

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIZIO, INC.,
Petitioner,

v.

MULTIMEDIA TECHNOLOGIES PTE. LTD.,
Patent Owner.

IPR2024-00722
Patent 9,232,168 B2

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

FENICK, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

A. *Background and Summary*

Vizio, Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting an *inter partes* review of claims 1–7 and 10–15 (“challenged claims”) of U.S. Patent No. 9,232,168 B2 (Ex. 1001, “the ’168 patent”). Multimedia Technologies Pte. Ltd. (“Patent Owner”) filed a Preliminary Response (Paper 11, “Prelim. Resp.”). With our authorization, Petitioner filed a Preliminary Reply (Paper 13, “Prelim. Reply”) and Patent Owner then filed a Preliminary Sur-reply (Paper 14, “Prelim. Sur-reply”).

Under 35 U.S.C. § 314(a), we may not authorize an *inter partes* review unless the information in the Petition “shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” For the reasons that follow, we do not institute an *inter partes* review.

B. *Real Parties in Interest*

Petitioner names only itself as a real party in interest. Pet. 76. Patent Owner names only itself as a real party in interest. Paper 9 (Patent Owner’s Second Amended Mandatory Notices), 1.

C. *Related Matters*

Petitioner informs us that the ’168 patent is at issue in: *Multimedia Technologies Pte. Ltd. v. VIZIO, Inc.*, No. 2:22-cv-00124 (E.D. Tex.) and *Multimedia Technologies Pte. Ltd. v. LG Electronics Inc.*, No. 2:22-cv-00494 (E.D. Tex.) (“the LG Case”). Pet. 76. Patent Owner identifies those cases and also informs us of additional *inter partes* review proceedings that could affect or be affected by a decision in this proceeding: IPR2024-00351, IPR2024-00352, IPR2024-00353, IPR2024-00354, IPR2024-00694, IPR2024-00696, IPR2024-00699, and IPR2024-00723. Paper 9, 1–2.

D. The '168 Patent

The '168 patent is titled “Systems and Methods for Providing User Interfaces in an Intelligent Television,” and concerns user interfaces for an intelligent television intended “to allow the user to utilize the intelligent television more easily and more effectively.” Ex. 1001, codes (54), (57).

Figure 21, reproduced immediately below, is “a flowchart view of an embodiment of a method for providing a user interface in an [i]ntelligent TV.” *Id.* at 22:38–39.

