

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: Yves Behar
Application No.: 90/014,965
Confirmation No.: 3442
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For: PORTABLE COMPUTER WITH MULTIPLE DISPLAY
CONFIGURATIONS
Examiner: C. Y. Leung
Art Unit: 3991

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Dated: March 3, 2022

Electronic Signature for MacAulay S. Rush: /MacAulay S. Rush/

RESPONSE TO FINAL OFFICE ACTION

Mail Stop Ex Parte Reexam
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

In response to the Final Office Action mailed January 4, 2023, the Patent Owner requests reconsideration of the rejection.

REMARKS

In response to the Final Office Action (“FOA”) mailed January 4, 2023 in connection with the reexamination of U.S. Patent No. 8,624,844 (“844 Patent”), Patent Owner LiTL LLC (“LiTL”) respectfully requests reconsideration. The Final Office Action has been carefully considered. Its rejections should be withdrawn for the reasons addressed below. Patent Owner respectfully submits that each originally-patented challenged claim should be confirmed.

I. STATUS OF THE CLAIMS

Independent claim 10 and dependent claim 16 are subject to reexamination. No claims have been canceled, added, or amended. As a result, claims 10 and 16 are pending for reexamination.

II. CONCURRENT PROCEEDINGS (37 C.F.R. § 1.565(a))

LiTL is aware of the following prior and concurrent proceedings in which the '844 Patent is or was involved.

1. *LiTL LLC v. Lenovo (United States), Inc. et al*, Civ. No. 1-20-cv-00689 (D. Del.). In this proceeding, the requestor of this Reexamination ("Lenovo") is accused of infringing the '844 Patent. The parties have settled this suit and the case has been dismissed with prejudice.
2. *LiTL LLC v. HP Inc.*, Civ. No. 1:23-cv-00120 (D. Del.) (pending). In this proceeding, Defendant HP Inc. is accused of infringing the '844 Patent.
3. *LiTL LLC v. ASUSTeK Computer Inc., et al*, Civ. No. 1:23-cv-00122 (D. Del.) (pending). In this proceeding, Defendants ASUSTeK Computer Inc., Asus Global Pte. Ltd. and Asus Technology Pte. Limited are accused of infringing the '844 Patent.
4. *LiTL LLC v. Dell Technologies Inc. and Dell Inc., et al*, Civ. No. 1:23-cv-00121 (D. Del.) (pending). In this proceeding, Defendants Dell Technologies Inc. and Dell Inc. are accused of infringing the '844 Patent.
5. *Lenovo (United States) Inc. v. LiTL LLC*, IPR2021-00822 (P.T.A.B.) (institution denied). *See* Ex. 1031.

LiTL is aware of the following prior and concurrent proceedings in which patents or applications related to the '844 Patent are or were involved.

Proceeding	Patent / Application	Status
<i>Lenovo (United States) Inc. v. LiTL LLC</i> , IPR2021-00681	8,289,688	Institution denied
<i>Lenovo (United States) Inc. v. LiTL LLC</i> , IPR2021-00822	8,624,844	Institution denied
<i>Lenovo (United States) Inc. v. LiTL LLC</i> , IPR2021-00800	10,289,154	Institution denied
<i>Lenovo (United States) Inc. v. LiTL LLC</i> , IPR2021-00821	8,612,888	Institution denied

Proceeding	Patent / Application	Status
<i>Lenovo (United States) Inc. v. LiTL LLC</i> , IPR2021-00786	9,880,715	Institution denied
<i>Microsoft Corporation v. LiTL LLC</i> , IPR2021-01011	8,577,957	Institution denied
<i>Ex parte</i> reexamination of 8,289,688	8,289,688 90/015,035	Pending: Non-final action mailed
<i>Ex parte</i> reexamination of 9,880,715	9,880,715 90/014,958	NIRC mailed
<i>Ex parte</i> reexamination of 10,289,154	10,289,154 90/015,025	Pending: Non-final action mailed

III. INTRODUCTION

It is respectfully submitted that all outstanding rejections should be withdrawn for the reasons discussed below.

Patent Owner LiTL's December 9, 2022 Response to the first Office Action ("Response") demonstrated that the intrinsic evidence establishes that content modes are higher-level constructs that **group** things such as "information, programs, features and applications." Response, 8-9 (quoting '844 Patent, 11:38-40). Via citation to sworn testimony from Mr. Bear, the Response further established that a POSA would have understood the intrinsic evidence as establishing that **displaying** a content mode requires displaying "on the display screen" some "information, such as menus, icons, etc." ('844 Patent, 10:54-65) that **represents the content mode** (a higher level construct into which things are grouped), not merely displaying the individual things (e.g., functions, features or applications) that may be grouped into a content mode. Response, 9-11 (citing Bear, ¶¶ 80-91). Again citing Mr. Bear's sworn testimony, the Response further demonstrated that in the Lane/Ledbetter combination, the system never displays any icon or other visual representation that represents the alleged content mode, and instead just displays individual "programs, features

and applications.” (’844 Patent, 11:38-40) that are not what the ’844 Patent describes as a content mode. Response, 20-22.

Respectfully, the Final Office Action (“FOA”) mischaracterizes LiTL’s argument as being that a content mode is an icon or visual representation. FOA, 9-12. Based on that mischaracterization, the Final Office Action alleges that a content mode “is more akin to a type of content being currently displayed than a top-level icon or visual representation.” FOA, 15. But LiTL never argued that a content mode is a visual representation. Instead, LiTL argued that content modes are a “**group[ing]**”¹ of “information, programs, features and applications” (Response, 8-9 (citing ’844 Patent, 11:38-40), and that it is the **displaying** of a content mode that requires displaying some visual representation that **represents** the higher-level construct. A content mode is “akin” to precisely what the specification describes it as being – a higher level construct formed by grouping “information, programs, features and applications” into content modes and that is displayed by having the computer display an icon or other visual representation of the higher-level construct. ’844 Patent, 10:54-65, 11:38-40.

The Final Office Action acknowledges that the specification discloses content modes 172, and that “the different modes of content 172 may be displayed as a series of bars across the display screen 110” as in Fig. 12. FOA, 8. However, the “**Examiner disagrees** with PO’s argument that displaying a content mode is different than displaying functions, features or applications within the content mode.” *Id.* In disagreeing with PO’s argument, the Examiner disagrees **with the sworn testimony of Mr. Bear** that supports it. Declaration of Eric J. Gould Bear In Support of Patent Owner Response to Non-final Office Action Under 37 CFR 1.111 (“Bear”), ¶¶ 87-91.

¹ Emphasis added unless otherwise noted.

The primary basis the Final Office Action provides for “disagreeing” with PO’s argument deconstructs the term “content mode” (or “mode of content”) into its separate words, and then relies on *extrinsic* dictionary evidence to purportedly establish that “mode” means “type” so content mode means a type of content. FOA, 9. As detailed in § IV below, this analysis is legal error because the Federal Circuit has repeatedly held that claim construction should be based on the *intrinsic* evidence that explains how the inventors used the claim terms in the specification, rather than on out-of-context dictionary definitions. Additionally, the Examiner’s analysis of “content mode” is facially inconsistent with the Examiner’s analysis of “display mode,” which the Examiner acknowledges “refers to the [computer’s] particular physical configuration.” FOA, 7. If the claims were to be interpreted by deconstructing a “[blank] mode” into separate terms and finding that a “[blank] mode” is a “type of [blank]”, then the rejections must be withdrawn because a “display mode” would need to be interpreted as a type of display. The Examiner never alleges that the different alleged “display modes” in the Lane/Ledbetter combination have different types of displays, and instead points to two different physical configurations of the same computer that have the exact same display. *See, e.g.*, FOA, 3 (referring to the laptop mode shown in Fig. 20 and the easel mode shown in Fig. 28 of the ’844 Patent), 6 (referring to the “plurality of display modes” of Ledbetter, shown in Figs. 1-5). Respectfully, the Examiner’s claim construction analysis that deconstructs “content mode” into two words and relies on a dictionary definition is legal error.

