

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LG ELECTRONICS, INC and LG ELECTRONICS
U.S.A., INC., and VIZIO, INC.
Petitioner,

v.

MULTIMEDIA TECHNOLOGIES PTE. LTD.,
Patent Owner.

IPR2024-00351¹
Patent 9,510,040 B2

Record of Oral Hearing
Held Virtually: February 19, 2025

Before ST. JOHN COURTENAY III, ROBERT L. KINDER, and
SHARON FENICK, *Administrative Patent Judges*.

¹ VIZIO, Inc. filed a petition in IPR2024-00694 and was joined as a petitioner in an understudy role in this proceeding. Paper 14.

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P R O C E E D I N G S

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JUDGE KINDER: Good afternoon. My name is Robert Kinder. I'm heading off this proceeding today. We have LG Electronics v. Multimedia Tech, in IPR2024-00351, involving Patent Number 9,510,040. A separate proceeding, IPR2024-00694 with Vizio, Inc. has been joined to the proceeding that we're going to be covering today. With me on the panel today are Judge Courtenay and Judge Fenick. And if we could have an introduction of Counsel starting with Petitioner -- specifically, who's present and who will be arguing today.

MR. MCCOMBS: Yes, Your Honor. This is David McCombs representing LG Electronics and LG Electronics U.S.A. With me are my partners, Gregory Huh and Calmann Clements. Mr. Huh will be providing the presentation today.

JUDGE KINDER: All right. Thank you, Mr. McCombs. And Patent Owner, Multimedia?

MR. SCHREINER: Yes, Your Honor. This is Stephen Schreiner. I'll be arguing on behalf of Multimedia Technologies today, and I'm joined today with my partner, Jim Carmichael.

JUDGE KINDER: All right. Thank you, Mr. Schreiner. All right.

MR. HARTSELL: Your Honor, this is Steven Hartsell. I represent Vizio, the joined Petitioner.

JUDGE KINDER: All right. Mr. Hartsell, I understand you will not have a speaking role; is that correct today?

1 MR. HARTSELL: That's correct, Your Honor.

2 JUDGE KINDER: All right. Very good. Thank you. All right.

3 Let's go over some ground rules and talk about the proceeding today. If you
4 could, if you're not speaking, please keep your mic muted to help the court
5 reporter and everyone else hear clearly. We've given the parties 45 minutes
6 to present their arguments for each side. We'll start where Petitioner opens
7 and then Patent Owner has the response, and then the rebuttal by Petitioner,
8 and then a surrebuttal by Patent Owner. The rebuttal and surrebuttal should
9 be focused on what was said in the prior oral argument. So don't say new
10 things for that period. For example, if a party doesn't present something,
11 you shouldn't be coming up with new stuff to respond to.

12 With that being said, Petitioner, how long would you like for your
13 rebuttal time?

14 MR. HUH: Twenty minutes, Your Honor.

15 JUDGE KINDER: All right. So 20 out of your 45.

16 And then Mr. Schreiner, how long would you like for your
17 surrebuttal time?

18 MR. SCHREINER: Your Honor, I'd like to reserve eight minutes
19 for surrebuttal, please.

20 JUDGE KINDER: All right, eight minutes. All right. Are there
21 any questions about the flow of the proceeding today? Just to be clear, we
22 are going to have separate transcripts between this and the next proceeding,
23 the 352 IPR, so there will be a distinct break in between the two, and we'll
24 probably take about a 10 to 15 minute break in between. All right? Again,
25 as a reminder, no new arguments or evidence should be presented in the

1 hearing. If the judges have questions about where something is in the
2 record, we may stop just to clarify where that was presented earlier.

3 In the event -- in the unlikely event that the video connection is
4 lost during the hearing, what we do is pause the hearing, and we'll pause the
5 record, and we'll give an opportunity for everyone to get reconnected. If, for
6 some reason, we're not able to reconnect during a short amount of time, then
7 we can transition into a telephonic hearing. And if you don't have the
8 number for the call in, you can email our trial team, and they'll get that to
9 you quickly if we lose video connection, or I'll have it sent out in a blast to
10 everyone. So that'll be our backup plan if we lose connectivity.

11 As a reminder, again, counsel should only unmute when speaking,
12 just to make things clear. The panel has access to all the papers, all the
13 demonstratives, all the exhibits. When you start speaking, please identify
14 yourself as counsel and then also identify which page you're on, if you're
15 referring to a demonstrative or an exhibit, so we can have a clear record to
16 go back and look at. And I think that is the main instructions. If you can do
17 just a quick pause when you introduce an exhibit and give us time to flip to
18 it, that helps quite a bit, as well.

19 All right. And then as I mentioned, we will transition at the end of
20 this. If possible, Counsel, I'd like you to stay on the line for our court
21 reporter to see if she has any questions about spellings, but we'll do that at
22 the end for Ms. Perez. And then like I said, we'll have about a 10- or 15-
23 minute break in between this and the next proceeding. Are there any
24 questions?

25 MR. HUH: No, Your Honor.

1 MR. SCHREINER: No, Your Honor.

2 JUDGE KINDER: All right. Mr. Huh, whenever you are ready,
3 we'll start your clock, and I believe you have 25 minutes for your opening.

4 MR. HUH: Great. Good afternoon, Your Honors. On the record,
5 this is Gregory Huh on behalf of Petitioner in IPR2024-00351 for the '040
6 patent. Just briefly, turning to Slide 1, for reference I provided a copy of the
7 '040 patent independent claim that I'll be addressing today. I've also outlined
8 on Slide 3 key points for discussion, and I'll first address how Kim teaches
9 that one of the sources of content is highlighted as being associated with the
10 first content information in Claim 1. And I'll refer to this limitation as the
11 highlighting limitation.

12 If we turn to Slide 5, provided as a portion of Claim 1, with the
13 relevant language highlighted in yellow, and as we can see, the highlighting
14 limitation requires that one of the content sources is highlighted as being
15 associated with first content information. Patent Owner doesn't dispute that
16 we identify sources of content or that we identify first content information.
17 The main dispute by Patent Owner is that the highlight limitation is not met.

18 JUDGE KINDER: Mr. Huh, this is Judge Kinder. If I could ask --

19 MR. HUH: Yep.

20 JUDGE KINDER: -- a really broad question.

21 MR. HUH: Sure.

22 JUDGE KINDER: And I know we get into the specifics as its
23 applied to the prior art, but looking at this limitation, we see the words
24 "associated with" sometimes in patent claiming. Have you taken any
25 position about the scope of what "associated with" should be and how it

1 applies in this situation?

2 MR. HUH: So we're applying the plain and ordinary meaning,
3 Your Honor, and our position is that the highlighting, in some way or
4 another, basically associates a specific content source with a specific piece
5 of information.

6 JUDGE KINDER: But you somewhat use the same word to define
7 the same word.

8 MR. HUH: Sure. So just as an example, because there is no
9 construction on the record, we rely on the plain and ordinary meaning.

10 JUDGE KINDER: Okay.

11 MR. HUH: But if we were to look, as an example, we can turn to
12 the actual patent itself at Figure 15C, which I'll be addressing today, as well.
13 And if the Board will look at Figure 15C in the patent at issue, there is a
14 highlighting box -- the patent refers to it as a highlight or a focus box in
15 Figure 15C. And that highlighting box -- I believe it's 1512 -- it is placed
16 over a content source in the present figure. The content source is on
17 demand. It's an on-demand content source, and the content information is
18 Skyfalls. And that box, which is the means of highlighting an example in
19 the '040 patent, is around both of those, and therefore, it associates the
20 content source on demand with the content information Skyfalls. That
21 would be one example of highlighting such that it associates the on-demand
22 content source with the content information Skyfalls.

23 JUDGE KINDER: Okay, thank you. One follow-up to that. Then
24 what is the trigger, if you will, in Figure 15C? What's the trigger for On
25 Demand Skyfalls to be in circle, which is what you're highlighting?

1 MR. HUH: Sure. So we don't have to guess; the patent itself
2 states what it is. If you were to look -- actually, you can look on the slides,
3 which is part of Patent Owner's response at page 11 of the slides, which cites
4 the relevant portion pertaining to 15C in its own response. So on Slide 11,
5 we have Patent Owner's response, page 4, citing the '040 patent, 32, 9
6 through 14.

7 And in the context of Figure 15C, we can see that the triggering of
8 highlighting is because the user moves that highlight to a specific content
9 source. And I'll just read it in the record for clarity. As the indicator 1512 is
10 moved to a different source -- again, 1512 is the focus box, which is
11 highlighting -- the content or preview of the content may be displayed in
12 active content area 1408, which is the area 1408 on the right. And during
13 deposition, Patent Owner's own expert testified that the highlighting is
14 triggered by the user pressing up or down to move the focus box to a specific
15 content source, and that was with respect to Figure 15C, Patent Owner's
16 expert testimony. So the --

17 JUDGE KINDER: How does that reconcile then with the claim
18 language that at least one of the sources is highlighted as being associated
19 with the first content information?

20 MR. HUH: Right, so the content information is the information
21 with respect to the content source. So if we go back to Figure 15C, the
22 content information in Figure 15C is Skyfalls. You can see that the box has
23 content information of Skyfalls associated with the on-demand and the box
24 surrounds both. So as the user is pressing -- if we just take, for example --
25 going back to Figure 15C, if we have currently highlighted On Demand

1 Skyfalls, and the user presses down one -- let's say presses down two times,
2 the application's content source would be highlighted, as well as the Bubble
3 Bird content information.

