

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.

IPR2024-00352¹
Patent 9,247,174 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 IPR2024-00696 and was joined as a petitioner in an understudy role in this proceeding. Paper 14.

APPEARANCES:

ON BEHALF OF THE PETITIONER:

DAVID L. McCOMBS, ESQUIRE
CALMANN J. CLEMENTS, ESQUIRE
Haynes and Boone, LLP
2801 N. Harwood St.Suite 2300
Dallas, TX 75201
(214) 651-5533
(972) 739-8638
david.mccombs.ipr@haynesboone.com
calmann.clements.ipr@haynesboone.com

ON BEHALF OF THE PATENT OWNER:

STEPHEN SCHREINER, ESQUIRE
JAMES T. CARMICHAEL, ESQUIRE
Carmichael IP, PLLC
8607 Westwood Center Drive
Suite 270
Tysons, VA 22182
(703) 646-9254
(703) 646-9255
schreiner@carmichaelip.com
jim@carmichaelip.com

The above-entitled matter came on for hearing on Wednesday, February 19, 2025, commencing at 1:00 p.m., via video-conference (heard after IPR2024-00351 in the same hearing).

P R O C E E D I N G S

- - - - -

JUDGE COURTENAY: I'm going to repeat some of the previous intro that you heard in the previous case. I am Judge St. John Courtenay. We have Judge Robert Kinder and Judge Sharon Fenick. And we'd like to welcome, again, both parties to the Board. The involved patent is U.S. Patent 9,247,174 B2. We also have a joinder Petitioner in the understudy role in IPR2024-00696.

And are we going to have the same attorneys arguing this case as the previous case, or are we going to have different attorneys? Can you answer? Petitioners first.

MR. MCCOMBS: Yes, Your Honor. This is David McCombs, lead Counsel for the Petitioner, LG Electronics and LG Electronics U.S.A., and presenting the argument for Petitioner will be my partner, Calmann Clements, with Haynes and Boone.

JUDGE COURTENAY: Okay. Could you spell the last name? Is it Mr. Clements?

MR. MCCOMBS: Calmann, C-A-L-M-A-N-N, Clements, C-L-E-M-E-N-T-S.

JUDGE COURTENAY: Okay. Mr. Clements, I don't recognize your name on the video. I'm looking at the -- I have a wall of faces here. Can you raise your hand, Mr. Clements?

MR. CLEMENTS: Yep, that's me.

JUDGE COURTENAY: Got it, okay. Welcome to the Board, Mr. Clements.

1 MR. CLEMENTS: Thank you.

2 JUDGE COURTENAY: Patent Owner, Mr. Schreiner, are you
3 going to be presenting arguments, again, for Patent Owner?

4 MR. SCHREINER: Yes, Your Honor, I am. So I'll be
5 representing Patent Owner, Multimedia Technologies, for this argument on
6 the '174 patent, and then I'm joined by my partner, Jim Carmichael.

7 JUDGE COURTENAY: Okay, great. Now, can each party
8 confirm that there's no confidential business information in this case? This
9 hearing is open to the public; there's a public access line. Petitioner, can you
10 confirm?

11 MR. MCCOMBS: Yes, confirmed. No confidential information.

12 JUDGE COURTENAY: Mr. Schreiner, can you confirm?

13 MR. SCHREINER: Yes, Your Honor. Confirmed. No
14 confidential business information.

15 JUDGE COURTENAY: Okay. I know I'm repeating from the
16 previous case, but both sides have 45 minutes of total argument time, so you
17 can reserve a portion -- any portion of that 45 minutes for the Petitioner; that
18 would be your rebuttal time. And Patent Owner, that would be time for your
19 surrebuttal, just like we did in the previous case.

20 So if we get disconnected, you know -- these remote hearings,
21 things happen, so both parties should have a fall-back voice line that you can
22 call. I call it a panic number, actually. So if you get disconnected, there's no
23 video, your laptop freezes, you know, maybe it just turns off and it won't
24 restart, whatever -- if you can call that number -- that should've been
25 provided to you by the Board -- and we can continue just in a voice hearing,

1 just voice only, okay? Okay.

2 I think that covers everything. You know, try to mute yourself
3 when you're not speaking, and a big deal is when you go -- I know you --
4 you're pressed for time, but when you go to a different, like, Petitioner's
5 demonstrative and you're the Patent Owner or vice versa, it takes us a
6 moment to actually bring up the file and find the right paper. So if you
7 could just be patient with us because when you've skipped paper numbers or
8 exhibits, we have to find it to look at it, and it takes us a moment.

9 So I think that covers everything. You know, the cardinal rule is
10 not to bring in new evidence or any new arguments, and you know, we're
11 judges. We're looking for dispositive issues to decide your case, you know,
12 based upon the facts and the law. And so if you give us your best
13 arguments, your strongest arguments that you may feel are dispositive to
14 your case, whichever side you're on, and make it clear to us. That's very
15 helpful to identify those dispositive issues for the Judges on the panel.
16 Okay. Petitioner, Mr. Clements, you can begin at any time.

17 MR. CLEMENTS: Okay. And Your Honors, I would like to
18 reserve 20 minutes for my rebuttal.

19 JUDGE COURTENAY: Okay.

20 MR. CLEMENTS: All right. Well, good afternoon, Your Honors.
21 My name is Calmann Clements, representing Petitioner, LG Electronics.
22 Turning to Slide 2, we have a list of the points I want to make today, starting
23 with an overview of the '174 patent, and I'll run through that quickly. So
24 turning to Slide 3, the '174 patent relates to a basic known television user
25 interface concepts. For example, the '174 patent describes and claims an

1 application panel interface that presents different panels based on a
2 directional input. And as shown in the illustrative figure on the right, an
3 example application figure interface includes a navigation bar and a content
4 panel shown in green.

5 Turning to Slide 4, when the user navigates between tabs and the
6 menu bar, the application panel interface displays a different type of panel.
7 And in the illustrative example here, the application panel interface displays
8 a panel of information related to the recommended tab. However, as we
9 described in our petition, the Woods reference shows that the concept of
10 changing content panels in response to navigational input was already
11 known before the '174 patent was filed.

12 So turning to Slide 5, we move on to our first substantive topic,
13 which is that Woods teaches displaying an application panel interface, as
14 claimed. So turning to Slide 6, the petition identifies Woods' menu bar,
15 1010, and options regions 1020, as teaching the claimed application panel
16 interface.

17 Turning to Slide 7, Patent Owner says they are applying the plain
18 and ordinary meaning of “application panel interface”, but they nevertheless
19 interpret this term to include unrecited limitations. They say an application
20 panel interface must provide information that is determined based on the
21 currently displayed program content, but those limitations are not recited in
22 the claim. Instead, the claim merely recites that this application panel
23 interface be displayed in response to an input.

24 So turning to Slide 8, Woods teaches what is actually claimed.
25 Woods describes electronic programming guide where the user can select a

1 program, including the program they are watching. And when the user
2 selects the program from the screen, that's the input that brings up the
3 application panel interface shown in Figure 10.

4 Turning to Slide 9, we can see Woods' menu bar and options
5 region are analogous to the application panel interface shown in the '174
6 patent. Here on the left, we see the '174 patent has -- the application panel
7 interface has a navigation bar and a content area. Similarly, Woods' user
8 interface and application panel interface includes a menu bar and an options
9 region. So in sum, Woods teaches an application panel interface as claimed.

10 Turning to Slide 10, we move on to our next topic, which is that
11 Woods teaches providing a first content panel based on the content. Turning
12 to Slide 11, Claim 1 recites based on the content, providing a first content
13 panel in the application panel interface. And as shown in the figure here,
14 one example of the first content panel is the options and items within this
15 options region 1020, that relate to the cast. So here, the options region
16 displays cast information about the currently tuned program in media region
17 1030, shown in purple.

18 So how is this first content panel based on the currently displayed
19 content as claimed? Well, turning to Slide 12, we referred to this program
20 guide earlier, but this program guide highlights or brings into focus the
21 currently tuned program, thus guiding the user to that program. So when the
22 user selects that highlighted program, and they are then brought to the screen
23 in Figure 10, they are provided with that content panel, which is displaying
24 information about the currently tuned program. And so for that reason,
25 when we're looking at the screen in Figure 10 and the content panel therein,

1 the information displayed in there is based on the currently displayed
2 content.

