

IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF TEXAS
 TEXARKANA DIVISION

MAXELL, LTD.,	) (	
PLAINTIFF,	) (	CIVIL ACTION NO.
	) (	5:23-CV-92-RWS
VS.	) (	TEXARKANA, TEXAS
	) (	
SAMSUNG ELECTRONICS CO., LTD.,	) (	
and SAMSUNG ELECTRONICS	) (	MAY 23, 2025
AMERICA, INC.,	) (	8:51 A.M.
DEFENDANTS.	) (	

JURY TRIAL TRANSCRIPT

BEFORE THE HONORABLE ROBERT W. SCHROEDER III

UNITED STATES DISTRICT JUDGE

VOLUME 5

FOR PLAINTIFF:	Mr. Jamie B. Beaber
	Mr. Kfir B. Levy
	Mr. James A. (Tripp) Fussell, III
	Mr. Saqib J. Siddiqui
	Mr. Bryan C. Nese
	Mr. Michael L. Lindinger
	Ms. Tiffany A. Miller
	Mr. Tariq Javed
	Mr. Seth W. Bruneel
	Mr. Séké G. Godo
	Mayer Brown LLP
	1999 K Street NW
	Washington, DC 20006
	Mr. Geoffrey P. Culbertson
	Mr. Kelly B. Tidwell
	Patton Tidwell & Culbertson, LLP
	2800 Texas Boulevard
	Texarkana, TX 75503

Maxell, Ltd.

EX2043

Page 1 of 33

1 FOR DEFENDANTS:

Ms. Melissa R. Smith
Gillam & Smith, LLP
303 South Washington Avenue
Marshall, TX 75670

Mr. Mark D. Fowler
DLA Piper LLP (US)
3203 Hanover Street
Suite 100
Palo Alto, CA 94304

Mr. Sean C. Cunningham
Ms. Erin P. Gibson
Ms. Kathryn R. Grasso
DLA Piper LLP (US)
4365 Executive Drive
Suite 1100
San Diego, CA 92121

Ms. Paulina Starostka
DLA Piper LLP (US)
444 West Lake Street
Suite 900
Chicago, IL 60606

14 COURT REPORTER:

Ms. Shelly Holmes, CSR, TCRR
Official Court Reporter
Honorable Robert W. Schroeder III
United States District Judge
Eastern District of Texas
Texarkana Division
500 North State Line Avenue
Texarkana, TX 75501
(903) 794-1018
shelly_holmes@txed.uscourts.gov

(Proceedings recorded by mechanical stenography, transcript
produced on a CAT system.)

01:21:21 1 I have visited with the attorneys, and we are
01:21:26 2 fairly confident this case will be submitted to you for
01:21:31 3 your deliberations on Tuesday.

01:21:34 4 There may be a little bit of testimony on Tuesday
01:21:38 5 morning, and there will be some work that we have to do in
01:21:43 6 the courtroom without you in here before we transition into
01:21:50 7 final jury instructions and closing arguments. But we'll
01:21:56 8 get those presented to you, I would say, hopefully in the
01:22:00 9 early afternoon on Tuesday.

01:22:03 10 And so after that, it's really kind of up to the
01:22:08 11 jury. So it depends on how long you all deliberate. But
01:22:12 12 we do expect to -- expect it to be in your hands by Tuesday
01:22:17 13 afternoon.

01:22:17 14 So with those comments, I hope that is helpful to
01:22:21 15 you.

01:22:22 16 At this time, Mr. Fowler, you may continue your
01:22:26 17 direct examination.

01:22:27 18 MR. FOWLER: Thank you very much, Your Honor.

01:22:29 19 Q. (By Mr. Fowler) Good afternoon, Dr. Kia. How are you?

01:22:31 20 A. Good afternoon, sir. I'm well. Thank you.

01:22:34 21 Q. So when we left off, we had just finished your
01:22:36 22 non-infringement opinion of the '848. We're about to start
01:22:39 23 your non-infringement opinion on the '815. Have I got that
01:22:42 24 right?

01:22:42 25 A. Yes, sir, you did.

01:22:43 1 Q. Okay. So can you please remind the jury of your
01:22:47 2 conclusions on the '815 patent?

01:22:48 3 A. My conclusion is that the accused Samsung products do
01:22:53 4 not infringe Claims 1, 21, and 24 of the '815 patent and
01:22:59 5 that also Claims 1, 21, and 24 are invalid.

01:23:03 6 Q. So let's start with your non-infringement analysis.

01:23:07 7 MR. FOWLER: Could we please put up the next
01:23:09 8 slide?

01:23:10 9 Q. (By Mr. Fowler) Okay. Can you tell us what
01:23:12 10 information you reviewed before you came to your
01:23:15 11 conclusions on non-infringement of the '815 patent?

01:23:18 12 A. Yes, sir. So I reviewed the patent and the file
01:23:21 13 history, technical documentation for the Samsung products.

01:23:25 14 I also reviewed Dr. Singh's report and the
01:23:28 15 deposition testimonies of Samsung engineers.

01:23:31 16 I looked at the source code and the physical
01:23:33 17 testing of the Samsung Galaxy S23 itself.

01:23:38 18 I also looked at the source code and testing of
01:23:46 19 the Netflix app.

01:23:46 20 Q. Were you also here when Maxell's expert Dr. Singh
01:23:49 21 testified at trial?

01:23:49 22 A. Yes, sir, I was here.

01:23:51 23 Q. Have you taken that testimony into account as well?

01:23:53 24 A. Yes, sir, I have.

01:23:54 25 Q. And do you agree with Dr. Singh's infringement

01:23:56 1 analysis?

01:23:57 2 A. No, sir, I do not.

01:24:01 3 Q. Okay.

01:24:01 4 MR. FOWLER: So let's go to the next slide.

01:24:02 5 Q. (By Mr. Fowler) Can you please summarize, at a high
01:24:05 6 level -- we'll get to the details in a minute -- but at a
01:24:08 7 high level, what your non-infringement opinion is with
01:24:10 8 respect to the '815 patent?

