

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

MULTIMEDIA TECHNOLOGIES PTE. LTD.,
Patent Owner.

IPR2024-00353
Patent 9,055,254 B2

Record of Oral Hearing
Held: March 10, 2025

Before ST. JOHN COURTENAY III, MICHAEL R. ZECHER, and
SHARON FENICK, *Administrative Patent Judges*.

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P R O C E E D I N G S

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JUDGE ZECHER: Good afternoon. My name is Judge Zecher. I have with me two of my colleagues, Judge Courtenay and Judge Fenick. This is a hearing for IPR 2024-00353. The claims at issue are Claims 1 through 4, 6, 8 through 10, 12 through 17, and 19 of U.S. Patent No. 9,055,254 (“the ‘254 Patent”).

I want to go ahead and start this hearing by taking a roll call to see who’s online. Let’s start with the Petitioner, LG Electronics, Inc., and LG Electronics USA, Inc.

MR. MCCOMBS: Your Honors, this is David McCombs, Lead Counsel for LG Electronics; LG Electronics, USA. With me are my partners Andrew Ehmke and Gregory Huh. Mr. Ehmke will be providing the presentation for us today.

JUDGE ZECHER: All right. Thank you, Mr. McCombs. Can we get -- see who’s here for Patent Owner, Multimedia Technologies?

MR. SCHREINER: Yeah, good morning, or good afternoon, Your Honor, this is Steve Schreiner here on behalf of Patent Owner, Multimedia Technologies. I’ll be presenting, and I’m joined by my colleague, Jim Carmichael.

JUDGE ZECHER: And just to make sure I have your last name correct, you said Schreiner?

MR. SCHREINER: Yes, sir, Schreiner.

JUDGE ZECHER: Okay. Thank you, Mr. Schreiner. All right. Let me just cover a few housekeeping matters before we get started. I

1 believe you're both seasoned practitioners here at the PTAB so I'm going to
2 keep this brief. In our oral argument order, which is Paper 23, we outlined
3 how this oral hearing will proceed. Each party's going to get 60 minutes of
4 total argument per side. LG, as the Petitioner in this case, has the burden of
5 persuasion so they're going to start first by presenting their case-in-chief.
6 They can reserve some rebuttal time, after which Multimedia will present
7 their case. They can also reserve some sur-rebuttal time.

8 Just a reminder to the parties that when we get to the rebuttal and
9 sur-rebuttal, the arguments that are presented during those two phases of this
10 hearing must be responsive to the arguments the opposing party made in the
11 immediately preceding presentation. So, let's not introduce new arguments
12 at those phases.

13 For clarity of the transcript, we ask that the parties clearly identify
14 the demonstrative they're referring to in the oral argument so that it's clear
15 both to the panel and the court reporter.

16 The last thing I just wanted to note quickly is that, if at any time
17 during the hearing parties run into technical or other difficulties that
18 fundamentally undermine their ability to represent their client, just please let
19 us know immediately so we can make adjustments going forward.

20 With those kind of ground rules in place, I believe Mr. McCombs
21 said that Mr. Ehmke was going to be presenting today. Mr. Ehmke, how
22 much time would you like to reserve for rebuttal?

23 MR. EHMKE: Thank you, Your Honor, I'd like to reserve 15
24 minutes for rebuttal.

25 JUDGE ZECHER: Okay. Let me get my timer started. So, we'll

1 have you for 45 minutes for your case-in-chief, and you can begin when
2 you're ready.

3 MR. EHMKE: Great, thank you. And I will start by referring to
4 Petitioner's demonstratives. We'll move straight to Slide 2. On Slide 2, we
5 have a brief overview of the '254 Patent. I know Your Honors are familiar
6 with it. But real briefly, when we're thinking about the '254 Patent, the
7 claims are structured into two components. The first component is what we
8 see on the left-hand side there. It deals with an on-screen channel changer of
9 smart a television, where we're going to display this number bar with the
10 digits running 0 to 9, so the user can select individual digits in order to go to
11 a specific channel. So, if the user wanted to go to channel 232, the user
12 would select the 2, they would use the remote to then move over to the 3,
13 and then move back to the 2, and that would let them go directly to channel
14 232.

15 The second set of functionality recited in the claims deals with the
16 physical remote control. In the claims, we cite four specific buttons on the
17 remote control, and those buttons will take you to a specific screen on the
18 television to display specific information.

19 So, the first issue we want to address, then move to Slide 3, is
20 whether or not this WD-Manual, this Western Digital Manual, qualifies as
21 prior art. And when we're looking at prior art and whether or not it qualifies
22 as a printed publication, we're at looking whether it's been disseminated or
23 otherwise made available to a POSITA if they exercised reasonable
24 diligence to try the document.

25 So, let's look at the evidence in the record with respect to the

1 printed publication status of this manual. On Slide 4, we have a press
2 release that was issued by the manufacturer from their website, this is
3 Western Digital announcing the availability of this product called the WD
4 TV Live Hub. This was on their website, WDC.com, and they're
5 announcing the availability of this product, and that you could buy this
6 product online, or at over a thousand stores across the country, this
7 consumer electronics product, the WD TV Live Hub.

8 Now, on Slide 5, we see that this wasn't a paper release, this was
9 an actual product that was out in the market available for purchase. We have
10 an example here, shown on Slide 5, that a consumer could buy this product,
11 it was relatively inexpensive, it was \$179.00, and it was in stock. So, this
12 product was available for purchase, it was sold nationwide, it was sold
13 online, and it was available for consumers to buy. So, that's the product.
14 But if you bought this product, how would you know how to use it? How
15 would you know what functionality existed on this product? Well, you'd
16 look the user manual. It is a consumer electronics product, and the user
17 manual was available from Western Digital's website. Here we're back at
18 the manufacturer's website, we're at WDC.com, and we see this is where
19 you could get the user manual, it's listed there right in the center of the
20 screen, the user manual in PDF form. It was available in 22 different
21 languages.

22 As we look further on Slide 6, we see that this is a WD TV Live
23 Hub is the product. And as we move closer, as I move to Slide 7, we see
24 where this product documentation was found on WDC.com. We have the
25 breadcrumbs showing exactly where you would go to find this manual.

1 You'd go to the Western Digital home, and then you'd go to the library on
2 the Western Digital website, and then you'd go to the documentation section
3 of the library, and this is where you would find the product literature for this
4 consumer electronics product available in 22 different languages. And this
5 makes sense, it's a consumer electronics product. You'd want to have to
6 have the manual for this product available so that the consumers could set up
7 and could configure this device.

8 We provide additional evidence showing that you could, in fact,
9 obtain this manual from WDC.com. This is the affidavit from the Wayback
10 Machine, Archive.org, a search engine. This search engine went and
11 retrieved this manual. We see it's from WDC.com. We see that we're
12 looking at the English version, E-N-G. All of this is recaptured here on
13 Slide 8, the PDF. Again, what did we see on Slide 7? It's the user guide in
14 PDF form.

15 As we turn to Slide 9, we have additional evidence. Here there's a
16 reviewer reviewing the WD TV Live Hub product, and this reviewer laments
17 that there was no physical manual that came in the box. And so, this
18 reviewer went and got the PDF manual and talks about how he looked at the
19 PDF manual on his computer while he was configuring and setting up this
20 consumer electronics device with his TV. So, this reviewer went and
21 actually got the PDF manual for the WD TV Live Hub. This reviewer also,
22 as we move to Slide 10, included a direct link to the manual so that people
23 who were reviewing, or reading the review, would be able to go and retrieve
24 the manual as well.

25 So, the evidence in the record reflects that it was available for

1 purchase -- was easily purchased. There was not a significant purchase price
2 that was required, it was relatively inexpensive. The user manual for this
3 product was on the website. Where? In the library for documentation for
4 this product. It was available in 22 languages. A search engine copied it,
5 made an archive of it; a reviewer accessed and used it, and provided an
6 additional link so that interested parties could go and find the document.
7 This document was available to a POSITA. Again, a POSITA, in this case,
8 is a software engineer with a four-year degree and multiple years of
9 experience in the industry. A POSITA exercising diligence could go to the
10 manufacturer's website, could go to the library for documentation, and
11 obtain a copy of this manual. The WD-Manual qualifies as a printed
12 publication.

13 JUDGE ZECHER: Mr. Ehmke, this is Judge Zecher. Can I ask a
14 question? So, I know this will come up probably in Patent Owner's
15 presentation, and they seem to make somewhat of a deal in their briefs that
16 this manual is only technically accessible and not publicly accessible. Can
17 you maybe elaborate on your response to that argument and why you think --
18 what's the difference between the two? And in this case, I think you've
19 walked through your evidence as to why you believe it's publicly accessible,
20 but kind of may be expound on where the line is there.

21 MR. EHMKE: Sure. So, the technical issue of argument is really
22 stemming, I think, from this Samsung Electronics case where there's this
23 very complicated web structure, and there was limited accessibility, and it
24 was very difficult to actually try and find the document. The big difference
25 here, Your Honor, is we're talking about a consumer electronics product that

1 was being targeted to the masses in over a thousand stores nationwide, and
2 it's not technically accessible, it's publicly accessible. It's designed and
3 specifically targeted so that people with less skills than a POSITA could go
4 and retrieve the document. Moreover, it was specifically located in the
5 library section of the website, it wasn't buried.

6 Now, Patent Owner made an argument, as I turn back to Slide 8,
7 that there's this series of directories in folders of WDC.com/WD
8 Products/Library/UM, and somehow that makes it difficult to find. Well,
9 that's ignoring the realities of the ways the web works. It doesn't matter
10 where the directory is on the website, what matters is how a user would get
11 there via the website itself.

12 We have an example where you'd get there -- as I turn to Slide 7,
13 where you'd go to the library in the documentation section, and there's the
14 link, and it says, English. And that's what the user would click. The user
15 would click English, and that link would then take them to -- as I go to Slide
16 8, this directory where the PDF is. So, it's not that it's technically
17 accessible, while it is, but it's publicly accessible and easily available to
18 ordinary individuals and certainly accessible to a POSITA with a four-year
19 degree and two years of experience to click a link that says English in the
20 library section of the WD website.