3 Now, turning to Slide 13, we have a quote from our petition, which
4 explains how the first content panel is based on the content, as claimed.

5 Now, Patent Owner attempts to distinguish Woods by arguing that Woods'
6 panel is based on what the user selected and not what is currently displayed,
7 but this argument has no basis in the claim language. Simply because the
8 user has selected the currently tuned program does not negate the fact that
9 the content panel is based on that currently displayed program.

10 Now, it's true that in Woods, the user can select other programs
11 they're not watching and receive information about that, but in the petition,
12 we're relying on the case where the user selects the currently displayed show
13 as directed to through highlighting, and that is why that application panel
14 interface and the content panels within are based on the currently tuned
15 program.

16 So turning to Slide 14, Claim 1 also recites that the first content
17 panel is based on the -- at least one of the content source and the content
18 information. So the way this claim is written requires us to show that the
19 content panel is based on either the content source or the content
20 information. And in the petition, we explained why the content panel is
21 based on the content information. And we have here some quotes from our
22 petition to explain what that content information is and why it's based on the
23 currently tuned show, but basically, because the content panel is displaying
24 cast information about the currently tuned program, that cast information is
25 content information about the currently tuned show. And because that panel

1 is displaying it, that is why this panel is based on that content information as
2 claimed.

3 Now, turning to Slide 15, Patent Owner and their expert attempt to
4 distinguish Woods by pointing out that Woods illustrates a Mercedes ad in
5 region 1030 and not the currently tuned program, but the petition does not
6 rely on the illustrated Mercedes ad example. Instead, the petition relies on
7 paragraph 174, which states that the media region 1030 could display the
8 currently tuned program.

9 Now, turning to Slide 16, Patent Owner also relies on unrecited
10 claim limitations for this element, as well. The claim recites that the first
11 content panel is provided based on the content and the content information.
12 And Patent Owner argues that this first content panel must be determined
13 based on the content, as shown in this middle quote.

14 And then Patent Owner attempts to distinguish Woods by saying
15 that Woods provides this panel independently of what's currently displayed,
16 but nothing in the claim language requires some sort of dependence, as
17 Patent Owner implies. In other words, the claim language of “based on”
18 does not include the situation in Woods, where the user selects the currently
19 tuned program and is then provided information about that currently tuned
20 program.

21 Turning to Slide 17, not only does Woods teach an example in
22 which the content panel displays information about the currently tuned
23 show, but doing so was a well-known and natural feature. We cited some
24 examples in the petition of additional evidence of the obviousness of
25 displaying information about the show the user is watching. And Patent

1 Owner's own expert agrees that that situation is natural, so Patent Owner's
2 expert agrees.

3 So turning to Slide 18, we can now turn onto our next topic, unless
4 there's any questions on the "based-on" content from Your Honors.

5 JUDGE COURTENAY: I just have one question. I'm looking at
6 Figure 10. This is Woods. And 1030, it shows an advertisement of a
7 Mercedes car.

8 MR. CLEMENTS: Um-hum.

9 JUDGE COURTENAY: And how does that have anything to do
10 with the selection from the Column 1010 and then the Panel 1020, where we
11 have items, such as Cast 1012, detailed information. How does that
12 "advert" -- I'll call it an "advert" for short -- in 1030, I mean, how is that the
13 current program? It has nothing to do with 1010 or 1020.

14 MR. CLEMENTS: Well, in this particular case, in the illustrated
15 example, it shows a Mercedes ad. We don't know whether that's a
16 commercial within the Heroes broadcast or what that is. So we're not
17 relying on the specific illustration. What we're relying on is what Woods
18 teaches and what it describes, and so it describes that a user may select any
19 of the programs within the program guide, including the show that they are
20 currently watching. In fact, that's encouraged because it highlights or
21 focuses on that show, and then when you select that, you are displaying
22 information about that selected show, which is the currently tuned program.
23 So if the user is watching Heroes, and then they select Heroes from that
24 guide, what they will see is this cast information we see in Figure 10, along
25 with what is explained in 174 as the currently tuned program, which would

1 be Heroes, and that's our position.

2 JUDGE COURTENAY: Yes, but you're also positing that the
3 Mercedes advert is related to Heroes in some way, and we sort of have to
4 speculate about that. I mean, we don't know looking at Figure 10 of Woods
5 if that is actually, in fact, the case. And just looking at it for what it teaches,
6 it doesn't have anything to do with Heroes at all. It's an advertisement, and
7 we have no additional information which requires -- it would require
8 speculation on our part.

9 MR. CLEMENTS: And we're not relying on that specific
10 illustration. I mean, Woods provides lots of examples, and it illustrates a
11 Mercedes ad, but we're not relying on that Mercedes ad to teach the claim
12 limitation. What we're relying on is what is stated within paragraph 174 that
13 this media region could display an advertisement. It lists an advertisement
14 as one of the options that it could display, but it also says that it can display
15 the currently tuned program. So even though Woods only provides an
16 illustration of one of the things it describes, what we're relying on is the
17 description that it's displaying the currently tuned television program.

18 JUDGE COURTENAY: All right, thank you. Proceed.

19 MR. CLEMENTS: So turning to Slide 18, we now turn to our next
20 topic, which is that Woods teaches first and second types of content panels.
21 Turning to Slide 19, Claim 1 recites wherein the first content panel is a first
22 type of application panel. The petition identifies the options in items related
23 to cast information as the first type of content panel, and this is analogous to
24 what we see in the '174 patent on the right. There's an example where the
25 first content panel is an info type.

1 Turning to Slide 20, when the user navigates the menu bar to a
2 different tab, the options and items within reaching 1020 change to display
3 different type of information, and this change teaches that this second -- this
4 change teaches that there's a second type of content panel. As an example,
5 the petition identified the detailed information tab as a second type of
6 content panel. And so when the user navigates to that detailed info tab, the
7 information within the options region 1020 changes to display a second type
8 of content panel, which is the detailed information about the currently tuned
9 program.

10 Now, Patent Owner argues that Woods does not teach different
11 types of panels but instead teaches a single type of panel that just changes
12 the information within. But it is unclear why a different type of information
13 being displayed does not make it a different type of panel. The examples in
14 Woods are very similar to what we see in the examples shown in the
15 specification. So for the reason stated in the petition and in our reply,
16 Woods has different options and items that are displayed within options
17 region that teach the first and second types of content panels as claimed.

18 Turning to Slide 21, the petition also provided an alternative
19 position in which when a user presses the over arrow on the cast tab and then
20 selects that, a more detailed piece of information appears within the
21 application panel interface, and this more detailed information is a second
22 content panel, as claimed. For example, if the user presses over on a certain
23 cast member and selects it, then they will be provided with additional
24 information about that particular cast member, and that is also a second
25 panel -- second type of content panel that the user gets through there --

1 through navigation.

2 Now, Patent Owner has argued that this read is inconsistent with
3 the position that the application panel interface was identified as 1010 and
4 1020 in our original position, but as shown on this example and in the
5 picture, we have identified the application panel interface as corresponding
6 to this region that is the interface -- or it's the content other than what's being
7 displayed, and so the application panel interface has changed, but it is still
8 the application panel interface. Accordingly, Figure 11 is just another
9 example of a second type of content panel.

10 Turning to Slide 22, we believe our read is consistent with the
11 definition of panel that is provided in the '174 patent. The '174 patent
12 provides an explicit definition of a panel, which means simply a user
13 interface displayed in at least a portion of the display, and that panel may be
14 interactive or informational. And so when we're changing the type of
15 content within those panels that we saw on those earlier slides, we are
16 changing to a different type of panel. So we believe that our position is
17 consistent with how the '174 patent describes panel, and Patent Owner's own
18 expert agrees that this is the proper definition to use.

19 Turning to Slide 23, we also presented a third ground in the
20 petition in which -- that provides additional evidence of obviousness of this
21 panel swapping technique. So this Machida reference we cite to has this
22 operational panel display area, A3, you can see that on the left. And within
23 that predefined area, you can place either that linear content operation panel
24 A4 shown on the right, or that interactive content operational panel A5.

