11 MR. CORBETT: Well, Your Honor, that's a good question. I
12 would say that Patent Owner's position is that authentication may include
13 these different functions that you may be -- it may be used to confirm that
14 only compatible sources are used or that authentic devices or devices from a
15 specific manufacturer, et cetera, can be used. There are various aspects of
16 authentication that are described here in the specification.

17 Now, the claim specifically calls out confirming compatibility of
18 the resonators, but that doesn't mean that there's an equivalence between
19 confirming compatibility of the resonators and these other functions that
20 may -- may be included. And I think that's borne out by the Dependent
21 Claims that Petitioner's counsel was describing. Those Dependent Claims
22 add these extra features of you use particular encryption protocols, or you
23 use an in-band channel or out-of-band channel. That's adding on to what is
24 included in the functionality of this authorization facility. But in the claim
25 itself, the Independent Claims, it specifically calls out confirming

1 compatibility of the resonator. And so, these other features of which
2 communication channels you might use to do that are above and beyond an
3 additional functionalities that are performed by this authorization facility.

4 JUDGE WEINSCHENK: All right. So, you would read this to
5 mean that you can use these protocols to do a variety of different things, you
6 know, ensuring compatible resonators, ensuring authentic devices, ensuring
7 that you're part of a plan. Those are different things you can do, but you
8 wouldn't, you know, confirming the plan doesn't necessarily mean that you
9 confirm that they're compatible? Those are different functions of the
10 communication protocol.

11 MR. CORBETT: That's right, Your Honor. And I think an
12 example is, you know, you could have, I guess, let me, I'd first say that I
13 think the key point here in the claim, it talks about confirming compatibility
14 of the resonator. Not the user or the device or the vehicle, it's the resonator
15 specifically. And I think that speaks to Patent Owner's claim construction
16 that recites parameters of the resonator. And so, you could envision a
17 scenario where a user may have a compatible resonator, but they haven't
18 paid for the service. They don't have a subscription, so they would not be
19 authorized to use it. They may have a compatible resonator, but that doesn't
20 mean that they're authorized. And same vice versa. You can have a user
21 that signed up for a service, but maybe the resonator on their vehicle isn't
22 compatible with the charging resonator. And so, those two things are not
23 linked. Those are directed at two different aspects here. And I think as
24 Judge Raevsky pointed out that, you know, a financial transaction, whether
25 you have a credit card on file, has nothing to do with whether the resonator

1 on the vehicle and the resonator on the charging station are compatible.

2 JUDGE LEE: Mr. Corbett, it's Judge Lee. Page 49 and 50 of the
3 petition, don't they spell out exactly why Bennett specifically teaches
4 checking for resonator compatibility? I agree with you that the claim calls
5 for that, but according to Petitioner, he gives two specific examples of where
6 Bennett discloses that.

7 MR. CORBETT: Your Honor, I agree. Your Honor, that is where
8 they point to examples of where Bennett allegedly discloses that. The first
9 portion they cite to you here is paragraph 39, which references -- paragraph
10 39 of Bennett, which references a, quote, power control signal exchange
11 operation. But if we look at paragraph 39 of Bennett, that paragraph does
12 not say that this power control signal exchange operation has anything to do
13 with resonator compatibility. That paragraph, actually paragraph 39, it
14 begins talking about a communication module that facilitates
15 communication functionality of the target electronic device. And it talks
16 about how that communication module consumes battery power when
17 powered using the rechargeable battery. And it goes on to say the power
18 control communication that takes place between the target electronic device
19 and the power transmitting unit during resonant charging request is also
20 performed using the communication module. So, this is just explaining that
21 the communication module of Bennett is being used as part of this request.
22 But there's nothing in here about this power control signal exchange
23 operation that says there's any checking of the compatibility of the source
24 resonator and the target resonator.

25 JUDGE LEE: Thank you. How about the other one, the other

1 example, Bennett paragraph 38?

2 MR. CORBETT: I apologize, Your Honor, I lost my place here in
3 their petition. It was on --

4 JUDGE LEE: Page 49. Page 49.

5 MR. CORBETT: Page 49, right. And they're talking about
6 Bennett paragraph 38. So, in Bennett in paragraph 38, that portion is talking
7 about a source resonant frequency selector, 123. And what that portion is
8 doing, it's saying that there is the ability in Bennett to tune the frequency that
9 you're using. However, that's not part of authentication. And that's not --
10 that doesn't mean there's a check of the compatibility between the source
11 resonator and the target resonator before charging begins. And that's
12 clarified in the preceding paragraph of Bennett, in paragraph 37 towards the
13 latter half of that paragraph it says, the authentication is followed by optional
14 frequency selection and directional adjustments of a non-radiated magnetic
15 field in the direction of the target electronic device, 115. And before that, in
16 paragraph 37, it says, the user authorization module exchanges
17 authentication information with the power transmitting unit. The power
18 transmitting unit compares the information with the subscriber's information
19 in its database accessed by the target device authenticator, 109. If the match
20 is determined, the resonant power delivery is initiated.

21 So, what that's saying is, this is the same thing as in Cook. You're
22 providing an identification. The power transmitting unit is saying, okay, let
23 me look at my database. Is there a match? Okay, you've signed up. You're
24 a subscriber. I'm going to authorize charging. Now, there is this ability
25 later, this optional capability that's described here in paragraph 38 that you

1 can tune the resonator, but that doesn't mean there was a compatibility check
2 between the source resonator and the target resonator beforehand. And that's
3 what the claim requires.

4 JUDGE LEE: Thank you. So, when they say on page 49 of the
5 petition Bennett's taught checking the compatibility of resonators to
6 automatically adjust the power transmission frequency, that according to you
7 is just plainly wrong.

