

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DROPBOX, INC.,
Petitioner,

v.

MOTION OFFENSE, LLC,
Patent Owner.

IPR2024-00286 (Patent 11,611,520 B1)
IPR2024-00287 (Patent 11,611,520 B1)

Record of Oral Hearing
Held: April 23, 2025

Before THOMAS L. GIANNETTI, NORMAN H. BEAMER, and SCOTT
RAEVSKY, *Administrative Patent Judges*.

APPEARANCES:

ON BEHALF OF THE PETITIONER:

GREGORY H. LANTIER, ESQ
TRISHAN ESRAM, Ph.D., ESQ.
WilmerHale
2100 Pennsylvania Avenue, NW
Washington, D.C. 20037
(202) 663-6327 (Lantier)
(202) 247-4185 (Esram)
gregory.lantier@wilmerhale.com
trishan.esram@wilmerhale.com

LIV HERRIOT, ESQ.
WilmerHale
2600 El Camino Real
Suite 400
Palo Alto, California 94306
(650) 858-6138
liv.herriot@wilmerhale.com

ON BEHALF OF THE PATENT OWNER:

ANDREW GORDON, ESQ
Andrew Gordon Law Firm, PLLC
6518 Ryeworth Drive
Frisco, Texas 75035
408-390-4473
andrew@agordonlawfirm.com

DEREK DAHLGREN, ESQ.
Devlin Law Firm, LLC
1526 Gilpin Avenue
Wilmington, Delaware 19806
(302) 449-9010
ddahlgren@devlinlawfirm.com

The above-entitled matter came on for hearing Wednesday, April 23, 2025, commencing at 1:00 p.m. EDT, via Videoconference.

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

(1:00 p.m.)

JUDGE BEAMER: Good afternoon. This is Judge Norman Beamer, and with me are Judges Thomas Giannetti and Scott Raevsky. Judges Giannetti and myself are participating remotely, and Judge Raevsky is at the Denver Hearing Office.

This matter is Dropbox v. Motion Offense IPR2024-00286 and 287, covering Patent 11,611,520. We note that there are some objections to some of the demonstratives, and we'll take those under advisement.

A few preliminary matters. Because this is a video hearing, our first priority is to make sure everyone can be heard. So if at any time anyone has difficulties or is disconnected, please speak up, or if you're disconnected, you may need to contact the team who originally provided you with the connection information.

If you do drop off, try to note where things were being discussed at the time so we can pick up at the proper point.

Anyone who is not speaking, please mute your mic and only unmute when you're speaking. Identify yourself when you speak so that the transcript reflects the speaker correctly.

When referring to an item on the record or a slide in your presentation, please specify the slide number or the citation so the Panel can follow along and so the transcript is clear. I understand this is a public line, so there may be members of the public listening in.

So with that, each party has one hour.

Could the Petitioner introduce themselves?

1 MR. LANTIER: Good afternoon, Your Honor. This is Greg Lantier
2 from WilmerHale on behalf of the Petitioner, Dropbox. And I'm joined
3 today by my colleague at WilmerHale, Trishan Efram, who is Dropbox's
4 lead counsel, and Liv Herriot, also of WilmerHale.

5 JUDGE BEAMER: Okay. Thank you.

6 And Patent Owner?

7 MR. GORDON: Good morning, Your Honor. This is Andrew
8 Gordon, lead counsel for Patent Owner. And with me is Derek Dahlgren,
9 who will be arguing attorney.

10 JUDGE BEAMER: Thank you.

11 Petitioner, you have one hour. Do you want to reserve any time for a
12 rebuttal?

13 MR. LANTIER: Yes, Your Honor. Could I please reserve 20
14 minutes?

15 JUDGE BEAMER: Okay, fine. So you may begin when you're
16 ready.

17 MR. LANTIER: And, Your Honor, before I begin, may I ask one
18 question about the Panel's preference? And that's in terms of the
19 demonstrative slides. Is it the Panel's preference that we post those as we go
20 through the presentation, or does each of you have a copy and you'd prefer
21 that we just refer by slide number where appropriate?

22 JUDGE BEAMER: Either one is fine. We have the slides before us.

23 MR. LANTIER: In that case, Your Honor, I think I'll just refer to
24 slide number. It just reduces the number of things that can go wrong during
25 the presentation.

26 JUDGE BEAMER: That's fine. Thank you.

1 MR. LANTIER: May it please the Board. Again, my name is Greg
2 Lantier, here today on behalf of the Petitioner, Dropbox. And I am joined by
3 my colleague at WilmerHale, Petitioner's lead counsel, Trishan Esram.

4 The challenged claims of the '520 patent relate to ways that one
5 computer can share a folder over a network with another computer or that
6 one person can request that someone upload a file over a network. The '520
7 is the latest in a line of patents, several of which have, in the Patent Owner's
8 own words, substantially similar claims that were already found invalid, as
9 obvious, by a jury in May of 2023.

10 This combined hearing addresses two IPRs challenging the remaining
11 claims of the '520 patent, which are divided into two groups. One group,
12 which is the subject of the 286 IPR, are the folder sharing claims, which are
13 17 through 21. These claims recite a series of user interfaces and user
14 interface elements that generate an email with an HTTP link to share a
15 folder.

16 The other group, which are the subject of the 287 IPR, are the file
17 request claims 9 through 12, 14 through 16, and 22 through 24, these claims
18 for site user interfaces and user interface elements for generating an email
19 that requests a file, an interface for allowing the recipient of the request to
20 upload one or more files, and then a notification message that goes to the
21 responder, identifying the fact that one or more files has been uploaded.

22 It's undisputed that both folder-sharing and file request techniques
23 were in the prior art, and the prior art that Petitioner primarily relies on in
24 these IPRs, the Houston folder sharing reference for the folder sharing
25 claims and the Riepling file request reference for those claims, expressly
26 teach nearly all the limitations of the challenged claims.

1 But for certain implementation details not expressly taught in those
2 references, we've pointed to disclosures in the references themselves or in a
3 secondary reference -- that would have been obvious ways for a person of
4 ordinary skill in the art in 2012 -- to implement those folder-sharing and file
5 request systems.

6 In response to that straightforward obviousness case for each IPR, the
7 Patent Owner has tried to rewrite the folder sharing claims with a contorted
8 claim construction and to disqualify the Riepling reference as prior art in the
9 file request claims on the basis that it doesn't meet the requirements of
10 Section 311(b).

11 As to the first argument, the Board has already addressed it in the
12 decision on Institution, finding that the claim construction is not warranted.
13 And as to the second, the Federal Circuit has confirmed in the Lynk Labs
14 case that the Riepling prior art reference is prior art that is subject to IPR.

15 And, as Your Honors may know, the en banc Federal Circuit last
16 week denied rehearing en banc of the Lynk Labs case. The remaining
17 arguments that the Patent Owner raises are insubstantial and, as we detailed
18 in our reply, incorrect. And I plan to address each of those in turn. Before I
19 got to those, I did want to make two process points just very briefly.

20 The first, Your Honor, Judge Beamer, has already raised in part,
21 which is that we do have pending motions to exclude with respect to certain
22 portions of the sur-replies, as well as a filed objection to slide 77, 78, and 83
23 in Patent Owner's demonstratives.

24 I don't plan to argue those unless the Board has questions. They raise
25 the same issue as each other, which is the Patent Owner's continued

1 inclusion of evidence and arguments that the Panel previously found were
2 raised too late and would be unfairly prejudicial to the Petitioner.

3 So I don't know which of Patent Owner's slides it plans to rely on
4 during its presentation, but if it's any of 77, 78, or 83, I would just note our
5 objection to those. And, certainly, if we hear arguments about the Houston
6 II provisional application or some of the other new evidence that was raised
7 late, we do have the motion to exclude on that.

8 For the second point of process, I would ask Your Honors to just turn
9 to slides 4 and 5 of the demonstrative slide deck that we filed. Those two
10 slides just set forth the asserted grounds, as well as identifying which claims
11 remain live. And I don't plan to go over those in detail in the interest of
12 time, but I did want to make one process point with respect to slide 5, and
13 that is that we did not exclude Claim 13 when we filed our reply brief here,
14 and that's even though Claim 13 had been statutorily disclaimed at the time
15 we filed that brief.

16 The reason for that is we didn't know that a statutory disclaimer had
17 been filed. The first time we learned of that was in footnote 5 of the sur-
18 reply. There haven't been any mandatory notices or other notice given of the
19 disclaimer.

20 So I apologize if that causes any confusion, but that's the reason why
21 Claim 13 is not excluded from the claims in our reply.

22 JUDGE BEAMER: Is that disclaimer on the record, other than a
23 footnote?

24 MR. LANTIER: It's only on the record in the footnote, Your Honor.

25 Now, if Your Honors would turn to slide 7, I'll address the disputed
26 issues starting with the 286 IPR, unless the Panel has a preference to start

1 somewhere else. And, again, these are the folder sharing claims 17 through
2 21.

3 And I don't plan to spend a lot of time going over the references. I'll
4 just say a couple of things and then move on to the specific disputes and
5 address those.

