

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

SMITH INTERFACE TECHNOLOGIES, LLC.,
Patent Owner.

IPR2024-01085
Patent 10,649,580 B1

Record of Oral Hearing
Held: November 14, 2025

Before: JAMESON LEE, JEFFREY S. SMITH, and
MIRIAM QUINN, *Administrative Patent Judges*.

IPR2024-01085
Patent 10,649,580 B1

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P R O C E E D I N G S

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JUDGE QUINN: Welcome everybody to the Texas Regional Office. I'm going to start an introduction to this morning session. This is the hearing for Apple Inc. versus Smith Interface Technologies, LLC, IPR number 2024-01085. I am Judge Miriam Quinn presiding from the Texas Regional Office hearing room. With me remotely are my colleagues, Jameson Lee and Jeffrey Smith.

My colleagues are in the hearing room in Alexandria. But because they are appearing remotely in this courtroom, I'm going to ask you to please be mindful of speaking into the microphone when it is green, so they can hear it. And the court reporter is also located today in the hearing room in the Madison Building.

As always, please refer to the evidence by page number and exhibit number so we can follow along. As always, I always say no objections are allowed. If you have any to either the demonstratives or to your opponent's argument, please make that objection and -- on the record and on your own time. Today, we have each party having 60 minutes for each side. I'm going to ask you in a minute whether how much time you want for rebuttal.

Let's see, I didn't see any other things that we needed to clear up for the record. I'd like to take appearances now for the record. Petitioner.

MS. HUANG: Good morning, Your Honor. Jennifer Huang for Petitioner.

MR. RENNER: And Walter Renner. Thank you.

MR. ROBINSON: Good morning, Your Honor. Robinson and

1 Chad Wallis with Patent Owner Smith Interface Technologies.

2 JUDGE QUINN: Mm-hm. Any other statements from the parties'
3 appearances? No? Okay. All right, Petitioner, you have the floor here to
4 open our hearing today. I'll put 60 minutes on the clock. How many
5 minutes would you like for rebuttal?

6 MS. HUANG: Twenty minutes for rebuttal, Your Honor.

7 JUDGE QUINN: And if I can ask the Patent Owner; do you know,
8 Counsel, how many minutes would you like for rebuttal, so I can set it up
9 now?

10 MR. ROBINSON: Twenty minutes, Your Honor.

11 JUDGE QUINN: Thank you. All right. You can start when
12 you're ready.

13 MS. HUANG: Good morning. Thank you, Your Honors. May it
14 please the Board. My name is Jenny Huang and I represent Petitioner. And
15 I'm joined today by my colleague, Karl Renner and David Holt and also
16 joined by representative of Apple, Stepan Starchenko. And I'll begin our
17 presentation, but you'll you might hear from Karl as well.

18 So if you turn to Slide 2, Slide 2 shows the organization of issues
19 and our presentation materials and largely attracts briefs. But in our limited
20 time together, we plan to focus on Issues 1 to 3. Issue 4 deals with a few
21 disputes about dependent claims, which we plan to leave to the papers,
22 absent questions from you. And for convenient reference, Slide 4 offers a
23 table of the Grounds advanced in our petition.

24 But I'll begin my presentation with Slide 6. So on Slide 6, we see
25 excerpts from the '580 Patent. At upper right in column 67, lines 45 to 51,

1 the '580 Patent describes the display of a user interface that has two virtual
2 display layers.

3 And in this example, as shown in Figure 22 at left, an object, 2206,
4 is a stick figure exists in a front layer; while another object, 2208, another
5 stick figure exists in the back would be colored a deep purple. The '580
6 Patent further explains at column 68, lines 25 to 40, that the virtual display
7 layers can be given the appearance of depth through the use of 3D depth
8 cues, to quote, "give a visual indication of simulated depth."

9 And as we've illustrated on this slide with color, the back layer is
10 shown in a deep purple, while the front layer is shown in white, such that
11 since the purple layer is behind the white layer, the overlapping layer is
12 shown in a light purple, which illustrates, for example, that the front layer be
13 semitranslucent or semitransparent.

14 If you turn to Slide 7, you'll see at the upper left, we provide a clip
15 from column 17, lines 22 to 32 of the '580 Patent, which explains that
16 contact pressure levels can be represented by what it calls touch states.
17 These touch states include from the lowest pressure level, no touch, to the
18 highest pressure level, heavy touch.

19 The '580 Patent at column 52 lines 57 to 63 additionally explain
20 that touch events are determined based on measurable aspects of user
21 interaction and that can include the touch state or contact pressure level or
22 any other measurable aspect of user interaction. So what is a measurable
23 aspect of user interaction?

24 Well, for a capacitive touch sensor, which may be a touch screen,
25 many of touchscreens are -- and the '580 Patent explains at column 36, lines

1 31 to 38 that the capacitive touch sensor works by detecting a change in the
2 capacitance and a current that passes between conducting lines in a
3 touchscreen. And that current can be used to sense touch or proximity of an
4 interaction with a touch sensitive surface.

5 If we turn to Slide 8, please. For convenient reference, we show
6 here exemplary Claim 1. And the two other independent claims are Method
7 Claim 29 and CRM Claim 58, which largely follow the language of Claim 1.
8 We just show Claim 1 for exemplary purposes. And as we dig into the
9 issues, we'll highlight relevant aspects from this representative claim. But
10 for now, I'll simply offer that on this slide, the text that's highlighted green
11 relates to Issue 1, the text that's highlighted cyan relates to Issue 2, and the
12 text highlighted magenta relates to Issue 3.

13 Slide 9, please. And here, again, just for convenient reference, we
14 reproduce that language with those highlighted excerpts from before. But
15 with that, we've also added the Board's claim limitation indicators added in
16 gray text.

17 Slide 10, please. Here, we turn to the prior art. So as to the prior
18 art, the Ramos Paper describes something it calls a Zlider widget and that's
19 mentioned in the text box at the bottom left and it's illustrated in Figure 1,
20 which is shown on top of slide.

21 As you can see, the Zlider widget includes multiple components.
22 It includes a pressure cursor. You can see that that's the wedge-shaped
23 pointer that's identified using red arrow annotations. It also includes a
24 working area that's shown as that rectangular area of the Zlider and also a
25 Vernier. And that Vernier is annotated in Figure 2 on the Zlider shown on

1 the -- or sorry, Figure 1 in the bottom Zlider. And it comprises the series of
2 hash marks or grid lines along the Zlider.

3 So what we see here is a Zlider that includes a plurality of
4 markings in the form of the Vernier. And we also have the Ramos Paper
5 explaining in the text box at the middle right that that Vernier of the Zlider is
6 adapting its grid spacing depending on the widgets current scale factor.

7 Slide 11, please. So on Slide 11, we turn to another reference.

8 JUDGE QUINN: I do have a question for you, Counsel, about the
9 Vernier.

10 MS. HUANG: Yes.

11 JUDGE QUINN: So as the Vernier is being adjusted for the scale,
12 we can see that not only the spacing of the lines gets wider but also the lines
13 appear longer.

14 MS. HUANG: Yes.

15 JUDGE QUINN: So is that a combination of the visual cue that
16 there is a change in the scale?

17 MS. HUANG: I believe so, yes.

18 JUDGE QUINN: Does the width of the Vernier also change?

19 MS. HUANG: The lines -- the width of some or -- I guess,
20 depends on what dimension you're talking about. But the length of the lines,
21 some of them extend longer. Ramos doesn't say exactly why it does that, but
22 it does -- he does explain that the grid lines change their spacing for the
23 purpose of indicating the precision level.

24 JUDGE QUINN: Okay. Thank you.

25 MS. HUANG: Of course.

1 JUDGE QUINN: Counsel --

2 MS. HUANG: On Slide 11, we turn to the Ramos Video.

3 JUDGE LEE: Counsel, it's Judge Lee. But Judge Miriam was
4 asking, does the entire width of the Vernier change? I don't think you
5 answered that.

6 MS. HUANG: Oh, okay. So I want to make sure I understand that
7 question, Your Honor. Are you speaking about the entirety of all the lines
8 grouped together with the space that they --

9 JUDGE LEE: Right. The entire Vernier, like --

10 MS. HUANG: Yes. It does not change, no. I guess, the real estate
11 that the lines of the Vernier take up do not change their overall size. Again,
12 you're not speaking of the individual lines but the entirety of the line area.
13 That does not change in size, no.

14 JUDGE LEE: And just the spacing between the lines, right?

15 MS. HUANG: Yes. What Ramos says is that the Vernier adapts
16 the grid spacing responsive to the precision level or the scale factor of the --

17 JUDGE LEE: And the number of lines doesn't change either?

18 MS. HUANG: It appears that, potentially, the number of lines may
19 be changing it. It seems like when the grid lines change their spacing at
20 times, then additional lines suddenly appear between the lines.

21 JUDGE LEE: I see.

22 MS. HUANG: Yes. Does that --

23 JUDGE LEE: Thank you.

24 MS. HUANG: Oh, of course.

25 JUDGE LEE: Thank you.

1 MS. HUANG: So if we turn back to Slide 11, we turn to the
2 Ramos Video. And this is a video that Dr. Gonzalo Ramos, who's the author
3 of the Ramos Paper, uploaded to YouTube back in 2007. That video
4 discusses the same Zlider from the Ramos Paper, and it demonstrates its use.
5 Dr. Ramos testified to this in his declaration, that's Exhibit 1022, which is
6 referenced in the petition at pages 4 to 5 and 11 and it's uncontested.

7 The two screen captures on Slide 7 show the Zlider being used on
8 that image content. The bottom image clearly shows that the Zliders
9 pressure cursor, which is again that wedge-shaped object that's part of the
10 Zlider, overlays the image below. So with the Ramos Video, we confirm
11 that the at least part of the Zlider, that pressure cursor, is at least partially
12 translucent. And we know that because we can see through the pressure
13 cursor to the underlying image contents below it.

14 And if you turn to Slide 12 --

15 JUDGE QUINN: Counsel, I want to ask you about the pressure,
16 are you -- what are you mapping the pressure cursor to?

17 MS. HUANG: We map the pressure cursor to -- or specific
18 features of the pressure cursor to the partial translucency requirement of the
19 independent claims.

20 JUDGE QUINN: The partial translucency, which is part of the
21 second virtual display layer.

22 MS. HUANG: Correct.

23 JUDGE QUINN: So the pressure cursor is also part of second
24 virtual display layer.

25 MS. HUANG: Correct. So the elements of the second virtual

1 display layer are the elements of the Zlider. The Zlider as a whole, a
2 POSITA would understand that all the components of the second virtual
3 display layer -- or excuse me, a POSITA would understand that all the
4 components of the Zlider, which is an altogether one widget, would be
5 considered to be in the same virtual display layer that being here the second
6 virtual display layer so the pressure cursor offers the translucency and as the
7 claim requires, the ability to see through that partially translucent layer to the
8 underlying content.

9 JUDGE QUINN: How do you know that the pressure cursor is on
10 the same display layer as the Zlider?

11 MS. HUANG: Well, the Ramos Paper -- and we'll go back to that.
12 I'll start with one -- there's one very important reason. And if you turn to
13 Slide 23 of our presentation, I'll start with that the experts agree. So both
14 Smith's expert and Apple's expert agree that the Zlider widget includes a
15 number of components. And when Dr. Mahon was asked about those
16 components, he said the Zlider has several components. And he went on to
17 acknowledge that the Ramos Zlider provides a designation of a Vernier, a
18 needle, and a pressure cursor that are included in the Zlider. And that's in
19 his testimony at -- its Exhibit 1033, column -- page 52, lines 10 through 18.

20 JUDGE QUINN: Yeah. But there's -- one thing to say that the
21 product, the Zlider, has all of those components. It's a completely different
22 issue here about which display layer these components are being displayed
23 at.

24 MS. HUANG: Sure. We also have further testimony from Dr.
25 Cockburn. So if you turn to Slide 29 -- and this is in the papers as well, but

1 we just wanted to highlight it. So in Slide 29, we have testimony from Dr.
2 Cockburn. So he testifies that a POSITA would have understood all these
3 components of the Zlider widget to be in the same virtual display layer.

4 And in support of that, he also cites to a number of well-known
5 widgets. He cites to the idea of scroll bars. We all know about scroll bars,
6 which have been known since the 1980s. And these include many
7 subcomponents, much like the Zlider widget. They include subcomponents
8 like a scroll-trough, a scroll knob, and scroll arrows.

9 And a POSITA would have understood that a scroll knob has to be
10 in that scroll-trough in order to even operate a scroll bar. Right. And a
11 POSITA would have understood these are all parts of a scroll bar. Even if
12 we have some overlaying of components, a POSITA would say, that's all
13 one cohesive unit, these are parts that act together.