25 So in this case, we have a predefined area and we're simply

1 swapping out the different panels that go within that area. So this whole
2 idea of swapping out panels in response to something was already known,
3 and when we apply that technique to Woods, it would be obvious for
4 Woods, when the user navigates those tabs, to simply swap out one type of
5 panel for another type of panel, within a predefined space. That's just
6 additional evidence of obviousness that we relied on in the petition.

7 JUDGE COURTENAY: Mr. Clements, this is Judge Courtenay.
8 Let me interrupt you briefly again. It looks like Machida, what we have, we
9 have a linear content operational panel, and we have an interactive content
10 operational panel in Figures 3 and 4, respectively. And those are just
11 different ways to access content. It has nothing to do with the type of
12 content.

13 The top thing looks like you're accessing, you know, a video tape,
14 for example. You've got stop, you've got pause, you've got play, and you
15 can rewind, and you can also go to the beginning and the end, but you're just
16 accessing any type of content, and the same thing with Figure 4. It looks
17 like you can -- I'm not sure about this, but the buttons, 1, 2, 3, 4, 5, 6, 7, 8, 9,
18 0, the 10 buttons, it looks to me like you're just accessing sections of the
19 content and not a particular type of content. Can you explain that and clarify
20 that for the panel, please?

21 MR. CLEMENTS: Sure. So Machida does give a very specific
22 example of the type of content in those panels. One is, as you suggested, the
23 linear content operation panel, where you can fast forward and pause and
24 things like that. The other is a more interactive operation panel. But in our
25 proposed combination, we're not relying on those specific teachings of the

1 linear content panel or an interactive content panel.

2 In other words, we're kind of agnostic as to what's in those panels.

3 What we're drawing from Machida is this concept of swapping panels within
4 a predefined area. In other words, that technique within a user interface of a
5 television was known, and Woods already describes swapping out panels.

6 And so all we're doing is saying that it'd be obvious to have a predefined
7 area in which we are swapping out the different types of panels.

8 JUDGE COURTENAY: Yes, but I mean, the claim requires a first
9 type of panel and a second type of panel, and again, my understanding of
10 Machida, it has nothing to do with types of content, types of panels. If the
11 type of the panel means the type of the content within the panel. It's just a
12 way of having content. It doesn't have anything to do with the type of
13 content. It's agnostic, as you would say, to type.

14 MR. CLEMENTS: Yes, and we are relying on Woods for the
15 different types of content panels, so we are simply --

16 JUDGE COURTENAY: Go ahead. Thank you. Proceed with
17 your argument, please.

18 MR. CLEMENTS: Okay. And turning to Slide 24, Petitioner's
19 expert explained why a POSITA would've been motivated to combine the
20 teachings of Machida with those of Woods, and doing so is just further
21 evidence of obviousness of switching panel types in response to navigating
22 the menu bar. As our expert explained, it allows for precise uniform and
23 consistent arrangement of the user interface elements.

24 Turning to Slide 25, we now reach the dependent claims and for
25 this part, I would like to ask the Board if they have any questions about any

1 specific dependent claim, and if not, I would like to reserve the remainder of
2 my time for rebuttal.

3 JUDGE COURTENAY: I believe it's under the second ground
4 where it's over Woods and Istvan, Claims 6, 8, and 14.

5 MR. CLEMENTS: Okay.

6 JUDGE COURTENAY: And they pertain to marking content
7 information as a favorite in Claim 6, 8. The second type of content panel is
8 a search panel and I believe 14 goes back to the favorite idea where the
9 second -- the system of Claim 10, wherein the second content information
10 comprises information associated with content information marked as
11 favorite. So if you could just briefly explain that ground, and you're relying
12 on this secondary reference for the favorite; is that correct?

13 MR. CLEMENTS: That's correct. And I will note that we also
14 have a position where we rely on Woods alone for that, but we have an
15 additional ground that relies on Istvan, and what Istvan says is that we
16 have -- it has a situation that's very similar to Woods. We've got a menu bar,
17 and we've got a number of items. And just like Woods, there's an info item,
18 but it has some additional tabs within that menu bar, as well, such as a
19 "favorites" or a "search." And so what we're saying is the concept of putting
20 a search tab or a favorites tab within Woods' menu bar is -- would've been
21 obvious.

22 And if we look at Figure 10 of Woods, there's a whole bunch of
23 things there: detailed info, cast, reviews, all episodes. And Woods explains
24 that these are just some examples of types of tabs that can be here, but there
25 are other types. And Woods also mentions in paragraph 43 that there may

1 be a menu tab that lists a search tab and a favorites tab, and these can be part
2 of any display screen of the present invention. So Woods already provides
3 an explicit hook of why we would want a search tab or a favorites tab within
4 that menu bar.

5 And if we look at Slide 31, our expert provided some explanation
6 as to why a POSITA would've been motivated to have a favorites tab or a
7 search tab within that menu bar. For example, for the favorites tab, it
8 would've been obvious and beneficial to have quick access to the user's list
9 of shows that they have favorited for the search tab. It would be beneficial
10 for the user to have quick access to the overwhelming amount of content that
11 was available to the user.

12 Now, I understand that Patent Owner has made a distinction of
13 Istvan by saying that it's system-specific and not program-specific, but they
14 haven't explained why that's an impediment to the combination. Particularly
15 where Woods already explicitly suggests the combination by saying that the
16 search or favorites tab in the options are -- could be part of any other display
17 screen of the invention.

18 Do you have any other further questions on the Istvan ground,
19 Your Honors?

20 JUDGE COURTENAY: I think you're at about 22, 23 minutes, I
21 believe.

22 MR. CLEMENTS: Okay. Well, if there are no further questions
23 on any of the dependent claims, I'd like to reserve the remainder of my time
24 for rebuttal.

25 JUDGE COURTENAY: All right, thank you.

1 So Mr. Schreiner, you're back on.

2 MR. SCHREINER: Thank you very much, Your Honor. This is --

3 JUDGE COURTENAY: Any time you're ready.

4 MR. SCHREINER: Thank you very much, Your Honor. This is
5 Steve Shreiner on behalf of Patent Owner, Multimedia Technologies,
6 addressing the '174 patent in this IPR2024-000352. Your Honor stated at
7 the outset that we should try to set forth our best argument and state that at
8 the forefront, and it make it clear for Your Honors so that you can make a
9 decision. And I think what we can say is three things.

10 First, the most powerful argument that the claims are not
11 unpatentable relates to Limitation 1.5.1, which provides that there's a first
12 content panel that's determined based on the currently displayed program
13 content, so that's Limitation 1.5.1. Now what the Petitioner says is that this
14 first content panel is the options region 1020 in Woods Figure 10, and that's
15 undisputed.

16 What's also undisputed is that Patent Owner's expert, Dr. Surati,
17 provided undisputed declaration testimony that Woods option region 1020 is
18 determined independently of any currently displayed content, and moreover,
19 it's determined based on the selected program listing from Figure 9 of
20 Woods, which is the interactive program guide. That declaration testimony
21 by Dr. Surati, that's undisputed. The Petitioner hasn't disputed it in its reply.
22 The Petitioner did not submit a supplemental expert declaration to address
23 that deposition testimony, and we submit that that undisputed deposition
24 testimony of Dr. Surati is dispositive with regards to Limitation 1.5.1.

25 I'd also like to add that my friend representing LG has admitted

1 that the Mercedes ad in Figure 10 of Woods is not related to the Heroes
2 program that is the subject, that has been selected and for which program
3 guide information is being displayed. And with that, I'll go ahead and jump
4 into the Patent Owner's slides.

5 If we could go to Slide 4 of Patent Owner's demonstratives. Slide
6 4 provides, you know, the entire Claim 1. The arguments basically fall into
7 three categories. Three basic arguments for Patent Owner on Claim 1. The
8 first is that the Limitation 1.5.1 of providing a first content panel that's
9 determined based on the currently displayed content, that that's not disclosed
10 by Woods or Woods along with any additional references.

11 Second, we presented an argument in the papers that Limitation
12 1.2, which provides for displaying an application panel interface in response
13 to a user input, that that's not taught or suggested by Woods alone or in
14 combination. That argument, you know, regarding Limitation 1.2, there is
15 certainly some overlap with Limitation 1.5.1, so that's why I focus on
16 Limitation 1.5.1, you know, for today's argument.