8 MR. CORBETT: Yes, Your Honor. We would say that that is just
9 not supported by the disclosure of Bennett.

10 JUDGE LEE: Okay. But they do cite their expert, expert
11 declaration 183. So, I don't recall what that paragraph says, but supposedly,
12 presumably the expert agrees with that. Do you have a counter testimony
13 from your own expert saying, hey, that other expert said that, but it's wrong
14 because whatever. Do you have like rebutting testimony from your expert
15 addressing that incorrect statement? According to you being incorrect?

16 MR. CORBETT: I'm not sure I caught the tail end of your
17 question there, Your Honor.

18 JUDGE LEE: Well, I mean they cite their expert for something
19 that you say is incorrect, right? So, I'm just trying to see if you have your
20 own expert testifying to the incorrectness of his expert declaration.

21 MR. CORBETT: Yes, Your Honor. I do know that Dr.
22 Horenstein opined that tuning the frequency after the fact is not equivalent to
23 confirming resonator compatibility before charging. I would need to find
24 exactly where in Dr. Horenstein's declaration he points to that or makes that
25 argument. But if it's okay with Your Honor, I can address that and find that

1 specific citation in my rebuttal time.

2 JUDGE LEE: Yeah, certainly, sure.

3 JUDGE WEINSCHENK: Mr. Corbett, this is Judge Weinschenk.

4 While we're on this point, I do think Petitioner also directed us to a different
5 portion of Bennett that may sort of clarify when this tuning takes place. And
6 then it may take place not only after, but before. And I think it's paragraphs
7 57 and 58 of Bennett and Figure 3. And in Paragraph 57, Bennett says, at a
8 next block 305, the target electronic device, which I guess to be the vehicle,
9 communicates a request for resonant power signal to the power transmitting
10 unit. During this step, the target electronic device sends its identity and its
11 tuned resonant frequency information to the power transmitting unit. So, it's
12 not just sending an identity, it's also sending its tuned resonant frequency
13 information. And then in paragraph 58, it says, the power transmitting unit
14 103 then generates power employing the requested resonant frequency and
15 delivers it. That certainly sounds like there's some check going on that it's
16 receiving the target device's resonant frequency in that and adjusting or at
17 least ensuring that it can provide power at that same frequency before it
18 delivers it. Do you have a response to that particular portion of Bennett? I
19 understand it could also maybe there's some dynamic tuning that occurs
20 afterwards, but it certainly sounds like there's at least a check beforehand to
21 make sure that are compatible at the start.

22 MR. CORBETT: Well, Your Honor, and we addressed this in our
23 sur-reply because I don't believe this portion of their argument of Bennett
24 was raised in their initial petition. That being said, though, our Patent
25 Owner's expert, Dr. Horenstein, did opine that just sending the information

1 and then transmitting -- or generating power at that frequency is not the
2 same as confirming compatibility of the resonators beforehand. And I think
3 the only check that is really described here, and I think it was back on
4 paragraph 67 that's describing this process, is that there's a database, 507,
5 that consists of the information of all subscribers who have subscribed with
6 the power source 203. And it says that this database includes preferred
7 magnetic resonant frequency of the target device. So, when this frequency is
8 transmitted to the power transmission unit, there is a check to make sure that
9 the frequency that was provided, that was received, corresponds to the
10 frequency that is saved in the stored -- in the database. But all that's doing is
11 checking to make sure there's a match between the target resonator
12 frequency that was supplied and the previously stored target resonator
13 frequency that's in the database. That's not a check of the frequency of the
14 target resonator and the source resonator. And that's what the claim
15 provides. When the claim says it confirms compatibility of the resonators,
16 the two resonators that it's talking about are the source resonator and the
17 target resonator. So, the portion of Bennett that Your Honor referenced, the
18 only check that goes on there is checking the target resonator that said, hey,
19 here's my preferred resonator frequency, and then it's a verification checking
20 the database to say, okay, does this match the frequency that I have stored
21 for that device? If there is, then charging is initiated. But there's no check
22 between the frequency of the target resonator and the source resonator in
23 that portion that relied on by Petitioner.

24 JUDGE WEINSCHENK: Well, Mr. Corbett, what about
25 paragraph 58 in Bennett that we just talked about where it says, the power

1 transmitting unit 103 then generates power employing the requested resonant
2 frequency and delivers it in the form of a magnetic field. By making sure
3 that the power transmitting unit is using the same frequency as that
4 requested by the target, isn't that confirming compatibility that they're both
5 using the same frequency that the source is transmitting power at the
6 frequency that was requested by the target? Wouldn't that confirm
7 compatibility because they're using the same frequency?

8 MR. CORBETT: In petition -- or Patent Owner's position is that
9 Your Honor, it would not just because it is able to and -- or generates it at a
10 particular frequency. They're -- the claim requires a check of the
11 compatibility beforehand and just initiating the power transfer at the
12 frequency that was provided is not the same as confirming -- an
13 authorization facility that confirms the compatibility of the resonator.

14 JUDGE WEINSCHENK: Okay. I think you mentioned, too, I just
15 want to ask you while we're on this point that Petitioner didn't talk about
16 these paragraphs 57 and 58 in detail in the petition. Did you guys argue
17 anywhere that this is improper use of a reply, or did you just point out that
18 it's new?

19 MR. CORBETT: I think we did in our sur-reply point out that this
20 reference, particularly this description of Figure 3 that they're relying on,
21 was not raised. It's on -- I apologize, Your Honor. It's in our sur-reply here
22 where we did raise that point.

