

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SHENZHEN XINZEXING E-COMMERCE CO., LTD.,
Petitioner,

v.

HENZHEN CAR KU TECHNOLOGY CO., LTD.,
Patent Owner.

IPR2024-00222
Patent 9,643,506 B2

Record of Oral Hearing
Held: May 7, 2025

Before: RICHARD M. LEBOVITZ, GARTH D. BAER, and
JULIA HEANEY, *Administrative Patent Judges*.

APPEARANCES:

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The above-entitled matter came on for hearing on May 7, 2025,
commencing at 10:00 a.m., via video teleconference.

P R O C E E D I N G S

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JUDGE BAER: Hello, everyone. This is our hearing for IPR2024-00222. The patent at issue here is Patent 9,643,506. I'm Judge Baer. With me are Judges Lebovitz and Heaney. If we could get the parties appearances before we get started. Who do we have for Petitioner?

MR. HAWKINS: Good morning, Your Honors. This is Michael Hawkins for the Petitioner.

MR. AI: Good morning.

JUDGE BAER: Thank you. Sorry. Thank you, Mr. Hawkins for Patent Owner.

MR. AI: Yes, hi. Good morning, Your Honors. This is Bing Ai, Perkins Coie, on behalf of the Patent Owner, Shenzhen Carku.

JUDGE BAER: Thank you, Mr. Ai. Thank you all for being here and making the effort to be here. We appreciate it. We set forth a procedure for our hearing in our hearing order. But I'll make just a quick reminder, each party will have 30 minutes total time to present your argument. While you're presenting your argument, if you would, if you're referring to a slide number or an exhibit if you would just articulate that so our record is clear, that would be great. Before we get going, does Counsel for Petitioner have any questions for us?

MR. HAWKINS: No, no questions. Thank you.

JUDGE BAER: And, Mr. Ai, before we get going, any questions for us?

MR. AI: No questions, Your Honor. Thank you.

1 JUDGE BAER: Great. With that, we're ready to begin. Mr.
2 Hawkins, do you want to reserve any time for rebuttal?

3 MR. HAWKINS: Yes, Your Honor. I'd like to reserve ten
4 minutes of time for rebuttal.

5 JUDGE BAER: Great. I will put 20 minutes on the clock. And
6 you can begin whenever you're ready.

7 MR. HAWKINS: Thank you, Your Honor. And good morning.
8 This is Michael Hawkins on behalf of Petitioner in the IPR against US
9 Patent Number 9,643,506. Hopefully you can see the slides that are on the
10 screen. Before --

11 JUDGE BAER: We can.

12 MR. HAWKINS: -- diving into the IPR grounds at issue, I would
13 like to address a couple of points about the '506 patent first, a couple of
14 common threads that we believe when they are pulled upon cause some of
15 the Patent Owner's arguments to unravel. So you'll see on Slide 2 that the
16 first issue worth noting is that the '506 patent is a continuation of art patent.
17 The application was filed in 2016. It claims priority back to a Chinese
18 priority application filed in 2011.

19 Patent owner contends that Figure 3 of the '506 patent, that
20 embodiment is supported by the 2011 Chinese priority application. There is
21 no dispute at Figure 1. And the associated text is new matter added in 2016.
22 You'll see on Slide 3 that this comes alive a little bit more. Here the text is,
23 of course, very small. But the point is the highlighting that the vast majority
24 of the text in the '506 patent is new matter added in 2016. In particular, pay
25 attention to columns 3, 4, 5, and 6, where virtually all of it is entirely new

1 matter. The Patent Owner leans heavily on this text for purposes of its claim
2 construction and arguments about narrowing the claimed scope yet contends
3 later on that it does not need any of this information to support the entire
4 scope of its claim. So we think that is a issue worth noting.

5 And then last point about the '506 patent is that, you know, the
6 claims at issue here are apparatus claims. So Claim 1 is displayed here in
7 Slide 4 as a backup charger is the apparatus. It recites structure and then
8 some of those structures have a configure to limitation. So our functional
9 recitations on the structure. So it has a structure followed by a capability of
10 achieving a function. Sometimes Patent Owner's arguments kind of convert
11 this configure to recitation into what I'll call a mandatory operation rather
12 than a mere configure to. And you'll see that come alive a little bit later.

13 So let's turn now to the petition. At Slide 5 you'll see that the
14 petition raised a set of three, I'll call them primary grounds. There's a first
15 set of grounds based upon the Chen reference. A second set of grounds
16 based upon the combination of Inskip and Johnson. And then a third set of
17 grounds based upon the Nook reference.

18 Additionally, you'll see on Slide 5 that we noted the expert
19 declaration of Dr. Woods which supports all the grounds in this petition and
20 the key fact that Patent Owner elected never to cross-examine Dr. Woods
21 throughout this entire proceeding. That includes both his initial declaration
22 and his reply declaration. None of those contentions were ever challenged
23 or impeached in an actual cross examination.

24 So the issue is that are disputed by Patent Owner are listed here on
25 Slide 6. There is a certain isolated issues under each of these grounds. Their

1 claimed construction arguments, one of them comes alive in the Chen
2 grounds. But the other one does not -- is not raised until you get to the
3 Inskeep grounds. I'll do my best to get through some of these today. But I
4 do encourage the Board if there are specific questions on any to raise those
5 and I will do my best to promptly turn to them. So --

6 JUDGE BAER: Mr. Hawkins?

7 MR. HAWKINS: Yes?

8 JUDGE BAER: On these grounds here, am I correct that the Nook
9 grounds are cumulative on the Chen and Inskeep grounds -- in other words,
10 there are no claims that are covered only by the Nook grounds. Do I have
11 that right?

12 MR. HAWKINS: I believe you're correct, Your Honor. I'm going
13 back to Slide 5. Obviously, there's a litany of claims that it listed there. But
14 I believe you are correct that if the Board were to find the claims invalid
15 based upon the first set of grounds, grounds 1A-D and then the second
16 section of grounds, grounds 2A and B, technically all of the Nook grounds
17 would then be duplicative in terms of claims addressed. I believe that is --
18 that overlap is there.

19 JUDGE BAER: And am I correct that the Nook -- the priority
20 dispute only affects the Nook grounds; is that correct?

21 MR. HAWKINS: You are correct, Your Honor. Nook is selected
22 here and raised here assuming that the patent claims achieve only the 2016
23 CIP priority date. All the other grounds are prior art, even if it achieved an
24 earlier priority date.

25 JUDGE BAER: And can you just help us to understand a little bit,

1 what's different about the Nook grounds particularly? Why add those
2 grounds?

3 MR. HAWKINS: Well, two points that I'd be happy to raise. The
4 first is, we think it is worthwhile to note the activities that occurred during
5 patent prosecution where the Patent Owner -- I'm sorry, where the -- in our
6 view, the patent examiner maybe wasn't fully apprised of the fact that there's
7 probably a priority date problem here. And we think the Nook grounds
8 should have been raised by the examiner at that time because that is -- would
9 have been the proper course. And so that is the purpose of a review is to
10 actually address that.