14 And if you turn to Ramos itself -- Ramos Paper, excuse me, on
15 Slide 22. We know that the Zlider includes a pressure cursor. So if you
16 look at the text on the bottom right with the header pressure cursor, we see
17 that the -- that Ramos says, though not integral to the Zlider design, we use a
18 pressure cursor across the implementations instead of a default cursor found
19 in many GUIs. Our pressure cursor provides a means for real time
20 indication of a pressure that they're applying to the input transducer.

21 So he's saying that, okay, so not every implementation of the
22 Zlider requires a pressure cursor. But my implementations do use it. And
23 they provide this additional benefit of offering real time feedback as to the
24 current pressure that's being applied using the pressure cursor, which is tied
25 to the rest of the Zlider of course. Because if you apply more pressure to the

1 pressure cursor of the Zlider, then a zoom action happens. Does that address
2 your question?

3 JUDGE QUINN: Yeah. A follow-up here, are you contending
4 that the working area is translucent?

5 MS. HUANG: No.

6 JUDGE QUINN: Okay. Thank you.

7 MS. HUANG: Not as taught by Ramos, no.

8 JUDGE LEE: Counsel, this is Judge Lee. I have two questions.
9 The first one is, what's happening when the user drags the cursor across the
10 working area? What parameter is being changed? And the second one is,
11 why does the Vernier move? What's the significance of the Vernier's
12 movement as one move the cursor across the working area?

13 MS. HUANG: So with the Verniers -- I want to make sure, there's
14 a lot of components here. So if a user is dragging the cursor across the
15 working area, what is the effect in the Ramos Paper --

16 JUDGE QUINN: Yeah. What parameter is being changed?

17 MS. HUANG: Yeah. It really depends on the particular
18 application. He has applications where simply dragging the pressure cursor
19 across the working area might just pan the image. And if you're also
20 increasing the pressure, then you're also zooming in as well. And that's the
21 example that we show in the Ramos Video - that Ramos shows in his video
22 from 3:10 to 3:16 in the video.

23 JUDGE LEE: So by panning you mean just moving the
24 underlying image?

25 MS. HUANG: Yes.

1 JUDGE LEE: It's what it claims?

2 MS. HUANG: Yes. Because Ramos explains that the Zlider tool
3 can be used for both panning and zooming. So if you're moving the plurality
4 of markings across the working area, then you can pan across the image in
5 that example of the application of the Zlider.

6 JUDGE LEE: Okay. I understand. But why -- I suppose that
7 would mean the location of the image is a high precision parameter?

8 MS. HUANG: Correct.

9 JUDGE LEE: What is and what is not a high precision parameter?

10 MS. HUANG: It really depends on the particular application.
11 Because Ramos contemplates the idea of a Zlider and gives various
12 examples of using that Zlider and also examples of how that Zlider can be
13 applied to various other uses. He has another example where a high
14 precision parameter is just moving through time during a video. So you can
15 do it very, very slowly to go in slow motion versus going very fast. But the
16 examples that we've relied on here, it includes both the level of zoom that's
17 being applied and the amount of panning that's being applied.

18 JUDGE LEE: Does that parameter have to be visible? In other
19 words, as you drag the cursor across the working area, do you have to
20 actually perceive the change in the parameter by looking at the underlying
21 image data?

22 MS. HUANG: Ramos doesn't say whether or not you have to be
23 able to perceive it, though, is certainly a visual application. So there's
24 certainly a suggestion that the idea is, when you change the parameters,
25 you're changing what you see. Now, if the level of granularity is so small,

1 maybe your eyes can't resolve that. But the idea is that you're making some
2 visual change that may or may not be visible to a user's eye and --

3 JUDGE LEE: Well, Claim 48, Patent Owner is saying, well,
4 image filtering is not the type of parameter that Ramos contemplates. I don't
5 know, can you actually perceive image filtering that's recited in Claim 48
6 when you change it? Can you --

7 MS. HUANG: Sure, yes.

8 JUDGE LEE: Go ahead.

9 MS. HUANG: Yeah. Can we turn to Slide 69 so that we're all on
10 the same language of Claim 48? So Claim 48 says that a lighting operation
11 is performed on at least a portion of the contents of the first virtual layer. So
12 something is being affected so that the lighting of that underlying content is
13 being changed. And for Claim 48, the petition turns to a secondary
14 reference to Hayward, which teaches the use of not a Zlider but a logical
15 Zlider, which is element 1004, that a user can use to adjust the level of
16 contrast. And a level of contrast of a scene is a change in the brightness or
17 in the lighting of a particular image.

18 So as illustrated on Slide 70 and in Figure 10 of Hayward, 10A of
19 Hayward, and as described in paragraph 67 of Hayward, a user initiates a
20 touch gesture on the left hand side of that logical Zlider on the screen and
21 begins to drag her finger across the length of the screen. And then and you
22 can see this in Figure 10B, when her fingers moved about halfway across the
23 screen, the scene now has a higher level of contrast. You've changed the
24 lighting here.

25 So to answer your question, Judge Lee, you can certainly see this

1 adjustment of this parameter of the contrast that the logical Zlider is
2 providing in Hayward. And when she's moved her finger all the way across
3 the screen to the right hand side, in Figure 10C, you see that the maximum
4 allowable amount of contrast has been applied. And that's shown again in
5 Figure 10C. So --

6 JUDGE LEE: I see. Strictly again, so that would be a high
7 precision parameter that Ramos' Zlider would be a good use for is the
8 position.

9 MS. HUANG: Correct. That is our position, that's correct. So --

10 JUDGE LEE: But in a nutshell, why is that a high precision
11 parameter and not a non-high precision parameter? What's the difference?

12 MS. HUANG: I think the idea with Ramos' Zlider is to allow for
13 high precision applications. So as long as the Ramos Zlider is being applied
14 to a particular parameter, the idea is that by using a Zlider, you can allow a
15 user to make high precision adjustments to whatever the parameter that a
16 user may wish for a particular application to be adjusted. So in the
17 combination that we're putting forth in the petition, we're taking the
18 teachings of the Zlider and applying it, as Ramos suggests, in different
19 graphical applications to Hayward's use of adjusting specifically contrast of
20 an image.

21 JUDGE LEE: Well, in a nutshell, can you just say in very concise
22 terms, why is this parameter a high precision parameter that Hayward is
23 adjusting?

24 MS. HUANG: The reason why it would be a high precision
25 parameter that Hayward is adjusting is because the Zlider is being used to

1 adjust it. The Zlider offers high precision adjustments of parameters, period.
2 So if the Zlider is there, then you have a high parameter -- you're affording
3 the opportunity for a user to use the Zlider to make high precision --

4 JUDGE LEE: I see. To make fine adjustments.

5 MS. HUANG: Yes.

6 JUDGE LEE: Because you are using the Zlider, you can make
7 fine tuning and that makes it a high precision parameter.

8 MS. HUANG: That's correct, yup. There's features of Zlider that
9 we're not pointing to for purposes of the petition that allow a user to lock the
10 current level, to do various mechanisms in and out of the working area of the
11 Zlider, to change the level at whatever high precision amount that user might
12 want to, which is why the Zlider is so useful. And so what parameters could
13 you apply it to? The answer is maybe whatever you want as long as it's a
14 visual application or a graphical application, which is certainly something
15 that Ramos contemplates on.

16 JUDGE LEE: Okay. Thank you. Now, the second question, why
17 does the Vernier move? What's the significance of the markings moving
18 across the working area as the cursor goes across?

19 MS. HUANG: I think the Vernier is moving maybe as a visual.
20 And I don't know that Ramos says that specifically. But just using my eyes,
21 the Vernier moves when the panning happens in that example from 3:10 to
22 3:16 in the Ramos Video. So the Vernier and the pole moving up and down
23 perhaps is representative of the panning of the image, whereas the adaptation
24 of the adapting of the grid line spacing is showing that the scaling factor of
25 the zoom is changing. So --

1 JUDGE LEE: I understand that. But it really doesn't have to
2 move, right? It can stay still and all the functions will still be there.

3 MS. HUANG: I think that's fair. Yeah.

4 JUDGE LEE: Thank you.

5 MS. HUANG: So returning back to --

6 JUDGE QUINN: I'd like to hear from you, since you're not
7 contending that the working area is translucent and neither is the Vernier, the
8 combinations that you're making with Ording to put that working area, as
9 you suggest, on the Ording device, can you turn to that?

10 MS. HUANG: Sure. And I'll start with one thing, which is to say
11 that the claims of the '580 Patent don't dictate that the entirety of the Zlider
12 be transparent. It doesn't say that the working area has to be transparent, it
13 doesn't -- well, it clearly doesn't say the working area. But what it doesn't
14 say is that the entirety of the second virtual display layer is translucent.

15 JUDGE QUINN: But in your combination, you have contended
16 that you would, that someone of ordinary skill in the art would make the
17 working area translucent, right?

18 MS. HUANG: Yes. That's correct, Your Honor. That's what
19 makes it translucent.

20 JUDGE QUINN: That's what -- I want to know what your
21 arguments are on that.

22 MS. HUANG: Sure. So as a starting point, we have already in
23 Ramos' teaching that the pressure cursor itself is partially translucent. And I
24 should say that the partial translucency of this -- of the pressure cursor
25 provides the requisite partial translucency of the claim requirement that

1 there's partial translucency in the second virtual display layer. But it's not --

2 JUDGE QUINN: But there's a possibility to use the Zlider and the
3 cursor to never leave the working area. So you would say -- what would you
4 say-- that because sometimes you do leave the working area that there is
5 translucency?

6 MS. HUANG: I'd say Ramos Video clearly shows that there is
7 translucency. So it's -- maybe you never see it in an actual application, but
8 the Ramos Video itself shows the translucency. And it shows the
9 translucency as it overlaps the underlying image content.

10 JUDGE SMITH: This is Judge Smith. Let's say we agree with
11 you that the cursor part of Ramos is transparent over the image, so the cursor
12 is on a second layer and it's partially translucent. But the claim calls for a
13 plurality of markings that are on the second layer. I mean, you only have
14 one marking, which is the cursor that's on the second layer.

15 MS. HUANG: Oh. And I should clarify them, Your Honor. The
16 plurality of markings isn't -- is not mapped to the pressure cursor. The
17 plurality of markings is mapped to the grid lines or the hash marks that are in
18 Vernier. So Petitioner --

19 JUDGE SMITH: But they're not -- the Vernier is not on the
20 second layer. The Vernier is on the same layer as the image.

21 MS. HUANG: Yeah. So I should again clarify. So Petitioner's
22 position as presented in the petition is that there is a first display layer and
23 that includes the underlying image content. And above that is the second
24 display layer. And that second display layer, second virtual display layer,
25 includes the Zlider. The Zlider includes many components. The

1 components include --

2 JUDGE SMITH: But it doesn't appear -- I mean, I'm looking at
3 your Slide 44 that the Zlider on the right hand side, it doesn't appear to be
4 overlapping the image. It appears to be to the right side of the image. The
5 only part that appears to be over the image is the cursor. How do we know
6 that the Zlider is over a portion of the image?

7 MS. HUANG: So Your Honor, the Petitioner's position is that we
8 know that the Zlider is over the image -- at least over some of it, because the
9 pressure cursor is part of the Zlider and because the pressure cursor --

10 JUDGE SMITH: The pressure cursor, I agree with you. But the
11 rest of it isn't on the second layer. It's only the pressure cursor that is on the
12 second layer. Do you understand what I'm asking you?

13 MS. HUANG: Yes, I understand. I understand what you're
14 asking. So if there is an issue with that -- and I will say just again for the
15 record that Petitioner's position is that all of the components of the Zlider are
16 on the second display layer. But if we are not to accept that, then what the
17 petition does instead is to turn to Ording. And so what we have with Ording
18 is again, like Ramos, a reference that teaches the use of translucency in its
19 widgets.

20 So Ramos, if you turn to Slide 35, again, clearly shows that time
21 3:16, that at least part of the Zlider, the pressure cursor, is at least partially
22 translucent. And Ording teaches, at paragraph 45, the use of a virtual click
23 wheel as an input control wheel and that that virtual click wheel can be a
24 semitransparent object. And the idea of doing this, this is not revolutionary.

25 So if you turn to Slide 36, we show various corroborating

1 references that our expert pointed to in support of his position that it would
2 have been obvious, very well known, to make user interface objects
3 translucent. And Hotelling, for example, on the right explains that at
4 paragraph 153 that making a GUI elements -- excuse me, semitransparent
5 allows the graphical image disposed below the GUI element to be seen,
6 thereby eliminating and minimizing shifting. So this is a well-known thing
7 to make them translucent.

8 JUDGE QUINN: So I read your paragraphs 65 and 66, which is of
9 the expert, Dr. Cockburn, and I don't see how you tie the use of the click
10 wheel in Ording to all the operations that you would use the click wheel for,
11 including operating the camera, the zoom, and/or even photos. So can you
12 walk me through what is the logic of using a click wheel in Ording, which
13 Ording describes as using to navigate between icons and then suddenly take
14 that functionality and apply it to controlling a very specific use of an
15 application or a device within the Ording common use for the tablet or
16 whatever.