23 JUDGE WEINSCHENK: Yeah, I think I know what you're
24 talking about, Mr. Corbett. I think my point was, you know, I think, you
25 know, Petitioners can rely on new citations in a reply. The question is, you

1 know, is it in response to an argument you made in the response, and is it
2 consistent with their sort of overall theory of the case? And I didn't see
3 anywhere in your papers where you argued that this was improper and that it
4 was like a new, completely new theory of patentability or something like
5 that. Did you argue that anywhere?

6 MR. CORBETT: No, Your Honor, we didn't argue that it was a
7 completely new theory of unpatentability or obviousness. Our argument was
8 that it was just a new portion of Bennett that was not previously relied upon.

9 JUDGE WEINSCHENK: Okay, thank you. That's helpful.

10 MR. CORBETT: Referring again to slide 5 of Patent Owner's
11 demonstrative, there's been a lot of discussion about the Dependent Claims,
12 and on slide 5 here we have -- we've highlighted portions of Dependent
13 Claims 14 through 18. And as it was discussed earlier, these claims relate to
14 the use of public key infrastructure or using secure communication channels
15 in band or out of band communication channels. And then Claim 18 refers
16 to further determines a safety condition for initiation of transfer of power.

17 And Petitioner relies on these Dependent Claims as somehow
18 indicating that just confirming authentication or authorizing charging
19 somehow includes confirming resonator compatibility, and I think a few of
20 Your Honors' questions previously picked up on the point that whether the
21 authorization facility uses a public key infrastructure or which
22 communication channels are used to communicate by the target device and
23 the source device is wholly independent of whether the resonators are
24 compatible. It's simply just describing how the two devices are
25 communicating. And there's nothing about the resonator compatibility that

1 would inhibit the ability for the two devices to communicate or the manner
2 in which they communicate.

3 And so, it's Patent Owner's position that that the Dependent Claims
4 if at all have any bearing on the understanding of confirming resonator
5 compatibility, it just confirms that all of these other functions here are
6 separate functions. If they were included somehow in the authorization or
7 authentication that confirms resonator compatibility, then these Dependent
8 Claims would be redundant. Instead, they call out different functionality of
9 the authorization facility and that's consistent with the specification, column
10 102 that we discussed earlier.

11 Moving to slide 6 in Patent Owner's demonstrative. The Petitioner
12 disputes the construction from Patent Owner that confirming compatibility
13 of the resonators includes looking at various resonator parameters. But Dr.
14 Allen, Petitioner's expert, testified and this is at Exhibit 2003, page 54, line 9
15 to 55 line 9, that confirming resonator compatibility includes looking at
16 certain resonator parameters such as frequency, physical size, lateral extent
17 of the resonators, and as Dr. Allen said, many other parameters that could be
18 looked at to confirm compatibility of the resonators. So, the experts agree
19 that confirming compatibility of the resonators includes some kind of look at
20 the parameters of the resonators themselves, which Cook and Bennett do not
21 disclose.

22 And that leads me to slide 7, which talks about Cook. Cook, in
23 paragraph 14, that's on slide 7 here, talks about including an RFID device,
24 121, that uniquely identifies the vehicle. And Cook further explains that
25 there's an embodiment in which the system can detect certain written items

1 on the automobile, such as a license plate or serial number of the automobile
2 in order to authorize charging. Just -- but simply looking at the serial
3 number or a license plate says nothing about the resonator and whether the
4 resonator on the vehicle is compatible with the source resonator.

5 In slide 8, there's a -- it shows paragraph 15 of Cook, and in
6 particular, the authorization or authentication functionality of Cook is
7 explained here, which says that there's a detection in step 200 of the
8 identification of the vehicle, and then at step 205, a detection is made of
9 whether the detected identification has an account associated therewith. If
10 the controller verifies the ID as being one that is associated with an account,
11 charging is enabled. So again, this deals with sort of the financial
12 transaction that's described in the specification of the '687 patent, where
13 you're just confirming that, hey, this customer that wants to use the charger
14 has signed up, has an account that we can charge to once the power transfer
15 is completed.

16 Again, this has nothing to do with the compatibility of the source
17 resonator and the target resonator. And to I guess further confirm the point
18 here on slide 9, there's paragraph 16 of Cook says that in essence, this
19 system is reselling power from the electricity manufacturer to any vehicle
20 with an appropriate account that comes into range of the antenna. Again, no
21 disclosure of confirming resonator compatibility beforehand. Any vehicle
22 with an account, and that account is checked, but once the account checks
23 out, then the charging occurs.

24 Bennett, moving to slide 10 in Patent Owner's demonstrative, does
25 the same thing. It explains here in paragraph 37 that during resonant power

1 delivery, the user authorization module exchanges authentication
2 information with the power transmitting unit 103, and the power transmitting
3 unit 103 compares the information with the subscriber's information in its
4 database accessed by the target device authenticator 109. If the match is
5 determined, then resonant power delivery is initiated. Again, I think the key
6 here is comparing the information that is provided by the target with the
7 subscriber's information in the database. This is not comparing information
8 from the target resonator to information about the source resonator. You're
9 simply comparing information about the subscriber to information about the
10 subscriber that was previously stored in the database. There's no confirming
11 of compatibility between the source and the target resonators.

12 Moving down a bit in our slides, I think slides 11 and 12, we've
13 already discussed with Judge Lee's question relating to paragraphs 38 and
14 37, as well as in slide 13, Judge Weinschenk's reference to paragraphs 67
15 and 57.