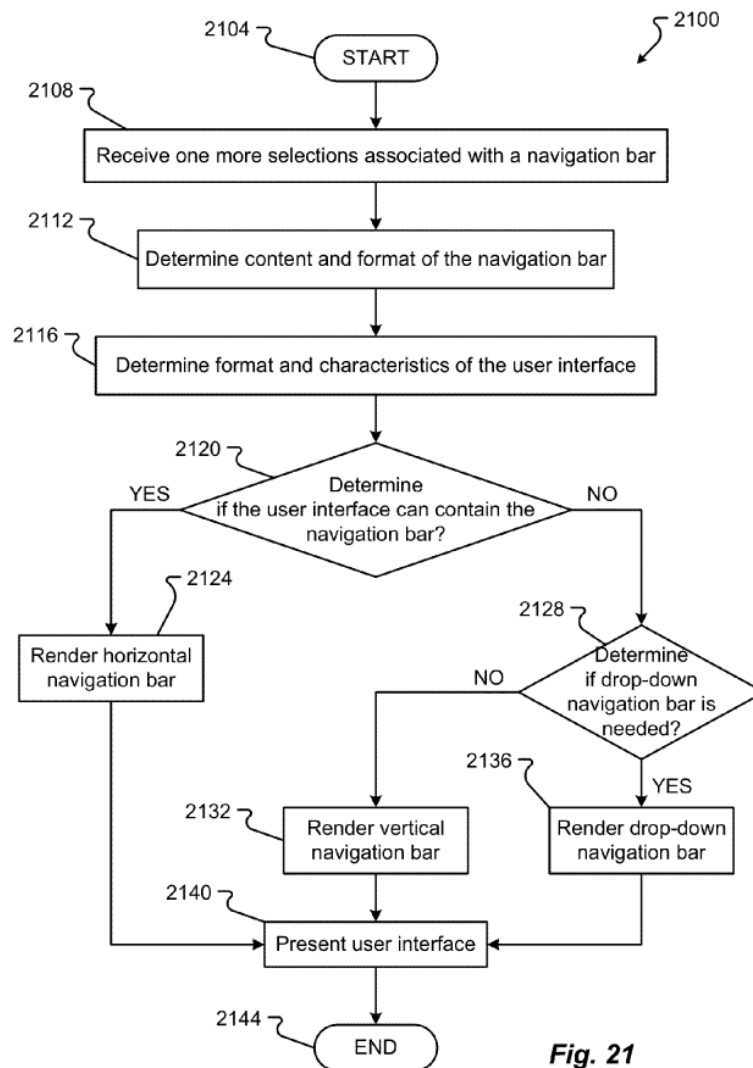


Fig. 21

In Figure 21 and the associated disclosure, the '168 patent describes receiving selections associated with a navigation bar from a user. *Id.* at

45:5–18, Fig. 21 (element 2108). From these selections, the content and format of a navigation bar to be provided and the format and characteristics of the user interface to be provided are determined. *Id.* at 45:16–41, Fig. 21 (elements 2112, 2116). “These characteristics determine the location of the navigation bar and how the navigation bar may be navigated.” *Id.* at 45:41–43. A determination is made if the user interface can contain the navigation bar. *Id.* at 45:44–54, Fig. 21 (element 2120). If it can, the navigation bar is rendered in the user interface and that interface is presented. *Id.* at 45:54–56, 45:59–60, 46:7–9, Fig. 21 (elements 2124, 2140). If the user interface cannot contain the navigation bar, a drop-down navigation bar (if needed) or a vertical navigation bar (otherwise) is rendered and presented in the user interface. *Id.* at 45:56–58, 45:60–46:9, Fig. 21 (elements 2128, 2132, 2136, 2140).

Figure 22A, reproduced immediately below, provides an example of “a user interface for an [i]ntelligent TV.” *Id.* at 22:40–41.

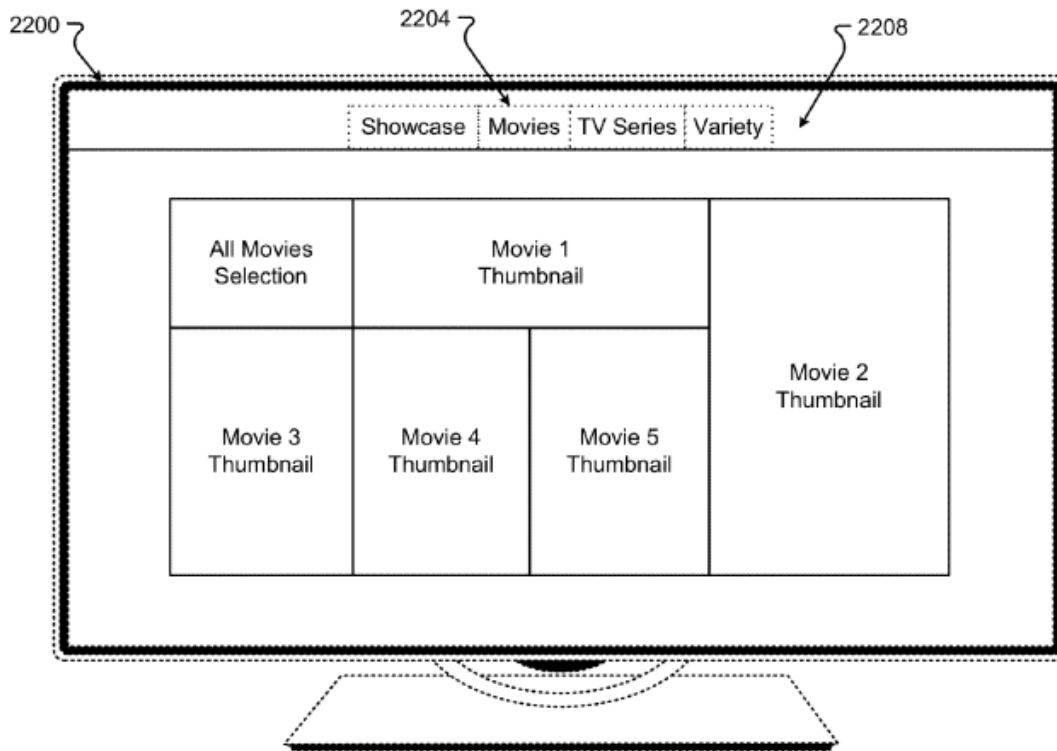


Fig. 22A

Figure 22A depicts user interface 2200 with movies user interface device 2204 in navigation bar 2208, which is “a single banner navigation bar across the top of the screen with only four different user interface devices that may be selected by a user.” *Id.* at 45:19–20, 45:26–29.