17 MS. HUANG: Yes. Yeah. So I should clarify. So the reliance on
18 Ording is not specifically for the specific functionality of the click wheel of
19 Ording. But rather we use Ording because Ording teaches explicitly the use
20 of some input control device, much like the Zlider, and making -- it says it
21 can make it opaque, or you can make it semitransparent.

22 And so Ording teaches -- so if you have a widget that is currently
23 opaque or not fully translucent or somewhere in between, it teaches that if
24 you have this input control device, you might want to make it
25 semitranslucent. And then we have further corroborating evidence from

1 various references that teach -- again, this is super well known, Hotelling
2 teaches it, Brandis teaches it, making these user input controls that are seen
3 on the screen that are controlling potentially underlying content, making it
4 translucent so that you can still kind of see what's under it. And it's not -- it's
5 still helpful because it's visible. But it's not blocking everything because it's
6 opaque. And that's really what we're using Ording for is the --

7 JUDGE LEE: Ms. Huang, I have to interrupt you. It's Judge Lee.
8 I noticed you slipped in the word well known. But that's not in your
9 petition. It's also not in your expert's testimony. I mean, that would be a
10 totally different argument. Neither Exhibit 1025 nor 1026 is a reference in
11 the ground. But sometimes we could consider things that are well known. If
12 the expert says, oh, this is something well known to a POSITA.

13 But I noticed clearly that the term well known is not in the petition,
14 it's not in the testimony, but you just said it was well known. So can you
15 explain that?

16 MS. HUANG: Well, I think Ording explains it's well known by
17 itself. The fact that we rely on Ording is showing the well-known nature of
18 it because it's out there. We do rely on Ording -- we don't rely on just the
19 expert saying it's well known or something like that. It's clear that the
20 reliance in the combination is on Ording, which teaches explicitly making a
21 user input control a widget translucent. And that's what Ording provides.

22 And then what we cite to in the petition for the expert dec is the
23 idea and the benefits of doing this, and that's where we get to Brandis and
24 we get to Hotelling.

25 JUDGE LEE: I understand that. But isn't -- doesn't Ording follow

1 that language with such as the click wheel. So doesn't that tie the disclosure
2 to the specific type of interface, as in Ording's click wheel? There doesn't
3 seem to be that much correspondence between a very simple click wheel that
4 navigates around the display screen to a very complicated widget of Ramos.
5 How do you equate the two? They seem to be two different type of things.

6 MS. HUANG: I think the idea with the petition is just that these
7 are both widgets. These are both user interface objects that a user can use to
8 adjust various parameters of something they're looking at. Whether it's high
9 precision or low position -- precision, these are both input devices. And the
10 idea of making it translucent, regardless of what it looks like, is not
11 something that is somehow revolutionary.

12 And in fact, if you turn to Exhibit 1004, which is the Ramos Paper,
13 and look to page -- and I apologize, I don't have the PDF page. But on the
14 bottom of the page, it's page 151, you'll see a picture of a Zliding wheel.
15 And so in fact, Ramos contemplates the idea of using Zliding wheels
16 generally. What it doesn't say is make the entire thing semitransparent or
17 semitranslucent.

18 And so what we're taking is the idea of a user interface object, a
19 widget, and saying it's beneficial. And we know it's beneficial because we
20 have property references that say so to make it semitransparent or
21 semitranslucent and we have Ording -- in Ording and express teaching of
22 making a user input control.

23 JUDGE QUINN: But it looks like you're relying on Ording for a
24 lot more than that. I mean, your expert is saying that he is relying on Ording
25 for the teaching that you have applications that use -- that could use the

1 Zlider and jumps to that merely because of the track wheel in Ording and the
2 disclosure of applications in Ording.

3 MS. HUANG: Well, I think the idea is that Ramos has brought
4 applications -- Ramos' Zlider has brought applications. And so it can be
5 used with -- it says with graphical applications. And Ording teaches a
6 graphical application. It teaches a user input device that allows you to
7 interact with the graphical application.

8 JUDGE QUINN: Yeah. But well, how do you go from I can
9 manipulate an image using the Zlider, which is what Ramos is using it for, to
10 I can control the camera zoom using the Zlider by putting it in Ording? How
11 do you go there?

12 MS. HUANG: Well, I think Ording -- well, first off, Ramos
13 teaches that it's a -- it doesn't say that it has to be used for zoom. And in
14 fact, the Ramos Video shows the Zlider being used in various applications.
15 It uses it to pan during the video, whether you want to do it slow or do it
16 fast. It says you can use it for just -- as Judge Lee pointed out earlier, it's
17 precise parameter manipulation. Whatever application would require precise
18 parameter manipulation would benefit from the Zlider.

19 And so with Ording, we just bring in, how do we take the Zlider
20 and have it potentially not be something that's obstructing, something that
21 could be seen on the screen, and allow a user to still be able to see it but not
22 have it obstruct things or, you know, be disruptive.

23 JUDGE SMITH: This is Judge Smith. Let me ask you, it looks
24 like there are two parts to your combination. The first part is taking the
25 Zlider in Ramos and putting it over the underlying image, that's step one.

1 And then once you have that Zlider over the underlying image, the second
2 step is to make it transparent.

3 So you're saying, if you take the Zlider in Ramos and put it over
4 the image, Ording says, well, when you have any type of user interface tool
5 above an underlying background image, Ording teaches this within -- one of
6 skill in the art would have known to make it semitransparent. But how do
7 you get to that first step of taking the Zlider and putting it on the image to
8 begin with?

9 It looks like in the petition, you're doing it because you're saying
10 it's one of two known options, either have the Zlider to the side or have it on
11 top of the image. How is having it to the side is a known option? How is
12 having it on top of the image a known option?

13 MS. HUANG: Yeah, arguably, Your Honor, and thank you for the
14 question. I think the word adjacent is used in the -- on the institution
15 decision and I know Patent Owner uses it at length. If you look at the
16 Ramos Video, you have various examples. For example, at 3 minutes and
17 we'll say 10 seconds or so, the Zlider that appears on the screen with the
18 image content, one could say they are adjacent. But that doesn't preclude the
19 option that it also does already overlay the image content.

20 And again, we know that because the pressure cursor is through the
21 pressure cursor. And again, Dr. Mahon, Smith's expert agrees that you can
22 see the content that's behind it changing. So we know that that pressure
23 cursor is -- and that pressure cursor being part of the Zlider, which Dr.
24 Mahon agrees to as well, is part of the Zlider and it is therefore already
25 offering overlapping -- is already overlapping. It might be adjacent but

1 somewhat overlapping.

2 And then again, a POSITA is not an automaton. There's options
3 for what you can do. You can either put it just next to it, or you could put it
4 -- you can have them overlay. And so when you have a teaching from
5 Ording that says, you should -- you can have a user control, widget --

6 JUDGE SMITH: I'm sorry to interrupt. I understand a POSITA is
7 not an automaton. But I guess the issue is, is the option known of putting it
8 over the underlying image? Is that a known option?

9 MS. HUANG: Yes. I mean, I think with transparency or partial
10 translucency of a widget, it's going to be over something. Otherwise, the
11 -- you know, such as the teaching in Ording where it says to make it
12 semitransparent, certainly, it will be over content that's below it. And so if it
13 were semitransparent and not over something, it certainly defeats the
14 purpose of semitransparency.

15 JUDGE SMITH: Okay. So the combination is you have Ramos
16 that teaches the Zlider and you take that Zlider and put it over the image and
17 make that Zlider transparent because Ording has a widget that's over an
18 underlying image and that widget is transparent. Is that -- did I get it right?

19 MS. HUANG: That's exactly right, Your Honor.

20 JUDGE SMITH: Oh, okay. And the benefit of having the Zlider
21 of Ramos over the underlying image is what?

22 MS. HUANG: Well, the benefits of doing that are laid out in
23 -- which is Zlider as we jump back and forth here. But ultimately, the
24 benefits are allowing having a graphical image disposed below a GUI
25 element; and therefore, it's still being able to see it. And so the expert dec

1 cites to corroborating references and saying that you could have this object,
2 have it displayed over the content, and not having it be obstructing
3 something else. And it cites to Brandis and it cites to Hotelling, which are
4 shown on Slide 36.

5 And those teaching -- Hotelling, for example, explains that at
6 paragraph 153, making the GUI element semitransparent allows the
7 graphical image disposed -- that image content behind it disposed below the
8 GUI element to be seen, and thereby eliminating -- minimizing and shifting.
9 Because it's not blocking it. You don't need to move it out of the way
10 because you can already see through it, at least partially, because it's
11 semitransparent. So those are the benefits. You've got something that
12 potentially is more real estate -- and you can still see through it to see that,
13 the image content below it.

14 Does that answer your question, Your Honor?

15 JUDGE SMITH: Yes, thank you.

16 JUDGE LEE: Ms. Huang, it's Judge Lee. I know that Petitioner
17 relies heavily on the pressure cursor. And that's fine. I don't want to slight
18 that effort. But for the moment, let's put the cursor aside, because maybe it's
19 not in the second virtual layer. Let's put that aside. So you only have the
20 Zlider excluding the pressure cursor.

21 Now, from what I see -- and correct me if you disagree, I like to
22 hear that -- neither Ramos then nor Ording has something that's placed over
23 the image. Because without the pressure cursor, you don't have it in Ramos.
24 And in Ording, you don't have the click wheel over substantive content
25 either. So neither one has it. But you have to have it for the claim.

1 So from what I see right now, correct me if I'm wrong, you're
2 making up this huge gap by paragraph 66 of the expert's declaration, where
3 he says, well, you know, look at Exhibit 1025 and 1026, there's some user
4 interface that's transparent that may be over an image. So let's just do that in
5 the combination, you know. Honestly, that's what I'm seeing. And you can
6 go ahead and tell me where I've gone wrong in my thinking.

7 MS. HUANG: Sure. Thank you, Your Honor. So Ording -- I
8 think this is where the disconnect is. Ording actually provides the idea of
9 having a semitransparent object over content. Because if it's not -- if it's
10 semitransparent, it's certainly semitransparent over something, otherwise
11 you're not seeing something. So the --

12 JUDGE LEE: Yeah. But it's over the icons on the display. It's not
13 over any substantive content.

14 MS. HUANG: I think the icon --

15 JUDGE LEE: The icons aren't like -- you can still see the icons.
16 The wheel is just a small part of the icon. It doesn't obstruct anything.

17 MS. HUANG: I'll note that Ording actually doesn't -- but I wish
18 that it did, but it doesn't actually show an image of the -- it doesn't show a
19 virtual click wheel. There's no image of it. But what it does say is that you
20 can have this object and you can make it semitransparent. So what the
21 content is under it --

22 JUDGE LEE: Wait. I'm sorry, I have to interrupt you. I thought
23 your petition shows the click wheel. I tried to look in Ording, but I can't see
24 any definitive language that says, here's my click wheel. And it doesn't have
25 a reference numeral either. But I was -- I thought I understood what the

1 click wheel is. When you reproduce some figures from Ording, on two of
2 the icons, there seems to be some kind of a wheel with an arrow to it. So
3 can you clarify that? Have you shown a picture of the click wheel or even
4 Petitioner has a hard time identifying a click wheel in a Ording?

5 MS. HUANG: I wonder if the click wheel you're referencing is a
6 click wheel from the Ramos Paper.

7 JUDGE SMITH: Counsel, this is Judge Smith. When we look at
8 Ording, we look at Figure 4A of Ording, which has a screen with icons on it.
9 And then there's one icon 142 that has what conceivably could be a wheel.
10 And then there's another icon 147 that conceivably could be a wheel. But
11 we don't see any figure in Ording that actually shows a click wheel over an
12 underlying portion of the display. What we know that the text that you cited
13 in paragraph 45 discusses it. But we don't actually see. What we're
14 struggling with is trying to reconcile what's in paragraph 45 with an actual
15 figure that shows some kind of widget over underlying images in Ording.

16 JUDGE LEE: Yeah. Can you look at Figure 4A? I thought there
17 might be some click wheels there. And tell me if that's not correct.

18 MS. HUANG: Yeah. I will say -- I mean, when you look at
19 paragraph 45 of Ording, there's no reference number listed after the click
20 wheel. So I don't believe it's shown in the figures. But I don't think that it's
21 consequential. Because the idea of Ording -- and I feel -- if you just
22 -- there's too much reliance on Ording's click wheel. Because the idea of
23 what we rely on Ording for is not its click wheel.

24 We rely on Ording for the idea of taking an input control device,
25 some widget, and making it transparent because it's helpful to have it there

1 to be able to see it but not have it include everything that's under it. That's
2 the reliance. It's not where is Ording's click wheel and where does it show
3 up in the combination. It's simply, here's a reference that teaches input user
4 control. And it can be opaque and it can be semitransparent.