16 So, moving now to reasons to combine Cook and Bennett. The
17 Petitioner provided a number of reasons why one skilled in the art would
18 allegedly look to Bennett for the details of an authorization scheme, but none
19 of these motivations are legally sufficient. Here, first taking them in order
20 here on slide 16, the first motivation is that a person of skill in the art could
21 look to Bennett for the details of an authorization scheme. And this is on
22 slide -- I believe it's Exhibit 2003, that's Dr. Allen's deposition, bottom of
23 page 49. And Dr. Allen testified that one skilled in the art could look to
24 Bennett to establish for the details, but does not explain why one skilled in
25 the art would look to Bennett.

1 The authentication system in Cook explains that there's a unique
2 ID that's verified and then charging is authorized once the data matches up.
3 There's no reason to look to Bennett just because you could look to Bennett
4 for additional details doesn't satisfy the Petitioner's obligation to show why
5 one of skill in the art would have looked to Bennett.

6 In the petition on page 22 of the petition, Petitioner makes an
7 additional argument that one skilled in the art would have been motivated to
8 combine Bennett and Cook because Cook and Bennett are both analogous
9 art to each other, as well as the '687 patent as explained in our papers and
10 cited here on slide 17 of the demonstrative, simply because references or
11 analogous art is not the same as providing a motivation to combine. So, to
12 the extent that Petitioner's relying on the fact that Cook and Bennett are
13 analogous art, that is legally insufficient to establish a motivation to
14 combine.

15 JUDGE LEE: Mr. Corbett, it's Judge Lee. Before you wrap up, let
16 me ask you, at least for me, I think there's a real question whether the
17 Petitioner changed its theories from the petition to the reply with regard to
18 checking for compatibility. But if Patent Owner is okay with us just treating
19 the reply arguments because you have a good sur-reply, then I mean the
20 panel does not need to look further into it, you know. So, if that is the case,
21 you can just tell us. It would save -- make it more, all the more efficient.
22 Because -- so I don't know. You know, earlier you mentioned that you didn't
23 argue that they changed the thrust. Does that mean Patent Owner is fine
24 with us just proceeding as usual, looking at whatever argument is presented
25 in the reply and then look at your sur-reply and just let it be?

1 MR. CORBETT: Well, Your Honor, I'd say my response earlier
2 was in response to a specific question from Judge Weinschenk. And I think
3 that we did make the argument in our reply brief that this is a new aspect of
4 Bennett that they're relying on. And so, you know, it's of course up to the
5 Board's discretion on whether to provide -- give any weight to that
6 argument. Our sur-reply was provided, you know, in the event that the
7 Board does consider that new portion of Bennett and the arguments
8 associated with it in making the Board's decision, then we wanted to provide
9 our sur-reply like even if considered those new portions and the arguments
10 are not sufficient to show that the claims are invalid.

11 JUDGE LEE: So, I'm not sure how to take that because I don't
12 want to be in a situation where I'm just speaking for myself, where if I say,
13 well, it's a new argument I'm not going to consider it and the Petitioner will
14 be able to come back, oh well, the Patent Owner was fine with it. So, the
15 Board erred by not considering my reply arguments.

16 MR. CORBETT: Well, I would say I would not agree that Patent
17 Owner is fine with it. We noted the fact that it's a new argument in the reply
18 that was not supported in the in the petition. However, we didn't want to
19 hang our hat and put all our eggs in that basket, and so we went ahead and
20 responded to it in the event that the Board does consider it. So, I'm not
21 trying to avoid the question here, but I guess it would be both. It would be
22 the answer that it's both new argument that the Board should not consider.
23 But if the Board does consider it, then the sur-reply addresses it.

24 JUDGE LEE: Okay. Thank you.

25 MR. CORBETT: The next point on motivation to combine, and

1 this is on slide 18 of Patent Owner's demonstrative, is that Petitioner relies
2 on various other functions of Bennett and the purported benefits associated
3 therewith that allegedly would motivate this combination of Bennett with
4 Cook. And Patent Owner's argument is that Petitioner can't simply find
5 various features of Bennett that provide some benefit and say, well, that's
6 why you would look to Bennett, and therefore you would combine the
7 alleged confirming compatibility of the resonators with Cook. And I think
8 this is borne out by some of the examples here on slide 18, the first of which
9 is post authentication tuning of the transmitting resonator frequency. There
10 may be some benefit of being able to tune the transmitting resonator, but that
11 doesn't provide the motivation for combining the confirming of
12 compatibility before charging. And the same goes for the use of encrypted
13 communication channels or token based encryption systems that are
14 described in Bennett. Or the last one that is on here on slide 18 that
15 Petitioner relies upon is battery level detection.

16 These all may have some benefits in their own regard, but that
17 doesn't provide the rational underpinning for the reason why one skilled in
18 the art would take the, what Petitioner is saying is the confirmation of
19 resonator compatibility and import that into Cook. These are ancillary
20 benefits of other features in Bennett. And as cited here in the Medtronic
21 case, the motivation can't be based on functionally irrelevant features or
22 references that happen to exhibit a benefit for altogether different reasons.
23 And that's exactly what --

24 JUDGE WEINSCHENK: Mr. Corbett?

25 MR. CORBETT: Yes.

1 JUDGE WEINSCHENK: This is Judge Weinschenk. I want to
2 give you a -- you've got about three minutes remaining before you cut into
3 your rebuttal time. I also want to ask you a question about this because in
4 the petition, Petitioner argued, for example, at pages 24 to 25 that, you
5 know, Cook talks about how its charger may encounter cars that have
6 resonators with different frequencies. So, you've got different vehicles, they
7 have different resonant frequencies. You would want the charger to be able
8 to be compatible with those different cars, and one way to do that would be
9 to have the charger be capable of asking for their frequency and then tuning
10 the power supply to the same frequencies that are compatible. That certainly
11 seems like a benefit that's directly related to the feature of Bennett that
12 they're trying to incorporate. Is there a reason you think that's not a
13 sufficient reason to combine?