17 And then the other argument is the pair of limitations, 1.5.2, which
18 should be highlighted here -- I apologize -- coupled with Limitation 1.7.2.
19 And those two limitations provide that there's a first content panel of a first
20 type of application panel, and there's also a second content panel that's of a
21 second type of application panel, and that those pair of limitations are not
22 met by Woods alone or as modified by extraneous or additional references.

23 If I could now turn Your Honors to Slide 10 of the Patent Owner's
24 demonstratives. So I just want to draw Your Honor's attention to Figure
25 17A through 17B of the '174 patent. These figures describe different types

1 of content panels, different types of application panels. And the
2 specification describes how a user can select a particular view.

3 So for example, the information view for the application panel
4 interface, and then for that particular content panel, a specific panel type is
5 going to be selected to implement it. And so for example, the specification
6 discloses that in the case of an info panel view, that the series info Panel
7 1704A, shown here on Slide 10, would be used as the panel type to
8 implement that application panel interface.

9 And the specification goes on and it describes that, you know,
10 again, for -- in the case of where info is selected for the view that any of
11 these panel types, 1704A through 1704J, could be used as the panel type to
12 implicate -- to implement that first content panel. And you'll see that the
13 Petitioner completely ignores Figure 17A through 17B. The Petitioner refers
14 to, you know, a general definition of panel that's in the specification, but the
15 Petitioner doesn't grapple with the actual claim language, which talks about
16 a first content panel that is a first type of application panel, and a second
17 content panel that is a second type of application panel, as set forth in 1.7.2.
18 The Petitioner doesn't address that language at all.

19 Now, the Board recognized that in its institution decision, and the
20 Board's institution decision -- I'll just read from it. This is from the
21 institution's decision at page 5. The Board says, as an example, if info is
22 selected on navigation bar 1604, a panel may display based on the panel type
23 series info, 1704A. So the Board recognized that there's this thing disclosed
24 in the specification, and it's claimed in limitations 1.7 -- 1.5.2 and 1.7.2,
25 which is a type of application panel. And that's -- I'm just trying to preview

1 something that the Petitioner doesn't address at all in its argument.

2 I'll go now to Slide 14 of the Patent Owner's demonstratives. So
3 what Woods displays with Figure 10 is a program-specific display after a
4 program listing has been selected in Woods Figure 9. So Figure 9 is a
5 program guide or an interactive program guide, and it has program listings.
6 And a user can select a program listing -- for example, Heroes -- and that
7 leads to Figure 10, which is the program-specific display. And of course
8 within Figure 10 are the functions menu 1010, functions options region
9 1020, and media region 1030. That's in Figure 10 of Woods, so I'm just
10 trying to set the stage here.

11 Now, the Petitioner argues -- if we can turn to Patent Owner Slide
12 16 -- the Petitioner argues that the claimed first content panel is the function
13 options regions 1020 in Woods, and that the claimed application panel
14 interface is the combination of the functions menu bar 1010, plus the options
15 region 1020 in Woods Figure 10.

16 And now I'll turn to -- I'd like to actually turn back to Slide 15, if
17 Your Honors don't mind. And I'd like to highlight this passage from Woods
18 that's quoted in the Patent Owner response here. It's Woods, paragraph 171.
19 It says, the functions menu bar 1010 displays a "list of indicators of
20 functions". It goes on to say, corresponding to the program listing selected
21 from screen 900. So what that tells us is that functions menu bar 1010 is
22 based on the selected program listing from Figure 9 of Woods. It's not based
23 on currently displayed content, as we'll explore further. If we could now go
24 to Slide 17. And so here we've got Limitation 1.5.1.

25 JUDGE COURTENAY: Mr. Schreiner, could I interrupt you

1 briefly? I'm just looking at your claim for temporal limitations. You know,
2 things that are currently displayed, and you do have that language in 1.3,
3 determining content currently being shown on the television. And also in
4 1.4.1, identifying at least one other content source and content information --
5 and this is 1.4.2 -- associated with the content currently being displayed via
6 the television. So that appears to be an important temporal limitation. Do
7 you agree or disagree?

8 MR. SCHREINER: I agree with Your Honor. Limitations 1.3 and
9 1.4 refer to program content that is currently displayed on the television, and
10 then 1.6 -- or excuse me -- 1.5.1 is saying that you're determining a first
11 content panel based on that currently displayed program content, so I think I
12 agree with Your Honor completely.

13 JUDGE COURTENAY: And that relates back to my question for
14 Mr. Clements, the Petitioner, that I don't see -- you know, my first
15 impression here, not speaking for the panel is, but speaking for myself -- I
16 don't see how that advertisement of the Mercedes has anything to do with
17 content currently being shown on the television, which would seem to be
18 pertaining to this Heroes television show.

19 MR. SCHREINER: Yes. I think Your Honor is completely
20 correct. There's two points. First, okay, so the claim limitation says
21 provide -- for providing a first content panel that's determined based on the
22 currently displayed program content. So what's currently displayed in
23 Figure 10 of Woods is a Mercedes ad, and the Mercedes ad doesn't bear any
24 relationship to what's presented in the functions option region, which is cast
25 information for the program listing, Heroes. So Your Honor is correct that

1 that alleged first content panel is not based on the currently displayed
2 program content of the Mercedes ad.

3 And I would add to that -- I said that that was the first point -- I
4 would add to that, and I would say that as Woods is disclosed, it doesn't
5 matter what is displayed in this media region 1030. Whether it's the
6 Mercedes advertisement or something else, or even the Heroes program by
7 happenstance because in Woods, the information that's displayed in
8 functions options region 1020 is always based on the selected program
9 listing from the prior display, which is the program guide of Figure 9. So
10 Woods is never going to meet the requirement that this alleged first content
11 panel is determined based on the currently displayed program content.

12 JUDGE FENICK: This is Judge Fenick.

13 MR. SCHREINER: Yes, Judge Fenick?

14 JUDGE FENICK: I think that Woods teaches that the media
15 region of 1030. This is paragraph 174 of Woods, and they've provided "a
16 display of an advertisement, a video, a clip, of currently tuned television
17 program icon," et cetera, et cetera. So I understand that you're saying that
18 Figure 10 does not display the currently tuned television program, but
19 Woods teaches that there are times -- or at some point, media region
20 provides the display of the currently tuned television program, and you're
21 saying that the functions -- sorry, regions 1010 -- and I guess 1020 -- relate
22 to that currently tuned program.

23 So I guess what I'm saying is if somebody selects a program listing
24 and is provided in 1030 a display of that program, and in 1020, the
25 information regarding that program, then don't we have Woods teaching

1 currently showing a program at the same time as the -- as Woods teaches
2 displaying content related to that in panel 1020?

3 MR. SCHREINER: We would respectfully submit that's not the
4 case, Your Honor. If Limitation 1.5.1, instead of saying providing content,
5 you know, based -- providing a first content panel based on the currently
6 displayed content. If it's -- instead of saying that, if it had said, providing a
7 first content panel that is related to some currently displayed program
8 content, you know -- some expansive language like that, the answer might
9 be different, but the claim limitation is tighter than that. It's saying that the
10 first content panel is provided based on the currently displayed program
11 content.

12 So even in the -- if I could actually ask Your Honors to turn to
13 Slide 26 of the Patent Owner's demonstratives where we address this
14 particular issue. Even in the case, you know -- the Corner (PHONETIC)
15 case, in paragraph 174 that Your Honor correctly pointed out, indicates that
16 the media region could display the currently tuned television program, the
17 fact remains that region -- options region 1020 in Woods, Figure 10, it is
18 determined based on the selected program listing. It is based on selecting
19 Heroes in Figure 9 or whatever the program listing might be.

20 It could be some other program, but it's always based on the
21 selected program listing from the program guide of Figure 9. It's never
22 based on the currently displayed program content on the right-hand side. So
23 even if you have a happenstance situation where there's content on the right-
24 hand side that corresponds to the selected program listing, that doesn't fall
25 within the ambit of the claim, which requires that the first content panel is

1 determined based on the selected -- determined based on the currently
2 displayed program content. Does that answer Your Honor's question?