4 The actual show on the right, what you're currently watching --
5 doesn't update until you have -- until and after you have actually moved the
6 actual box. So the highlighting occurs first. And this is logical because if
7 you're channel surfing or you're going through different sources of content,
8 the user has to be able to drive what you're going to select, as far as a content
9 source, and only after you select, will anything on the right to be updated to
10 actually reflect what you've selected.

11 So that's the way that this patent describes -- and I would also
12 identify, for example, if you go to the slides, Slide 12, which is describing
13 Figure 16, this portion actually provides more specificity on how the focus
14 box is being utilized to select what you're going to watch on the right. And
15 you can see on Slide 12, we have a portion of the '040 patent reproduced
16 there, and it states Exhibit 1001, 32, 35 through 43, with reference to Figure
17 16 -- it states that the user may move the focus box onto one of the lines.
18 The lines there are, again, different content sources. They're also called
19 silos.

20 And upon moving the focus box and either selecting another button
21 or user interface selection device -- so like you're going to choose that
22 specific content source -- or loitering the focus box for a predetermined
23 amount of time over the silo, then you can select that silo or content source
24 from the global panel.

25 So the way that this works in the patent, Your Honors, is the user

1 presses up or down to select over a specific content source. Now, to choose
2 that content source, you either would press, for example, enter, or you would
3 let it sit there for an amount of time, such that it becomes selected. And
4 upon that selection occurring, the content on the right, the show that you're
5 watching or whatever else that you're doing corresponding to that content
6 source, would now be displayed on the right.

7 And this is confirmed by Patent Owner's own expert testimony
8 during deposition. We can see on Slide 12. And he was asked if moving
9 was done first and his answer was, "I think that's fair." So the question was,
10 "So moving is done first and then you have to do one of two things, either
11 use another button to select or loiter there for a specific amount of time in
12 order to select, correct?" And his answer was, "I think that's fair."

13 I would also note he was asked additional questions with respect to
14 this embodiment and just generally, teachings of the patent. And the
15 question was, "Is it fair to say that in the '040 patent, there are embodiments
16 where the highlighted content source does not match the content being
17 displayed to the right? So they don't have to match, and his answer was,
18 "...there are embodiments described in the way you suggested."

19 So just to be clear, what you are highlighting does not have to
20 match what is currently being watched on the right. In order to actually
21 change what's being shown on the right, you either select what you're
22 highlighting, or you actually let it sit there -- let that highlight sit there for an
23 amount of time, such that then it ultimately is selected and then the content
24 on the right is being updated to correspond to what's being selected with the
25 highlight.

1 And this is why, Your Honors, our position is, is that Patent
2 Owner's additional requirements -- for example, on Slide 10 -- Patent Owner
3 contends that this limitation requires that highlighting a content source and
4 content information is because it corresponds to the program Skyfalls being
5 displayed on the right. And Patent Owner attempts to read that additional
6 limitation in the claim and based on that assertion, finds fault that the prior
7 art doesn't meet it. Well, the claim does not say that the highlighting is
8 because it corresponds to the program being displayed on the television.
9 That's nowhere in the claim, Your Honors. And in fact --

10 JUDGE KINDER: So --

11 MR. HUH: Go ahead.

12 JUDGE KINDER: This is Judge Kinder. I think I understand your
13 position, but I'm confused on looking at the scope of the claim in its entirety.

14 MR. HUH: Sure.

15 JUDGE KINDER: The selection process you talk about, I don't
16 think there's any question that a user can select On Demand Skyfalls and go
17 down and select applications and it would be highlighted as that embodiment
18 describes, but looking at the claim itself, we're talking about determining the
19 global panel to display, and then you retrieve a first content information for
20 display in the global panel, then you display the retrieved content
21 information in the global panel, wherein the global panel itself includes the
22 elicited sources of content, where at least one is highlighted. So, I mean, am
23 I reading some kind of temporal limitation into this or --

24 MR. HUH: So what --

25 JUDGE KINDER: To me, it seems like there has to be some kind

1 of correlation between the selection of the global panel and the global panel
2 coming up, and then wherein, at least one of the sources is highlighted at
3 that point. Am I incorrect in kind of interjecting some kind of temporal
4 requirement here?

5 MR. HUH: Well, so just to be clear, I'm not sure if Your Honor is
6 asking whether -- so let me ask for clarification. Is your question, Your
7 Honor, whether or not the content that's currently being watched, the show
8 being watched has to match what's currently being highlighted? Is that Your
9 Honor's question?

10 JUDGE KINDER: That's probably a secondary question, but I
11 think even more primal than that is the selection that you talk about and that
12 you just described, where a user can select a different source for
13 highlighting. Is that relevant for the claim here, which requires essentially
14 that the global panel come up with that highlighted as part of the claim
15 initially or as part of the process of bringing up the global panel with the
16 sources?

17 MR. HUH: So the global panel can be brought up at any point in
18 time, Your Honor. So you can watch a show; you can then get out of the
19 global panel while you're watching the show; you could come back to the
20 global panel. The claim just requires that you provide a global panel. So
21 you retrieve an indication associated with the selection and determined by
22 the processor -- and I'm looking now at Slide 2, which is Claim 1.

23 Based on the received indication, a global panel is determined, and
24 you retrieve a first content information for display, and displaying by the
25 television, the retrieved content information in the global panel, which we

1 have shown in the prior art. For example, Kim's figure illustrates -- Kim's
2 figure, for example, on Slide 9 that we provided, is that a rendering of when
3 the user presses a home button, and the television renders a global panel.
4 And for example, it would have the application store panel rendered at the
5 time. The application store is the content source. That's not disputed.
6 That's one of the content sources.

7 To be clear, the patent requires multiple content sources and
8 corresponding content information. So the App Store is not disputed as a
9 content source, which is just like the Figure 15C on Slide 9 where the
10 applications is the content source, and the prior art's content information --
11 for example, the downloaded applications, it has Angry Birds, for example,
12 Your Honor. That Angry Birds is just like the Patent's Bubble Birds
13 application.

14 So when you press the home button, you're going to get this screen
15 from Kim that has the application store with the application content source,
16 and the corresponding content information would be, for example, the Angry
17 Birds application that was downloaded utilizing that application, just like it
18 would be in the patent at issue. And in the patent at issue, the user can
19 choose whichever content source they want. They can press, in Figure 15C,
20 go up or down, to choose a specific content source, and likewise in Kim, the
21 user presses left or right to choose a different card object. Each card object
22 is a content source.

23 So there's literally no difference here in function when the
24 television is -- is going to be turned on, you are ultimately going to have this
25 display, and the only question is, well, with respect to the actual

1 highlighting, Kim teaches highlighting an active card object. And our
2 position, Your Honor, is that Kim provides an example of a phone card
3 object being shown, and when the incoming phone call occurs, that card
4 object is going to be activated and therefore, highlighted to bring the user's
5 attention to it. And our expert, Dr. Lippman, in our petition, explained that
6 it would've been obvious to highlight any one of the card objects when
7 they're active, in order to differentiate that card object for the user.

8 So as the user is utilizing the remote to go left or right, within
9 Kim's home screen, you will select different card objects, and that selection
10 process is an activation of the card object, and it would've been obvious to
11 highlight that card object. We also provided, Your Honor, evidence of the
12 knowledge in the art, for example, Exhibit 1010.

13 And I would draw the Board's attention to that evidentiary
14 reference of how you highlight a card object. Exhibit 1010, Figure 33B, and
15 that was discussed in our petition at 46 through 47. And Exhibit 1010
16 shows, for example, an instance where the favorite channel card object is
17 highlighted. That's an active card object in Exhibit 1010, if Your Honor
18 wants to turn to that, and you can see that the favorite channel card object is
19 highlighted, and when that is highlighted, the content source and the
20 corresponding content information, they're highlighted as being associated
21 with each other.

22 What I want to drive home the point is that the claim nowhere
23 requires that anything being highlighted corresponds to what's shown to the
24 user on the right. That's nowhere in the claim, and in fact, the patent itself
25 does not support that assertion, and even Patent Owner's own expert

1 testimony confirms that our read of the '040 patent is correct, that their
2 embodiments actually have the user move the highlight, and that can be done
3 independent of what's shown on the right. Those are divorced things in the
4 patent, and nowhere is the highlight going to be changed based on what
5 you're watching. It's the opposite.

6 But I would want to note for the Board, also, that Patent Owner's
7 assertions are, in fact, based on expert testimony that in fact did not consider
8 the embodiments of their own patent. Turning to Slide 13, we can see that
9 Patent Owner's expert was deposed with respect to the embodiments that are
10 contrary to their position on construction or on what these claims require and
11 whether highlighting has to be based on what's shown on the right, and when
12 we walk through the examples with their expert and asked them whether or
13 not the scope of the claim somehow excludes these other embodiments in
14 the '040 patent; his answer was, he didn't think about that.

15 And we asked him -- I said, well, think about it now. Does, for
16 example -- this is on Slide 13, Exhibit 1015, 6719 through 23, and we asked
17 him, okay, well, you haven't thought about it, but think about it now. Does
18 the scope of the claims exclude Figure 16, for example, and his answer was,
19 "You're asking me to create -- to give an initial opinion about a new -- about
20 a new embodiment that I haven't considered, so it's not something that I can
21 just do on the fly.