In terms of the specification, the Response – again supported by Mr. Bear’s sworn testimony – explained that the *only* things identified therein as content modes (or modes of content) are higher level groupings labelled 172a-e (Figs. 11-12 and 17) that are distinct from the “information, programs, features and applications” grouped into those content modes (’844 Patent, 11:38-40).

Response, 8-9, 12-13. The Response also established that the specification consistently refers to displaying a content mode as displaying a visual representation of the higher-level construct – not to displaying individual components grouped under a content mode. Response, 14 (citing Bear, ¶ 88), *see also id.*, 11 (citing Bear, ¶ 86), 18 (citing Bear, ¶ 99). The Examiner addresses some of the same portions of the specification addressed by Mr. Bear and “disagrees” about what they mean. FOA, 11-12. The Examiner’s opinion is not evidence. While the Final Office Action acknowledges that the specification must be interpreted as read by a POSA (*e.g.*, FOA, 11, 13), the Examiner cites no **evidence** that contradicts Mr. Bear’s sworn testimony establishing how a **POSA** would have understood the specification, and thus cites no evidence that justifies the Examiner failing to credit Mr. Bear’s testimony. That is legal error. *See* § V.F below.

The portions of the specification the Final Office Action cites that explain that the user can access the content within a content mode by selecting the content mode (FOA, 11-12) fails to refute Mr. Bear’s sworn testimony. Indeed, it reinforces it. That a user must “select” a content mode to go “within” it to access any content grouped thereunder confirms that the content mode is a higher-level construct displayed to the user separately from the applications that are grouped thereunder and displayed only **after** the user selects the corresponding content mode. Bear, ¶¶ 66, 74-75, 84-85, 91, 98; ’844 Patent, 11:10-24, 11:38-48, 12:6-35, Figs. 12, 17. The Examiner’s assertion that a POSA would nevertheless consider the displaying of an application within a content mode – **after** the content mode is selected – to be the same as displaying the content mode itself (FOA, 11-12) is unsupported by any **evidence** contradicting Mr. Bear’s sworn unequivocal testimony to the contrary. Bear, ¶¶ 75, 87-91. As detailed in §§ V.C and V.E below, there is similarly nothing in Figure 13 or claim 10 of the ’844 Patent that is inconsistent with Mr. Bear’s testimony, or is inconsistent with

interpreting “content mode” to be precisely what the ’844 specification describe it as being – a higher-level construct that is distinct from any “information, programs, features and applications” grouped thereunder. ’844 Patent, 11:38-40.

IV. THE FINAL OFFICE ACTION’S INTERPRETATION OF “CONTENT MODE” IS UNREASONABLE AND UNSUPPORTED

A. The Examiner’s Claim Construction that Deconstructs “Content Mode” into Separate Terms Is Legal Error that Exalts Extrinsic Dictionary Evidence Above the Intrinsic Evidence

The Final Office Action acknowledges that the specification discloses content modes 172 that “may be displayed as a series of bars across the display screen 110” as in Figure 12. FOA, 8. Despite that, the “*Examiner disagrees* with PO’s argument that displaying a content mode is different than displaying functions, features or applications within the content mode.” *Id.* In rejecting LiTL’s claim construction argument based on the specification, the Examiner necessarily “disagrees” *with Mr. Bear’s sworn testimony* that supports “PO’s arguments” and explains how a POSA would interpret the specification. Bear, ¶¶ 80-91 (cited in the Response, 11-14).

The primary basis the Final Office Action provides for “disagreeing” with Mr. Bear’s sworn testimony deconstructs the term “content mode” (or “mode of content”) into its separate words, and then relies on *extrinsic* dictionary evidence to purportedly establish that “mode” means “type” so content mode means a type of content. FOA, 9. The Examiner relies on a 2016 edition of the American Heritage Dictionary to define “mode” as a “type or kind,” and concludes that “content mode” thus means a type of content. FOA, 2, 9. The Federal Circuit has warned against precisely this type of claim construction analysis because it can lead to “unduly expansive” claim interpretations, just like it did here. Specifically, sitting *en banc*, the full Federal Circuit in *Phillips v. AWH Corp.* warned:

if the district court *starts with the broad dictionary definition* in every case and fails to fully appreciate how the specification implicitly limits that definition, the error will systematically *cause the construction of the claim to be unduly expansive*. The *risk of systematic overbreadth is greatly reduced* if the court instead focuses at the outset on *how the patentee used the claim term in the claims, specification, and prosecution history, rather than starting with a broad definition* and whittling it down.

415 F.3d 1303, 1321 (Fed. Cir. 2005) (en banc). The Federal Circuit explained that:

elevating the dictionary to such prominence is that it focuses the inquiry on the abstract meaning of words rather than on the meaning of claim terms within the context of the patent. Properly viewed, the “ordinary meaning” of a claim term is its meaning to the ordinary artisan after reading the entire patent. Yet heavy reliance on the dictionary divorced from the intrinsic evidence risks transforming the meaning of the claim term to the artisan into the meaning of the term in the abstract, out of its particular context, which is the specification.

Id.; see also *Nystrom v. TREX Co.*, 424 F.3d 1136, 1145 (Fed. Cir. 2005) (“in the absence of something in the written description and/or prosecution history to provide explicit or implicit notice to the public . . . it is improper to read the term to encompass a broader definition simply because it may be found in a dictionary, treatise, or other extrinsic source.”).

The Final Office Action does exactly what the Federal Circuit cautioned against: it elevates a dictionary definition and begins the claim construction inquiry based on the abstract out-of-context meaning of “mode.” This led to the Final Office Action’s unduly expansive interpretation of “content mode” that is not consistent with the use of that term in the intrinsic record. *See infra* § V.B below. The Final Office Action’s dictionary-driven interpretation is also refuted by the only expert testimony in the record explaining how a POSA would have interpreted “content mode” in light of the specification (*see infra* §V.B below), which was the analysis the Examiner was legally required to perform. *See e.g., Ex Parte Grandeye Ltd.*, No. 2016-006710, 2016 WL 6649057, at *3-

*4 (P.T.A.B. Oct. 26, 2016) (reversing rejection because reexamination examiner construed term based on Merriam-Webster's online dictionary, which was not consistent with specification or expert declaration).

B. The Examiner's Deconstruction of a Claim Term and Reliance on the Dictionary Definition of "Mode" is Inconsistent with the Examiner's Treatment of "Display Mode"

The Final Office Action's analysis of the claimed "display mode" limitations reveals the legal error in the Examiner's inconsistent treatment of the "content mode" limitations.