11 The second is, when you actually look at what I'll call the physical
12 embodiment depicted in Nook, it actually is highly similar to, you know,
13 what is theorized in these documents. But, for example, Chen and the '506
14 Patent kind of depict what I'll call circuit diagrams and not necessarily
15 showing, oh, yeah, here's where the USB plugs in. And look, here's where
16 the jumper cables plug in. And so it comes alive a lot in that when they
17 added all this material in 2016, all they were doing was adding conventional
18 structures and text. And so that's why it was raised, Your Honor.

19 JUDGE BAER: Thank you.

20 MR. HAWKINS: Sure. So I'll turn first to the Chen grounds
21 unless there's -- I need to skip to any others. The first issue --

22 JUDGE BAER: I guess in the interest of time, given that we've
23 got sort of a relatively short period of time here, let's dive right into the
24 claim construction issue on the operating modes and whether they're
25 exclusive or not.

1 MR. HAWKINS: Sure, sure. So I'll do that now. That's a good
2 idea. So just so we know that issue is unrelated to the Chen grounds. It's
3 never raised in the Chen grounds. Which was actually kind of our hint. I'll
4 go back to Slide 5 quickly. If you notice, the Chen grounds do not address
5 the Dependent Claim 3. And so the Patent Owner is actually only raising
6 this manner of construction for the grounds it addressed Dependent Claim 3.
7 And it took a while for us to realize that their viewpoint is that if prior art
8 addresses Claim 3, then Claim 1 must be narrower and thereby avoids the
9 prior art. That's, you know, in the Patent Owner's shorthand way in our view
10 of what they were doing.

11 And so let's turn to the Inskeep grounds because that's where it will
12 come alive. It's not really raised in the Chen grounds at all. So I --

13 JUDGE BAER: I guess I'm confused on why their claim
14 construction makes Claim 1 narrower than Claim 3.

15 MR. HAWKINS: Sure.

16 JUDGE BAER: Could you explain that?

17 MR. HAWKINS: Yes, yes, I'll do that right now. I'm sorry, I'm
18 going to go down to the right slide here. Okay. So here we go, Slide 40. So
19 first if you look at the text of the claim on Slide 40, the left side, Element 1.2
20 for the first operating mode what we know is there is a configure to
21 functional recitation. Right? It just simply says that you have to be
22 configured out for the first current. Period. That's the first operating mode
23 in Claim 1.

24 The Patent Owner is demanding that you import text into this
25 claim and it's not importing a configure to recitation. It's saying, again, the

1 first part of this construction is, yes, it's configured out for the first current.
2 And outputting the second current is inhibited, physically inhibited. So
3 we're no longer in the world of configure to anymore. They demand this
4 narrow reach. You'll notice on the right side of Slide 40, they cite to the new
5 manner, Figure Columns 4 and 5. That's their support which they say they
6 don't need.

7 So the Dr. Woods noted that this was a little bit of a unique type of
8 construction for this apparatus claim and said, well, this doesn't really make
9 any sense. Now, in the context on Slide 41, the Patent Owners preferred
10 embodiment, the way you achieve inhibiting the second current is because
11 the fuse is blown. Past tense. And that is how you know you are in the first
12 operating mode. And so Dr. Woods testified in reply saying, well, this
13 makes no sense because once I achieve their first operating mode in Element
14 1.2, I no longer have a current path that's required for Element 1.3. This
15 would make no sense and a person of skill in the art would know that's not
16 there.

17 So, again, he testified to this and they never cross-examined him or
18 rebutted this. Dr. Woods also --

19 JUDGE BAER: Mr. Hawkins, I understand your point about the
20 blown fuse. What I'm asking, though, is why does their claim construction
21 argument make Claim 1 actually narrower than Claim 3?

22 MR. HAWKINS: Sure. So I will move down to that. So here
23 you'll see on Slide 44, Dr. Woods noted, if I -- if you read Claim 1 as it is as
24 an independent claim, not imparting any narrowness to it from the dependent
25 claims, that he testified, well, you can be configured out for the first current

1 in the first operating mode and there's a variety of conditions that can be
2 happening with the second current. And he testified to this. He laid out five
3 different examples, and there are even other examples. The Patent Owner is
4 demanding that because Dependent Claim 3 exists, you must say that Claim
5 1 is limited only to option five here listed in his testimony on Slide 44.

6 That all these other options are somehow -- when I read Claim 1
7 alone, that those are no longer permitted. If you do any of those, you avoid
8 the scope of Claim 1. Even though the text of Claim 1 does not require this
9 in any way. And so we asked in Slide 45, you'll see we asked their expert
10 about this. We said, you know, it appears as if there is a device where it has
11 the structure of the apparatus in Claim 1, but it is simultaneously outputting
12 a first current and a second current. And this is on the right side of Slide 45.

13 And so I asked him, you know, we said, hey, that's the device that
14 simultaneously outputting, does that meet Claim 3? And he said yes. And
15 then you'll see on Slide 45, my next question would that same device meet
16 Claim 1 alone? And this is Patent Owner's declarant saying that that would
17 not meet Claim 1. Otherwise, Claim 3 would not have any relevance. In
18 other words, because Claim 3 demands there is a third mode where in that
19 third mode you have simultaneous current, you must somehow impart that
20 simultaneous cannot occur up in the independent claim. And that's their --

21 JUDGE BAER: Well, aren't they saying -- isn't the theory not that
22 the simultaneous cannot occur but that they cannot occur at the same time?
23 In other words, in Claim 1 they would have a requirement that you only have
24 the first operating mode, the current going out to ports. And in Claim 3 that
25 you also require additionally something else happening. And certainly it's

1 true that they couldn't happen at the same time. But is there anything in the
2 claim that says this all has to happen simultaneously such that this would be
3 an impossible combination or such that their reading of Claim 3 would
4 actually read out Claim 1? That part I'm not following. Can you help me
5 understand that?

6 MR. HAWKINS: Sure. Again, the right side of Slide 45, maybe
7 the lower right might be a place to say. If you -- we can envision an
8 embodiment. We can envision an embodiment that has the structures that
9 are recited in Claim 1. And it's simultaneously outputting first and second
10 currents. And so, by the way, I didn't ask their expert this once, I asked
11 them twice. So we went down later and I said the same thing. We have this
12 device.

13 And it's -- it has the structures of Claim 1 but it's simultaneously
14 outputting first and second currents. And he said if that device meets all the
15 requirements of Claim 1 and Claim 3 and that it's operating on simultaneous
16 current, it meets 3. And I think your question is, does it meet 1 alone? And
17 we discussed this earlier. It would not. In other words, as soon as I have
18 that device and I start simultaneously outputting it, in their view, oh,
19 somehow I have -- I'm now in a third operating mode that is Claim 3 and
20 therefore there's no such -- you can't achieve the first operating mode or the
21 second mode.

