777 IPR Grounds 9 and 10: Limitations [16b]/[21b] Are Obvious Over Kaplan-Bryant-Wong-Candelore

No written description support for "term 1" – the encrypted limitation

93. In addition to the absence of any express or implied disclosure of encryption in the Four Applications, encryption is also not inherent. For example, conventional analog (NTSC) TV broadcasts were not encrypted, and conventional digital TV broadcasts in the United States were also not encrypted (i.e., were broadcast "in the clear") at the time of the '815 patent. EX1049, 3:20-67 and Fig. 1. Indeed, ATSC-1 digital TV broadcasts are still not encrypted even today. EX1050, 1-2. Similarly, digital video received via a wireless cellular or WiFi modem as, e.g., email attachments or downloaded from a website, need not be encrypted and often are not. For these reasons, video received at any of the inputs 301, 3011 or 3012 of Fig. 3 is not inherently encrypted.

EX1003 (Bederson Declaration) at ¶ 93

As a brief aside, here's a little history: While it's theoretically possible to achieve the above goals of content protection without encryption, the practical challenges make it quite difficult. Arguably, this mistake was made with the original ATSC digital TV service (now retrospectively referred to as "ATSC-1"), which was standardized in the mid-1990s, then launched as a totally in-the-clear service in the late 1990s (and remains so today). The idea of encryption really wasn't investigated rigorously or pursued intently during ATSC-1's development and deployment, because back then, free over-the-air television was considered synonymous with unencrypted, in-the-clear transmission.

EX1050 at 1; 777 Petition at 12

777 IPR Grounds 9 and 10: Limitations [16b]/[21b] Are Obvious Over Kaplan-Bryant-Wong-Candelore

No written description support for "term 2" – the no deletion limitation

95. For Term 2, nowhere in the specification is there any disclosure of whether or not the deletion of video information from one group or playlist results in that video information not being deleted from any other group or playlist in which it appears. While the three-level structure of Fig. 3 may enable this functionality and may it obvious, this "no deletion" functionality is not inherent. Whether to configure a system to allow video information to remain in other groups when it is deleted from one group is a design choice, and as PO's expert testified in IPR2018-01432 for the predecessor '783 patent, a POSITA would have considered it more common to delete the underlying video information when a user deletes a pointer to it rather than deleting just the pointer alone so that the video information can remain a part of another group. EX1009, 36 (citing Ex. 2002, ¶65 in IPR2018-01432 (EX1046, ¶65)). This lack of inherency becomes even more apparent when one considers the subject matter of claim 17, which states that any user can delete stored video information regardless of what user profile was used to record it. As discussed above, I have been informed that a specification that merely makes a limitation obvious is not sufficient written description of Term 2 to satisfy 35 U.S.C. §112.

EX1003 (Bederson Declaration) at ¶ 95; 777 Petition at 13-14

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777 IPR Grounds 9 and 10: Limitations [16b]/[21b] Are Obvious Over Kaplan-Bryant-Wong-Candelore

No written description support for "term 2" – the no deletion limitation

FIG. **6** shows an example in which menu display is conducted by using the user-defined unified information #1 shown in FIG. **1**. Reference numeral **601** designates a menu display tag for user #1 (who is supposed to be "mother" here). As appreciated from FIG. **1**, reference numerals **402** and **502** designate thumbnails indicating the program information #1 and the play list information #1, respectively. The "mother" can use the menu display tag for mother **601** as a folder dedicated to herself, and freely register and delete data to be reproduced. In the same way, FIG. **7** shows an example in which menu display is conducted by using the user-defined unified information #2 shown in FIG. **1**. Reference numeral **701** designates a menu display tag for user #2 (who is supposed to be "father" here). As appreciated from FIG. **1**, reference numerals **503** and **502** designate thumbnails indicating the play list information #2 and the play list information #1, respectively. In this case, the "father" selects two play lists. However, the reproduction sequence of them can be altered. In the same way as the "mother," the "father" can use the menu display tag for father **701** as a folder dedicated to himself, and freely register and delete data to be reproduced.