22 So here we have their own expert admitting that, in fact, he did not
23 consider the embodiment of Figure 16 of their own patent, which is in fact
24 contrary to their position on what the claim requires or that it requires
25 highlighting because it corresponds to the content on the right. So you have

1 Patent Owner response relying on uninformed expert testimony. He did not
2 consider their own patent's embodiments in providing testimony as to the
3 fact that, in their opinion, the claim requires highlighting because it
4 corresponds to the content shown to the user, and that's error. I mean,
5 relying on an expert that's uninformed shows that their Patent Owner
6 response was baseless and in fact, it's contrary to the actual embodiments of
7 the patent at issue.

8 And this is why when you go to Slide 14, Your Honors, Patent
9 Owner, in the surreply, submits bare attorney argument that now seeks to
10 exclude Figure 16 from the scope of the claims. This is surreply at 8,
11 arguing that the claim does not cover Figure 16. And why is that? There's
12 no evidence for that. It's just an attempt to exclude an embodiment that's
13 contrary to their assertions on what the claim requires. And that was --

14 JUDGE COURTENAY: Mr. Huh, this is Judge Courtenay. I don't
15 quite follow you. I'm looking at the patent -- Figure 15C --

16 MR. HUH: Yes.

17 JUDGE COURTENAY: -- and you're saying that there's no
18 association. If you have the Skyfalls program, it doesn't automatically
19 highlight the On Demand Skyfalls box on the left. Is that what you're
20 saying? It's not bi-directional? Like if you select the On Demand Skyfalls
21 box -- I guess it's 1504B -- in the Skyfalls program within box 1408 of -- this
22 is Figure 15C of the patent -- then the program appears, but you're saying the
23 reverse doesn't happen. Is --

24 MR. HUH: That's correct. Right, Your Honors. A program on
25 the -- if we go back to Figure 15C, the right side of that figure is 1408.

1 JUDGE COURTENAY: Right.

2 MR. HUH: Whatever is shown in 1408 is the result of the user
3 choosing the source on the left side. It's not the other way around. The
4 highlighting on the left is not because you're watching something on 1408.
5 It's the highlighting occurs because a user chooses it by pressing up and
6 down to go through different content sources.

7 JUDGE COURTENAY: I understand that. That sounds very
8 intuitive, but I'm returning to the claim. Let's keep our focus on the claim.

9 MR. HUH: Sure.

10 JUDGE COURTENAY: We have displaying -- this is 1.4 --
11 displaying via the television the retrieved content information in the global
12 panel and the global panel includes a list of sources of the content for the
13 intelligent television. And then wherein at least one of the sources, so that
14 would be on the left, is highlighted as being associated with the first content
15 information, which would be on the right for --

16 MR. HUH: No.

17 JUDGE COURTENAY: No?

18 MR. HUH: Okay, so that's where I think the disconnect is, Your
19 Honor. The content --

20 JUDGE COURTENAY: Okay, expand on that so we can all
21 understand this.

22 MR. HUH: Yes, yes. So the content information is not the content
23 being watched, Your Honors. Content information is the information about
24 some content. Like for example, at Figure 15C, Skyfalls within that
25 highlighted box, you have On Demand Skyfalls. Skyfalls is content

1 information, okay? Now, going down lower, for example, at 1504D,
2 Applications - Bubble Birds. Bubble Birds is content information, right?

3 Going lower to the HDMI - YBOX 20, that YBOX is content
4 information, right? So you have the -- or like a live TV is the content
5 source, the first one; the content information is 801 CNXN. The content
6 information is the information adjacent to the content source. That has
7 nothing to do with what's currently being shown on the right of the display,
8 Your Honor. The information --

9 JUDGE COURTENAY: Well, how do you --

10 MR. HUH: Yes?

11 JUDGE COURTENAY: How do you ever get to that display of
12 the Skyfalls program on the right in 1408 without first selecting on the left
13 the 1504B box On Demand Skyfalls?

14 MR. HUH: Right. So I mean, we agree, Your Honor, that the user
15 controls where the highlight goes by pressing up or down. Let's take the
16 example, Your Honor, of I'm watching Skyfalls, and I have this box around
17 On Demand Skyfalls. Now, if a user presses up one time, 1504A, the live
18 TV is the content source. Do you see that?

19 JUDGE COURTENAY: Yes.

20 MR. HUH: Okay. And 801 CNXN, that's content information
21 about that content source; do you see that?

22 JUDGE COURTENAY: Yes.

23 MR. HUH: And when I press up one time, the highlight moves up
24 one time, correct?

25 JUDGE COURTENAY: Yes, but does that not change the content

1 in 1408 simultaneously with --

2 MR. HUH: It's not simultaneous, no. It's not --

3 JUDGE COURTENAY: (CROSSTALK) on the left.

4 MR. HUH: It's not simultaneously, Your Honor, on the right. You
5 press up. Now, you have to do one of two things and, for example, if you
6 keep the box there for an amount of time, then perhaps the CNXN program
7 is going to show on the right.

8 JUDGE COURTENAY: Okay.

9 MR. HUH: Okay, or the other user can press like a select button
10 on the remote to actually activate the display on the right to show the
11 corresponding show.

12 JUDGE COURTENAY: Okay. So on the left when you scroll up
13 and down, you're just changing -- the highlighting is just changing the focus,
14 but you have to do a second selection step --

15 MR. HUH: That's correct.

16 JUDGE COURTENAY: -- to actually change the content on the
17 right. Okay, I got it.

18 MR. HUH: Right, right.

19 JUDGE COURTENAY: I'm --

20 MR. HUH: And to be clear --

21 JUDGE COURTENAY: Okay. Go ahead.

22 MR. HUH: I just want to clarify that the content show is not
23 claimed -- is not the claimed content information.

24 JUDGE COURTENAY: Got it, okay.

25 MR. HUH: So the content information is not the content show on

1 the right. And if you go back to the claim, the claim does not require that
2 you have the content show. It's referring to content information, and that
3 information is information with -- associated with the source. So the content
4 show -- the actual show on the right -- is not in the claim -- does not
5 correspond to the claimed content information.

6 JUDGE COURTENAY: Okay. So getting back to the claim --
7 step -- as a method claim, step 1.6, where at least one of the sources is
8 highlighted as being associated with the first content information. From
9 what I just heard from you, if a user on a remote control, they basically
10 move that highlighting up or down on the left, it is -- it meets the claim
11 because it's associated with the first content information, but you will not
12 actually change the box on the right, the 1408 box, until the user selects it.
13 And that's not --

14 MR. HUH: That's correct.

15 JUDGE COURTENAY: -- in the claim. That's not in Claim 1.

16 MR. HUH: That's right. The stuff on the right in Figure 15C is
17 not even claimed, Your Honor. That's -- the claim does not delineate what
18 show you're currently watching or what is being presented to the user,
19 whether you're watching CNXN or whether you're watching Skyfalls. And
20 again, if you go to Figure 16, I would direct the Board's attention to the
21 patent at issue, Figure 16, you can see that, in fact, they do not match. The
22 highlighted portion doesn't match what's shown on the right. If you go to
23 Figure 16C -- Figure 16 -- you can see the same image of the person singing,
24 which allegedly was Skyfalls in Figure 16, but now, the actual --

25 JUDGE COURTENAY: Or you have CNXN. You've got --

1 MR. HUH: Yeah.

2 JUDGE COURTENAY: -- CNXN highlighted. Okay. All right.

3 MR. HUH: Exactly. Yeah. Yeah, the highlight is CNXN, but the
4 item shown on the right is still Skyfalls. Do you --

5 JUDGE COURTENAY: Okay.

6 MR. HUH: -- see that?

7 JUDGE COURTENAY: I do see that. You've made your point
8 there. Mr. Huh, I'm sort of the default timekeeper here. You're 29 minutes
9 into your opening argument, so that would leave you 16 minutes for rebuttal.

10 MR. HUH: Okay. That's clearly more time than I had anticipated.

11 JUDGE COURTENAY: Okay, great.

12 MR. HUH: Well, let me do this just briefly and just ask if the
13 Board has any questions with respect to the highlights or with respect to the
14 additional limitation in Claim 1 that's at issue, which is the electrical input.
15 Are there any questions that I can address with respect to any of those
16 limitations?

17 JUDGE KINDER: If you want to highlight your position with
18 respect to the electrical input, that might be good, if you want to address it
19 when you come back.

20 MR. HUH: Sure. Right. So let me just get to that as quickly as I
21 can. If we look to Slide 17, Your Honors, we explained in our petition how
22 Kim describes an external device card object. This is in Slide 17. And in
23 17, we also have Figure 19 of Kim, which has external device card object
24 1380, and that device card object has a gaming box, a DVD player, and a
25 computer, and we explained that Choi supplements Kim on Slide 18 by

1 teaching the concept of utilizing symbols or letters to indicate whether a
2 specific device is connected to the television input or not connected to the
3 television input.

4 So on Slide 18, we have the first three devices, have a red symbol
5 in the front, 830A, 830B, 830C, that indicates that those three devices are, in
6 fact, connected to the television. They have electrical input. They provide
7 electrical input to the television. On the other hand, the four devices to the
8 right do not indicate that they have electrical input provided to the television.