22 And again, I think it relates to the idea of their construction is
23 demanding outputting, a verb is inhibited, not it's configured to inhibit, not,
24 you know, there's a circumstance where it might be shut off. It is. And
25 that's something that's quite important. If you actually read the specification,

1 even their -- the -- what I'll call the text that existed prior to 2016, never
2 once does it mention the fuse is blown and we're still outputting a first
3 current. There's not even an example of what they're demanding must exist
4 for the first operating mode.

5 And so all of this is a theory based on some implied Boolean
6 options, some of which, you know, when your second current is inhibited,
7 you no longer have Claim Element 1.3. So it doesn't make sense factually.
8 There's a legal error of they're trying to import -- I'm going to call it an
9 embodiment. It's more of an implied embodiment into the claims when the
10 language is a requirement. And then whether they have the claim
11 differentiation problem. And I'll note at the bottom of Slide 45, the lower
12 left side, we cite to the Hill-Rom precedence in our papers. There's a new
13 case that happened after our petition is replied. It's Samsung Electronics vs.
14 Power2B. It came out very recently in March 31st.

15 And it's the same type of issue. And the Patent Owner's same flaw
16 was rejected there, too. And so that's where I think the problem is that claim
17 differentiation is meant to say, well, because Claim 3 claims simultaneous,
18 that means Claim 1 has to be read as at least including simultaneous, but it
19 doesn't necessarily mandate it. I don't take -- I don't -- Claim 1 doesn't have
20 to be coextensive in scope with Dependent Claim 3, which is what Patent
21 Owner's trying to do. And that's our main problem there is, just literally the
22 text they're trying to import doesn't make sense in the context of the claim.
23 And then they have a claim differentiation flaw that they've proved out in
24 cross-examination is yes, there -- we can envision a structure that would
25 meet Claim 3 and would completely avoid Claim 1. And that --

1 JUDGE BAER: Well, I don't think --

2 MR. HAWKINS: -- flips the information on its head.

3 MR. HAWKINS: -- we've asked Patent -- Mr. Hawkins, we can
4 ask Patent Owner. But -- when your time is up. But I don't think Patent
5 Owner's arguing you have a configuration that would meet Claim 3 by doing
6 a simultaneous current output. And that also would meet Claim 1. I think
7 their point is, you have to have two modes to meet Claim 3. You have to
8 have the simultaneous mode, but you also have to have Claim 1, which
9 under their reading would have just current going out one direction and
10 inhibiting the other.

11 So a device that meets Claim 3 would have to do both those things,
12 and that's where I'm getting confused. I don't understand their reading of
13 Claim 3 to preclude Claim 1. In other words, I think they would say you
14 have to have both. You have to have two modes. One mode where you
15 have them running with the -- with one side inhibited and another mode
16 where you have them running simultaneously. I don't think they're saying
17 you have to have all those things exist in one moment. And I want to know
18 if the claim somehow requires that all these things be configurable at one
19 moment.

20 MR. HAWKINS: So the entire summary of what you just said, we
21 could have that conversation in the context of an argument about Dependent
22 Claim 3 alone. Because there, there actually is now claim language where a
23 third operating mode exists. Our point is that when you read Claim 1, you
24 only have to have a first and second mode. And in the first mode, you're
25 outputting a first current. Whether you're opening the second current or not

1 is not relevant. You may do it simultaneous, you may not. In other words,
2 there is a version of a first operating mode where it is simultaneous and
3 there's a version of a first operating mode where it's not.

4 And when you get to Claim 3, now I know, oh, a particular species
5 has been selected, but for Claim 1, that genus is still existing. And that's the
6 point of Dr. Woods' testimony that I mentioned before on -- where was it? It
7 was where he was giving the five options. Right? Where he said listen,
8 when I read Claim 1, it simply says I'm configured out for the first current.
9 That's how I know I'm in a first operating mode. What's happening with the
10 second current, it may be output, a fuse may be blown. Lots of thing may
11 happen, but I'm not limited to any one of those and when I -- in the context
12 of Claim 1 alone.

13 Only when I get to the narrower dependent claim would all of
14 these theories possibly come alive and it would be an argument about the
15 validity of Claim 3. But that is not an argument about now I need to now
16 then go back up and reverse and import that narrowness into Claim 1. And I
17 do think when you actually look at the language that they are trying to
18 import on Slide 40, that is what they're demand -- there is no option for like
19 it could be simultaneous or not. That's why, again, they only raise this claim
20 construction argument against the grounds that challenge Dependent Claim
21 3.

22 If you don't challenge Dependent Claim 3 like the Chen grounds,
23 this argument goes away. They don't raise it at all. It's because they need to
24 say I want to take Claim 3, I want to paste it up into Claim 1 and then now in
25 that understanding I want you to understand first operating mode. Okay.

1 Now, quickly I'm going to erase Claim 3. And now see, look, Claim 1 is
2 still -- and that's just now the way claim differentiation works. Claim
3 differentiation is made to broaden or know a species that must exist, not one
4 that can only in that species alone exist.

5 JUDGE BAER: I think I understand. If we could jump to the
6 operating mode and what that means. So we know we have outputting -- a
7 current in an operating mode. What does that operating mode limitation
8 add? In other words, what sort of system, or can you explain to me a system
9 that would configure -- be configured to output the current as claimed but it
10 doesn't have an operating mode?

11 And this matters because that's what's missing from the priority,
12 the Chinese application that they're claiming priority to as you point to. So
13 I'm trying to understand how that operating mode has meaning that's
14 significant. So it's not just nothing, but exactly what does that mean? Can
15 you help me with that?

16 MR. HAWKINS: Sure. And I think you're talking about when
17 we're talking about the Nook grounds, whether it's prior art or not. Is that
18 where the question relates to in the Chinese party application?

19 JUDGE BAER: Well, I think Patent Owner's position is that
20 operating mode means something and it means exclusivity or the ability to
21 turn it on and off or something like that. What does it mean for something to
22 be in a first -- in an operating mode?

23 MR. HAWKINS: Sure. So in our view, again, this is all in the
24 context of a configure to recitation of an apparatus claim. And so it has to
25 be -- it's configured to output a first current in a first operating mode. And

1 so first thing's first, operating mode just doesn't exist in the Chinese priority
2 application. They never mention that. All that is introduced in the context
3 of 2016. And the idea is that I know I'm in a first operating mode because
4 I'm outputting the first current.

5 JUDGE BAER: So is it your position that any time you're
6 outputting a first current, you're in the first operating mode?