6 As Your Honors know, the primary reference for the 286 IPR is the
7 Houston reference, which is Exhibit 1002, and that's shown starting at slide
8 8.

9 Houston discloses a file -- a folder-sharing system. And most of the
10 discussion of the embodiments in the Houston patent relate to sharing a
11 folder within the native file explorer on the computer after the recipient of an
12 invitation to a shared folder accepts the invitation to do so. And that's
13 illustrated, for example, on slide 13, which shows Figure 10 of Houston.

14 That said, as illustrated on slide 15, in Petitioner's demonstratives,
15 Houston is not limited to those embodiments. Instead, as is taught at column
16 2, lines 10 through 12, Houston also teaches that there are other
17 embodiments of the invention that would utilize a web interface, allowing
18 access to shared folders from any computer with network access. But
19 Houston doesn't show an image of what that web interface would look like
20 in its figures.

21 The main secondary reference at issue in the 286 IPR, a U.S. patent to
22 Garcia, which is Exhibit 1004 in these proceedings, does show how to
23 implement such a web interface in a folder-sharing environment, and that's
24 shown, for example, on slide 16, which is Figure 13 of Garcia.

25 As set forth in ground one of the petition, it would have been obvious
26 to implement the Houston folder-sharing system using the email with an

1 HTTP link and the web interface taught in Garcia, rendering each of Claims
2 17 through 21 of the '520 patent invalid.

3 So with that, I'll turn to addressing, specifically, the main arguments
4 that the Patent Owner has raised with respect to Ground 1, which I've set
5 forth on slide 17.

6 As Your Honors know, the primary dispute in connection with the 286
7 IPR is one of claim construction. As illustrated on slide 18 of Petitioner's
8 demonstratives, the Patent Owner contends that the straightforward claim
9 phrase representation of at least one folder should be given a 30-word claim
10 construction that finds no support in that claim language and that is not
11 compelled by anything in the intrinsic or the extrinsic record.

12 There is no need to construe this language. It should be accorded its
13 plain and ordinary meaning, which is exactly what the Board did in its
14 decision at institution. Patent Owner has identified no persuasive reason for
15 the Board to change its analysis on the claim construction issue. And as the
16 Board has already pointed out, that claim construction seeks to import
17 requirements from disclaimed Claims 1 and its dependence into Claim 17,
18 which simply does not have those requirements.

19 Slide 19 illustrates the next argument that the Patent Owner makes,
20 and that is that the Houston reference teaches away from storing the contents
21 of the shared folder remotely until the user initiates some communication.
22 There's no teaching away. While Houston expresses that there are benefits
23 to having files stored locally, that's not the issue before the Board in the
24 combination of Garcia with Houston.

25 The Patent Owner can't point to any statement in Houston that
26 disparages at all, much less that would come close to meeting the high bar

1 for a finding of teaching away, with respect to requiring that a user click on
2 a link for a folder, initially, before the folder -- the shared folder's contents
3 would be downloaded.

4 As shown on slide 19, to the contrary, Houston acknowledges that
5 someone must take action to join a shared folder, and that it's only after that
6 action is taken that the folder appears in their Dropbox and will sync. There
7 is absolutely no statement in Houston teaching away from implementation of
8 that system using Garcia's email with a link or its other embodiments.

9 JUDGE BEAMER: Counsel, is this teaching away pertinent if
10 representation has just accorded its ordinary meaning?

11 MR. LANTIER: We don't believe so, Your Honor. I think that this
12 argument, as well as the next argument on motivation to combine that I'll
13 address, really are only at issue if the Board were to find Petitioner, or --
14 excuse me, Patent Owner's claim construction to be correct, which we don't
15 think you should.

16 I expect that the Patent Owner may say, "Even if that's not the claim
17 construction, you still need to look at whether someone would combine
18 Garcia with Houston. And we think that, for the reasons we've set forth,
19 they wouldn't." And that's separate and apart from the claim construction.

20 I don't think that's exactly right because the only question, if the Board
21 just accords the terms its plain and ordinary meaning, is really whether
22 someone would implement the Houston system using an email with a link,
23 and then -- which is disclosed in Garcia, and then the link will take you to
24 the web interface.

1 There's no dispute, really, that with respect to that, Houston never says
2 that using an email with a link would be disadvantageous or disparages that
3 in any way.

4 The -- and I hope that answers your question, Your Honor.

5 JUDGE BEAMER: Yes.

6 MR. LANTIER: We don't believe it would be relevant if you adopt
7 the plain and ordinary meaning of the claim language.

8 JUDGE BEAMER: Yes. Thank you.

9 MR. LANTIER: Turning to slide 20, the Patent Owner next argues -
10 and this is the third of the five arguments - that there would have been no
11 reason to combine Garcia's teachings when implementing Houston's folder-
12 sharing system.

13 We set forth in the petition in a thorough way - and this is supported
14 by Dr. Mowry's testimony of paragraphs 84 through 93 of his declaration -
15 that there's ample motivation to combine.

16 And as we've illustrated as an example on slide 20, Houston itself
17 provides strong reason to look to Garcia for the specific implementation
18 details that we're talking about here, the email with the link and the use of
19 the web interface.

20 I think that if the Board adopts the plain ordinary meaning, there's
21 really nothing in the arguments that the Patent Owner has raised to suggest
22 that any of the motivations to combine, that have been identified by Dr.
23 Mowry, are incorrect or would not apply. Their argument appears to be
24 largely predicated, if not entirely predicated, on the definition of
25 representation of at least one folder that they've asked the Board to adopt.

1 Your Honors preliminarily found in the decision on institution that Dr.
2 Mowry's testimony supported these combinations. And we don't believe that
3 the Patent Owner has introduced any evidence or argument that undermines
4 the petition or the decision on institution on those issues.

5 Turning to slide 21, the Patent Owner's next argument pertains only to
6 Dependent Claim 18, and its argument is that Dependent Claim 18 is not
7 obvious because Houston and Garcia, in combination, failed to teach Claim
8 18 requirement of an email interface and that there are multiple interfaces
9 for permitting access to the shared folder.

10 As we explained in the reply, both of those arguments are wrong.
11 Garcia expressly teaches that a shared folder can be accessed via an email
12 with a link. And, as illustrated on slide 21, there is no way to interact with
13 an email other than through an email interface.

14 Likewise, as illustrated on slide 22, looking at Garcia's Figures 10 and
15 13, we see that there are two different interfaces, each of which allows
16 someone to access the shared folder. Figure 10 is showing the file explorer-
17 based access, and Figure 13 shows what happens when you use the email
18 interface and click the link. You could be taken to the web interface. Both
19 of those permit access to the shared folder.

20 And then, finally, for the 286 IPR -- I'm turning to slide 23 -- the final
21 argument that the Patent Owner raises is that secondary considerations
22 should save the claims. This argument is entirely premised on the Patent
23 Owner's claim construction and trying to incorporate the requirements that
24 it's set forth for representation of at least one folder into Claim 17.

25 If Your Honors don't adopt that claim construction then, as you
26 pointed out in the decision on institution, the Smart Sync feature that is the

1 sole basis for the Patent Owner's argument of nexus, simply is not part of
2 Claim 17.

3 And I think Your Honors got that right in the decision at institution.
4 There is no nexus. I'd be happy to talk about the sort of subsidiary issues on
5 secondary considerations, but that one's dispositive. If you don't adopt
6 Patent Owner's claim construction, there is no secondary considerations
7 evidenced.

8 Unless Your Honors have any additional questions on the 286 IPR, I
9 would turn next to the file request claims of the 287 IPR, beginning on slide
10 25.

11 And I should probably point you to slide 26. As Your Honors are
12 aware, the primary prior art reference for the 287 IPR is the Riepling
13 reference. It's shown on slide 26 and following. Riepling is a published
14 patent application that was originally filed on August 16th of 2011.

15 And the lead argument that the Patent Owner advanced in the Patent
16 Owner response for the 287 IPR was that Riepling does not qualify as prior
17 art under Section 311(b) because the Patent Owner said that that provision
18 didn't encompass published patent applications and that the date would be
19 the date of publication, not the date of filing.

20 As we explained in the reply, the Federal Circuit has since reached
21 that issue directly in the Lynk Labs case. Last week, it denied rehearing en
22 banc of that case. And so it's clear that that is going to be the law at the time
23 that Your Honors decide the final written decision in the 287 IPR.

24 The Patent Owner concedes in the sur-reply that Lynk Labs is
25 dispositive. And so the Riepling reference qualifies as prior art. That does
26 also mean that the arguments about whether the claims are -- have a priority

1 date of 2012 or a priority date of 2017 is now irrelevant because whichever
2 priority date they have, Riepling still qualifies as prior art.

3 So I don't plan to delve into those questions unless Your Honors have
4 questions about them, and I'd be happy to discuss them if so. If not, I would
5 suggest that we can move forward to slide 39, which is where I've listed out
6 the arguments that remain live in the 287 IPR, so that I can address those in
7 order, unless Your Honors have a different preference.