Figure 22B, reproduced immediately below, provides another example of “a user interface for an [i]ntelligent TV.” *Id.* at 22:42–43.

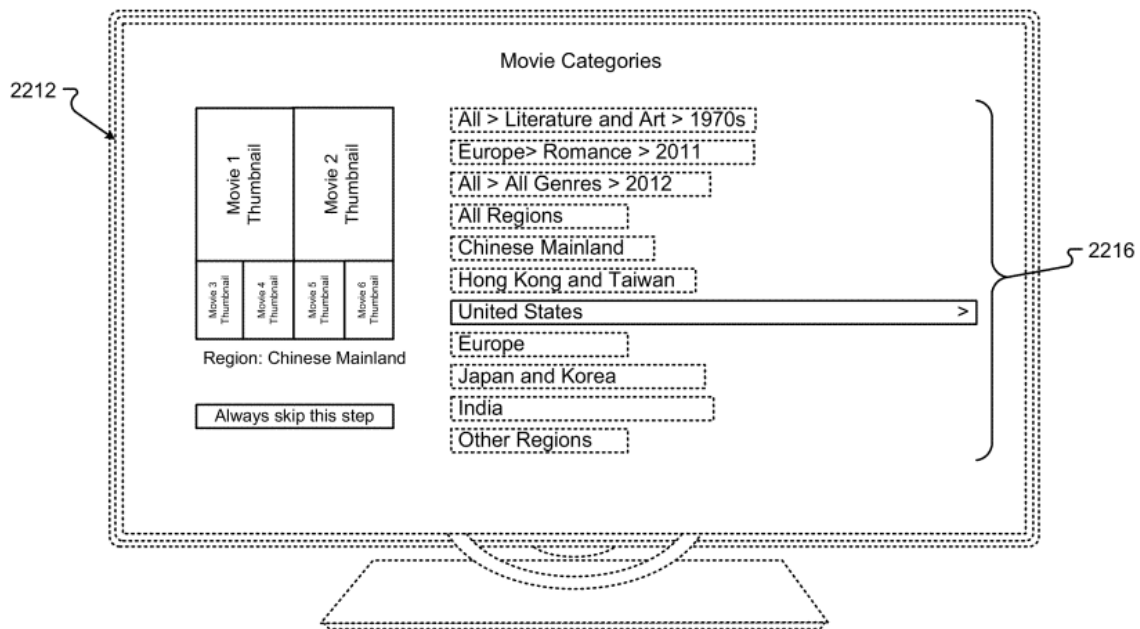


Fig. 22B

Figure 22B depicts a user interface 2212 with “navigation bar 2216 . . . displayed vertically as a series of user selectable devices arranged in rows.” *Id.* at 45:32–34. The ’168 patent states that “[t]hese rows are provided because the navigation bar could not [be] displayed across the top of a banner with the amount of information that needs to be provided in the navigation bar.” *Id.* at 45:34–37.

Figure 22C, reproduced immediately below, provides yet another example of “a user interface for an [i]ntelligent TV.” *Id.* at 22:44–45.