7 MR. HAWKINS: In the context of Claim 1, yes, when you read
8 that language, that's what is required in order to be in the first operating
9 mode. There are no --

10 JUDGE BAER: Then why is it significant that the operating
11 modes aren't mentioned in the Chinese application? Because if anything
12 that's outputting a -- you know, why do they need to call it an operating
13 mode if it doesn't mean anything other than outputting a current which is
14 already in the claim?

15 MR. HAWKINS: Sure. So there -- it relates to, I think what we're
16 talking about is in the context of Element 1.4 which isn't shown here, it's a --
17 let me scroll down to that real quick. It -- there's a temporal condition,
18 right? Which is that the first protection circuit isn't just always on, it's rather
19 it's on in a specific timeframe. And that's where this comes up in the context
20 of the Chinese application. You'll see on the right side of Slide 49, there is
21 this charge/discharge protection circuit and it's just always there.

22 There's no teaching that says, and by the way, it operates -- it's
23 when in this particular operating mode, that's when you know number 11 is
24 working. There's no teaching of that at all. And that silenced us when you
25 look at the Federal Circuit precedent we cited means a lot. Because when

1 you look at their new matter, which is Figure 1 shown at the bottom of Slide
2 49, it comes alive. There is no way to deliver the first current to Port 1 and
3 Port 2 unless you are going through the first protection circuit. So of course
4 that's when it's operating.

5 And our whole point was, there -- in top figure of Slide 49, there's
6 an MCU circuit, a microcontroller, Number 7. And they say that a user can
7 take that and you can select. I'm going to have the 19-volt output happen
8 now. Okay, now I'm going to select to have the 12-volt happen now or I'm
9 going to have the 5-volt happen now. And there's an or. You can pick any
10 one of those three, you can't pick all of them. And there's nothing in there
11 that says, by the way, number 7 communicates back to number 11 and says
12 hey, you're in the first operating mode. Now it's a when, now it's time to
13 turn it on. There's nothing in there.

14 And so that was our point about why this is falling short. They
15 added -- the stuff they added in has actually found its way into the
16 independent claims. And so hopefully that comes alive where it's not
17 necessarily about the word operating mode so much as the temporal
18 condition in Element 1.4 that it has to be operating at a particular time. And
19 they just simply say in the original Chinese application it's operating all the
20 time which isn't enough then to grab that narrower temporal limitation into
21 their claim.

22 JUDGE BAER: That's helpful. Thank you, Mr. Hawkins. You
23 are two minutes into your rebuttal time. I know that was in answer to my
24 question, so I appreciate that. But do you want to stop here, or do you want
25 to keep going?

1 MR. HAWKINS: Yeah, no, I'll stop. Thank you for the
2 questions. And I will be ready to continue when we start back up.

3 JUDGE BAER: Thank you, Mr. Hawkins. Mr. Ai, first of all, do
4 you want to reserve any rebuttal time?

5 MR. AI: Yes, I think I'm going to divide my 30 minutes into 25
6 minutes and reserve another five minutes at the very end. And if I do not
7 use my 25 minutes at the beginning, that I, you know, save it for the later
8 surreply.

9 JUDGE BAER: Sure. We'll put 25 minutes on the clock and you
10 can begin whenever you're ready.

11 MR. AI: Okay. Let me go to the -- share my slides first. Let me
12 see if I can find it. Sorry, let me just --

13 JUDGE BAER: Take your time. We won't start your time until
14 you share and until you begin, so.

15 MR. AI: Excellent. Thank you. I've got too many things open on
16 my -- I apologize. Just one second. Let me get my things cleaned up a little
17 bit here.

18 JUDGE BAER: Mr. Ai, if it helps, we have your slides in front of
19 us. You may just refer to the slide and we can follow along.

20 MR. AI: Okay. Maybe I just do that. Let me -- okay. Your
21 Honor, thank you for the opportunity to discuss this matter. And first of all,
22 let me just say that on the priority issue Mr. Hawkins earlier discussed, the
23 Patent Owner has clearly in this Patent Owner response delineated all the
24 challenged claims in terms of priority. And we have clearly identified in the
25 older claims that will be entitled to the later filing date and also claims

1 entitled to the early priority date on Chinese patent applications back in
2 2011.

3 And specifically claims recite switching mode, that's Claim 9, 10,
4 I believe and 26 I believe that's those claims are the -- yeah, Claims 9, 10,
5 and Claim 26. They are entitled only to the later filling date. And, you
6 know, we're not debating those here. I think the records by Petitioner and
7 Patent Owners are quite clear for the Board to evaluate. But what I want to
8 really emphasize here is let's go back to the claim language. Let's go back to
9 the specification. Because I think during those -- the proceeding, a lot of
10 emphasis has been direct to the expert testimonies and what the law is. But
11 let's look at the facts in this.

12 First of all, let's go to Claim 1 as an example. So this is, if you
13 look at Claim 1, that is a Slide 14 off of Patent Owner's demonstratives.
14 And I want first, there are two issues here in Claim 1 at debate. One is the
15 operating mode, the first and the second operating mode. I think one thing
16 made it clear that under the US Patent Law, the same term must have same
17 meaning in different claims in the same patent. All else is clear the, you
18 know, such terms have different meaning in different claims.

19 So even though Claim 1 is entirely independent from Claim 3 and
20 vice versa, but we have to look at the same term in a context all the claims
21 and that's really applied both the principle I just stated and also the principle
22 of claim differentiation. On top of that also the principle Petitioner has
23 advanced during the proceeding that Dependent Claim 3 must be narrower
24 than Independent Claim 1. Right? Those -- all those three considerations
25 must be considered when we look at operating modes.

1 So here we have a clear definition of what first operating mode is
2 and what is the second operating mode in Claim 1. It's silent by itself, as
3 Petitioner correctly pointed out on the third operating mode. But that does
4 not remove our understanding of the first operating mode and second
5 operating mode, you know, independent of Claim 3, because they all exist
6 and also be challenged and considered in this proceeding. Right?

7 Now we look at Claim 3. The Claim 3 clearly defines what the --
8 this is now Slide 15 of Patent Owner's demonstratives. It says, "Wherein,
9 the battery pack is further configured to work in a third operating mode for
10 outputting the first current and the second current simultaneously." Right?
11 Not only that, the Claim 3 further clarifies this language. And in the third
12 operating mode, both the first protection circuit and second protection circuit
13 are active. Right? So we're looking -- when you look at this language here,
14 it's clearly talking about the, you know, this is a operating mode. Then the
15 first operating mode is active, the second operating mode is also active,
16 right?

17 But Claim 3 does not really eliminate the Claim 1 here. The Claim
18 3 is narrower than Claim 1 because it recites a new third operating mode that
19 is absent in Claim 1. So Claim 3, it is on its face narrower than Claim 1.
20 Now, we go back to the principle that this is actually -- I know Mr. Hawkins
21 cited the Federal Circuit Law on the claim differentiation cases. Let me
22 throw in another one. This is 2016 Federal Circuit Law that's in Re: Varma,
23 V-A-R-M-A. Right. And this is the famous case talking about the same
24 phrase in different claims of the same patent should have the same meaning
25 unless it is clear that the same phrase has different meanings in different

1 claims.