The Examiner acknowledges that the claimed "display mode" "refers to the [computer's] particular physical configuration." FOA, 7. The Final Office Action never explains why the proper interpretation of "display mode" does not require deconstructing the claim term into two separate terms, and using the dictionary definition of "mode" to interpret "display mode" as a "type of display." Indeed, if the Examiner applied the same claim construction analysis framework to "display mode" as the Examiner applied to "content mode," the rejections would need to be withdrawn, because the Examiner never alleges that the different alleged "display modes" in the Lane/Ledbetter combination have different types of displays. FOA, 3-7. Instead, the Examiner points to two different physical configurations of the same computer that have the exact same display to meet the claimed display modes. *Id.*

V. THE INTRINSIC EVIDENCE CONTROLS AND IS CLEAR THAT DISPLAYING A "CONTENT MODE" REQUIRES DISPLAYING A VISUAL REPRESENTATION OF A HIGHER-LEVEL CONSTRUCT RATHER THAN DISPLAYING APPLICATION(S) GROUPED THEREUNDER

For reasons detailed below, LiTL disagrees that the proper interpretation of the term "content mode" is a "type of content or a kind of content more generally." FOA, 8. The Examiner

arrived at that unreasonable construction by using the legally-erroneous dictionary-driven analysis discussed in § IV. When a proper claim construction analysis is performed that begins with the intrinsic evidence as interpreted by a POSA, it is clear that the proper interpretation of content mode is different. That is, content modes are higher-level constructs that group “information, programs, features and applications” (’844 Patent, 11:38-40), so displaying a content mode requires displaying some visual representation (e.g., menu or icon) that represents the content mode (the higher-level construct into which things are grouped), not displaying the underlying functions, features or applications grouped into a content mode. Bear, ¶¶ 9, 67-75, 82-91.

The Final Office Action mischaracterized LiTL’s argument as being that a content mode is an icon or visual representation. FOA, 9 (content mode is “not an icon or visual representation as proposed by PO”), 10 (content mode is not “synonymous with” an icon), 12 (“PO’s position that a ‘content mode’ is strictly limited to a visual representation”). Based on that mischaracterization, the Final Office Action alleges that a content mode “is more akin to a type of content being currently displayed than a top-level icon or visual representation.” FOA, 15. In contrast, LiTL argued that content modes are higher-level constructs that **group** “information, programs, features and applications” (Response, 8-9 (quoting ’844 Patent, 11:38-40)), so that **displaying** a content mode requires displaying some visual representation that **represents** the higher-level construct into which things are grouped. The specification makes clear that a content mode is “akin” to a higher-level grouping of one or more things like “information, programs, features and applications,” not to any individual components grouped into a content mode. ’844 Patent, 11:38-40.

As detailed below, claim construction is controlled by the intrinsic evidence as viewed by a POSA. The intrinsic evidence and the un rebutted sworn testimony of Mr. Bear lead to only one

conclusion and require reversal of the rejections because they are all dependent on the Final Office Action's unreasonable claim interpretation.

A. The Final Office Action Acknowledges that there Is No Known Meaning in the Art for “Content Mode(s)” Or “Mode(s) Of Content”

In the Request, Lenovo did not allege that “content mode(s)” or “mode(s) of content” had an accepted meaning in the art and submitted no evidence establishing a known meaning. The Final Office Action acknowledges that there is no established meaning in the art. FOA, 8; Bear, ¶ 81 (explaining there is no established meaning). Given that there is no established meaning for “content mode,” the meaning the specification ascribes to this term, as understood by a POSA (*See* Bear, ¶¶ 80-91), controls. *Indacon, Inc. v. Facebook, Inc.*, 824 F.3d 1352, 1357 (Fed. Cir. 2016) (when “terms have no plain or established meaning to one of ordinary skill in the art,” “they ordinarily cannot be construed broader than the disclosure in the specification”); *Irdeto Access, Inc. v. Echostar Satellite Corp.*, 383 F.3d 1295, 1300 (Fed. Cir. 2004) (“[A]bsent such an accepted meaning [in the art], we construe a claim term only as broadly as provided for by the patent itself.”); MPEP § 2111.01(V) (“[I]f a claim term does not have an ordinary and customary meaning, the examiner should check the specification to determine whether it provides a meaning to the claim term....If the specification provides a meaning for the claim term, the examiner should use the meaning provided by the specification.”).

B. The Specification Uniformly Describes Displaying a Content Mode as Displaying a Higher-Level Construct Distinct from any Applications Grouped Thereunder

The '844 Patent is directed to an improved portable computer that is capable of being rotated into multiple different physical configurations such as a conventional laptop mode, a flat mode, a frame mode, and an easel mode. '844 Patent, 5:43-49, Figs. 4, 17, 26-27. The “Examiner does not

dispute” that “display mode” in the ’844 Patent refers to the computer’s physical configuration.

FOA, 7. The improved portable computer is “capable of different display formats and functionality in the different” physical configurations. ’844 Patent, 5:49-51.

1. Streamlined GUI Supporting Hierarchical Navigation

The Final Office Action does not dispute that the ’844 Patent describes an improved portable computer with a “streamlined graphical user interface [“GUI”] that supports ‘map’ navigation.” *Id.*, 11:12-13. “The map user interface provides a clear overview of the entire computing environment and searching capability within the environment that may be accessed.” *Id.*, 11:13-16. This “map mode of navigation is a hierarchical mode that reduces the number of items to select amongst at any stage of navigation, thereby facilitating user access.” *Id.*, 11:20-22.

2. “Content Modes” Support Hierarchical Navigation

It is the “content modes” that present the highest level of the hierarchical menu that helps streamline the user interface and reduce the number of items a user has to select from so as to provide a clear overview of the computing environment. *Id.*, 11:11-44. That is because the content modes are “*group[ings]*” of “information, programs, features and applications.” ’844 Patent, 11:38-40; Bear, ¶¶ 9, 67-75, 82-91.

As shown in Figs. 11-12 and 17 of the ’844 Patent, in one example there are eleven distinct examples of “information, programs, features and applications” the user can access – “LiTL Media Player,” “LiTL mail,” “LiTL chat,” “LiTL intercom,” “LiTL browser,” “LiTL docs,” “LiTL vue,” “add/delete apps,” “browse channels,” “create new channel,” and “add/delete channels.” Those are “grouped” into a smaller number of five content modes 172*a-e*. That simplifies the highest level of the hierarchical user interface by “reduc[ing] the number of items to select from” (from eleven to

five), “thereby facilitating user access.” *Id.*, 11:20-22; Bear, ¶¶ 66-67, 83. Fig. 17 illustrates that displaying the content modes requires displaying a visual representation (e.g., a “menu[]” or “icon[]”) of each of the content modes 172*a-e*. ’844 Patent, 10:54-65; Bear, ¶¶ 65, 74-75, 82-84, 87-88, 90.