9 And our -- and we provided a combination, and we explained in
10 our petition, as supported by the expert declaration, that it would've been
11 obvious to indicate to the user whether a specific device in the external
12 device card object is connected or not connected. And exemplary ways of
13 doing that were providing the petition, including in the instance where you're
14 utilizing letters to indicate that. It would've been obvious to display specific
15 letters that identified specific input port. For example, on Slide 19, we show
16 different ways that it was known to utilize letters to identify specific input
17 parts.

18 It's our position, Your Honors, that the claim -- if you look at the
19 claim language, and this is important -- the claim recites that one of -- the
20 sources includes an electrical input associated with the television. The
21 sources. The electrical input is not specified as a specific input port. It's
22 generically written in a broad way as an electrical input associated with the
23 television, and if you look at the actual patent itself, Your Honors, and we
24 look at the examples in the patent on Slide 23, for example, the source
25 device that provides an input can be a DVD, a VCR, et cetera.

1 So when you read the claim language, the source includes
2 electrical input associated with the television, that is a device that provides
3 electrical input to a television. And their -- Patent Owner's expert conceded
4 that the electrical input is provided by a source device, such as a YBOX in
5 one example.

6 Now, Patent Owner primarily argues, with respect to this limitation
7 on Slide 22, that the claimed electrical input requires showing a specific
8 input port. This is Slide 22. And they find fault with Choi because it doesn't
9 identify specific input port, but again, the claim has no such requirement. It
10 broadly requires that the content source is an electrical input associated with
11 the television.

12 It does not require identifying a specific input port, and we
13 explained in our petition how, when you look at Kim in combination with
14 Choi -- for example, going back to Slide 17 -- when the external device card
15 object would indicate which device is connected, you are meeting the claim
16 limitation because the content source has an electric input. For example, the
17 DVD player would be indicated as being electrically connected to the
18 television.

19 But I would note also that Patent Owner's assertion regarding what
20 the claim requires and that it requires a specific input port is also contrary to
21 the '040 patent's embodiment on Slide 24, where the '040 patent is a port
22 interface 352, which is a generic universal port. So you have one port that
23 provides electrical inputs from multiple devices, and Patent Owner's expert
24 agreed that the port interface allows external devices to be connected and
25 sends corresponding electrical inputs to the television. And the assertion

1 that you have to identify specific input ports, like HDMI, would be contrary
2 to this embodiment of the '040 patent.

3 And I would further note that Patent Owner's expert, again, on
4 Slide 25, did not even consider the various embodiments of the patent in
5 providing his testimony as to what the claim limitation requires. He said
6 that he didn't spend a lot of time thinking about that embodiment. He didn't
7 know that he had to consider it in rendering an opinion on what the claims
8 require. This is Slide 25. So you have an uninformed expert providing
9 testimony about what the claim requires, and in fact, which is contrary to the
10 embodiment of the patent itself.

11 JUDGE KINDER: So you're -- I think you're less than 10 minutes
12 left now. Could you talk a little bit about Claim 2 before you turn it over?
13 The arguments with Claim 2.

14 MR. HUH: Sure. So basically, Claim 2 requires identifying the
15 user associated with the received indication, which is going to a home
16 screen, global panel, and retrieving one or more settings associated with the
17 identified user. We showed Claim 2 in two different ways, Your Honor -- in
18 Ground 1, as well as in Ground 2.

19 And if we turn to Slide 29 briefly, we showed that Kim allows a
20 user to log in and you also have a pre-registered user with a display
21 apparatus, the television. This is Kim at paragraph 81, shown on Slide 29.
22 So the user may be pre-registered and then log in to download applications,
23 and the pre-registration is identifying the user associated with the television
24 because these are pre-registered with the television.

25 And in addition to that, the retrieving one or more settings

1 associated with the user on Slide 30 is that when the user is logged in and
2 pre-registered with the television, they are permitted to actually download
3 applications. On Slide 30, we can see -- we have identified four
4 applications, identified by numeral 1308, that are set by the user. And
5 those -- when the user goes to the home screen and the user has pre-
6 registered with the television, those pre-set applications by the user are, in
7 fact, rendered for the user. They are retrieved from memory and shown to
8 the user on the home screen.

9 And in our position, the fact that the user can download their own
10 applications, be pre-registered with the television, and then when they go to
11 the home screen, it's shown on the home screen, that is retrieving those
12 settings. Those are settings associated with the user. We've also shown in
13 Ground 2 that the user has their own favorite channels. Slide 31 identifies
14 User B, for example, and if the user's favorite channel settings are retrieved
15 and shown to the user.

16 JUDGE KINDER: So I think -- and I don't want to misspeak about
17 the Patent Owner's position -- but I think they try to correlate that these
18 associations you're talking about essentially aren't contemporaneous with the
19 received indication, which I believe is selection for the global panel, if I'm
20 stating correctly. But the other things, like the user log in and the pre-
21 registration, aren't directly tied to that received indication, which --

22 MR. HUH: So --

23 JUDGE KINDER: -- displays --

24 MR. HUH: So the answer to that, Your Honor, is go to Slide 33,
25 please.

1 JUDGE KINDER: Okay.

2 MR. HUH: And this is just a simple, logical thing, and their expert
3 admitted this during deposition. In the context of Kim, Your Honor, that
4 home screen can be instantiated at any point in time. I think the instance
5 where the user goes to the home screen, downloads their own application or
6 sets their favorite channels, and then they go watch a show. Now they press
7 the home screen button again, now whatever shows on the home screen will,
8 in fact, correspond to that specific user's selected applications or favorite
9 channels.

10 And Patent Owner's expert during deposition admitted to this,
11 Your Honor, on Slide 33, Exhibit 1015, 92, 5 through 12. Now, if I press
12 the home screen again, am I already logged in? After you logged in, sure.
13 And then we further asked him, in the home screen with -- after login, with a
14 download user application, is this presented to the user? Right.

15 So there's no dispute, Your Honor, that you can -- in the context of
16 Kim, you can go to the home screen, set your settings, download your
17 applications, set your favorite channels, go watch a show, come back to that
18 home screen, and guess what happens? What you set is there present. I'll
19 stop (CROSSTALK) --

20 JUDGE KINDER: Thank you very -- yeah, thank you very much,
21 Mr. Huh. You're at about 41 minutes, so you will reserve about four
22 minutes in rebuttal, so we can move on now to the Patent Owner's
23 presentation.

24 MR. HUH: Thank you, Your Honor.

25 JUDGE KINDER: Mr. Schreiner, whenever you're ready.

1 MR. SCHREINER: Sure. Thank you very much, Your Honors.
2 This is Steve Shreiner here on behalf of Multimedia Technologies, the
3 Patent Owner. I'd like to frame this issue about limitation 1.6, the so-called
4 highlighting limitation. Let's talk about the art. So if I could direct Your
5 Honors to the Patent Owner Slide 7, it shows a -- Figure 19 of the Kim
6 reference, which is the principal reference around which the Petitioner's
7 obviousness theories are centered.

8 And what Figure 19 shows, it shows a series of card objects, and
9 then within each of those card objects is some text or thumbnail information,
10 and the Petitioner's position is that the source of content claimed in Claim 1
11 would be one of these card objects. For instance, let's take the App Store
12 1330 that my friend just mentioned in his opening. So we've got App Store
13 1330. That's the alleged source of content. And then the Petitioner's
14 position is that the first content information that's retrieved and displayed
15 pursuant to limitations 1.3 and 1.4 of the claim, that's the text information
16 and thumbnail information displayed within the App Store.

17 Now, the problem is that the way that Kim operates is that the card
18 object and that text and thumbnail information within it, that's all put up on
19 the screen automatically at the same time. So it doesn't meet limitation 1.6,
20 which provides that the source of content is highlighted as being associated
21 with the first information content.

22 This -- and that's the problem with the prior art reference that's
23 used for all of these grounds. It doesn't show that correlation. It doesn't
24 show that the card object, the alleged source of content, is highlighted
25 because the information within it has been presented and displayed pursuant

1 to limitations 1.3 and 1.4. So the Petitioner is spending a lot of time trying
2 to rewrite limitation 1.6 so that it can somehow be expanded away from its
3 plain and ordinary meaning to encompass what Kim does. Now, if we look
4 at --

5 JUDGE FENICK: Can --

6 MR. SCHREINER: Yes, Judge?

7 JUDGE FENICK: I'm just trying to -- this is Judge Fenick.

8 MR. SCHREINER: Yes, Your Honor.

9 JUDGE FENICK: My understanding of the Petitioner's argument
10 is that just as Kim says that when you get a phone call, the phone card gets
11 highlighted, to draw your attention, or if it's not displayed, it gets displayed
12 on the main screen that you're looking at. The Petitioner's expert says you
13 would do the same thing and when you're highlighting or working, I guess --
14 working with some information within a card, that would be content
15 information. That card would be highlighted so you'd know that that's where
16 you are.

17 So I guess my thought is, you're saying all of this is content
18 information, but each individual piece is also a piece of content information.
19 And so highlighting a card to show that you're working with content
20 information in the card is my understanding of what the Petitioner's
21 argument is. And so I guess you can either tell me you think that that's not
22 what Petitioner's argument is, or you can tell me that you disagree with it for
23 some reason.