2 And that, when we look at unless condition in that ruling, this is
3 not the case here. It is very clear there's a consistent meaning in Claim 1 and
4 Claim 3 regarding the first operating mode and the second operating mode.
5 Nothing has changed.

6 JUDGE BAER: Mr. Ai?

7 MR. AI: Yes, Your Honor?

8 JUDGE BAER: I don't understand how Petitioner's proffered
9 construction for the first operating mode, that it doesn't preclude
10 simultaneous, I don't understand why that is inconsistent with Claim 3. In
11 other words, I don't understand why that -- it doesn't strike me that their
12 construction is looking for a different reading in Claim 1 and Claim 3. In
13 Claim 1, they seem to be saying this permits either simultaneous or not
14 simultaneous or an inhibition. And Claim 3 is being more specific.

15 It is actually requiring another mode that has specifically the
16 inhibition. Why are those inconsistent readings? I don't understand your
17 claim differentiation argument. I understand that your construction would
18 give -- would make a difference between Claim 1 and Claim 3. I don't
19 understand why their construction makes Claim 1 and Claim 3 the same.

20 MR. AI: Because under Petitioner's construction that the -- their
21 construction of Claim 1 would render Claim 3 meaningless because, you
22 know, it's --

23 JUDGE BAER: So Claim 1 would be met if you have two systems
24 where they are not running simultaneously --

25 MR. AI: Correct.

1 JUDGE BAER: -- under their construction, and Claim 3 would
2 require a simultaneous current output. I don't understand your argument that
3 the two would -- the two claims would be equivalent in scope under their
4 construction.

5 MR. AI: Maybe this is actually -- let's look at actual Patent
6 Owner's proposed claim construction. This is in Slide 21 of Patent Owner's
7 demonstratives. And this is -- let me quote the language here. "The proper
8 construction for first operating mode is an operating mode of the portable
9 backup charger wherein the battery pack is configured to output a first
10 current through one or more output ports of at least one output port, and
11 outputting a second current capable of starting a vehicle engine through the
12 pair of output terminals is inhibited."

13 So this is really clearly to explain what is actually, when you look
14 at older claims as a whole, what really this first operating mode is. And this
15 is actually, if you -- and similarly, we can look at Slide -- Patent Owner's
16 Slide 22 of our demonstratives. This has a similar language in terms of
17 prohibiting the, you know, the first current and while in a second operating
18 mode when the high current is going through the -- is outputting by the
19 battery pack. So the -- those terms, they are not in a vacuum here. The
20 terms, yes, you know, I agree with Petitioner that those literal words were
21 not in the Chinese priority document.

22 But those physical states are present when you look at the current
23 Figure 3 which is, you know, original Chinese priority document. They are
24 in there. Those modes are in those circuit diagrams, but they are not
25 explained in so many words. Right? And as Petitioner correctly pointed out

1 in his initial slides in his demonstratives. But those --

2 JUDGE BAER: How are those noted in the document? So you've
3 got claim terms that require operating modes, and you've got claim terms
4 that require current output. I assume those have some sort of different
5 meaning. I saw in your papers where you disclosed the outputting of
6 current. Where is there a discussion in the priority document in the Chinese
7 application of operating modes? Or could you just elucidate on that point a
8 little more?

9 MR. AI: Yeah, I think in the Patent Owner's response also
10 Professor Ricketts supporting declaration, in that paper, in both papers
11 Patent Owner presented a four-state scenario as an example of what a person
12 of ordinary skill and art may look at the different operating modes in the
13 Chinese priority document. And, you know, it is just one example in there
14 and the, you know, a person in electrical engineering and reading the
15 circuitry would understand there are four different possible modes here.
16 Right?

17 So the first three modes would correspond into the -- would
18 correspond to the three modes we're talking about here. But that's not, you
19 know, but in later filed application in the later priority date, we further
20 clarified. We provided correspondence, an explanation between original
21 diagram, now in current Figure 3 and now in a newly added figure, Figure 1
22 to explicitly explain and with more express statements of what the operating
23 modes are. The first operating mode, the second, and the third.

24 JUDGE BAER: And could you just respond to Petitioner's point
25 about the protection circuit? That the protection circuit in the patent is a

1 fuse? And if you have a blown fuse, you can't switch back and forth
2 between these modes without actually replacing the fuse. So the
3 embodiment that you disclose, the fuse embodiment for the protection
4 circuit, that that would make your claim construction would read out that
5 fuse embodiment. Could you address that argument?

6 MR. AI: So in the -- you're talking about Figure 3 because in
7 Figure 3 and the description here, the only thing associated with the
8 protection, the high current that is the output through the numeral number 9
9 12-volt output of 100 amps to 400 amps. That is, the fuse is only illustrated
10 there as the protection circuit. That is reflecting the four-mode example in
11 the Patent Owner's response and Professor Ricketts declaration.

12 But when you look at the further clarification on this issue, look at
13 Figure 1. You can see that in the high -- the second current path which is a
14 high current mode on the lower path through the second protection circuit
15 111, that's in Figure 1 of the '506 patent. And you look at that switching
16 module 113 and then the upper terminal which is the high current output. If
17 you look at this, really the protection circuit is now is a combination of the
18 second protection circuit and the switching module.

19 The switching module actually by itself is actually interfaced with
20 MCU number 7. That is also interfaced of voltage adjusting circuit on the
21 upper, the low current path 105, and also the first protection circuit. That
22 gives the user the ability to select one of the three operating modes through
23 this controller MCU number 7. Mode one, mode two or mode three.

24 JUDGE LEBOVITZ: This is Judge Lebovitz. Was that figure in
25 the Chinese document, I'm not sure what you're -- I hear what you're arguing

1 but I don't know what issue you're addressing here. Are you addressing
2 claim construction or priority back to the Chinese document? Because
3 you're referring to figures and I don't know what document those figures are
4 in.

5 MR. AI: Your Honor, that's a fair question. I think here what
6 we're talking about, I think Judge Baer's original question was to -- directed
7 to the fuse component because that's the only protection circuit for the
8 second current pass in the Chinese priority document. And I'm explaining
9 that, that is one example of that -- the second protection circuit. But later on
10 in the later file of the patent application and the Figure 1 supplements that
11 with additional features to delineate further of the first and the second and
12 third operating modes.

13 JUDGE LEBOVITZ: Okay.

14 MR. AI: I think I'm talking about both -- both for the claim
15 construction purpose and also for understanding what is disclosed here in
16 the -- either in both the Chinese priority document also the Patent '506
17 before us.