3 JUDGE FENICK: Thank you. I understand your position.

4 MR. SCHREINER: Thank you.

5 JUDGE COURTENAY: Mr. Schreiner, I believe you're about 15
6 minutes into your time, approximately.

7 MR. SCHREINER: Okay, thank you. Thank you, Your Honor.

8 Let me -- let's go to Slide 14, if we can, of the Patent Owner's
9 demonstratives. Actually, I'm sorry. Let me go to Slide 15. I think this is
10 where we left off before. So Slide 15, the Patent Owner's demonstratives,
11 you know, we're citing the passage from Woods where Woods indicates that
12 the functions menu bar 1010, that the Petitioner alleges is the first content
13 panel, it's based on the program listing that was selected in -- from the
14 screen 900 in Figure 9 of Woods. That's out of Woods, paragraph 171. So
15 that's demonstrating that this program-specific display of Figure 10 is based
16 on the selected program listing. It's not based on currently displayed content
17 information.

18 And if we could go to Slide 18, we just have some specification
19 support here that gives some color to Limitation 1.5.1 where it's explaining
20 how the application panel is contextually dependent on the currently
21 displayed content. And if I could go to Slide 19, I can address some of the
22 Petitioner's arguments on this issue. So again, the plain language of
23 Limitation 1.5.1 is that the first content panel is determined based on the
24 currently displayed content. Currently displayed content corresponding to
25 limitations 1.3 and 1.4 that Your Honor referred to previously.

1 What the Petitioner tries to do in its reply -- this is in the reply at
2 pages 12 through 13 -- is rewrite "based on" -- in Limitation 1.5 to 1.5.1 -- to
3 "about." So the claim could be met by showing a first content panel that is
4 "about" or that is "related to" currently displayed content, but that's not what
5 the claim says. The claim is unambiguous that the first content panel is
6 based on the currently displayed content.

7 And again, you know, this new construction on reply that based on
8 actually means "about" or "related to," there's no expert testimony
9 supporting that new construction presented on reply, and Dr. Surati's
10 declaration testimony on this point is un rebutted, and that's in Exhibit 2011,
11 paragraphs 126 through 128 of Dr. Surati's deposition testimony.

12 And if I could refer to the Petitioner's Slide 16, the Petitioner and
13 Petitioner's Counsel refer to this that -- alleging that the Patent Owner is
14 reading in unrecited limitations to Limitation 1.5.1, but I respectfully submit
15 that's not the case at all. The language of 1.5.1 is pretty tight and it's pretty
16 clear. You know, again, it says that there is a first content panel that is
17 provided, but "based on" the currently displayed content, and that's pretty
18 clear and I don't believe that the Patent Owner is reading in any unrecited
19 limitations at all. Certainly, the Petitioner hasn't made it clear in its papers
20 what the alleged unrecited limitations are.

21 So if I could turn to Slide -- back to the Patent Owner's
22 demonstratives -- Slide 21. So we have the Petitioner's position, which is
23 that the first content panel is options region 1020 in Figure 10 of Woods.
24 And if we now turn to Slide 23 of the Patent Owner's demonstrative, the
25 problem is that Wood doesn't teach that the content in functions option

1 region 1020, this alleged first content panel, is determined based on the
2 currently displayed program, as Limitation 1.5.1 would require.

3 And instead, as I eluded to earlier, Woods teaches that the
4 functions options region 1020 in Figure 10 is based on the selected program
5 listing from the program guide of Figure 9. And again, I'll reiterate that the
6 Patent Owner's expert in paragraphs 148 through 149 of his declaration,
7 Exhibit 2011, has given un rebutted testimony that the functions options
8 region provides content that is independent of the -- any currently displayed
9 content in Woods. And on a contrary, it's determined based on the selected
10 program listing from the program guide.

11 And if we can look at Slide 24 of the Patent Owner's
12 demonstrative, if we could look at Slide -- I'm sorry -- paragraph 178 of
13 Woods, which is at the bottom of Slide 24, you can see it's talking about the
14 functions options for region 1020, and it describes it -- it provides the cast
15 information. It goes on to say, corresponding to the selected program listing.
16 So that, again, shows that that functions option region is not -- the
17 information is not determined based on currently displayed program content
18 as 1.5.1 would require. It's based on the currently selected program -- I'm
19 sorry -- the selected program listing from Figure 9 of Woods.

20 And if we would turn to Slide 27 of the Patent Owner's
21 demonstratives, here on -- here, we're highlighting the Patent Owner's
22 expert, Dr. Surati, his testimony, that the information displayed in options
23 region 1020 is determined independently of the currently viewed content in
24 the media region 1030 of Woods. And then he goes on to say -- and this is
25 in the excerpt that we've presented here on Slide 27 -- that the content

1 presented in that functions option region is based on the selected program
2 listing from Figure 9, not what is displayed in media region 1030. And
3 again, this is un rebutted testimony, and so I respectfully submit that if Your
4 Honors apply the proper understanding of Limitation 1.5.1, based on the
5 facts, it's really undisputed that Woods cannot meet that limitation. And if
6 I --

7 JUDGE KINDER: Mr. Schreiner, can I ask a hypothetical, which
8 I'm sure you all love, right?

9 MR. SCHREINER: Yes, Your Honor.

10 JUDGE KINDER: Not that this is necessarily Woods, but I'm
11 trying to envision in my mind how that would actually work if Woods would
12 fall under the claim limitation. Would the displayed content in region 1030
13 essentially have to be the driver for the content in region 1020, kind of drive
14 what is displayed in 1020 in order for it to be based on? I'm trying to
15 envision what based on encompasses and how I would reverse engineer that.

16 MR. SCHREINER: Yeah. I mean one to -- I think one way to put
17 it in context is to look at the specification disclosure, the '174 patent, Figure
18 16A and 16B, they disclose a user interface that has an application Panel
19 1412, and over and over in the specification -- this is in our papers -- it
20 recites that the content in the application panel of 1412 is based on the
21 currently displayed content of the view area 1408.

22 So there you have a pretty clear example in the specification. It's
23 kind of hard to modify or to reinterpret Woods to get there, because Woods
24 is just so fundamentally different. You know, Figure 10 is showing a
25 display of information about a selected program listing from a program

1 guide, and that's very different than what's being disclosed in connection
2 with Figure 16A and 16B of the '174 patent.

3 The alleged first content Panel 1020, it is displaying information
4 based on the selected program listing, you know, which in this particular
5 case is Heroes -- Heroes 912 from Figure 9 was selected in the program
6 guide, and that leads you to information, metadata if you want to call it --
7 about that selected program listing. And so trying to get from there to say,
8 well, the functions option region 1020 is determined based on the currently
9 displayed content in media region 1030. It just doesn't really work with the
10 operating principle of Woods. I hope that answers Your Honor's question.

11 JUDGE KINDER: Yeah, I do understand. I think, anyways.

12 MR. SCHREINER: Okay, thank you. If I could turn to Slide 29,
13 the Petitioner knows that there's a gap in Woods with respect to Limitation
14 1.5.1, so the Petitioner tries to rely on background knowledge. The
15 background knowledge is allegedly -- that is known in the art to display
16 information about the content currently being viewed by a user, but that
17 background knowledge, that's not tied to the claim language, and so that
18 doesn't get you there.

19 Now, the Petitioner -- this was raised in the Patent Owner response
20 that this background knowledge doesn't get you there. It doesn't close the
21 gap with respect to Limitation 1.5.1. And the Petitioner came back and said
22 in the reply that it wasn't proposing to modify Woods based on this
23 background knowledge. So it's not really clear what the Petitioner's
24 argument is.

25 What we can say is that the Petitioner did not make the required

1 showing that, you know, a POSITA would combine Woods with this alleged
2 background knowledge or that there would be a reasonable expectation of
3 success. So, you know, that argument, if it involves a combination of
4 background knowledge with Woods, is not sustainable. If I could turn to
5 Slide 31 -- if I could get from Your Honors a time check?

6 JUDGE COURTENAY: Yes. Mr. Schreiner, we're about at 26
7 minutes right now.

8 MR. SCHREINER: Great. Thank you very much, Your Honor.

9 JUDGE COURTENAY: Sure.

10 MR. SCHREINER: If we could look at Slide 21, we've got a
11 number of citations from the '174 patent specification, where the application
12 panel interface is consistently described as providing content that's
13 determined based on currently displayed program content. In the papers
14 submitted by the Petitioner, the Petitioner doesn't dispute any of these
15 passages from the specification supporting that understanding of the
16 application panel interface.