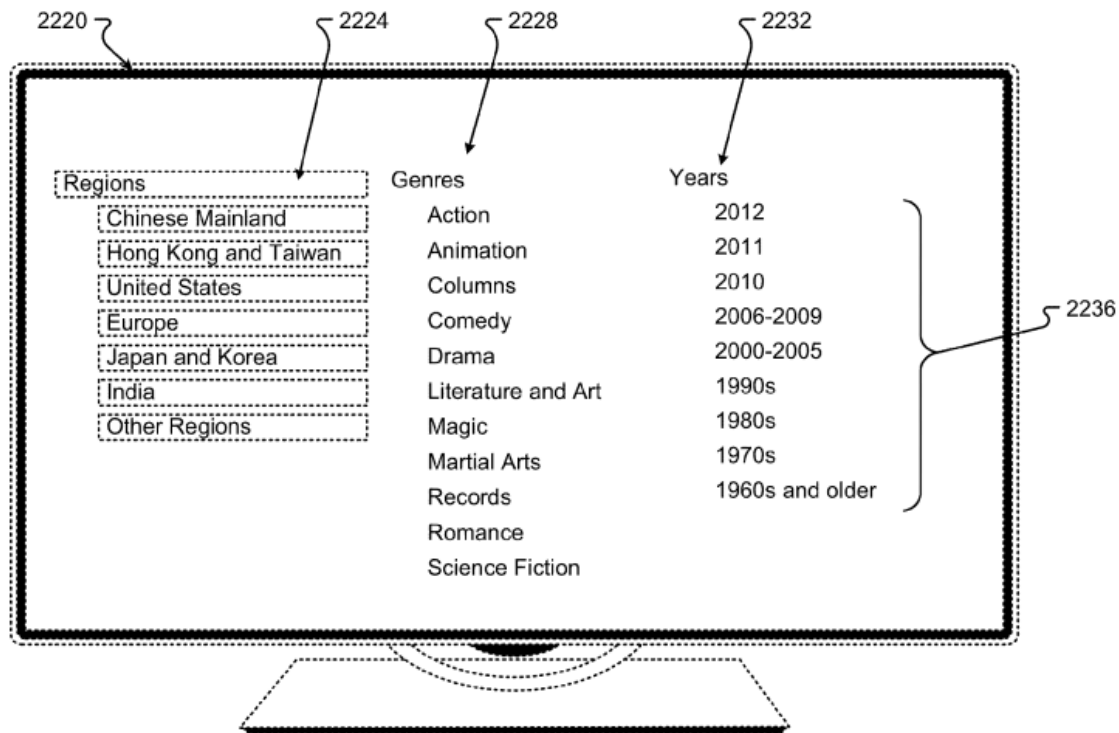


Fig. 22C

Figure 22C depicts a user interface 2220 with three drop down menus 2224, 2228, and 2232, which “allow[] for the consolidation of a great amount of space and data into the user interface.” *Id.* at 46:2–3, 46:9–14.

E. Illustrative Claim

Of the challenged claims, claims 1 and 11 are independent. Claim 1 is illustrative:

1. A method for providing a user interface in an intelligent television, the method comprising:

receiving, by a processor of the intelligent television, a selection associated with a first navigation bar in the user interface of the intelligent television;

determining if a second user interface, associated with the selection, can contain a second navigation bar;

if a second user interface, associated with the selection, can contain a second navigation bar, rendering a horizontal navigation bar as the second navigation bar in the second user interface; and

if a second user interface, associated with the selection, can not contain a second navigation bar, rendering a different user interface device for the second navigation bar in the second user interface.

Ex. 1001, 55:15–29.

F. Evidence

Petitioner relies on the following patent evidence.

Name	Patent Document	Exhibit
Lider	US 9,158,440 B1	Ex. 1005
Eibl	US 2009/0222771 A1	Ex. 1006

G. Prior Art and Asserted Grounds

Petitioner asserts that claims 1–12 would have been unpatentable on the following grounds:

Claim(s) Challenged	35 U.S.C. § ¹	Reference(s)/Basis
1–7, 10–15	103(a)	Lider
1–7, 10–15	103(a)	Lider, Eibl

Pet. 15–16.

¹ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112–29, 125 Stat. 284 (2011), amended 35 U.S.C. § 103, effective March 16, 2013. Because the earliest claimed priority date of the ’168 patent is before March 16, 2013, we apply the pre-AIA version of § 103. *See* Ex. 1001, code (60) (claiming priority to numerous provisional applications, including five provisional applications filed before March 16, 2013). Our analysis in this Decision would be the same if we applied the AIA version of § 103.

II. ANALYSIS

A. *Legal Standards*

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring *inter partes* review petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)). This burden of persuasion does not shift to Patent Owner. *See Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015) (citing *Tech. Licensing Corp. v. Videotek, Inc.*, 545 F.3d 1316, 1326–27 (Fed. Cir. 2008)) (discussing the burden of proof in *inter partes* review).