8 Turning to slide 40, the first argument that Patent Owner advances has
9 to do with element 9B. And, here, the Patent Owner says that Riepling fails
10 to teach that there is a file description entered in a text box, as required by
11 that element.

12 As Your Honors correctly noted in the decision on institution, and
13 consistent with the evidence set forth in the petition and Dr. Mowry's
14 declaration, the set content box 325 would be understood by a person of skill
15 in the art to be a text box, and the word audio is a file description.

16 The Patent Owner have --

17 JUDGE RAEVSKY: Mr. Lantier, this is Judge Raevsky. Can you
18 hear me?

19 MR. LANTIER: I can, Your Honor. And I hope I didn't speak over
20 you.

21 JUDGE RAEVSKY: Great. I have a question about this limitation in
22 your position.

23 On page 11 of the reply, at the top of the page, you argue that even if
24 the content field 325 were a drop-down list, the difference between a text
25 box and a drop-down list would not be a patentable distinction.

1 What I'm trying to understand is, do you set forth an obviousness
2 position, apart from saying it wouldn't be patentable? In other words, are
3 you making the argument that one skilled in the art would have understood
4 this is a text box?

5 Or do you also argue that it would have been obvious for it to have
6 been a text box?

7 MR. LANTIER: In the petition, Your Honor, our position - and we
8 continue to believe it's correct -- is that a person of ordinary skill in the art
9 would have understood the set content box 325 to be a text box. The
10 surrounding boxes are expressly described as text fields in that figure, and
11 the -- and that text put in the box 325 looks identical to them. So that is our
12 position.

13 In the Patent Owner response, the argument was raised that -- in the
14 preliminary Patent Owner response, as well as in the Patent Owner response,
15 this argument was raised that maybe 325 would be a drop-down menu.

16 And in the reply, we did respond that if that were the sole distinction
17 that the Board were to conclude that 325 is a drop-down menu, even though
18 there's no indication in the reference, nor in that figure that it is a drop-down
19 menu, that would not be -- that would be obvious. To change something
20 that's a drop-down menu to a text box is not a non-obvious change.

21 JUDGE RAEVSKY: Is there anything more in the record to support
22 that position apart from the bald statement made on page 11 of the reply?

23 MR. LANTIER: Just the level of skill in the art, Your Honor. As
24 Your Honor knows, the level of skill in the art here is someone with a
25 college degree in computer science and two years of work experience in
26 computer networking. Clearly, by 2012, that person, as well as the rest of

1 us, were very familiar with the different ways that one could enter data into a
2 user interface, and a drop-down or a text box were two very common ways.

3 But, no, Your Honor. We don't have a separate opinion as to that
4 issue beyond Dr. Mowry's testimony, which you've already recited.

5 And I will say I think the Patent Owner's argument that the set content
6 field is a drop-down menu, it's very hard to square with the Riepling
7 reference. If -- when one looks at the illustration in Figure 3, there's nothing
8 that differentiates box or field 325 from the other boxes in Figure No. 3,
9 which are described as being text fields.

10 And if you consider what those other fields are doing - for example,
11 there's one that's a limit on size, and the Riepling reference says you're going
12 to type in 10 megabytes - it'd be much more likely that if you were going to
13 have a size restraint, you'd make that a drop-down, rather than a box that is
14 set content.

15 And so I think that it's hard to credit, and we would suggest that you
16 cannot credit the bulk of the naked argument in the Patent Owner's response
17 and sur-reply that 325 is a drop-down. There's no evidence to support that in
18 the reference. And it's contrary to what the reference itself shows.

19 JUDGE GIANNETTI: Counsel, Judge Giannetti.

20 You say it's a text box, so how would the information be entered in
21 there? Would it be -- would it be entered in a keyboard? How would you
22 enter something in a text box?

23 MR. LANTIER: That's correct, Your Honor. Entered by keyboard by
24 the user entering it.

1 JUDGE GIANNETTI: And with the drop-down menu, they would
2 click on this -- an arrow or something, and you'd have a series of choices,
3 which could be selected with a mouse click; is that right?

4 MR. LANTIER: That's correct, Your Honor.

5 JUDGE GIANNETTI: I don't see an arrow there. That's what you
6 would normally expect with a drop-down menu.

7 MR. LANTIER: I agree. And that's what I was trying to express a
8 moment ago, Your Honor, that there's no indication in Riepling that it's a
9 drop-down menu. It looks like it's a text box.

10 JUDGE GIANNETTI: Yes.

11 MR. LANTIER: And that's, I think, what a person of skill in the art
12 is, as Dr. Mowry testified, would understand it to be -- expect it to be --

13 JUDGE GIANNETTI: But what is the expiration date? Is there any
14 dispute over what that is? Because that looks -- it looks like the same format
15 as the set content box.

16 MR. LANTIER: No, Your Honor. The Patent Owner has not raised
17 any argument that that would be a drop-down or anything other than a text
18 field.

19 JUDGE GIANNETTI: Okay. Thank you.

20 MR. LANTIER: Now, the second argument, which is detailed on
21 slide 41, concerns element 9G, which requires --

22 JUDGE BEAMER: Just a second, Counsel.

23 MR. LANTIER: Yes, Your Honor.

24 JUDGE BEAMER: It's a -- so these text boxes are totally free-form?
25 In other words, you can literally enter -- instead of four days, you could say
26 "maybe someday" or ":ten years", or. I mean, it's -- it seems very odd that

1 you would have no control over the kind of content that would be in these
2 boxes. And instead of “audio”, you could say “pretty pictures.”

3 How could the system possibly handle that?

4 MR. LANTIER: Your Honor, the -- two responses to that. One is,
5 there are certain fields in Figure 3 and in Riepling that are checkboxes. And
6 we can see that there are limitations that can be placed on things, such as, for
7 example, it has to be a JPEG, or it can only be a JPEG, or we'll allow it to
8 also be an MPEG or other type of file.

9 But Riepling itself does teach that -- for example, in the size field, that
10 the user would enter 10 megabytes. And I would suggest, Your Honor, that
11 the same argument that you're raising would apply there. Somebody could
12 incorporate something that wouldn't make sense in that field because they're
13 typing it.

14 But that is the disclosure in Riepling. And I think the idea is that the
15 person doesn't have incentive to enter a parameter that's not useful for them.

16 They want to obtain the file that they want to obtain.

17 And, Your Honor, on the date, you could refer to paragraph 33, which
18 does say the user can just enter a specific time. It doesn't -- it indicates, in
19 essence, that that's something that's going to be manually entered, not done
20 by a drop box, or -- a drop-down, excuse me, or some other interface. The
21 only language that's used to describe what those fields are in Figure 3 is that
22 they're text fields.

23 JUDGE BEAMER: Okay. Thank you.

24 JUDGE GIANNETTI: Yes.

25 Counsel, there also might be some sort of a check on that.

1 For example, I'm often asked to enter my credit card number, and if
2 my credit card number is wrong, it gives me an error message.

3 So, possibly, if you entered "lemonade" or something here that's
4 nonsensical, you'd get an error message and saying the choices are audio, or
5 video, or whatever.

6 I mean, I don't think the fact that it's a text field means that you can
7 validly enter anything. You can enter anything, but it might -- may not be
8 valid input. You might get an error message.

9 MR. LANTIER: Yes, Your Honor. And the specification is written
10 to be read by the person that's skilled in the art, who is somebody who is a
11 college graduate in computer science, for example, with two years of work
12 experience.

13 And so, I tend to agree with Your Honor that a person like that
14 reading this -- of course, they could think up ways that you could try to
15 misuse the system, but they're going to understand that you'd built the
16 system to work and briefly describes those as text fields.

17 JUDGE GIANNETTI: All right. Thanks.

18 MR. LANTIER: So, Your Honors, I don't mean to move on if there
19 are more questions on element 9B, but element 9G, which requires including
20 the file description and date or time restriction in the digital invitation, is
21 illustrated on slide 41.

22 So, here, what the Patent Owner is arguing is, that because the Figure
23 4 in Riepling doesn't expressly show that the file description field or the date
24 and time field is included in the invitation, that it wouldn't have been
25 obvious or even understood by someone with skill in the art, that those are
26 included in the invitation.

1 And one thing I'd note in that regard, Your Honor, is -- I'm not sure it
2 was as clear in the briefing as it -- it is clear from your decision on
3 institution - if one looks to what's disclosed in the '520 patent in connection
4 with including the date and/or time field in the invitation, that's not expressly
5 shown in the figure, either.

6 There's a paragraph -- that's paragraph 180 in the 906 application -- as
7 Your Honor has pointed to in the decision on institution, that says these
8 could be included. And we have kind of exactly that same disclosure in
9 Riepling, as we set forth in the Petition at page 31 and in Dr. Mowry's
10 declaration at paragraph 96.

11 It's undisputed that Riepling teaches that a file description and a date
12 can be included as part of the upload parameter dialog interface 301. That's
13 paragraph 34 of Riepling -- excuse me. That's the dialog box 301, which is
14 Figure 3.

