

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD. AND  
SAMSUNG ELECTRONICS AMERICA, INC.,  
Petitioner,

v.

MAXELL, LTD.,  
Patent Owner

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IPR2024-00717  
Patent 11,223,757 B2

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Record of Oral Hearing  
Held: August 14, 2025

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Before NEIL T. POWELL, TERRENCE W. MCMILLIN, and KEVIN C.  
TROCK, *Administrative Patent Judges*.

IPR2024-00717  
Patent 11,223,757 B2

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IPR2024-00717  
Patent 11,223,757 B2

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commencing at 1:01 p.m., via video teleconference.

P R O C E E D I N G S

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JUDGE POWELL: We are here for an oral argument in IPR2024-00717. That case involves U.S. Patent number 11,223,757 B2. I am Judge Powell, and I'm joined by Judges McMillin and Trock. We'll start with the appearances for the parties. Who do we have for Petitioner today?

MR. HEINTZ: Good afternoon, Your Honor. James Heintz from DLA Piper for Petitioner. With me is Mr. Michael Jay, also of DLA Piper.

MR. JAY: Good afternoon.

MR. HEINTZ: And from Samsung is Mr. Matthew Bathon.

JUDGE POWELL: Thank you. And now we'll have appearances for Patent Owner.

MR. PLUTA: Good afternoon, Your Honor. Robert Pluta from Mayer Brown on behalf of Maxell, Ltd. With me, is Saqib Siddiqui and Mr. Seth Bruneel, who will be providing arguments today through the LEAP program.

JUDGE POWELL: Thank you. So, our hearing order specified 45 minutes of argument time for each side. And, of course, as Patent Owner notes, we granted Mr. Bruneel's LEAP request so Patent Owner will get an additional 15 minutes for a total of 60 minutes for Patent Owner.

We'll start with Petitioner's arguments, and Petitioner may reserve some rebuttal time. Patent Owner will respond and may reserve sur-rebuttal time. We'll keep track with the timer, which has a display behind me, and I encourage you to keep track of your time independently. I will try to remind you when you're getting close to time or over time.

1           When you present, please note which demonstratives and exhibits  
2   you're referring to. And we are open to the public currently, so let me ask  
3   -- let's start with Patent Owner, do you anticipate discussing any confidential  
4   information today?

5           MR. PLUTA: No, Your Honor.

6           JUDGE POWELL: Okay. Petitioner, also?

7           MR. HEINTZ: No, Your Honor.

8           JUDGE POWELL: Okay, very good. Also, let me ask Patent  
9   Owner, any other questions or concerns?

10          MR. PLUTA: No, Your Honor.

11          JUDGE POWELL: Okay. If Petitioner doesn't have anything else,  
12   you have the floor.

13          MR. HEINTZ: Nothing, Your Honor.

14          JUDGE POWELL: Oh, actually, I forgot to ask, would you like to  
15   reserve some time?

16          MR. HEINTZ: I would, Your Honor. I'd like to reserve 20  
17   minutes.

18          JUDGE POWELL: Okay. So, I'll reduce the timer to reflect the  
19   25, and you may proceed when you're ready.

20          MR. HEINTZ: Thank you, Your Honor, and may it please the  
21   Board -- oops, okay. Thank you, Your Honor. May it please the Board,  
22   again, James Heintz for the Samsung Petitioners.

23          Your Honor, today, I'll be discussing primarily Exhibit 1016,  
24   which are the Petitioner's demonstratives. Your Honor, the '757 Patent is  
25   really about taking a simple idea and applying it in the context of a  
26   smartphone with front and rear cameras.

1           The simple idea is introducing a delay after what the patent calls a  
2   command voice, and what I'm going to refer to as a voice command because  
3   that's a more natural way of expressing the idea. The idea in the '757 Patent  
4   is waiting some amount of time after a voice command is given. The reason  
5   for the idea is pretty simple. We want to give the person who is speaking the  
6   command, time to compose himself, or herself, before the picture is taken.  
7   The patent requires that this delay be used with the first camera, which is  
8   what the claim language says, that's the front camera, as it's typically  
9   applied. And so, because we're talking about the front camera of a  
10   smartphone, the person who is issuing the voice command, speaking the  
11   words, is generally going to be in the picture. So, the idea of the patent is --

12           JUDGE TROCK: Counsel, I hate to --

13           MR. HEINTZ: -- let's give a little bit of a delay --

14           JUDGE TROCK: Counsel, can you hear me?

15           MR. HEINTZ: -- to allow the user time to form a smile --

16           JUDGE TROCK: He still can't hear me.

17           MR. HEINTZ: -- or whatever other pose the user might want to  
18   take --

19           JUDGE TROCK: My microphone's on but he still can't hear me.

20           MR. HEINTZ: -- before the picture is actually captured. The  
21   problem for Maxell --

22           JUDGE MCMILLIN: Excuse me.

23           MR. HEINTZ: -- is that this simple idea --

24           JUDGE MCMILLIN: Excuse me. This is Judge McMillin. I'm  
25   only interrupting because I think Judge Trock has something to say, but it's  
26   very hard to hear him.

1 JUDGE TROCK: Right. You are not hearing my voice.

2 MR. HEINTZ: We are now.

3 JUDGE MCMILLIN: Now we are.

4 JUDGE TROCK: Can you hear me now?

5 MR. HEINTZ: Yes.

6 JUDGE TROCK: Okay, sorry. I was trying to ask you a question,  
7 but you weren't responding so I figured we had a technical problem. All  
8 right. So, to backup, I hate to interrupt you so early in your presentation, but  
9 you're referring to a front camera; is that correct?

10 MR. HEINTZ: It is correct, Your Honor.

11 JUDGE TROCK: So, this is camera number one?

12 MR. HEINTZ: Yeah, the claims refer to it as the first camera. So,  
13 camera number one --

14 JUDGE TROCK: Okay. So, you referring to this in the context of  
15 a smartphone; is that right?

16 MR. HEINTZ: Yes, Your Honor.

17 JUDGE TROCK: Okay. So as I think we're all generally aware, if  
18 you're taking a picture with a smartphone, the display is facing the user; is  
19 that right?

20 MR. HEINTZ: That's correct, Your Honor.

21 JUDGE TROCK: And then, there's a camera facing the subject of  
22 the photograph; is that right?

23 MR. HEINTZ: Not necessarily, Your Honor, so.

24 JUDGE TROCK: Okay. Well, there's two cameras. I understand  
25 there's two cameras. What I'm trying to understand is your use of the  
26 language of the "front camera" and which camera we're talking about here as

1 being this first camera. So, in my reading of the '757 Patent, is the first  
2 camera the one facing the user, or the one who's holding the smartphone, is  
3 that the first camera, or is it the one facing outward on the opposite side of  
4 the display screen?

5 MR. HEINTZ: It's the one facing the user. It's the one on the  
6 same side of the display screen.

7 JUDGE TROCK: (CROSSTALK) --

8 MR. HEINTZ: So, if you were taking a selfie, the first camera, or  
9 the front camera, would be the camera taking the picture.

10 JUDGE TROCK: I see, okay. So, does the '757 Patent refer to  
11 that as a front camera or just the first camera? Because that's what confused  
12 me is your use of the word "front."

13 MR. HEINTZ: Yeah. They don't -- Your Honor, the '757 calls  
14 that the "first camera" or the "in camera."

15 JUDGE TROCK: Okay.

16 MR. HEINTZ: They don't use the word "front."

17 JUDGE TROCK: I don't want to throw you off your presentation,  
18 but could we stick with "first camera" and "in camera" as opposed to putting  
19 in this new term "front," because that's going to confuse me as to what the  
20 front and the back is?

21 MR. HEINTZ: I apologize. I will try and --

22 JUDGE TROCK: That's okay. I just didn't understand what  
23 camera you're talking about when you started saying "front camera" because  
24 I never read that in the patent.

25 MR. HEINTZ: Understood. Thank you, Your Honor.

26 JUDGE TROCK: All right, thanks.

1 MR. HEINTZ: So, because we're talking about the first camera, or  
2 the in camera, typically, the person who is issuing the voice command is  
3 going to be in the photo. And so, again, the simple idea is give that person,  
4 who is issuing the voice command, or the command voice, which is what the  
5 claim language says, a chance to compose his face before the picture is  
6 taken.