21 Additionally, as we turn to Slide 10, here we have a product
22 reviewer, an interested party, who said that he was able to find it and then
23 provided a direct link to it. So, it's not that it's merely technically
24 accessible; that it's somehow buried in the website, but it was specifically
25 designed so that consumers could go find it. That's why they made it

1 available in 22 languages, Your Honor. Does that answer your question?

2 JUDGE ZECHER: That does. I'd like to ask a follow-up question
3 on this particular issue. I think Patent Owner took -- or Multimedia took
4 issue with the fact that in your Petition you only spent a paragraph
5 explaining to us why this is a -- I don't want to say, "a printed publication,"
6 because they take issue with the fact that you never called it a printed
7 publication, but why it's prior art. Can you maybe elaborate on why there
8 was no new evidence introduced on this issue in the reply, that it was simply
9 the evidence that you provided with the Petition and you further explained in
10 the reply, or why is there just a paragraph on this issue in your Petition, I
11 guess is -- at bottom, my question.

12 MR. EHMKE: Sure. Well, saying just a paragraph, Your Honor,
13 is ignoring the fact that everything that I just listed was included in that
14 paragraph. We included each of these, and that's -- if I refer back to the
15 slides, I'll go back to Slide 4. Slide 4 we say -- we talk about this press
16 release. That's what we cited and referenced in that paragraph in the
17 Petition on page 14. When I go to Slide 5, we talk about that paragraph on
18 page 14 of the Petition. We talk about that it was available for purchase.

19 On Slide 6, we refer to that paragraph again because we talked
20 about it was available for purchase in 22 languages. Again, referring to that
21 paragraph -- as we turn to Slide 7, again, we're referring to that paragraph.
22 As we turn to Slide 8, we're referring to that paragraph. Again, Archive.org
23 obtained a copy of it.

24 As I go to Slide 9, we're talking about that paragraph, again, where
25 the reviewer was able to find the document. And we did reference in our

1 reply, reciting to that same exact piece of evidence, that there was also the
2 link to it. So, yes, it was one paragraph, but that paragraph was loaded with
3 information, Your Honor, with citations to all of the exhibits and evidence
4 that were included with Petition. There was no new argument made in the
5 reply on this topic.

6 JUDGE ZECHER: Okay, thank you.

7 MR. EHMKE: Okay. We'll move on now. Moving to Slide 17,
8 the more substantive issues with Ground 1, and particular the combination of
9 Kim and the Bae reference, and whether or not they're properly combinable.

10 So, setting the stage for this, I turn to Slide 13. We're looking at
11 part 1 of the claim, this is the number input bar. Again, we're going to
12 display a number input bar that's got the digits 0 to 1 to 9. We're then going
13 to receive a selection of the user, where the user's going to select some
14 digits. They're going to use the non-numeric keys of the remote control, and
15 we're then going to go to the selected channel. So, what does the prior art
16 teach with respect to displaying the ability to change numbers or to change a
17 channel on your television?

18 Well, let's start with Kim on Slide 14. Kim starts off with
19 reference to this Figure 19, and it describes a card object area and that this
20 card object area can include a plurality of card objects. So, let's take a look
21 at that and see what that looks like. When we turn to Slide 15, here we have
22 that Figure 19 with its representation of a card object area and a plurality of
23 cards.

24 Now, the card object area is Element 1300. There's a lot of stuff
25 happening in the slide. Element 1300 is in the upper left. It's the second

1 limitation going left to right. There's your card object area. This is a canvas
2 in which Kim describes displaying all sorts of information. You can see
3 some examples in this screenshot already that might show a bit of a
4 television program, it might show the time, and you've got all these different
5 card objects being displayed, and the user can shift through the different card
6 objects, depending on the type of functionality that the user might want to
7 access.

8 Kim then describes, if we go to Slide 16, how you would render
9 this user interface. Kim describes using something called an on-screen
10 display generator. And again, Kim is describing the TV from soup to nuts.
11 It's describing the hardware, the application layer, their framework, the user
12 interface, and it starts with this controller, this piece of hardware, and this
13 on-screen display generator. And this on-screen display generator, this
14 OSD, it's job is to generate and display these card objects on this canvas of
15 the on-screen -- of this card object area.

16 If we go to Slide 17, we see examples of some of the information
17 that the on-screen display generator can display on the TV. Here, we have
18 an example of a channel browser and it displaying the images of the
19 different channels. We have a TV guide, and it's going to display time
20 entries and the shows that are coming up; titles of the television programs.
21 And we can see other card objects in this display as well.

22 As we turn to Slide 18, Kim provides additional details --

23 JUDGE ZECHER: Mr. Ehmke, this is Judge Zecher, when we're
24 looking at Slide 17 --

25 MR. EHMKE: Yep.

1 JUDGE ZECHER: -- and it's showing the electronic program
2 guide information there, and it's giving examples of the channel browser and
3 the TV guide --

4 MR. EHMKE: Yes.

5 JUDGE ZECHER: -- now, those are just examples of the card
6 object that can be displayed in that particular area; is that correct? Could we
7 have more than two? Could we have three, four, five different card objects?
8 So, in other words, can we have sizing and widths that would be different
9 than what we're looking at in this particular picture?

10 MR. EHMKE: Absolutely. And as we look at Slide 17, Your
11 Honor, there's actually a third card object that's on the screen as well. If we
12 look to the left of the channel browser, you have another card object
13 displaying the current channel along with other information there, so we
14 already have three card objects. And those little dots below the channel
15 browser and TV guide, that's part of Kim's user interface letting you know
16 that there's card objects to the left and to the right so that you can shift
17 through different card objects.

18 So, because you can have different size card objects -- and I'll
19 show you that in Kim in just a second, you could have a card object that
20 takes the entire screen, you could have two-card objects, you could have
21 three-card objects. It's really left to a POSITA in terms of your particular
22 implementation. Kim provides this foundational framework with this OSD
23 generator and all this type of information that's available to a POSITA, and
24 then provides many different examples of how a POSITA might implement
25 it given a card object. So, to answer your specific question, yes, you could

1 have a plurality of card objects displayed in card object area. As I turn back
2 to Slide 14, that's specifically what it teaches, on Slide 14, is that the card
3 object area can include a plurality of card objects. Does that answer your
4 question, Your Honor?

5 JUDGE ZECHER: Yes, thank you.

6 MR. EHMKE: Okay. So, referring back to 17 again, we have
7 these examples of the types of information that could be displayed in a card
8 object. And then, we go to Slide 18, and we see even more discussion of
9 what could be displayed in a card object. Again, we're talking about this on-
10 screen display generator, this OSD, and it talks about all the different things
11 that could be included in a card object. You can have images, you can have
12 texts, you can have a user interface, a UI. You could have menus and
13 screens, widgets, icons, and et cetera. You can have even more than what
14 they've listed here.

15 And to Your Honor's question about size, shape, and color, Kim
16 specifically says, that when you have these card objects, they can be
17 windows that have different size, shapes, colors, and styles, and more.

18 So, again, we have this foundational teaching from Kim, that when
19 we're thinking about these card objects, and we're thinking about this card
20 object area, you have all these different options and opportunities available
21 to you for displaying images, text, screens, widgets, icons, different sizes,
22 shapes, and colors.

23 So, what else could we display in Kim? Well, Bae comes along
24 and says, POSITAs already know that you could have a window displaying
25 on a television to select channels using a number input bar. Bae is

1 describing -- we see it here on Figure 19, a window with a number input bar
2 running from 0 to 9, where the user can mouse -- not mouse, excuse me, use
3 the remote control to go left and right to select individual digits.

4 In the example here on Slide 19, users entered the digits 2, and
5 then the digit 3, and then we see the listing of channels being modified to
6 reflect it to update that channel 232, which is the first channel that matches
7 those numbers of 2 and 3, is being shifted and shown to the user to correlate
8 to what the user is starting to input.

9 And so, the combination of the teachings are we have Kim with the
10 framework and the canvas of the card object area, an on-screen display
11 generator to display all sorts of information, including not one, but two
12 different ways of changing channels. It says it can do a plurality of these
13 card objects. They can be in different shapes and sizes, using widgets and
14 icons, and Bae teaches a known technique already for displaying a window
15 that lets you change channels using a number input bar.

16 So, we have a known system ready for improvement in Kim being
17 combined with a known technique of Bae for the predictable result of
18 precisely what each of these references is telling us to do. We are using
19 them in their specific intended manner. Kim wants to have a plurality of
20 channel-changing objects available to the user. Bae provides a specific way
21 to go to a specific desired channel using the number input bar.

22 We have additional evidence on this topic as well. As I turn to
23 Slide 20, Kim teaches a particular embodiment, where it uses a remote
24 control that doesn't have a number input on the remote control. You don't
25 have the specific numbers, and so you don't have the ability to type numbers

1 using that remote control.

2 Well, then how would a user in that environment go to a specific
3 channel? Because Kim's teaching displaying the list of programs, or the list
4 of channels and stuff. If you want to go to channel 232 with a remote
5 control that doesn't have a number input, you'd have to flick through all 200
6 channels. But Bae solves that problem. Bae provides this mechanism so
7 that you can use a remote control with just the left and right arrow keys, and
8 you could go to a specific channel using that feature of Bae. And that would
9 be this added feature that you could include on Kim. Again, Kim already
10 wants to have a plurality of methods to changing channels, Bae provides
11 another of those techniques.

12 We actually asked, as we turn to Slide 21, Patent Owner's expert,
13 about this combination. We asked, would it be helpful -- would it be useful
14 to add Bae's technique to Kim? And he says, it could be helpful. We have
15 Patent Owner's expert acknowledging the benefit of bringing Bae's
16 technique to Kim, it would be helpful. We also asked Patent Owner's
17 expert, since we're dealing with user interfaces on a television, would a
18 POSITA know how to implement a user interface on television? Would that
19 be within the scope of a POSITA skillset? They answered, yes, a POSITA
20 would be able to do this.