15 Then at paragraph 34 of Riepling, which is very similar to paragraph
16 180 of the provisional application for the '520 patent, Riepling also expressly
17 states that the digital invitation can be restricted according to one or more of
18 the upload parameters specified in dialog 301.

19 In combination, those passages would teach a person of skill in the art
20 that the invitation can include those upload parameters within it so that they
21 would be communicated to the recipient at the upload request. But, then, at
22 minimum, it would have been obvious to include them in the invitation, as
23 Dr. Mowry explained, so that the recipient doesn't try to upload a file that
24 the requester doesn't want or to upload a file outside of the time range that
25 the requester has specified.

1 And I'd just like to address, briefly, that the Patent Owner's argument
2 that -- in its sur-reply that Dr. Mowry has somehow changed his theories on
3 this at the deposition, that's entirely unfounded. Your Honors can compare
4 what Dr. Mowry said in his original declaration at paragraph 96 to the
5 substance of what he said during his deposition, and Your Honors will see
6 that they are entirely consistent with one another.

7 Now, turning to slide 42, the Patent Owner next argues that we failed
8 to show that element 9L would have been obvious in light of Riepling,
9 combined with the link taught in Meisels.

10 And, just to be clear on this one, Your Honors, the combination here
11 is simply adding an obvious implementation-level detail to what's already
12 taught expressly in the Riepling reference.

13 Element, 9L is about sending a notification message to the file
14 requester, alerting him or her that a file has been uploaded. Riepling teaches
15 that, but it doesn't give the details of what that message looks like. A person
16 of skill in the art would have found it obvious and would have had good
17 reason to do so to include in the message a link to the shared location, as is
18 taught in Meisels.

19 And, in fact, I'd note that the Patent Owner doesn't even dispute that
20 there are ample and sufficient reasons to combine Riepling with Meisels.
21 The only argument it seems to be making is that one cannot use multiple or
22 two prior art references in combination for a single claim limitation.

23 They call that cherry-picking. That's not the law. There are
24 numerous, numerous decisions where the Board, the Federal Circuit, the
25 courts have found that a single claim limitation can be rendered obvious by
26 the combination of two references.

1 I'll also just note one argument that appears in the sur-reply for the
2 first time, to make sure that I address it. And this is the argument that the
3 link in Meisels is limited to a direct link to the uploaded document. That's at
4 footnote 8 on page 21 of the sur-reply. That's clearly incorrect.

5 To give an example, the 1st sentence of Meisels at paragraph 3
6 expressly teaches that the link can take someone to a shared location where
7 the file has been shared, rather than to the document, itself.

8 The fourth argument that the Patent Owner has raised relates only to
9 Dependent Claim 15. I'll just touch on it, briefly. This is at slide 23.

10 JUDGE RAEVSKY: Mr. Lantier, before you proceed to Claim 15, I
11 just want to clarify. By focusing on the combination of Riepling and
12 Meisels, are you conceding that Riepling alone does not disclose limitation
13 9L?

14 MR. LANTIER: Riepling alone does not expressly disclose limitation
15 9L. I do think it would be obvious to someone of skill in the art that you
16 could include a link, which would be the eighth user interface element that is
17 required by 9L.

18 But, also, as I said, there's no dispute in terms of the obviousness here
19 that there would be motivation to combine those two references, that as far
20 as I can gather from the sur-reply, the current argument seems to be that
21 because that link is embedded in a larger limitation, we can't use two
22 different references in order to show the obviousness of that limitation.

23 The fourth argument, again, just very, very briefly, it only relates to
24 Claim 15. And the argument here, Claim 15 requires that the notification
25 messages be emails, specifically. And the Patent Owner argues that even
26 though Riepling discloses the use of email as notification messages or as a

1 form of messaging in it, that it wouldn't have been obvious to a person of
2 skill in the art that those notification messages could have been email
3 messages.

4 I'll note that invitation 410 is expressly an email message. Email was
5 the most popular form of messaging between computers on a network in
6 2012.

7 And so if we look at the language of Riepling, which says that the
8 notification message can be any other type of notification message,
9 obviously, one of those types of notification messages would be an email
10 message.

11 And then, finally, turning to slide 44, there was one new argument
12 raised in sur-reply that we don't believe that the Board needs to address,
13 because that's where it was first raised, but I'll address it briefly here, and
14 that is that the Patent Owner now asserts that there would be no motivation
15 to combine the Manzano reference with Riepling. That argument appeared
16 for the very first time at page 22 of the sur-reply, which we would contend is
17 too late.

18 But, in any event, it's incorrect that -- what the Patent Owner's arguing
19 is that - and this is at 22 - Manzano was directed to allowing a user to
20 transfer their own files in their entirety from a first computer to a second
21 computer. So, in essence, the Patent Owner is saying that Manzano is
22 limited to one of us sharing our files with ourselves.

23 To give an example from Manzano of why that's not correct, I would
24 refer Your Honors to paragraph 33. The 1st sentence, it just makes --

25 JUDGE RAEVSKY: Mr. Lantier, you're within one minute of your
26 initial time.

1 MR. LANTIER: Thank you, Your Honor.

2 I'd refer you to the first sentence of paragraph 33 in Manzano, which
3 makes very clear that Manzano is not limited to a person sharing files with
4 him or herself. It talks about one user -- of one user device sharing files with
5 another user of a different user device.

6 So argument should be rejected procedurally. It also is incorrect on
7 the merits.

8 I'm happy to address any questions that Your Honors may have. If
9 not, I'll thank you for listening and for your questions and reserve the
10 remaining time for reply.

11 JUDGE BEAMER: Okay. Thank you.

12 Patent Owner, you have an hour. Do you want to reserve any time?

13 MR. DAHLGREN: Yes, Your Honors. I would reserve 20 minutes,
14 please.

15 JUDGE BEAMER: Excuse me, 10 minutes?

16 MR. DAHLGREN: If -- 20. 20, please.

17 JUDGE BEAMER: Okay. Thank you.

18 You may proceed when ready.

19 MR. DAHLGREN: So I want to start off just by acknowledging the
20 Federal Circuit's denial of the petition for en banc rehearing in the Lynk
21 Labs case. And given that development, Patent Owner is withdrawing the
22 arguments related to Riepling not qualifying as prior art.

23 But that also moots the written description dispute, priority dispute in
24 the 287 IPR as well. So I think that simplifies things, you know, greatly.
25 And I just wanted to start off this by making that clear.

1 Referring to the 286, I -- Patent Owner -- we agree that claim
2 construction is, you know, dispositive issue here, the meaning of
3 representation. If representation is construed to include copies of a folder, a
4 folder and its content, then I'd think that, you know, we would not prevail.

5 So I just -- I want to acknowledge that as well. But I don't really think
6 --

7 JUDGE RAEVSKY: Mr. Dahlgren?

8 MR. DAHLGREN: -- that's the correct construction. And so I would
9 like to --

10 JUDGE RAEVSKY: Mr. Dahlgren?

11 MR. DAHLGREN: -- start there. And if you have Patent Owner
12 slides --

13 JUDGE RAEVSKY: Can anybody hear me?

14 MR. DAHLGREN: -- if I could direct you to slide 41 --

15 JUDGE BEAMER: Counsel, I think that Judge Raevsky has a
16 question.

17 MR. DAHLGREN: I'm sorry, Your Honor.

18 JUDGE RAEVSKY: Can you hear me, Counsel?

19 MR. DAHLGREN: I wasn't able to hear that.

20 JUDGE RAEVSKY: Can you hear me now?

21 MR. DAHLGREN: Yes.

22 JUDGE RAEVSKY: Okay. Thank you.

23 Mr. Dahlgren, do you agree with Mr. Lantier that your secondary
24 considerations argument also depends on your claim construction being
25 adopted?

1 MR. DAHLGREN: Yes. Yes, if there is -- if the claims are not
2 construed to encompass representation as we've proposed, then I would
3 agree that Smart Sync, it's distinct, and so there wouldn't be a nexus.

4 Now -- but turning to slide 41, I just want to put up the competing
5 kind of constructions that the parties have proposed. Petitioner has argued
6 that representation be given its plain and ordinary meaning but appears to
7 have then articulated, you know, what that meaning would be, and so,
8 essentially, that it would be an image, an icon. That would be a stand-in for
9 the folder. But we don't believe that that's correct.

10 And if you turn to slide 42, I just want to, again, point out this is
11 where Petitioner has kind of articulated its position, again, with respect to
12 the claim construction dispute. Looking at -- well, taking a step back, one of
13 the reasons that Petitioner's construction doesn't make sense is that regular
14 folders have icons, use icons.

15 So construing representation of a folder to be a symbol, an icon that
16 depicts that folder, that, essentially, would be meaningless. And so, for that
17 reason, we don't think that Petitioner's proposal for the literal meaning being
18 an icon is correct.

19 In terms of the arguments, if you turn to slide 46, what our
20 construction does is it takes into account the surrounding claim language.
21 And, here, that is in 17D. When the email message is sent, it doesn't include
22 an attachment, and that's for permitting the avoidance of the -- at least, one
23 file from being communicated and stored at the second node. And our
24 construction gives this language meaning in the context of the -- in the entire
25 claim. And that's, I think, completely appropriate and supported by the law.