7 The problem for Maxell is, that this simple idea was known in the  
8 art. We see this in the Takahashi and Yamamoto references that are in the  
9 petition, and we also even see a reference in the '757 Patent, itself, to a  
10 similar idea, Japanese patent with a similar idea.

11 So, in order to get this claim allowed, what Maxell did is introduce  
12 the concept that the delay for the first camera, or the in camera, has got to be  
13 longer than the delay that's used when the second camera, or the out camera  
14 is being used to take a photograph. The problem though is that, as we'll see,  
15 that concept is in the prior art too as we demonstrate it in the petition.

16 So, I'll go to Slide 2. And again, we're talking about Exhibit 1016.  
17 Most of the dispute in this case revolves around issues of claim construction,  
18 and there are two primary claim construction issues. Once those issues are  
19 resolved, most of this case goes away. So, I'm going to start with the claim  
20 construction, and then we'll discuss, if time permits, a few additional issues.

21 So, Slide 3, please. The first claim construction issue concerns  
22 Limitation 1[i], and that's the limitation that reads, control, such that a first  
23 standby time of a case where the first camera is enabled and the second  
24 camera is disabled is longer than a second standby time of a case where the  
25 second camera is enabled and the first camera is disabled.

26 The dispute between the parties here is that Patent Owner reads

1 this limitation as requiring that the first camera, or the in camera, has to  
2 become enabled in response to the voice command or the command voice.  
3 What Samsung's position on this issue, is that there's no language in this  
4 limitation that is so narrow. Samsung's position is that this limitation covers  
5 at least two cases. It covers the case, where before any voice command is  
6 issued, the first camera is already enabled, the second camera is already  
7 disabled, all before any command voice or voice command gets made.  
8 That's one case that it covers.

9           It also covers the case that Maxell's construction is directed  
10 toward, which would be that the first camera is not enabled, the second  
11 camera is not disabled until the voice command is spoken, and then, in  
12 response to that voice command, the first camera because enabled and the  
13 second camera becomes disabled. Samsung believes both of those  
14 possibilities are within the scope of Limitation 1[i] when properly construed.

15           And the reason for this, Your Honor, is there is nothing in  
16 Limitation 1[i], nothing in the language of that limitation that says anything  
17 about 'in response to,' or that means or implies in any way, 'in response to.'  
18 The language is simply agnostic as to how these cases come to be, how the  
19 first camera becomes enabled and how the second camera becomes disabled.  
20 All that's required is that that situation be extant when the rest of the claim  
21 operates.

22           JUDGE TROCK: Counsel, this is Judge Trock. I'd like to ask you  
23 a question. Is there anything in the '717 Patent that explains what enables  
24 and disables the camera -- (CROSSTALK) --

25           MR. HEINTZ: There really isn't, Your Honor.

26           JUDGE TROCK: There's no -- there's no --

1 MR. HEINTZ: There's --

2 JUDGE TROCK: There's no structure, there's no software, there's  
3 no description of any kind in the '717 Patent that tells us what turns the  
4 cameras on or off?

5 MR. HEINTZ: There is a user interface figure, and that is -- if we  
6 can go to Slide 6. So, on the left, Your Honor -- again, this is from the '757  
7 Patent, we have a screen with two buttons, a button 311 and a button 312.  
8 Those buttons on the user interface can be used to enable either the front  
9 camera, and that's button 312 -- I'm sorry, the first camera, or the in camera,  
10 that's button 312, and 311 could be used to enable the second camera, or the  
11 out camera. That's the user interface explanation for it.

12 I'm going to talk about a flowchart in Figure 10, which is on Slide  
13 5, if we may, that also goes through the process. So, in terms of what the  
14 user is doing, there is a description. In terms of electrically what enabling  
15 the camera means, or disabling it means, there's not a discussion of that, to  
16 my knowledge, in the '757 Patent.

17 JUDGE TROCK: Well, can I direct your attention -- because I  
18 was looking at this issue prior to the hearing, and can I direct your attention  
19 to column 2 to the '717 Patent? Column 2, if we go down to line 65, this is a  
20 section referred to as Solutions to Problems. It says, the imaging unit  
21 enabled by the operation unit.

22 MR. HEINTZ: Yes, Your Honor.

23 JUDGE TROCK: Does not that tell us that the operation unit  
24 enables the imaging unit, which I'm assuming is the camera here?

25 MR. HEINTZ: It does, Your Honor. And I think what the  
26 operation unit is referring to is the components, whether they be hardware,

1 software, or a combination, that put up that user interface screen we saw  
2 earlier on Slide 6.

3 JUDGE TROCK: So, that's operation unit 140, right?

4 MR. HEINTZ: Yes, Your Honor.

5 JUDGE TROCK: All right. So, in that instance, the patent is not  
6 telling us that it's a voice command that's enabling the camera, it's telling us  
7 that the operation unit 140 is enabling the camera; is that correct?

8 MR. HEINTZ: I believe it is, Your Honor. And my understanding  
9 is that the voice command is recognized by the operation unit, and in  
10 response to that recognition, then the operation unit enables the camera. So,  
11 there's a little bit of shorthand going on here, but I think your understanding  
12 is the same as mine.

13 JUDGE TROCK: Okay. And then, I also want to direct your  
14 attention to column 11. So, column 11, essentially, starting at line 6, it's that  
15 second whole paragraph in column 11. In here, I notice that it says, the  
16 camera function executing unit 104(B) enables the second imaging unit 124.  
17 Do you see that language?

18 MR. HEINTZ: I do, Your Honor.

19 JUDGE TROCK: And then further on down, around line 13 it  
20 says, the camera function executing unit 104(B) enables the first imaging  
21 unit 123. Do you see that language?

22 MR. HEINTZ: I do, Your Honor.

23 JUDGE TROCK: In my view, when I read these passages from  
24 the '717 Patent, that informs me that it's either this operation unit 140 or  
25 these camera functioning executing units 104(B), which is enabling either  
26 the first imaging unit or the second imaging unit. Do you understand my

1 meaning here?

2 MR. HEINTZ: I do, Your Honor.

3 JUDGE TROCK: All right, thank you. So, do you have a point of  
4 view as to this or am I incorrectly reading the specification?

5 MR. HEINTZ: You are not incorrectly reading it, Your Honor.  
6 My understanding of what the patent is teaching us is that it's that hardware  
7 and software that issues whatever command, or whatever signal it is, that  
8 physically enables either the in camera or the out camera. But that those two  
9 units that we were just talking about, they are reacting and responding to  
10 -- in the case of Claim 1, for instance, a voice command. So, as I understand  
11 what the patent is telling us is, that a voice command has to be recognized  
12 by 'something,' and the 'something' is what we just discussed. And upon that  
13 recognition, and in response to that recognition, then these hardware and  
14 software units that we just discussed physically enable the in camera and the  
15 out camera as the case may be. Actually, with respect to the voice  
16 command, we're only talking about the in camera, or the first camera.

17 JUDGE TROCK: All right. Thank you, Counsel.

18 MR. HEINTZ: Okay. So, I'm going to go back to Slide 3. And  
19 again, this is the first claim construction issue. And so, as I discussed  
20 earlier, Samsung's position is that there is nothing in this claim language  
21 that's requiring that the enabling of the first camera and the disabling of the  
22 second camera be in response to the voice command. The only thing the  
23 claim requires is, that the condition where the first camera is enabled and the  
24 second camera is disabled be in existence when the rest of the claim  
25 functions. And again, the reason for that position, the first reason, among  
26 many, is that there's nothing in the claim language that says anything, or

1 means in any way, 'in response to,' in the way Maxell interprets this claim.

2 All right. Let's go to the next slide, which is Slide 4. So, how is it  
3 that Maxell supports its assertion that the claim requires this in response to a  
4 relationship? What I've seen them write is that they've made this point that  
5 there is an antecedent basis relationship between the elements of the three  
6 limitations I have on Slide 4, notations 1[g], 1[i], and 1[j].

7 So, for instance, if we look at the bottom Limitation 1[j], where the  
8 yellow highlighting starts, we see the first standby time. And what Maxell  
9 says -- what he disputes is, that the first standby time in 1[j] has its  
10 antecedent basis in the yellow highlighted limitation in 1[i], which is a first  
11 standby time.