21 So, we have the basic teachings of Kim, giving us the OSD to
22 generate card objects of any size or shape, and the teaching of the desire to
23 have a plurality of card objects that let you change channels. We have the
24 known technique of Bae to use an input bar to go directly to a specific
25 channel, and that Bae's technique would be helpful, and a POSITA would

1 know how to implement it. We believe Bae and Kim would be probably
2 combinable and teach this limitation of using a number input bar to change
3 channels.

4 Patent Owner's made a couple of arguments with respect to this.
5 We'll address just a couple of them today. Turn to Slide 22. One of the first
6 arguments that Patent Owner made was that it would not integrate Bae's
7 window with the particular channel browser or particular card object of Kim,
8 that you'd somehow cram Bae into those card objects.

9 Firstly, we actually disagree with that conclusion. We think Kim
10 specifically says that you have different sizes and shapes of its channel
11 objects so that if a POSITA wanted to push the number input bar of Bae into
12 one of these card objects, a POSITA would be able to do that. But this
13 argument is missing the overall proposed combination. The combination is
14 looking at Kim's card object area, which contains all of these cards and all
15 of this functionality. And would you take the teachings of Kim that says,
16 here how's you generate card objects for displaying a card object, and would
17 you take those teachings and bring in the other teachings of Bae so that you
18 could have a number input bar? And Patent Owner's arguments don't
19 address that form of combination of looking at the card objects as a whole.
20 Instead, Patent Owner is pushing for a bodily incorporation where you're
21 supposed to take Bae and jam it into a particular card object of Kim.

22 Turn to Slide 23, in their Sur-reply, Patent Owner made an
23 argument that there was no proposal to take all of Bae's channel number
24 display window. We disagree with that characterization. When we look at
25 the Petition, when we're talking about the number input bar limitation of the

1 claim, we specifically said that, when we're looking at the number input bar,
2 we're looking at Bae's channel number selection window. We say it again
3 in the Petition, when we're talking about Bae's techniques, we're talking
4 about the channel number selection window, we're not limiting it solely to
5 just a series of numbers. When we're talking about the technique of Bae,
6 you need more than just a number input bar. You need the number input
7 bar, you need the current selections by the user to show that the user has
8 selected the numbers 2, number 3. You also want to be able to show the
9 user which channels might be available, so we're looking at the channel
10 number selection window.

11 And if there are no further questions on Kim plus Bae, we'll move
12 onto the next issue.

13 Okay. Moving on to Slide 24, we're talking about Element 1.5.2,
14 and we see that on Slide 25. Now we've moved away from user interface
15 and we're looking more at the remote control. And here we're looking at
16 you're pressing a button on the remote control to display information
17 regarding installed or downloaded software applications.

18 So, let's look at the prior art, and we're going to start with the WD-
19 Manual, where we're talking about the remote control and the button, so
20 we'll go to Slide 26.

21 So, when we're looking at the WD-Manual, the WD-Manual talks
22 about this technique that was known to POSITAs that you could have a
23 remote control with all sorts of button on it. And, in particular, you have
24 these buttons, and they're labeled on the remote control in the left. It's A, B,
25 C, D, and we've annotated and highlighted the application center button D.

1 And what's interesting about the WD-Manual's teaching is that these
2 buttons are configurable; that you could assign functionality of these buttons
3 to take you to a specific screen on your television to display specific
4 functionality available on your television.

5 One example that the WD-Manual gives is that you can press this
6 button and go directly to the services screen. And so, what would that do if
7 you pressed that button to go directly to that functionality on the services
8 screen? Well, we see that on Slide 27. This is the services screen, and what
9 WD-Manual says is, here's some functionality available on your television;
10 we're going to arrange it in the form of icons. That functionality can be all
11 sorts of things. It could be Flickr, it could be YouTube, it could be
12 Facebook, or it could be Netflix. So, there's arrangement of functionality
13 available on the device, and the WD-Manual calls these services. And when
14 it calls these services, it refers to them -- and we have it highlighted here on
15 the bottom of Slide 27, it says, "These services are fully integrated with their
16 web-based counterpart." And as a POSITA reads that, they're going to see
17 two things: they're going to see services, and those services are integrated
18 with web-based counterparts. So, there's something on the device. And
19 that's one of Patent Owner's arguments is that these services, as disclosed in
20 the WD-Manual; don't necessarily qualify as software applications, they're
21 just a web-based counterpart.

22 But we see there's two components here: services and web-based
23 counterparts. And so, we asked Patent Owner's expert to explain their
24 position a little bit more. When we're looking at these services and trying to
25 understand what's on the WD device when we go to this services page?

1 And we go to Slide 28, we have a couple excerpts from his
2 testimony where he talks about, well, there's going to be software that's
3 installed on the WD device, sure. And we asked, well, that's at least -- at
4 least going to be a web browser; would you agree? And he goes, well, sure,
5 but I don't know how it got there, maybe it was downloaded or maybe it was
6 installed. So, at the very least, from Patent Owner's perspective, when
7 we're talking about the services of the WD-Manual, it's at least a browser
8 that may have been downloaded or pre-installed.

9 But here's the thing with the entirety of his argument, Your Honor,
10 is that this is arguing the references individually. The services of the WD-
11 Manual were not referenced or included as supposedly teaching the installed
12 or downloaded applications we cited in the claim. This is being done in
13 combination. The combination is taking the teachings of the WD-Manual,
14 which says: have a remote control, press a button, get taken to a screen
15 showing icons representing functionality on the device, and that's being
16 combined with the teachings of Kim.

17 As we go to Slide 29, the teachings of Kim are, have a screen on
18 your device that displays your applications. That's the combination. You
19 use the remote control, the WD-Manual to go to desired screen, display
20 information about your television. Kim says, a grayed screen on your
21 television is a screen that displays all of your applications, and that's what
22 we see on Slide 29.

23 Kim then provides a couple example screenshots of how you can
24 display your applications on your television screen. We see Figure 16. It's
25 going to display all your applications in row and columns. We see a further

1 screenshot on 29, which is Figure 34, showing an arrangement of certain
2 applications in the top row and then a set of applications in the bottom
3 section there, all arranged left to right. So, Kim is displaying, let's display
4 your applications. We can do it in the form of icons so you can see
5 information about the name, the logos, about your applications. The claim
6 does require more though, it requires something about these applications.

7 And if we go to Slide 30, we see what the Patent -- what the '254
8 is talking about when it comes to these applications. It's talking about these
9 two buckets, and it does a compare and contrast of these two buckets of
10 applications, a pre-installed versus downloaded. But what the '254 Patent
11 says, "Unlike downloaded applications, pre-installed applications cannot be
12 removed by the user or manually updated." And so, that's why we have the
13 claim construction that we're using here today, which is pre-installed
14 software applications cannot be removed by the user or manually updated.

15 So, when Kim's talking about these applications that it's
16 displaying, what is Kim saying about his applications? Well, what's
17 interesting, Kim uses the exact same dichotomy and does the exact same
18 form of compare and contrast.

19 As we go to Slide 31, Kim talks about his applications. Now, Kim
20 stores these applications in what it calls an application layer, and it
21 categorizes them into two categories: user-undeletable applications and
22 user-installable applications. So, let's go a little further into those teachings
23 as I turn to Slide 32.

24 JUDGE ZECHER: Mr. Ehmke, just before you go onto the next
25 slide --

1 MR. EHMKE: Yes, Your Honor

2 JUDGE ZECHER: -- I just want to just clarify, and I believe I
3 know the answer to this. But when we refer back to Slide 30 and we're
4 talking about the construction of pre-installed applications, you do not
5 dispute the construction the Patent Owner put forth in the Patent Owner
6 response, correct? My understanding is, your argument is that, even
7 applying that construction, your proposed combination still teaches it; is that
8 correct?

9 MR. EHMKE: That is correct, Your Honor. And I'll walk
10 through that momentarily, that Kim specifically teaches this construction
11 with pre-installed software application that cannot be removed or manually
12 updated.

13 JUDGE ZECHER: Okay.

14 MR. EHMKE: Correct.

15 JUDGE ZECHER: I just wanted that clear on the record, thank
16 you.

17 MR. EHMKE: Yes.

18 JUDGE FENICK: This is Judge Fenick. As you go through, can
19 you also tell us how this excerpt from Kim that you have on Slide 32,
20 paragraph 158 of Kim, relates to the prior -- the prior disclosures of Kim that
21 you've talked about?

22 MR. EHMKE: Absolutely. Absolutely. So, starting with that, as
23 we start on 32, we have highlighted, in green, the text from Kim about the
24 user-undeletable applications and highlighted in yellow the text about the
25 user-installable applications. And so, what can a POSITA glean from Kim's

1 teachings?

2 Well, let's start with the user-undeletable. What does it say about
3 that category of applications? Well, the first thing it teaches is that they're
4 stored in the image display. So, we know that the user-undeletable
5 applications are stored in the TV. Well, where they'd come from? Well, we
6 see that from the compare and contrast, just like the '254 did a compare and
7 contrast, we have the category of user-undeletable versus the category of
8 user-installable. And so, logic says that the user-undeletable applications are
9 not the user-installable applications, that's the other category. So, we know
10 the second thing about user-undeletable is that they're not installed by the
11 user. Now, the third thing that we know is from the name of this category
12 itself, there are user-undeletable applications, so we know that they're not
13 deletable. And then, the last thing we know, Kim says that they cannot be
14 modified. So, we know that user-undeletable apps cannot be modified. So,
15 these apps are stored in the TV, not by the user, they're not deletable, and
16 they cannot be modified.

17 Conversely, with respect to the user-installable/user-deletable
18 applications, what do we know about these applications, well, they're stored
19 in the TV, they're installed by the user, it's in the name, and where are they
20 from? Well, they're downloaded from a network.

21 So, how do these two categories line up with the proposed claim
22 construction? As we go to Slide 33, we see that Kim's user-undeletable
23 applications are the same as the pre-installed applications. These are
24 applications that were not installed by the user, that they cannot be removed,
25 and they cannot be updated. Kim's teaching of the user-undeletable

1 category teaches the pre-installed applications.

2 Secondly, Kim's user installed applications that are downloaded
3 from a network is teaching about applications that are downloaded from the
4 network.