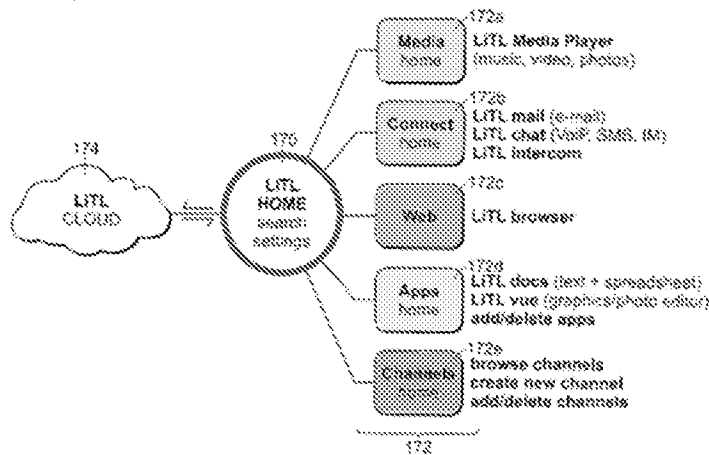


FIG. 11

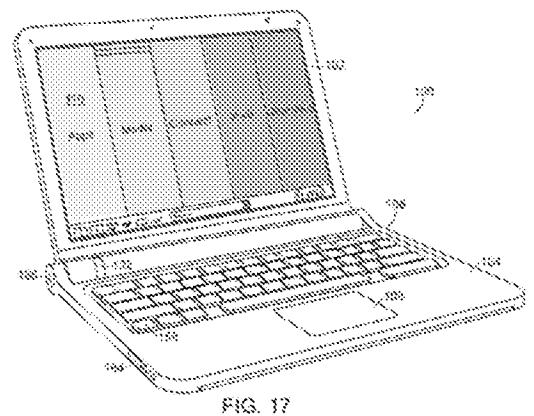


FIG. 17

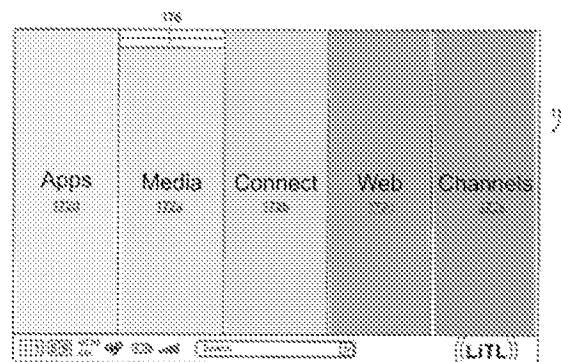


FIG. 12

Scroll wheel 132 and navigation buttons 166, 168 “may be used to navigate the user interface. ... scrolling the scroll wheel may sequentially highlight different ones of the modes of content 172. ... A highlighted mode 172 may be selected by pressing the scroll wheel, thereby bringing up a new ‘page’ or screen on the user interface corresponding to the selected mode. Once

within a selected mode of content 172, the scroll wheel may similarly be used to select *particular functions, features or applications* within that mode.” ’844 Patent, 12:22-35. For example, if the user initially selected the connect mode 172*b*, the user can then use the scroll wheel to select among “features such as, for example, email, voice-over-IP instant messaging, etc.” *Id.*, 11:46-48. While Figs. 12 and 17 display the different modes of content as a series of bars, other display configurations (*e.g.*, a desktop and icon configuration or a dashboard configuration) are possible. *Id.*, 12:6-21; Bear, ¶ 74.

LiTL agrees with the Examiner that the claims are not *limited* to hierarchical navigation. FOA, 12-13, 16. But the hierarchical navigation embodiment described in connection with Figs. 11-12 and 17 is the *only* disclosure the ’844 specification provides of what a “content mode” (or “mode of content”) is. That disclosure is explicit that a content mode is distinct from “information, programs, features and applications” grouped thereunder – it is a higher-level construct. ’844 Patent, 11:38-40; Bear, ¶¶ 87-91. As detailed below, that disclosure is also explicit that the content modes 172 are displayed to the user by displaying visual representations (bars in Figs. 12 and 17) of the higher-level constructs so that they user may select a particular content mode to navigate to, and that only after the user makes that selection does the computer display the underlying “content” grouped into that content mode. Bear, ¶¶ 66, 74-75, 84-85, 91, 98; ’844 Patent, 11:10-24, 11:38-48, 12:6-35, Figs. 12, 17. The Examiner’s suggestion that it is appropriate to read a content mode onto the types of “content” the specification describes the user as navigating to in response to “selecting” a content mode because the specification does not expressly “preclude[]” such a reading (FOA, 11-12) is legal error. Under the broadest reasonable interpretation (“BRI”) standard, the Office must adopt a claim interpretation that is affirmatively “consistent” with the specification – not simply a

construction that is not expressly “precluded” by the specification. *In re Smith Int’l, Inc.*, 871 F.3d 1375, 1382-83 (Fed. Cir. 2017) (“The correct inquiry in giving a claim term its broadest reasonable interpretation in light of the specification is not whether the specification proscribes or precludes some broad reading of the claim term adopted by the examiner. And it is not simply an interpretation that is not inconsistent with the specification. It is an interpretation that corresponds with what and how the inventor describes his invention in the specification, i.e., an interpretation that is ‘consistent with the specification.’”).

3. The Specification Is Clear that Displaying a “Content Mode”/“Mode Of Content” Is Different than Displaying Functions, Features Or Applications Within the Content Mode

The ’844 Patent consistently refers to displaying a content mode as requiring the display of some visual representation of the content mode—some “information, such as menus, icons, etc. ... on the display screen 110” (’844 Patent, 10:54-65) that represents the content mode. Bear, ¶ 88. This is shown in Figs. 12 and 17 where the contents modes 172 are displayed via displaying a visual representation (a bar) of each of the content modes 172*a-e*. Bear, ¶¶ 68, 74, 83-85, 91. The ’844 Patent never refers to the display of a content mode as merely displaying one or more functions, features or applications grouped within a content mode. Bear, ¶¶ 80-91.

The challenged claims require the portable computer be configured to “*display to a user . . . a first content mode* [in the laptop mode] [and] *a second content mode* [in the easel mode].” For a “content mode” to be displayed, a visual representation of the content mode must be presented to the user on the display. Bear, ¶ 86.

C. Figure 13 Does Not Support the Final Office Action's Interpretation

The Final Office Action relies on Fig. 13 and its description in the '844 Patent (at 12:6-15) to allegedly support its broad interpretation. FOA, 9-10. But nothing in Fig. 13 or the specification's description of it is inconsistent with the specification's other disclosures of what a content mode is. *See* Bear, Appendix B (page 6 notes the specification's discussion of Fig. 13 which is at 12:6-21), ¶ 88 (explaining that “*every* use of the terms ‘content mode(s)’ and ‘mode(s) of content’ in the '844 Patent (each is *listed in Appendix B*, herein)” is consistent and none “refers to the display of a content mode as merely displaying one or more functions, features, or applications *that can be grouped* within a content mode”) (final emphasis original).

The specification's paragraph describing Fig. 13 begins by explaining that “the different modes of content 172 may be displayed as [the] series of bars” in Fig. 12 and that the specification's “discussion of various features, including hardware navigation through the map user interface may refer primarily to the display configuration” in Fig. 12. '844 Patent, 12:6-12. The specification goes on to explain that the invention is not “so limited” – to that “display configuration ... in Fig. 12” – because “*the* modes of content [172] may be displayed in other configurations.” *Id.*, 12:12-14. The specification then says those “other configurations” could be “a ‘desktop’ and icon configuration, a ‘dashboard’ type display, as illustrated in Fig. 13, or another configuration.” *Id.*, 12:14-17.

Thus, the specification explains that Fig. 13 illustrates a “‘dashboard’ type display” that is an alternative to Fig. 12's bar configuration for the *hierarchical “map user interface”* and can be used to display “the modes of content.” '844 Patent, 12:11-21. By referencing “*the* modes of content” described in connection with Fig. 12, it is clear that the specification does not say that new or

different type of content modes – undescribed anywhere in the specification – are used in connection with Fig. 13. Instead, the specification makes clear that Fig. 13 is simply a different alternative type of “display configuration” to display the same hierarchical map user interface and the same modes of content that are displayed in the configuration show in Fig. 12.