01:24:11 9 A. Yes, sir. So my opinion is that the Samsung Gallery
01:24:14 10 app running on the Galaxy S23 does not infringe Claim 1
01:24:20 11 because the user selects an area of the screen rather than
01:24:24 12 characters under the Court's construction.

01:24:27 13 And also the Netflix app running on the Galaxy S23
01:24:31 14 does not infringe Claim 21 and 24 because there's no first
01:24:38 15 character that's indicating an identity of the user on the
01:24:43 16 second interface. This is the Netflix home screen.

01:24:46 17 Q. Okay. Just to make sure we're all on the same page, so
01:24:50 18 Maxell's infringement theory for Claim 1 pertains to the --
01:24:53 19 Samsung's own Gallery application; is that right?

01:24:55 20 A. That's correct.

01:24:55 21 Q. And Maxell's infringement theory for Claims 21 and 24,
01:25:00 22 they rely on this Netflix app that is potentially
01:25:04 23 downloaded on Samsung's phone?

01:25:06 24 A. That's correct.

01:25:07 25 Q. Okay. So let's turn to your more detailed analysis

01:25:10 1 starting with Claim 1.

01:25:12 2 Did the Court construe any terms in Claim 1 that
01:25:19 3 are important to your analysis?

01:25:20 4 A. Yes, sir. The Court construed the word "character."

01:25:24 5 MR. FOWLER: So let's put that up on the screen.

01:25:27 6 Q. (By Mr. Fowler) So can you tell us how the Court
01:25:30 7 construed the term "character"?

01:25:32 8 A. Yes, sir. The Court construed the character to mean:

01:25:34 9 A letter, number, punctuation mark, or other symbol or
01:25:39 10 control code that is represented to a computer by one unit
01:25:42 11 of information.

01:25:43 12 Q. Did you apply this construction in your analysis both
01:25:46 13 of Claim 1 and Claim 21?

01:25:48 14 A. Yes, sir, I did.

01:25:49 15 Q. Now, we'll get to the details later, but is this
01:25:52 16 construction important to your analysis?

01:25:55 17 A. Yes, sir, it is. It's fundamental.

01:25:58 18 MR. FOWLER: Now, let's go to the next slide, if
01:26:01 19 we could.

01:26:01 20 Q. (By Mr. Fowler) So what specific claim limitations of
01:26:04 21 Claim 1 are not present in the Galaxy S23?

01:26:09 22 A. Yes. The claim elements is what I'm showing here in
01:26:12 23 the slide. It's Claim Element 1[j] where the user
01:26:17 24 selection of the first character enables the display of
01:26:21 25 first group of thumbnails.

01:26:23 1 And then Claim Element 1[k], user selection of a
01:26:27 2 second character enables the display of a second group of
01:26:31 3 thumbnails.

01:26:33 4 Q. So can you explain at a high level to the jury what
01:26:36 5 these two claim requirements require?

01:26:39 6 A. Absolutely. So a user running the Gallery app, when
01:26:45 7 the user selects an album, a -- a first character is
01:26:52 8 supposed to be there. And once you press the album, the
01:26:55 9 thumbnails of what's inside the album are displayed. So
01:26:58 10 that would be the display of a first group of thumbnails.

01:27:01 11 You press on a different album, if a character is
01:27:05 12 chosen, you display a second group of thumbnails, a
01:27:09 13 different set of photos that are in the second -- second
01:27:14 14 album.

01:27:14 15 Q. So the characters that you would press would need to be
01:27:18 16 the letter, number, punctuation mark, or so forth, right?

01:27:23 17 A. That's correct.

01:27:23 18 Q. Okay. So under the Court's construction, how many
01:27:26 19 units of information must be represented in order for it to
01:27:29 20 qualify?

01:27:30 21 A. It is required that one unit of information be used.

01:27:33 22 Q. So why does a user selection on a Galaxy S23 fail to
01:27:39 23 meet the Court's construction of character?

01:27:41 24 A. Because the Galaxy app, when the user selects an album,
01:27:46 25 it's selecting an area. It is not selecting a character or

01:27:50 1 a letter or a punctuation mark, other symbols, and
01:27:53 2 certainly not one unit of information.

01:27:56 3 Q. Okay.

01:27:57 4 MR. FOWLER: So let's go to the next slide.

01:28:02 5 Q. (By Mr. Fowler) Now, can you tell us what we're
01:28:03 6 looking at here?

01:28:04 7 A. Yes, sir. So on the left side, this is the pane view.
01:28:12 8 We saw it a little earlier when you entered the Gallery app
01:28:14 9 and you press the albums. You see a list of albums that's
01:28:18 10 stored in the Gallery app. So each one of those icons that
01:28:22 11 you see is individual albums.

01:28:24 12 And on the right side, if you select one of those
01:28:27 13 albums, the thumbnails are shown, but also the list of
01:28:32 14 albums in the sliding pane is also shown on the left side,
01:28:36 15 which I've demarked in a yellow box.

01:28:39 16 Q. What exhibit are we looking at here?

01:28:41 17 A. This is DPX-4b, the actual physical device.

01:28:50 18 Q. Okay. Now, I'm going to just step back a little bit.

01:28:52 19 You were here when Dr. Singh testified, correct?

01:28:55 20 A. Yes, sir, I was.

01:28:55 21 Q. And so we saw on one of his slides something that looks
01:28:55 22 like what's on the right side of this image.

01:28:59 23 Do you recall that?

01:28:59 24 A. I do recall that.

01:29:00 25 Q. And do you recall my questioning to Dr. Singh about

01:29:05 1 whether pressing the thumbnail would infringe or not?

01:29:11 2 A. Yes, I remember that.

01:29:12 3 Q. And do you recall Dr. Singh admitting that pressing the

01:29:16 4 thumbnail would not be infringement?

01:29:17 5 A. That's correct, I remember that.

01:29:19 6 Q. And do you recall me asking him about the term

01:29:22 7 "favorites," if -- that if a person was trying to pick the

01:29:25 8 word "favorites," whether that would infringe?