12 Again, there's no dispute about the antecedent basis issue. The  
13 problem is, Maxell doesn't explain why it is that the fact of these antecedent  
14 basis relationships dictates the 'in response to' requirement. The way they  
15 write it in their briefs is, there's antecedent basis relationship, and therefore it  
16 must be 'in response to.' But there's never been explanation, and I can't  
17 understand, to this day, what it is, and why it is that they say this  
18 requirement is there.

19 JUDGE TROCK: Counsel, this is Judge Trock again. So, are you  
20 saying that there's nothing in the '717 Patent that uses this language, 'in  
21 response to' with respect to the voice command and the enabling or disabling  
22 of the camera?

23 MR. HEINTZ: I see nothing in the claim language that requires  
24 that, and I don't believe there's anything in the patent that requires that. In  
25 fact, I'm going to shortly show the Board that the patent says exactly the  
26 opposite, Your Honor.

1 JUDGE TROCK: Okay, thank you.

2 MR. HEINTZ: All right. So, we'll go to Slide 5, and I'll address  
3 the point Your Honor just asked me about. This is Figure 10 of the '757  
4 Patent, and this is the one place where we have a full description of a  
5 process that includes both enabling of the first camera, disabling of the  
6 second camera, and a voice command. And what this flowchart shows us,  
7 very clearly, is that the first camera is enabled before any voice command is  
8 even detected, let alone acted upon.

9 So, if we start at the top of the flowchart, at 502, there's a decision  
10 box that's trying to figure out which camera is selected, either the out  
11 camera, which is the second camera or the in camera, which is the first  
12 camera, that's at step 504. And again, I'm not going to go back to it, but the  
13 selection is pressing a button. A user presses one of those buttons 311 and  
14 312 we saw on Slide 6 earlier.

15 Once one of those buttons is pressed, if we go to step S505, what  
16 we're seeing is the output of that selected camera is being input and placed  
17 on the display screen. At this point, at step S505, the first camera, if that's  
18 the one that's been selected, the first camera is fully enabled, it's outputting  
19 video, and we are seeing the video on the screen, so there's no doubt that in  
20 this example the first camera has become enabled no later than step S505.

21 I'll just go briefly to Figure 6 to make this point. On the right-hand  
22 side, we have what is meant by step 505. We've got a display. And in this  
23 example, unfortunately, they have the out camera selected, that's the second  
24 camera, but if the button 312 had been selected, we'd be seeing the in  
25 camera, or the first camera on the display. Again, Your Honor, the camera  
26 is enabled at this point, no question about it.

1 I'll ask to go back to Slide 5 now. The method continues where  
2 now, in steps S506 and S507, we're basically in a loop where the smartphone  
3 is waiting for either a shutter depression, which is clicking on a button,  
4 which could be a soft button, or a command voice, or a voice command. We  
5 don't get the voice command until step S507, okay? Again, that step has  
6 occurred after -- after the first camera has been fully enabled.

7 And then, the process depicted in Figure 10 continues, and if the  
8 voice command is recognized. And then, you get down to step 509, and it's  
9 interesting, because now step 509 is trying to figure out, okay, which is the  
10 operated camera? By, 'which,' they mean, which camera are we using for  
11 this picture?

12 This is another point that militates against Maxell's construction.  
13 Because if it were the case that we knew that the first camera is being  
14 enabled in response to the voice command -- if we had detected a voice  
15 command, we'd already know it has to be the first camera. Here, they're  
16 actually trying to figure out again which camera has been enabled, because  
17 there could be a lot of time between when the voice command, or the shutter  
18 button is pressed, and when you get here. As you remember, at step S506  
19 and 507, you're in a loop, and there might be a significant amount of time  
20 between the time that loop gets entered and one of these commands is  
21 discussed.

22 But the main takeaway from Figure 10 is that the enabling of the  
23 first camera, the in camera, occurs before any voice command is given or  
24 even detected. What that tell us is that the construction that Maxell is  
25 asserting, which is that the first camera becomes enabled in response to the  
26 voice command, is not reflected in this embodiment. In fact, that

1 construction would exclude this preferred embodiment, and that's the  
2 problem. That's another indication, the first being that the claim language  
3 itself doesn't include this 'in response to' requirement, that Maxell's  
4 construction is wrong.

5 I'll go to Slide 7, please. So, on Slide 7 we have just very briefly  
6 the well-known axiom that a construction that excludes a preferred  
7 embodiment is rarely, if ever, correct. That Figure 10 is really the only  
8 flowchart -- the only detailed description of a process that includes the  
9 enabling and disabling of the cameras and the command voice or the voice  
10 command. So, it's excluding, perhaps the only embodiment, but certainly a  
11 preferred embodiment.

12 Okay. Let's go to Slide 8. So, in response to this point that we  
13 made in our Petitioner reply, Maxell makes an argument that somehow this  
14 point we made requires the impossible. And I tell you, I've struggled to  
15 understand this. I still don't understand it today, but I would say this in  
16 response. Maxell's construction is actually narrower than Samsung's.  
17 Again, Samsung allows both of the cases we discussed earlier to occur.  
18 Either the camera, the front camera -- sorry, the first camera is already  
19 enabled, the second camera is already disabled when the voice command is  
20 given, or those two things happen in response to the voice command, so it  
21 has a broader scope under the correct Samsung's construction. Maxell's  
22 construction, again, is narrower. So, to the extent this impossibility  
23 argument has any weight, their construction actually goes against that  
24 concept.

25 The next slide, please. Now we're on Slide 9. Yet a third reason  
26 why this construction -- again, the 'in response to' construction is wrong, is

1 that that construction renders Claim 2 superfluous. As you can see, Claim 2  
2 says, the image recording device, according to Claim 1, wherein the first  
3 camera is enabled in accordance with the command voice.

4 Now, if Maxell's construction is correct, Claim 1 already requires  
5 that the first camera be enabled in response to the command voice. Claim 2  
6 doesn't narrow that in any way. There's no additional requirement in Claim  
7 2 if Maxell's construction is correct. That means Claim 2 is superfluous,  
8 and, of course, it's well known that constructions that render claims  
9 superfluous are highly disfavored.

10 And there's even a third problem. If you look at -- let's go to Slide  
11 11. Dr. Wobbrock, who is Maxell's expert, was deposed, and he tells us that  
12 his belief is that Claim 2 actually erases the limitation from Claim 1. Claim  
13 2, according to what Dr. Wobbrock says is that if the second camera is  
14 already enabled, Claim 2 doesn't require to become disabled, which is a  
15 requirement of Claim 1.

16 So, here we have the idea that, under Maxell's construction, Claim  
17 2 is broadened in Claim 1 which, of course, is completely improper. And  
18 that's because -- if we go to Slide 12, a dependent claim that does not further  
19 narrow the claim from which it depends is invalid. So, under Maxell's  
20 construction of Claim 1, Claim 2 now is invalid. And that's yet another  
21 reason -- another indication that Maxell's construction of the -- Maxell's first  
22 construction that requires 'in response to' is incorrect.

23 I'm already over my time. I must go very quickly, if Your Honors  
24 will bear with me, with the second claim construction issue, that's on page  
25 13. So, the second claim construction issue, again with Limitation 1[i], that  
26 Maxwell raises, is that the standby times cannot be selected by the user.

1 Maxell says, the requirement that the controller is controlling, means that the  
2 controller has to select the standby times, the user can't be the ones that  
3 selects them. Again, the language doesn't require that. There's nothing in  
4 the claim language, in Limitation 1[i], that talks about the controller  
5 selecting a standby time, as opposed to just implementing a standby time,  
6 regardless of how that's selected.

7 Samsung's construction would allow the user to select the standby  
8 times, would allow the controller to select them, they could be preset,  
9 doesn't matter. The only thing that the claim requires is that the first be  
10 longer than the second.

11 And the last point I'll make on this is, that's entirely consistent with  
12 the '757 Patent. The '757 Patent discusses user selected times at column 10,  
13 lines 23 to 40.

14 So, Your Honors, I just took a little longer than I expected, and I'm  
15 very cognizant of the Board's time so I will rest here, unless there are any  
16 questions from the Board.