24 MR. SCHREINER: Petitioner makes a number of arguments, so
25 you know, identifying it down to a single argument gets a little bit tricky, but

1 I understand Your Honor's question. So let's take one of the card objects and
2 let's say that a user is working within that card object using the thumbnail
3 information, and let's say that leads to the card object being highlighted.
4 That doesn't meet the claim. The claim limitation requires that the card
5 object be highlighted because its first content information -- that is the
6 thumbnail information -- has been displayed.

7 When the card object first came up, it had the card object, and it
8 also had the thumbnail information within it. And that card object was not
9 highlighted because the first information content -- that is the thumbnails
10 were presented within it. This is undisputedly Petitioner's position that the
11 first content information of the claim is the text and/or thumbnail
12 information within the card objects. And it's undisputed that in Kim, the
13 card object doesn't highlight because the information within it -- that is the
14 thumbnails -- has been displayed. So just Kim on its face doesn't meet the
15 claim information.

16 JUDGE KINDER: Mr. Schreiner, can --

17 MR. SCHREINER: Yes, Your Honor.

18 JUDGE KINDER: So we talked about the scope of the claim and
19 I'll still, I think, a little bit confused. Why does it have to be
20 contemporaneous with the display -- the highlighting have to occur
21 contemporaneously essentially? That seems to be your argument, that it all
22 happens, and you can't deviate like the other embodiments in the patent that
23 allow for movement and highlighting of particular content.

24 MR. SCHREINER: Your Honor, I don't believe that limitation
25 1.6, the highlighted limitation, necessarily is limited to the highlighting

1 being contemporaneous with the display of the first information content. I
2 mean, you can certainly look at limitations 1.3 and 1.4 of Claim 1 and they
3 recite received, retrieving first information content, and displaying that first
4 information content in the global panel. And then subsequent to that in the
5 numbering of the steps, you have the highlighting of the source that
6 corresponds to that displayed first information content.

7 So certainly, that could happen after, or it could happen
8 contemporaneous with the display of the first information content. What's
9 not disputable is that the claim requires that the source of content that
10 corresponds to the displayed first information content is highlighted. The
11 Petitioner has gone to great pains to try to work its way out of the plain and
12 ordinary meaning of this claim. The Petitioner refers to Figure 16. Figure
13 16 doesn't correspond to limitation 1.6. Figure 16 is an unclaimed
14 embodiment with respect to Claim 1.

15 Claim 1 is informed by Figures 15B and 15C and in 15B, we have
16 on the left-hand side, we've got a source of content, 1504A live TV, 801
17 CNXN, that's a source of content. And on the right-hand side, we see that
18 the -- that this content, CNXN, the program, is being displayed. That's the
19 first information content. And indeed, the source of content corresponding
20 to that live TV 801 CNXN is highlighted. And similarly, we see on Figure
21 15C, we have on the right-hand side, we have the Skyfalls program is being
22 displayed. That's the first information content that's being presented and
23 pursuant to limitation 1.6, the associated source of content, On Demand
24 Skyfalls, is highlighted. So that -- those disclosures support the plain and
25 ordinary meaning of this claim.

1 Now, the Petitioner has tried to essentially misread the Figures
2 15B and 15C, and if I understand him correctly, he's saying, well, for Figure
3 15B, the first information content, it's not the CNXN show being shown on
4 the right-hand side. It's actually some words within 1504A, Live TV - 801
5 CNXN. It's just that word, but that's not how 15B is described in the patent.
6 In fact, if you look at Figure 15B in the patent -- if you look at Column 30,
7 lines 27 through 32, it describes 1504A and the other items as being the
8 sources of content. So in the context of the claim, they are the sources of
9 content. They are not the first information content. When you look at the
10 right-hand side of Figure 15B and look at Column 30, lines 65 through 67, it
11 describes the content as the CNXN program. So that's your first information
12 content that corresponds to the claim.

13 And likewise, with regard to 15C, at Column 32, 9 through 17, it
14 refers the content displayed in the active content area, and that's Skyfalls.
15 So the content -- the first information content referred to in the claim,
16 corresponds what is being shown on the right-hand side of Figure 15B and
17 15C, and the Petitioners attempt to contort what these figures are disclosing
18 and they're pretty clear on their face. I think it's just an attempt to rewrite
19 this claim away from its plain and ordinary meaning.

20 The Petitioner referred to the App Store 1330 card object -- this is
21 in Kim, so we could still be looking at Slide 7 of the Patent Owner's
22 demonstratives -- he referred to that and I kind of touched on this. The
23 problem with the Petitioner's theory is the Petitioner is saying that the first
24 information content, that's the thumbnails within the App Store card object
25 1330. And the Petitioner saying the source of content is the App Store 1330.

1 And the problem, again, is that first information content has been
2 displayed, it's within App Store 1330, but App Store 1330 is not highlighted,
3 so it doesn't meet the claim language. And Patent Owner respectfully
4 submits that it's pretty clear on its face. This claim language that says,
5 wherein at least one of the sources is highlighted as being associated with a
6 previously -- with a displayed first information content, that's not
7 complicated claim language. That's not overly broad claim language. It
8 doesn't say the source of content is highlighted and it is somehow related to
9 the first information content. No, it says that the source of content is
10 highlighted as being associated with the displayed -- retrieved and displayed
11 first information content, as set forth in limitations 1.3 and 1.4.

12 And so the Patent Owner respectfully submits that Kim doesn't
13 come close to meeting that limitation. The Petitioner goes and refers to
14 some extrinsic evidence, so for example, for Ground 1, the Petitioner refers
15 to the Lee-2 reference, and refers to an example where, let's say a user is
16 looking at a program and the user presses his or her favorite channel button
17 on the remote control, and that causes a display to come up, a home screen,
18 similar to what Kim displays. And in that case, the favorite channel card
19 object is highlighted.

20 But why is that favorite card object highlighted? It's not
21 highlighted because the thumbnails within it are displayed. They were
22 displayed with it when it came up. It's highlighted because the user selected
23 it using the favorite channel key. So even with the Petitioner's backup
24 theories, based on the extrinsic reference of Lee-2, the combination for
25 Ground 1 doesn't meet limitation 1.6. Do Your Honors have any further

1 questions on limitation 1.6? If not, I'll turn to limitation 1.7.

2 JUDGE COURTENAY: Yes, Mr. Schreiner. This is Judge
3 Courtenay. I just have a -- it's a claim construction issue highlighting --
4 what's the scope of highlighting in 1.6. And I'm looking at the patent
5 specification of the '040 patent and I see the word highlight in two places.
6 It's in Column 24, line 15, and this is a description that we have an okay or
7 select button 764 to select a highlighted displayed image, such as the
8 displayed -- speed control, rewind, forward, and so forth. And then I turn to
9 Column 30, line -- it looks like it's line 41, 42, and this is a description of
10 global panel 1404. This is describing Figure 15B. Global panel 1404 may
11 additionally indicate a source that is selected or highlight -- it doesn't say
12 highlighted. It just says highlight -- using indicator 15.12.

13 So just to be clear, highlighting is not selection? I -- are we
14 conflating those two concepts? Highlighting, like putting a box around it, or
15 you know, I think of highlighting where I have a highlighter, and it could be
16 yellow, it could be pink, like I have here, and I could highlight -- I'm
17 highlighting your claim as we speak with a highlighter. So you don't have a
18 description in that detail in your patent, but I just want to be clear, are
19 highlighting and selection the same thing or are we -- are they different, as
20 you understand the patent specification? You're representing the Patent
21 Owner.

22 MR. SCHREINER: Indeed, I am, and thank you for the question,
23 Your Honor. I don't think we're conflating selection and highlighting. If we
24 just focus on the claim language in Claim 1, it, of course, doesn't refer to
25 selection. It refers to retrieve -- you know, first, a user input to retrieve a

1 global panel, and then we have first content information is retrieved and
2 displayed, and so the first content information is displayed. Now, 1.6 --
3 limitation 1.6 says that one of the sources is highlighted as being associated
4 with that first information content that has been displayed. So the claim
5 doesn't refer to selecting. I --

6 JUDGE COURTENAY: I understand that. There's no issue there,
7 but when I look to your specification, I just want to clarify that those terms
8 are not interchangeable in your specification. Highlighting and selecting are
9 different or are they used interchangeably in your specification as you best
10 understand the '040 patent?

11 MR. SCHREINER: I don't think the terms are used
12 interchangeably, although I certainly think that an embodiment, let's say,
13 where one of the sources is highlighted, could read on a situation where
14 there was some selection prior to that, but you know, the claim is agnostic to
15 the term selection. I mean, what I can say is if you look at Column 30 where
16 Your Honor is referring to, it goes on to say that in Figure 15B, the program
17 content corresponding to that source, CNXN, is displayed, so the
18 highlighting is the result of that program content, CNXN, being displayed on
19 the right-hand side of Figure 15B.

20 JUDGE COURTENAY: Thank you.

21 MR. SCHREINER: Thank you very much.

22 JUDGE COURTENAY: You're about 15 minutes into your
23 argument.

24 MR. SCHREINER: Okay. Fifteen minutes into it? Okay.

25 JUDGE COURTENAY: Yes, yes. Proceed.

1 MR. SCHREINER: So let me go, if I could, to Slide 16 -- I'm
2 sorry -- Slide 21 of the Patent Owner's demonstratives. And if Your Honors
3 will bear with me, my computer is a little bit laggy here. So here in Slide
4 21, we're making the point that we have this fundamental problem with the
5 Kim reference that the sources of content in the Kim reference are not
6 highlighted because the descriptive text and thumbnail information, the
7 alleged first information content, has been displayed. And I think it's stated
8 nicely in Patent Owner's surreply, which is quoted on Slide 21 of Patent
9 Owner's demonstratives.