18 JUDGE LEBOVITZ: Right, and I think that it was being
19 addressed at one point that, I mean, it doesn't matter -- well, you may not
20 have the words first, second, and third operating mode but the -- in the
21 Chinese priority document. But the issue is not that. The issue is whether
22 the device could be configured to perform all three of those operating
23 modes. Whether there's disclosure that it's configured to meet all of those
24 operating modes. Because I think the operating mode is just a shorthand
25 way of referring to a couple of steps.

1 MR. AI: I generally agree with that view. And also I would say
2 that the Chinese priority document as you all notice does not really call out
3 all the specific modes. But a person of ordinary skill in the art, as we have
4 demonstrated in our Patent Owner response and Dr. Ricketts preparation that
5 could look at the circuitry and explain that the -- at least three modes, but we
6 provided four modes examples in our papers.

7 JUDGE LEBOVITZ: Okay. Thank you.

8 JUDGE HEANEY: This is Judge Heaney. I'd like to follow up on
9 your previous answer about the fuse in Figure 3. I understood you to say
10 that Figure 1 supplements Figure 3. And I'm not following how Figure 1
11 supplements because it appears to not have as much detail as Figure 3. How
12 does Figure 1 supplement Figure 3 with respect to the fuse that Judge Baer
13 was asking about?

14 MR. AI: Oh, great. Let me address that. So Figure 3 does have a
15 lot of details that is missing from Figure 1. But one area that Figure 3 lacks
16 of additional detail is the protection circuitry for the high current output
17 pass. Which is, if you look at the Figure 3, it's just going from the setup
18 batteries, internal batteries that's numeral number 1 going down to the fuse
19 and then going down numeral number 9, like going out to the automobile
20 engine or car battery. So in that sense, this lacks additional details and the
21 Figure 1 supplements --

22 JUDGE LEBOVITZ: Excuse me for the interruption. Judge
23 Heaney just dropped. I need to call her back. Just one second, please.

24 MR. AI: Sure.

25 JUDGE BAER: What happened?

1 JUDGE LEBOVITZ: We're off the record. We lost Judge
2 Heaney.

3 JUDGE BAER: Judge Heaney, can you hear us?

4 JUDGE HEANEY: Yes, I can. I'm sorry, I was accidentally
5 disconnected.

6 MR. AI: Your Honor, not an issue again. Let me restart. So I
7 think the -- going back to your question regarding how Figure 1 in the '506
8 Patent supplements additional details on the protection circuitry in Figure 3
9 which was in the original Chinese priority document. As I think Figure 3
10 has a lot of details, but one thing it lacks is the details on protection
11 mechanism for the high current output like going directly from the internal
12 battery number 1, going through the fuse and then going through the
13 numeral -- the box called numeral number 9, the 12 output circuit outputting
14 current in the range of 100 amps to 400 amps to car battery or to a engine for
15 jumpstarting operation.

16 Figure 1 supplements that by providing a additional switching
17 module which in numeral 113 in that high current output pass for car battery
18 or jumpstarting a vehicle and to supplement that in addition to the fuse. So
19 that's I think the difference between the Figure 1 and the Figure 3. On top of
20 that and, you know, Figure 1 and just like in Figure 3 shows clear the two
21 different current paths. By design, the Carku's '506 Patent separates the high
22 current power pass -- current pass and the low current pass which is very
23 different. That's only relevant to the issue of Petitioner's Chen reference.
24 Judge Heaney --

25 JUDGE HEANEY: Thank you.

1 MR. AI: -- do you have any -- okay. Thank you. With that, let
2 me just turn to the -- a second issue related to Claim 1 with respect to the
3 Chen reference. So the Petitioner claim in its initial petition show a
4 incorrect identification of the claim separate passes in the Chen reference.
5 And that mapping ignores the claim language in Claim 1. Claim 1 here is
6 that the two current pass actually each is defined with definite beginning
7 point and ending point. The beginning point is a battery pack. If you go
8 back to Patent Owner's demonstrative 14 and look at the Claim 1 language,
9 the second paragraph, at least one output port coupled to the battery pack.
10 So that's the beginning of the first current path. Right?

11 And then the end point is one or more output ports of at least one
12 output port in the first operating mode. You can see that. So there is a
13 beginning at a battery pack. There's an end at least one output port. Then
14 you look at the second pass for the high current output pass is defined
15 exactly the same way. A pair of output terminals, that's the next paragraph,
16 coupled to the battery pack. So that defined the beginning of the second
17 current path. Having a current pass to the battery pack that's further confirm
18 that. And different from that, at least one output port to the battery pack.

19 So we've got output terminals, we've got a battery pack. That's
20 really the end and the beginning of the second current pass. And the claim
21 by itself require those two passes are different. And then original petition
22 failed to demonstrate that in Chen because there's an overlapping pass. For
23 whatever reason, Chen has decided to have whole current and, you know,
24 the high current share a common pass onto the output circuit number 5.
25 That's very different from ours.

1 Then later on, in Petitioner's reply and in also Dr. Woods second
2 declaration, they pointed to a different circuitry. But that circuitry just said
3 they have a different pass. But if you notice that circuitry, their beginning
4 pass is not a battery pack. It's something called a B1+. That is not the
5 battery voltage. So the -- even the injected brand-new drawing from the
6 Chen, that, too failed to disclose the explicit claim limitations regarding the
7 first and second printed pass in the Claim 1.

8 JUDGE LEBOVITZ: This is Judge Lebovitz. What reference
9 were you just referring back to?

10 MR. AI: Let me go to actually --

11 JUDGE LEBOVITZ: Which of the prior ones did you reference?

12 MR. AI: It's Chen reference. The first grounds. So we're looking
13 at Petitioner's --

14 JUDGE LEBOVITZ: Is it a demonstrative?

15 MR. AI: It's the Chen reference, C-H-E-N, the Chen reference. If
16 you turn to Petitioner's demonstrative Slide 17. On the left you can see
17 there's a newly added figure, Figure 4 in the Chen reference, where
18 Petitioner in their reply tried to fix the defective demonstration in original
19 petition by showing this blue highlighted second current path. And that does
20 not meet the claimed limitation in Claim 1.

21 JUDGE BAER: Mr. Ai, you are into your rebuttal time, which is
22 fine. Do you want to leave it at that? Or you have another about three
23 minutes remaining.

24 MR. AI: I have -- so I have total eight minutes left?

25 JUDGE BAER: No, you have a total of three minutes left.

1 MR. AI: Three minutes left? I'll reserve for the rebuttal. Thank
2 you.

3 JUDGE BAER: Thank you, Mr. Ai. Mr. Hawkins, give me a
4 second to put eight minutes on the clock and you can begin whenever you're
5 ready.