A patent claim is unpatentable under 35 U.S.C. § 103(a) if the differences between the claimed subject matter and the prior art are “such that the subject matter as a whole would have been obvious . . . to a person having ordinary skill in the art to which said subject matter pertains.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved based on underlying factual determinations, including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of skill in the art; and (4) objective evidence of nonobviousness, i.e., secondary considerations.² *See Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

“To satisfy its burden of proving obviousness, a petitioner cannot employ mere conclusory statements. The petitioner must instead articulate

² On the present record, neither party has raised evidence or arguments relating to objective evidence of nonobviousness.

specific reasoning, based on evidence of record, to support the legal conclusion of obviousness.” *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016). We analyze the asserted grounds with the principles stated above in mind.

B. Level of Ordinary Skill in the Art

Petitioner asserts, citing the testimony of its declarant Dr. Henry Houh (Ex. 1003), that:

A Person of Ordinary Skill in the Art (“POSITA”) . . . would have been someone knowledgeable of and familiar with [graphical user interface] displays that are pertinent to the ’168 Patent. A POSITA would have had a bachelor’s degree in Electrical Engineering, Software Engineering, or Computer Engineering, or equivalent training, and approximately two years of experience working in the field of television and/or digital video systems, human-computer interaction, or related technologies. Lack of professional experience can be remedied by additional education, and vice versa.

Pet. 14 (citing Ex. 1003 ¶¶ 19–22). Patent Owner does not comment on this definition or provide any proposed definition. *See generally* Prelim. Resp.; Prelim. Sur-reply.

The definition proposed by the Petitioner is consistent with the problems and solutions in the ’168 patent and prior art of record and is supported by expert testimony. We adopt this definition.

C. Claim Construction

In the Petition, the Petitioner argues that no claim term requires express construction. Pet. 15.

After the Petition was filed, the district court in the LG Case issued a claim construction order. Ex. 2001 (“District Court Order”). The District Court Order addresses and construes certain claim terms of the ’168 patent, including the phrase “if a second user interface, associated with the

selection, can not contain a second navigation bar, rendering *a different user interface device* for the second navigation bar in the second user interface,” as recited in independent claims 1 and 11. Ex. 1001, 55:26–29 (claim 1) (emphasis added); *see id.* at 56:14–17 (claim 11, substantially identical); Ex. 2001, 21–25. The District Court Order frames the issue as “whether the claim phrase ‘a different user interface device’ is indefinite for lack of antecedent basis because there is not a ‘first user interface device’ recited in the claims.” Ex. 2001, 21.

The District Court Order reviews Patent Owner’s position that the “horizontal navigation bar as the second navigation bar” provides the antecedent basis for the “different user interface device.” *Id.* at 22 (“[Patent Owner] points to FIGS. 22A and 22B in the specification as showing two examples of different user interface devices that can be displayed based on the context[.]”). A summary of arguments by Patent Owner during the hearing notes that Patent Owner argued that “the intrinsic evidence shows a ‘user interface device’ is something that is part of a ‘user interface’ . . . [which] can be a button *or an entire menu*,” and that “the horizontal navigation bar is simply *a form of* a user interface device, which can be a broader category of menus, drop down menus, vertical navigation bars, and other things that are some element of the user interface,” such as “a picture and a caption.” *Id.* at 24 (citing Ex. 1001, 50:30–42, 51:17–19).

In its analysis, the district court reviewed the usage of the claim term “user interface device” in the ’168 patent and determined that, as used in some portions of the ’168 patent specification, “the user interface devices appear not to be the navigation bar but are instead each of the user selectable buttons.” *Id.* at 23–24 (citing Ex. 1001, 45:19–20, 45:27–29, 45:33–37). The district court determined that Patent Owner’s contentions of a broad

meaning were not correct, because a “‘user interface device’ cannot be any one of a navigation bar, a menu, a button, a captioned picture, or any arbitrary element of the user interface and still impart meaning.” *Id.* at 24. Thus, the district court concluded that the term, with no commonly understood meaning in the art, “is rendered utterly ambiguous by the inconsistent applications in the intrinsic evidence.” *Id.* at 24–25. The district court’s conclusion was that the term “user interface device” is indefinite.

Patent Owner first argues that, because of the District Court Order, Petitioner’s proposal that no claim construction beyond the ordinary and customary meaning is necessary is, in fact, a proposal that the claim term “a different user interface device” is indefinite, and thus we should deny institution. Prelim. Resp. 1–2, 8, 11–12. However, the timing of the District Court Order clearly belies this reading of the Petition; the Petition was filed on March 22, 2024, the Markman hearing in the LG Case was held on May 31, 2024, and the District Court Order was issued a month later, thus the Petition could not be seen as adopting the conclusions in that order. *See* Paper 5 (according the Petition a filing date of March 22, 2024); Ex. 2001, 1.