10 If I could go to Slide 22 of Patent Owner's demonstratives, the
11 Petitioners try a couple backup arguments to try to get there with Kim. You
12 know, we know that Figure 19 of Kim, which is the core of the Petitioner's
13 theory -- Figure 19 and Figure 21 -- they're both the same thing, the home
14 screen. It doesn't disclose or teach or suggest limitation 1.6.

15 So the Petitioner says, well, Kim discloses that a card object can be
16 colored or tinted to distinguish a partially displayed card object from other
17 card objects, but that doesn't correspond to the claim language. That's
18 saying, okay, we're going to highlight a card object because it's partially
19 displayed, to distinguish it from the other card objects. It's not saying, we're
20 highlighting a card object because it's first content information, that is the
21 thumbnails within it have been displayed. So that theory doesn't correspond
22 to the claim limitation, limitation 1.6.

23 If I could, turn to Slide 23. In Slide 23, there was an argument put
24 forward in the Petitioner's papers that somehow, the phone card object
25 embodiment in Kim would bear on limitation 1.6 and that Your Honor

1 mentioned in her question. It seems like the Petitioner has discarded this
2 argument because I didn't see it mentioned anywhere on their
3 demonstratives. But in any event, so Kim discloses that there's a phone card
4 object, and if there's an incoming call, then the phone card object can be
5 highlighted. That doesn't correspond to the limitation.

6 Again, the limitation provides that the card object is highlighted
7 because the thumbnail information within it has been displayed, because
8 that's the first information content, according to the Petitioner. You know,
9 they can't get out of that, they're locked into that position. Even if you
10 proposed modifying Kim to have one of the other card objects highlighted
11 upon the receipt of an incoming call, that doesn't get you to the claim
12 limitation, again, requiring that it's highlighted because the thumbnail
13 information within it has been displayed.

14 And if I could turn, Your Honors, to Slide 24. The Petitioner has
15 another theory, which is, well, the Kim patent indicates that a card object
16 could be highlighted to distinguish it from other card objects. That's
17 certainly true, but that doesn't correspond to the claim limitation. And once
18 again, the claim limitation is saying that the source of content is highlighted
19 because it corresponds to the first information, that's the thumbnail
20 information, that's then been displayed in that card object. So highlighting a
21 card object to distinguish it from another card object, that doesn't get you
22 there with regard to limitation 1.6.

23 If I could turn to Petitioner's Slide 13. So what the Petitioner is
24 trying to do with Slide 13 is argue -- and I believe this is for the first time on
25 appeal -- excuse me -- for the first time here with this argument. I don't

1 recall this being in the papers, but in any case, let's take it on the merits.
2 Petitioner is saying, well, we should read limitation 1.6 away from its plain
3 and ordinary meaning to encompass Figure 16, and Figure 16 does not
4 disclose a source of content being highlighted because it corresponds to the
5 content that's being presented on the right-hand side.

6 So Figure 16 plainly doesn't correspond to the claim language, and
7 the Petitioner's Counsel spent a lot of time criticizing Dr. Surati because he
8 didn't give a lot of thought to Figure 16. Well, he didn't give a lot of thought
9 to it because it doesn't have a bearing on Claim 1, and in particular,
10 limitation 1.6.

11 You know, there is case law saying that you should try to construe
12 a claim to encompass preferred embodiments, but two points on that. First,
13 Figure 16 of the '040 patent is not described as the preferred embodiment.
14 Secondly, that case law says that you only do that if the claim language will
15 permit it, and the claim language doesn't permit it here. So the Petitioner's
16 effort to rewrite the claim language away from its plain and ordinary
17 meaning based on this unclaimed embodiment, Figure 16 in the '040 patent,
18 just doesn't withstand scrutiny.

19 If I could turn, Your Honors, back to the Patent Owner's
20 demonstratives, Slide 25. So one of the Petitioner's backup arguments and I
21 kind of eluded to this a moment ago is, well, you referred to Lee-2. Okay.
22 Well, Lee-2, for one thing, is an extrinsic reference. It's not part of the
23 grounds. It's not part of Ground 1 against Claim 1. It's treated as
24 background knowledge. I think that's probably fair enough, but what does
25 Lee-2 teach? Lee-2 teaches that the user selects the favorite channel key and

1 that gets you to -- on the right-hand side of Slide 25, that gets you to a home
2 screen where the favorite channel object is highlighted.

3 Why is that favorite channel object highlighted? It's highlighted
4 because the user selected it on the prior screen. It's not highlighted because
5 it's -- the text information within it, the thumbnail information within it has
6 been displayed, which is the requirement of 1.6. So this backup based on
7 extrinsic knowledge from the Lee-2 reference doesn't close the gap
8 regarding limitation 1.6.

9 If I could turn Your Honors to Slide 26 now to Patent Owner's
10 exhibits. Slide 26, this is showing a passage regarding Lee's Figures 33A
11 and B that I just discussed. You see in this passage it says, particularly, the
12 favorite channel card object 26 may be highlighted. Therefore, the user can
13 readily view their favorite channel card object, including their favorite
14 channel list 2065. So what's that saying? That's saying the favorite channel
15 card object is highlighted so the user can see it after the user transitioned
16 from the prior display. It's not saying it's highlighted because the favorite
17 channel content within it has been displayed, the allegedly first information
18 content that the Petitioner maintains pursuant to its obviousness theory.

19 If I can now turn to Slide 28 of Patent Owner's demonstratives. So
20 Slide 28, the Petitioner tries to apply a generic teaching. Allegedly again,
21 this is alleged background knowledge that it was known to highlight a
22 software object to distinguish it. Well, that's basically cumulative of what
23 we have already talked about in Kim where Kim says that you can highlight
24 a software object to distinguish it from other software objects. But again,
25 that doesn't correspond to limitation 1.6. And if there are no further

1 questions on limitation 1.6, the highlighted limitation, I will go ahead and
2 transition to the electrical input associated with the television that is the
3 subject of limitation 1.7.

4 JUDGE KINDER: All right. That'd be great. Thank you.

5 MR. SCHREINER: And let's go ahead, if we could -- if I could
6 refer, Your Honors, to Slide 30 of Patent Owner's demonstrative. The Patent
7 Owner's position is that the ordinary and customary meaning of a source of
8 content that is an electrical input associated with the television would be
9 referring to an input port. 1.7 refers to an electrical input associated with the
10 television, and it's tied back to limitation 1.6 where it says that that's a source
11 of content. So a source of content that is an input -- electrical input to the
12 television -- would be understood as being an input port, such as HDMI,
13 USB, DVI, et cetera, as is described throughout the '040 patent.

14 And if we could turn to Slide 31 of the Patent Owner's
15 demonstratives, we see in Figure 15B, we have support for that construction.
16 Figure 15B shows the sources of content -- that's on the left-hand side --
17 1504A through F, and in particular, we've got source of content 1504F and it
18 displays HDMI and input port as being the electrical input to that television.

19 JUDGE KINDER: Mr. Schreiner, this is Judge Kinder. Why
20 wouldn't -- let's presume that HDMI 1 wasn't listed there. Why wouldn't it
21 be sufficient for just YBOX 720 to be identified?

22 MR. SCHREINER: Because the claim is talking about an
23 electrical input associated with the television, and a POSITA would
24 understand, in this context, where we're talking about external devices, that
25 the electrical input to the television is the input port. So if you have an

1 external device, between the external device and the television is an input
2 port, and that input port is what allows that information from the external
3 device to be inputted into the TV. And we respectfully submit that this is in
4 accordance with the ordinary and customary meaning of this phrase that
5 was -- would be understood in the context of the patent.

6 JUDGE KINDER: To me, it seems like you're trying to advocate
7 for -- that it requires more than what's -- than the claim language, that it
8 identifies a very specific port, like HDMI 1 or HDMI 2 and it just can't be
9 generic. Is that -- am I summarizing your position?

10 MR. SCHREINER: I think that's right. I mean, the claim
11 limitation says in the electrical input associated with the television. If you're
12 talking about, like let's say an external device -- let's say a DVD or a DVR --
13 you know, that's sitting next to the television, that's not an electrical input to
14 the television. The electrical input to the television is the input port that
15 provides the conductivity for that information to be transmitted into the
16 television. And so I do think it's fairly characterized as being some kind of
17 input port. I mean, there's lots of input ports that are described in the '040
18 patent and therefore, lots of input ports that were known in the art at this
19 time.

20 So it's not limited to any particular input port, so I agree with Your
21 Honor that the construction is broad and, so far, that it encompasses any type
22 of input port that is electrically connected to the television. It wouldn't
23 encompass, let's say, an infrared connection, because that's not an electrical
24 input to the television, but it would cover other types of electrical input
25 ports -- USB, HDMI, et cetera.

1 JUDGE KINDER: It just seems to me like your arguments are
2 almost on the fringe of printed matter exception, like you're almost requiring
3 a labeling type of scheme and I'm not 100 percent sure about that.