01:29:27 9 A. Yes, I remember you talking about that.

01:29:28 10 Q. And do you recall him acknowledging that the term

01:29:32 11 "favorites" can't be the character because it has more than

01:29:35 12 one unit of information?

01:29:37 13 A. That's correct.

01:29:37 14 Q. And do you recall that what he was focusing on is the

01:29:42 15 user somehow looking for, like, the letter "F"?

01:29:42 16 A. That's correct.

01:29:46 17 Q. You understand that's his infringement theory?

01:29:47 18 A. That's correct. That's what I understand he proposed

01:29:52 19 as the infringement theory.

01:29:53 20 Q. Okay. Do you see any characters on the screen here?

01:29:59 21 A. Yes. I actually marked it in the red box. "Favorites"

01:30:08 22 on the left constitute composition of characters.

01:30:12 23 "Favorites" on the right, also composed of characters.

01:30:12 24 Q. Did you say "composition of characters"?

01:30:14 25 A. Yes.

01:30:14 1 Q. So in the "favorites" box, how many characters are in
01:30:18 2 there?
01:30:19 3 A. Let's see, nine characters.
01:30:22 4 Q. Right. So each one of those is a character?
01:30:24 5 A. That's correct.
01:30:26 6 Q. Okay. And was -- was Dr. Singh correct, that each one
01:30:29 7 of those would be represented by one unit of information so
01:30:32 8 that the whole word is nine?
01:30:35 9 A. So each character would be one unit of information, but
01:30:38 10 the whole would be nine.
01:30:40 11 Q. Okay. Does the user select any character on the screen
01:30:46 12 in order to select the albums on the right?
01:30:48 13 A. No, sir.
01:30:49 14 Q. What happens, instead, in the phone? What actually
01:30:53 15 happens?
01:30:53 16 A. What actually happens in the phone is that the user
01:30:57 17 selects the area, and this is by testing, and also I have
01:31:02 18 source code that I looked at that confirms that.
01:31:05 19 Q. Have you heard of something called a dynamically
01:31:08 20 defined area?
01:31:09 21 A. Yes, sir.
01:31:09 22 Q. Can you explain to the jury what that is?
01:31:12 23 A. So part of the graphical user interface, to make the
01:31:18 24 user interface pleasant, is the system takes into account
01:31:24 25 the size.

01:31:25 1 So if you don't have much size, you put, for
01:31:29 2 example, two thumbnails. If you've got the bigger phone
01:31:32 3 and maybe you can shrink the thumbnails a little bit more,
01:31:37 4 maybe you put three columns there.

01:31:39 5 So based on the real estate, the graphical real
01:31:42 6 estate that you have, the system distributes these buttons
01:31:45 7 accordingly. And if it cannot find it as an example of
01:31:48 8 this slide view, it provides a scrolling mechanism, so you
01:31:52 9 can go through the various items.

01:31:54 10 Q. Now, we're going to look at the source code in just a
01:31:56 11 few minutes. But does the source code describe selecting a
01:32:01 12 character as construed by the Court?

01:32:04 13 A. No, sir. The source code does not do that.

01:32:08 14 Q. Is the source code ever wrong?

01:32:10 15 A. No, sir.

01:32:10 16 Q. If -- if the source code or the software was set up to
01:32:14 17 recognize a character, would it be in the source code
01:32:16 18 somewhere?

01:32:16 19 A. Absolutely. The clicking of the item would clearly be
01:32:21 20 shown.

01:32:22 21 Q. And if it's not in the source code, what does that
01:32:24 22 mean?

01:32:25 23 A. That means it's not present in the accused products.

01:32:27 24 Q. Did Dr. Singh show the jury any source code at all for
01:32:30 25 this claim limitation?

01:32:32 1 A. No, sir, he did not.

01:32:33 2 Q. Are you going to?

01:32:36 3 A. Yes, sir, I am.

01:32:37 4 Q. Okay. Now, if that's the case, why are these -- why

01:32:40 5 are these characters even on the screen, you know, even as

01:32:44 6 a word? What's the purpose of having them on there?

01:32:46 7 A. So the purpose is that this gives a guide to the user

01:32:50 8 so that they would know that whatever they created -- as an

01:32:53 9 example, most of the icons in the album are from the

01:32:57 10 pictures that are in the album itself. These are guides.

01:33:02 11 And the user can name an album, again, user selection.

01:33:07 12 It's a guide for them to remember where is it in the album

01:33:11 13 structure that they want to go to see the pictures they

01:33:13 14 like.

01:33:14 15 MR. FOWLER: Your Honor, I'm going to need to

01:33:16 16 briefly seal the court while we look at some source code.

01:33:21 17 THE COURT: All right. The courtroom will be

01:33:23 18 sealed at this time.

01:33:24 19 (Courtroom sealed.)

01:33:24 20 (This portion of the transcript is sealed

01:33:24 21 and filed under separate cover as

01:33:24 22 Sealed Portion No. 14.)

01:37:46 23 (Courtroom unsealed.)

01:37:46 24 MR. FOWLER: Would you like me to wait, or should

01:37:48 25 I proceed?

01:37:49 1 THE COURT: You can proceed. I'm a little
01:37:51 2 concerned about that microphone.

01:37:53 3 Can the jury hear? Okay. Not great?

01:37:54 4 Maybe let's try to swap out the microphones.

01:38:00 5 Mr. Siddiqui has one there.

01:38:10 6 MR. FOWLER: How about that?

01:38:11 7 THE COURT: A little better.

01:38:13 8 MR. FOWLER: Thank you.

01:38:14 9 Q. (By Mr. Fowler) Now, we talked about your review of
01:38:16 10 the source code, but did you confirm what you saw on the
01:38:19 11 source code by your own testing?

01:38:24 12 A. Yes, sir, I did.

01:38:25 13 Q. Are you prepared to demonstrate some of your testing
01:38:28 14 for the jury using the overhead camera that we have up
01:38:31 15 there on the witness stand?

01:38:32 16 A. Yes, sir, I am.

01:38:33 17 Q. Okay. Can you, using the overhead camera, which
01:38:36 18 hopefully we can turn on now?