17 JUDGE POWELL: None from me. You can keep going if you  
18 want. It's your time. It's just a matter of whether you use it now or later.

19 MR. HEINTZ: I'll stand and deal with anything on rebuttal that  
20 needs to address,

21 JUDGE POWELL: Okay. You've got 17 minutes left.

22 MR. HEINTZ: Thank you, Your Honor.

23 JUDGE POWELL: Yeah. Would you like to reserve any time?

24 MR. BRUNEEL: Yes, 20 minutes, please.

25 JUDGE POWELL: Okay.

26 MR. BRUNEEL: And before I start, I do have paper copies of the

1 Patent Owner's demonstratives.

2 JUDGE POWELL: I'll take one.

3 MR. BRUNEEL: May I approach?

4 JUDGE POWELL: Yeah, absolutely. We're ready when you are.

5 MR. BRUNEEL: Good afternoon and may it please the Court.

6 Your Honors, I'm Seth Bruneel, arguing on behalf of the Patent Owner,  
7 Maxell. And as we just heard, the petition is based on one reading of the  
8 claims, while it's the Patent Owner's position that such a reading does not  
9 provide a basis for unpatentability under a plain reading of the claims. And  
10 in order to appreciate the proper reading, it is helpful to quickly visit the  
11 background of the patent and the problems that the '757 Patent sought to  
12 resolve.

13 So, looking first at Slide 3, the '757 Patent claims priority dating  
14 back to September 12th, 2013. And we heard counsel for the Petitioner  
15 describe this idea that's covered by the '757 Patent as a simple idea. Well, it  
16 seems simple in hindsight, but at the time, this was not a simple idea.  
17 Because it was around this time, looking at Slide 4, that in this environment,  
18 that the inventors of the '757 Patent recognized that there was an increase in  
19 the use of smartphones with multiple cameras to take images, including of  
20 users themselves, often called selfies.

21 And referring to Slide 5, the inventors recognized that when using  
22 a voice command to take a selfie, that sometimes there's an undesirable  
23 picture that was captured. For example, instead of capturing the user's  
24 smiling face, the resulting image would capture a user actually speaking the  
25 voice command.

26 And finally, another deficiency in conventional devices is

1 recognized by the inventors, was that there needed to be a different image-  
2 capturing process and adjust the timings that are based on which camera was  
3 used. And so, the '757 Patent discloses specific architecture and image-  
4 capture mechanisms based on which camera is used and what type of input  
5 is provided to the camera to generate high-quality images. For example, a  
6 user can take an image using an out camera, or a camera facing away from  
7 the user, or it can take a selfie using the in camera, and then, depending on  
8 which camera is enabled during use, the device can implement the  
9 corresponding architecture and control mechanisms.

10 And finally, as an example, the timing and the processing paths are  
11 implemented based on which camera is used and which type of construction  
12 is used, for example, voice versus touch. We can see this in Figure 9, and  
13 we'll see that again.

14 So, on Slide 9, turning to the grounds of the petition, the Petitioner  
15 relies on four grounds, and all of them suffer from the same deficiencies,  
16 which are highlighted on the next slide, referring to Claim 1, and this is  
17 Slide 10. And the items in bold here demonstrate where the petition falls  
18 short.

19 There's three main issues to address: the antecedent basis for first  
20 construction and first standby time, and then whether each of the main  
21 references, either Chinn or Kim, disclose a voice command for enabling the  
22 first camera and disabling the second camera.

23 Quickly, I'll make it clear that there's no claim construction  
24 necessary for the first camera or second camera terms that were referred to  
25 in the petition. I believe those were done in order to be consistent with the  
26 District Court litigation, so no construction is necessary for those terms.

1           So, turning to Grounds 1 and 2, which rely on Chinn as the main  
2 reference, in view of Takahashi and the EX-V7 reference, there are really  
3 three main deficiencies in Claim 1, and I'll note that I corrected typos to  
4 refer to Claim 11[d] and 11[h].

5           So, if we start with Limitation 1[i]. The reference in cited petitions  
6 do not disclose the case where the first camera is enabled and the second  
7 camera is disabled. So, this is Slide 16. This is kind of what I think you've  
8 been waiting for. I'll be here for a minute.

9           So here, I've demonstrated the gap in the petition. For example,  
10 the different antecedent basis for the various terms in Claim 1 demonstrate  
11 that the inventors captured their invention as intended. For example, we see  
12 that the first standby time, referred to in Element 1[j] corresponds to the first  
13 case described in Limitation 1[i]. Later in Limitation 1[j], the antecedent  
14 basis for the first instruction comes from Limitation 1[g] where the  
15 command voice gives the first instruction.

16           So, putting this altogether, the claim language requires that the first  
17 standby time is where the first camera is enabled, and the first standby time  
18 is from a recognition of a first instruction, which is given by the command  
19 voice.

20           And we heard counsel for the Petitioner state that there's nothing in  
21 Limitation 1[i]. That may be true, but this reads Limitation 1[i] in isolation  
22 and ignores the context provided by the rest of the elements in Claim 1.

23           JUDGE TROCK: Counsel, this is Judge Trock. I have a question  
24 for you. I'm looking at your Slide 16, and you have Limitations 1[g], 1[i],  
25 and 1[j] set out on this slide. Looking at Limitation 1[g], the claim reads:  
26 the command voice giving a first instruction to start a recording. That does

1 not say the command voice giving an instruction to enable a camera. It says  
2 to start a recording.

3 And then I go down to Claim Limitation 1[j], that you have at the  
4 bottom, and it says: the time from a recognition of the -- and then, you have  
5 it in brackets, [voice command giving the], and then it reads on: first  
6 instruction to a start of the recording of the first image signal.

7 So, when I read 1[g] and 1[j], and even including what you've set  
8 out here with 1[i], I come away understanding that the voice command is  
9 used to start a recording. It's not used to enable or disable a camera. So, I'd  
10 like you to address that.

11 MR. BRUNEEL: Yeah, so in -- if we ignore 1[i], then the reading  
12 flows. The 1[i] describes that the first standby time is linked to a case where  
13 the first camera is enabled and the second camera is disabled. So, that case  
14 happens -- is a time from a recognition of the voice command. So, before  
15 the voice command, the first camera is not enabled, the second camera is not  
16 disabled, or they're in another undefined state. Until that case happens  
17 -- until the voice command happens, that case doesn't exist.

18 JUDGE TROCK: Well, okay. Even given your current reading,  
19 what's enabling and disabling the camera? Is it the voice command or is it  
20 something else, because the limitations that you have here on this slide do  
21 not indicate what enables or disables the camera. It does describe that the  
22 voice command is starting a recording, but what's turning the cameras on  
23 and off for the enabling or disabling in the language of the claim?

24 MR. BRUNEEL: In language of the claim.

25 JUDGE TROCK: That's my confusion here with your analysis of  
26 this claim language. So, I think, at least in my view, what I see is what

1 you're describing here are things that are coincidental. That you've got a  
2 command that starts a recording, and that you've got cameras that are  
3 enabled or disabled, but they're coincidental with each other. They're not  
4 causative. I don't see you describing a relationship here where the voice  
5 command causes the cameras to be enabled or disabled. I see you describing  
6 a relationship where they're coincidental with each other. So, if you can  
7 point out to me, either in this claim language or in the specification, where  
8 issuing a voice command enables or disables a camera, I'd like to see that.

9 MR. BRUNEEL: I'll start with the easy part. In the specification,  
10 I would refer you to column 2, starting at line 64 -- well, 65. A control unit  
11 that causes the recording unit to start a process of recording a video signal  
12 input from the imaging unit enabled by the operation unit in accordance with  
13 the command voice input to the audio input unit. I would underscore that's  
14 enabled by the operation unit in accordance with the command voice.

15 JUDGE TROCK: I see that, and I've read that before we started  
16 this hearing. And I thought about it, and what I come away from in reading  
17 that part of the specification, is that you've got an imaging unit is enabled by  
18 the operation unit. So, the imaging unit, unless I'm mistaken, is the camera,  
19 and there's this structure described in the specification, which is the  
20 operation unit, which I believe is 140, that enables the imaging unit. But  
21 that is in accordance with a command voice input to the audio input unit.