5 And so a POSITA would look to Ording and say, oh, they're also
6 using a widget for controlling different features on the device and saying
7 that you can make it opaque. That's at least part of what the Zlider is, that's
8 Petitioners position. But you can also make it semitransparent. And so with
9 Ording's teaching, you then have a --

10 JUDGE LEE: Yeah. Counsel, you're using a lot of your time and
11 you're repeating yourself. But you still haven't answered my question that,
12 do you know where a click wheel is shown in Ording's figures?

13 MS. HUANG: No, I do not. I believe that it's not shown in the
14 figures.

15 JUDGE LEE: Okay.

16 MS. HUANG: No. I think any wheel that you may have seen in
17 the petition may have been the virtual or the click wheel from the Ramos
18 Paper. That's my guess. I did not manufacture one there.

19 JUDGE LEE: Thank you.

20 MS. HUANG: Yup. Noting the time, unless there are questions
21 about Issues 2 and 3, I'm going to save the rest for rebuttal unless there are
22 further questions.

23 JUDGE QUINN: Okay. Thank you. Mr. Robinson, just let me
24 know when you're ready.

25 MR. ROBINSON: All right. Ready when you are, Your Honor.

1 JUDGE QUINN: You may proceed. Thank you.

2 MR. ROBINSON: Good morning, Your Honors. Eagle Robinson
3 for Patent Owner. I want to start with this transparency of the second virtual
4 display layer. There's been some imprecise layer language used by
5 Petitioner. And so I'd like to just refer to Patent Owner Slide 17, which
6 includes the language from the specification.

7 The virtual display layer refers to a collection of display elements
8 which have all been assigned to the same apparent depth. The claims
9 require the markings to be in the second virtual display layer. They require
10 the translucency to be in the second virtual display layer. And so when we
11 look at Ramos, the pressure cursor clearly has a shadow and is therefore
12 with an apparent depth that is less than the markings. So the cursor cannot,
13 in any event, satisfy that transparency.

14 We then move to --

15 JUDGE QUINN: And what about the argument that even a small
16 portion of the cursor while it is being slid across the Zlider and it overlays
17 the content that is adjacent to the Zlider, even if that portion is translucent,
18 would that be enough?

19 MR. ROBINSON: No, Your Honor. And the reason is the
20 translucency has to be in the second virtual display layer, which is the same
21 virtual display layer in which the markings are. So looking at the apparent
22 depth language in that statement from the specification that I just read, the
23 pressure cursor always has an apparent depth that is less than markings.

24 But the markings in the cursor have to be in the same layer.
25 Ramos does not put them in the same apparent layer and -- virtual display

1 layer. It does not put that pressure cursor at the same apparent depth as the
2 markings and that has -- that is what has to be satisfied.

3 Ramos does not satisfy that relationship. And there is no purported
4 modification in the petition to satisfy that relationship. So the pressure
5 cursor, not in any set of circumstances, satisfy that at least has been
6 articulated in the petition, which is where we've had it then.

7 JUDGE QUINN: So even if you took the Zlider of Ramos and
8 made it translucent and putting in Ording, are you saying that that still fails?

9 MR. ROBINSON: Well, Your Honor, the purported combination
10 absolutely fails. And I'm happy to turn to that the --

11 JUDGE QUINN: Well, I'm only asking because of your of your
12 time, the markings with the cursor and that I would be part of the same
13 Zlider that you would import into Ording. So that would change?

14 MR. ROBINSON: So I guess I want to make sure I'm answering
15 the question you're asking. And our position is there is no satisfactory
16 combination of Ording and Ramos that the result in what's shown on page
17 59 of the petition. So the theory just hasn't been articulated, right?

18 JUDGE QUINN: Okay. So my question was, if you're saying that
19 the working area of Ramos, it may have markings because the Vernier has
20 them, right?

21 MR. ROBINSON: Yes, Your Honor.

22 JUDGE QUINN: But the cursor is not as the same depth as the
23 markings.

24 MR. ROBINSON: We agree with that as well.

25 JUDGE QUINN: Okay. Then if you still are using these two

1 components in Ording, that is one reason why this doesn't meet the claim.

2 MR. ROBINSON: The pressure cursor in the purported
3 combination still would not meet the transparency claim because it is still
4 not in the same virtual display layer as the marking was.

5 JUDGE QUINN: Okay. So what -- where is the cursor out then?
6 Because we have testimony from Dr. Cockburn and he says they're all in the
7 same layer.

8 MR. ROBINSON: Well, Your Honor, I think that's why I started
9 with sort of the imprecise layer language. Dr. Cockburn says there are these
10 layers and the layers all fit together. And everybody would know they're the
11 same layer. But he doesn't analyze that in the context of virtual display
12 layers, as that language is used in the '580 Patent.

13 So when we look at the context of virtual display layers, which is
14 elements with apparent depths, the apparent depths of elements relative to
15 one another, the pressure cursor has a shadow over the markings. And so
16 whatever layer that those markings are in, in the Vernier or Ramos, the
17 pressure cursor is always in a layer above that. They're never in the same
18 layer.

19 So even if we map -- regardless of whether we map the pressure
20 cursor to the second virtual display layer or the markings of the Vernier to
21 the second virtual display layer, the two are never in the same virtual display
22 layer. They never have the same apparent depth.

23 So to try to backfill that, the petition at page 59 amalgamates
24 Ramos and Ording purportedly adds the Zlider to Ording's device. Now,
25 Judge Smith's question a moment ago hit the nail on the head, what that

1 requires? It's a two-step modification. First, you have to have a reason to
2 put the Zlider over the image content versus next to the image content as it is
3 in Ramos. And then second, you have to have a motivation to make part of
4 that Zlider translucent.

5 And so what Petitioner has done is sort of just skipped over that
6 first step. They have assumed that we would put the Zlider on top of the end
7 content. And then once it's there, to make it less intrusive and less
8 obstructive, we're going to make parts of it translucent. That falls apart for
9 two reasons, first is there's absolutely no articulated motivation to put the
10 Zlider on top of an image that we're trying to precisely manipulate.

11 There was some discussion about the Zliders or panning versus
12 zooming. What the Ramos Video shows is using the Zlider to precisely
13 zoom, very precisely on this very detailed image editing is what it appears to
14 be. And then you can move the cursor over into the body of the image to
15 pan around. So you can imagine you've got this image you're trying to very
16 precisely edit it, you zoom in very closely. The level of zoom is very
17 precise, but the location does not always end up quite where you want it.
18 And so then you can move off the desire to move the image around.

19 All of this, of course, requires, you know, being able to see the
20 image content that you're working with. There's nothing in Ramos. There's
21 nothing in Ording that suggests that when you're when you're taking these
22 precise parameter adjustments that you would ever want to obstruct the
23 image that you're trying to precisely adjust.

24 In terms of what Ording teaches, that --

25 JUDGE QUINN: What about the argument that -- I mean, there's

1 two places where the Zlider could be. Ramos, obviously, discloses it being
2 adjacent to the content that is being adjusted. But the other option is to put it
3 on top. There's only two places they can be. So the combination with
4 Ording, according to Petitioner, is that because Ording already discloses that
5 you could have something that is transparent as a user interface, that is an
6 overlay of what you're looking at. Then you could do the same thing with
7 the Zlider.

8 MR. ROBINSON: Well, Your Honor, I guess even accepting that
9 binary formulation, which I don't think has fully been established. Even
10 accepting that binary formulation, obviousness has to be what's desirable,
11 not just what's possible. And so even if we start with our motivations, we're
12 going to make it translucent to make it less intrusive and less obstructive, to
13 skip ahead to put a Zlider on top just completely ignores the motivation,
14 right? You don't even have that motivation. If that is truly the motivation,
15 you just leave it to the side where it doesn't obstruct the image.

16 Second, if you look at what Ording teaches can be translucent, it
17 says this click wheel can be translucent or it can be opaque. And here's the
18 key, it says that that click wheel only shows up when you need it and then it
19 goes away. So it's not saying, hey, you would just park a click wheel over
20 content and leave it there and make it translucent so you can still sort of see
21 what's under it.

22 It's saying, hey, you've got this click wheel or this sort of granular
23 selection between, you know, well-defined options, maybe you can have it
24 appear. It literally says it can be opaque or translucent. It doesn't care,
25 right? You got to be able to see it when it appears, and then it goes away.

1 And you're just selecting options. It's not this precise parameter
2 adjustment. And then it goes away. And so there's absolutely nothing in
3 Ording that would suggest that if your motivations are to make a menu
4 unobtrusive or unobstructive, that you would start by putting the menu on
5 top of what you're trying not to intrude upon or instruct.

6 JUDGE QUINN: But it seems to me that any user interface,
7 including the one in your claims, you only have it -- you only care about
8 how it functions when you need it in this display. It doesn't matter that you
9 can also have it not display when you don't need it. We're only concerned
10 about what happens when you need it and it's there and how it operates.
11 And Ramos is always there. It's persistent because we're only using Ramos.

12 I believe that the reference is only there for altering images or in
13 some way editing images. Ording is broader than that. But I'm not sure that
14 I get you that just because it says it can go away that that somehow makes it
15 unusable for the purpose for which Ramos is using their Zlider.

16 MR. ROBINSON: I suppose, Your Honor, would start by saying
17 that that appearing and going away or -- is counter to this notion that you
18 would just leave it there and make it translucent. Second, I would say that
19 the petition doesn't actually go into that level of detail. It just ignores the
20 fact that what Ording actually teaches is this sort of rough optionality with
21 click wheel that shows up and then disappears. So I'd start there.

22 As the petition doesn't actually get into that. It just ignores the full
23 context of what Ording discloses to try to say, hey, translucency, we're going
24 to take translucency, we're going to put it in this and see and we're going to
25 put it in this and we're going to put it over the top of the content. And again,

1 Ording doesn't say that click -- even that click wheel over the top of content.

2 The second thing I would say, Your Honor, is --

3 JUDGE QUINN: Well, I agree with that. And that's what my
4 questions to Petitioner's counsel were directed to, where do you have
5 anywhere a motivation to use a click wheel, a virtual one, that is used in
6 Ording to navigate through icons and have it used on as an overlay of an
7 image to alter an image, much like what Ramos is using the Zlider for. And
8 they have Dr. Cockburn, obviously, testifying that one would know it
9 because that's what a user interface is used for.

10 So I want to know what your -- like, where you believe it -- the
11 combination logic actually falls apart for you. Because there -- the
12 translucency issue, there is a degree, right? Ramos has some of it in the
13 cursor. We can, you know, quibble whether the cursor is on the same layer.
14 But there is some transparency there. And Ording has transparency as well.
15 And somehow, the combination of the two falls apart and actually the
16 functionality, how the two functionalities work together. Where do you
17 think this combination of theirs -- their logic falls apart precisely?

18 MR. ROBINSON: I guess I would just preface by saying it falls
19 apart in a few places. Where I'll start is sort of translucency in the cursor
20 does not translate into translucency anywhere else. So to the extent the
21 question suggested that maybe that was a reliance, it's not. That's not a
22 theory that's here.

23 JUDGE SMITH: Mr. Robinson, sorry, this is Judge Smith. I think
24 that the point of having the cursor be translucent is -- the point is that even
25 Ramos has, you know, the cursive part of the Zlider all over the image so

1 that the idea that you wouldn't want this over the image. Ramos itself has at
2 least a portion of it over the image. I think that was the point of mentioning
3 the translucency. So at least in Ramos itself, we have an indication that
4 people would have put at least a portion of it over the image.

5 MR. ROBINSON: Thank you, Your Honor. That's a helpful
6 clarification. And I think the -- fundamentally, there's a difference between
7 a cursor element moving over an image, which is essentially always there.
8 Ramos says, hey, this is an alternative to the established cursor. So there
9 will always be a person moving around the screen. Otherwise, you wouldn't
10 be able to see where your input is landing on the content.

11 That is far different than -- and almost even says the pressure
12 cursor is not integral to the Zlider. It is an alternative to sort of the
13 traditional, presumably, pointer or arrow cursor that you typically have in
14 that type of an interface. There is a vast difference between a cursor moving
15 around that indicate where your input lies and placing the Zlider over the top
16 of an image that you're trying to precisely adjust the parameters of -- as the
17 Patent Owner response explains, depicted with some images, not only is it
18 sort of not less intrusive but making it transparent -- as they did on page 59
19 of the petition within Ording -- actually makes it less functional.

20 And so this sort of now broad, brushed kind of position that
21 petitioner was taking that, well, it was just known to make user interface
22 widgets transparent. It also just glosses over the fact that Ramos is a very
23 particular, precise type of user interface. And they're relying on that
24 precision. They're relying on its specific functionality. And so then to just
25 say, well, everybody knows you can make widgets transparent. It doesn't

1 hold water in the context of what Ramos is actually teaching this precise
2 issue.