4 MR. SCHREINER: You know, the -- what is claimed here is
5 essentially a user interface to a television, so we are talking about a display,
6 and that display has certain types of content, and that the listed sources of
7 content on that display include five items pursuant to 1.7 -- a live television
8 source, video on demand, media center source, application source, and an
9 electrical input.

10 I'd respectfully submit to Your Honor that I don't believe that we
11 are finding ourselves in the land of the printed matter doctrine, where we
12 would say that limitation 1.7 should not be assigned patentable weight
13 because it's mere printed matter. It's not mere printed matter. It is very
14 functional, particularly -- it's very functional with respect to the user that's
15 operating this intelligent television, so that the user knows what the input
16 sources are. And so presumably as -- even described elsewhere in the claim
17 that the input sources can be changed to receive different types of
18 programming content and so forth.

19 JUDGE KINDER: Yeah. And just to be clear, I don't think it goes
20 upon printed matter as written. I just think almost the way you're
21 interpreting almost requires a listing of specific ports.

22 MR. SCHREINER: Yeah. I mean, if you look at -- let me see if I
23 can find -- if we could go to Slide 34. So just to dispel any thought that the
24 Patent Owner is making an improper bodily incorporation argument, the
25 Petitioner is making this argument that Kim's external device's card object,

1 1380, as shown on Slide 34, that it's modified to further annotate it with
2 information. So this -- what's shown on Slide 34 -- this is the Petitioner's
3 diagram, so the Petitioner is showing that you would modify Kim's external
4 device's object 1380 to add these little symbols representing -- Petitioner
5 says input port connections, but it's really connected status indicators.

6 So the Petitioner is saying you would modify this user interface to
7 include these additional indicia. And so when I'm discussing the specific
8 input port that we believe is required by limitation 1.7, that would take us
9 to -- if I could direct Your Honors to Slide 37 -- that would take us to the
10 next step that the Petitioner is advocating. The Petitioner says, okay, well
11 we recognize that Choi doesn't indicate input ports. Choi just indicates --
12 puts a little icon indicating connected status, so we'll resolve that by
13 resorting to background knowledge that you can annotate something with a
14 port identifier. And so the Petitioner says, essentially, this is what you end
15 up with.

16 Now, to be clear, this is Patent Owner's diagram here. We've just
17 taken the Petitioner's diagram of a first modification to Kim and now
18 we've -- we're illustrating what the second modification to Kim brings. And
19 we respectfully submit that even if -- we respectfully submit that a POSITA
20 wouldn't make this further combination, this further modification of Kim,
21 once modified by Choi, and now modified a second time by background
22 knowledge, because this user interface would just be unacceptable for a user,
23 and a POSITA would see that it's unacceptable for a user.

24 And if I could just mention, there was a case that came out just
25 right around the time the sur-reply was filed in this case. It's *Laboratory*

1 *Corp. of America Holdings v. Ravgen*, 2025 WL 32904, and this case came
2 out on January 6th. And to be clear, it's a Federal Circuit case from Judge
3 Lourie. It's non-precedential, but it provides guidance here. And the
4 Federal Circuit said there would be no motivation to combine if the POSITA
5 would not have seen the proposed combination as acceptable.

6 And so the Federal Circuit was taking the point pursuant to all case
7 law that it's -- the test is not whether a POSITA could have made the
8 combination. The test is whether a POSITA would have made the
9 combination. And the Lab Corp case goes a step further in explaining that
10 it -- look, if the result would be unacceptable to a POSITA, then a POSITA
11 would not have made that combination and therefore, that combination is
12 untenable to meet the claim limitation. But we respectfully submit that that
13 case law and just that general reasoning applies here.

14 JUDGE KINDER: Okay.

15 MR. SCHREINER: I will now go ahead and transition to claim --
16 can I get a time check, Your Honors?

17 JUDGE KINDER: You're a little bit over -- I'm sorry. Go ahead,
18 Judge Courtenay.

19 JUDGE COURTENAY: About 32 minutes. Actually, 31 minutes
20 and 55 seconds, so 32 minutes, let's just say.

21 MR. SCHREINER: Thank you.

22 JUDGE KINDER: So you asked for -- you requested, I believe, 37
23 minutes for your argument, so you've got about 5 minutes left.

24 MR. SCHREINER: Thank you, Your Honor. I'll be on my toes.
25 If I could refer Your Honors to Slide 40, and we're going to talk about Claim

1 2 of the '040 patent. And I'm going to focus on the limitation 2.2, retrieving
2 one or more settings associated with the identified user, and receiving -- and
3 limitation 2.3 receiving content information associated with the identified
4 user. We think there's very strong arguments that those limitations are not
5 satisfied by the proposed combinations.

6 If I could take Your Honors to Slide -- actually, let me just try to
7 accelerate this. Let me turn to, Your Honors -- to Slide 46, please. So the
8 Petitioner argues -- and this is a new theory on reply that we believe isn't a
9 proper new argument, but in any event, we'll go ahead and address it on the
10 merits. The Petitioner refers to the optional menu items, 1308, in Kim, and
11 if you recall Kim's home screen in Figure 19, you have all the card objects,
12 and then down at the bottom, you have a menu of optional card objects. And
13 the Petitioner tries to rely on that for limitation -- really, limitation 2.1 and
14 2.2.

15 The problem with the optional application menu items, 1308, is
16 they're not specific to a user. Kim doesn't disclose anywhere that the
17 optional menu items are tied to a specific user or that you have, for example,
18 different optional application menu items for different users. That's not
19 disclosed at all. So the Petitioner's argument that somehow accessing that
20 information is receiving settings associated with an identified user, we
21 believe doesn't meet limitation 2.2 because those application items, 1308,
22 are not specific to a user.

23 And if I could turn, Your Honors, to Slide 47. Slide 47 just gives
24 you the visual of what we're talking about here. So we have Figure 19 of
25 Kim, and you see down at the bottom, we've got the application menu items,

1 1308, and as I said, those aren't specific to a user at all, as disclosed in Kim.

2 If I could take Your Honors now to Slide 48, just to prove the
3 point, we've got paragraph 215 of the Kim reference, and you can see it
4 describes the optional application menu items 1308, and there's nothing in
5 there about them being particular to any user. And if I can --

6 JUDGE KINDER: Mr. Shreiner, can you address the Petitioner's
7 pre-registration argument for Claim 2?

8 MR. SCHREINER: Yeah. The pre-registration argument just
9 doesn't withstand scrutiny. So what the patent says is that a person at a
10 given image display apparatus, or a given image display apparatus in Kim
11 that is an intelligent television, could transmit data to pre-registered users.
12 Well, that disclosure doesn't teach identifying a user at all, and in fact, you
13 could have pre-registered devices that are receiving information. That
14 doesn't mean that the user has been identified, and that's what's required by
15 limitation 2.1 and then its subsequent limitations, which are all tied back to
16 the identified user. So we don't believe the pre-registered recipient's
17 disclosure in Kim really has any bearing on these limitations.

18 One of the -- let me -- if I could take Your Honors to Slide 49 of
19 the Patent Owner's exhibit -- or Patent Owner's demonstratives. Excuse me.
20 One of the problems I want to highlight is that the Petitioner never makes
21 clear in its -- in the petition or in any of its papers, going right up to the
22 reply, never makes clear what are the settings in Kim that are retrieved,
23 pursuant to limitation 2.2, vis-à-vis, what is the content information that's
24 retrieved pursuant to limitation 2.3.

25 For limitation 2.3, the Petitioner points to these optional menu

1 items 1308. Okay, I think that's fair. The problem is, they're essentially
2 pointing to the same thing or something that's not identified in connection
3 with limitation 2.2. So if I could refer Your Honors to page 50 -- and this
4 will be the last slide I cover here -- the Patent Owner raised this issue in its
5 Patent Owner response that the Petitioner never identified, okay, what are
6 the user settings that are retrieved.

7 The Petitioner clearly identifies that the thumbnails in these
8 optional applications, that those are the content information retrieved and
9 displayed pursuant to limitations 2.3 to 2.4, but they never identify what are
10 the user settings that are received pursuant to limitation 2.2. And here is the
11 answer in the petition -- in the reply brief. The petition explained that the
12 user settings for the application menu items, item 1308, corresponds to the
13 claim settings. That just doesn't make sense. That's like saying -- that's
14 essentially saying that the claimed user settings are the user settings. That's
15 not identifying what are the user settings pursuant to limitation 2.2.

16 And in fact, if I could just quickly point to Petitioner's Slide 30 and
17 just as soon as I get there, this will be the last slide I cover in my response
18 here. And thank you for bearing with me. As I said, my scrolling is -- I'm
19 getting a little delay. So let's look at Petitioner's Slide 30. This is dealing
20 with Claim 2. So the Petitioner identifies -- you see the mark up of the Kim
21 home screen. The Petitioner says, okay, the user-set application thumbnails
22 are the claimed retrieved content information. That's 2.3. Okay, that makes
23 sense. And you have the home screen as the global panel, the smart TV as
24 the television. But the Petitioner doesn't identify what are the retrieved one
25 or more settings associated with the identified user.

1 It's not indicated here, and that's because the Petitioners don't have
2 a theory with limitation 2.2 that doesn't run into their theory for limitations
3 2.3 and 2.4 for the content information that's retrieved and disclosed. That's
4 because they're trying to point to the same thing, and you can't point to the
5 same thing to meet these three limitations, 2.2 to 2.4. And if Your Honors
6 have no further questions, I'll go ahead and reserve whatever I have left for
7 surrebuttal.