Unlike Figs. 11-12 and 17 that identify content modes as 172, the specification never says anything displayed in Fig. 13 is a content mode. The Examiner never explains what it is in Fig. 13 that the Examiner alleges the specification characterizes as a “content mode.” That is because the specification never characterizes anything in Fig. 13 as a content mode. What Fig. 13 illustrates are examples of various “channels” described in the specification. *See e.g.*, ’844 Patent, 11:55-12:5; Fig. 11 (“channels” labeled 172e). The “channels” mode of content is labeled 172e in Fig. 11. *Id.*, 11:27-38. The ’844 Patent states:

The ***channels mode 172e*** may ***provide access*** to different functionality of the portable computer, with the ***different functions or features defined as different channels***. For example, ***a channel may include an alarm clock channel*** in which the portable computer is configured to display a clock and can be programmed to activate an alarm, e.g., a sound, piece of music, etc., at a predetermined time. Another example of a channel may include ***a “photo frame” channel*** in which the portable computer may be configured to display a pre-selected image or set of images, etc. Another example of a channel is a “television” channel, in which the portable computer is configured to stream Internet television. In one example, a user may configure particular Internet television channels (e.g., ***a news channel***, a movie channel, a home and garden channel, etc.) into sub-channels within the channels mode of content 172(e). Some or all of the ***modes of content 172 may access, retrieve and/or store information on the Internet 174***.

Id., 11:55-12:5.

Fig. 13 is entirely consistent with illustrating how a “dashboard type display” can be used in the hierarchical “map user interface” (’844 Patent, 12:11-21) by illustrating what the display looks like ***after*** the user has navigated to the “channels” content mode 172e. Nothing suggests that Fig.

13 instead shows a higher-level view of the map user interface in a dashboard type display. If it did, then Fig. 13 would illustrate in a dashboard configuration with “the [same] modes of content” (Response, 12-13 (172a-e shown in Figs. 11-12 and 17)). Fig. 13 does not illustrate that. Indeed, there are many types of content the specification describes the user as being able to navigate to using the hierarchical “map user interface” (e.g., by selecting from among the different content modes 172a-e) that are not shown as accessible to the user in Fig. 13 (e.g., the media player, mail, chat, browser, docs, etc.).

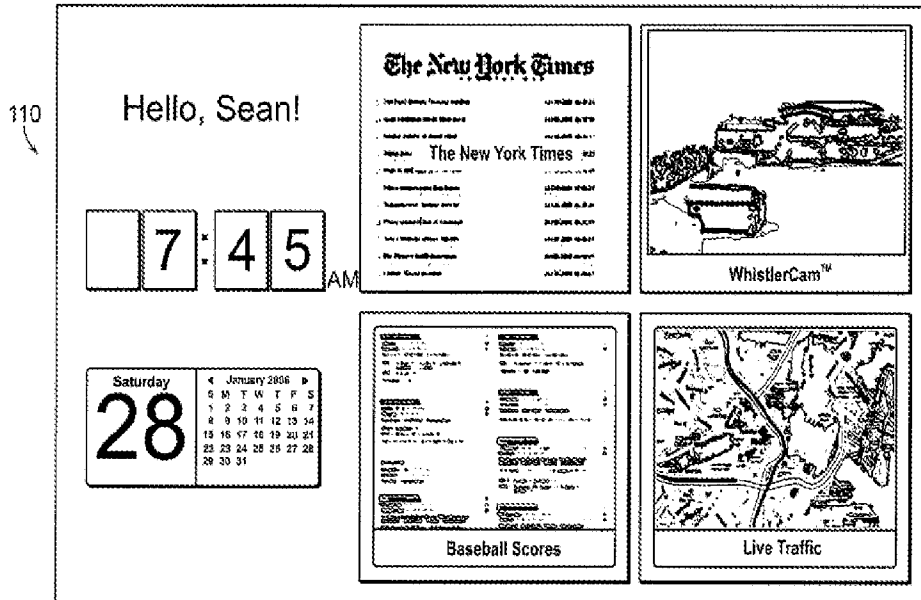


FIG. 13

Accordingly, Fig. 13 is entirely consistent with LiTL’s interpretation of content modes. The Examiner’s assertion that Fig. 13 refutes the specification’s clear disclosure that each of the content modes 172a-e is a higher-level construct than any content “grouped” thereunder is entirely unsupported.

The Examiner's interpretation of Fig. 13 is also directly refuted by Mr. Bear's testimony that the specification's disclosure of Fig. 13 is consistent with the rest of the specification's disclosure about what a content mode is and what displaying a content mode requires. *See* Bear, Appendix B (page 6 notes the specification's discussion of Fig. 13 which is at 12:6-21), ¶ 88 (explaining that “*every* use of the terms ‘content mode(s)’ and ‘mode(s) of content’ in the ’844 Patent (each is *listed in Appendix B*, herein)” is consistent and none “refers to the display of a content mode as merely displaying one or more functions, features, or applications *that can be grouped* within a content mode”) (final emphasis original). The Examiner cites no evidence that provides any basis to disregard Mr. Bear's testimony about how a POSA would interpret Fig. 13 and to exalt the examiner's opinion over Mr. Bear's sworn testimony.

Indeed, LiTL respectfully points out that given the Examiner's reliance on new evidence to support the rejection (*i.e.*, portions of the specification nowhere cited in the first Office Action, including Fig. 13 and claim 10 discussed below), LiTL lacked “a fair opportunity to react to the thrust of the rejection,” and it was therefore improper for the Examiner to make the latest office action final. *See Rambus Inc. v. Rea*, 731 F.3d 1248, 1256 (Fed. Cir. 2013) (vacating-in-part and remanding because failure to “provide the [patent owner] with an opportunity to respond” to a new ground of rejection in reexamination “violates the [patent owner's] notice rights”); *In re Leithem*, 661 F.3d 1316, 1319 (Fed. Cir. 2011) (vacating rejection: “Mere reliance on the same statutory basis and the same prior art references, alone, is insufficient to avoid making a new ground of rejection when the Board relies on new facts and rationales not previously raised to the applicant by the examiner.”); *see also* MPEP § 706.07(a) (“second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by

applicant's amendment of the claims, nor based on information submitted in an information disclosure statement").

LiTL is entitled to have "a full and fair opportunity to litigate the ... actual basis of rejection" and to respond to *all* evidence that the Examiner believes supports the rejection. *In re Stepan Co.*, 660 F.3d 1341, 1343, 1346 (Fed. Cir. 2011) (vacating rejection in reexamination because patent owner "did not have prior notice of the Board's intent to craft and rely on new findings of fact to support a §§ 102(a)/103(a) rejection"). If the Examiner believes that something displayed in Fig. 13 would be understood by a POSA to be a display of a content mode as claimed, the Examiner should issue a new non-final office action that specifically identifies what that disclosure is, so that LiTL has the opportunity to respond with evidence (testimony of Mr. Bear) specifically responding to whatever assertion the Examiner makes about the evidence (Fig. 13) newly relied on in the Final Office Action. *See Rambus*, 731 F.3d at 1256 ; *In re Stepan Co.*, 660 F.3d at 1346; *In re Leithem*, 661 F.3d at 1319. Mr. Bear has re-reviewed Fig. 13 and stands ready to provide sworn testimony that a POSA would have disagreed with the Examiner's interpretation of Fig. 13. If the Examiner is going to maintain a rejection based on citation to new evidence in the specification (Fig. 13) and a new theory about what that evidence allegedly establishes, LiTL is entitled to notice of the Examiner's position and the opportunity to provide responsive evidence (including expert testimony) refuting the Examiner's interpretation of the newly-cited evidence. *See Rambus*, 731 F.3d at 1256 ; *In re Stepan Co.*, 660 F.3d at 1346; *In re Leithem*, 661 F.3d at 1319.

D. The '844 Patent's Disclosures of a User Accessing Things "Within" a Mode of Content Do Not Support the Final Office Action's Interpretation

The Final Office Action notes the specification's disclosure that a user can perform "activities within at least some modes of content (e.g., viewing a photograph or video)" ('844

Patent, 14:7-13) and suggests that this is “inconsistent” with LiTL’s position for two reasons. FOA, 10-11. Respectfully, the Final Office Action is wrong on both accounts.