01:38:45 19 Are you ready, Dr. Kia?

01:38:47 20 A. No, this is too much zoomed in. Let me zoom out a
01:38:51 21 little. I think when it turns on, it gets better.

01:39:00 22 Okay. Yes, I'm ready.

01:39:00 23 Q. Okay. Can you -- using the overhead camera -- and let
01:39:04 24 me step back.

01:39:04 25 What is that -- what is that that you've put there

01:39:06 1 on the pad?

01:39:07 2 A. It is the DPX-4b. It is a Samsung Galaxy S23 device.

01:39:13 3 Q. Okay. Using the S23 exhibit device and the overhead
01:39:18 4 camera, can you please demonstrate for the jury your
01:39:23 5 testing?

01:39:24 6 A. Yes, sir. Wait until this catches up. Waiting for
01:39:40 7 connection. There we go.

01:39:44 8 Okay. I'm ready.

01:39:47 9 Q. Please proceed.

01:39:48 10 A. Okay. So once you turn on the device, it goes to the
01:39:52 11 home screen that we saw earlier. So I'm going to find the
01:39:56 12 Gallery app. This is the Gallery app.

01:40:00 13 Oh, this is upside down.

01:40:02 14 Q. Just turn it around, sir.

01:40:04 15 A. I'll do it like this.

01:40:07 16 Okay. So we get to the pictures pane, and when we
01:40:12 17 go to the albums pane, you get all of the albums that we've
01:40:16 18 seen before. Okay?

01:40:17 19 So I'm going to go to the banana album, and you
01:40:21 20 see that these are the various folders that are available.
01:40:28 21 Okay.

01:40:28 22 Q. You're pointing -- just for the record, you're pointing
01:40:30 23 to the folders on the left of the screen?

01:40:33 24 A. That's correct.

01:40:34 25 So when I go to a different folder, it shows this

01:40:39 1 one. It has a different content. Okay?

01:40:43 2 So when I go back to the banana folder, when I

01:40:48 3 select --

01:40:48 4 Q. Well -- I'm sorry, just -- because I can't at least see

01:40:51 5 it on the screen here because of the resolution. You're

01:40:54 6 looking at something that looks like a piece of tile; is

01:40:58 7 that right?

01:40:58 8 A. Yes.

01:40:58 9 Q. And are there words under it? I can't really quite see

01:41:03 10 it. Are there words under it on the screen?

01:41:05 11 A. Maybe I can reduce the exposure. Maybe it'll get

01:41:10 12 better.

01:41:17 13 Q. Very good. Thank you.

01:41:20 14 So what does it say -- what's the word below --

01:41:24 15 below that tile or the thumbnail?

01:41:26 16 A. It says "bananas."

01:41:28 17 Q. Okay. Please proceed.

01:41:31 18 A. Okay. So in this icon here -- I'm going to try to do

01:41:34 19 it so you can see where I touch -- is the carpets folder.

01:41:40 20 Okay? So I press even on the carpets icon, and it changes.

01:41:40 21 It selects that album.

01:41:41 22 Q. So let's just stop there. According to Dr. Singh and

01:41:44 23 you, does that infringe?

01:41:45 24 A. No, sir, it does not.

01:41:47 25 Q. Because you're clicking on a thumbnail; is that right?

01:41:50 1 A. That's correct.

01:41:50 2 Q. Okay. Please proceed.

01:41:52 3 A. Okay. So I go back to that banana, and I'm going to --

01:41:57 4 let's see -- I'm going to move -- I'm going to move the

01:42:04 5 slide bar so that the carpets' text is removed. So all you

01:42:11 6 see is the icon now.

01:42:12 7 Q. So, just for the record, what we're looking at is the

01:42:15 8 top two-thirds of the carpets' thumbnail, but the text,

01:42:20 9 carpets, below it, is no longer on the screen. Is that

01:42:24 10 right?

01:42:24 11 A. That's correct.

01:42:24 12 Q. Okay. Please proceed.

01:42:26 13 A. So when I press what is remaining, it selects the

01:42:29 14 album. It still does what it did before, okay?

01:42:32 15 So when I go back to the album and I remove it

01:42:35 16 all -- only for a sliver, the small part of the icon is

01:42:39 17 there.

01:42:40 18 Q. Again, just for the record, so now we're seeing the

01:42:43 19 very top of the carpets icon, and, again, the letters that

01:42:47 20 form carpets are no longer seen, correct?

01:42:50 21 A. That's correct.

01:42:50 22 Q. Okay. Please proceed.

01:42:53 23 A. So when I select that sliver, it still changes, okay?

01:43:00 24 And for the last step, if I remove the icon

01:43:01 25 completely, it's not there anymore, and I select that

01:43:05 1 sliver of an area underneath, it's still selected. And
01:43:09 2 that is because the area that is defined for that album,
01:43:14 3 it's still visible, even though you don't see anything.
01:43:18 4 Q. So what is -- what we just saw, how does that inform
01:43:22 5 your opinion as to why there's infringement or not?
01:43:24 6 A. Because a character is not selected. This confirms my
01:43:31 7 opinion that the area is defined as I saw in the source
01:43:35 8 code.
01:43:35 9 Q. And, in fact, in the last three of the four examples
01:43:38 10 you showed, character is not even on the screen anymore,
01:43:48 11 right?
01:43:48 12 A. That's correct.
01:43:48 13 Q. So is -- in that situation, what does that tell you
01:43:50 14 about whether a user of the Galaxy S23 is selecting a
01:43:55 15 character to open the albums?
01:43:56 16 A. Yeah, it tells me that the Galaxy S23, the user is not
01:43:59 17 selecting a character. Instead, it's selecting an area.
01:44:02 18 Q. How sure are you of that?
01:44:05 19 A. I am completely sure about that.
01:44:07 20 Q. Okay. Now, did Dr. Singh demonstrate this claim
01:44:11 21 limitation to the jury using a phone?
01:44:12 22 A. No, sir, he did not.
01:44:14 23 Q. Okay. So what did your review of the Samsung source
01:44:18 24 code, together with your own independent testing of the
01:44:22 25 Galaxy S23, lead you to conclude?