22 Now, 'in accordance,' could mean it recognizes that that's the  
23 operator's voice, and it's consistent with what was previously recorded so  
24 that some other operator is not issuing the command. That's one  
25 interpretation of this. The other is that a user issued a voice command  
26 starting a recording, and that's in accordance with this operation unit

1 enabling the imaging unit.

2           And to discuss this further with you, if you move on to column 3 in  
3 that same paragraph, it continues to discuss this relationship. And it repeats  
4 itself again. It says, on line 3, in accordance with the imaging unit enabled  
5 by the operation unit, that does not say enabled by the voice command. It  
6 goes on and says here, the control unit sets delay time of a case where the  
7 first imaging unit is enabled by the operation unit. Neither of those  
8 sentences say that the imaging unit was enabled by the voice command.  
9 That's how I read this. So, if you've got something else in the specification  
10 that you can point to, I would like to see it.

11           And while you're doing that, I just wanted to point out a couple of  
12 other things to consider. This is what I believe the specification describes as  
13 what the voice command does. So, for example, in column 9, starting on  
14 line 6, the specification reads: The command voice reception icon 331  
15 represents that a recording process can be started by using a command voice  
16 input. So, here, I believe the specification is explaining that you can use a  
17 voice command to start a recording process, not to enable or disable a  
18 camera, but to start a recording process.

19           Again, in column 12, the specification deals with this same kind of  
20 description. Starting on line 13 it says: The recording process is started  
21 using a command voice input to the audio input unit 133. Again, here you  
22 have this specification describing what the command voice input can do, and  
23 that is to start a recording process. It does not say that the command voice  
24 can enable or disable a camera.

25           So, when I read the specification, and use this -- these descriptions  
26 to try to understand the meaning of the claim language, and the scope of the

1 claims, what I come away with, is that the cameras are enabled or disabled  
2 by the control units here, and that the voice command is used to start the  
3 recording process. And if I'm mistaken about my understanding of the claim  
4 language or what the specification describes, please correct me.

5 MR. BRUNEEL: The only passage, to me, that comes to mind, is  
6 column 15, which doesn't limit the invention to embodiments described  
7 therein. And then, the claim language in front of us on Slide 16 receives the  
8 command voice giving a first instruction. And then in 1[j], the time -- the  
9 time delay described in 1[j] is based on the time from the recognition of the  
10 voice command, so that's what starts everything. That's what starts the  
11 process. And the first standby time is linked to the case where the first  
12 camera is enabled and the second camera is disabled. So, until a voice  
13 command, nothing is started.

14 JUDGE TROCK: Mr. Bruneel, I understand. I understand. But  
15 then, I guess this brings me back to what the Petitioner was saying with  
16 respect to Figure 10 of the patent in which Petitioner argues that, here you  
17 have the cameras, the voice command, enabling and disabling of things, all  
18 being put into a single flowchart to show you how this system operates, and  
19 that it is the only figure that does this. And in his reading of Figure 10, he  
20 argues that the sequence of events that occurs here, demonstrates that Patent  
21 Owner's construction is incorrect because these voice commands are not  
22 being used, or described being used by the system, until after you've got a  
23 selection of these different cameras that have been enabled or disabled.  
24 How do you respond to that argument of Petitioner with respect to Figure  
25 10?

26 MR. BRUNEEL: I will acknowledge that that is the embodiment

1 described in the specification, and again rely on the Patent Owner's  
2 description in column 15 that's not limited to those embodiments described  
3 in the specification.

4 JUDGE TROCK: But do you agree with Petitioner, that Maxell's  
5 claim construction here would eliminate this embodiment that's described in  
6 Figure 10?

7 MR. BRUNEEL: I don't know that it would eliminate it, but it's an  
8 alternative to the embodiment described in Figure 10.

9 JUDGE TROCK: Is the embodiment in Figure 10 captured by  
10 your claim construction, or is it outside the scope of your construction?  
11 Which is it?

12 MR. BRUNEEL: I think it would be outside the scope of the way  
13 we've presented the claims, yes.

14 JUDGE TROCK: Okay, thank you.

15 JUDGE MCMILLIN: (INDISCERNIBLE - TECHNICAL  
16 DIFFICULTIES).

17 JUDGE TROCK: Judge McMillin, we're having difficulty hearing  
18 your voice, and we've lost your video so why don't we take a moment and  
19 see whether or not the tech group can --

20 JUDGE POWELL: Yeah, I'm going to stop the clock.

21 JUDGE TROCK: -- reconnect you.

22 USHER: Panel, I've already messaged the IT person. They should  
23 be working with him shortly.

24 JUDGE TROCK: Judge Powell, could we take a short break and  
25 hold the timer while they're working through reconnecting Judge McMillin?

26 JUDGE POWELL: Yeah, I stopped the timer about -- right after

1 you commented that we lost Judge McMillin's feed.

2 JUDGE TROCK: Would it be okay if we take a short break while  
3 they're trying to reestablish --

4 JUDGE POWELL: Mm-hmm. Yeah, sure. Yes.

5 JUDGE MCMILLIN: Can you hear me or see me? This is Judge  
6 McMillin.

7 JUDGE TROCK: Oh, I can hear you now, Judge McMillin, and  
8 now I can see you. This is better.

9 JUDGE MCMILLIN: I can hear and see you perfectly. So, if you  
10 want to go forward, please feel free to do so.

11 JUDGE TROCK: Okay. I believe you may have had a question.  
12 It seems like we can hear your voice okay, so.

13 JUDGE POWELL: All right. We'll move forward. I'll start the  
14 timer again.

15 JUDGE MCMILLIN: Mr. -- Mr. Bruneel -- okay, thank you. Mr.  
16 Bruneel, in the paragraph you directed us to in the specification that begins  
17 at the bottom of column 2 and then goes to the top of column 3 --

18 MR. BRUNEEL: Yes, Your Honor.

19 JUDGE MCMILLIN: -- it seems to directly address when the  
20 camera is enabled. If you look at line 62 -- column 2, line 62, the first word  
21 in that line is enable. So, it enables either the first or second imaging unit,  
22 and then the next step is the voice command, the voice construction. So that  
23 would seem to me, that in describing the invention here, the Patentee  
24 described an embodiment in an invention that's directly contrary to your  
25 construction. Again, the imaging units are enabled in line 62, and the voice  
26 command comes later.

1 MR. BRUNEEL: I see that.

2 JUDGE MCMILLIN: Do you read that any differently than I do?

3 Doesn't it say, enable the cameras before the instruction -- the voice

4 command?

5 MR. BRUNEEL: It's written before, but I don't believe it describes

6 the specific chronology or limits it to the specific chronology as presented in

7 column 2.

8 JUDGE POWELL: This is Judge Powell. Aside from

9 embodiments in the specification, if we just look at the claim language itself

10 in a vacuum, and, for example, Limitation 1[i] factors into this question, I

11 think, does the claim language preclude that the first or second camera is

12 enabled before the voice command is received? Does that make sense?

13 MR. BRUNEEL: So, you're asking if, in the claim language --

14 JUDGE POWELL: Let me try to rephrase it again.

15 MR. BRUNEEL: It's a question of order?

16 JUDGE POWELL: Timing. Judge Trock said that he thinks he

17 understands that the claim indicates, at least, that -- maybe indicates, that the

18 voice command and enablement of the camera are coincident in time. Do

19 you follow what I'm saying? They happen at the same time.

20 MR. BRUNEEL: Okay.

21 JUDGE POWELL: Does the language of the claim require that

22 they happen at the same time? Would the claim read on -- would the

23 language of the claim encompass a situation where the camera is already

24 enabled when the voice command comes in? I know that's a -- a tortured

25 question --

26 MR. BRUNEEL: There's grammar in there somewhere.

1 JUDGE POWELL: -- it is a very complicated claim, in my eyes.  
2 Anyway. Any thoughts you might have on that would be interesting to me.  
3 No need to spend -- if I've taken you way afield of where you want to be, no  
4 need to spend a lot of time on that.