14 MR. CORBETT: Well, the disclosure of Bennett that they're
15 relying on, it relates to tuning after the fact, after authentication is
16 completed. And that's what paragraph 38 of Bennett, for example, is
17 referring to this optional tuning that could occur. And so, and that is, while I
18 agree that, you know, there is some benefit there to being able to tune the
19 frequency, that post-authentication tuning is different from what the
20 authorization facility is claiming and confirming the resonator compatibility
21 beforehand. And so, that's what --

22 JUDGE WEINSCHENK: I guess if I'm understanding you
23 correctly, Mr. Corbett, your argument here is kind of related to, if we agree
24 with you that Bennett is limited to post-delivery tuning, then maybe you
25 have some argument here. But if we interpret Bennett as having sort of a

1 pre-delivery tuning ability, then that argument doesn't hold a lot here, does
2 it?

3 MR. CORBETT: Well, I guess I would clarify that in that the
4 Bennett does not describe pre-delivery tuning. What Bennett talks about is,
5 and that's in that paragraphs 57, 58, and 67, is that there is a transmission of
6 the target resonant frequency, but all that's doing is -- all that's done with
7 that is to compare it to a database of target device frequencies that's already
8 stored in a database. And so, there's no confirming of the compatibility
9 between the source and the target resonators. You're just comparing target
10 resonator information to target resonator information. And so, there's still a
11 disconnect there between what's disclosed in Bennett and the motivation for
12 combining it with Cook.

13 JUDGE WEINSCHENK: I understand your point. Thank you.
14 You're right at 40 minutes now. So, I'll let you decide how much further you
15 want to go into your rebuttal.

16 MR. CORBETT: I guess I'll just take a couple minutes here to
17 wrap up here. Another point that was made in our papers was that some of
18 these benefits that are described in Bennett and relied upon by Petitioner are
19 already provided by Cook. For example, the comparing of subscriber
20 information in Bennett, that benefit is already provided in Cook. And so, to
21 the extent that, and this is on slide 20 of Patent Owner's demonstrative
22 exhibit, to the extent that Petitioner is relying on some of these purported
23 benefits of Bennett and those benefits are already provided by Cook, there's
24 no motivation to combine Bennett for those reasons, because Cook already
25 provides those benefits.

1 And I believe that takes me to the end of my demonstrative
2 exhibits. Unless there are any other questions from Your Honors, I'll reserve
3 the rest of my time.

4 JUDGE WEINSCHENK: Okay. Thank you, Mr. Corbett. You'll
5 have about 19 minutes for your sur-rebuttal.

6 MR. CORBETT: Thank you, Your Honor.

7 JUDGE WEINSCHENK: Mr. Davis, whenever you're ready,
8 you've got 14 minutes.

9 MR. DAVIS: Thank you. Again, this is Blake Davis for
10 InductEV. I want to start with Judge Raevsky's question regarding the
11 reliance on paragraph 67 and is disclosing checking the resonant
12 frequencies. And that is at the bottom of the reply page 18. And I'm just
13 reading from it, Bennett taught checking resonant frequencies both as part of
14 device authentication before initiating power transfer and also using that
15 information after power transfer to automatically adjust frequencies. And
16 that cites at the top of page 19, paragraph 67.

17 JUDGE RAEVSKY: Thank you.

18 MR. DAVIS: Next, I'll address a number of the points I think that
19 were raised with Patent Owner during his presentation which I think it's
20 important to address. So, one is, I think Patent Owner was asked about
21 paragraph 37 of Bennett, and the discussion of there being a match of the
22 authentication information. And I believe it was Judge Lee who asked
23 whether there was anything from Dr. Horenstein that sort of was a contrary
24 opinion as to sort of the operation of 37 and checking resonant frequency
25 before initiating power transfer. And the answer is, there are citations to Dr.

1 Horenstein's declaration, but they support Petitioner, not Patent Owner. One
2 example, if we go to Patent Owner's slide 26, sorry, Petitioner's slide 26, we
3 can see Dr. Horenstein's declaration at paragraph 48, where he says, Bennett
4 also discloses a system which checks the incoming resonant frequency and
5 tunes the resonance of the receive before initiating power transfer.

6 I'll also direct the Board to Petitioner's slide number 30. And slide
7 number 30, we have Patent Owner's expert that applies directly to paragraph
8 37 of Bennett. And specifically, again, Bennett discloses in paragraph 37
9 exchanging the authentication information with the power transmitting unit.
10 And the match is based on that authentication information. And then what
11 we see from Patent Owner's expert specifically with respect to the
12 authentication information in Bennett, Dr. Horenstein agrees that
13 authentication information, he understands that is referring to the target
14 resonant frequency, the target device, as well as other information. And he
15 agreed with that. And so again, the authentication information that is
16 determining whether there is a match that's also disclosed in 37 as a POSA
17 would be reading the reference.

18 JUDGE LEE: Sir, Mr. Davis, it's Judge Lee. I actually don't have
19 that much problem with it. I think the issue is, have you really argued that in
20 the petition? You know, as I read your page 49 you say Bennett taught
21 checking the compatibility of resonators to quote, automatically adjust,
22 unquote, the power transmission frequency to achieve the optimum
23 reception, blah, blah, blah. And they point out, hey, to automatically adjust
24 doesn't happen until after. And I suppose because what they say is true, now
25 in the reply you're forced to go to somewhere else to say well, you know, in

1 addition to automatically adjust which happens afterwards, it also shows
2 doing it something else beforehand, you know. So, that's what is bothering
3 me. Like they caught you on something incorrect and now you have to
4 retreat in your reply and rely on a different portion of the reference that's not
5 mentioned in the petition. I have to wrestle with this later, but I'm not sure
6 exactly what to do, but page 49 of the petition just does not convey whatever
7 your reply is later arguing.