01:44:24 1 A. It led me to conclude that because the limitation for
01:44:29 2 character is not met, that Claim 1 of the '815 patent is
01:44:36 3 not infringed by the Samsung products.

01:44:39 4 Q. So let's go to your next slide.

01:44:41 5 So can you give us a brief summary of your opinion
01:44:50 6 regarding Claim 1?

01:44:52 7 A. Yes. So in summary, the limitations in Claim 1, 1[j]
01:44:58 8 and 1[k], user selection of the first character enables
01:45:02 9 display of a first group of thumbnails, and user selection
01:45:06 10 of the second character enables the display of a second
01:45:09 11 group of thumbnails are not present in the accused Samsung
01:45:12 12 products.

01:45:13 13 Q. Okay. Does that conclude your presentation on
01:45:16 14 non-infringement of Claim 1?

01:45:17 15 A. Yes, sir, that does.

01:45:19 16 Q. So why don't we turn to Claim 21 in the Netflix app?

01:45:23 17 MR. FOWLER: Can we put up that slide?

01:45:26 18 Q. (By Mr. Fowler) Okay. So please remind us what
01:45:29 19 Dr. Singh relies upon for Claim 21.

01:45:32 20 A. Dr. Singh relies upon the app Netflix running on a
01:45:37 21 Samsung Galaxy S23.

01:45:40 22 Q. Now, does Dr. Singh say that a Samsung phone that
01:45:45 23 Samsung sells that does not have the Netflix app on it
01:45:50 24 pre-installed, does it infringe Claim 21?

01:45:53 25 A. No. He does not say that, no.

01:45:55 1 Q. Okay. Now, did you personally purchase a Galaxy S23
01:45:59 2 device to analyze to see whether the Netflix app was
01:46:02 3 pre-installed?

01:46:03 4 A. Yes, sir, I actually purchased two, and both devices
01:46:06 5 did not have Netflix installed.

01:46:08 6 Q. So what did you have to do to install the Netflix
01:46:13 7 application on your phone?

01:46:14 8 A. In one device, I had to download it from the Galaxy App
01:46:20 9 Store, and another one from the Google App Store.

01:46:23 10 Q. Okay. When you purchased your phones, did Samsung
01:46:26 11 require you to download the Netflix app on your phone?

01:46:30 12 A. No, sir, they did not.

01:46:32 13 Q. Now, were you here when Dr. Singh testified about the
01:46:36 14 one phone that he purchased?

01:46:38 15 A. Yes, sir, I was here.

01:46:39 16 Q. Now, do you recall that he said he thought that the
01:46:44 17 Netflix app was pre-installed?

01:46:46 18 A. Yes, sir, I remember him saying that.

01:46:49 19 Q. Did you actually have an opportunity to inspect the
01:46:54 20 Galaxy S23 phone that Dr. Singh purchased and based his
01:46:58 21 testimony on?

01:46:59 22 A. Yes, sir, I did inspect it -- that phone.

01:47:02 23 MR. FOWLER: Can we put up the next slide, please?

01:47:07 24 Q. (By Mr. Fowler) Were you able to determine whether the
01:47:08 25 phone that Dr. Singh purchased and analyzed was sold with

01:47:14 1 the Netflix app pre-installed on it?

01:47:15 2 A. Yes. It was not pre-installed; it was downloaded.

01:47:19 3 Q. So can you tell us, looking at the slide, what are the
01:47:23 4 two images that we see on the far left?

01:47:26 5 A. The two far left images are the actual physical phones.
01:47:29 6 These are the phones that Dr. Singh had, and I was able to
01:47:32 7 test it.

01:47:32 8 Q. So what we're looking at here is the back of the phone
01:47:35 9 and the front of the phone; is that right?

01:47:36 10 A. That's correct.

01:47:37 11 Q. Okay. So what is in the middle screen?

01:47:41 12 A. So the middle screen is what is called on the top app
01:47:47 13 info.

01:47:47 14 The way you get to it is if you go to the settings
01:47:51 15 page, there is a part that you can go and see all the apps.
01:47:55 16 Once you scroll down to where Netflix is and you enter --
01:47:58 17 you press on the Netflix icon, this is the display that is
01:48:02 18 shown.

01:48:04 19 And if you scroll all the way down to the bottom,
01:48:07 20 there's a section that says "app details in store." And in
01:48:11 21 that section, it says that the app downloaded from Google
01:48:17 22 Play Store.

01:48:18 23 Q. So what does that tell you in terms of whether the
01:48:21 24 phone that Dr. Singh analyzed had the Netflix app
01:48:27 25 downloaded -- or was pre-installed?

01:48:29 1 A. Yeah, that tells me that it was not pre-installed, that
01:48:35 2 it had to be downloaded.

01:48:36 3 Q. So the only three phones that are being shown to the
01:48:40 4 jury in this trial, or at least discussed, the two you
01:48:41 5 bought and the one that Dr. Singh bought, were any of them
01:48:44 6 pre-installed with the Netflix app?

01:48:46 7 A. No, sir. Not that I know of.

01:48:48 8 Q. So would any of those three phones infringe?

01:48:50 9 A. No, sir, they would not.

01:48:52 10 Q. Okay. So let's go to the next part of your analysis.

01:48:55 11 MR. FOWLER: The next slides, please.

01:48:58 12 Q. (By Mr. Fowler) We're looking at part of Claim 21.

01:48:59 13 Can you tell us what we're looking at and why it's
01:49:03 14 significant to your opinion?

01:49:04 15 A. Yes, sir. So this is Claim Element 21[f], and what it
01:49:08 16 requires is a second user interface displaying the first
01:49:11 17 character.

01:49:14 18 Q. Okay. And why is that yellow language significant in
01:49:17 19 your analysis?

01:49:18 20 A. Because that is not present in the Samsung accused
01:49:24 21 products.

01:49:24 22 Q. Okay. Now, for the --

01:49:26 23 MR. FOWLER: Let's go to the next slide.