17 Now, if we turn now to Slide 32 of the Patent Owner's
18 demonstrative, the Petitioner argues that while there's not an explicit
19 definition in the specification of the term application panel interface, but we
20 know from the *Phillips* en banc decision and cases such as *GPNE v. Apple*
21 from the Federal Circuit 2019, that there doesn't need to be an explicit
22 definition, that the repeated consistent characterization of claim language in
23 the specification does inform the meaning of that claim language.

24 If I could turn now to Slide 33. So right now, we're talking about
25 Limitation 1.2, and I mentioned earlier, there is some overlap between this

1 and the argument on Limitation 1.5.1, but it is a separate limitation, so we
2 are pointing out the distinction. And so the Petitioner, as shown in Slide 33,
3 the Petitioner's argument is that the application panel interface is the
4 combination of function menu 1010 and options region 1020 in Figure 10 of
5 Woods. But of course, the problem is that the application panel interface, as
6 defined per the description in the specification, it is content that is based on
7 the currently displayed program content, and we can see we've already
8 talked about this.

9 In Figure 10, that alleged application panel interface, 1010 plus
10 1020, that's not based on the Mercedes program and/or any other currently
11 displayed content that may be presented there in media region 1030. We
12 know that that content in 1020 -- excuse me -- in 1010 and 1020 is
13 determined based on the selected program listing from Figure 9. Not based
14 on currently displayed program content, as required by Limitation 1.2.

15 And if you look at -- if we turn now to Slide 34, the Petitioner
16 actually admits multiple times in these papers that the function region 1010,
17 options region 1020, the alleged application function interphase are
18 determined based on the selected program listing. Not based on currently
19 displayed content. And so referring to Slide 34, the Petitioner states this is
20 page 23 of the petition and there's a verbatim statement in the Petitioner's
21 expert declaration of Dr. Lippman at paragraph 71. "In response to the user
22 selecting the program listing responding to Heroes", and he goes on to say,
23 the television displays screen 1000 with functions menu bar 1010 and
24 functions options region 1020.

25 So what does that tell us? That tell us that functions menu bar

1 1010 and options region 1020 are based on the users selecting the program
2 listing. They're not based on currently displayed program content. The
3 Petitioner states on page 24 of the petition -- and this is echoed in the
4 Lippman declaration of paragraph 74 on this Slide 34 that we're looking at.
5 "Woods discloses that in response to the user's input command to select a
6 program listing. Goes on to say, displaying a functions menu bar and
7 functions option region 1020. So here we have the Petitioner who
8 inadvertently repeated conceding that the functions menu 1010 and options
9 region 1020 of Figure 10 of Woods are determined based on the selected
10 program listing, not based on currently displayed program content, as they
11 otherwise maintain.

12 And if we can turn to Slide 35 now. We have the Patent Owner's
13 expert testimony, and this is analogous to what I talked about before with
14 respect to Limitation 1.5.1, but for Limitation 1.2, the application panel
15 interface, the Petitioner's expert testified -- the Patent Owner's expert, Dr.
16 Surati, testifies that the functions region 1010, options region 1020, are
17 determined independently of any currently displayed program content in
18 media region 1030. And that's undisputed testimony, and that shows that
19 Woods alone or as modified cannot meet Limitation 1.2.

20 Now, if we turn to Slide 36 of the Patent Owner's demonstratives,
21 the Petitioner has a couple -- you know, a couple additional arguments that it
22 makes on this issue about the application panel interface. One is that the
23 Petitioner compares the prior art of Woods to an embodiment in the
24 specification of the '174 patent. And we would just respectfully submit that
25 first, that's not the proper inquiry for obviousness.

1 The inquiry is not comparing the prior art to embodiments
2 disclosed in the challenged patent specification. The inquiry is based on
3 comparing the prior art to the claims of the challenged patent, but even on
4 the merits, this comparison doesn't hold up. If I could direct Your Honors to
5 Petitioner's Slide 9, and I'll just give it a moment so everybody can get there.

6 JUDGE COURTENAY: Thank you.

7 MR. SCHREINER: I was -- I think I was a little --

8 JUDGE COURTENAY: (CROSSTALK). I'm there.

9 MR. SCHREINER: Thank you. So if we look at -- so the
10 Petitioner posits that Figure 16A of the '174 patent is "analogous" to Figure
11 10 of Woods, and I respectfully submit that that couldn't be further from the
12 truth. Figure 16A of the '174 patent -- what the Petitioner has done here is
13 the Petitioner has excerpted these figures so that the reality of what's
14 disclosed is not as evident as it really is. If you look at Figure 16A of the
15 '174 patent, the application panel interface 1412, that is disclosed over and
16 over in that -- the '174 patent -- as being based on the currently displayed
17 program content in the content view area, 1408, which is not shown in this
18 excerpt figure, and that corresponds to the claim limitation that we're talking
19 about, right?

20 Now, you look at Woods, and Woods, you have the options region
21 1020. The options region 1020, as we've discussed over and over, is based
22 on the selected programming listing. It's not based on any currently
23 displayed program content in the media region 1030, which is not shown in
24 this excerpted figure of Figure 10 of Woods. So we'd respectfully submit
25 that this suggestion that these two figures are analogous or comparable just

1 doesn't hold up to scrutiny.

2 And if we could return to the Patent Owner's demonstratives, Slide
3 37, please. The Petitioners float a few new theories on reply that we'd
4 respectfully submit are, you know, new arguments that shouldn't be
5 considered, but we'll go ahead and address them. One argument is that
6 somewhere, Woods discloses that if you're watching a program and you
7 open the program guide of Figure 9, it might highlight that particular
8 program listing in the program guide shown in Figure 9. But that's really not
9 relevant because the Petitioner's theory is based on Figure 10. It's based on
10 the application panel interface, alleged being found in Woods Figure 10 in
11 the form of the functions menu 1010, combined with the options region
12 1020. So that new theory just doesn't hold up.

13 And I'd like to now, if Your Honors have no further questions
14 about limitations 1.5.1 and limitations 1.2, I'd like to turn to limitations 1.5.2
15 and 1.7.2, which related to the first content panel, there's a first type of
16 application panel and a second content panel that is a second type of
17 application panel.

18 JUDGE COURTENAY: Proceed, Mr. Schreiner, unless the
19 Judges have any further questions. Any further questions? Okay. Mr.
20 Schreiner, you're about 35 minutes.

21 MR. SCHREINER: Okay, Your Honor.

22 JUDGE COURTENAY: Okay.

23 MR. SCHREINER: Thank you very much. Let's go to Slide 40, if
24 we could, and I'm going to touch back on something that we previewed
25 earlier in our presentation here, and that's that the '174 patent discloses that a

1 content panel, such as a first content panel or a second content panel can be
2 presented using a type of application panel, such as disclosed in Figure 17A
3 here. And in the '174 patent, it discloses that, for example, if the info panel
4 is going to be displayed, then the type of panel info views 1704A, that's got
5 the box around it here and the red circle, that would be the type of panel that
6 is used for the information panel.

7 So the specification is specifically calling out types of panel as
8 being something different. And as I mentioned before, the Board recognized
9 this in its discussion about Figure 17 and the '174 patent and how that
10 applies to the application panel interface. As I mentioned before, the
11 Petitioner discusses the definition of panel, but the Petitioner completely
12 ignores the disclosure in the '174 patent about types of application panels.
13 You know, again, I don't believe the Petitioner cited Figure 17A through
14 17B of the '174 patent anywhere in their papers.

15 And if I could go now to Slide 41. So basically, the Petitioner's
16 argument is that the first content panel or the first type of application panel
17 is Woods options Panel 1020 when cast information is being displayed.
18 Then the Petitioner says the claimed second content panel of a second type
19 of application panel, that's the options region 1020 when detailed
20 information is being displayed.

21 So what we have is the same options panel, 1020, being displayed
22 with two different sets of data. That's not two different types of application
23 panels, as is required by limitations 1.5.2 and Limitation 1.7.2. You know,
24 we have -- at best, we've got a single type of content panel, which is the
25 options region 1020. Not multiple or two different types of application

1 panel.

2 JUDGE COURTENAY: Mr. Schreiner, when you say a single
3 type, you're referring to basically types of data that refer to the exemplary
4 Heroes television show in 1020?