8 MR. DAVIS: So, I think that addressing that. So, in the -- I think
9 there's two responses to that. So first, in the petition where it relies on the
10 tuning of the residence frequency, that of course is not something
11 specifically claimed or relevant to verifying the compatibility of the
12 resonators. What the petition is explaining is that a POSA would have taken
13 that functionality of Bennett's and put it into Cook. And part of the
14 functionality of being able to tune to the proper resonant frequency includes
15 the feature of determining what the resonant frequencies were as part of the
16 power transfer. So, that's where what we were proposing as the combination
17 and the petition was not taking one specific piece of Bennett, but rather that
18 you would implement as a person implementing Cook, you would actually
19 take the authorization and confirming compatibility and safety checks of
20 Bennett and implement that. That includes that determination of
21 authentication information, which of course occurs before the initiation of
22 transfer of power. Again, that's slide 20, or paragraph 37.

23 If we look at slide 23 of Petitioner's slides at the bottom of
24 paragraph 37, if the match is determined, then resonant power delivery is
25 initiated. And then it's after that, that the authentication is followed by

1 optional frequency selection. But to do optional frequency selection at all
2 requires that you first have a transmission and a verification of that resonant
3 frequency. So, that is part of what has always been part of the combination.

4 JUDGE LEE: Well, I'm not sure that it helps you because, you
5 know, if I were responding to the petition, I'm reading it, and the only two
6 reasons you give is on page 49 as to how the compatibility check happens.
7 And those are the two reasons they say is incorrect. You know, you're right
8 on page 49. First and then the second. And as both of those go against you,
9 how do you prevail?

10 MR. DAVIS: So, I think that the -- so, for the -- I think that's a
11 sort of very narrow view of what the petition was actually relying on
12 because the petition also describes the other features of the authorization
13 facility from pages 47 through --

14 JUDGE LEE: Yeah, I know you -- yeah, it's half true, but, you
15 know, you have something very specific on page 49. First you do -- it's this
16 second is that. The rest is kind of nebulous. You kind of need the other side
17 to put it together for you and say oh, Petitioner's possibly still arguing that so
18 you want them to create an argument for you, which you didn't exactly spell
19 out as third and fourth. And then, after they do that you want them to say
20 well that doesn't work either. That sounds like two owners for a respondent
21 to do when you have specifically spelled out the two reasons. How checking
22 for compatibility is met versus met verse here and second it's met here. I
23 don't think they need to go elsewhere to put together something that possibly
24 maybe saying something more. I mean, I may be wrong but I need to think
25 about this some more because if I was responding, I'll would just look at

1 your page 49, where you summarize your arguments and being those two
2 positions.

3 MR. DAVIS: So, I think there's one component again, we think
4 that the petition, it does include all these various cites. I think that one of, I
5 think it was, Judge Lee, I think you pointed out, or asked questions about
6 paragraphs 57 and 58 and whether those are new. That also, even if it was
7 true, it's responsive to a new claim construction, and we know from for
8 example the Axonics v. Medtronic case, 75 F.4th, 1374, that Petitioners can
9 address and expand on their obviousness arguments under new constructions
10 in reply. So, we can rely on for example expanding what the authorization
11 functions and authentication functions are of Bennett, in response to the new
12 construction.

13 JUDGE LEE: What is the new construction? I'm sorry. I don't
14 know. You lost me there.

15 MR. DAVIS: Oh, the new construction is Patent Owner's
16 construction of confirming compatibility requires verifying resonator
17 parameters. That's something that's proposed in a claim construction section
18 of their Patent Owner response.

19 JUDGE LEE: Okay, that might be a possible. Yeah, that would be
20 a justification if that was a new construction. You know, well I'll ask him
21 whether that's a new construction, when they come up next. Thanks.

22 MR. DAVIS: And I would just point to the Patent Owner response
23 at section 5B, which is 5 five is claim construction, Section B is the term
24 confirm compatibility of the resonators and provide authorization for
25 initiation of transfer of power should be construed to mean verify that

1 parameters of the resonators will permit power transfer and provide
2 authorization prior to initiating the transfer of power.

3 And then I also just don't want to lose the train of paragraphs 57
4 and 58. I said if it was true that we hadn't relied on those, that's not true.
5 We actually did rely on paragraphs 57 and 58, as well as Figure 3
6 specifically. For example, in the petition at 62 for Dependent Claims 3, 9
7 and 15. And we specifically then rely on those Dependent Claims as also
8 invalidating the Independent Claims. All of those are part of the
9 authorization facility. It's what the authorization facility is used for. And
10 that's at petition at page 56 where we say that what we disclose for the
11 Dependent Claims also invalidates the Independent Claims. And of course,
12 there's the direct link. These are both talking about the authorization facility
13 for those claims.

14 JUDGE LEE: Thank you.

15 MR. DAVIS: The other thing I want to address is from Patent
16 Owner, Patent Owner's slide 5, where they --

17 JUDGE WEINSCHENK: Mr. Davis?

18 MR. DAVIS: Yes.

19 JUDGE WEINSCHENK: Just so you know, you've got about two
20 minutes or so remaining in your rebuttal time. If you need a few extra
21 minutes though, we'll let you have it.