01:49:27 24 Q. (By Mr. Fowler) What did Dr. Singh, in his trial
01:49:32 25 testimony, I guess it was yesterday, say was the first

01:49:37 1 character in the Galaxy phone using the Netflix app?

01:49:40 2 A. Well, I heard him say a few things, but he pointed to

01:49:45 3 the Miyagi-Do icon that is present when you select a user

01:49:53 4 profile in Netflix, and you enter the second display,

01:49:59 5 there -- as I've shown here on the right, the user profile

01:50:04 6 icon is displayed and is pointing to that as the

01:50:08 7 character -- first character.

01:50:09 8 Q. So, is, in fact, this Miyagi-Do Karate icon a first

01:50:14 9 character as the Court has construed that term?

01:50:16 10 A. No, sir, it's not.

01:50:17 11 Q. Why not?

01:50:19 12 A. Well, that's because that's an image, it's an icon,

01:50:22 13 it's composed of pixels, many, many pixels, hundreds to

01:50:27 14 thousands of pixels, each containing multiple numbers. It

01:50:31 15 cannot be -- it cannot be meant to be one unit of

01:50:34 16 information.

01:50:34 17 Q. Were you here when Dr. Singh acknowledged to me that if

01:50:41 18 a user pressed on the blue area, it would -- it would open

01:50:44 19 the -- the folder?

01:50:46 20 A. That's correct.

01:50:46 21 Q. And if you -- he pressed on the, like, dark half moon

01:50:51 22 part at the top of the brown area, that would open the

01:50:54 23 character -- or open the folder?

01:50:56 24 A. Yes, I remember you asking him that.

01:50:58 25 Q. And if he happened to touch his finger on the M, that

01:51:02 1 that would open the folder?

01:51:03 2 A. That's correct.

01:51:04 3 Q. So what does that tell you?

01:51:05 4 A. Well, that tells me that this is an icon. The -- the

01:51:08 5 entire icon is composed of the element that does the

01:51:12 6 selection. It's the whole icon does the selection, not any

01:51:16 7 one character.

01:51:17 8 Q. And how many units of -- units of information are

01:51:20 9 represented to the computer by this icon?

01:51:24 10 A. It's -- it would be hundreds of thousands.

01:51:28 11 Q. Okay. Now, let's focus on the individual letters. Are

01:51:30 12 those letters like letters that you would type into a word

01:51:34 13 processing document?

01:51:38 14 A. No, sir, those are not.

01:51:39 15 Q. What are they instead?

01:51:41 16 A. So these letters are actually pixels. Each pixel is

01:51:46 17 distributed with its brightness and color values so that

01:51:49 18 that distribution mimics a sort of character that's

01:51:53 19 displayed. But underneath it, those are just fixed pixels.

01:51:57 20 Q. And although I think you've already said that this just

01:52:03 21 one integrated image, if you were to pick like the letter

01:52:06 22 M, how many pixels would be involved in that?

01:52:09 23 A. Yeah, that -- the letter M by itself would be tens to

01:52:12 24 hundreds of pixels.

01:52:14 25 Q. So is the letter M an icon and the icon a character

01:52:23 1 under the Court's construction?

01:52:24 2 A. No, sir, it's not.

01:52:25 3 Q. Can you please summarize your opinion regarding Claim
01:52:29 4 21 to the jury?

01:52:31 5 A. Yeah. Because of all the reasons I just mentioned
01:52:34 6 about the claim term limitation, it is my opinion that
01:52:40 7 Samsung Galaxy S23 running the Netflix app does not
01:52:43 8 infringe asserted Claims 21 and 24 of the '815 patent.

01:52:48 9 Q. And is the icon -- just to put a sharpened point on
01:52:53 10 that, is the icon, the Miyagi-Do icon that Dr. Singh is
01:52:57 11 relying on, is that a character as construed by the Court?

01:53:00 12 A. No, sir, it's not.

01:53:00 13 Q. Okay. So we've just covered your non-infringement
01:53:03 14 opinion on Claim 21.

01:53:04 15 What about Claim 24?

01:53:06 16 A. Yeah. So Claim 24 is dependent on Claim 21. So if
01:53:11 17 Claim 21 is not infringed, Claim 24 cannot be infringed.

01:53:14 18 Q. Is there any dispute about that point?

01:53:16 19 A. No, sir, no dispute.

01:53:18 20 Q. Okay. So have we now completed your non-infringement
01:53:21 21 opinion regarding the '815 patent?

01:53:24 22 A. That's correct.

01:53:25 23 Q. Okay.

01:53:27 24 MR. FOWLER: So let's go to the next slide.

01:53:29 25 Q. (By Mr. Fowler) And turn to the third part of your

01:53:31 1 opinions regarding invalidity.

01:53:33 2 Can you please summarize for the jury what your
01:53:40 3 top-line conclusions are regarding invalidity?

01:53:42 4 A. Yes, my conclusion is the Apple iPhone 8 renders the
01:53:48 5 asserted Claim 1 of the '815 patent obvious.

01:53:53 6 And it's also my opinion that the Netflix app
01:53:56 7 running on the Samsung Galaxy S23 renders asserted Claims
01:53:59 8 21 and 24 of the '815 patent obvious.

01:54:02 9 Q. Now, these are both what you call product prior art; is
01:54:09 10 that right?

01:54:09 11 A. That's correct.

01:54:09 12 Q. Are -- are either one of these the prior art that's
01:54:15 13 before the Patent Office right now in these inter partes
01:54:18 14 reviews petitions that we've been filing?

01:54:20 15 A. No, sir, they're not.

01:54:21 16 Q. Those are patents, right?

01:54:22 17 A. Yes, they are.

01:54:23 18 Q. So what the jury is being asked to look at here is
01:54:27 19 different than what the Patent Office is looking at?

01:54:29 20 A. That's correct, yes.

01:54:30 21 Q. Okay.

01:54:31 22 MR. FOWLER: So before we dig into the details,
01:54:35 23 let's go to the next slide.