1. LiTL Never Argued that a Content Mode Is an Icon or Visual Representation

The Examiner suggests that the capability to be “within” a content mode “is inconsistent with the term being strictly synonymous with ‘icon’ (or some other top-level visual representation for navigation like the bars in Figure 12).” FOA, 10. The Examiner similarly alleges that the ’844 Patent’s disclosure that a content mode “may access, retrieve and/or store information on the Internet” (’844 Patent, 12:4-5) is “also inconsistent with ‘mode of content’ only being a top-level visual representation.” FOA, 11.

Both of these assertions attack strawman arguments that LiTL never made. As discussed *Supra* § V.B. LiTL’s argument is that content modes are higher-level constructs that group together “information, programs, features and applications” (’844 Patent, 11:38-40) so that *displaying* a content mode requires displaying a visual representation of the higher-level construct. LiTL never argued that content modes are icons or other visual representations.

2. The Examiner Misreads the Specification which Clearly Distinguishes Between Displaying a Content Mode and Displaying Content Grouped Into a Content Mode

The Examiner alleges that because the specification explains that “*activities within* at least some modes of content” include “viewing a photograph or video,” a POSA would “consider the display of a photograph or video to be a display of a mode of content.” FOA, 11. This assertion is directly contradicted by Mr. Bear’s sworn testimony (Bear, ¶¶ 75, 87-91) and *unsupported by citation to any evidence*. The specification never refers to displaying a photograph or video as displaying a content mode.

As discussed *supra* §§ V.B.1-2, the specification describes the content modes as being used in the map mode of navigation. In map navigation, a user may select a mode of content by selecting its visual representation (e.g., menu or icon), and only after and in response to the user selecting a mode of content does the user navigate “within” the selected content mode so the user may perform activities and/or access functions, features or applications within that content mode. *See e.g.*, ’844 Patent, 11:40-44 (“By selecting any mode of content 172, [] the user may access the content organized within that mode.”); 12:32-35 (“Once within a selected mode of content 172, the scroll wheel may similarly be used to select particular functions, features or applications within that mode.”) With respect to the Examiner’s example relating to viewing a photograph or video using the map navigation user interface, the specification makes clear that the user would first need to select the “media” content mode 172*a* to even access the LiTL media player, let alone use the media player to display a photograph or video. *See id.*, 11:35-46; Bear, ¶¶ 75, 87-91.

The ’844 Patent could not be clearer that there is a difference between a content mode and “the content organized within that mode.” ’844 Patent, 11:40-44; Bear, ¶ 82. Figs. 12 and 17 are the only figures that illustrate the display of content modes. ’844 Patent, 12:6-8 (“the different *modes of content 172 may be displayed ... as illustrated in Fig. 12*”); Bear, ¶ 82. The content modes support “hierarchical” navigation (’844 Patent, 11:19-24) not only because they group together “information, programs, features and applications” (*Id.*, 11:38-40), but because the content groups are *displayed to the user* so the user may select a particular content mode to navigate to. Bear, ¶ 83. “[T]he *different modes of content 172 may be displayed* as a series of bars across the display screen 110, as illustrated in Fig. 12.” ’844 Patent, 12:6-8; *see also*, Fig. 17; Bear, ¶ 83.

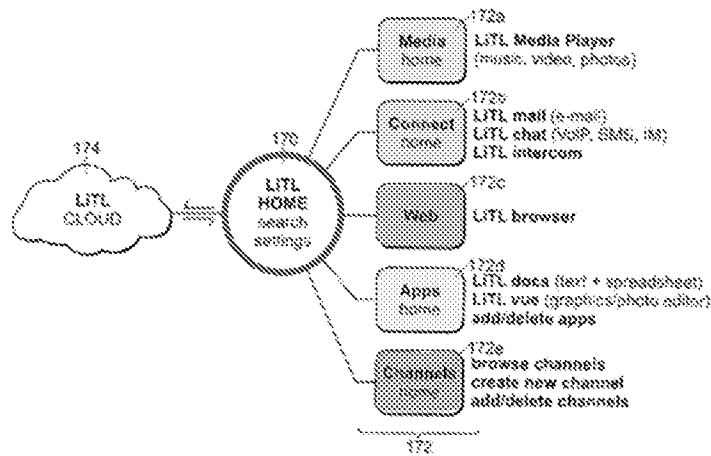


FIG. 11

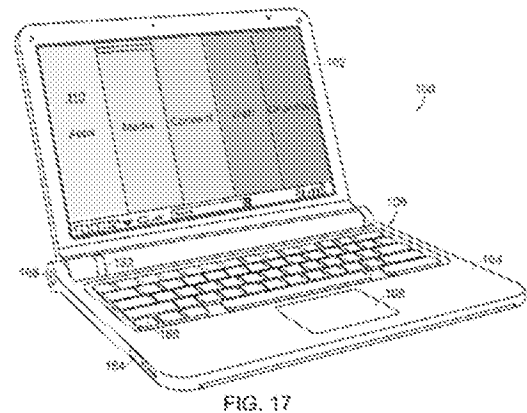


FIG. 17

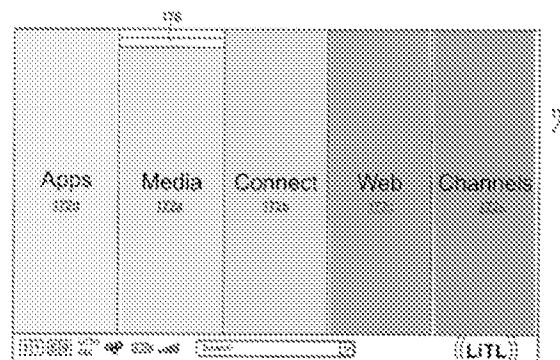


FIG. 12

The user may “navigate” the user interface that displays one or more content modes, and in one embodiment may “select” a particular content mode by pressing the scroll wheel when the desired content mode is highlighted. ’844 Patent, 12:22-29; Bear, ¶ 84. In one embodiment, after the user has selected a particular content mode on the user interface, “a new ‘page’ or screen on the user interface corresponding to the selected mode” is brought up that displays to the user the *“particular functions, features or applications within that [previously-selected content] mode”* so the user may select a desired function, feature or application within that content mode. ’844 Patent, 12:29-35; Bear, ¶ 84. Thus, according to the specification, displaying a content mode means

displaying some “information, such as menus, icons, etc. ... on the display screen 110” (’844 Patent, 10:54-65) that represents the content mode, and is distinct from displaying any functions, features and/or applications grouped within that content mode. Bear, ¶ 84.

As noted above, the Final Office Action relies on Ledbetter’s disclosure of “media player software” and “working/productivity software” being displayed in different configurations of Lane’s computer. FOA, 14-15. The ’844 Patent specification refers to these as “*particular functions, features or applications*” that may be grouped within a content mode (’844 Patent, 12:22-35), and makes clear that displaying the “particular functions, features or applications within” a content mode is not the same thing as displaying the content mode itself. *Id.*, 11:38-40, 12:6-8, 12:22-35; *see also, e.g.*, Fig. 11 (the LiTL media player is an application program that is displayed separately from the “Media” content mode 172a displayed on Figs. 12 and 17); Bear, ¶¶ 87-91.

As explained above, the Examiner has misunderstood the most critical evidence – the specification. Nothing in the intrinsic evidence supports the Examiner’s reading. And the Examiner again cites no evidence that would justify failing to credit Mr. Bear’s undisputed sworn testimony about how a POSA would have understood the specification.