EX1003 (Bederson Declaration) at ¶ 74; 777 Petition at 6-7

FIG.6

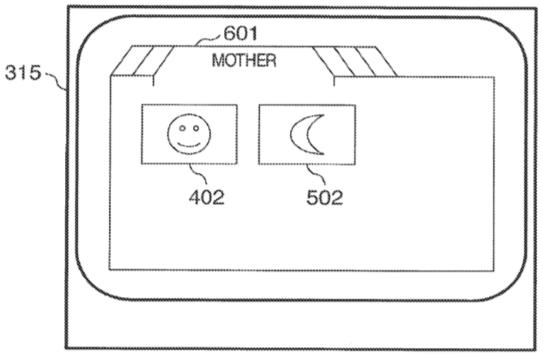
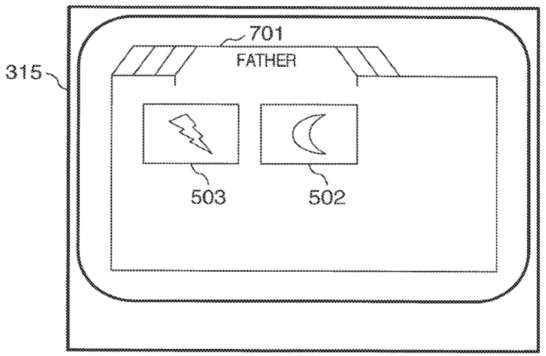


FIG.7



EX1003 (Bederson Declaration) at ¶ 97; 777 Petition at 14 ; 777 Reply at 29-30

777 IPR Grounds 9 and 10: Limitations [16e]-[16h] and [21e]-[21h] Are Obvious Over Kaplan-Bryant-Wong-Candelore

- PO's first argument (POR, 62-63) is based on a construction of "second user interface" that is wrong and has been disclaimed by its expert.

- PO's second argument (POR, 63-65) fails because:
  - (i) Wong is prior art, and
  - (ii) the PO makes no coherent argument that the usernames in Wong's Fig. 3 (Petition at 71, reproduced below) are not associated with user names that indicate a user's identity as discussed in the Petition at 70-72, 73-75.

777 Reply at 30

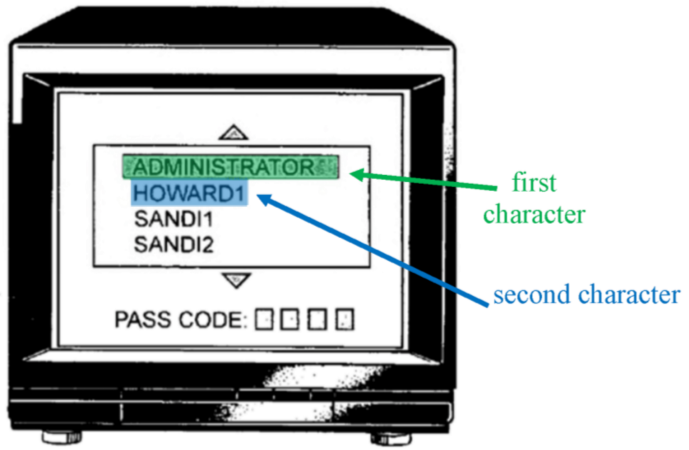


FIG. 3

777 Reply at 31

777 IPR Grounds 9 and 10: Limitations [16i]-[16l] and [21i]-[21l] Are Obvious Over Kaplan-Bryant-Wong-Candelore

- Collateral estoppel precludes Maxell's arguments on Term 2/ no deletion limitation.

- PO's argument (POR, 67-69) is nearly identical to its POPR arguments (POPR, 60-62), which should be rejected.

777 Reply at 31-32, ID 34

777 IPR Grounds 9 and 10: Limitations [16m], [21l] and [21m] Are Obvious Over Kaplan-Bryant-Wong-Candelore

- PO's argument (POR, 69-70) that this combination does not disclose these decryption limitations fails because it is based on an improper bodily incorporation argument.

777 Reply at 32

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Waiver of "character" Construction and Arguments

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Arguments Based on "character" Construction Have Been Waived

Maxell knew of the District Court's "character" construction long before its POR

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

MAXELL LTD.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	NO. 5:23-CV-00092-RWS
SAMSUNG ELECTRONICS CO., LTD.,	§	
and SAMSUNG ELECTRONICS	§	
AMERICA, INC.,	§	
	§	
Defendants.	§	

ORDER

So ORDERED and SIGNED this 5th day of November, 2024.

ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE

EX2033 (Claim Construction Order) at 1, 34;
735 POR at 6-7; 777 POR at 12,17

Arguments Based on "character" Construction Have Been Waived

Maxell requested that the Board adopt some District Court claim constructions

In the related District Court Litigation, the court also provided construction for the "user profile(s)" term:

Claim Term	District Court Construction
"user profile(s)"	"a collection of settings and information associated with a user"

The court specifically noted that the term "user profile" has a well-known ordinary meaning, which is further reinforced by multiple dictionary definitions. This reinforces that the concept of a "user profile" is widely understood in the field and does not require an alternative or ambiguous interpretation.

Accordingly, Patent Owner contends the court's construction of the term "user profile" more closely aligns with the plain and ordinary meaning of the term.

735 POR at 6; *See also* 777 POR at 12

Arguments Based on "character" Construction Have Been Waived

Maxell requested that the Board adopt some District Court claim constructions

In the related District Court Litigation, the court also provided construction for "the processor generates a group of video information based on user preferences determined by the user selections of the video information" term:

Claim Term	District Court Construction
"the processor generates a group of video information based on user preferences determined by the user selections of the video information"	"generating a group of video information that includes (i) only video information that has previously been selected by a user, (ii) only video information that has not previously been selected by a user, or (iii) a mix of video information including video information that has been previously selected by a user and video information not previously selected by a user"

The court adopted Samsung's construction for this term. EX2033, at 9.

777 POR at 17

Arguments Based on "character" Construction Have Been Waived

Maxell did *not* request the District Court's "character" construction

IV. CONCLUSION

Disputed Term	The Court's Construction
"the processor generates a group of video information based a first module including a plurality of instruction sets" ('815 Patent, Claim 2)	"generating a group of video information that includes (i) only video information that has previously been selected by a user, (ii) only video information that has not previously been selected by a user, or (iii) a mix of video information including video information that has been previously selected by a user and video information not previously selected by a user"
"character" ('815 Patent, Claims 1, 21)	"a letter, number, punctuation mark, or other symbol or control code that is represented to a computer by one unit of information"
"receiving . . . first video information . . . including second video information that is encrypted" ('815 Patent, Claim 21)	"the second video information is in encrypted form at the time it is received"
"being deleted from the first group of video information" ('815 Patent, Claim 1)	"being removed from the first group of video information"
"the first group of user information being configured to allow a user to edit" ('815 Patent, Claim 1)	the composition of the first group of video information being editable by a user.
"user profile" ('815 Patent, Claims 1, 21, 23)	"a collection of settings and information associated with a user"

EX2033 (Claim Construction Order) at 31; Opposition at 2

Arguments Based on "character" Construction Have Been Waived

Maxell Recognized the Scope of the Court's "character" Construction

B. "character"

It is undisputed that Samsung's proposal includes terms—"control code" and "one unit of information"—a proposal that finds no support in the intrinsic record. RCC at 3-5. Samsung also cites to "ASCII" or "Unicode" standards to narrow the scope without any evidence that the intrinsic record requires limiting the "character" to such standards. Samsung also alleges that displaying the "character" cannot correspond to displaying a graphic of "Batman" when there is no such restriction in the patent. In fact, Samsung's expert conceded that "like other symbols [an emoji] would be considered by a POSITA to be a character." Ex. 9 at 50:1-18. Further, Dr. Bederson explains that the disclosed character "ALL PROGRAM INFORMATION" or "MOTHER" appear as "textual labels" on the display. Ex. C, ¶46. There is no limit as to how many units of information are to be used to display "textual labels." '815 Patent, Fig. 4 (disclosing text (401), emojis (402), graphics (403, 404)). The claimed "character" is not limited to "one unit of information."

EX1074 at 2-3; Opposition at 2

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Arguments Based on "character" Construction Have Been Waived

735 Scheduling Order

1. DUE DATE 1

Patent Owner may file—

a. A response to the petition (37 C.F.R. § 42.120). If Patent Owner elects not to file a response, Patent Owner must arrange a conference call with the parties and the Board. Patent Owner is cautioned that any arguments not raised in the response may be deemed waived.