01:54:36 24 Q. (By Mr. Fowler) Can you please tell the jury what the
01:54:38 25 level of ordinary skill in the art would be to implement

01:54:43 1 systems described in the '815 patent as of December 2004?

01:54:44 2 A. Yes, sir. In my opinion, a person of ordinary skill in
01:54:48 3 the art would have a bachelor's degree in computer science,
01:54:52 4 electrical engineering, or computer engineering, with two
01:54:55 5 years of experience in digital data management field.

01:55:00 6 Q. Are you qualified to render opinions under this
01:55:03 7 standard?

01:55:05 8 A. Yes, sir. As of the time, I had had my Ph.D. in
01:55:09 9 electrical engineering. I've done programming, and I've
01:55:11 10 done data management, very, very similar to this, and also
01:55:15 11 I've worked with individuals with this level of experience,
01:55:20 12 and I know their capability.

01:55:22 13 Q. Okay. Thank you.

01:55:23 14 MR. FOWLER: We can take down this slide.

01:55:26 15 Q. (By Mr. Fowler) So, again, just -- let's focus on
01:55:28 16 Claim 1 first and the iPhone -- iPhone 8. Does Dr. Singh
01:55:35 17 agree with you that this claim is invalid?

01:55:37 18 A. No, he does not.

01:55:39 19 Q. Are there areas where he does not disagree with you?

01:55:42 20 A. Yes, there are large area.

01:55:45 21 Q. Where -- what does he agree with you on or what does he
01:55:50 22 not disagree with you on, in any event?

01:55:52 23 A. He does not disagree that every element of Claim 1 is
01:55:56 24 present in iPhone 8.

01:55:58 25 Q. So let's make sure we understand this. We have a long

01:56:01 1 list of requirements in Claim 1. We've seen them before.
01:56:05 2 He does not disagree with you that every single one of them
01:56:09 3 is present in the iPhone 8?
01:56:10 4 A. That's correct. He does not disagree.
01:56:14 5 Q. Well, if he doesn't disagree with that, what's the
01:56:18 6 basis for him saying that this claim is valid?
01:56:20 7 A. He says that the iPhone 8 came too late, that it is not
01:56:25 8 prior art.
01:56:25 9 Q. Okay.
01:56:26 10 MR. FOWLER: So let's bring up the next slide.
01:56:29 11 Q. (By Mr. Fowler) What are we looking at here?
01:56:34 12 A. What I'm showing here is on the left is the iPhone 8,
01:56:38 13 and that it was available as of September 22nd, 2017.
01:56:43 14 Q. What's the exhibit number of the iPhone 8, for the
01:56:46 15 jury?
01:56:46 16 A. This is DTX-9 (sic).
01:56:47 17 Q. That's an actual physical phone?
01:56:49 18 A. Yes, sir.
01:56:50 19 Q. Do you have it up there with you?
01:56:52 20 A. It's this one.
01:56:53 21 Q. Okay. Thank you.
01:56:54 22 A. Yes.
01:56:54 23 Q. Please proceed.
01:56:56 24 A. And what's on the right, this is a part of what is
01:57:00 25 published in the patent itself. It's part of the first and

01:57:04 1 I think the second page, which shows all of the
01:57:09 2 applications that were filed leading up to this patent.

01:57:13 3 As you can see, the very first one at the very
01:57:15 4 bottom, that's the oldest application. It is August 11th,
01:57:20 5 2005. It was original application that was filed.

01:57:23 6 And what I have highlighted here in November 9th,
01:57:26 7 2017, that is when all of the limitations that is in
01:57:32 8 Claim 1 was first disclosed to the Patent Office for the
01:57:36 9 very first time.

01:57:38 10 Q. Okay. And just for the record, you're talking about
01:57:40 11 the first two pages of the '815 patent, correct?

01:57:43 12 A. That's correct.

01:57:44 13 Q. Okay. Now, I know you're not a lawyer, Dr. Kia, but
01:57:49 14 can you tell us for purpose of the analysis you performed,
01:57:53 15 what's a priority date?

01:57:54 16 A. So, yes, I am not a lawyer, but I understand the
01:58:00 17 priority date is to set a date whereby the patent enjoys
01:58:07 18 the power to enforce its claims.

01:58:10 19 Q. Is that the date that you compare to prior art, like
01:58:14 20 the iPhone 8, to see if the iPhone 8 is prior art?

01:58:18 21 A. Absolutely. So if -- iPhone 8, that was available
01:58:22 22 September 22nd, 2017, is before November 9th, 2017.

01:58:28 23 Q. And, again, I know you're not a lawyer, but what is
01:58:32 24 your understanding of how you determine what the priority
01:58:36 25 date is?

01:58:36 1 A. So my understanding is that it's -- the priority date
01:58:42 2 is the first time that all of the elements of that claim,
01:58:46 3 Claim 1, was first disclosed to the Patent Office.

01:58:54 4 Q. Okay.

01:58:54 5 MR. FOWLER: Let's go to the next slide.

01:58:58 6 Q. (By Mr. Fowler) What does this slide tell the jury?

01:59:02 7 A. Yeah, so these are the requirements for how the
01:59:05 8 priority date is determined.

01:59:08 9 So the first element is that the priority date is
01:59:13 10 determined on a claim-by-claim basis.

01:59:16 11 Q. Does that mean, for example, that Claim 1 could have a
01:59:21 12 different priority date than Claim 21?

01:59:23 13 A. Yes, sir, because they disclose different items,
01:59:26 14 different things.

01:59:26 15 Q. And, again, you're not a lawyer, but this is your
01:59:29 16 understanding of the law that possibly will be presented to
01:59:32 17 the jury later?

01:59:33 18 A. Yes, sir.

01:59:33 19 Q. Okay. So what's the second requirement?

01:59:35 20 A. So that every limitation of the claim must be disclosed
01:59:39 21 to the Patent Office.

01:59:40 22 Q. And disclosed where?

01:59:41 23 A. In the written body. This is in the disclosure. This
01:59:49 24 is in the figures and the paragraphs that follow it.