The Examiner also cites no extrinsic evidence that illustrates any use of the terms “content mode” or “mode of content” in the art – let alone evidence that characterizes a photograph or video as a content mode. No evidence supports interpreting “content mode” to cover something different than what the specification describes as a content mode, and no evidence justifies failing to credit the sworn testimony of Mr. Bear that expressly refutes the Examiner’s assertion. Bear, ¶¶ 75, 87-91. The Examiner’s sole “justification” for treating a photograph or video as a “content mode” is the Examiner’s analysis that deconstructs the claim term into individual words and relies on a

dictionary definition of “mode” as type. FOA, 11-12. That analysis is legally improper and inconsistent with how the Examiner interprets “display mode” for the reasons discussed in § IV above.

E. The Examiner Misreads Claim 10 in Alleging that it Is Inconsistent with LiTL’s Interpretation

In the Response to the first office action, LiTL noted that although the claims do not require map navigation, they do require that the computer be configured to “display first and second content modes,” so that LiTL’s argument that the claim requires a computer configured to *display* some visual representation of a content mode is commensurate with what the claims require. Response, 11-12. The Final Office Action purports to respond to this argument by alleging that claim 10 is “inconsistent” with LiTL’s alleged position that “a ‘content mode’ is strictly limited to a visual representation such as an icon or bar.” FOA, 12. But once again, the Examiner refutes a strawman argument LiTL never made. LiTL never argued that a content mode is an icon or visual representation. *Supra* § V.D.1.

To the extent the Examiner considers claim 10 to be inconsistent with the arguments that LiTL actually advanced, the Examiner misreads claim 10 in two ways discussed below.

1. That Claim 10 Does Not Require “Simultaneously” Displaying First and Second Content Modes Is Not Inconsistent with LiTL’s Claim Interpretation of Content Mode

The Final Office Action notes that claim 10 does not require displaying the first and second content modes simultaneously or displaying multiple visual representations for the user to “select” from. FOA, 12. To the extent that the Examiner reads claim 10 as requiring that each of the first and second content modes is displayed individually and without any other content mode being presented on the display, the Examiner is wrong because nothing in claim 10 requires that.

Claim 10 only requires displaying the first content mode in laptop mode and the second content mode in easel mode. Claim 10 does not preclude displaying anything else “simultaneously” on the display in either laptop or easel mode. Thus, nothing in claim 10 precludes displaying both the first and second content modes in laptop mode and/or displaying both the first and second content modes in easel mode. Similarly, nothing in claim 10 precludes the display of additional (*e.g.*, third, fourth, fifth) content modes in either the laptop or easel mode. There is simply nothing in claim 10 that even suggests, let alone requires, that when either the first or second content modes is displayed that there be no other content modes simultaneously displayed to the user. The Examiner’s suggestion that claim 10 is somehow inconsistent with LiTL’s claim construction of content mode is incorrect and unsupported by anything in claim 10.

2. The Examiner Misreads Claim 10 as Requiring that Certain Content Modes Are “Particular” to Certain Physical Orientations

The Examiner also alleges that claim 10 requires “a first content mode [that] is particular to the orientation of laptop mode and a second content mode [that] is particular to the orientation of easel mode.” FOA, 12. Once again, to the extent that the Examiner reads claim 10 as requiring that each of the first and second content modes is displayed individually and without any other content mode being presented on the display, the Examiner is wrong because nothing in claim 10 requires that for the reasons discussed in § V.E.1. Nothing in claim 10 precludes displaying multiple content modes in either the laptop or easel mode.

Nothing in claim 10 prevents the first content mode from being displayed in easel mode or any other physical configuration of the computer in addition to the laptop mode. Thus, nothing in claim 10 limits the first content mode to being “particular to the orientation of laptop mode” as the Examiner erroneously alleges. FOA, 12.

Similarly, nothing in claim 10 prevents the second content mode from being displayed in laptop mode or any other physical configuration of the computer in addition to the easel mode. Thus, nothing in claim 10 limits the second content mode to being “particular to the orientation of easel mode” as the Examiner erroneously alleges. FOA, 12.

Indeed, what claim 10 recites is that “the laptop mode is configured to display to a [] a first content mode having *a first content display orientation* [and] the easel mode is configured to display to the user [] a second content mode having *a second content display orientation*.” The ’844 patent makes clear that the *orientation* of visual representations displayed to the user in the laptop mode (Fig. 1 below) is different than the orientation of visual representations displayed in easel mode (Fig. 4 below). *See, e.g.*, ’844 Patent, 13:64-14:1 (“the function or display content and/or *display orientation* of the portable computer may vary when the portable computer is configured from the laptop mode into the easel mode, or vice versa”). The *orientation* is different in the laptop and easel configurations so that whatever is displayed on the display (including the visual representation of a content mode) appears right-side-up. Thus, claim 10 makes clear that there is a different *display orientation* for a content mode displayed in laptop mode than there is for a content mode displayed in easel mode. That is not remotely inconsistent with LiTL’s claim interpretation of content mode.

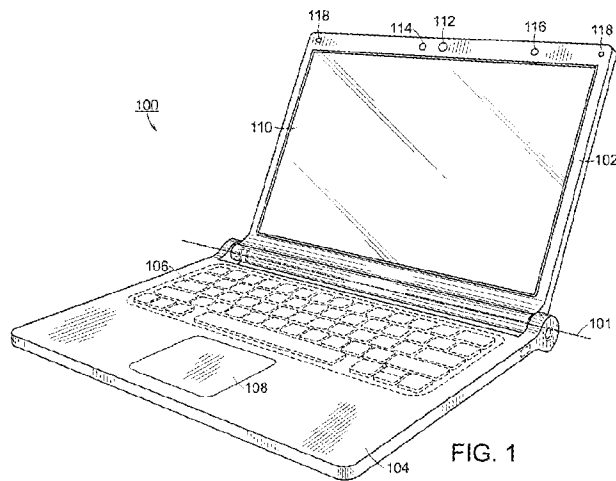


FIG. 1

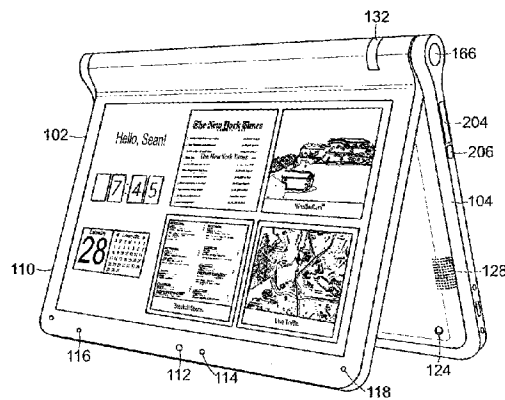


FIG. 4

As explained above, the Examiner simply (mis)reads claim 10 and injects into claim 10 limitations that it does not have. The Examiner's approach to interpreting the language in claim 10 and the term "content mode" are not consistent. With respect to the interpretation of "content mode," the Examiner ignores everything the specification says about what a "content mode" is, despite the specification providing critical context for the meaning of this term that has no established meaning in the art. The Examiner justifies this by noting that care must be taken to not inject into the claims limitations that are not there. Yet, in trying to justify the unreasonable interpretation of "content mode," the Examiner (mis)reads the rest of claim 10 by injecting into claim 10 limitations that are not only clearly absent from claim 10, but that are unsupported by anything in the specification. That is legal error.

Plainly and simply, nothing in claim 10 is inconsistent with LiTL's interpretation of content mode.