1 We cited to a number of different cases. One of those was Phillips,
2 which recognizes the importance of considering the surrounding claim
3 language, and the Vitronics case also stands for the same proposition.

4 And, also, there is the Rexnord case. And, essentially, what the cite is
5 from Phillips -- and this is -- it's -- the quote is -- and it's citing to Rexnord
6 because claim terms are normally construed, or -- excuse me, used
7 consistently throughout the patent. The usage of a term in one claim can
8 often illuminate the meaning of the same term in other claims.

9 And, here, our proposal -- our construction not only is consistent with
10 Claim 17 but also with the usage of representation and the other claims of
11 the '520 patent. And it's also consistent with the rest of the intrinsic record.
12 We cited to a number of examples in the priority applications where
13 representation was discussed.

14 We understand that the Board had identified a few excerpts and, you
15 know, those that, you know, we've addressed with respect to the paragraph
16 116 of Exhibit 2004. And this is -- you turn to slide 51, you'll see that it
17 reproduces that paragraph.

18 JUDGE GIANNETTI: Counsel, can we just --

19 MR. DAHLGREN: And I believe we have --

20 JUDGE GIANNETTI: Counsel, it's Judge Giannetti.

21 (Simultaneous speaking.)

22 JUDGE GIANNETTI: Can you hear me? Can you hear me,
23 Counsel?

24 MR. DAHLGREN: Faintly, but --

25 JUDGE GIANNETTI: Can you just back up a minute?

26 MR. DAHLGREN: -- yes, Your Honor.

1 JUDGE GIANNETTI: Faintly? I -- so I'm shouting into my
2 microphone now. Can you hear me now?

3 MR. DAHLGREN: Yes. Thank you very much.

4 JUDGE GIANNETTI: Oh, okay.

5 MR. DAHLGREN: I apologize.

6 JUDGE GIANNETTI: All right. So let me just back up a minute and
7 make sure that I understand where you're going here. Did you say
8 something about the dispositive issue is whether the representation includes
9 content? Is that your understanding of what the issue is here, or did I get
10 that wrong?

11 MR. DAHLGREN: What I was saying is that if we do not prevail on
12 our claim construction argument, and if you adopt what -- you know, our
13 understanding of, you know, Petitioner's argument that Houston and Garcia,
14 which we believe disclosed that the contents are shared -- it's not -- there's
15 not a representation, but if the -- if representation would allow for there to be
16 the contents of the files to be included as well, then I think we would not
17 prevail, both with respect to distinguishing the prior art and also with respect
18 to secondary indicia. So I think with the point construction --

19 JUDGE GIANNETTI: And your contention is that -- and your
20 contention is that that's how you read Petitioner's construction as requiring
21 that or at least permitting that?

22 MR. DAHLGREN: Well, so, you know, that's a good point, Your
23 Honor. So when they have articulated, in their reply, what they believe the
24 plain and ordinary meaning is, it does seem to be a bit different than the
25 arguments that they were making before, I think, with respect to, you know,
26 the claim not being -- so this goes back to the petition and the footnote - I

1 believe it was in a footnote - where they say that Claim 17 did not include
2 the same limitation where when the representation of the folder was caused
3 to be created, that it did not include the content of, you know, the files
4 within that folder.

5 JUDGE GIANNETTI: But let me just take you back to your slide.

6 (Simultaneous speaking.)

7 MR. DAHLGREN: -- to that as opposed to it being --

8 JUDGE GIANNETTI: Take me back to your slide 41, would you?
9 Back to slide 41.

10 MR. DAHLGREN: 41, yes, Your Honor.

11 JUDGE GIANNETTI: Yes, that's the side-by-side comparison of the
12 Patent Owner's construction proposed and the Petitioner's proposed
13 construction, right?

14 MR. DAHLGREN: Yes, Your Honor, and I apologize. The --

15 JUDGE GIANNETTI: Okay. Now, what I would like to hear from
16 you is, what is it about Petitioner's construction that you object to,
17 specifically?

18 MR. DAHLGREN: So being an icon, I think, that the construction, it
19 renders a representation of the folder, I think, meaningless because the
20 folder, you know, looking at your computer, it's also being depicted by an
21 icon, by a symbol. And so it doesn't really provide any meaning to the usage
22 of the word representation.

23 JUDGE GIANNETTI: Tell me what it is in this claim, what language
24 in this construction you find incorrect. Point me specifically to what it is.

25 MR. DAHLGREN: So the sign or symbol that stands in place of the
26 folder, you know --

1 JUDGE GIANNETTI: What's wrong with that? That sounds --

2 (Simultaneous speaking.)

3 MR. DAHLGREN: -- symbol because the representational folder is a
4 folder. You can open it. You can see, you know, a representation, you
5 know, and some embodiments of files contained therein. But it's not the
6 folder that was being shared. And it doesn't have the files, you know, that --
7 with their content within it.

8 JUDGE GIANNETTI: Well, let me -- I don't want to go back to the --
9 back to your slides here, but some of the earlier slides we were looking at
10 had a little folder symbol, indicating that this was a stored folder. You call
11 those representations or whatever you want to call them -- I don't want to use
12 that word -- those symbols. Okay. Why were those not properly
13 representations?

14 MR. DAHLGREN: And I apologize, Your Honor. I'm just trying to
15 make sure that I'm understanding correctly which, I guess, images or which
16 slide you're referring to. So I want to make sure that I am answering the
17 right question.

18 JUDGE GIANNETTI: Well, let me just give you the bottom line
19 here. I'm having trouble understanding what it is in Petitioner's construction
20 that you really take issue with. And frankly, the answer that you gave me
21 wasn't very helpful, so. And if you can do something to clarify that, fine,
22 but right now, I'm somewhat confused about what you find wrong with this
23 construction, apart from what may or may not be supported in your own
24 construction. I'm having trouble understanding what it is in this
25 construction, which looks pretty straightforward to me. What it is that you
26 take issue with?

1 MR. DAHLGREN: Sure. So the --

2 JUDGE GIANNETTI: And maybe without -- then we can move on.
3 But if you just tell me in 25 words or less what it is that you find wrong with
4 this construction, then we can move on.

5 MR. DAHLGREN: Yes, so it's that the construction they're
6 proposing, it's not a folder. And being a representational folder, it's still --
7 you know, I understand that the -- you know, in the institutional decision,
8 the Board didn't -- you know, mentioned that, you know, when we said the
9 special folder, but the representation of the folder is still a folder itself. And
10 that is not -- does not appear to be covered by Petitioner's proposals.

11 JUDGE GIANNETTI: So on my computer, when I'm looking at --
12 doing a search, for example, and it lists one of my storage places and it has
13 little folder symbols, you're saying those are not representations of the
14 folder, those are the folders themselves? That's what you're saying?

15 MR. DAHLGREN: Well, if you access that folder, there can be, you
16 know, things within it. And --

17 JUDGE GIANNETTI: I agree with that. But, you know, I'm looking
18 now at my -- one on my desktop.

19 MR. DAHLGREN: But, you know, so for example, the --
20 (Simultaneous speaking.)

21 JUDGE GIANNETTI: I'm looking at my desktop, and there are a
22 number of folder symbols there. And you tell me those are not
23 representations of the contents of that folder?

24 MR. DAHLGREN: I don't think that that's how a person of skill in
25 the art would -- the terminology, the way that they would describe it. And --

26 JUDGE GIANNETTI: What would they say?

1 MR. DAHLGREN: Well, I think that you would understand that to be
2 -- it's a folder, you know, on your -- you know, on your computer. And what
3 Petitioner has proposed, particularly with the kind of the second, you know,
4 proposal, that, you know, they say is not itself a folder. And I don't think
5 that that's, one, accurate, you know, whatsoever. And so, you know, I take
6 issue with that --

7 JUDGE GIANNETTI: But just to put a point on it then just so that
8 we -- and we can move on. So those icons that I see on my desktop that look
9 like folders, you're saying that those are not representations as you would
10 construe it, and you think a person of ordinary skill in the art would agree
11 with you?

12 MR. DAHLGREN: Well, then what would be the distinction between
13 a representation --

14 JUDGE GIANNETTI: I just want a yes or no. Please, I don't want an
15 explanation. Just tell me whether you agree with me or not.

16 MR. DAHLGREN: I don't agree because I think that that essentially
17 makes the representation language superfluous.

18 JUDGE GIANNETTI: Okay. Well, let's move on. Thank you.
19 You've answered my question.

20 MR. DAHLGREN: Okay. Okay.

21 JUDGE BEAMER: Well, actually, let me pursue this a little bit
22 further. I've always thought that when I go into the file explorer interface
23 and there's a list of folders, those are not actually physically folders. Those
24 are images on my screen that give me the name of a folder and the size. The
25 actual folder is stored somewhere on my disk or in the cloud or wherever.