01:59:51 25 Q. Okay. And what is your third understanding of the

01:59:53 1 requirements?

01:59:53 2 A. So the disclosure of each element limitation must be
01:59:58 3 either in form of express or inherent.

02:00:01 4 Q. So what do you understand express to mean?

02:00:04 5 A. Express means that the limitations that disclosed as
02:00:10 6 part of the claim must be explained in a way that -- in a
02:00:14 7 way that is expressed. It is written down. It is present.

02:00:18 8 And one of ordinary skill in the art looking at
02:00:20 9 that claim element and reading the disclosure would
02:00:23 10 understand what they mean.

02:00:25 11 Q. Okay. And what does inherent mean?

02:00:27 12 A. Inherent is when there is no disclosure in the written
02:00:33 13 description. Inherent means that's the only way that it
02:00:37 14 can be done, that there's no two ways. It necessarily has
02:00:41 15 to be one way that that limitation can be achieved.

02:00:44 16 Q. So if you had a claim limitation and there were three
02:00:47 17 different ways that you could do it, the fact that one of
02:00:50 18 them is what the Plaintiff wants, would that be enough?

02:00:55 19 A. No, sir, that's not.

02:00:56 20 Q. Okay. What about the last point on your slide?

02:00:58 21 A. So if a limitation is just obvious, one of ordinary
02:01:02 22 skill in the art would understand what it is, that's not
02:01:06 23 sufficient.

02:01:06 24 Q. It's got to actually be expressed?

02:01:09 25 A. It's got to be expressed or inherent.

02:01:11 1 Q. Okay.

02:01:12 2 MR. FOWLER: So let's turn back to the actual
02:01:14 3 claim here, Claim 1. Let's go to the next slide.

02:01:17 4 Q. (By Mr. Fowler) What's your opinion based on in terms
02:01:19 5 of the priority date for Claim 1?

02:01:21 6 A. Yeah. So Claim 1 has a priority date of November 9th,
02:01:26 7 2017, because that was the first time the disclosure of
02:01:31 8 what I call the "no deletion limitation" was disclosed to
02:01:35 9 the Patent Office.

02:01:36 10 Q. And is the no deletion limitation something in Claim 1?

02:01:40 11 A. Yes, sir, it is.

02:01:45 12 Q. Okay.

02:01:45 13 MR. FOWLER: Let's go to the next slide.

02:01:46 14 Q. (By Mr. Fowler) Can you explain to the jury what we're
02:01:48 15 looking at here and tell them what the no deletion
02:01:51 16 limitation is?

02:01:51 17 A. So this is part of the Claim 1 of the '815 patent is
02:01:57 18 what I'm showing you. And very simply, the no deletion
02:02:01 19 limitation is removing -- is to being removed, an item, but
02:02:06 20 that item continues to display elsewhere. So it's not
02:02:11 21 permanently removed across everywhere. You delete it one
02:02:14 22 place, it still continues another place.

02:02:16 23 Q. So if you had a -- a video in your folder for -- in the
02:02:21 24 mom's folder and it was deleted, it would stay in the dad's
02:02:25 25 folder?

02:02:25 1 A. That's correct.

02:02:26 2 Q. Okay. Is the no deletion limitation part of Claim 1?

02:02:33 3 A. Yes, sir, it is.

02:02:34 4 Q. Okay.

02:02:35 5 MR. FOWLER: So let's go to the next slide.

02:02:38 6 Q. (By Mr. Fowler) And perhaps you could use -- tell us
02:02:40 7 what we're looking at here and explain maybe further what
02:02:43 8 the no deletion requirement is?

02:02:44 9 A. Yes, sir. So these are figures directly from the
02:02:50 10 patent, Figure 6 and 7. It's -- it's an example of what a
02:02:55 11 mother album and a father album would be. And each album
02:02:59 12 has two items in it. And one of the items, Item 502, is
02:03:03 13 the same item. Okay?

02:03:06 14 So the no deletion limitation would be that if the
02:03:11 15 mother removes the 502 item, that the 502 item in the
02:03:16 16 father would remain. And vice versa. If you delete the
02:03:22 17 Item 502 from the father album, that the mother, 502, would
02:03:28 18 still remain.

02:03:29 19 Q. Okay. The Figures 5 and 6 -- I'm sorry -- do Figures 6
02:03:35 20 and 7 show the no deletion limitation?

02:03:37 21 A. No, sir, they don't.

02:03:38 22 Q. Does the text in the specification describe at all what
02:03:41 23 would happen to 502 in the father if you deleted 502 in the
02:03:47 24 mother?

02:03:47 25 A. No, sir. The disclosure does not disclose that

02:03:52 1 cross-album functionality.

02:03:54 2 Q. Is there anything anywhere in the specification that
02:03:57 3 describes deleting a piece of video information in one
02:04:00 4 folder and having it remain in the other folder?

02:04:03 5 A. No, sir, it's not disclosed.

02:04:05 6 Q. Is the no deletion limitation inherently disclosed
02:04:09 7 anywhere?

02:04:09 8 A. No, sir, it's not.

02:04:11 9 Q. And why not?

02:04:12 10 A. Well, that's because there are multiple ways to delete
02:04:18 11 an item. One obvious way is I -- if a user deletes 502,
02:04:24 12 the 502 in the father would -- gets deleted as well.

02:04:29 13 Another one is if you delete 502 from mother, the
02:04:32 14 system asks, do you want to delete it here, delete it
02:04:36 15 everywhere, delete it for certain users. There's multiple
02:04:41 16 ways of deleting. This is for the cross-album
02:04:45 17 functionality.

02:04:45 18 Q. So is there any disclosure in the actual specification
02:04:48 19 of this patent of the no deletion limitation?

02:04:57 20 A. No, sir, there's no disclosure.

02:04:58 21 Q. So when was the first time that this no deletion
02:05:05 22 limitation was disclosed to the Patent Office?

02:05:05 23 A. The first time was in a publication in November 9th,
02:05:09 24 2017, where the application included one claim, Claim 1,
02:05:12 25 that had a similar language.