5 And so, now to Your Honor's question of tying this language to
6 the display of the applications. It's almost like you've looked at our slides,
7 Your Honor. As we turn to Slide 34, Patent Owner made this argument of
8 that there's no linking during the application layer and displaying the
9 applications. Well, that's not what Kim teaches at all.

10 Again, remember, Kim is teaching the entirety of the smart TV,
11 soup to nuts; the hardware, the application, the software, and the user
12 interface. Kim's not required at every step of the way to refer back and say,
13 well, every time I say applications, I mean the applications that are in my
14 application layer, and I mean that the applications are user-downloaded and
15 user-undeletable.

16 What Kim says is, I'm gonna talk about my application layer, and
17 the roll of my application layer, and we have the quote here on Slide 34 is,
18 "To include the programs that are going to be executed and displayed on the
19 TV." So, Kim is teaching a POSITA, these are the applications that are
20 going to be displayed on the TV. And then, Kim provides, elsewhere in his
21 disclosure, examples of how to display applications on the TV. A POSITA,
22 when it reviews Kim as a whole, which a POSITA is required to do, sees
23 that Kim is teaching of applications, those applications fall into two
24 categories: those applications are stored in the application layer, those
25 applications in the application layer are then displayed. And then, here's

1 some examples of how those applications are displayed. Kim is tying it
2 altogether by referring these applications in the application layer when it
3 talks about the applications that it's going to display.

4 JUDGE FENICK: I understand – I mean – Kim doesn't need to
5 show that these are linked, but you do if you want to use it. The application
6 layer shows the variety of programs that are executed and displayed in the
7 image display apparatus. Does that link to the display of icons of different
8 applications?

9 MR. EHMKE: Yes, Your Honor, because how else are we going
10 to display, for example, on Slide 29, whether it's Figure 16 or 34, what are
11 we supposed to display? Figure 16 and 34 says, "We are displaying
12 applications." Well, what are those applications? Those are the applications
13 that are found in the application layer. If we weren't displaying the
14 applications in the application layer then Kim doesn't have disclosure of
15 displaying application at all. But Kim says, I have applications in the
16 application layer, they're designed to be displayed. Then Kim says, I have
17 displays that are going to display applications. There's the linkage, it's
18 displaying the applications. What applications can it display? Kim says,
19 those applications are from the application layer.

20 JUDGE FENICK: On Slide 29, the two figures that you show, is
21 that a display of applications or a display of a list of applications?

22 MR. EHMKE: It can be both, Your Honor. As we look at the top,
23 with respect to paragraph 99, it says, "You can display the applications or a
24 list of the applications." So, it can be the applications or the list of
25 applications. You will want a representation of those applications, whether

1 it be the application name or an icon application, but it's displaying the
2 applications.

3 JUDGE FENICK: Okay, thank you.

4 MR. EHMKE: Okay.

5 JUDGE COURTENAY: Mr. Ehmke, this is Judge Courtenay,
6 you're at about 37 minutes into your principal argument (CROSSTALK) --

7 MR. EHMKE: Thank you, Your Honor. Turning to Slide 35, just
8 very briefly, in terms of the applications that we have to have in the
9 application layer, we need to have a web browser setting control or contents
10 search algorithm. That language is one or more. We just need to show one
11 of those. That's the claim construction set forth in the Patent itself.

12 Slide 35, I'm going to skip that and go to Slide 37. It's
13 specifically showing that Kim teaches those different types of applications,
14 including having a web browser that unto itself teaches that limitation, it also
15 teaches the contents search algorithms.

16 I want to then move to Slide 38 and address element 153 real
17 briefly with my remaining time. Going to Slide 39, 153 is a different button
18 on the remote control that when you press it, we're going to get an
19 information panel about an application.

20 Kim teaches this precisely. As we go to Slide 40, Kim says if the
21 user selects an icon, we're going to display information about that
22 application that corresponds to the selected application, and we see the
23 corresponding figure there. We see an arrangement of icons on the screen.
24 The user can select one of those icons, and if you do, then that image in the
25 bottom left with the screen and the butterflies gets replaced with information

1 about the application.

2 Again, the dispute here is not really about this functionality, but
3 it's about what type of applications are displayed on the screen. Patent
4 Owner has made an argument that this is only App Store applications, which
5 means it's not downloaded applications. That it's not an accurate reflection
6 of the record of the teachings of the prior art.

7 When we look at Slide 41, we actually asked Patent Owner's
8 expert, in deposition, to look at the full teachings of Kim. He acknowledged
9 that, as we look at one figure of Kim, in terms of the teaching, that you have
10 these downloaded applications: a world map, Angry Birds, and Fun Cal.
11 Are those downloaded applications? He said, yes -- yes in the bottom left
12 there, so we have these installed applications.

13 And when we then look at Figure 25, we see those same exact
14 applications. We see the applications that he acknowledged were
15 downloaded applications. We see those applications also being displayed in
16 the App Store, and that makes sense. The App Store will tell you
17 information about apps that you've downloaded, right? And he
18 acknowledged, you know, where do those apps come from? Well, they
19 could have been downloaded or they could have been pre-installed. His
20 testimony matches the language of the claim. That's what the claim says,
21 they need to be installed or previously downloaded.

22 So, even though this is an App Store, it is showing icons
23 representing applications that were also previously downloaded. Kim
24 teaches this limitation.

25 One brief errata note on this as I go to Slide 42. On this particular

1 limitation, where Patent Owners argued about pre-installed or previously
2 downloaded, that does apply, that limitation exists in Claim 1, but it does not
3 exist in Claim 8. So, to the extent that this argument has any merit, it
4 wouldn't even apply to Claim 8.

5 Moving real quickly then to Slide 43, we'll just briefly talk about
6 some of the dependent Claims, 6, 12, and 19. These claims have -- we have
7 it in yellow on Slide 44, we're going to update the listing of channels based
8 off of the user selection, so we're only going to show channels that match
9 the numbers input by the user.

10 Kim teaches -- on Slide 45, we have our on-screen display
11 generator, that's going to degenerate the EPG based on user input.

12 Slide 46, Bae is teaching three different ways how you would
13 dynamically update your channel, or your screen display based off of users
14 that were input. You've got the figure on Slide -- Figure 3, excuse me, on
15 Slide 46. We've talked about this already, the user would type 2 and 3, then
16 it would shift to channel 232. Paragraph 7 in 23 referenced this.

17 Bae Claim 3, also provides support for this. We attempted to cite
18 that in our Petition on page 124, but we did not get the quoted citation quite
19 right, which is why we are focusing on these teachings of Bae, and we're
20 combining them with Coburn on Slide 47. Coburn provides an algorithm for
21 exactly how you would do this. It walks to the iterative steps that the user
22 would enter information, you'd update the display, and then Coburn
23 provides the precise teaching of, if you enter digit 1, we're going to show
24 you channels 1, 10, and 100 as that correlates to channel 1. If the user enters
25 channel 1 or 9, we'll show channels 194 to 127 because those are the only

1 channels that match it.

2 So, Kim teaches updating the EPG based off of user information.
3 Bae teaches sequentially inputting numbers into a number bar and changing
4 what channel information we display, and Coburn, who provides precise
5 algorithm for changing the information such to show only those channels
6 that match the numbers that you've input sequentially.

7 And then lastly, on Slide 48, with respect to the limitation
8 requiring there being a joystick, Coburn doubles double-duty here and shows
9 that a remote control could have a joystick to control the cursor on the
10 screen.

11 And I know I rushed the end there, Your Honors, but if there are
12 any questions, I'll reserve the remainder of my time.

13 JUDGE COURTENAY: Thank you, Mr. Ehmke. We're about 43
14 minutes. So, you requested 15 minutes to reserve for rebuttal, so you'll have
15 about 17 minutes for you rebuttal.

16 MR. EHMKE: Thank you, Your Honor.

17 JUDGE COURTENAY: Thank you.

18 JUDGE ZECHER: All right. Mr. Schreiner, the floor is yours.

19 Before you begin your presentation, would you let us know how
20 much time you would like to reserve for sur-rebuttal?

21 MR SCHREINER: Yes, Your Honor, I'd like to reserve 15
22 minutes for sur-rebuttal.

23 JUDGE ZECHER: Okay. Let me get my timer ready, hold on a
24 second. All right. Begin when you're ready.

25 MR. SCHREINER: Yeah, certainly. First, I'd like to apologize in

1 advance for my scratchy voice. I'm vaccinated, but I am recovering from
2 COVID. I suppose, because I'm vaccinated, I'm here to give this
3 presentation today.

4 Turning from that, I'd like to discuss, at a relatively high level, the
5 issue of the public accessibility of the WD-Manual, that's Exhibit 1006.
6 That issue is case dispositive. That reference is referenced in both Grounds
7 1 and 2.

8 Now, we know from the *Infobridge* case, the *Samsung vs.*
9 *Infobridge* case from 2019, that to demonstrate that a URL is publicly
10 accessible, or that a document at a URL is publicly accessible, we have to be
11 able to show that, number one, that an interested artisan would have known
12 of that website or had -- could reasonably located it. And number two, that
13 once at the website, an interested artisan would be able to search it somehow
14 with reasonable diligence to obtain the reference at issue

15 Now, in this case, there is no evidence at all that a skilled artisan
16 would know of the www.WDC.com website or that a skilled artisan would
17 be able to reasonably locate it. There's no evidence at all. And number two,
18 even if a skilled artisan arrived at that website, there's no evidence that that
19 website was meaningful indexed, searchable, or otherwise organized such
20 that the skilled artisan could locate the WD-Manual at that website. There's
21 no evidence at all.

22 We have the Internet Archives Declaration that my friend referred
23 to.

24 That's Exhibit 1012. The Internet Archives Declaration
25 establishes, at most, technical accessibility. It does not establish public

1 accessibility within the meaning of the definition of printed publications
2 under Section 102.

3 This is virtually black letter law now after *Infobridge* in 2019 and
4 *Acceleration Bay* in 2018, both of which stated that, "Mere technical
5 accessibility is insufficient. There has to be showing that an interested
6 artisan, in the art," which in this case is user interfaces with EPGs, "would
7 be able to reasonably locate the reference. And here, we have no evidence
8 from any technical expert, we merely have the Internet Archives
9 Declaration. And as I said, that only establishes technical accessibility,
10 which is not sufficient under the case law.