3 JUDGE SMITH: This is Judge Smith. I think, you know, one of
4 the things that Ramos, as far as I can tell, appears to be on a desktop,
5 whereas Ording is on a mobile device. So I mean, on a desktop, you can
6 have as big a screen as you want, to put as many things as you want on a
7 screen is not a problem. But on a mobile device, the display area, the real
8 estate is more limited. So maybe you really don't have space on a mobile
9 device to have the widget separate from the from the image; isn't that true?

10 MR. ROBINSON: Your Honor, we would have fully addressed
11 that in the Patent Owner response and so far had been addressed in the
12 petition. Respectfully, it's not. Ultimately, if what you are doing is taking
13 Ramos as precise parameter manipulation for the underlying image content,
14 even if you put that on a mobile device, there is absolutely no reason to
15 obstruct the content that you are trying to precisely manipulate the
16 parameters of.

17 There's nothing in the petition to say, hey, we would have moved it
18 away from the edge because the real estate was limited. There's absolutely
19 no discussion of any motivation would let Petitioner to actually move that
20 Zlider from an edge where it doesn't overlap, to move it inward.

21 And so we've got this motivation of sort of avoiding obtrusion,
22 avoiding intrusiveness. And it somehow leads to a modification that ramps
23 up the intrusion and the obstruction. And it is just -- it's not articulate.
24 There is no theory that will support within the petition, what the Petitioner
25 has said it is doing to modify this.

1 JUDGE QUINN: So can you go back to answering the question
2 that I asked you about where the combination -- motivation to combine
3 where Petitioner falls apart. You started with the translucency, but I think
4 you were going somewhere else.

5 MR. ROBINSON: So I think, ultimately, there is no -- I hope I've
6 answered your question with respect to Ramos by itself, in terms of --

7 JUDGE QUINN: Yes.

8 MR. ROBINSON: -- where the translucency is not in the second
9 virtual display or --

10 JUDGE QUINN: Yes. I have no questions about Ramos by itself.
11 I just want to know about the combination with Ording.

12 MR. ROBINSON: Well, for the combination, I would say that it
13 -- this sort of DOA. It's not supported in the first place, right? We have a
14 mashup of images on page 59 of the petition. But when you look to
15 motivations, the motivations don't get you to what the combination is
16 supposed to be. I mean, that's --

17 JUDGE QUINN: And that's why I asked you, where exactly does
18 the logical steps the Petitioner has taken to show the motivation to combine?
19 Where does that logic fall apart?

20 MR. ROBINSON: So as far as I can tell, the motivations that
21 articulate and are essentially these are both electronic devices. They both
22 have user interfaces. And then the third one is you would make -- once you
23 put the two together, you would make the Zlider translucent based on
24 Ording's discussion of the click wheel being potentially translucent. And so,
25 really, it's that only -- it's only that third one that gets you anywhere near

1 translucency. And that third one is to make it less intrusive and less
2 obstructed, you would make it translucent.

3 But again, this is where they haven't articulated a combination or a
4 motivation for combining them in a way in which Zlider overlies Ordning's
5 -- overlies an image or content in Ordning. So even if you take everything on
6 sort of face value, there's no reason to overlay that Zlider on an image within
7 Ordning in that combination. Does that get to --

8 JUDGE QUINN: Yeah. I mean, I get that. I read your papers that
9 it's still intrusive, even if it's a small part of the screen and, you know, it's a
10 dark photo, then you can't see the Zlider. I understand that. But there's more
11 to it than that. I mean, Petitioner is using Ordning solely for the purpose of
12 saying it is known to have translucency in a user interface widget that can
13 control things in the device.

14 So then in and of itself, they say, you know, someone would know
15 how to program this. And you're going into whether a user would find it
16 useful or beneficial or the intrusiveness would be too much, that's a different
17 aspect of the combination.

18 MR. ROBINSON: I think I understand your question better now,
19 Your Honor. If we just assume the combination happens in the way that it's
20 articulated, say, I'm going to set aside the image in page 59; if we just
21 assume that if we take all of their motivations at face value and we put the
22 two things together in the way that they have articulated, there is nothing
23 that would result in the Zlider being on the second virtual display layer
24 above the image content. There's nothing to lead you to that place.

25 JUDGE QUINN: And that is because?

1 MR. ROBINSON: That is because Ramos teaches -- I believe it
2 was Judge Smith that noted this earlier, Ramos teaches that the Zlider is next
3 to the image, so they would essentially be in the same virtual display layer.
4 Meaning the markings would be in the same virtual display layer as the
5 content. And there is no articulated motivation to move that Zlider and its
6 markings up to a second virtual display layer. It's not in those motivations in
7 the petition. It's not articulated and proposed anywhere. It just sort of
8 appears in an image without any justification or explanation.

9 JUDGE SMITH: Well, I think -- Counsel, this is Judge Smith.
10 The motivation, as far as I understood it, was putting it on top of the image
11 is one of two known options. It's either to the side of the image or on the
12 image, and that's it. So why wouldn't be enough to end up with the Zlider on
13 top of the image?

14 MR. ROBINSON: Well, Your Honor, I think it's the Belden case
15 that I believe it's cited here that obviousness concerns what is on balance
16 desirable, not just what is possible. So first, I would tell you that the notion
17 that the Zlider can only be on top or on the side is not particularly well
18 supported or articulated. But even if we accept that as a starting point, it was
19 plainly not desirable.

20 There's no benefit to putting it on top articulated anywhere. And
21 there are numerous sort of explained drawbacks to doing so that would have
22 affirmatively led to a conclusion that by a POSITA that you wouldn't want
23 to put it there. That's a bad place to put it when you're trying to use the
24 Zlider for precise parameter manipulation for an image.

25 JUDGE LEE: Mr. Robinson, this is Judge Lee. Earlier, I asked

1 Petitioner's counsel, where is the click wheel in Ording? I thought -- I
2 identified a couple, but he -- she said it's actually not shown in any of the
3 figures. What's your view? Is any click wheel shown in Ording's figures?

4 MR. ROBINSON: Your Honor, I don't believe Ording points to
5 anything in his figures and says this is a click wheel. If we look at Figure
6 4A, which is the one, I believe, you referenced earlier. There are some icons
7 that sort of appear to be a click wheel. If you look at the blog button 142,
8 there is an arrow pointing to it, which it seems to suggest that the other one
9 there might bring up something else. But ultimately, Ording does not show
10 a click wheel over an image or image content.

11 JUDGE LEE: So we're not sure, right? We don't know. It looks
12 like there's nothing definitive in the figures as a click wheel.

13 MR. ROBINSON: There does not appear to be anything
14 definitively depicted in the images as click wheel. What I --

15 JUDGE LEE: All right.

16 MR. ROBINSON: Sorry.

17 JUDGE LEE: Well, if what I saw were click wheels, they would
18 at least be over the icons. But icons aren't image content. But the Petitioner
19 is right that the click wheels aren't even shown in the figures, then Ording
20 would actually have no disclosure of the click wheels being above anything.
21 They could just be opaque or transparent, but it doesn't say anything about
22 whether it's over anything at all; is that right?

23 MR. ROBINSON: I would agree with you, Your Honor. The
24 other thing I would add is Ording seems to disclose a virtual click wheel as
25 an alternative to as a physical click wheel or sort of rotating between

1 application icons, similar to what's shown in Figure 4A. And so, you know,
2 you apply that to sort of its logical conclusion, where a quick wheel would
3 sort of move into highlighting from one application icon to another wouldn't
4 necessarily -- that would even, I think, suggest that the click wheel would
5 not be on top of even the icon.

6 JUDGE LEE: Right. That's what I'm saying. I mean, my original
7 position was if they were click wheels, they would be over the icons. But
8 Petitioner's counsel said they are not click wheels. Then it seems I'm left
9 with the click wheels aren't disclosed as being above anything.

10 MR. ROBINSON: I would not disagree with that, Your Honor.
11 There is nothing in the specification of Ording that I found that says that
12 something in these images is there.

13 JUDGE LEE: Okay. Then you are still left with the Exhibits 1025
14 and 1026 mentioned in Petitioner's expert testimony. It's not disputed that
15 those two exhibits show a transparent interface element above substantive
16 content, right? They show what they show, but they may have a problem of
17 their not being a reference in the ground. But I just want to get one thing
18 straight, they do show interface element over substantive image, those two
19 exhibits.

20 MR. ROBINSON: Your Honor, I thought I had those in my
21 fingertips. I don't -- would like to look at them. And we'll come back on my
22 rebuttal time and speak to that specifically. I guess, for now, I would just
23 emphasize what Your Honor just noted that they were not part of the ground
24 and that the sort of attempts to equate Ramos' Zlider for one purpose to sort
25 of, you know, equivalent all of these other user interface widgets but for

1 other purposes to point out how unique and special it is, I would say,
2 introduces a bit of tension and inconsistency in Petitioner's theories.

3 JUDGE LEE: Okay. Well, there's one point I'm a little confused
4 about. In the petition, there is one paragraph referring to an alternative
5 embodiment in Ramos. I'm not really sure what that's all about. It seems
6 like that might be referring to what's called a color selector in the video. But
7 I don't see any working area or any Vernier in that, quote, "alternative
8 embodiment." So I'm not really sure what the significance of the reliance on
9 the alternative embodiment is.

10 From what I see, all of the elements are supposedly met by the
11 primary embodiment. And I'm not sure what the argument is about the
12 alternative embodiment. Do you have an understanding in that regard?

13 MR. ROBINSON: Your Honor, I don't. What I do understand is
14 that it is explicitly an alternative embodiment. So if it were to be
15 incorporated into the ground or the mapping, there would have had to been
16 some articulated theory to combine it with the embodiment on which they
17 relied. That's point one. Point two is for that alternative embodiment Your
18 Honor's point, at least in passing, that it is not matched with the other
19 elements of the claims. So whatever attempted reliance there may be on that
20 alternative embodiment is ineffective.

21 JUDGE LEE: Thank you.

22 JUDGE SMITH: Mr. Robinson, before you move on, if I could
23 -- just real quickly, to follow up on Judge Lee's question about these
24 secondary references, 1025 and 1026. Let me just highlight you to the
25 Exhibit 1026, paragraph 162 was cited by the expert.

1 And I don't remember if it was cited in the petition as well. But at
2 least an expert says, well, in paragraph 162 refers to Figures 34C and 35C
3 which show a transparent click wheel above substantive content. I mean,
4 given that the testimony from the expert -- actually, in paragraph 66 of his
5 testimony, he said that this is evidence of a benefit of having the user
6 interface above underlying content and transparent. Isn't that enough to
7 support the petition's combination?

8 MR. ROBINSON: Your Honor, is that in paragraph 66 of his
9 opening declaration?

10 JUDGE SMITH: Yes.

11 MR. ROBINSON: Okay. So no. And here's why, first, that is not
12 articulated in the petition. So at best, it would be incorporated by reference.
13 Second, if you look at paragraph 66 itself, it again sort of discusses these
14 things as if all user element widgets or user interface widgets are the same.
15 And it doesn't actually get precisely why either of those click wheels, even if
16 they suggest, hey, in Ording, they arguably suggest that you might put
17 Ording's click wheel over an image. It does not suggest any benefit to
18 putting Ramos' Zlider over the content when you're -- really, the whole point
19 is that you've got precise parameter manipulation.

20 And the petition repeatedly emphasizes that you've got clarity of
21 being able to see that the spacing of those markings move as you're
22 manipulating those parameters as an indicator of how much you're zooming.
23 If you -- I guess, as explained in the Patent Owner response and sort of
24 picked in some images, if you put Ramos' Zlider over the content of an
25 image, you're directly undercutting the benefits and the purported

1 motivations for the -- for what Petitioner has said is its combination and the
2 reasons for its combination.

3 JUDGE LEE: Mr. Robinson, it's Judge Lee. Do you have a
4 rebuttal expert testimony to address what the Petitioner's expert said in
5 paragraph 66?

6 MR. ROBINSON: I don't have that at the tip of my fingers, Your
7 Honor. I will bring it back up on rebuttal. I think I -- in terms of just those
8 specific sentences, I don't have it at the tip of my fingers. But I will say that
9 our expert explained why, in the context of the Ramos' Zlider itself, a
10 POSITA motivated by the motivations that Petitioner relies upon, sort of less
11 intrusiveness and less obstruction, not only would not have been motivated
12 to put the Zlider over the top of the content in Ording but would have
13 affirmatively recognized and sought to avoid the drawbacks that doing so
14 would have introduced. And that's -- it's --

15 JUDGE LEE: All right. So what I'm understanding, not knowing
16 exactly right now what your experts said, what I'm understanding your
17 position is it may be well known that we want something that's minimally
18 intrusive. But as applied to Ramos' widget, it actually doesn't get you those
19 benefits of being minimally intrusive because it's more -- less intrusive when
20 you put it on the side.