735, 777 Scheduling Order at 9

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Arguments Based on "character" Construction Have Been Waived

indications from multiple devices. *See* PO Sur-reply 7–8. Patent Owner waived this argument by not including it in its Patent Owner Response, depriving Petitioner the opportunity to address it in its Reply and Mr. Parulski's Reply Declaration. *See* PO Resp. 24–25; Paper 21 (scheduling order) at 8 ("**Patent Owner is cautioned that any arguments not raised in the response may be deemed waived.**" (emphasis in original)). The argument also lacks merit because Petitioner did address the

Snap Inc. v. Sanderling Management Ltd., IPR2021-00779, Paper 38, at 31 (P.T.A.B. October 31, 2022); Opposition at 3

Arguments Based on "character" Construction Have Been Waived

- Maxell made the strategic choice not request the District Court's construction of "character"
- Maxell made the strategic decision not to present arguments based on that construction
- Maxell made this decision to avoid any harming its arguments before the jury in the District Court
- Maxell only sought this construction ***after*** the jury's infringement verdict

Allowing Maxell to reverse that decision now would be unjust

Opposition at 1-2

Dr. Bederson's Testimony Is Consistent With the District Court's Construction

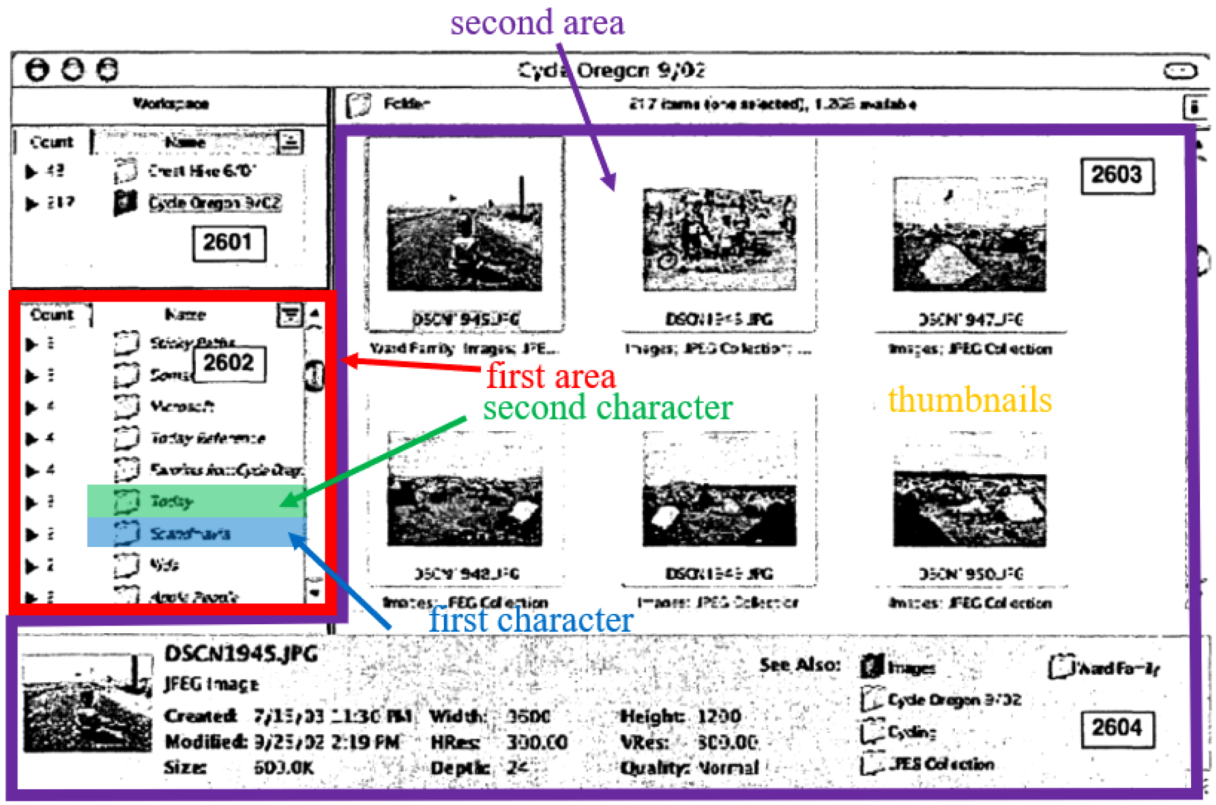
151. The Horn-Baumgartner combination renders this limitation obvious. Horn discloses Workspace view in Fig. 26 that includes a first area 2602 (outlined in red below) that includes a list of all collections (*i.e.*, groups of photos, which would be shown in the content pane 2603 for a selected collection). Each item in the list of collections in this first area 2602 includes a name that includes at least one character. In Fig. 26 below, one item in the list, *e.g.*, "Scandinavia" (highlighted in blue) includes a first character (i.e., the portion of the item that is clicked to select it, which can include the "S" in "Scandinavia") associated with a first group of information (in this case, photos in the Scandinavia collection) for a first classification (photos classified by the user as being related to Scandinavia), and a second item in the list, *e.g.*, "Today" (highlighted in green) that includes a second character (i.e., the portion that is clicked, which can include the "T" in "Today") associated with a second group of information (in this case, the photos