11 And, in fact, the evidence actually favors non-public accessibility
12 of this reference. And why do I say that? I say that, because the Petitioner's
13 expert, Dr. Lippman, testified in deposition that he had never heard of the
14 WD Live Hub product, he had never heard of the WD website, he had never
15 located the WD-Manual on the website. And he was -- as he characterized
16 it, more than the POSITA at the time of the invention in 2012. So,
17 essentially, we have a super POSITA that, at the time of the invention in
18 2012, admittedly it would not have been able to locate the WD-Manual.

19 Now, the Petitioner, LG -- this was all raised in the Patent Owner
20 response. The Petitioner, LG, could have submitted a supplemental
21 declaration with its reply, a declaration from Dr. Lippman, or it could have
22 been a declaration from another technical expert, but the Petitioner opted not
23 to do that. And we respectfully submit that the Petitioner didn't do that,
24 because Dr. Lippman already admitted that he had never heard of and had no
25 idea about the WD-Manual or this WDC website, and by implication, it's

1 apparent that the Petitioner couldn't find another expert to testify that an
2 interested artisan in this phase of user interfaces with EPGs would have
3 known of this website and would have been able to navigate this website, to
4 search it to locate the WD-Manual.

5 JUDGE ZECHER: Mr. Schreiner, this is Judge Zecher. When you
6 say, there's no evidence of public accessibility, what about Exhibit 1023, the
7 WD TV Live Hub product review, which specifically talks about a person
8 who purchased this product, they said no manual was in the box, but then
9 they were able to locate it online and they provided a link to the reviewers --
10 or to people reading this article. What about that piece of evidence?

11 MR. SCHREINER: Certainly, Your Honor. If I could direct Your
12 Honor to -- if I could direct Your Honor to Slide 31 of the Patent Owner's
13 demonstratives. A few points about Exhibit 1023. Okay, first, this is the
14 Photography Bay webpage, and it's a webpage that is really directed to
15 photography enthusiasts. Essentially, it's a hobbyist's webpage. So, this is
16 not the type of webpage that would attract the attention of an interested
17 artisan who is seeking a subject matter having to do with user interfaces with
18 EPGs.

19 Secondly, there is a reference on that webpage, Exhibit 1023, at the
20 very end, where it states, "The manual was not in the box, here's a link to
21 it." However, the Petitioner provided no record that that purported link,
22 "here's a link to it," actually links to the WD-Manual at its URL on the
23 WDC website. There's no evidence provided. And, in fact, furthermore, if
24 we look at the Internet Archives Declaration paragraph 5, paragraph 5
25 states -- this is Exhibit 1012, page 1, paragraph 5, "The date indicated by an

1 extended URL applies to a preserved incidence of a file for a given URL, but
2 not necessarily to any other files linked therein."

3 So, what that is telling us is, that the Internet Archives, as it relates
4 to Exhibit 1023, the Photo Bay product review, that may validate, or verify,
5 that that webpage was available on the purported date, but it's not stating --
6 it's not verifying that this link in the webpage was available on that date.
7 And that's right there in paragraph 5 of the Internet Archives webpage.

8 So, we have multiple reasons why Exhibit 1023 would not lead an
9 interested artisan to the WD-Manual. So, first we know there's the Blue
10 Calypso test that has to do with the research aid doctrine, the notion of one
11 reference being a segue or roadmap to the reference of interest. The first
12 part of that test is, you have to establish that the first reference, or the
13 intermediary reference, was publicly accessible to an interested artisan. The
14 Photo Bay webpage doesn't pass that first prong because, again, it's directed
15 to photography enthusiasts. It's not directed to persons interested in user
16 interfaces with EPGs.

17 And, in fact, if you look at the Photo Bay webpage, the product
18 review, it's talking all about how photographs can be displayed on big
19 television displays and how nice that is. There's no discussion in there
20 about EPGs. An interested artisan searching for the relevant field here
21 would not have come about the Photo Bay webpage in the first instance. So,
22 the Photo Bay webpage doesn't pass prong 1 of the Blue Calypso test.

23 And then, the second part of the Blue Calypso, of course, is that
24 there has to be a roadmap to the reference at issue. And I just explained that
25 there's no evidence of record that that purported link in the Photo Bay

1 webpage actually links -- actually links to the URL that the Petitioner
2 identifies in the Internet Archives Declaration on page 2. That's the one
3 ending in 4779-705046.PDF. There's no evidence of that. And then, like I
4 said, on top of that, we already know from the Internet Archives Declaration
5 that it disclaims that it's validating any linked page like that. So, for all
6 those reasons, that shows that the Photo Bay webpage would not lead an
7 interested artisan to the WD-Manual.

8 JUDGE FENICK: Mr. Schreiner, this is Judge Fenick. My
9 question is, whether that Photo Bay page, instead of serving as a way -- in
10 other words, as proof of indexing, doesn't it show proof of actual
11 dissemination? So, when you say it should have been a document -- whether
12 a document is indexed, or can be found by one of ordinary skill, isn't that a
13 second test and the first test of actual dissemination would be enough?

14 MR. SCHREINER: First, the Petitioner, LG, never argued actual
15 dissemination, right? We know from *In re Wire* and *Acceleration Bay*, that
16 there's two ways that public accessibility can be established. One is by
17 actual dissemination to a sufficient number of interested artisans, and the
18 other is that it was reasonably accessible through searching, indexing, et
19 cetera, so that such a person could locate the reference.

20 In the Petition, and you can see this is in Petition pages 13 through
21 14, the Petitioner never argued that there was public accessibility by virtue
22 of actual dissemination, that's the first point. The second is, even if you
23 accept the hearsay statements in this Exhibit 23, the Photo Bay product
24 review, it most indicates that one person had a copy of the WD-Manual.
25 And we know from the case law *In re Bayer* and, I think it's *In re Wire*, that

1 just the receipt of three or four copies of a document is not sufficient to
2 establish public accessibility by virtue of actual dissemination.

3 And I would also add that my friend said -- he said something to
4 the effect that the reviewer for the Photo Bay website review, "went and got
5 the WD-Manual." Well, that's not quite what the reference says, Exhibit
6 1023. It just says that there was no manual in the box, and he purportedly
7 had a copy. He doesn't say how he got a copy. It looks significantly -- and
8 this goes back to the premise of the Petitioner's argument on public
9 accessibility, which is, there's this WD-Manual document, and it's located at
10 this lengthy, you know, five level URL on the WDC website. That's their
11 basic argument. Okay, the reviewer in the Photo Bay website document, he
12 doesn't state that he went to the WDC website to get the document. He
13 doesn't say that he conducted a search on the WDC website to get the
14 document. He doesn't say anything about how he obtained the document.
15 It's possible he obtained the document by contacting the manufacturer and it
16 was emailed to him, you know? We don't know, but certainly there's
17 nothing in the Photo Bay document that establishes that the reviewer was
18 able to go to the root WDC website and located the document, including by
19 conducting any kind of search.

20 JUDGE COURTENAY: Mr. Schreiner, this is Judge Courtenay
21 here. So, I'm looking at the Photography Bay reference, and it's by Eric
22 Reagan on May 24th, 2011. So, you seem to be arguing that there's no
23 objective evidence that Mr. Reagan actually accessed this manual, this PDF
24 manual, and the reader has to make an inference about whether he did or not,
25 and we sort of have to -- as a panel, we sort of have to engage in some

1 speculation. Is that correct? Do I understand your argument correctly?

2 MR. SCHREINER: I think it certainly requires speculation,
3 speculation not supported by the document. The document says -- the
4 Petitioner's argument is that, where it says, "Here's a link to it on page 3,"
5 that that is a link to the URL that -- you know, that five level URL --

6 JUDGE COURTENAY: But it doesn't say -- Mr. Reagan doesn't
7 actually disclose, in this reference, that he actually went to the link and
8 obtained the document. That's what you're arguing?

9 MR. SCHREINER: That's exactly right. And also --

10 JUDGE COURTENAY: And even if he did, it's just one person
11 that accessed it, not six or seven?

12 MR. SCHREINER: That's exactly right. And on top of that, he's
13 not established to be an interested artisan in the field of user interfaces with
14 EGPs. And then on top of that, again, we have no actual evidence of record
15 that if you click on that -- if you clicked on that URL in that Photo Bay
16 website, where he says, "here's the URL," that it goes to the WD-Manual.
17 The Petitioner could have put on that evidence through (CROSSTALK) --

18 JUDGE COURTENAY: Well, Mr. Schreiner, I think we've all
19 clicked on a website and sometimes we get an error message that the website
20 no longer exists. So, that could have been the case, but it might have been
21 available actually, I believe, on May 24th, 2011. But you're arguing there's
22 no objective evidence of record, no exhibit that tells us that Mr. Reagan
23 actually accessed it on May 24th, 2011, and the link actually worked. And
24 even if he did, it was just one person that accessed it. So, it's publicly -- we
25 have evidence that it was publicly accessible, if did access it, by just one

1 person.

2 MR. SCHREINER: If he did access it, it was by just one person,
3 but there's no evidence that he did actually access that URL -- that WD-
4 Manual at the stated URL. And again, that link could have been to a
5 different URL. There's no evidence of record -- the Petitioner's Counsel
6 said something about breadcrumbs and so forth -- there's no evidence of
7 record showing that that link, where he says, "here it is," that that
8 corresponds to the URL that the Petitioner -- that lengthy URL that the
9 Petitioner is relying on that's on the WDC website, there's no evidence of
10 that. And again, I just want to -- I hope I'm not pounding it home too much,
11 but the IA Declaration disclaims that it's validating any links to other files.
12 It's only validating the webpage that's identified. So, at best, the IA
13 Declaration validates that that Photo Bay review was available on that date,
14 but it's not validating that a document contained in a link, as we're talking
15 about here, was available on that date.