1 So, although I don't -- I -- to call it a representation is something that
2 this case has imposed upon me. If I had to, I would say, well, the listing in
3 the file explorer interface, those are representations of folders, but the actual
4 folders, those are not actual folders. They're representations of folders. The
5 actual folders are somewhere. They're real things with digital ones and
6 zeros stored somewhere. I don't understand why that's wrong.

7 MR. DAHLGREN: Again, I think that it's -- it doesn't take into
8 account the usage and the intrinsic record. And there are numerous
9 examples that discuss using a mount -- you know, creating a representation
10 based on -- I believe it's a mount descriptor, where, you know, accessing the
11 file is accessing it at a remote location. And so the intrinsic record, I think,
12 it informs the meaning of representation. I understand the challenge with
13 respect to icons just, you know, in a vacuum, without considering the
14 intrinsic record. But when you do consider that, the patent and the priority
15 applications, they make a distinction between a folder, on one hand, that's
16 being shared and then a representation of a folder that is caused to be created
17 at the -- at another node.

18 And so the patent says that those are distinct. And that's how it's used
19 in the claim. That's the terminology as used in the claims, and so that
20 governs. So I -- you know, I think that for at least that reason, this kind of
21 abstract, you know, discussion divorce from the intrinsic record, it's just -- I
22 understand that -- the points that Your Honors are making, but I don't think
23 that it's pertinent here because of the intrinsic record that we're dealing with.

24 And, you know, if I understand Petitioner, you know, correctly,
25 essentially a folder and a representational folder would be the same thing,
26 and there's no distinction, but the patent draws a distinction. And so we --

1 you know, we have to acknowledge that. And that's what our construction
2 does. It stays true to the intrinsic record.

3 You know, Plaintiff did not -- or excuse me, Petitioner did not identify
4 any, you know, intrinsic support. You know, they pointed to a statement
5 from, I believe, Dr. Smith's deposition and -- you know, where he was
6 talking. I think, you know, he was asked questions about flags and the like.
7 And, you know, that's what they pointed to. You know, that extrinsic
8 evidence, you know, if it's to be given any weight, certainly isn't enough to
9 trump the intrinsic record.

10 And in terms of the, you know, intrinsic record, I'd like to, you know,
11 just kind of get to that. If we go back to -- and I apologize to jump around
12 here. But going back to, you know, slide 51, you know, this has, again, that
13 paragraph 116 that the Board identified in the institution decision talking
14 about replicas. And when you look at the surrounding disclosure as well,
15 particularly paragraph 118, you know, what this is describing is that you can
16 have these replicas that are created, and they can be stored in different
17 servers.

18 You know, it says worldwide, you know, distribution in paragraph
19 116, but then in paragraph 118, it kind of ties it back into the other
20 disclosures and the priority applications in the '520 patent that representation
21 of the remote object -- remote data object may be created based on a mount
22 descriptor that includes information for accessing the data object based on at
23 least one of the Samba content management. And it gives, you know,
24 different types of services that can be used, but it's accessing that from a
25 remote location.

1 And so in the context of the '520 patent, you know, we have to give
2 meaning to or give weight to the intrinsic record. And I think it's very clear
3 here that the representation of the data object - and it could be a
4 representation of the folder or representation of a file - that has a particular
5 meaning in the context of the '520 patent.

6 And Your Honors, I -- we had a number of slides on this. I think that
7 the -- you know, the -- we'll stand on the briefing in terms of the examples in
8 the intrinsic record that support our understanding of representation. And so
9 in the interest of time, we'll just, you know, move on.

10 I do want to talk about Houston in reference and what it discloses and,
11 you know, under Arc -- on construction, you know, also the teaching away
12 that the Board acknowledged in the institution decision, unless there's any
13 further questions on the claim construction issue.

14 You know, our position is that what Houston discloses -- and I'm on --
15 starting on -- if you go back to actually slide 14 -- so starting with the
16 abstracts of Houston, and, you know, the last sentence ends with each client
17 participating in the share has a current version of the folder and its contents.
18 And, you know, earlier in the abstract, it states, other clients would be
19 sharing the synchronized folder register with the host system and obtain a
20 current version of the synchronized folder and contacts.

21 And then if you go to slide 15, you know, there's additional examples
22 of Houston and the importance and the criticality it gives to having these
23 local copies. At column 2, lines 1 through 2, it notes, and this way, each
24 client participating in the share has a current version of the folder in its
25 contents. And then at lines 13 through 18, it ends with while enabling the
26 user to work on a file that is at all times local to his client.

1 If you look at slide 21, there's additional examples of disclosures in
2 Houston, again, emphasizing how the recipients of these shared folder
3 invitations obtain the latest versions of the synchronized files and preserve
4 them locally. And same thing with slide 22 and Figure 2. The text in Figure
5 2 states, when someone joins a shared folder, the folder appears inside their
6 Dropbox and syncs to their computers automatically. And Houston also
7 discloses that there is a benefit for doing this on slide 16. And this is
8 showing column 1, approximately lines 19 through 35 of the Houston
9 reference as Exhibit 1003.

10 And it notes that, for example, if a user forgets the email or bring a
11 document home with them, that there can be problems. Likewise, if a user
12 loses a connection for remote access, if they're trying to use, like, a VPN to
13 access documents that are at work, that may get interrupted. And so
14 Houston's intent is to address those issues. And it does so by ensuring that
15 all devices of the user have their own locally-synced versions of the full
16 synchronized folder and its content.

17 Now, we had pointed to the Houston provisional application and --
18 JUDGE BEAMER: Counsel, you have about 15 minutes left so --
19 actually 13 minutes. So we do want to hear about the 287 as well.

20 MR. DAHLGREN: Okay. Thank you, Your Honor.

21 So we believe that Houston discloses that there is local copies that
22 have to be maintained at each of the devices. And that is different and the
23 kind of the opposite of what we're -- our claims are directed to under -- at
24 least under our construction. Now, the -- I guess, turning to teaching away --
25 because of that criticality that Houston places on having local, synced
26 versions of shared folders and their contents, for that reason, we believe that

1 Petitioner's proposed combination with both Garcia and Manzano, that that
2 would frustrate the kind of -- the heart of the invention, the core aspects of
3 Houston, and so that there would be no motivation to combine.

4 And the provisional application that is subject to Petitioner's motion to
5 exclude, I think that makes it abundantly clear. And I would just note that
6 we did identify the provisional application by its application number
7 correctly. In our paper, we actually cited to the disclosure. We quoted it
8 and reproduced Figure 1. We had the same citation -- or citation to the
9 correct provisional application number, also in the POR and Dr. Smith's
10 declaration.

11 And so I don't think that there was any lack of notice to Petitioner as
12 they claim. And more importantly, because it's incorporated by reference as
13 a matter of law as part of the disclosure of Houston, and whether the Board
14 want to take official notice or consider the disclosure of the provisional, for
15 all intents and purposes, it is part and parcel of the Houston spec. But not to
16 belabor that point but --

17 Your Honors, I just want to -- how much time do I have left? Because
18 if it's getting too short, I will turn to the 287 IPR.

19 JUDGE BEAMER: About 11 minutes.

20 MR. DAHLGREN: 11 minutes. Okay.

21 JUDGE BEAMER: For your principal section.

22 MR. DAHLGREN: Understood.

23 So just to wrap up on the 286, we believe that our construction is
24 correct. And based on Petitioner's arguments and what Houston actually
25 discloses, its combinations failed. Person of ordinary skill wouldn't have
26 been motivated to combine the references as they propose. And for the

1 reasons we, you know, set out in our briefing, even if they -- you know,
2 those references were combined, it wouldn't disclose all the limitations of at
3 least Claim 17, in particular 17D.

4 So now I'm going to jump ahead to -- it's slide 185. And talking about
5 the Riepling reference -- excuse me. 188.

6 And so what we have here -- and the Board has, I know, some
7 questions for opposing counsel, but what we have here, you know, in Figure
8 3, Petitioner has placed a great deal of weight on -- it's the audio, the set
9 content field, 325. And, you know, we've argued that Riepling does not
10 disclose and -- you know, any meaningful detail that this would be, you
11 know, a description. And more importantly, what it doesn't disclose is that
12 this information, whatever that set content field, that that would be included
13 in a message to the party from which the file is being requested. In the
14 Riepling Figure 4, it's just -- it's not included in the email message. And that
15 is on slide 193. It reproduces Riepling Figure 4. When we asked
16 Petitioner's expert --

17 JUDGE RAEVSKY: Counsel, can I get back to limitation
18 9B for just a second? I've been looking at the experts. It looks like
19 Petitioner's expert says, The procedure would have understood that that field
20 325 is a text box. And then your expert says in paragraph 90, I believe, No,
21 they wouldn't have. How do we decide whose word do we pick there?
22 Which is more persuasive?

23 MR. DAHLGREN: Well, Your Honors, I would say it's Petitioner's
24 burden to establish on patentability by -- evidence. And so if we're -- Your
25 Honor, was left with competing experts, I would say that Petitioner hasn't
26 met their burden. You know, it's their job to convince you that they're

1 correct, more so than us. And where we have, you know, two experts that
2 they can -- you know, their positions -- and I think that Dr. Smith's position
3 is, you know, reasonable and correct. You know, I'd submit that Petitioner
4 hasn't met their burden.