modified or created today that constitute a "Today" collection) for a second classification (items created or modified today) that is different from the first classification. EX1005, 19:25-47; *see also* 17:11-17 (explaining meaning of "Today" collection in the context of email). This is consistent with the way the '815 patent describes clicking on a graphical representation of the character in FIG. 5 to get to the "Mother" 601 display in FIG. 6. EX1001, 6:5-27. Although the Workspace view is illustrated using photos in Horn, a POSITA would have understood or at least found obvious to utilize Horn's Workspace view to allow a user to select and view video information such as movies as taught by both Horn and Baumgartner.

EX1003 (Bederson Declaration) at ¶ 151; 735 Petition at 22

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Dr. Bederson's Testimony Is Consistent With the District Court's Construction



735 Petition at 40; 777 Petition at 37

Dr. Kia's Testimony Is Not Inconsistent With the District Court's Construction

Gallery App

- Dr. Kia analyzed the Gallery app different from art here

  Opposition at 4

- Dr. Kia's analysis was based on source code not present here

  EX1076 at 13-14 (1007:10-1008:3); Opposition at 4-5

- Different operating systems

  EX1076 at 22 (1105:5-11); EX1005 at 37:29-32; Opposition at 5

- Touchscreen vs. mouse

  EX1076 at 6-7 (681:21-682:10); EX1005 at 19:58-60; Opposition at 5

Dr. Kia's Testimony Is Not Inconsistent With the District Court's Construction

Netflix App



Opposition at 6

- Icon represented by hundreds to thousands of pixels

  EX1076 at 20-21 (1017:24-1018:16); EX2041 at 25; Opposition at 6

- Letters in icon are not selectable

  EX1076 at 22 (1019:3-7); Opposition at 6-7

- Letters are fixed in icon and represented by tens to hundreds of pixels

  EX1076 at 22-23 (1019:11-1020:2); EX2041 at 25; Opposition at 7

Maxell Seeks to Take Inconsistent Positions

Dr. Singh's testimony at the District Court Is inconsistent with Its new position here

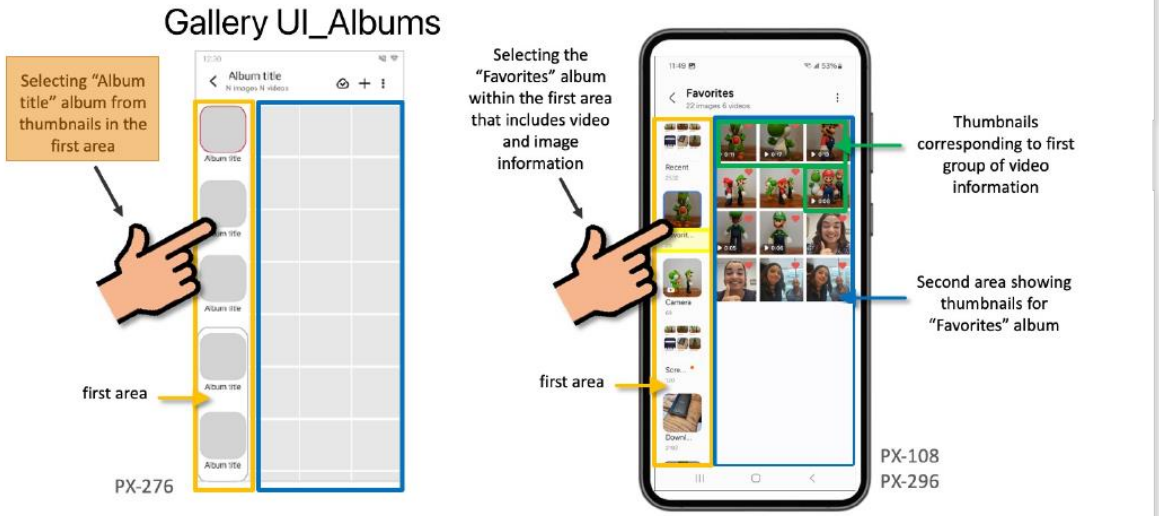
Claim 1

[1.j] wherein user selection of the first character enables the display of a first group of thumbnails corresponding to the first group of video information in the second area,