5 MR. SCHREINER: That is the Petitioner's position. The
6 Petitioner's position is that if you display different data in the same panel,
7 options Panel 1020, then that makes it a different type of application panel,
8 but that is not consistent with the disclosure of the '174 patent, which is
9 disclosing types of panels as being something different than merely putting
10 different information in a given panel. Counsel said something -- and I'm
11 paraphrasing here -- but it's not clear why putting different information in
12 options region 1020 doesn't make it a different type of application panel.

13 But it doesn't, because you're using the same options region 1020
14 in both cases. You're just asserting different types of data, and that doesn't
15 transform into different types of panel, especially when you consider that the
16 '174 patent goes into great detail explaining how the types of panel is
17 something different and beyond just having different information in a panel,
18 if that makes sense, Your Honor.

19 JUDGE COURTENAY: Thank you.

20 MR. SCHREINER: Thank you.

21 JUDGE COURTENAY: You're about at 38 -- actually, 39 minutes
22 in just a few seconds.

23 MR. SCHREINER: Okay, I'll wrap it here with my opening
24 response. I'd also add that the Petitioner's theory for Limitation 1.7.2, which
25 provides the second panel -- the second content panel -- as a second type of

1 application panel, that their analysis conflates that with limitations 1.8 and
2 1.9. Limitations 1.8 and 1.9 recite that second content information is
3 retrieved from memory and displayed in the second content panel.

4 The Petitioner is pointing -- is arguing that the second content
5 panel, the Limitation 1.7.2, that that's the options region with detailed
6 description information in it. But then they point to the same thing to meet
7 limitations 1.8 through 1.9. They say the display of detailed information --
8 detailed description information -- in the options region 1020, that that also
9 satisfies 1.8 and 1.9. And you can see this -- I'll just give you the citations --
10 petition page 52, that addresses 1.7.2, and if you compare that to petition at
11 page 56, that addresses Limitation 1.8. And you'll see that the Petitioner
12 points to the same thing in Woods to satisfy those, which evidences the fact
13 that 1.7.2 is not satisfied. And if Your Honor --

14 JUDGE COURTENAY: Okay. To be clear, you're saying, Mr.
15 Schreiner, that Petitioner has mapped different claim limitations to the same
16 feature in Woods; is that --

17 MR. SCHREINER: Yes. That's correct, Your Honor, and the
18 claim limitations are clearly distinct. They can't be mapped to -- we don't
19 believe they can be mapped to by the same disclosure in Woods, as the
20 Petitioner has done here.

21 JUDGE COURTENAY: All right, thank you. You're about at 40
22 minutes, 45 seconds.

23 MR. SCHREINER: Thank you, Your Honor. I have nothing
24 further.

25 JUDGE COURTENAY: Okay. So you'll have about four or five

1 minutes left in your surrebuttal time. And we go back to Mr. Clements, and
2 I believe you spent 25 minutes on your original presentation. So you have
3 20 minutes in your rebuttal, and you can begin at any time.

4 MR. CLEMENTS: Thank you. So Patent Owner has argued that
5 their expert has provided unrebutted testimony that Woods has based on the
6 selected show. Well, we don't dispute or deny that in Woods, a user selects
7 the program, but whether or not the panel is also based on the selected
8 program is irrelevant because that's not recited in the claim. What the claim
9 does recite is that the first content panel is based on the content and the
10 content information, and we have shown that when the user selects the
11 currently tuned program, that that content panel is based on the currently
12 displayed content and content information. So it doesn't matter whether the
13 user selected it or not because that's not recited in the claim.

14 JUDGE FENICK: Mr. Clements, my understanding is that the
15 claim requires -- the claim describes content currently being shown on
16 television in limitation 1.3, and talks about the fact in 1.5.1 that based on the
17 content -- it's at least one of the content sources -- so that is the content
18 currently being shown on the television, or is your argument that the ad is
19 part of the content?

20 MR. CLEMENTS: So in 1.3, it describes determining the content
21 currently being shown on the television. And in 1.3, we refer to Figure 9
22 where Woods highlights what is currently being displayed, so that's how it
23 determines what content is currently being displayed on the television. And
24 then in 1.5, we're providing this content panel and trying to determine
25 whether this is based on that content that is currently being displayed. And

1 when the user selects the currently tuned program -- let's say they're
2 watching Heroes, and they select Heroes, then they will have a content panel
3 that is based on that currently tuned program that we identified earlier in
4 Figure 9.

5 Now, it could be the case that the user is watching something else.
6 The user -- let's say user is watching some other channel and there's a
7 Mercedes ad on, and they could go to that guide, and they could select
8 Heroes, even if it's not the currently tuned program, and they could get
9 something like what you see in Figure 10, where you've got the
10 advertisement there and the information about Heroes. But we didn't rely on
11 that situation in that teachings of Woods in our petition. Instead, what we
12 relied on is when user is watching Heroes and that's the currently displayed
13 content, when they select that program, as indicated or directed to through
14 the guide, they will be provided with content information about the currently
15 tuned program.

16 So in other words, simply because the prior art teaches other things
17 than was claimed does not nullify that it also teaches what is claimed. Does
18 that answer your question, Your Honor.

19 JUDGE FENICK: I mean, it does, but it's unclear -- I mean, it -- I
20 understand what you're saying, but Woods teaches that the content may not
21 be based on what's currently being shown. It may coincidentally be about
22 what's being shown, but my concern now is based on the content
23 means -based on the content currently being shown on the television, and
24 I'm not sure that Woods teaches that the application panel content is based
25 on the content currently being shown on the television.

1 MR. CLEMENTS: So the claim simply recites based on the
2 content -- and yes, it is true that earlier in 1.3, the content is associated -- or
3 the content is the content that's currently being displayed, but the claim
4 doesn't say or limit the claim to only being able to display information about
5 what's currently being displayed.

6 In other words, there's nothing in -- simply based on the content
7 that means that it excludes the situation in Woods, where we will have an
8 application panel and content panel that is providing information about
9 what's currently displayed. And it's not just me or happenstance or
10 coincidence. Woods is explicitly guiding a user to select the currently tuned
11 program. It's just very natural and kind of an obvious thing to be provided
12 with information about a show the user is watching. That's kind of been a
13 well-known feature of user interface and is in television, and is not
14 something worthy of patent protection, and Woods give us that explicit
15 example because it guides the user to select the highlighted program. I
16 know that Judge Kinder --

17 JUDGE FENICK: Thank you.

18 MR. CLEMENTS: Yeah. I know that Judge Kinder had a
19 question about whether that media region has to be the driver of what the
20 content panel is, but nothing in the claim recites any kind of code that
21 examines that, and then that's the driver in the direct cause of. All it says is
22 that this term 'based on' -- based on the content. And so we've shown in
23 Woods that when the user selects the currently tuned program, what they
24 will have is a content panel that is based on the currently displayed program
25 and the content information.

1 Now, as I stated earlier, you know, our position is that because
2 Woods' content panel displays information about the currently tuned
3 program, it is based on the content information as claimed. Now, Patent
4 Owner has stated that this is a new argument, so I want to point out in our
5 petition where we presented this information.

6 On page 43 of the petition, we referred back to 1.4.1 and 1.4.2 to
7 explain that Woods teaches source and content information about the
8 program currently displayed on the television. And if we look at Slide 14 of
9 our demonstratives in that bottom quote, that's where we explain that the
10 content information is associated with the currently displayed content
11 because it's information about the currently tuned or accessed program, and
12 we're citing to Woods, paragraph 155 there.

13 So our position is that the first content panel is based on the
14 content information because it displays the information about the currently
15 tuned program, and that's not a new argument. And it's based on the
16 argument because it's displaying this panel in response to the user selecting
17 the currently displayed program as directed to through highlighting.

18 Now, Patent Owner has also characterized our discussion of Figure
19 9 as a new theory, so I want to refer the panel back to our Slide 13. And our
20 quote from the petition here on Slide 13 says that consistent with the
21 analysis above at 1.3, the first list of options and items displayed within
22 options region 1020 is content information that is based on the currently
23 displayed program that the processing circuitry 306 highlighted or brought
24 into focus when the user first entered screen 900 of Figure 9.

25 Accordingly, the list of options and items within options region

1 1020 first content panel is based on the content. So here we did refer to
2 Figure 9. It's not a new theory. This was our position within the petition.
3 Patent Owner has also pointed to figure 17A and 17B of their specification
4 as examples of different types of panels, but it is unclear how these
5 examples are really different from what is in Woods.