16 JUDGE COURTENAY: Okay. I think I understand your
17 argument now. So, we don't know if the link actually existed, if it was a
18 valid link and we really, on this record, we perhaps have to just engage in
19 speculation, that's what you're saying?

20 MR. SCHREINER: That's exactly what I'm saying. And the
21 inquiry is not, can you go onto the Wayback Machine in 2024 and find a link
22 that goes to the documents. The inquiry is, would an interested artisan be
23 able to reasonably locate the document on the internet, or on the WDC.com
24 website in 2012? And so, this showing, any showing regarding what's on
25 the internet archives doesn't get you there. And I would add that, we have

1 total complete absence of any expert evidence on the accessibility of this
2 document. This was raised in the Patent Owner response.

3 The Patent Owner response said over, and over, and over there's
4 no expert evidence that an artisan interested in user interfaces with EPGs
5 would know of the WDC website or would be able to locate the WD-Manual
6 on its lengthy URL. Petitioner didn't come back with any evidence. I've
7 already mentioned that the Petitioner's expert himself, Dr. Lippman, said he
8 knew nothing about this URL, knew nothing about this product, had never
9 heard of it, never located it on any URL.

10 On top of that, the Petitioner hasn't even shown that you could
11 conduct a single search, let's say keyword search, on the WDC website to
12 locate this document. Now, if this document was really -- if the WDC
13 website, the root site, was really searchable and you could locate this
14 document as my friend suggested, then surely they would have provided an
15 example, here's a search you could have performed on the WDC website,
16 and look it takes you right here to the WD-Manual at that URL. They didn't
17 provide that. They didn't show any information that even the WDC.com
18 website or the lengthy URL itself was indexed by a commercial search
19 engine such as Google or Yahoo.

20 So, we have a complete absence of evidence that the document was
21 accessible to the relevant interested artisan coupled with positive evidence --
22 affirmative evidence, in two ways, number one, that the Petitioner's own
23 expert said he had never heard of this document, had never heard of this
24 product, and had never accessed it on the internet or through the WDC.com
25 root site. And secondly, the Petitioner's failure to submit any responsive

1 evidence on this issue, which was -- that was an easy call to do on reply.
2 But the Petitioner didn't do it, and we'd respectfully submit that that's --
3 inferentially, that's additional evidence that this document -- it's not only not
4 proved to be publicly accessible, but it was not publicly accessible to the
5 relevant artisan, a person interested in user interfaces with EPGs.

6 JUDGE ZECHER: Mr. Schreiner, this is Judge Zecher, and I
7 understand what you're saying, but I guess I'm struggling to see where one
8 aspect of this argument is in your briefing. When we talked about Exhibit
9 1023, and when you talk about it specifically in your Patent Owner response
10 in your Sur-reply, you seem to focus on the fact that there was no manual in
11 the box. That's at least what you did in your Patent Owner response, and
12 then when Petitioner pointed out, the following paragraph about how the
13 reviewer was able to access that particular link to get to that document, I
14 didn't see any sort of arguments from you in return in your Sur-reply
15 indicating that that link in the review would not lead us to the WD-Manual.
16 Where is that in your response -- your initial Patent Owner Response or your
17 Sur-reply? Because I'm not seeing it.

18 MR. SCHREINER: Sure. Let me -- give me a moment. Okay.
19 We addressed this issue in our Sur-reply pages 11 through 13.

20 JUDGE ZECHER: And can you point me specifically where it is
21 in that 11 through 13 page range? Because I'm looking at -- I'd read over
22 that while you were presenting your argument to us. I'm just trying to latch
23 on to where this --

24 MR. SCHREINER: Sure.

25 JUDGE ZECHER: -- this whole notion that the link in Exhibit

1 1023 is not a link that properly directs us to the WD-Manual.

2 MR. SCHREINER: Okay. So, we say on page 11 of the Sur-
3 reply, we cite the URL at issue, and this is the heart of the matter, right, this
4 lengthy URL here? This is the heart of the matter, that there's no evidence
5 that the Photograph Bay webpage itself was publicly accessible to an
6 interested artisan, so that's prong one of Blue Calypso. We go on to state
7 that "The internet archive, at most, establishes technical accessibility, not
8 public accessibility of the Photo Bay webpage." Of course, that's the case
9 law from both *Infobridge* and *Acceleration Bay*.

10 We go on to say, that there's no evidence that the Photo Bay
11 webpage was known to relevant persons of interest; meaning, as we
12 described in our Patent Owner response, persons interested in user interfaces
13 with EPGs. So, therefore, under the Blue Calypso test it doesn't meet the
14 requirements. If we go on --

15 JUDGE ZECHER: Yeah, but the focus there seems to be on the
16 Photo Bay webpage itself, not the link in the webpage that the reviewer
17 directs us to the WD-Manual. Am I mistaken there?

18 MR. SCHREINER: I understand your point. I understand your
19 point, Your Honor. And maybe that point is -- was not, you know, set forth
20 clearly like it could have been in the Sur-reply, but the fact does remain that
21 the burden is on the Petitioner, the proponent, to establish that the WD-
22 Manual was publicly accessible, and the Petitioner put forward the IA
23 Declaration and didn't put forth any evidence that that link contained in the
24 Photo Bay webpage actually links to the link for the WD-Manual.

25 And as I said, in addition to that, you know, this is just kind of

1 icing on the cake, the WD -- I'm sorry, the Internet Archives Declaration
2 paragraph 5, disclaims that it's validating any linked document. So,
3 ultimately, the Petitioner has the burden of proof, and the Petitioner hasn't
4 met that burden of proof. And as I mentioned, I think there's countervailing
5 proof through their expert's testimony and the failure to submit a
6 supplemental expert declaration that establishes that the WD-Manual was
7 not a publicly accessible printed publication.

8 JUDGE COURTENAY: Thank you, Mr. Schreiner. I think I
9 understand your argument. It's a very important point for the panel to
10 consider. You're about 24 minutes into your principal argument, proceed.

11 MR. SCHREINER: I'd like to go to Slide 20 of Patent Owner's
12 demonstratives. And let me also add, the Petitioner's Counsel made a nice
13 effort to kind of spin the requirement that an interested artisan would be able
14 to reasonably locate the reference to -- well, any ordinary consumer could
15 locate the reference. But really that was kind of a -- that was a backdoor
16 way of really turning back to technical accessibility. You know, the fact that
17 the WD-Manual might have been technically accessible at the URL, because
18 it was located on the internet at some location, does not establish technical
19 accessibility, it doesn't establish what's required, which is the interested
20 artisan. And, in fact -- well, me just go ahead with Slide 20.

21 So, the crux of the Petitioner's argument is on Slide 20, which is
22 that the WD-Manual, allegedly at this URL, was publicly accessible on the
23 WDC.com website. So, let's talk about what evidence is not in the record.
24 There's no evidence of a single download of the WD-Manual from that site.
25 There's no evidence that a single paying customer accessed the WDC.com

1 website to review the WD-Manual. As I mentioned before, there's no
2 evidence of any keyword search that can be performed on the WDC.com
3 website, or on the internet at large, to locate the WD-Manual, and there's no
4 evidence, of course, that the WDC.com site, or the lengthy URL itself, was
5 even indexed by a commercial search engine.

6 And if we could turn now to Slide 22 -- I remember the point I was
7 just meaning to make a moment ago. I wanted to talk about public --
8 technical accessibility and the *Infobridge* case and the *Acceleration Bay*
9 case, and that they're great illustrations of why mere technical accessibility
10 is good enough. You know, there's a temptation, I think, sometimes to
11 think, well, if the document was available out there on the internet, it was
12 available, somebody could get it if they knew where it was, then it must be a
13 printed publication. But, of course, that's not the case. So, take the
14 *Acceleration Bay* case, 2018. Here, we have a technical paper by a graduate
15 student named Lynn, and that technical paper -- this is undisputed, it was
16 located on a University of California San Diego Computer Science's
17 technical reports library. And so, it was there. It was located on that library,
18 UCal San Diego, but the Court deemed it not to be public accessible because
19 that library wasn't sufficiently, or meaningfully indexed, or searchable, or
20 otherwise organized so that an interested artisan could locate the Lynn
21 reference, so that shows that mere technical accessibility is not sufficient.

22 And then, let's look at the *Infobridge* case from 2019. Here we
23 had an MPEG -- a working group paper that was posted on an MPEG
24 working group website. But again, those facts were undisputed. The
25 document was on the internet, it was available in a technical sense. But the

1 Court -- the Federal Circuit found that that document, that MPEG working
2 paper was not publicly accessible because an interested artisan didn't have
3 the wherewithal to locate it by virtue of meaningful indexing or organization
4 of the MPEG working group website. So, these are illustrations of why the
5 mere fact that a document is located on the internet at a particular URL does
6 not translate to that document being publicly accessible.

7 JUDGE ZECHER: Mr. Schreiner, this is Judge Zecher. I just
8 wanted to flag this for you, but you got about 15 minutes left in your case-
9 in-chief, so we spent a lot of time on this issue. I know you view it as
10 dispositive, but I want to make sure you have enough time for your other
11 issues as well.

12 MR. SCHREINER: Thank you, Your Honor. I'd like to now go
13 to Slide 39. So, Slide 39 deals with Limitation 1.2, and Limitation 1.2, of
14 course, provides that there is an on-screen channel changer that includes
15 electronic program guide information and number input bar. And the
16 Petitioner's position is that the on-screen channel changer is Kim's home
17 screen, or whatever person has the card object area, including the channel
18 browser and TV guide card objects. And the channel browser functions as an
19 on-screen channel changer because the user can use it to change channels by
20 selecting the thumbnails within it. The TV guide functions as an on-screen
21 channel changer because the user can use it to change channels by selecting
22 the program listing.

23 Of course, turning to Slide 40, what's missing is the number input
24 bar that's set forth in Limitation 1.2. And, of course, the Petitioner's
25 position is that that is provided by the Bae reference.