5 MR. BRUNEEL: No, I'm recalling the conversations regarding  
6 this. And I think that the understanding I would draw is that, where the -- in  
7 Limitation 1[i], where the first camera is enabled, is action, not a state, so  
8 that way it would require that, in response to the voice command, the first  
9 camera becomes enabled. So, it would preclude what's already --

10 JUDGE POWELL: Let's set aside the response logic of it for now.

11 MR. BRUNEEL: Okay.

12 JUDGE POWELL: Can the timing be different or does the timing  
13 have to be 'coincident,' to use Judge T'Rock's language?

14 MR. BRUNEEL: The timing of the voice command?

15 JUDGE POWELL: Command, and the enablement of the camera.  
16 Can those happen at different times in this claim language?

17 MR. BRUNEEL: No, I don't see that.

18 JUDGE POWELL: You'd say no?

19 MR. BRUNEEL: I'd say no.

20 JUDGE POWELL: Okay.

21 MR. BRUNEEL: So, yeah.

22 JUDGE POWELL: Thank you.

23 MR. BRUNEEL: Okay. I'd also like to address Petitioner's  
24 arguments, in particular, that this understanding of Claim 1 renders Claim 2  
25 superfluous. Patent Owner respectfully disagrees and explained in the  
26 papers, Limitation 1[i], in particular, covers a first case, where the first

1 camera is enabled and the second camera is disabled. The second case,  
2 where the second camera is enabled and the first camera is disabled. And  
3 then Claim 2 further narrows, by adding a third case, where the first camera  
4 is enabled. So, Claim 2 is narrower than Claim 1 because Claim 2 must  
5 satisfy three cases where Claim 1 only covers two cases.

6 And this leaves us at a place where, if the Board agrees with the  
7 claims as I presented them on Slide 16, then the Petitioner has basically  
8 admitted that it's insufficient because it doesn't address this reading of the  
9 claims. Alternatively, if the Board agrees with the Petitioners that Claim 2  
10 must be narrower than Claim 1, then the result is that Claim 2 remains valid.  
11 Because in the petition, the Petitioners rely on the same evidence, providing  
12 nearly the same analysis for Claim 2 as for Claim 1, in particular, relying on  
13 the same paragraphs from Chinn for Claim 2 and Element 1[g], specifically.

14 I am going to skip ahead to Slide 21 -- 22, actually. So, this  
15 limited -- this kind of set of arguments is independent of what the Petitioners  
16 refer to as their claim construction for 1[i], or at least the first issue  
17 referenced by counsel today. And we can consider this as a separate  
18 example where the Petitioner fails to meet its burden of demonstrating that  
19 this element is rendered obvious.

20 So, we're looking again at 1[i], which I've included here on Slide  
21 22, and we see that in the claims, there's required a controller and wherein  
22 that controller is configured to control a first standby time that is longer than  
23 the second standby time.

24 So, again, the Petitioner relies on insufficient evidence for this  
25 limitation because they parse out the limitation to meet the prior art rather  
26 than demonstrating that the prior art meets the claim language. For example,

1 the Petitioner relies on a user-selected 10-second timer in Chinn as the first  
2 standby time then user-selected two-second timer as the second standby  
3 time. And it's clear from the claim language and the supporting  
4 specification that it is in fact the controller that determines the standby time.

5 For example, referring here to the figure and excerpts from the  
6 '757 Patent shown on Slide 23, we can see that the inventors made clear that  
7 one of the advantages of the patent is that the video recording device 100,  
8 according to this embodiment, performs the process of controlling and  
9 switching between delay times in accordance with which one of the two  
10 cameras is used. And that's quoting from column 9, lines 42 to 47 of the  
11 patent, and these are the different timings shown in Figure 9 of the '757  
12 Patent here on the left side of the slide. So, for visual learners, like myself,  
13 we can see that what the figure labels as a waiting process, here is labeled  
14 -- is longer for the in camera, in the bottom swim lane, if you will, than the  
15 waiting process with using the out camera in the top swim lane.

16 So, the specification makes this clear. And I'll do one more  
17 example from column 12, lines 12 to 19 that, in accordance with the out  
18 camera, or the in camera that is operated, a delay time, until the start of the  
19 recording from timing at which the trigger is received is automatically  
20 switched over. And you can see this actually in Figure 10, which the  
21 Petitioners refer to as the preferred embodiment.

22 I'll direct your attention to step S509. And it's at that point that the  
23 apparatus here, the embodiment, asks the question which is operating  
24 camera? Which camera are we using to take the picture? Then, there's a  
25 fork in the flow. For the out camera, perform a waiting process, a short  
26 waiting process. I think I said that wrong. No, that's right. The out camera

1 is short and the in camera is a longer process. So, that is based on which  
2 camera is used, that's not based on the user instruction. So, these passages  
3 and the figures described of preferred embodiments, as we pointed out, we  
4 should not exclude this preferred embodiment.

5 And then, quickly addressing the Petitioner's argument in the  
6 papers, that even when a user selects the standby times, the controller  
7 controls the system to implement those user-selected times, can be  
8 disregarded as unsupported attorney argument, and there's no citation to its  
9 expert, or to the patent, or even any of the prior art references.

10 So then, seeing no questions, I'll move on to Grounds 3 and 4.

11 JUDGE TROCK: Counsel, this is Judge Trock. I have a question  
12 on this issue with respect to the controller and control. So, we've got  
13 Limitations 1[g], 1[h], 1[i]. 1[g] is reciting the controller that's configured to  
14 control. And then, there's a description of a control in 1[h] and 1[i]. Does  
15 the claim preclude consideration of user input with respect to setting up the  
16 circumstances for this control?

17 MR. BRUNEEL: By 'circumstances,' do you mean the timing or  
18 the active cameras?

19 JUDGE TROCK: Well, I guess what I'm trying to understand is  
20 your position. Are you saying that -- well, perhaps I should just ask you to  
21 explain it to me one more time. What is your position with respect to this  
22 issue of a control or controller?

23 MR. BRUNEEL: So, the --

24 JUDGE TROCK: I don't want to put words in your mouth.

25 MR. BRUNEEL: So, I think you're most of the way there. In 1[f],  
26 it's the controller, and what's labeled as 1[g] narrows wherein the controller

1 is configured to, and one of those configured 2 is Limitation 1[i]. And so,  
2 it's the controller that controls such that a first standby time is longer than a  
3 second standby time. And the examples from the specification and figures  
4 demonstrate that that determination, which is longer, or which time -- which  
5 standby time to use, is based on which camera is being used to take the  
6 picture. So, when it's the out camera, it's a shorter waiting process, as shown  
7 in Figure 9, for example, and when it's the in camera, then that is a longer  
8 delay.

9 And, actually, in column 10, referring to the -- starting on line 15  
10 -- excuse me, 16, meanwhile, the standby process 403, which is using the out  
11 camera in the bottom swim lane of Figure 9, is a process that is intentionally  
12 inserted for adjusting the timing of the recording process, and so, it's  
13 intentionally inserted. This is kind of what we've been talking about from  
14 the beginning, that for a -- we'll use the simple term selfie using a voice  
15 command, that there is an intentional delay. And so, the claims do that with  
16 the controller, or at least the prior art can set timers, sure, but having the  
17 device realize which camera is being used triggers which delay is being  
18 used.

19 JUDGE TROCK: So, in reading column 10, is it your position that  
20 this intent is intentionally inserted? Is that the user intentionally inserting  
21 that? Is there a specific code? Well, what I guess I'm getting at is, is it your  
22 position that the way the claim is constructed and written, that precludes user  
23 input with respect to these standby times?

24 MR. BRUNEEL: That's correct, yes.

25 JUDGE TROCK: Okay, thank you.

26 MR. BRUNEEL: Okay. With nothing further, I'll skip ahead to

1 Grounds 3 and 4, which suffer from some of the same deficiencies. But here  
2 I will take the opportunity to address that the claim language not only  
3 requires enabling a camera but also disabling a camera. And the -- I'm  
4 referring to my Slide 32, that this disabling a camera is not based on any  
5 teachings in the prior art, but rather it's left to the knowledge of a POSITA.