6 They've got different examples of genre or info, things like that.
7 Those are similar to the examples in Woods where we're got different types
8 of panels that are displayed within that options region. In other words,
9 different types of options and items is what's causing -- but those are the
10 panels that we're referring to and they are different types because they
11 describe different types of information. And so we believe that what Woods
12 teaches is similar to what is described in the '174 patent, both in Figure 16
13 and Figure 17.

14 Now, Patent Owner has also argued that our interpretation of the
15 first and second content panels conflates with limitations 1.8 to 1.9, but page
16 50 of the petition explains how Woods determines the second content panel,
17 as recited in 1.7. So in other words, 1.7 is talking about how we determine
18 the content panel, and then in 1.8 is how we retrieve that information from
19 memory. And then in 1.9, it's how we display those, and so we're pointing
20 to different aspects of Woods of how we teach those three separate verbs
21 there of determining, retrieving, and displaying. We're not pointing to
22 different teachings for the -- or we're not pointing to the same teaching for
23 different claim limitations. We are describing how Woods teaches each of
24 those three verbs of 1.7, 1.8, and 1.9.

25 JUDGE COURTENAY: Mr. Clements, to be clear, is your

1 mapping from -- the first content panel, is it to 1012, the cast in this 1010?
2 And then your second -- the second content panel in the claim, you're
3 mapping that to the detailed information also in Column -- or 1010 -- in
4 Figure 10 of Woods --

5 MR. CLEMENTS: So in Figure 1010 of Woods, the second
6 content panel, an example would be the detailed information. What we said
7 in our petition on page 49 is that Woods teaches a second content panel by
8 disclosing that the list of options or items displayed in the functions options
9 region 1020 may change or be updated, so that it's changed to something
10 else that teaches the second type of content panel. And then in the next
11 sentence, we say that, for example, when the user navigates to the detailed
12 info tab, that is one example. Now --

13 JUDGE COURTENAY: So you get more detailed information
14 about that particular cast member, right? Like Milo, I think, is highlighted
15 here at 1022. Okay. Thank you very much. Go ahead and proceed. You're
16 at about nine minutes. I think you have 20 minutes in your rebuttal.

17 MR. CLEMENTS: Okay.

18 JUDGE COURTENAY: So --

19 MR. CLEMENTS: So --

20 JUDGE COURTENAY: -- about 11 minutes left.

21 MR. CLEMENTS: So yeah. There -- and remember, there's a
22 distinction between the -- we have an alternative ground where we rely on
23 the more detailed cast information, but that the -- in our primary position,
24 when we go to the detailed info tab, that's not more detailed info about the
25 cast member. That's more detailed information about the show. It's the

1 alternative ground that we point to Figure 11, or 1120. I just want to make
2 sure we -- we're distinguishing between those two positions there.

3 JUDGE COURTENAY: Okay.

4 MR. CLEMENTS: And if there are no further questions from
5 Your Honors, I will cede the remainder of my time, but I'm happy to answer
6 any other questions you have for me.

7 JUDGE COURTENAY: Any further questions for Petitioner from
8 the panel? Judge Fenick? Judge Kinder? Okay.

9 JUDGE KINDER: No.

10 JUDGE COURTENAY: Mr. Schreiner, are you back on? I think
11 you -- what did I say? You have about five minutes or so in surrebuttal.

12 MR. SCHREINER: Yes, Your Honor.

13 JUDGE COURTENAY: Okay. Begin any time.

14 MR. SCHREINER: Thank you. I'll start with, you know, what
15 seems to be the crux of the dispute as far as the main argument, which
16 relates to limitation 1.5.1. It's the claim construction. It's the meaning of
17 that language, and the language at 1.5.1 says providing -- providing -- a first
18 content panel based on the currently displayed program content, and the
19 currently displayed program content that I referred to here is set forth in
20 limitations 1.3 and 1.4.1. It's determined content being currently shown in
21 1.3, an identified content that's currently shown in Limitation 1.4. So in
22 limitation 1.5.1, providing a first content panel based on the currently
23 displayed program content, that doesn't encompass providing a first content
24 panel that is related to currently displayed program content, which is
25 essentially what the Petitioner is trying to rewrite Limitation 1.5.1 to

1 encompass.

2 As Judge Fenick observed accurately, the Petitioner is kind of
3 arguing a -- you know, a coincidence type of scenario with Woods. You
4 know, as the Petitioner's Counsel admitted, you know, the user could be
5 watching something else than the -- than the information that's -- than what
6 pertains to the information being displayed in options region 1020, the
7 alleged first content panel. It is a happenstance argument that's being made,
8 but even in the happenstance argument where the user is looking at the
9 Heroes program guide content in options region 1020 and Heroes is being
10 displayed in the media region 1030, the information -- the options region
11 1020 -- it's based on the user selecting the program listing for Heroes in the
12 program guide of Figure 9. It's not based or determined on the Heroes
13 being -- that happens to be currently displayed in media region 1030. And
14 again, we have unrebutted expert testimony by Dr. Surati on this point. It's
15 not rebutted. At best, you have in Petitioner's reply some attorney argument,
16 and I don't even believe that they addressed that issue head on. You know,
17 I'll go ahead and reiterate. Dr. Surati testified that the information in options
18 region 1020 is determined independently of any currently displayed program
19 content, and second, that what it is based on is the selected program listing,
20 and that does not meet Limitation 1.5.1 as correctly read.

21 The other point I'd like to make is Counsel said something to the
22 effect of it's not clear how Figure 17A through 17B of the '174 patent which
23 described different types of content panels, you know, how that's different
24 than Woods. Well, it is different from Woods. I mean, if you look at the
25 '174 patent itself, it discloses -- let's look at, for example, Figure 16A of the

1 '174 patent. It says that you've got a navigation bar, 1604, and you can
2 select different panel views. Info, new, recommended, genre, et cetera.
3 Okay.

4 In that case, each one of those panels is going to display different
5 information, right? I don't think that would be disputed, but the '174 patent
6 doesn't describe those as different types of application panels, just because
7 they're displaying different information. The '174 patent, as a separate
8 discussion in connection with Figure 17A and 17B, talking about how for a
9 given panel view, such as info view 1620, how there could be different types
10 of application panels used to implement that particular selected panel view.
11 So it is different than what's disclosed in Woods. And if -- that'll be -- let me
12 just check my notes here. I think that's everything I have, and I appreciate
13 Your Honors for the questions and the time today.

14 JUDGE COURTENAY: All right. Mr. Schreiner, so I mean, we
15 do have this disclosure that Judge Fenick pointed to in paragraph 174 of
16 Woods where the media region 130 may provide a display in the
17 advertisement of the video, a clip, of the currently tuned television program,
18 an icon, image, text, or any other suitable media. So that's in paragraph 174
19 of Woods, but what I hear you arguing is it doesn't meet the based on
20 limitation in Claim 1.5.1; is that correct?

21 MR. SCHREINER: That's the nut of it. That's exactly correct.
22 Right.

23 JUDGE COURTENAY: That's the crux of this case in essence?

24 MR. SCHREINER: For that limitation, yes, Your Honor.

25 JUDGE COURTENAY: Okay, all right. For that limitation.

1 Okay. You still have a little bit more time, maybe a few more minutes, but
2 are you done, Mr. Schreiner? Anything else?

3 MR. SCHREINER: I am. I am done, Your Honor.

4 JUDGE COURTENAY: Okay. All right. The case is submitted
5 and if the Petitioner and Patent Owner can stay online just for a few minutes
6 because the court reporter may have a few questions about references and
7 spellings and things like that. But we're off the record now.

8 (Whereupon, the above-entitled matter went off the record at 4:14
9 p.m.)

IPR2024-00352
Patent 9,247,174 B2

PETITIONER

David L. McCombs
Gregory P. Huh
Calmann Clements
HAYNES AND BOONE, LLP
david.mccombs.ipr@haynesboone.com
gregory.huh.ipr@haynesboone.com
calmann.clements.ipr@haynesboone.com

PATENT OWNER

James T. Carmichael
Stephen Schreiner
Minghui Yang
Stephen McBride
CARMICHAEL IP, PLLC
jim@carmichaelip.com
schreiner@carmichaelip.com
mitch@carmichaelip.com
stevenmcbride@carmichaelip.com