5 JUDGE RAEVSKY: So if all the surrounding boxes in Figure 3,
6 apart from the checkboxes to the left, are text boxes, why should one of
7 ordinary skill in the art not consider a box to have to be the text box?

8 MR. DAHLGREN: Well, no, no, I understand that point, but I --
9 when you say -- you know, I think that as Dr. Smith, you know, articulated,
10 you know, it's not clear that that is a text box. And I believe that, Your
11 Honors, someone had posed a question during opposing counsel's argument
12 that it would appear that, you know, someone could put in, you know, any
13 kind of random phrase and, you know, how that would actually, you know,
14 function in the Riepling system. It's just not clear how -- you know, whether
15 that -- you know, it's workable.

16 So I think that the more logical and reasonable thing to have there
17 would be some type of, you know -- you know, you could select from a
18 drop-down menu, you know, out of, you know, limited set of choices that,
19 you know, are actually relevant as opposed to just putting in something that
20 had no bearing on, you know, the type of content, you know, sunshine or
21 whatever -- you know, whatever you may have.

22 You know, so for -- you know, for that reason, I think that it's -- you
23 know, I think it's very unlikely that, you know, it is a text box. And Riepling
24 doesn't say that. I mean, it does say for some of the other fields, you know,
25 and that figure, you know, we concede that. But it's silent as to the, you
26 know, content, and content, there's a finite, you know, number or types of

1 content that it could be. And so the logical thing would appear to be -- to
2 have some type of, you know, selection from that finite, you know, set of
3 choices.

4 And, again, so taking that -- you know, taking that and looking at the
5 remainder of the claim, again, for element 9G - and this is, what, slide 193 -
6 you know, there's no reference to that parameter, you know, the file
7 description, you know, in the email message. Petitioner says it would be
8 obvious, but, you know, that's just a naked, bald, you know, statement. And
9 I will note that the -- you know, the statements about Riepling and, you
10 know, the parameters limiting the invitation itself -- well, the invitation,
11 Riepling says, you know, There is an expiration date. There is a -- you
12 know, a number of times it can be used.

13 So it seems that there are limitations, but none of those are included in
14 Figure 4 and what's shown. So even if the content parameters can limit the
15 invitation, there's no indication that it's limited by including that in the
16 message that goes to the party from whom the file is being requested. Your
17 Honors, I don't know how close I am to my time, so I will, I think, at that
18 point just reserve the rest unless there's any questions.

19 JUDGE RAEVSKY: It would be -- it would be interesting to hear
20 your position on the combination of Riepling and Meisels.

21 MR. DAHLGREN: Yes. So, I believe that Petitioner had
22 characterized their arguments being that it's improper to combine two
23 references for a single limitation. I don't think that that's accurate. I think
24 that, you know, what we have is a situation where we believe that they were
25 relying on a reference for a portion of, you know, one of the claim
26 limitations. And there may just be a misunderstanding or, you know,

1 appreciation -- lack of appreciation for, you know, what actually they are,
2 you know, arguing for the, you know, particular references.

3 So with respect to the disclosure of Meisels and Riepling, we don't
4 think that Meisels cures the deficiencies of Riepling. And there is also the
5 issue about it being a link to the file itself as opposed to what's residing in
6 the claim. Is that -- does that answer, or does that help Your Honor? Would
7 you like me to expand on that further?

8 JUDGE RAEVSKY: That's helpful. Thank you.

9 MR. DAHLGREN: Okay. All right. Well, if there's no other
10 questions, I'll just reserve my rebuttal time. And thank you. Thank you.

11 JUDGE BEAMER: Okay, so you have about 22 minutes left.

12 MR. LANTIER: May I proceed, Your Honors?

13 JUDGE BEAMER: Yeah, so you have 20 minutes for your rebuttal.

14 MR. LANTIER: Thank you, Your Honors. Let me begin with the
15 286 IPR on the folder sharing claims. The Patent Owner conceded that if the
16 Board rejects the Patent Owner's proposed claim construction, that the
17 petition does establish the invalidity of claims 17 through 21. And so I'm
18 going to just focus on that very briefly. The Patent Owner used slide 41 to
19 set forth the parties. What it said were the parties competing constructions.
20 I would just note that that incorrectly states what the Petitioner's position is,
21 as we clearly set forth.

22 Our position is that the claim language should precede its claim and
23 ordinary meaning. It's a simple seven-word phrase, and it's a representation
24 of at least one folder. I think that Your Honors' understanding of what a
25 folder icon is on a desktop is correct. That is a representation of a folder.

1 The folder itself is a data structure that exists on a disk or in the cloud or
2 somewhere else. And another way to think about that is other icons --

3 JUDGE BEAMER: So if you go to --

4 MR. LANTIER: Oh, sorry.

5 JUDGE BEAMER: You go to slide 13, your slide 13.

6 MR. LANTIER: Of the Patent Owner's demonstratives, Your Honor,
7 or Petitioner's?

8 JUDGE BEAMER: Your slide 13, Petitioner.

9 MR. LANTIER: Yes, Your Honor.

10 JUDGE BEAMER: I see Figure 10, and there's -- patent applications
11 is highlighted in pink. I think of that as a representation of a folder of patent
12 applications. But the folder itself is somewhere physically in your computer.
13 It's not on the screen, right?

14 MR. LANTIER: That's exactly right, Your Honor. And another way
15 to think about it is to consider other similar representations that appear on
16 your desktop. For example, your Microsoft Word icon, which appears on
17 your desktop, that clearly is not Microsoft Word. Microsoft Word is a very
18 complicated word processing software. But on your screen, it appears as
19 that blue box with the W that we all know of as being the representation of
20 Microsoft Word. And so I think that that's exactly the way a person skilled
21 in the art would understand it.

22 And there's nothing in the intrinsic record to suggest otherwise. In
23 fact, you know, I would suggest to Your Honors to review columns 10 and
24 11 of the '520 patent and just compare -- just look at that and see how many
25 terms the patent does expressly define, representation and representation of
26 at least one folder are not among those terms. And there's just nothing in the

1 intrinsic record that would, under Phillips or any other binding precedent on
2 claim construction, lead you to the conclusion that a person of skill in the art
3 reading those words, representation of at least one folder, would think that
4 they mean the 30-word claim construction that the Patent Owner -- the
5 Patent Owner now proposes and acknowledges is dispositive of the 286 IPR.

6 JUDGE BEAMER: So do you have available Exhibit 2004, which is
7 one of the underlying applications of the patent?

8 MR. LANTIER: Yes, Your Honor, I do.

9 JUDGE BEAMER: On paragraph 8, which is -- not sure what page, I
10 guess, it's -- not sure what page it's on, but paragraph 8, stage 2 of the
11 application itself, down near the end of that paragraph, it says, The method
12 additionally includes creating, based on the mount descriptor, which I take to
13 be like an email with a link, a representation of the data object at the
14 location, so we really have precisely the claim language, a representation,
15 where in accessing the representation includes accessing the data object
16 from the second data store.

17 And I take it that Patent Owner is arguing that this means that until
18 you click on the representation, i.e., access it, the data object is still in the
19 second data store. It's not in the first data store yet. And I think that they're
20 saying that's why the word representation means you create the
21 representation, but you have not yet moved the data object to the place
22 where it's eventually going to go. So how do you do -- what's your comment
23 on that?

24 MR. LANTIER: Well, Your Honor, a few comments. I don't think
25 that the word representation appears in paragraph 8. But if I'm missing it, I

1 would appreciate Your Honor's indulgence in referring me to it. Took me a
2 moment just to --

3 JUDGE BEAMER: On Exhibit --

4 (Simultaneous speaking.)

5 JUDGE BEAMER: Exhibit 2004 of the -- which is the 635
6 application.

7 MR. LANTIER: Yes, Your Honor.

8 JUDGE BEAMER: And on paragraph 8, towards the end. It's the last
9 3rd from -- 4th line from the end.

10 MR. LANTIER: And this is the sentence that says, The system also
11 includes a processor?

12 JUDGE BEAMER: I guess there's some confusion here but --

13 MR. LANTIER: Your Honor, you're on Motion Offense Exhibit
14 2004; is that correct?

15 JUDGE BEAMER: This is the 286 IPR, Exhibit 2004 filed in that
16 IPR, which is application 13,626, 635.

17 MR. LANTIER: I apologize, Your Honor. I was on the other Exhibit
18 2004 from the 287 IPR. That was my mistake. And so, yes, Your Honor, I
19 think this is what Mr. Dahlgren was arguing here with this, the -- when he
20 was pointing to, for example, paragraph 118, and those similar paragraphs.
21 This language doesn't change what the meaning of representation of at least
22 one folder is here because when you do access the -- first of all, it's not a
23 definition. I don't think that this would meet the standards under Phillips, et
24 cetera, for the intrinsic record, compelling a non-claimed ordinary meaning
25 understanding of the claim term.