22 MR. DAVIS: Okay, perfect. I appreciate that, Your Honor. The
23 Dependent Claims, what I want to point out are two things. Patent Owner
24 alleges that the Dependent Claims that this would be -- they would be
25 rendered redundant by Patent Owner's construction, or sorry, they would

1 be -- I misspoke. They'd be rendered redundant by Petitioner's construction.
2 That's wrong. What Claims 14, 15, 16, and 17 say are they narrow what the
3 authorization facility uses for these functions. And actually, Claim 18, that's
4 shown here, actually provides a really good example of what the Patent
5 Owner, what the Patentee did when it wanted to say that there were different
6 functions of the authorization facility, and that's Claim 18, where in the
7 authorization facility further determines a safety condition for initiation or
8 transfer of power. That's how the Patentee described additional functions,
9 whereas uses is part of those same original functions.

10 I also heard from Patent Owner that there was nothing in the
11 specification that talked about using the secure communication channels to
12 confirm compatibility. That's wrong. For example, column 184, lines 19
13 through 23, quote, the security and cryptography algorithms may be used to
14 authenticate and verify compatibility between resonators and may use a
15 public key infrastructure, PKI, and secondary communication channels for
16 authorization and authentication.

17 I think the only other thing I'll say is I think we heard from Patent
18 Owner that Dr. Allen in his deposition he used the word that could use. I
19 think that instead of would use, that's just sort of a selective quotation from
20 one part of one answer in his deposition. It is not reflective of his opinions.
21 Dr. Allen specifically explained using the words to the extent it matters that
22 the would have, a POSA would have provided, would have used Bennett for
23 Cook and that is in his declaration, Exhibit 1001. That is in his declaration,
24 Exhibit 1003 starting at paragraph 107. For example, he says, as discussed
25 below, a POSA would have been motivated to look to Cook and Bennett in

1 combination, including to apply Bennett's teachings regarding wireless
2 communication links, frequency tuning and battery level monitoring to
3 Cook's system for wirelessly charging electric vehicles. And he continues
4 and uses -- explains why a POSA both could have and would have
5 implemented -- could have and would have combined Cook and Bennett in
6 the manner proposed through, for example, paragraph 123.

7 Thank you, Your Honors.

8 JUDGE WEINSCHENK: All right. Thank you, Mr. Davis. Mr.
9 Corbett, whenever you're ready, you've got 19 minutes for your sur-rebuttal.
10 I gave Mr. Davis an extra two minutes, so if you need to go over a little bit
11 and need a couple extra minutes, you have them as well.

12 MR. CORBETT: Great. Thank you, Your Honor. I'd like to first
13 begin by addressing the question from Judge Lee earlier about, I believe it
14 was Judge Lee, about whether Patent Owner's expert provided any
15 explanation as to why post-authorization or post-authentication tuning is not
16 the same as confirming resonator compatibility beforehand, and that is
17 provided in Dr. Horenstein's declaration. That's Exhibit 2001 at paragraphs
18 48 through 50, where he explains that those two things are not the same
19 thing.

20 I'd also like to address a couple of the things that my colleague
21 mentioned in his remarks just a moment ago. In particular, the reliance on
22 Figure 3 of Bennett in this process. And my colleague pointed to page 62 of
23 their petition that relies on Figure 3 for some of the Dependent Claims. And
24 on that page 62, there is a reference to Figure 3 and there's a highlighting of
25 this step 309. And that is, one, I guess, is an initial point is relying on Figure

1 3 for a Dependent Claim is not the same as relying on Figure 3 for the
2 Independent Claims. And in Figure 3 on page 62, they rely on -- they've
3 highlighted the step 309, which relates to the sending the requested
4 information across the communication channel, again, which is not relevant
5 to whether the particular communication channel that's used is not relevant
6 to confirming compatibility of the resonator.

7 JUDGE WEINSCHENK: Mr. Corbett, this is Judge Weinschenk.
8 Just one question for you. Is there any part of the specification of the
9 challenged patent that actually talks about verifying parameters, the terms
10 you used in your construction? Is that somewhere in the spec anywhere or
11 any part of the spec that talks about comparing frequencies or inside or
12 something like that?

13 MR. CORBETT: Those exact words, Your Honor, verifying
14 parameters. As far as Patent Owners are not contained in the specification.
15 Dr. Horenstein, in his declaration explained how one skilled in the art would
16 understand that term, and that was relied in part on this portion of the
17 specification at column 102 that describes the other features of the
18 authorization facility and how those other functions are done. And so, sort
19 of use that as a way to have an understanding of what it means to confirm
20 compatibility of the resonators that we're not just talking about, you know, is
21 there a subscription associated with this resonator? Since the keywords are
22 compatibility and resonator and the resonator specifically is directed to
23 exactly that, the resonator, not the device, not an account, not a user. And
24 then compatibility indicates something different than, just, is your name on a
25 list or does your ID number match up with an ID number that's on a list?

1 There has to be some other compatibility between the resonators. And that's
2 right, Dr. Horenstein opined that what that's referring to is some parameters
3 of the resonators and cells that permit power transfer.

4 JUDGE WEINSCHENK: Okay, thank you.

5 JUDGE LEE: Mr. Corbett, it's Judge Lee. I wonder what is your
6 position on your friend on the other side saying you proposed a new claim
7 construction, which leads to their being able to kind of resort to different
8 parts of the reference?