1 And if I could turn Your Honors to Slide 43, we have Kim and Bae
2 shown side by side. So, we've got Kim with the card object area on the left-
3 hand side, including the channel browser and the TV guide card objects and
4 Bae with its channel number input window. And the Petitioner proposes that
5 somehow the on-screen channel changer of Kim on the left-hand side is
6 going to be modified by the channel selection window of Bae, the alleged
7 number input bar. But the problem is that the Petitioner never explains what
8 the actual combination is.

9 The Petitioner just basically proposes an abstract combination of
10 the two. The Petitioner has the obligation to explain, number one, what is
11 the combination of references? How are the two teachings combined? And
12 number two, how does that proposed combination operate to meet the
13 limitation? And the Petitioner never actually does that. It's a little bit of a
14 hide the ball argument, where you're arguing that the teachings are
15 combined without ever explaining, number one, how they're combined and
16 number two, explaining how the proposed combination works to meet the
17 limitation, in this case, Limitation 1.2. And of course, the statutory burden
18 is on the Petitioner to demonstrate that the limitation is satisfied.

19 Now, turning to Slides 45 and 46, the Patent Owner
20 (CROSSTALK) --

21 JUDGE ZECHER: Mr. Schreiner, this is Judge Zecher. Can we
22 go back to Slide 43? My understanding was that Petitioner was saying that
23 this display in Kim here over in the left, particularly 1300 was your card
24 object area, and there you can have displays on the TV on the left as well as
25 these various card objects that you can slide through and put in front of the

1 user. And then, added to that, they would put in this Bae channel number
2 window somewhere in that card object display area that's in that 1300 box.
3 Why is that not a sufficient explanation of how a proposed combination
4 meets limitation 1.2?

5 MR. SCHREINER: It's not sufficient because it doesn't explain
6 how the combination would operate. So, if you -- let's take Bae's channel
7 number window and place it over somewhere in the card object area of
8 Figure 19 of Kim that's shown on the left-hand side. The question becomes,
9 how does that channel number bar, how does that interface or work with the
10 remainder of Kim in order to carry out channel changing? In Kim, the
11 channel changing is carried out by selecting the thumbnails and the channel
12 browser, or the program listing and the TV guide, that's what causes the
13 channel changing functionality, and that's why the Petitioner says, this is the
14 on-screen channel changer.

15 But the Petitioner never explains how would the channel number
16 window, if just placed somewhere in Kim, how would that interface to
17 cause -- how would that interface with that electronic program guide
18 information to cause the changing of channels? It's never explained. And
19 the Patent Owner asked this question of the Petitioner's expert in deposition.
20 If I can go to Slide 52. asked him pretty straightforward questions of how
21 would this combination operate? And he couldn't give an answer.

22 In his declaration on Slide 52, he states, "Thus Kim's card object
23 area that displays either or both of a channel browser card object and TV
24 card object teaches an on-screen channel changer." And then he states,
25 quote, "it would have been well within the skillset of a POSITA to further

1 include the number input bar of Bae onto the on-screen channel changer of
2 Kim." But that doesn't explain how those two references are combined, how
3 the teaching from Bae is applied to Kim, let alone how that proposed
4 combination operates to meet Limitation 1.2. And because of the vagary in
5 his declaration, he was examined on this in deposition.

6 And if we look at Patent Owner's Slide 53 of Patent Owner's
7 demonstratives, you can see that the Petitioner's expert was not able to
8 provide a coherent answer on how these references were combined and how
9 that combination operated to meet Limitation 1.2. So, for example, on Slide
10 53, you can see on the left-hand side, his answer was, "You would choose to
11 display EPG information either the way Kim does or an altered way that
12 Kim does using the teachings of Kim to that you would end up with an artful
13 and usable user interface with Bae added to it." That's not a coherent
14 answer. That expert is not explaining at all of how the references are
15 combined and how that combination operates.

16 And he was pressed in deposition. You know, you're an expert.
17 Please explain how you propose these references to be combined to meet
18 Limitation 1.2. And ultimately, the best answer he could come up with is on
19 the right-hand side of Slide 53 where he says that -- what he proposes is a,
20 quote, "admixture of the two technologies for changing a channel." And he
21 was asked, as you can see on the right-hand side, don't you think it's fair
22 that an expert should be able to explain the functionality of the combination?
23 And he says, "I just did." So his best answer, turning to Slide 54 was, "I'm
24 proposing an admixture of the two technologies."

25 And we know from the case law that the obligation on the

1 Petitioner is to provide reasoned articulation with reasoning and supporting
2 evidence as to how the limitation is satisfied. And the answers provided by
3 the Petitioner's expert, in his declaration, and in deposition don't come close
4 to meeting that standard. So, we respectfully submit that Limitation 1.2 is
5 not satisfied.

6 I'll turn now to Slide 59. Excuse me, actually let me go to Slide
7 58. There's also an issue with reasonable expectation of success. Because
8 the Petitioner's expert was not able to explain how Bae and Kim are
9 combined and how that combination operates, he's not able to establish a
10 reasonable expectation of success, and indeed we see that in his declaration
11 on Slide 58, where his declaration testimony on reasonable expectation of
12 success is one sentence in a conclusory paragraph. You can see it there in
13 paragraph 83. He says, "A POSITA would have had a reasonable
14 expectation of success in combining Bae's channel number input bar with
15 Kim's on-screen channel changer because such a combination predictably
16 uses Bae's channel number input bar for its intended purpose," et cetera.

17 That conclusory statement, we do not believe that's an opinion
18 sufficient to establish reasonable expectation of success, especially
19 compared on balance to the Patent Owner's expert, Dr. Surati's detailed
20 analysis and evidence are a reasonable expectation of success contained in
21 paragraphs 160 through 164 of his declaration, and we believe that
22 testimony should be credited over the Petitioner's expert's declaration.

23 And, Judge Courtenay, could I please get a time check?

24 JUDGE COURTENAY: Yes, Mr. Schreiner, you're at about 39
25 minutes so you have 6 minutes remaining if you want to have 45 minutes for

1 your principal argument, proceed.

2 MR. SCHREINER: Thank you, Judge Courtenay. I'll go ahead
3 and turn to Slide 59 now. So, now we're talking about Limitation 1.5.2,
4 which recites: "The application center button that displays information
5 regarding pre-installed and downloaded software applications."

6 And if I can turn now to Patent Owner's Slide 61, the Petitioner
7 takes a little bit of a shotgun approach, it makes basically six different
8 arguments regarding Limitation 1.5.2, but as set forth in the Patent Owner's
9 papers, the Patent Owner's Sur-reply, each of these is insufficient. I'll start
10 with Slide 62. Slide 62 refers to the first argument where the Petitioner is
11 referring to paragraph 99 in Figure 6 of Kim, which refers to a list of
12 applications, that they're available in the image display apparatus.

13 Okay. Well, that passage clearly does not teach Limitation 1.5.2's
14 requirement for the display of pre-installed software applications that are
15 number one, pre-installed; number two, not removable by the user; and
16 number three, not manually updated. And then, the Petitioner alludes to
17 Figure 6 of the Kim reference, which shows a software architecture, and
18 which mentions, user-undeletable applications that Petitioner's Counsel
19 referred to earlier. But in that passage, with regard to Figure 6 as well as
20 Figures 11 through 12 regarding the software architecture, there's no
21 teaching regarding the display of user-undeletable applications, which is
22 required to meet Limitation 1.5.2.

23 And furthermore, those user-undeletable applications, they're
24 characterized as being user-undeletable, but there's no disclosure that they
25 are pre-installed, that's not taught by Kim, and there's no disclosure that

1 they cannot be manually updated by the user, also a requirement of the
2 definition of pre-installed software applications in the '254 Patent.

3 I'd like to turn to Slide 64. Slide 64, this is turning to the WD-
4 Manual and the Services Menu. And so, we have the Services Menu shown
5 on the right-hand side, and on the right-hand side we have the Internet
6 Services display. And it has a series of thumbnails referring to different
7 services. There's Facebook, there's Flickr, there's YouTube, but there's
8 nothing in the -- there's nothing in the WD-Manual that suggests that those
9 are software applications, either downloaded software applications or pre-
10 installed applications. In fact, the evidence points -- the evidence would
11 indicate that those are simply links to URL so that the device can link to a
12 URL corresponding to YouTube or corresponding to Facebook. There's no
13 information in the WD-Manual suggesting that those are software
14 applications, let alone that they are pre-installed software applications as
15 required by Limitation 1.5.2.

16 And I'll refer Your Honors to Slide 66. Slide 66, we have the
17 testimony from the Patent Owner's expert on that very point, where he
18 explains, Dr. Surati, that a POSITA would understand those thumbnails as
19 being URLs that connect the device browser to websites for Facebook,
20 YouTube, et cetera. The Petitioner's expert, Dr. Lippman -- and the Patent
21 Owners gives, you know, very detailed testimony on this. You see the
22 citation to the Surati declaration, 188 through 194 and 196. The Petitioner's
23 expert gives a conclusory assertion that their software applications on the
24 Internet Services page. But there's no reasoning or evidence, and it
25 shouldn't be given any weight, especially compared to the detailed

1 explanation provided by the Surati declaration.

2

3 And then I'll -- I'd like to turn to Slide 67. The Patent Owner
4 pointed out that we've got this 300-page, or 250- or 300-page WD-Manual,
5 and if these services that are on that Internet Services page, those
6 thumbnails, if they really were software applications, there would be
7 something in that 300-page manual, talking about downloading the
8 application for Netflix, or downloading the application for Facebook or
9 YouTube, but there isn't any information about that. You have Chapter 13
10 that's Setup and Advanced Features. There's no reference to downloading
11 any of those services as software application. You've got the index at the
12 back of the WD-Manual. There's a reference to Netflix, Facebook, Flickr, et
13 cetera, but there's no reference to downloading those as software
14 applications, and the reply didn't respond to those points at all. So, we
15 should respectfully submit that it's pretty clear that that Internet Services
16 menu doesn't meet Limitation 1.5.2 because it doesn't have the -- doesn't
17 display pre-installed software applications or downloaded software
18 applications.

19 JUDGE ZECHER: Mr. Schreiner, can I just direct you real quick
20 to what I understood Petitioner to argue here? I thought he relied on Kim's
21 user-undeletable applications to teach the pre-installed applications, and then
22 he relied on the user-installed or user-deletable applications to teach the
23 downloaded applications. Can you address his reliance on that in Kim and
24 why you don't think that meets this particular claim limitation?