Patent Owner next appears to adopt the District Court Order’s indefiniteness reading as correct by arguing that the District Court specifically found that the claim term “a different user interface device” could not be a navigation bar, a menu, or any other element of a user interface. Prelim. Resp. 13. Patent Owner therefore asserts that the Petition, in relying on such elements in the prior art, does not show how the prior art teaches or suggests “a different user interface device.” *Id.* at 13–14. However, this argument appears to be based on an incorrect reading of the District Court Order. The district court reviewed the intrinsic evidence and

summarized why it disagreed with Patent Owner’s argument regarding a multitude of possible user interface elements that could be a “user interface device,” en route to its conclusion of indefiniteness. Ex. 2001, 22–24. We do not agree that the District Court Order contains a specific negative construction of “a different user interface device” in addition to its conclusion regarding the indefiniteness of the term.

Noting that our regulations require us to consider prior claim construction determinations from civil actions, and that our Consolidated Trial Practice Guide³ states that we will give such determinations “appropriate weight,” we authorized additional briefing from the parties, “to fully understand the parties’ positions regarding the relevant determinations” in the District Court Order. Paper 12 (October 21, 2024 Order) (citing 37 C.F.R. § 42.100(b); Consolidated Trial Practice Guide, 46–48 (Nov. 2019)). In their additional briefing, neither party presented arguments regarding the proper claim construction of the claim term “a different user interface device.” *See generally* Prelim. Reply; Prelim. Sur-reply. In the Preliminary Reply, Petitioner acknowledges that it “has not proposed a specific construction for any term in the ’168 patent.” Prelim. Reply 4. Despite having more than one opportunity, Patent Owner does not affirmatively rebut the district court’s conclusion of indefiniteness. *See* Prelim. Sur-reply.

After considering the determinations in the District Court Order, we agree with the district court that we cannot ascertain with reasonable certainty the scope of the claim term “a different user interface device.” *See* Ex. 2001, 25 (the district court explaining that “‘user interface device’ in the claim and in view of the intrinsic evidence, as emphasized by counsel’s

³ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated> .

argument, has no discernable meaning and therefore fails to inform with reasonable certainty those skilled in the art about the scope of the invention.”). As the district court found, the ’168 patent specification uses the term “user interface device” inconsistently, for example, describing “four different user interface devices” in a navigation bar including the “movies user interface device 2204” in Figure 22A. *Id.* at 23 (citing Ex. 1001, 45:19–20, 45:27–29). Additionally, the specification appears to describe user interface devices with reference to the rows in Figure 22B, and other parts of the specification also describe selectable interface elements as “user interface device[s].” Ex. 1001, 45:33–37 (cited at Ex. 2001, 23–24), 41:31–45, 46:67–47:2, 47:18–21, 48:18–20. Still further, the specification appears to describe a menu as a type of user interface device. *Id.* at 49:3–5 (cited at Ex. 2001, 24), 51:17–19 (same). In addition to these citations from the District Court Order, we note that the term “user interface device” is used when describing a user selecting a specific year from a display of years provided on a user interface: “If user selection 1460 is ***selected by the user using a user interface device***, a new user interface presentation is provided.” *Id.* at 40:39–46 (emphasis added). On the record before us, we agree with the district court that, based on the ambiguity in the specification, “it is indiscernible what subset of the user interface, if any, is the user interface device.” Ex. 2001, 24. Therefore, we conclude that we cannot determine the scope of the claim term “a different user interface device” with reasonable certainty for purposes of assessing patentability.

D. Analysis

Petitioner argues that we could address the patentability of the challenged claims even in a situation in which one of the claim terms is indefinite. Prelim. Reply 1–2. In support of its contentions, Petitioner cites

cases that it argues stand for the proposition that a conclusion of indefiniteness would not preclude us from institution. *Id.* at 2 (citing *Samsung Electronics America, Inc. v. Prisia Eng'g Corp.*, 948 F.3d 1342, 1353 (Fed. Cir. 2020); *Intel Corp. v. Qualcomm Inc.*, 21 F.4th 801, 813 (Fed. Cir. 2021); *Standard Oil Co. v. American Cyanamid Co.*, 774 F.2d 448, 452 (Fed. Cir. 1985)).⁴ However, we do not agree that any of these cases supports institution here.