21 MR. ROBINSON: Exactly. It's least obtrusive and least -- sorry,
22 least intrusive and least obstructive when it doesn't as Ramos disclose it.

23 JUDGE LEE: Thank you.

24 JUDGE SMITH: But is that the standard -- this is Judge Smith
25 -- Mr. Robinson, the idea that it would be least intrusive and least

1 obstructive? I mean, the standard is -- it doesn't have to be the best option.
2 It just has to be a suitable option. Wouldn't it be suitable to have it over the
3 image and transparent? It may not be better than having it off to the side,
4 but it is at least suitable for use?

5 MR. ROBINSON: Your Honor, that might be a fair formulation
6 looking at step two of the two-step motivation that -- or the two-step
7 modification Your Honor articulated. Meaning, if we already have a Zlider
8 over the content of an image and all we had to decide was, well, we make it
9 translucent or not translucent. True. That may be a fair way to frame that
10 question.

11 But what we're looking at here is modification requires, one, to
12 move the Zlider over the top of the image in the first place; and then two, do
13 we make that Zlider partially translucent? And there's absolutely nothing for
14 that step one. So, really, the core question that is left unanswered and
15 unsupported by the Petitioner is, why would you put it over the image in the
16 first place, right?

17 Even if it was known to put it over the image or to put sort of in
18 the abstract, these quick wheels over an image, even if that was known in the
19 abstract, the petition doesn't actually articulate why that matters in the
20 context of the combination with Ramos and Ording. And even, you know,
21 paragraph 66 of their expert declaration doesn't answer that foundational
22 question, right?

23 This sort of -- this statement, oh, well, maybe sometimes in some
24 user interface widgets, it might be beneficial to put it over an image. That
25 says nothing about sort of Ramos' Zlider, specifically, the need for that

1 precise parameter manipulation and why you would put it over an image,
2 you know, just because it's possible, right? The mere possibility of
3 translucency is not a reason to put it over the image in the first place.

4 So if you're just starting a POSITA without the benefit of the
5 claims or sort of where we're headed, you start with Ramos, which has this
6 very precise Zlider, which the Petitioner repeatedly emphasizes is unique.
7 It's special. It's very good for this precise parameter manipulation. You start
8 with that. And then you go to Ording, which says I've got a phone with a
9 camera.

10 And sometimes there is a click wheel that's an alternative to a
11 physical click wheel for moving between these icons. And sometimes it can
12 appear or disappear, and it can be translucent or it can be opaque. Nothing
13 about that says that there would be anything desirable about moving the
14 Zlider to -- on top of an image content.

15 JUDGE QUINN: So following up on what my colleague is saying,
16 so we have our Petitioner argument and then the expert supporting that
17 argument saying that it would have been obvious to try. And the
18 explanation given is you can move it, you can have it adjacent, as in Ramos,
19 or you can put it on top as known in the art with other references that say
20 user interfaces can be overlaying something else. Is a number of identified
21 predictable solutions and is -- or there's a reasonable success -- expectation
22 of success that it would work?

23 And in my mind, the reasonable expectation of success is a
24 technical success. This would work. You're more referring to whether the
25 user would perceive usefulness in having no obstructions versus some

1 obstruction on the display. So I want to know, from the perspective of, what
2 we're here to do with what we have from Petitioner, what would you say
3 -- technically speaking, what is the problem with having the Zlider of Ramos
4 as taught and it being one of two options to put it on the side or on top?

5 Are you contending that somehow this would not work as
6 intended? It is not really a predictable solution for whatever reason. What is
7 your explanation for how do we deal with an obvious to try rationale here?

8 MR. ROBINSON: Your Honor, I'm sorry, is the obvious to try
9 rationale in the petition?

10 JUDGE QUINN: It is at page 56 to 57.

11 MR. ROBINSON: Fifty-six to -- hold on, Your Honor. I guess,
12 Your Honor, being a -- because it's a two-part answer, the first is that this
13 obvious to try sort of on top of or to the side is pure ipse dixit from their
14 expert. There's no -- it's just -- it would have been obvious to try this finite
15 number of solutions. It's completely divorced from the teachings of Ramos
16 and Ording themselves. It's just -- it's not in there. There's no disclosure
17 there. It's just the expert coming out of that field and saying, well, you can
18 put it on top.

19 And I would, I guess, refer again back -- and I think it's called --

20 JUDGE QUINN: So are you saying -- is conclusory and
21 unsupported by the references themselves? Is that what you're saying?

22 MR. ROBINSON: I would say yes, it's conclusory and
23 unsupported by the references themselves. And it's not just sort of a passing
24 reference. It gets right to the core of the proclaimed limitation about the
25 relationships of these elements. So it -- trying to fill a pretty big gap with a

1 sort of a passive statement of, hey, you can put things on top or you can put
2 them on the side, those are the only two options.

3 Well, the reality is if we're looking at, you know, Ording's click
4 wheel, you can have a physical click wheel. You can have a virtual click
5 wheel. You can have it completely outside that space. There are tons of
6 numerous user interface options. And so to just start with that premise, if we
7 just get there, it's not supported. It's the sort of passing reference of the next.

8 MR. ROBINSON: But what's your -- I'm sorry, go ahead, Judge
9 Quinn.

10 JUDGE QUINN: I was just to close that and returning to my
11 colleague. What is coming up for me is that you're saying just because you
12 could doesn't mean that you would. And I would say that for us obvious to
13 try is a viable rationale. But we do need to still figure out why you would do
14 it, even though there are two finite options --it needs --there still needs to be
15 some why one would try.

16 And the only thing I've heard from you is that it would still not
17 cure the problem of intrusiveness on the screen. Is that the only reason you
18 would not try it on top?

19 MR. ROBINSON: I think that flips the burden a bit on the head. I
20 guess, my first point is the petition just doesn't articulate that reason to put it
21 on top. And if you take on face value, the motivation is articulated for the
22 combination. They would have said leave it where Ramos puts it. The only
23 reasonable conclusion, if you don't want to be intrusive or destructive, for
24 Ramos' Zlider to be placed next to the image instead of on top of it.

25 JUDGE QUINN: Okay.

1 MR. ROBINSON: And there's nothing in the petition to go that
2 far. And then even if you go to one step further and, like, even if you were
3 to try, it would have been obvious. Again, Patent Owner's response includes
4 the sort of the image of, okay, what happens if that Zlider and that purported
5 combination ends up over the mountain or something like that?

6 The Zlider disappears. That's not technical success when what
7 you're trying to get is the benefit of Ramos' Zlider. It directly undermines
8 the features that the petition relies on for the Zlider, which is those markings
9 moving and showing the indication and the precise parameter manipulation.
10 It directly undercuts the ability to precisely manipulate those parameters
11 when you start to obscure and obstruct the underlying image that you're
12 trying to get that benefit from Ramos.

13 So theoretical possibility -- and theoretical, even with technical
14 possibility is not necessarily an expectation of success. When it completely
15 undercuts all of the features and benefits of Ramos they're purportedly
16 motivating the combination from it.

17 JUDGE LEE: Mr. Robinson, this is Judge Lee. I think the petition
18 says somewhere that Petitioner believes in Ramos, the working area is
19 transparent. Assuming that is the case, that the working area is transparent,
20 then there might be some traction to -- well, you can put it to the side, or you
21 can put it over the image. Because it's really the same thing because it's
22 transparent.

23 But if it's not the case that the working area is transparent, that it's
24 opaque, then they probably cannot say, well, you can put it here or you can
25 put it over the image because it's really not the same thing. Because when

1 you put it over the image, a big part of the image will be blocked. But if you
2 put it to the side, the image would be fine, not being blocked.

3 So can you persuade us that Ramos actually does not show a
4 working area that's transparent? I'm not talking about the cursor. I'm talking
5 about the rectangular working area that the petition, I think somewhere, says
6 is transparent.

7 MR. ROBINSON: Your Honor, I think that was at least a
8 suggestion of the petition. But if you look at the Ramos Video in every
9 instance and there are several screenshots included in the Patent Owner
10 response. The working area is clearly not transparent or translucent. It's to
11 the side of the image. There's nowhere where the image itself becomes
12 visible, even in part, through that working area.

13 And I would also add that I believe Petitioner has since sort of
14 distanced itself from that suggestion, including most recently during Ms.
15 Huang's opening presentation, that Petitioner is not relying on working area
16 being transparent or translucent and doesn't believe that it is, you know. It
17 shifted entirely to the pressure cursor.

18 JUDGE LEE: Is that explicit in the reply? They say they're not
19 -- no longer relying on the working area being transparent?

20 MR. ROBINSON: I will have to double check that, Your Honor, I
21 don't recall whether that was made explicit in the reply itself. You say that
22 the shift in focus is definitely took pressure cursor into the combination.

23 JUDGE LEE: Thank you.

24 JUDGE SMITH: Mr. Robinson, you're well into your rebuttal
25 time. And I don't want to take up any more of your time. But I would like

1 to ask you, if you wouldn't mind real quickly just answering a couple of
2 points, you know. One, with respect to the argument on page 57 of the
3 petition that there are two known options.

4 In your testimony today, I understood you to say that's conclusory,
5 that there could be many more options. Was that briefed in your Patent
6 Owner response that there are actually more than two known options?
7 That's my first question. And then my second question, you know, with
8 respect to if the Zlider is -- has black lines and you put it over a black
9 portion of the image, you wouldn't see it.

10 It looks like Petitioner in Slide 37 of its demonstratives is showing,
11 well, you know, one of skill in the art would know how to make the Zlider
12 lines white in that case. Could you just -- if you don't mind real quickly,
13 speaking to those two questions?

14 MR. ROBINSON: Sure. So your first question, Your Honor, I'll
15 have to double check the Patent Owner's response to see in what detail we
16 actually addressed sort of the false binary of two options. But I would refer
17 you to the cited paragraph in 92 of Exhibit 1003, which parrots, you know,
18 just two sentences without support. So the first question would be whether
19 the Petitioner even chin the bar of production or persuasion on that point.

20 And then I will return to you on my rebuttal time on sort of the
21 Patent Owner response. The second point about lines being contrasted with
22 the underlying image, none of that is articulated in the petition. When you're
23 looking at an image, for example, the beach with mountains and believe
24 there's some water in it, you've got this sort of range of colors.

25 And so it's not as simple as just making the lines white or just

1 making the lines black. The underlying challenge is that whatever image
2 you put under there you're going to run into some problems and if there is
3 now some theory of dynamic color change of the lines that should have been
4 included in the petition.

5 JUDGE SMITH: And then just real quickly, one last, and then I'll
6 stop talking. If the combination works some of the time but not all of the
7 time, is that enough to establish obviousness?

8 MR. ROBINSON: Your Honor, I think the -- it's not as simple as
9 -- for example, a mechanical device that sometimes work and sometimes not
10 work. It would come down, in this instance, the foundational questions
11 whether you would combine these in a way that the petition asserts and the
12 drawbacks here would not. The other thing I'll add is -- and you'll notice
13 that the petition does not go into this level of detail.

14 But if you are -- if you've got content that is the same color as the
15 lines, then there becomes -- and this is one of the points that we made in the
16 Patent Owner response is when you look at that combination on page 59 of
17 the petition, the petition doesn't actually map that combination to the rest of
18 the claim elements. And where I'm going with that is if you've got lines -- if
19 the markings and the vernier are the same color as the underlying image,
20 then the sort of virtual display layers kind of goes away.

21 And so they -- I'd say, just more broadly, the Petitioner has not met
22 the burden showing that in that combination that all the claim elements
23 would be met, because it just sort of comes out of left field in that one place
24 to try to satisfy the translucency.

25 JUDGE SMITH: Thank you.

1 MR. ROBINSON: If there are no other questions, I'll save my last
2 12 minutes.

3 JUDGE QUINN: That's it. Thank you.

4 MR. ROBINSON: Thank you, Your Honor.

5 MS. HUANG: Thank you, Your Honor. What I'd first like to do,
6 Your Honors, is to clarify a point based on a question that Judge Lee just
7 asked about whether the working area itself is transparent in Ramos. And I
8 wanted to clarify that it's not transparent in Ramos; but instead, it's the
9 combination of Ramos and Ording that makes the working area transparent.
10 That's an important point. I don't want that to get lost on anybody.

11 The second thing that I wanted to do was really tackle something
12 that was just discussed in the last session, which is why we'd make -- why is
13 the Zlider going to be put on top of the content? And this is something that
14 Dr. Cockburn tackled directly in his supplemental declaration at paragraph
15 25, so Exhibit 1032, paragraph 25. Dr. Cockburn said a POSITA would
16 have understood that as much of the display as possible should be employed
17 to display information content, rather than dedicating limited space to user
18 interface controls.