9 MR. CORBETT: Well, Your Honor, I would say that it's not a
10 new claim construction. The claim construction that was raised in Patent
11 Owner's response, it just gives meaning to the plain language of the term and
12 that's confirmed compatibility of the resonators. In their petition, Petitioner
13 is attempting to lump confirming resonator compatibility in with all these
14 other authentication features. And so, that's why Patent Owner responded
15 with a construction that gives meaning to confirming compatibility of the
16 resonators and differentiates it from these other types of authentication
17 functionalities, such as making sure that the user has an account.

18 JUDGE LEE: It sounded to me like what Petitioner's counsel are
19 saying is they didn't know that the confirmed compatibility of resonators had
20 to occur before initiation of power. And because you in your patent owner
21 response kind of make that argument implicitly, saying hey, that check
22 happens after initiation of power, it doesn't count. They were surprised by it,
23 and now so they can now resort to a different part of the references. So what
24 is your response? Is there a dispute between the parties of when this
25 confirmed compatibility must occur before or after initiation of power? Is

1 that even an issue anymore?

2 MR. CORBETT: Well, it's been Patent Owner's position from the
3 beginning that the confirmation of resonator compatibility has to happen
4 before charging is initiated, and I think the plain language of the claim bears
5 that out. It says an authorization facility to confirm compatibility of the
6 resonators and provide authorization for initiation of transfer of power. For
7 initiation means that the authorization and the confirming of compatibility
8 beforehand must happen before the power transfer begins. And so, it's right
9 there in the plain language of the claim, and I think it's a convenient
10 argument from Petitioner to say, oh, well, we didn't know, and so now we
11 can rely on some new information. I mean, that argument ignores the plain
12 language of the claim that clearly indicates that the confirmation of resonator
13 compatibility has to happen beforehand. So, I mean if that were the case, I
14 feel like they're --

15 JUDGE LEE: So, if that's what they're referring to, then you're
16 just saying, no, I'm not construing it. That's what the claim says, right? Is
17 that what your position would be? You're not construing it. You're just
18 reading what the claim says.

19 MR. CORBETT: That's right, Your Honor. At least, particularly
20 with respect to the timing aspect that Your Honor noted, whether the
21 confirmation compatibility has to happen before, that part is specified, you
22 know, in our view very clearly in the claim language itself. And, you know,
23 I guess kind of extending Petitioner's argument to an extreme would say,
24 well, you know, any argument that the Patent Owner raises after gives rise to
25 open license to rely on new material. I mean, we raised an argument in

1 response to theirs that's based on the language itself. And so, in our view,
2 that doesn't open the floodgates to rely on new material that should have
3 been identified in the petition itself.

4 JUDGE LEE: Yeah, okay. I see what they're saying. They're just
5 saying, kind of like, well, we didn't know it had to be before. Now that it
6 had to be before, I'll show you where it's before.

7 MR. CORBETT: That's right. And I mean, in our view, they
8 should have known that argument. It's right there in the claim language.
9 We're not making an argument that's not, you know, borne out by the
10 language of the claim itself.

11 JUDGE LEE: Thank you.

12 MR. CORBETT: The last point that I want to raise, and I had
13 meant to raise it during my opening comments, was that in Petitioner's
14 presentation, there's two portions of slide 9 and slide 18 that cite to the same
15 portion of Dr. Horenstein's deposition transcript. And they highlight his
16 testimony where he's allegedly or purportedly equating authentication to
17 describing confirming of resonator compatibility. And the quote there on
18 slides 9 and 18 of Petitioner's exhibit, demonstrative exhibit, quotes to --
19 cites to line 9 through 17 of page 35, and this is Exhibit 1035. And if we go
20 to that exhibit, directly below that, lines 18 to 24 on page 35, Dr. Horenstein
21 explains, so you asked me if authentication is the same thing as
22 authorization. To look at the claim, there's an authorization facility. That's a
23 thing. And it confirms compatibility or authenticates the resonators
24 according to their physical parameters. And then it provides authorization,
25 which is yet another term. So, the portion of Dr. Horenstein's testimony that

1 was omitted by Petitioner clarifies that Dr. Horenstein is not taking the
2 position that any sort of authentication includes confirmation of resonator
3 compatibility. His full answer clarifies that those two things are, in fact, not
4 the same thing. There's authorization that occurs after confirming the
5 compatibility of the resonators. So, Dr. Horenstein's testimony is consistent
6 with Patent Owner's argument and does not support Petitioner's argument as
7 it might otherwise be indicated in their slides.

8 Unless there are any other questions from the Board, that's all the
9 comments that I have.

10 JUDGE WEINSCHENK: All right. Nothing else from us. Thank
11 you, Mr. Corbett. All right. Before we adjourn here for the day, are there
12 any other questions, issues, anything logistical we need to talk about, Mr.
13 Davis, from Petitioner's side?

14 MR. DAVIS: Nothing from Petitioner. Thank you, Your Honors.

15 JUDGE WEINSCHENK: Anything from you, Mr. Corbett?

16 MR. CORBETT: No, Your Honor. Thank you.

17 JUDGE WEINSCHENK: Okay. Well, I said this before in our
18 hearing earlier today, and I don't want to sound like a broken record, but we
19 do really appreciate all the time and effort that you all put into this. I know
20 we've got a few attorneys, we've got a declarant and a party representative
21 on the line. So, thank you all for your time today, as well as your time on
22 these cases. It's very helpful to us. We will take the case under advisement.

23 Can Mr. Corbett and Mr. Lawson, can you please stay on the line
24 for a bit to see if the court reporter has any questions for you all?

25 MR. CORBETT: Yes, Your Honor.

1 JUDGE WEINSCHENK: All right. Thank you and have a good
2 afternoon.
3 (Whereupon the above-entitled matter went off the record at 2:58
4 p.m.)

IPR2023-01208
Patent 8,912,687

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