6 MR. HAWKINS: Great. Thank you, Your Honor. I'll start briefly
7 with kind of going in the same order that Mr. Ai did. So if you turn to Slide
8 50 real quick, this relates to their arguments about the priority claim, and he
9 didn't want to address that. I believe there was a question about, it seems as
10 if you're just pointing to the exact same text of the Chinese application that
11 the Petition pointed to saying it's not enough. And they never explain why it
12 is enough.

13 There's a couple of things that are worth noting also. That's why
14 Slide 50's important. When he said the Patent Owner's response provides
15 support for this, they said it through a translation document. That translation
16 document is not certified or under any type of proper oath or declaration.
17 It's not evidence. We noted that in the reply. I'll note also that the Chinese
18 translation that they submitted in this IPR is different from the Chinese
19 translation that they used when they went into the first US application. So
20 apparently there's two different versions of that Chinese priority application
21 out there now.

22 JUDGE BAER: Mr. Hawkins?

23 MR. HAWKINS: Yes?

24 JUDGE BAER: I don't want to get in a sideshow on this, but I
25 want to make sure I have your position right. So is it your position that we

1 can say, look, even if this translation document were crystal clear, it has
2 operating modes, it has everything you need, it doesn't matter because all we
3 have is a Chinese patent application that I can't read and they haven't
4 explained. I'm struggling with this because I feel like that's going to invite
5 some sort of irreversible error on our part. What is the significance of it not
6 being in evidence? There must be some way to get support in a Chinese
7 application.

8 MR. HAWKINS: I'm sure there is. Simply you submit it with a
9 proper oath or declaration. We actually -- there's a footnote in our reply that
10 cites to the examples of PTAB decisions that say we can't consider this. So
11 they could have done it.

12 JUDGE BAER: But the question isn't, I mean, they couldn't --
13 they wouldn't have had to submit that with their original application because
14 there's no, I mean, they assert a priority but there's no sort of fleshing that
15 out. This is the first place we're going to flesh it out. So I just don't want to
16 make an error and say we can't consider any of that, we're done.

17 MR. HAWKINS: Sure. So keep in mind, by the way, in 2014
18 they did file a US application. They went from Chinese to PCT, from PCT
19 to US. My point is, when they went into the US on this patent ending in
20 '728, that text is different than the text of the Chinese translation that they
21 are submitting in this proceeding. And that --

22 JUDGE BAER: At that point we should be considering a different
23 Chinese application than -- excuse me, a different English translation than
24 the one they submitted?

25 MR. HAWKINS: It affects, for example, Dependent Claim 2

1 where it says overcurrent or undercurrent versus overcurrent and
2 undercurrent. So that's examples of where it is. I mean, so, yes, I think it
3 affects the question of did Patent Owner present a prima facie case that they
4 have support in 2011? I think it affects that. When it relates to the
5 construction of operating mode, we think there's far greater errors even if we
6 took the text of what is there, what I'll call the 2014 US case and say, yep,
7 that's the translation. Even that falls short of operating mode.

8 And so regardless of whether or not, you know, which text we
9 pick, my point is, the text that's here and cited in the Patent Owner's
10 response that their expert supposedly relied upon is not accurate and it's not
11 a proper oath or declaration submitted.

12 I will turn to the operating mode briefly. He -- there was a couple
13 of points there. Slide 44 -- actually, we'll go with Slide 40. So Slide 40, you
14 know, we pointed out, of course, that if you take their construction and put it
15 into Element 1.2, Element 1.3 makes no sense. Dr. Woods testified about
16 this.

17 They seem to say that's fine with them, and they didn't want to
18 cross examine him. I'll note also that Mr. Ai brought up the language of
19 Dependent Claim 3. In the very end of Dependent Claim 3, it's telling you
20 that, you know, now I have all of Claim 1. I have something that I have the
21 first operating mode, I have the second operating mode, and I have a third
22 operating mode. And now my first protection circuit and second protection
23 circuit are active. In other words, Claim 3 is demanding my fuse is not
24 blown. But Claim 1 is up there demanding it is alone and then at 1.2 and
25 then at 1.3 it's not blown and then in Claim 3 it's also not blown. But, again,

1 it's the construction --

2 JUDGE LEBOVITZ: This is Judge Lebovitz. I'm sorry, I'm not
3 sure what you're saying here.

4 MR. HAWKINS: Sure.

5 JUDGE LEBOVITZ: What -- first of all, this is an apparatus.
6 Right?

7 MR. HAWKINS: Correct.

8 JUDGE LEBOVITZ: And it's not -- and it has to be configured to
9 work in certain modes. And now you were just saying something about it
10 not being blown. You mean the circuit being open? I'm not -- can you go a
11 little slower there?

12 MR. HAWKINS: Absolutely. Yep. I 100 percent agree with you.
13 This is an apparatus claim and it's configured to do something. It's
14 configured to output a first current in the first mode. What they are saying
15 is, we want you to import some language and it's shown on the right side of
16 Slide 40.

17 JUDGE LEBOVITZ: Okay, right, we understand that.

18 MR. HAWKINS: So under -- if you import that, Element 1.3 does
19 not make sense. That's what Dr. Woods testified. Element -- Claim 3
20 wouldn't make sense. Because they're demanding that second protection
21 circuit is active. That is the fuse. And so --

22 JUDGE LEBOVITZ: Okay.

23 MR. HAWKINS: -- the point is, their construction is inconsistent,
24 not just with Element 1.3, it's inconsistent with even some of the dependent
25 claims. I will point out that on Slide 44 again there is evidence in the record

1 of how the first current --

2 JUDGE LEBOVITZ: When you say Slide 44, can you please
3 refer -- do you mean your demonstratives?

4 MR. HAWKINS: Oh, I'm sorry, yes, I'm only referring to my
5 demonstratives today. Yep, Slide 44 of Petitioner's demonstratives. And
6 that's shown on the screen here hopefully. The -- there's evidence in the
7 record of exactly how the first current can be output in a first operating
8 mode and a variety of conditions of what's happening with the second
9 current. There's five options listed here in this testimony. Patent Owner's
10 demanding that only the fifth option can be possible. But there's really no
11 answer about Options 1 and 2. They never acknowledged if Option 1 is
12 happening, are we in a first operating mode? Which makes no sense. That
13 is actually, by the way, what's being disclosed in the Chinese application.

14 The other point that's worth noting is items three and four in this
15 evidence that are highlighted on the left side of Slide 44, those are
16 simultaneous. So there's evidence in the record saying no, you can't be in a
17 first operating mode and be simultaneous. That's one of this genus, those are
18 some of the species that are available to you. And then there's five, which
19 Patent Owner's demanding must be exclusively limited to the species when
20 reading Claim 1 alone.

21 And so we think the evidence here is pretty overwhelming. And
22 it's, again, there's no contest in terms of challenging him or explaining why
23 this is wrong. None of that is in the record. I'll then turn to the final issue he
24 brought up which relates to the different from and this is Slide 7 of
25 Petitioner's demonstratives. Let's quickly walk through what happened here.