19 And indeed, a 2008 video review of the iPhone user interface by
20 Edward Tufte, a renowned pioneer in the field of data visualization, makes
21 exactly this point when describing the use of transparent user interface
22 controls in the iPhone photo browsing app at 3 minutes and 18 seconds in a
23 video. And there he says, computer administrative debris reduces
24 information resolution and steals content space away from the user.

25 And the iPhone brilliantly suppresses much admin debris here,

1 that's Exhibit 1035. And that's why you put it on top. That's another reason
2 why. We've obviously already in the petition made the obvious to try
3 argument. But our position is really supported, justified by logic. And I'll
4 point out that Mahon doesn't address this in a supplemental declaration.
5 And speaking of Mahon, Petitioner -- or Patent Owner's counsel indicated
6 that he would come back to address Dr. Mahon's rebuttal declaration and
7 how it addresses further --

8 JUDGE SMITH: Sorry to interrupt, Ms. Huang.

9 MS. HUANG: Go ahead.

10 JUDGE SMITH: Before you move on from paragraph 25 of the
11 supplemental declaration, can you tell me why this reason to put the Zlider
12 on top of the image why this reason is timely?

13 MS. HUANG: Oh, this is really just to rebut the idea. Because
14 we've already put out the idea that it would be obvious to try putting the
15 Zlider on top of the image. And now, we are faced with a reply -- or excuse
16 me, Patent Owner's response, they said, no, you wouldn't. And here we say
17 no, we would.

18 And we've already said that it would have been obvious to try.
19 And to the extent that one wants to argue that it wouldn't have been, we have
20 timely evidence rebutting a position from Patent Owner's response. The
21 position in the petition has already been established. So this is simply
22 rebutting Patent Owner's response. And I'll further note that the timing
23 evidence put forward in --

24 JUDGE QUINN: Let me ask you something, because I think I
25 -- something got lost on me here.

1 MS. HUANG: Okay.

2 JUDGE QUINN: Your paragraph 25 is addressing whether you
3 put the Zlider overlayed on the display, but the Zlider at this point is opaque.
4 Patent Owner, from what I understand, their argument is that Ramos already
5 has the Zlider on the side. It is not obstructing anything. It already reduces
6 all of the clutter, degree, debris, whatever it is you want to call it.

7 The user already has the full view of the image and the full use of
8 the Zlider without having to worry about anything else obstructing image.
9 So this doesn't really address the issue of why would you put the display
10 make the Zlider be, you know, ab initio, put it on top of an image when it is
11 only disclosed to be on the side.

12 MS. HUANG: So I'll clarify that. And then this is what I think the
13 Dr. Cockburn's declaration in paragraph 25 and his reliance on Edward Tufte
14 is trying to say is that if you have any sort of debris -- and the truth is, by
15 having the Zlider simply just adjacent to the image content, it is itself in a
16 way debris, because that's real estate. The content couldn't be perhaps
17 expanded to see the image at a higher resolution.

18 And so you're losing some of your screen to the widget. So
19 instead, where we have it obvious to try to put it on top, now you freed up
20 the --

21 JUDGE QUINN: But that's what you have the Zlider for, to
22 increase your resolution. So I'm not really understanding that. That's not
23 really what this paragraph is saying. I think the idea graph is comparing the
24 two options having the Zlider on the side versus having the Zlider opaque on
25 top of the image.

1 MS. HUANG: I think what this paragraph is saying that it is nice
2 to be able to use the full screen to see everything that you want to. So the
3 important thing that we're looking at here is image content than anything
4 that's not image content that's taking up part of the screen and really
5 preventing any of the image content from being seen is itself debris.

6 JUDGE QUINN: But that's not what your initial motivation to
7 combine was. You did not assert that the motivation was to use as much of
8 the screen as possible.

9 MS. HUANG: Yes. And I'll say that I'm not claiming that it is.
10 Instead, this is our rebuttal to the Patent Owner's position that you wouldn't
11 put it on top because you're going to block something. And our idea is, look,
12 in the petition, we say it would have been obvious to try. You could either
13 put it next to it, or you put it over it. And so it's obvious to try.

14 If you do try that, then you have this idea that, well, if you put it on
15 top, you know, we have other options. Ording teaches, well, make it
16 transparent. And then now you have the full benefit of the full screen and a
17 transparent widget that you can still see but still allows you to understand the
18 content --

19 JUDGE QUINN: That's what I'm saying, this benefit of having the
20 full screen that's not in your petition.

21 MS. HUANG: And again, the benefit of the full screen is just to
22 rebut the position that was made by Patent Owner.

23 JUDGE QUINN: Okay.

24 JUDGE SMITH: Well, let me ask you, Ms. Huang, in Ramos by
25 itself when the Zlider is to the side, is it to the slide over part of the image or

1 is it to the slide not over any part of the image? Does Ramos speak to that?

2 MS. HUANG: Well, I think Ramos shows that. Ramos shows that
3 because the Zlider, which includes the pressure cursor, is over at least part of
4 the image. And so we know that at least there's some overlap because the
5 pressure cursor itself is over.

6 JUDGE SMITH: But I mean, the part that's not the pressure
7 cursor, is that part over a portion of the image in Ramos, or do we know?

8 MS. HUANG: Ramos doesn't say. We really don't know. It's
9 possible there's image under, but Ramos is silent as to that. And with
10 respect to Ording, I think earlier it was stated that that Ording is sort of
11 being understood maybe by Patent Owner that it's not positioned atop or
12 displayed atop anything. And we want to just clarify that to read Ording,
13 which teaches making a widget semitransparent, as not having it being on
14 top of some content really defies the point of making something
15 semitransparent.

16 A POSITA would read Ording and understand that if you're
17 making a widget semitransparent, how do you even know if it's
18 semitransparent? Unless it's atop something. This is a 2D thing, right? So
19 you need some visual cue. What's the visual cue? It's the image content that
20 would be behind it. And that's really how a POSITA would have read
21 Ording.

22 JUDGE SMITH: Can you speak to Patent Owner's point about
23 Ording is that if it's just to perform basic functions that don't require a
24 detailed portrayal of the image, who cares if it's over the top of it or not?
25 But if you want to fine tune some adjustment to the image -- and Ording

1 doesn't actually suggest putting a widget in that case over the image.

2 MS. HUANG: Sure. I mean, Ording, like I indicated earlier in my
3 presentation, Ording is really about just making it translucent. And making
4 it translucent doesn't mean that it suddenly obstructs the entirety of the
5 image. It doesn't preclude a user from using a semitransparent widget from
6 still offering precise parameter manipulation. You can still zoom in, zoom
7 out. And even though that it -- excuse me, even though it overlays part of
8 the content. But in our combination with Ording because it's
9 semitransparent, you're not actually including or fully occluding any of the
10 content of the image but instead being able to see and understand -- you
11 know, grasp of a full image without being distracted by a widget that's fully
12 opaque.

13 JUDGE LEE: Ms. Huang, this is Judge Lee. I want to ask you
14 about paragraph 89 of your expert declaration.

15 MS. HUANG: Okay.

16 JUDGE LEE: It says the Ramos Video further shows that the
17 Vernier is displayed over the image, over italicized. And he cites the video
18 at 14 seconds and at 3 minute 10 seconds to 3 minute 11 seconds. I went to
19 those incidents of the video. And not only it doesn't show it, it tends to show
20 the opposite. I just don't see the Vernier being over the image. Can you
21 explain your testimony --

22 MS. HUANG: Yeah. I want to -- of course. So turning to
23 paragraph 89 of Exhibit 1003. What you do see here in the figure, that's
24 atop of -- as page 70 of the PDF. You know, the image says, if you can read
25 this, you're really too close. That's the zoom in that's happened. And what

1 happens is, if you look at the Vernier, there's at least three lines that run
2 across the width of the Zlider. And that's what we're saying. There's
3 extended elements of the Vernier, those grid lines are now shown to extend
4 across the width of the Vernier. And so that's further evidence. That's what
5 Dr Cockburn is testifying, further evidence that the Zlider widget is in fact in
6 a separate virtual display layer --

7 JUDGE LEE: No. I'm sorry that -- you're referring to the last
8 sentence of 89. That doesn't come in until you pass the first sentence. The
9 first sentence refers to the video at 3:10 to 3:11 and to 0 minute 14 seconds.
10 If you go to those instance, they don't support what the expert says. And
11 then you get to the last sentence, which is about the extended lines. I'm not
12 asking about the extended lines. I'm asking about 14 seconds zero minutes
13 and three minute 10 second and three minute 11 seconds.

14 MS. HUANG: Yeah. I don't have the video in front of me, but I
15 think it could have been a typographical error. I think at the very least, his
16 intent -- and that's why the image from --

17 JUDGE LEE: Three --

18 MS. HUANG: Okay.

19 JUDGE LEE: I mean, those two instances are right above
20 paragraph 89. They are on page 67 and 68 of the expert.

21 MS. HUANG: Yeah. I'll say that there may have been an
22 incorrect citation. Because I will agree that the Vernier in those images is
23 not shown to extend across the Zlider. But if you look at 3:28, it does. And
24 so it's just further support that the Zlider is in a separate virtual display layer
25 than the first virtual display layer having the contents below it. There's

1 -- and I have -- does any --

2 JUDGE QUINN: What can you say about the argument from
3 Patent Owner that the markings and the cursor are not on the same layer
4 since you can overlap the cursor on those markings?

5 MS. HUANG: Yeah. And with that, I'd like to turn your attention
6 to Slide 27. So Slide 27 shows Claim 21. And Patent Owner alleges that
7 -- Patent Owner alleged in his presentation that Dr. Cockburn doesn't
8 analyze the layers with respect to and add to your question, Judge Quinn,
9 that he doesn't allege -- excuse me, analyze the layers of the Zlider in the
10 context of the '580 Patent. And that is just wrong.

11 Because Dr. Cockburn is the only expert that takes a look at Claim
12 21. And if you look at Claim 21, there's support -- there's claim limitations.
13 And if you look at the top highlighting, it says the second virtual display
14 layer includes at least one of an operation layer, an emphasis layer, or a
15 clipboard layer. So we have clear support from '580 Patent that says a layer
16 could actually include multiple layers.

17 So to the extent that Patent Owner's position is that the pressure
18 cursor and the markings aren't in the same layer. They can't both be in the
19 second virtual display layer because they are in different layers themselves.
20 This is clearly rebutted by Claim 21.

21 Now, you've heard Patent Owner, I think, use the phrase same
22 apparent depth. It does so several times and it's --

23 JUDGE QUINN: Did you say that this Claim 21, the second
24 virtual layer having all these components that all of these component layers
25 are also displayed?

1 MS. HUANG: I think Claim 21 is saying that you can have second
2 virtual display layer that -- it says includes at least one of. And we know
3 that and we briefed that in the papers. At least one of could mean more than
4 one of these. So it's not precluding the idea that you might have more than
5 one layer in a single display layer. So if we accept the premise that the
6 pressure cursor and the markings are in different layers.

7 Claim 21 doesn't preclude that the pressure -- the second virtual
8 display layer could have multiple layers. And therefore, the pressure cursor
9 and the Vernier's markings could be considered and should be considered in
10 the same second virtual display layer.

11 JUDGE QUINN: So which layer would the markings be then -- if
12 it's one of these components?

13 MS. HUANG: And they don't need to be one of these
14 components. What we're relying on Claim 21 is just for the support that a
15 single -- a second virtual display layer doesn't necessarily have just a single
16 layer. Claim 21 makes it clear that it could have multiples.

17 And that's in contrast to what Patent Owner supports or cites to in
18 Slide 17, which is just an example from the '580 Patent, where it talks about
19 a virtual displayer -- display layer, referring to a collection of display
20 elements that have all been assigned to the same apparent depth. That's not
21 lexicography. Patent Owner has an alleged that is lexicography.

22 And instead, what we have, which is far more powerful, is a
23 dependent claim that informed the scope of the independent claims. And
24 that being that the second virtual display layer is not precluded from having
25 multiple layers within it. And so that doesn't preclude the second virtual

1 display layer from including both the pressure cursor and the plurality of
2 markings and the working area and everything else that's in the Zlider,
3 which is Petitioner's position. Does that answer your question?

4 JUDGE QUINN: Yes, thank you.

5 MS. HUANG: I know I'm out of time. So unless there are further
6 questions, I would rest.

7 JUDGE QUINN: Okay. Thank you.

8 MS. HUANG: Thank you.

9 MR. ROBINSON: I might as well start with where my colleague
10 left off, which is the language of Claim 21. The different layers that are
11 cited there is potentially part of the virtual display layer or not themselves
12 virtual display layers. There is nothing in that that says those layers would
13 have different apparent depths. And so the virtual display layer, and
14 specifically the discussion in the specification, still refers to a virtual display
15 layer, refers to a collection of display elements which have all been assigned
16 the same apparent depth.