F. The Final Office Action Cites no Evidence that Justifies not Crediting Mr. Bear's Testimony on How a POSA Would Have Interpreted the Specification Because the Record Is Devoid of any such Evidence

Under BRI, the Office must adopt a claim interpretation that is consistent with the specification *as understood by a POSA*. *In re Cortright*, 165 F.3d 1353, 1359 (Fed. Cir. 1999) (reversing examiner's rejection because even under the BRI the construction was overbroad: "one of ordinary skill would construe this phrase" more narrowly to be "consistent with Cortright's disclosure and that of other references"). In doing so, the Office must consider *evidence* of how a POSA would interpret the relevant portions of the specification. *In re Alton*, 76 F.3d 1168, 1176 (Fed. Cir. 1996) (vacating and remanding: "[B]y failing to articulate adequate reasons to rebut the Wall declaration [regarding the perspective of a POSA], the examiner and Board failed to consider the totality of the record for the purpose of issuing a final rejection and thus erred as a matter of law"); *Ex Parte Ching-Shih Chen et al*, No. 2020-006427, 2021 WL 3406497, at *7 (P.T.A.B. Aug. 2, 2021) (reversing rejection: "Examiner's consideration and treatment of [applicants'] rebuttal evidence is improper because there is no indication that Examiner considered the Coss and Bekaii-Saab Declarations in a meaningful way."); *Ex Parte Suaro Bonelli et al*, No. 2019-002216, 2020 WL 914608, at *4 (P.T.A.B. Feb. 20, 2020) (reversing rejection: "[T]he Examiner's position that is contrary to the expert's is conclusory and unsupported by evidence of record, and lacks a reasoned explanation to disregard the expert testimony."); *see also Ex Parte GPS Industries, LLC*, No. 2011-009165, 2011 WL 3444512, at *6 (B.P.A.I. July 29, 2011) (reversing-in-part obviousness rejection and faulting examiner for disregarding patent owner's expert declarations: "[T]he probative value of expert opinion must be assessed by considering the nature of the matter sought to be established and the strength of the opposing evidence."); *Oracle Am., Inc. v. Netapp, Inc.*, No. 2012-009493, 2012

WL 5387671, at *12 (P.T.A.B. Oct. 31, 2012) (reversing rejections because examiner failed to address expert declarations: “The record does not contain the necessary explanation of why the [experts’] Declarations are deemed insufficient.”). Mr. Bear’s sworn testimony is the only such evidence. Bear, ¶¶ 80-91.

Lenovo and its expert never addressed the proper interpretation of “content mode” in light of the specification. The **only** expert testimony in this proceeding about how a POSA would have understood “content mode” or “mode(s) of content” is Mr. Bear’s testimony. Mr. Bear explains that when “content mode” is given its proper meaning, the rejections must be withdrawn for the reasons detailed herein. Bear, ¶¶ 92-102. The Examiner cites no evidence of a use in the art of the term “content mode” or “mode of content” that suggests a different meaning than the one that Mr. Bear explains that a POSA would glean from the specification. *See* § V.A. ***No evidence refutes Mr. Bear’s testimony about how a POSA would interpret the specification.***

While the Final Office Action acknowledged that the specification must be interpreted as read by a POSA (FOA, 11, 13), the Examiner failed to credit the **only** evidence – Mr. Bear’s sworn un rebutted testimony – establishing how a POSA would interpret “content mode” in view of the specification. In rejecting LiTL’s claim construction argument based on the specification, the Examiner “disagrees” ***with Mr. Bear’s sworn testimony*** about how a POSA would interpret the specification. Bear, ¶¶ 80-91 (cited in Response, 11-12). Yet, the Examiner cites no **evidence** to refute Mr. Bear’s sworn testimony. That is legal error. *In re Alton*, 76 F.3d at 1176; *Ex Parte Ching-Shih Chen et al*, 2021 WL 3406497, at *7; *Ex Parte Suaro Bonelli et al*, 2020 WL 914608, at *4; *see also Ex Parte Grandeye Ltd.*, 2016 WL 6649057, at *3-*4; *Ex Parte GPS Industries, LLC*, 2011 WL 3444512, at *6; *Oracle Am., Inc. v. Netapp, Inc.*, 2012 WL 5387671, at *12. While the

Examiner offers an opinion that differs from Mr. Bear's, no evidence establishes that the Examiner is a POSA and qualified to dispute Mr. Bear's sworn testimony. *See id.* The Examiner's opinion about what the specification means is not *evidence* of how a *POSA* would interpret the specification.

The Final Office Action's interpretation that reads the claimed "content mode" onto something that (1) the specification never characterizes as a content mode, (2) the specification describes as distinct from what the specification characterizes as a content mode, and (3) is directly contradicted by all the evidence about how a POSA would interpret the specification in this respect, is not "reasonable" under BRI. *In re Smith Int'l, Inc.*, 871 F.3d at 1382-83 ("The correct inquiry in giving a claim term its broadest reasonable interpretation in light of the specification is not whether the specification proscribes or precludes some broad reading of the claim term adopted by the examiner. And it is not simply an interpretation that is not inconsistent with the specification. It is an interpretation that corresponds with what and how the inventor describes his invention in the specification, i.e., an interpretation that is 'consistent with the specification.'"); *In re Cortright*, 165 F.3d at 1359 (reversing examiner's rejection because even under BRI the construction was overbroad: "one of ordinary skill would construe this phrase" more narrowly to be "consistent with Cortright's disclosure and that of other references").

VI. THE FINAL OFFICE ACTION DOES NOT DISPUTE THAT THE LANE/LEDBETTER COMBINATION FAILS TO DISCLOSE THE CLAIMED FIRST AND SECOND "CONTENT MODE" UNDER LITL'S CLAIM INTERPRETATION

Claims 10 and 16 require a "portable computer configurable between a plurality of display modes including a laptop mode and an easel mode ... wherein the laptop mode is configured to

display to a user ... a first content mode ... [and] the easel mode is configured to display to the user ... a second content mode.”

The Final Office Action does not dispute that the Lane/Ledbetter combination fails to disclose display of a first and second “content mode” under LiTL’s interpretation of “content mode.” The Final Office Action relies on Ledbetter’s disclosure of different software programs, such as “media player software” and “working/productivity software” to be used in different configurations of the Lane computer as disclosing the claimed first and second content mode. FOA, 13-14. Ledbetter’s software programs are “*particular functions, features or applications*” that may be grouped within a content mode. ’844 Patent, 12:22-35. They are not the same thing as the content modes in which they are grouped, because a content mode is a higher-level construct. ’844 Patent, 11:38-40; Bear, ¶¶ 87-91. Thus, the Lane/Ledbetter combination displaying “functions, features or applications” does not meet the claim requirement to display a content mode because the Lane/Ledbetter combination does not display any visual representation of a content mode. ’844 Patent, 11:38-40; Bear, ¶¶ 93-102.

The rejections must be withdrawn because the Lane/Ledbetter combination only displays information, programs, features and applications grouped into alleged content modes, and the specification is clear that this is not the same thing as displaying content modes as the claims require.

VII. CONCLUSION

For the foregoing reasons, the rejections should be withdrawn and claims 10 and 16 should be confirmed. If there is a fee occasioned by this response that is not covered by an enclosed

payment, please charge any deficiency to Deposit Account No. 23/2825 under Docket No.

L2039.70001US10, from which the undersigned is authorized to draw.

Dated: March 3, 2023

Respectfully submitted,

/Gerald B. Hrycyszyn/

Richard F. Giunta, Reg. No. 36,149

Gerald B. Hrycyszyn, Reg. No. 50,474

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