[1.k] wherein user selection of the second character enables the display of a second group of thumbnails corresponding to the second group of video information in the second area,

Gallery Design Guide (PX-276) and Product Testing (PX-108 and PX-296) Show Selection

- User's selection of first character ("Favorites") → enables the display of a first group of thumbnails corresponding to the first group of video information



maxell

PDX007-44

EX1077 at 44 (brown highlighting added; other highlighting in original); Opposition at 8

Maxell Seeks to Take Inconsistent Positions

Dr. Singh's testimony at the District Court Is inconsistent with Its new position here

A. Sir, as I said in my testimony earlier yesterday, it's a touchscreen. If you touch it, you have to touch it to select anything. And when you touch it, what you're selecting is what is underneath that -- what is displayed there.

Q. Okay. Well, that --

A. This is -- this is anybody -- any -- it's common knowledge.

EX1076 at 8-9 (755:25-756:7); Opposition at 8

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Maxell Seeks to Take Inconsistent Positions

Dr. Singh's testimony at the District Court Is inconsistent with Its new position here

Claim 21

[21.e] wherein, in response to the selection of the first user profile, the display displays a second user interface for a user to select desired video information to be reproduced from among the first video information,

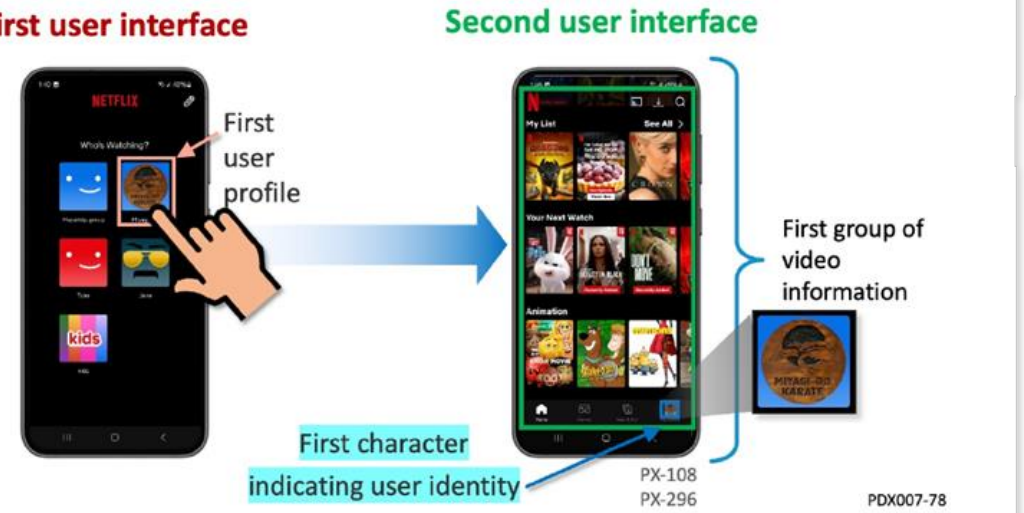
[21.f] the second user interface being associated with the first user profile and displaying the first character, the first character associated with a first group of video information and indicating an identity of the user which the first user profile is associated with,

[21.g] the second user interface further displaying thumbnails corresponding to the first group of video information, and

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Product Testing (PX-108 and PX-296) Shows That S23 Displays a Second User Interface

- When the user selects a first user profile ("Miyagi-Do"), the display displays a second user interface that further displays thumbnails corresponding to first group of video
- Second user interface being associated with the first user profile and displaying first character indicating an identity (e.g., "M")



EX1077 at 78 (brown highlighting added; other highlighting in original); Opposition at 9

Maxell Seeks to Take Inconsistent Positions

Dr. Singh's testimony at the District Court Is inconsistent with Its new position here

Q. Okay. Now, unlike what we saw earlier where we saw a thumbnail with some letters that were below the thumbnail, there's no – there's no lettering Miyagi-Do Karate below this icon, correct?

A. I see Miyagi-Do character there, that you can see the letters Miyagi-Do right there.

EX1076 at 11 (768:18-23); Opposition at 9