17 Petitioner does not dispute that the pressure cursor Ramos has a
18 different apparent depth than the markers in Vernier. And a few questions --

19 JUDGE QUINN: Sorry, I don't understand that. If any of these
20 -- if your second virtual display layer can now comprise multiple layers, so
21 long as any of them are of a lesser depth than the virtual first display layer,
22 they're part of the second display layer.

23 MR. ROBINSON: No, Your Honor, nothing in this language of
24 Claim 21 says that those different functional layers would have different
25 apparent depths from one another. So then that's sort of what I was alluding

1 to initially then sort of the precision of the second virtual display layer. It's
2 not just any layer, it's not a functional layer, it's not a software layer, it's not
3 a conceptual layer within a software.

4 We're talking about a virtual display layer, which is a layer at
5 which all of the elements in that layer are assigned the same apparent depth.
6 And so there may be different functional layers, but all of the elements in a
7 second virtual display layer assign the same apparent depth to the user.

8 JUDGE QUINN: Is this an issue of claim construction now that
9 we need to address whether -- if there are indeed different operational layers
10 within the second virtual display layer, they all need to be at the same depth.

11 MR. ROBINSON: Your Honor, I think it could be addressed as a
12 matter of claim construction. But the part is that even if it is addressed as a
13 matter of claim construction, the party's positions on this have been
14 consistent throughout that the -- meaning the party's interpretation of -- at
15 least Patent Owner's interpretation of virtual display layer has been
16 consistent throughout and pointing to -- it's on slide -- Patent Owner's Slide
17 17, column 68, lines 7 through 11. It specifically says, in the context of the
18 present description, a virtual display layer refers to the collection of display
19 elements which have all been assigned the same apparent depth.

20 Patent Owner -- or sorry, Petitioner has not argued for a different
21 claim construction until we're at --

22 JUDGE QUINN: Where were you reading that from -- sorry,
23 where were you reading it from?

24 MR. ROBINSON: Sorry. It's on Patent Owner Slide 17. It refers
25 to the '580 Patent itself. We do the 1001, column 68, lines 7 to 11. Also, I

1 can tell you where it's cited in the briefing if that'd be helpful.

2 JUDGE QUINN: All right. Thank you.

3 MR. ROBINSON: Sure. And so there's nothing in Claim 21 that
4 would suggest that any of these functional layers would have -- would be
5 displayed simultaneously, or even if they were displayed simultaneously
6 have different apparent depths for their respective elements. So Claim 21
7 should not save that particular position.

8 JUDGE LEE: It's Judge Lee, can you explain that again a little
9 slower, what you just said.

10 MR. ROBINSON: Certainly, Your Honor. So the language in
11 column 68, lines 7 through 11 of the '580 Patent says that a virtual display
12 layer is one or more elements that all have the same apparent depth. The
13 apparent depth is the depth at which they're perceived by the user. And so
14 our position from the start has been the pressure cursor is not in the same
15 virtual display layer as the markings in Ramos' Vernier. And so it cannot
16 satisfy the claim in terms of transparency.

17 Petitioner has come back and said, well, Claim 21 says that a
18 virtual display layer can have other types of layers. And my point, Your
19 Honor, is that those other types of layers do not require that there would be
20 multiple elements in the virtual display layer that are displayed at different
21 apparent gaps. So the different types of layers, functional layers in the
22 second virtual display layer of Claim 21 would include more than one,
23 would not be inconsistent at all with the virtual display layers elements
24 being displayed at the same apparent depth.

25 JUDGE LEE: Oh, I see. So I understand you to be saying, Claim

1 1 says there's just one second virtual layer at one depth, right? And then all
2 the other layers in Claim 21 are functional layers. They're not the visual
3 depth layers.

4 MR. ROBINSON: They are not the visual display layers that is
5 required in Claim 1. And they could -- it didn't -- well, Claim 21 itself
6 describes these as different functional layers, right, an operational layer, an
7 emphasis layer, clipboard layer. Claim 21 does not say that any of those are
8 themselves a virtual display layer. And so there's nothing inconsistent with
9 a virtual display layer having multiple functional layers, for example, and
10 also having all of the elements in that second virtual display layer being
11 displayed at the same apparent depth.

12 I guess the point here is the -- there is no claim differentiation that
13 would broaden the second virtual display layer of Claim 1 to permit a
14 collection of elements of different apparent depths.

15 JUDGE QUINN: So if we take the understanding that the cursor
16 hovers above the Vernier and the markings and make all of that transparent
17 and put in 40, you would still have these two elements of Petitioner's
18 combination at different layers. Is that what I'm understanding you to say?

19 MS. HUANG: Yes, Your Honor. There is nothing in the petition
20 or the reply, frankly, that would suggest putting the pressure cursor at the
21 same apparent depth as the marking. There were a few --

22 JUDGE SMITH: Sorry, really, just as quickly as you can just the
23 normal meaning of the word layer. It seems like what you're proposing is
24 we read the word layer and operational layer, emphasis layer, clipboard
25 layer. To me, area rather than layer -- I mean, the word layers, as I

1 understand it -- and I don't have a dictionary in front of me, I apologize. But
2 a layer would be either above or below another layer. But if all of these are
3 on the same depth visual layer, wouldn't they be just different areas within
4 the same visual layer?

5 MR. ROBINSON: So that is one possible interpretation. If they
6 were different areas within the same virtual display layer and they were all
7 displayed at the same apparent depth then that would be consistent with the
8 use of virtual display layer. And the point I would make, Your Honors, is
9 that this is not a physical laminate in the sense of laminates having to be sort
10 of physically distinct and stacked on top of one another.

11 But in the context of sort of user interface and software
12 implementation or functional layers or layer is used much more ambiguously
13 and -- not ambiguously, but more broadly, sorry. And the '580 Patent
14 specifically speaks to visual display layers to address that apparent depth. It
15 does not use other layers in that same way. And that is apparent from sort of
16 that specific discussion of virtual display layer at column 68.

17 JUDGE LEE: It's Judge Lee again, I have another question. The
18 cursor is mobile. It doesn't stay fixed. So in what respect is that a layer? Or
19 how is it even contiguous to anything?

20 MR. ROBINSON: Well, Your Honor, to your point, the cursor is
21 not inherently contiguous to the Zlider. What we do know is that Ramos
22 depicts that cursor with a shadow which shows it being above the Zlider or
23 the Vernier. That shadow is consistent over sort of all of the areas. And
24 then it also shows some of the Vernier lines appearing through the pressure
25 cursor body itself. It's clearly depicted as being at a lesser apparent depth

1 than the markings.

2 Does that answer your question, Judge Lee?

3 JUDGE LEE: Okay. Thank you.

4 MR. ROBINSON: All right. A couple of questions that we're
5 addressing and I want to get back to, the first is obvious to try and sort of
6 two options; we believe the Patent Owner response directly addresses a
7 number of options -- went straight to sort of the heart of what would or
8 would not have been obvious and what would not have been desirable.

9 I think I would ask the panel to refer to Slide -- well, I guess I'm
10 getting -- this is mixed up at this point. But I'd say at paragraph 92 -- to
11 reiterate the point, paragraph 92 of Exhibit 1003 is entirely conclusory. And
12 the mere mention of an obviousness to try does not satisfy the sort of legal
13 burden to view an established status theory. There's no specific market
14 need, you know, and it just doesn't meet the -- it doesn't meet the
15 requirements, meaning Petitioner did not establish what it needed to
16 establish, to even show that obvious to try was a viable theory in this
17 context.

18 JUDGE QUINN: You're saying it was missing one market need?

19 MR. ROBINSON: So the --

20 JUDGE QUINN: You're quoting KSR here, is that what you're --

21 MR. ROBINSON: No, it's Grunenthal GmbH v. Alkem Labs
22 Limited. It's 919 F.3d 1333, it's a 2019 Federal Circuit decision, so post
23 KSR. And the quote that I thought I had a slide here -- but it's from the case
24 -- is to prove obviousness under obvious to try theory, Petitioner must show,
25 one, a design or market need to solve a particular problem; and two, that

1 there are a finite number of identical -- identified, predictable solutions that
2 lead to an expectation of success.

3 And so the finite number is only half of the shown. There's
4 absolutely no need -- again, the sort of foundational point that we did
5 address significantly, there is no need to put the Zlider over the image at all
6 that was articulated anywhere in the petition.

7 Judge Smith, I believe you asked me about Exhibit 1025 and 1026
8 and whether they show a click wheel over content, specifically in Figures
9 34C and 36C of Exhibit 1026. I think that click wheel is similar to the click
10 wheel discussed -- or at least functionally discussed in Ording in that it's
11 shown over a list. But it's not - it's a list that only -- you only need to
12 identify the sort of identity of each element in the list, as opposed to saying
13 anything with precision.

14 It's traditional sort of scroll where you just scroll up and down the
15 list, which is similar to Ording's just scrolling between icons. So
16 respectfully, I don't think Exhibit 1026 would have suggested or led up as
17 either to believe that it was at all relevant to whether you would use Ramos'
18 Zlider over the top of an image for which you want precision parameter
19 control.

20 JUDGE LEE: Yeah. I'm glad -- thank you for getting back to me
21 on my question. The reason I asked because I looked in those two exhibits
22 and I really didn't see click wheel over image content. That's why I asked.
23 So thank you for getting back. How about 1025?

24 MR. ROBINSON: 1025, I don't see a click wheel at all. Candidly,
25 I don't see that sort of parallel there. It appears to be a sort of set of cards

1 that scroll in a vaguely wheel-like fashion, but I don't see a click wheel.

2 JUDGE LEE: Well, it may not be a click wheel, some kind of user
3 interface that's over image content.

4 JUDGE SMITH: It looks -- if I may, Mr. Robinson, just real
5 quickly turn you to the expert quoted paragraph 101 of Exhibit 1025 and that
6 is discussing Figure 9 of Exhibit 1025. And Figure 9 shows a bunch of
7 widgets, if you will, above an underlying background. If you could speak to
8 that for us.

9 MR. ROBINSON: Was there a specific paragraph of 1025 that
10 was cited, Your Honor?

11 JUDGE SMITH: Well, paragraph 94 and 101. And paragraph 101
12 is describing Figure 9 of the Brandis Exhibit 1025. And Figure 9 does seem
13 to show some user interface tools above an underlying background.

14 MR. ROBINSON: So Figure 9 is even more -- Figure 9 of 1025 is
15 even more granular than -- sorry, not granular, more coarse, I guess would
16 be the word, and less precise. And Figure 9 of 1025 shows four options:
17 there's a button for print, a button for email, a button for save, and a button
18 for copy. So I suppose if you have an image and you want to do one of
19 those four things and you hit that, then all you have to do is push a button.

20 And it doesn't matter if you see what's under it or once you've got a
21 menu. So similar, I guess, point on that is just that again, there's nothing in
22 that that is apparent that would be even applicable to Ramos' precision
23 Zlider than making precision adjustments to an underlying image in terms of
24 why you would put that over an image. I see I'm out of time, Your Honors.
25 If there are other questions, I would like to --

1 JUDGE LEE: Yeah. Yes, I do. One last question before you sit
2 -- claim 21, are you saying the three different “at least” layers in claim 21,
3 they still all have to appear at the same depth?

4 MR. ROBINSON: Yes, Your Honor. I mean, on the basis of the
5 language, there are different types of layers. The specification says a virtual
6 display layer -- there's one or more elements that appear at the same
7 apparent depth. And so even if you have different types of layers within that
8 virtual display layer, we know that the virtual display layer is elements that
9 appear at the same apparent depth. And the specification is consistent and
10 sort of very precise in the use of virtual display to refer to the type of layer
11 that's recited in Claim 1.

12 JUDGE LEE: And the reason is because these layers,
13 operationally or emphasis layer, clipboard layer, they pertain to functionality
14 rather than visual appearance?

15 MR. ROBINSON: I mean, certainly one indication an emphasis
16 layer might have some element of appearance. But ultimately, even if these
17 are different conceptual layers within the software, they are part of the
18 second virtual display layer. We know the second virtual display layer's
19 elements are at the same apparent depth.

20 JUDGE LEE: So just to be clear, there are no disclosed
21 embodiments where these operational layer and physical layer are at
22 different visual layers; is that right?

23 MR. ROBINSON: I think we're saying the same thing, but I want
24 to phrase it very precisely. And that's that I don't believe there are any
25 disclosed embodiments in which elements of a single virtual display layer

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1 are displayed at different apparent depths, that the specification is consistent
2 that within a virtual display layer, the elements are at the same apparent
3 depth.

4 JUDGE LEE: Thank you.

5 MR. ROBINSON: Thank you, Your Honor.

6 JUDGE QUINN: Anything else from anybody before we wrap
7 this up?

8 MS. HUANG: No.

9 JUDGE QUINN: All right. So this concludes the oral argument
10 for IPR2024-01085. We consider the case submitted for our preparation of
11 the final written decision.

12 (Whereupon, the above-entitled matter went off the record at 12:11
13 p.m.)

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