In *Samsung*, the U.S. Court of Appeals for the Federal Circuit explained that, in an *inter partes* review, an indefiniteness conclusion “does not necessarily preclude” the Board from making a determination regarding a section 102 or 103 challenge to the claims. *Samsung*, 948 F.3d at 1355 (discussing claims determined to be indefinite under *IPXL Holdings, L.L.C. v. Amazon.com, Inc.*, 430 F.3d 1377, 1384 (Fed. Cir. 2005)). However, the Federal Circuit noted that “our decision here is limited to *IPXL*-type indefiniteness.” *Id.* at 1355 n.5. In *IPXL*, a claim directed to both a system and a method were determined to be indefinite. *IPXL*, 430 F.3d at 1383–84. This is not a case involving *IPXL*-type indefiniteness.

In *Intel*, as Petitioner argues, the Federal Circuit refers to *Samsung* in stating that “it is not always impossible to adjudicate a prior-art challenge . . . just because some aspect of a claim renders the claim indefinite.” *Intel*,

⁴ Petitioner additionally cites PTAB decisions, however, none are precedential, and furthermore, upon review, we do not agree that they relate to analogous situations. Prelim. Reply 2–4 (citing *DraftKings, Inc. v. AG 18, LLC*, IPR2022-01447, Paper 33 (PTAB Mar. 13, 2024); *Zillow Group, Inc. v. IBM Corp.*, IPR2020-01655, Paper 8 (PTAB Mar. 15, 2021); *Western Digital Corp. v. SPEX Techs.*, IPR2018-00084, Paper 14 (PTAB Apr. 25, 2018); *Aptiv Servs. US, LLC v. Microchip Tech., Inc.*, IPR2024-00646, Paper 11 (PTAB Sept. 25, 2024); *Hilti Aktiengesellschaft v. Specified Technologies Inc.*, IPR2024-00192, Paper 16 (PTAB May 14, 2024)).

21 F.4th at 813. The Federal Circuit cites, as an example, a situation in which “a claim limitation requires alternative limitations A or B, and A is indefinite, but B is not.” *Id.* In such instances, “the Board may well be able to determine that the argued prior art and its argued combinations or modifications cover the B option, thus satisfying the A or B limitation.” *Id.* However, this cited example of a situation in which it is not logically impossible for a decision to be reached regarding patentability is not the one we are faced with here, and Petitioner does not explain, nor do we understand, how the situation in *Intel* is analogous to the one before us given the structure of the claims at issue.

In *Standard Oil*, as Petitioner argues, the Federal Circuit upheld a conclusion of both indefiniteness and obviousness by a district court in an infringement suit. *Standard Oil*, 774 F.2d at 451, 453–455. However, the court did not address any issues regarding whether the indefiniteness created any issues of impossibility with respect to the obviousness conclusion. *Id.*

Petitioner argues that “nothing prevents the Board” from performing an analysis to assess “whether the prior art discloses rendering something other than the second navigation bar” if a second user interface cannot contain that second navigation bar. Prelim. Reply 3–4. But our goal would not be to determine whether the prior art teaches or suggests “rendering something other than the second navigation bar” (Prelim. Reply 3), but rather whether the prior art teaches or suggests “rendering a different user interface device” (Ex. 1001, 55:26–29). In *Samsung*, the Federal Circuit notes that “the proper course for the Board to follow, if it cannot ascertain the scope of a claim with reasonable certainty for the purposes of assessing patentability, is to decline to institute the IPR or, if the indefiniteness issue affects only certain claims, to conclude that it could not reach a decision on

the merits with respect to . . . those claims.” *Samsung*, 948 F.3d at 1353. In keeping with this general direction from our reviewing court, and because no exception curing the impossibility of reaching a determination regarding unpatentability appears in this case, we do not institute an *inter partes* review.

Given our conclusion that we cannot determine the scope of the claim term “a different user interface device” with reasonable certainty for purposes of assessing patentability, we decline to institute *inter partes* review on the grounds presented.

III. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Petition is denied and no *inter partes* review instituted.

IPR2024-00722

Patent 9,232,168 B2

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