1 But even taken on its own terms and reading it, this does not say in
2 any form of words what the Patent Owner's proposed claim construction is.
3 All this says is that the method additionally includes creating, based on a
4 mount descriptor, a representation of the data object at the location where
5 and accessing the representation includes accessing the data object from the
6 second data store. This doesn't say wherein a ghost folder or representation
7 is created, wherein a file within that -- those folder is not accessed until
8 somebody selects that particular file. So I don't -- even taking on its own
9 terms, I don't believe that this says anything close to what the Patent Owner's
10 proposed claim construction is.

11 All this says is that you're going to create, based on the mount
12 descriptor, a representation of the data objects at the location wherein
13 accessing the representation includes accessing the data object from the
14 second data store. And besides that, in the last point, Your Honor, that I
15 would make is that language may be representative of what was required, for
16 example, by disclaimed Claim 1. But even in the sentence here that Your
17 Honor has pointed me to, the word representation is not doing that work.
18 The sentence is saying, You can create a representation based on the mount
19 descriptor, wherein accessing the data object, you know, includes -- excuse
20 me, wherein accessing the representation includes accessing the data object
21 from the second data store.

22 That's not claimed in Claim 17. It might be claimed in other claims
23 that the Patent Owner has since statutorily disclaimed. Even if -- and this is
24 a third-level argument. Even if you thought that that sentence means what
25 the Patent Owner's claim construction means, which I don't think that it
26 does.

1 JUDGE BEAMER: Okay. Thank you.

2 MR. LANTIER: And Your Honor, there was reference made to the
3 late disclosed arguments from the other provisional. None of the statements
4 that the Patent Owner has pointed to in that late disclosed provisional say
5 anything other than the sentences that we've already responded to in
6 substance in our reply from the provisional the Patent Owner did rely on as
7 well as the text of the '520 patent itself.

8 So then, Your Honor, if there are no questions on claim construction, I
9 would just turn briefly to the arguments on the 287 IPR. And Your Honors
10 asked, well, we've got one expert saying that a person of skill in the art
11 would understand this disclosure to mean one thing. And we've got another
12 expert saying that the person of skill in the art would not understand it to
13 mean that thing. And how do we resolve that?

14 And I think there are multiple ways, Your Honors, we can resolve
15 that. But it fundamentally comes down to the credibility of the position that
16 each expert has espoused. And here on the specific issue of whether Figure
17 3 is teaching to a person of skill in the art, that set content box is a text field.
18 Dr. Mowry's position is supported by the Riepling reference itself, which
19 describes all the surrounding boxes as text fields and does not differentiate
20 box 325. It's corroborated by the appearance of Figure 3 itself, which does
21 not show a drop-down arrow or any other indicia that box 325 is anything
22 other than a text field.

23 And Dr. -- and Mr. Smith, on the other hand, has not pointed to
24 anything in the documentation in the contemporaneous prior art, which prior
25 panels have found is usually more persuasive, the content of that prior art
26 than the individual opinions of experts. He hasn't pointed to anything in the

1 Riepling reference or anything else to suggest that a person of ordinary skill
2 would understand box 325 to be anything other than a text field. I will just
3 point out that there's no -- I don't think there's any dispute anymore after Mr.
4 Smith's deposition that the word audio is a file description. But if there are
5 any questions about that, I'm happy to address that as well. Otherwise, I
6 believe that, barring further questions from Your Honors, I would yield back
7 to the Patent Owner.

8 JUDGE BEAMER: I have a question --

9 JUDGE RAEVSKY: Mr. Lantier, for element 9G, you rely on design
10 choice to support obviousness to add the time and date to the email, as I
11 understand it. And I think I understand design choice to include, you know,
12 an aesthetic feature or changing the size of a component or in the KSR
13 sense, you know, you have a finite number of identified, predictable
14 solutions, and it would have been obvious to pick one. But here, where you
15 have text that's added to an email, there's an infinite amount of text
16 variations that can be added to your email. Why is it design choice that
17 you're relying on for obviousness of the time and date function?

18 MR. LANTIER: In this context, Your Honor, the design choices is
19 far more limited than in the hypothetical that Your Honor is proposing. In
20 the Riepling reference itself, it says that the invitation can be limited
21 according to the parameters set forth in the upload dialog box in Figure 3.
22 And so the design choice is, are we going to include that information in the
23 email, or are we not? Are we going to include some parts of that
24 information in the email or not? So, I think, it's not the sort of unbounded
25 design choice that Your Honor had hypothesized in the question. But if I'm

1 missing the import of your question, I'd like to address it more directly, Your
2 Honor.

3 JUDGE RAEVSKY: Did you raise it that way in your briefing, the
4 way you just articulated?

5 MR. LANTIER: Yes, Your Honor, I think we did. We pointed to the
6 -- we pointed to the fact that in Riepling, there already is the paragraph -- I
7 don't want to misstate which paragraph, but I think it's 33. But it's in our
8 briefing, that says that the invitation can include -- or it can be limited by the
9 upload parameters from the upload dialog box. And we said that a -- and
10 this is in paragraph 96, I believe, of Dr. Mowry's declaration as well, said a
11 person of ordinary skill in the art would understand that that means that the
12 invitation Riepling includes that information or that it would be obvious to
13 include.

14 JUDGE RAEVSKY: Can you just point to your briefing where you
15 raised the argument in the context of Figure 3, presenting a limited number
16 of choices? I -- you probably did it. I just -- I can't find it when I'm
17 scanning through your reply, for instance.

18 MR. LANTIER: Yes, Your Honor. And I don't -- Your Honor, I
19 don't want to lead us down a path that we're not going to get to the right
20 place. I don't think we use the term limited number of choices if that's what
21 you're asking me to point to. What I'm saying is we pointed to the fact that
22 Riepling already says that the invitation can be limited by this information.
23 And so it would be obvious to include that information in the invitation
24 itself.

25 JUDGE RAEVSKY: Okay. Just to -- since I just saw this on reply 16
26 about the 4th line, I'm wondering if this is what you're referring to, If the

1 digital invitation can be restricted by the parameters specified in Figure 3,
2 then the digital invitation could clearly include the corresponding
3 information identified in Figure 3?

4 MR. LANTIER: Yes, Your Honor, and I believe that's also at pages
5 30 to 31 of the petition. But that is what I was referring to in terms of the
6 way the argument was made.

7 JUDGE RAEVSKY: Thank you.

8 MR. LANTIER: Unless you have further questions, I would yield the
9 remainder of the time if there is any.

10 JUDGE BEAMER: Okay. Thank you.

11 Patent Owner, I believe --

12 Judge Raevsky could you confirm, 22 minutes; is it?

13 JUDGE RAEVSKY: That's correct.

14 MR. DAHLGREN: Thank you, Your Honor. I'd like to address the
15 Exhibit 2004 and paragraph 8. And what that last sentence is -- you know,
16 what it's stating that the method additionally includes creating, based on the
17 mount descriptor, a representation of the data object at the location wherein
18 accessing reputation includes accessing the data object from a second data
19 store. And so, you know, I would submit that this is specifying that the
20 representation of that data object, it's something other than the data object.
21 And it allows access through a remote location.

22 So, you know, again, I believe that if you adopted what Petitioner's
23 proposing as, you know, their articulation of the plain and ordinary meaning,
24 that renders the term representation meaningless. I think it makes it
25 superfluous compared to references to folders because there would seem to
26 be no distinction. And so we have to give that term representation some

1 meaning. And that's what our construction -- you know, what we
2 endeavored to do. The other point Counsel had mentioned briefly -- and I
3 think it was paragraph 33 for discussing the limitations of, you know, the
4 parameters on the invitation itself.

5 And again, you know, as I mentioned earlier, looking at this, it's
6 talking about the expiration field, the number of times that it can be -- an
7 invitation can be used, you know, the time period, those restrictions as
8 contemplated. None of those are being conveyed to the party from whom
9 the file is being requested. And I think that that is significant and
10 undermines Petitioner's argument that it'd be obvious, you know, to make
11 this adjustment based on this statement that these parameters can be used to
12 restrict the invitation. Because when you look at how that's actually done in
13 Riepling, it's not done in a manner that, you know, is analogous or
14 comparable to what we're reciting in our claims. So I wanted to make those
15 two points. I don't think that, you know, barring any other questions, you
16 know, I will wrestle my papers.

17 JUDGE BEAMER: Okay. Thank you to both parties. That
18 concludes the hearing. Unless judges -- the other judges have any
19 questions? Hearing none, we'll go off the record.

20 (Whereupon, the above-entitled matter went off the record at 2:43
21 p.m.)

IPR2024-00286 (Patent 11,611,520 B1)

IPR2024-00287 (Patent 11,611,520 B1)

PETITIONER:

Trishan Efram

WILMERHALE

trishan.esram@wilmerhale.com

PATENT OWNER:

George Gordon

ANDREW GORDON LAW FIRM, PLLC

andrew@agordonlawfirm.com

Andrew Sherman

Derek Dahlgren

DEVLIN LAW FIRM, LLC

asherman@devlinlawfirm.com

ddahlgren@devlinlawfirm.com