6 And, in fact, the Petitioner's expert, Mr. Guidash, he references  
7 benefits, such as reducing power consumption, and increasing battery life,  
8 whereas the Patent Owner's expert, Maxell's expert, Dr. Wobbrock,  
9 disagrees and actually explains that switching each camera on or off when  
10 not in use would actually require more power, to go from a completely  
11 powered-off state to a powered-on state, thus it's far from obvious to disable  
12 a second camera based on enablement of the first camera alone. And, in  
13 fact, both the '757 Patent and Chinn, discuss enabling multiple cameras at  
14 the same time. For example, Figure 12 shows an example where the in  
15 camera and the out camera are both enabled simultaneously.

16 So, again, the conclusion offered with no support from the prior art  
17 and only using the patent as a roadmap, should be disregarded.

18 So, if there's no further questions or room for persuasion, I'll  
19 reserve the rest of my time for sur-rebuttal.

20 JUDGE POWELL: Thank you.

21 MR. HEINTZ: Your Honor, before I begin, I'll ask, does the  
22 Board have any questions they'd like to hear from me about before I begin  
23 my rebuttal?

24 JUDGE MCMILLIN: Mr. Heintz, can you hear me?

25 MR. HEINTZ: I can.

26 JUDGE MCMILLIN: This is Judge McMillin.

1 MR. HEINTZ: Yes, Judge McMillin, I can hear you.

2 JUDGE MCMILLIN: Could you please respond to the argument  
3 that was made with regard to Claim 2, that if we accept your construction,  
4 your interpretation of Claim 1, then based upon your showing, we should  
5 find Claim 2 not unpatentable?

6 MR. HEINTZ: Yes. I would say two things to that, Your Honor.  
7 First, that argument was not raised in the Patent Owner response, and so it  
8 should be considered waived. The second point I would make is, even if the  
9 Board were to conclude that that argument was correct for Ground 1, there is  
10 no such argument made for Ground 3. Ground 3 is the other ground that  
11 attacks Claim 2. So, there has been no response to the showing in the  
12 petition made for Claim 2 on Ground 3. And so, even if they were correct, it  
13 would not change the result here.

14 JUDGE MCMILLIN: Thank you.

15 MR. HEINTZ: Okay.

16 JUDGE POWELL: So, I was going to -- sorry, this is Judge  
17 Powell. I was going to save this question for later, but since you asked, I  
18 will ask you roughly the same question that I asked Patent Owner. If we sort  
19 of focus in on the claim language itself, aside from the specification of the  
20 patent, does the claim meaning, in that claim language, encompass a  
21 circumstance where the camera is enabled before the command voice or  
22 voice command is received, or do those have to happen at the same time?

23 MR. HEINTZ: The answer to your question is yes. The claim  
24 language is broad enough, and it encompasses the concept that you  
25 articulate, which is, before any voice command is given, the first camera is  
26 enabled, and the second camera is disabled. The claim language is certainly

1 broad enough to include that. It's that language of 'in a case.' 'In a case' just  
2 means -- I think as Judge Trock put it very succinctly, it's a coincidental  
3 relationship.

4 JUDGE POWELL: Is 'in a case,' is that in the claim?

5 MR. HEINTZ: Yes.

6 JUDGE POWELL: Okay.

7 MR. HEINTZ: Yeah. So, it's a case where the first camera is  
8 enabled and the second camera is disabled. That's in Limitation 1[i]. And  
9 so, when the first camera has become enabled before the voice command is  
10 given, and the second camera is disabled before the voice command is given,  
11 that's a case where those conditions exist. They are coincident. The  
12 conditions exist.

13 And then, in those conditions, right, there's going to be different  
14 delay times that are applied, depending on whether the first camera is going  
15 to be used to take the photo or the second camera is going to be used to take  
16 the photo. And, of course, that is entirely consistent, as this is made very  
17 clear here today with the entire specification, including the written portions  
18 that have been identified and the flowchart of Figure 10.

19 JUDGE POWELL: Thank you.

20 MR. HEINTZ: And I'll just point out one other issue I wanted to  
21 make. I think I mentioned this earlier, but my colleague mentioned that the  
22 times, in his view, cannot be selected -- sorry, the standby times, required by  
23 the claims, cannot have any consideration of user selection. Again, in the  
24 patent, at column 11, line 7 to 17 in the '757 Patent, there is discussion of  
25 user-selected delay times.

26 So, the idea that a user cannot have any role in selecting the

1 standby times, is not a requirement of the claim language. There's nothing  
2 in the claim language that precludes it. In fact, the patent itself allows for  
3 that. Sorry. I've directed the Court to the wrong passage, I apologize. Let  
4 me --

5 JUDGE MCMILLIN: Mr. Bruneel, this is Judge McMillin again.  
6 If you could also address that issue in light of Claim 3, where it says,  
7 wherein the first standby time is settable or selectable by a user, and Claim 4  
8 where it says, wherein the second standby time is settable or selectable by a  
9 user?

10 MR. HEINTZ: Judge McMillin, did you intend that question for  
11 me or for my colleague, Mr. Bruneel?

12 JUDGE MCMILLIN: Oh, I'm sorry. Mr. Heintz, if I called you  
13 Mr. Bruneel, it was a mistake. I directed it to you.

14 MR. HEINTZ: Okay. And I apologize, Your Honor, I do have the  
15 right slide now, it's column 10, lines 23 to 40. The patent, itself, is talking  
16 about user selecting times, and you are quite right, the claim language in  
17 those Claims 3 and 4 that you just referred to also have user selection of  
18 times.

19 So, the construction that Maxell seeks for that second issue on  
20 Limitation 1[i], that there can't be any user selection, that the controller has  
21 to choose the times, is clearly inconsistent with the specification, with the  
22 claims itself, and for that reason should be rejected.

23 And with that, if there are no further questions from the Board, I  
24 will rest. Thank you, Your Honors.

25 JUDGE POWELL: Thank you.

26 JUDGE TROCK: Counsel, I'm sorry.

1 MR. HEINTZ: Oh.

2 JUDGE TROCK: I know you want to sit down. But Patent Owner  
3 raised this issue, on their Slide 32, and argue that the prior art doesn't  
4 disclose camera disabling, I believe that was part of what he was arguing.  
5 Can you respond to that?

6 MR. HEINTZ: Yes, Your Honor. I think it's important to  
7 understand that this question must be viewed both in terms of the '757 Patent  
8 and the prior art. There is nowhere in the '757 Patent where there's any  
9 discussion of disabling -- any expressed discussion of disabling any camera.  
10 You recall earlier, Your Honor, we spoke about Figure 6 and how you can  
11 select either the in camera, or the first camera, or the out camera, or second  
12 camera by pressing a button, but nowhere in the description of those figures,  
13 or anywhere else in the '757 Patent, is there an express statement that says,  
14 when one selects the first camera, the second camera is disabled, or vice  
15 versa.

16 The showing that we made in the petition is consonant, is the same  
17 as what was discussed in the '757 Patent. And that's because, Your Honor, if  
18 you look at Dr. Guidash's testimony that was highlighted by my colleague,  
19 and that's in our slide deck at Slide 19, it was well understood in the art, at  
20 this period in time. Mike, can I have Slide 19? It was well understood, in  
21 the art, at this period of time, that when we have one camera that's selected,  
22 and the other camera is not being displayed or used for anything, that you're  
23 going to disable that camera. And that's clearly because the cameras are  
24 high-power users. And I'm sure as the Board is familiar, it's well known in  
25 the art that battery usage is an important consideration in these smartphones.

26 So, in the same way that the '757 Patent does not explicitly

1 disclose disabling the camera that hasn't been selected, so too the prior art  
2 does the same thing, and it's because a POSITA understands implicitly  
3 what's going on. And my colleague mentioned that there is a figure, I think  
4 it's Figure 12 in the '757 Patent, that has a sort of a picture-in-picture kind of  
5 application, and so nobody's saying that that's not possible, but that is the  
6 exception.

7           And so, I'll take you to Slide 21 in Petitioner's demonstratives,  
8 which begin at Exhibit 1016. Slide 21, Mike. So, Mr. Guidash was asked  
9 about this in his deposition. And the point he makes is that, yeah, sure, if  
10 there's a particular special application where you've got this figure picture-  
11 in-picture kind of situation, which again is shown in Figure 12 of the patent  
12 -- let me just make sure that's correct. Yeah, Figure 12 in the patent, they  
13 have the images from both the in camera and the out camera on the screen at  
14 the same time. In that situation, they're both enabled, of course. But when  
15 you're only showing one camera -- video from one camera, like we talked  
16 about in Figure 8 earlier, there is no reason to have the unselected camera  
17 enabled to output pictures, and there's every reason not to do it because  
18 you're wasting battery.