25 MR. SCHREINER: Yes. The problem with the user-undeletable

1 applications that are described, I believe it's in paragraphs 157 through 158
2 of Kim. First, there's no disclosure in connection with those passages, and
3 those relate to Figures 11 and 12, which show software architecture. There's
4 no disclosure of the display of the user-undeletable applications, which is
5 what would be required by Limitation 1.5.2, which provides for an
6 application button that causes the display of the pre-installed application, the
7 application.

8 Secondly, there's no disclosure in Kim regarding the user
9 undeletable applications that they are pre-installed. There's just simply no
10 disclosure about that at all or that they can't be manually updated by the
11 user. Those are both requirements of the definition of pre-installed
12 applications, and neither of those is satisfied by the description of user-
13 undeletable applications in Kim.

14 JUDGE ZECHER: So, it's effectively that they aren't displayed.
15 There's no indication that they're actually displayed in Kim. And then, two,
16 they don't meet the definition that the parties appear to agree upon for pre-
17 installed applications?

18 MR. SCHREINER: Yes, Your Honor. And I would agree the
19 parties have agreed on that construction of pre-installed applications.

20 JUDGE ZECHER: Great. And then, Mr. Schreiner, just to flag
21 this for you, you are eating into your sur-rebuttal time now. Feel free to
22 continue and move forward, but just letting you know.

23 MR. SCHREINER: I appreciate it, Your Honor. Let me go to --

24 JUDGE COURTENAY: I've got you at about 47 minutes so you
25 will have 13 minutes of sur-rebuttal time.

1 MR. SCHREINER: Thank, Your Honor. Let me go ahead and go
2 to Slide 84. Slide 84 deals with Ground 2. It says, Ground 1. Apologies,
3 that's a typo. It's Ground 2, Kim, WD-Manual, and Coburn. And
4 Limitation 6.1 of Claim 6 further provides that, "wherein, as the user selects
5 each digit, the application framework updates the EPG information to only
6 include those programs and/or channels selectable from the selected digits."
7 So, in other words, if the user inputs digits, using the remote control, the
8 electronic program guide information that's recited in Limitation 1.2 is
9 going to be updated to only show available programs.

10 And if we can now turn to Slide 86 of Patent Owner's
11 demonstratives. According to the Petitioner, the EGP information of
12 Limitation 1.2 corresponds to the thumbnails in the channel browser and the
13 program listings in the TV guide card object. And you can see that in the
14 excerpt we have here from the Petition, where it states -- it shows EPG
15 information, and it states that the EPG information corresponds to the
16 thumbnail list for the channel browser or the program list for the TV guide
17 card object.

18 The problem with the Petitioner's four-way combination further
19 including Coburn, is that the Petitioner never makes any showing how, or
20 even whether the thumbnails in the channel browser or the program listings
21 in the TV guide card object in Kim would be updated based on the user
22 entering digits. So, the Petitioner never follows through on its theory for
23 Claim 1 and applies it to Claim 6 to show how that limitation would be
24 satisfied to update the EPG information. In other words, the user is inputting
25 digits, and the Petitioner never explains okay, how in the combination would

1 the thumbnails in the channel browser of Kim be updated, or how would the
2 program listings in the TV guide card object of Kim be updated pursuant to
3 this four-way combination? And for that reason, Limitation 6.1 is not
4 satisfied.

5 And with that, I'll reserve the balance of my time, unless Your
6 Honors have any other questions.

7 JUDGE ZECHER: Thank you, Mr. Schreiner. I have you at 10
8 minutes left for your sur-rebuttal. Mr. Ehmke, you had 17 minutes left for
9 your rebuttal. Please begin when you're ready.

10 MR. EHMKE: Thank you, Your Honor, I don't believe I'll need
11 all 17 minutes. Just want to touch on a few issues raised by Patent Owner.
12 On the WD-Manual issue, they put a lot of emphasis that Dr. Lippman didn't
13 know about Western Digital. I highlight. you know, we've been talking
14 about case law, and I highlight the Jazz Pharmaceutical case. It's mentioned
15 in the MPEP as well. It specifically says that, if there's a showing that
16 interested persons can locate a document, there's no requirement to show
17 that any particular member of the public received it. So, the reliance on Dr.
18 Lippman's testimony is not knowing what was the original, or not receiving
19 it, doesn't comport with the case law. And I'd actually counter that Patent
20 Owner's expert did know about Western Digital, actually mentioned that in
21 his deposition, that's Exhibit 1026, page 24, line 24, that he knew about it.
22 And so, it's really our red herring of an issue.

23 The other thing is, the case law relied upon by Patent Owner, there
24 was a theme that the prior art in those other cases, that there was no
25 meaningful organization to the website, thus the POSITA wouldn't be able

1 to access the document. The evidence here though is very different. The
2 evidence here is that the Western Digital Manual was under the
3 manufacturer's website in the manufacturer's library in the documentation
4 section of the library on their website. So, there's very important
5 organization with respect to where this document was located.

6 On the Kim and Bae combination, Patent Owner's arguing about
7 the implementation, and again, the analysis by Dr. Lippman was with
8 respect to the teachings of the prior art reference. Because again, we know
9 that the standard for obviousness is what the combined teachings of the
10 references would have suggested. We're not required to combine specific
11 structures. We're not required to build it. We're not required to do a bodily
12 incorporation. We all know that the hallmarks of obviousness law. We're
13 just looking at what the references would have suggested to a POSITA.

14 And what they suggested was, we have a canvas of card objects,
15 we could create card objects of different sizes and shapes, and we can
16 arrange that information the way a POSITA would design a GUI. And as we
17 highlighted in our slide deck, Patent Owner's expert testified that POSITAs
18 knew how to develop GUI and user interfaces in televisions.

19 The next thing I want to address is the argument that Dr. Lippman
20 had a paragraph in his declaration, paragraph 83 was the one mentioning --
21 alleging that it was conclusory. Well, that's ignoring about the 10
22 paragraphs prior in his analysis, where we walked through the specific
23 teachings of the prior art to reach that conclusion. So, I would think it is
24 unfair to point out a single paragraph to say that it's conclusory, when it's a
25 conclusory paragraph built upon 10 preceding paragraphs of analysis.

1 And then, lastly, when we were talking about the undeletable
2 applications in Kim and whether or not those are pre-installed applications,
3 we know that they were installed on the TV and that they were installed not
4 by the user. So, where did they come from if they're installed in the TV but
5 not by the user? And we actually asked Patent Owner's expert in his
6 deposition about these apps that were not installed by the user, or where he
7 thought they would come from. And he said, that POSITAs will understand
8 that it was the firmware installed in the manufacturing log of where these
9 apps would come from. So, Patent Owners testified -- this is Exhibit 1026,
10 page 78, line 10, that POSITAs will understand that the firmware is the
11 installation of the application by the manufacturer. And so, to the extent
12 there's any doubt about the undeletable applications that are not installed by
13 the user, POSITAs will understand that they would have been installed by
14 the manufacturer as firmware.

15 And if there are no further questions, Your Honor, I will cede the
16 remainder of our time.

17 JUDGE ZECHER: Nothing further from me. It doesn't appear my
18 colleagues have any additional questions. Thank you, Mr. Ehmke. Mr.
19 Schreiner, you have 10 minutes left for sur-rebuttal. You can begin when
20 you're ready.

21 MR. SCHREINER: Thank you, Your Honor. Counsel made the
22 point that the case law requires that a POSITA only need -- can be able to
23 locate the reference. Of course, the case law says that an interested artisan
24 needs to be able to locate the reference without -- with reasonable diligence.
25 And we have no showing of that here. We have no evidence of that. We

1 have no expert evidence from the Petitioner that an interested artisan, in the
2 space of user interfaces with EPGs, would be able to reasonably locate the
3 WD-Manual. There's no evidence whatsoever on that point.

4 And again, the fact that Dr. Lippman did not locate the reference
5 might not be dispositive, but the fact that he was essentially a super
6 POSITA, somebody extraordinarily skilled in the art, and he had no
7 knowledge about this website or this product, we respectfully submit that
8 that is strong evidence that it was not publicly accessible.

9 As to the issue about no meaningful organization, other than
10 submitting the URL that the Petitioners provided, the URL that spans like
11 two lines, there's no evidence given by the Petitioner as to the organization
12 of the WDC website. There's no evidence given whatsoever. There's not
13 even a declaration given by the Internet Archives declarant, Mr. Frank-
14 White, as to how that website was organized. There could have been
15 thousands upon thousands of documents on the WDC website, and we have
16 no way of knowing whether a skill artisan would be able to locate the WD-
17 Manual on that website. So, there is no evidence at all that that website was
18 meaningfully organized or otherwise searchable such that a skilled artisan
19 can locate it.

20 And I'd add that, the *Infobridge* case, when it says meaningfully
21 indexed, it italicizes the word meaningfully, "meaningfully indexed", or
22 otherwise organized, such the skilled artisan could locate it. There's no
23 evidence of that whatsoever with regard to the WDC website or the URL
24 allegedly corresponding to the WD-Manual. And with that, I'll cede the
25 rest of my time.

1 JUDGE ZECHER: Thank you, Mr. Schreiner. So, that concludes
2 our hearing for this IPR today, IPR2024-00353. We want to thank the
3 parties for presenting their arguments today, particularly Mr. Schreiner,
4 because I knew you were under the weather and you battled through, so
5 thank you for that.

6 I'm going to ask Counsel for each party to stay on the line because
7 the court reporter may have some questions regarding some spellings, either
8 for the references or for the declarants. So, the panel's going to depart the
9 hearing here, but please stay on the line in case the court reporter has any
10 questions for you guys.

11 The case is submitted, and we will issue a final written decision
12 before the one-year statutory due date. Thank you.

13 MR. EHMKE: Thank you, Your Honors.

14 MR. SCHREINER: Thank you very much, Your Honor.

15 (Whereupon, the above-entitled matter went off the record at 2:46
16 p.m.)

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