8 JUDGE COURTENAY: Thank you, Mr. Schreiner. You have
9 about six minutes left for your sur-rebuttal, and the Petitioner has about four
10 minutes. Why don't we just give both of you five or six minutes to do your
11 respective rebuttals. So we'll start with Petitioner. You've got five or six
12 minutes. And then to follow-up, Mr. Schreiner, you have five or six minutes
13 for your surrebuttal.

14 MR. HUH: Thank you, Your Honor. I just want to address a few
15 points. If you want to step back to the highlighting limitation, if you would,
16 please. And Patent Owner's Counsel just presented arguments that the
17 highlighting is the content sources on the left and the content information is
18 on the right of Slide -- of Figure 15. And that's simply unsupported by their
19 own specification, Your Honor. What I would like to do is direct the
20 Board's attention -- so first, to make clear, the claim recites content
21 information. So you have content information. Our position is that the
22 content information is information about content, of the content source. Not
23 necessarily the content being displayed on the right.

24 And if we would turn to the '040 patent, Column 36, and lines 52,
25 it begins with 'because'. And in this portion, the '040 patent distinguishes

1 content information from the actual content being shown on the right. And
2 this is -- this shows that the content information is not what's being shown
3 on the right. The claim requires content information and that is not the
4 content shown -- currently being displayed. And here's what the patent
5 states at line 52, because the content information is not specific to the
6 content displayed in the active content area 1408, et cetera.

7 The content information is the information about content -- the
8 content source -- and this is why in the context of Figure 15C, the
9 highlighting of the box -- for example, around the content source on
10 demand -- highlights and associates the Skyfalls content information with
11 the highlight. That's how the claim is highlighting as being associated. So
12 the content information is not the items on the right currently being watched.
13 The content information is information within the bounds of the highlight.

14 JUDGE KINDER: So Mr. Huh, if I understand you correctly, the
15 content information is actually sort of a data about data or i.e. metadata
16 about the content program on the right. Is that correct? Am I understanding
17 you correctly?

18 MR. HUH: Our position, and this is supported by the, you know --
19 their own patent at Figure 15C that they repeatedly point to --

20 JUDGE KINDER: No, it's --

21 MR. HUH: -- is that the content information adjacent to the
22 content source. So on demand, for example, is a content source. You have
23 an on-demand source, and the information associated with that content is
24 Skyfalls, and the highlighting is around both of those items and associates
25 them together. For example, if you go back to the live TV CNXN, live TV

1 is a content source.

2 JUDGE KINDER: Okay.

3 MR. HUH: The information is the 801 CNXN, and when you
4 highlight it, that is highlighting as being associated in the context of the
5 claim. And this is why their own expert could not exclude Figure 16 from
6 the scope of the claim. And all that we have, Your Honor, on the record, to
7 be clear, is attorney argument from Patent Owner seeking to exclude Figure
8 16 from the scope of the claim. Their expert was unwilling to exclude
9 Figure 16 from the scope of the claim.

10 There's absolutely zero evidence in the record to somehow exclude
11 Figure 16 of the '040 patent from the scope of the claim. Excluding that
12 figure without any evidence would be error. And this is exactly what Patent
13 Owner is seeking to do. And that's undisputed. They are seeking to exclude
14 that embodiment from the scope of the claim. Go ahead. Was there a
15 question, Your Honor?

16 JUDGE KINDER: Well, I mean, my understanding of the gas law
17 is that the scope of the patent claim is not what -- at a very minimum, it
18 covers at least the embodiments described in the specification, but it's not
19 limited. Even if you have a single -- a preferred embodiment, the scope of
20 the claim is not limited to that preferred embodiment. That's my
21 understanding of the case law. You correct me if you have a different
22 understanding.

23 MR. HUH: Right. So our position is, is that Figure 16 is one of
24 the embodiments, and the scope of the claim covers that embodiment, and
25 the highlighting in Figure 16, their own expert testified that that highlighting

1 is done by the user. It is not because you're showing something on the right,
2 and that's our point is the claim is only talking about content information.
3 The claim is silent as to the show being displayed on the right. That's our
4 position, Your Honor.

5 And I would note further, with respect to the Patent Owner's
6 assertion with respect to displaying a specific port, and the assertion that no
7 one would do it, that's simply incorrect. Their own expert, in fact, provided
8 testimony -- and I'll direct the Board's attention to our slides -- on Slide 26,
9 and he testified during deposition, and he was asked whether it was known
10 in the art to identify a specific port that is connected to a device, and his
11 testimony was that yeah, that was known in the art. That's fair.

12 But more than that -- in fact, he himself had done that, had
13 provided products for sale, prior to the patent at issue, that in fact had the
14 functionality of displaying to the user a specific port that was connected to a
15 device. Did he -- did you have products available? I mean, sure.

16 So the assertion that somehow in the proposed combination of Kim
17 and Choi, a person skilled in the art would not, instead of displaying
18 symbols, display letters representing specific ports, is simply contradicted by
19 their own expert testimony who confirmed that he had done that and had
20 products available to that effect. And to be clear, we're not modifying the
21 modified embodiment. Choi specifically describes, as shown on Slide 18,
22 using letters or symbols. We're not, you know -- Patent Owner conjured up
23 a modification to a figure that we had presented purely as an example.

24 That is not a limiting example. We're not incorporating anything
25 bodily from one reference to another. We're just providing an example for

1 the Board's clarification, but that was a simple example. But Choi is clear
2 that you can also use letters to identify connected devices, and it was known
3 in the art to utilize symbols to specifically call out the port, which is, again,
4 what their expert himself did prior to the patent at issue and had products
5 available to that effect.

6 JUDGE KINDER: All right. Thank you very much, Mr. Huh.
7 We're going a bit over time, so you've had about -- almost eight minutes. So
8 Mr. Schreiner, I'm sorry, I didn't want to mispronounce your name -- we'll
9 give you the same amount of time, eight minutes, too.

10 MR. SCHREINER: Thank you very --

11 JUDGE KINDER: Proceed to your rebuttal.

12 MR. SCHREINER: Thank you very much, Your Honors. First, I
13 want to clarify. The Patent Owner's expert, Dr. Surati, didn't say he couldn't
14 exclude Figure 16. He said he didn't consider Figure 16, and he explained
15 he didn't consider it because it didn't have any bearing on the interpretation
16 of Claim 1, and he was right. Figure 16, to be crystal clear, is an unclaimed
17 embodiment. Figure 16, as the portions the Petitioner focuses on, is not
18 encompassed by Claim 1. Secondly, the Petitioner is now proposing a brand
19 new claim construction for the first time here at oral argument, and that's
20 that the claim term content information means information about the content
21 source.

22 Now, that's a brand new claim construction. That wasn't presented
23 below. It's inappropriate and it's wrong. If you -- a POSITA understanding
24 and trying to understand the claim language looks at the patent as a whole.
25 That's as established by the case law, and if you look at this patent as a

1 whole, when it's claiming first content information, and you read -- and you
2 look at Figures 15B and 15C, it's inexorable that it is -- the first content
3 information that's being referred to there is the show, the program that's
4 being displayed on the right-hand side -- CNXN in the case of Figure 15B or
5 as the show for Skyfalls case, in the case of Figure 15C.

6 Now, the Petitioner is arguing that no, no, the first content
7 information -- actually, a POSITA would read this Figure 15B, and a
8 POSITA would say that the content information in Figures 15B, that's 801
9 CNXN inside the box. That's what Petitioner is saying. Now, we
10 respectfully submit that a POSITA would not interpret this figure this way,
11 nor the same thing for Figure 15C. And why don't we just walk through the
12 claim language, and we can see how it doesn't add up. The claim language
13 refers to limitations 1.3 and 1.4, retrieving and displaying first content
14 information.

15 So according to the Petitioner, that would be putting -- for Figure
16 15B, that would be putting 801 CNXN up there, like by itself. And then the
17 claim says, wherein one of the claims is highlighted as being associated with
18 the first content information. So according to the Petitioners, rereading 15B,
19 that would be putting live TV, the content source, on Figure 15B, and
20 putting a box around it. That is not a natural interpretation of this claim, vis-
21 à-vis Figure 15B or Figure 15C, and we respectfully submit that this attempt
22 to reconstrue the claim away from what's a pretty straightforward plain and
23 ordinary meaning, should not be accepted by the Board. And I have nothing
24 further on surrebuttal. I thank Your Honors for your time, unless you have
25 any questions. I'm happy to entertain any questions.

1 JUDGE KINDER: No, it looks like we do not have any questions.
2 I was giving my panel a second to respond to that. It looks like we are out of
3 questions. So we appreciate your time. We thank both parties for your time
4 and if you could, stick on the line just for a few minutes to see if our court
5 reporter has any questions about the case.

6 We are going to give us some time to take a break before we start
7 the next proceeding. So I see it's 2:38. If we plan to start the next one
8 around 2:50, if everyone could be -- if you need more time, you can drop a
9 note and we can give a few more minutes, but we'll go ahead, and this case
10 is submitted, and thank you for your time. We'll see you back in about 12,
11 13 minutes.

12 MR. HUH: Thank you very much.

13 MR. SCHREINER: Thank you, Your Honors.

14 (Whereupon, the above-entitled matter went off the record at 2:39
15 p.m.)

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