1 So, again, Element 1.3 calls out the different from limitation but to
2 understand it you have to look at Element 1.2 because that's where the first
3 current path is actually recited. The petition was pretty abundantly clear and
4 it's relying upon either -- there's two different branches. There's the USB
5 outputs 89 or the DC multi gear output unit 10. You can pick any one of
6 those to be your output port and you're going to hit all elements of 1.2, 1.3,
7 and 1.4.

8 The petition in this context cited to Chen's paragraph 26 and
9 Figures 5 to 7. Chen's paragraph 26 asks the reader to read, please look at
10 those Figures 5 and 7. Figure 7 is, of course, the classic USB buck output
11 circuit. Figures 5 and 6 are buck boost circuits that are used to provide the
12 DC multi-gear output. So this was all in the petition. This was all cited.
13 Then we went into Element 1.3 and said here's a picture of the terminals.
14 Look at Figure 4, you'll see that. So now you have Figure 4 showing your
15 second current path and you have Figures 5 and 6 showing your current path
16 for the DC multi-gear output buck boost circuits and you have Figure 7
17 showing the classic USB buck circuit.

18 So this was all in the petition, color-coded, tried to make it as
19 friendly as possible for the reader. And Dr. Woods provided testimony.
20 Yes, of course, these are different from and he illustrated a picture saying
21 look, they have to go through different electrical components. Again, if you
22 look at Figures 5 and 7, you're going to see they're going through different
23 electrical components. So they're different, certainly. And again citing to
24 Paragraphs 24 and 25 which tell you to read Figure 4, that's the high current.
25 And then look at Paragraph 26, that's the low current options. Again, all in

1 the petition. Patent Owner's response --

2 JUDGE BAER: Mr. Hawkins?

3 MR. HAWKINS: Yes?

4 JUDGE BAER: You're out of time. So I'll give you just a few
5 seconds to wrap up but we do need you to wrap up, please.

6 MR. HAWKINS: Sure. The point was, we cited those figures.
7 Patent Owner's going to a narrow construction and when you finally get to
8 Figure 7, I'm sorry, to Slide 17, the answer was -- or, I'm sorry, Slide 16.
9 Even if you apply that construction, it's still improper or it still ignores that
10 Chen's the same figures, the same reference, the same citations actually if
11 you draw a picture show the paths are purely non-overlapping. And so we're
12 not citing a new reference. We're not citing a new motivation to combine
13 theory. This is entirely proper for Petitioner's reply. And on Slide 16, the
14 precedent that's cited here and cited in our petition of course says it's proper.
15 And for some reason, they're saying it's all new when it's the exact same
16 figure in the exact same reference we're pointing to. And finally I will point
17 out --

18 JUDGE BAER: And I'll need you to leave it at that, Mr. Hawkins.
19 Thank you very much.

20 MR. HAWKINS: Thank you.

21 JUDGE BAER: Mr. Ai, I'm going to give you -- put six minutes
22 on the clock. We gave Petitioner an extra minute, so we'll give you an extra
23 minute as well. Excuse me, four minutes on the clock and you may begin
24 whenever you're ready.

25 MR. AI: Very good. Thank you, Your Honor. So going back to

1 what Petitioner just stated regarding the Figure 4 of Chens, and I want to
2 point it out that it -- that figure, you know, the green highlights he indicated
3 in the -- I think it's Slide -- Mr. Hawkins, help me on that, 16, right? It's at --

4 MR. HAWKINS: Slide 17 or 16 shows Figure 4, I believe.

5 MR. AI: Yeah, yeah, that's right. It's 17. And, you know, that --
6 the beginning of that blue pass he pointed out that is supposed to disclose a
7 second current pass starting with B1+. Right? That is not the BAT+ battery.
8 So the claim language required a pass from the battery pack and to the
9 output terminals. So this does not disclose that. I'll leave it --

10 JUDGE BAER: This is all dependent on your construction that the
11 paths be entirely separate and distinct, correct?

12 MR. AI: That is correct because it's stated in the claim. It's stated
13 in the claim. When you define a current path with beginning and ending
14 point and saying they are different, I think that's what that means. I think the
15 specification also supports that. And for that, I'm just going to let the record
16 speak for itself.

17 Now, I want to turn to the second comments I want -- final
18 comment I want to make is for the Patent Owner is the operating modes.
19 Let's look at all the references. Right? None of the references expressly
20 describe those operating modes. Petitioner and its expert have to relate to --
21 that into those and to imply whether or not there's a mode or not. But if you
22 look at the --

23 JUDGE BAER: Mr. Ai?

24 MR. AI: Yes?

25 JUDGE BAER: Did you make this argument in your papers that

1 there are no operating modes disclosed? I understand that you said there's
2 not a first operating mode because the second current is not inhibited, but I
3 didn't -- I don't remember in your papers an argument that there are no
4 operating modes at all disclosed in the prior references.

5 MR. AI: Let me correct myself. I think we say they don't have the
6 operating modes as we define it. And --

7 JUDGE BAER: Right. I understand your point to now be that
8 they don't have operating modes at all. And if you're making that argument,
9 I need to know where it is in your papers. Or am I incorrect that you're
10 actually making that argument?

11 MR. AI: You know, it's getting fuzzy on the record, but I don't
12 recall any of the three primary references mentioning the word operating
13 mode.

14 JUDGE BAER: So is it your position now that there are no
15 operating modes in the prior art references? And if so, if that's your
16 position, did you make that argument in your papers? And if so, where?

17 MR. AI: We did in both the Patent Owner response and sur reply
18 to talk about, for example, the Inskeep, the graphic display. They only show
19 a status of a different connections. But that does not by itself disclose the
20 modes. And the same thing with Nook, the Nook reference, the third
21 primary reference, it's not teaching that either. And Chen obviously by itself
22 is silent on the operating mode.

23 JUDGE BAER: Thank you.

24 MR. AI: Thank you. Another point I want to make is that when
25 we look at the primary references and I think --

1 JUDGE BAER: Mr. Ai, I apologize for interrupting, but you are
2 out of time. We'll give you just a minute to wrap up but we do need you to
3 wrap up, please.

4 MR. AI: Yes. Nook actually does not disclose the -- oh, there's
5 the three sensors example they disclosed does not really disclose the second
6 protection circuit because it does not. It's a binary detection mechanism for
7 the voltage polarity for the presence of the battery of the vehicle. Really it
8 does not do anything for the overcurrent protections claimed. With that, I
9 rest my case. Thank you.

10 JUDGE BAER: Thank you, Mr. Ai. With that, the case is
11 submitted. We certainly appreciate both parties taking the time to be here
12 and to make your arguments. We appreciate you making that effort very
13 much. This has been helpful. And with that, we'll go off the record.

14 (Whereupon, the above-entitled matter went off the record at
15 11:09 a.m.)

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