19           JUDGE TROCK: Counsel, is it your position then that one of  
20 ordinary skill in the art would understand that if you have two cameras and  
21 one is enabled, that a person of ordinary skill in the art would assume that  
22 the second is disabled? Is that your argument?

23           MR. HEINTZ: That's my argument, Your Honor. That's entirely  
24 consistent with what the '757 discloses or doesn't disclose on this issue. It's  
25 understood.

26           JUDGE TROCK: Do you have expert testimony to that effect?

1 MR. HEINTZ: Yes, we do, Your Honor. Mike, can we go back to  
2 Slide 19? So, it's in Mr. Guidash's declaration, paragraph 100 is talking  
3 about the case where the first camera is enabled, and it would be understood  
4 that the second camera is disabled to preserve battery life, it'd be an obvious  
5 thing to do. If it wasn't recognized, Mr. Guidash opines it would be obvious  
6 to do that, to conserve battery power.

7 Next slide, please, Slide 20, we have the same thing for the other  
8 situation, where the out camera, or the second camera is selected. Of course,  
9 the front camera is going to be disabled meaning, that it's not going to be  
10 outputting video.

11 Now, my colleague made his point about powering down, like,  
12 cutting off power to the camera would waste more power than simply than  
13 leaving the camera on. This is what I was trying to get at earlier, Judge  
14 Trock, when you asked me some questions at the beginning of my  
15 presentation. There's no discussion about what it means to enable or disable  
16 a camera.

17 And let me rephrase that. The camera is enabled when it's  
18 outputting video images. There's no discussion anywhere in the '757 Patent  
19 that says, to disable a camera, you have to have the power completely shut  
20 off. It's well known in this art that these cameras can be not completely  
21 powered off, but disabled in the sense that they're not using power to output  
22 images, but still there's some minimal power there that's effectively keeping  
23 the array ready for when it's time to start outputting images again.

24 JUDGE TROCK: Understood. So, if we could go back to Figure  
25 10 of the patent --

26 MR. HEINTZ: Okay.

1 JUDGE TROCK: -- we have the flowchart.

2 MR. HEINTZ: Yes, that is Slide 5.

3 JUDGE TROCK: I'm looking at the patent. I'm looking at Figure  
4 10.

5 MR. HEINTZ: Oh, okay.

6 JUDGE TROCK: All right. So, in Figure 10, is one of ordinary  
7 skill in the art, in reading the specification of this patent, and looking at  
8 Figure 10, would they understand that when you start here, that neither of  
9 these two cameras are enabled in the sense that they are outputting video to  
10 the screen until they get selected?

11 MR. HEINTZ: Yes, Your Honor.

12 JUDGE TROCK: Okay. And can you point out to me, one more  
13 time -- sorry to belabor this --

14 MR. HEINTZ: Sure.

15 JUDGE TROCK: -- but we have a final decision to issue in this  
16 case, and I want to get it right, where in these steps do we enable the camera  
17 for the first time, and at that point, explain to me why someone of ordinary  
18 skill in the art would understand that the cameras are disabled until that  
19 action is taken? Whether that be by a voice command, or whether it be by a  
20 button pushing, or whatever it is that takes place here in Figure 10?

21 MR. HEINTZ: Sure. So, at step S502, we're asking which camera  
22 is selected, and in step 503, it's either the out camera or step 504 it's the in  
23 camera, okay? And where it says -- for instance, in step 504, operate in  
24 camera and start inputting video. What that's saying is, the in camera has  
25 been fully enabled, and its outputting video, and the inputting the video is  
26 talking about, essentially, step S505, that video is input into the system for

1 display on the display that we saw -- next slide, please, Mike -- in Figure 8,  
2 so.

3 JUDGE TROCK: Let me back you up one -- let me just back you  
4 up a step. What about step 501? Is 501, this function selection menu screen,  
5 is that the screen where a user or an operator would choose which camera to  
6 turn on?

7 MR. HEINTZ: Exactly, Your Honor. If we go back to Slide 6,  
8 that's the screen on the left, so you can select 5311, or 312, and doing that,  
9 it's going to select one camera or the other. When you select one of those  
10 two cameras, the one that's selected is going to start outputting the video,  
11 and that video is going to be input for display on the screen. The other  
12 camera, the one that's not been selected, is still disabled. Because if that  
13 were not the case, then what would be happening here -- again, if you look at  
14 Figure 10, the start of this is that, essentially, this is the time when the  
15 camera application, or the video application starts.

16 If we weren't requiring the user to select one of these cameras, that  
17 would mean that the cameras are sort of both on before this even starts,  
18 right? They either have to be disabled or they're enabled. It makes no sense  
19 that these cameras are going to be enabled before this process in Figure 10  
20 starts. And everybody of skill in the art would have understood that because  
21 battery life was a very important consideration and cameras use power.

22 JUDGE TROCK: This is Judge Trock again. I don't want to put  
23 you on the spot here, but I'm going to ask you this question. With respect to  
24 Figure 10, with respect to these steps 501, 502, 503, does it explain in the  
25 specification that these cameras are either off or disabled as we make the  
26 selection process in 501, 502, or do you have an expert who goes through

1 this and explains it to us for evidentiary purposes?

2 MR. HEINTZ: Yes. The first answer to the first part of your  
3 question is there is nothing explicit in the '757 Patent about these cameras  
4 being disabled before we get to the step. There is no discussion at all about  
5 disabling the cameras. The claim says the camera's got to be disabled, but  
6 there's no discussion of that in the '757 Patent itself. And that's because it's  
7 understood, that unless the camera is enabled, it's going to be disabled.

8 Now, the answer to the second part of your question was do we  
9 have expert testimony that discusses these particular steps in Figure 10? We  
10 do not. But the expert testimony of Dr. Guidash in paragraphs 100 and 101,  
11 which we saw on Slides 20 and 21, make that clear, that it was very well  
12 understood -- it was ubiquitous that if you didn't have a camera selected, and  
13 you weren't using that video for anything, that you were going to disable that  
14 camera. Not necessarily power it off completely, just put it into a state  
15 where it's not using excess power to output images that aren't being used for  
16 anything. They're not going onto the display. They're not being recorded.  
17 Nothing's happening to them.

18 Nobody of skill in the art would design a camera that way.  
19 Anyone of skill in the art would understand that's not the way these things  
20 work. And that's why the '757 Patent can get away with not talking about  
21 this because it's understood. If it's not understood, then these claims aren't  
22 even enabled in the '757 Patent, and they're invalid for a completely different  
23 reason.

24 JUDGE TROCK: Okay. Thank you very much.

25 MR. HEINTZ: Yeah. Anything further?

26 JUDGE TROCK: No.

1           MR. HEINTZ: Your Honors, I thank you for your time today.  
2     Have a good day.

3           JUDGE POWELL: Thank you. So, we had a little bit of a hot  
4     bench there, and that took Petitioner about two minutes over its time. I'm  
5     going to make an executive decision here and say that we're going to afford  
6     Patent Owner an additional two minutes as well, which gives you 25  
7     minutes, 44 seconds. And we are ready when you are.

8           MR. BRUNEEL: I would just offer two quick points then, Your  
9     Honors. First, that we heard from Mr. Heintz that in reference to the  
10    question about Claim 2, the only rebuttal was for Ground 3 or 4 not having  
11    response to that. And separately, the discussion of whether the second  
12    camera is disabled, also extends to the other case where the second camera is  
13    enabled and the first camera is disabled, that there was no support from the  
14    prior art and limited support from the expert (INDISCERNIBLE -  
15    TECHNICAL DIFFICULTY). And I can take any questions.

16          JUDGE POWELL: Thank you. Going once, Judge Trock?

17          JUDGE TROCK: No.

18          JUDGE POWELL: Okay. All right. That's a wrap then for this.  
19    The case is submitted. We'll go off the record.

20                 (Whereupon, the above-entitled matter went off the record at 2:34  
21    p.m.)

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