

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,
v.
SMITH INTERFACE TECHNOLOGIES, LLC,
Patent Owner.

Case No. IPR2024-01088
U.S. Patent No. 10,656,758

PETITIONER'S NOTICE OF APPEAL

Pursuant to 28 U.S.C. § 1295(a)(4)(A), 35 U.S.C. §§ 141(c), 142, and 319, and 37 C.F.R. §§ 90.2(a), 90.3, and Federal Circuit Rule 15(a)(1), Apple Inc. (“Petitioner”) provides notice that it appeals to the United States Court of Appeals for the Federal Circuit from the Order Denying Director Review of the Patent Trial and Appeal Board (“Board”) entered April 20, 2026 (Paper 31), the Final Written Decision of the Board entered January 14, 2026 (Paper 28), and from all underlying and related orders, decisions, rulings, institutions, and opinions regarding U.S. Patent No. 10,656,758 (“the ’758 patent”) at issue in *Inter Partes* Review No. IPR2024-01088. This notice of appeal is timely filed because it is filed within 63 days of the April 20, 2026 Order Denying Director Review.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), the expected issues on appeal include, but are not limited to: the Board’s determination that Petitioner did not establish that claims 35 and 57 of the ’758 patent are unpatentable and all other issues decided adversely to Petitioner in any orders, decisions, rulings, or opinions in this proceeding.

Pursuant to 35 U.S.C. § 142 and 37 C.F.R. § 90.2(a), a copy of this Notice is being filed with the Director of the United States Patent and Trademark Office and with the Patent Trial and Appeal Board. In addition, a copy of this Notice and the required docketing fees are being filed with the Clerk’s Office for the United States Court of Appeals for the Federal Circuit via CM/ECF.

Dated: June 18, 2026

Respectfully submitted,

/W. Karl Renner/

W. Karl Renner, Reg. No. 41,265
Kenneth W. Darby Jr., Reg. No. 65,068
Joseph W. Bauer, Reg. No. 81,218
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
T: 202-783-5070
F: 877-769-7945

Counsel for Petitioner

CERTIFICATE OF SERVICE AND FILING

I hereby certify that on June 18, 2026, in addition to being filed and served electronically through the Patent Trial and Appeal Board's P-TACTS System, this NOTICE OF APPEAL is being provided to the Director of the USPTO by electronically filing to the email address as follows:

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
efileSO@uspto.gov

I also hereby certify that on June 18, 2026, this NOTICE OF APPEAL and the requisite docketing fees were filed with the Clerk's Office of the United States Court of Appeals for the Federal Circuit via CM/ECF.

I also hereby certify that on June 18, 2026, this NOTICE OF APPEAL was served via electronic mail to the following counsel at the addresses designated for service by Patent Owner:

Norton Rose Fulbright US LLP
Daniel S. Leventhal
daniel.leventhal@nortonrosefulbright.com
Eagle H. Robinson
eagle.robinson@nortonrosefulbright.com
Chad Wallis
chad.wallis@nortonrosefulbright.com

Respectfully submitted,

/Crena Pacheco/

Crena Pacheco

Fish & Richardson P.C.

60 South Sixth Street, Suite 3200

Minneapolis, MN 55402

pacheco@fr.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

APPLE INC.,
Petitioner,

v.

SMITH INTERFACE TECHNOLOGIES, LLC,
Patent Owner.

IPR2024-01088
Patent 10,656,758 B1

Before JOHN A. SQUIRES, *Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

The Office received a request for Director Review of the Final Written Decision in the above-captioned case and an authorized response to the request. *See* Papers 29, 30.

Having reviewed the request and response, it is:

ORDERED that the request for Director Review is denied.

IPR2024-01088
Patent 10,656,758 B1

FOR PETITIONER:

W. Karl Renner
Kenneth W. Darby
Joseph Bauer
FISH & RICHARDSON P.C.
axf-ptab@fr.com
kdarby@fr.com
jbauer@fr.com

FOR PATENT OWNER:

Daniel S. Leventhal
Eagle H. Robinson
Chad Wallis
NORTON ROSE FULBRIGHT US LLP
daniel.leventhal@nortonrosefulbright.com
eagle.robinson@nortonrosefulbright.com
chad.wallis@nortonrosefullbright.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

SMITH INTERFACE TECHNOLOGIES, LLC,
Patent Owner.

IPR2024-01088
Patent 10,656,758 B1

Before JAMESON LEE, MIRIAM L. QUINN, and SHARON FENICK,
Administrative Patent Judges.

FENICK, *Administrative Patent Judge.*

JUDGMENT
Final Written Decision
Determining Some Challenged Claims Unpatentable
35 U.S.C. § 318(a)

I. INTRODUCTION

A. *Background and Summary*

Apple Inc. (“Petitioner”) filed a petition for *inter partes* review challenging claims 1, 9, 12, 19–22, 24–32, 35–43, 47, 57–59, 63, 71, 74, 81–84, 86–94, 97–105, 109, 119–121, and 124 of U.S. Patent 10,656,758 B1 (Ex. 1001 (“the ’758 patent”)). Paper 2 (“Pet.” or “Petition”).

We instituted *inter partes* review. Paper 7 (“Dec. on Inst.” or “Institution Decision”). Patent Owner filed a patent owner response (Paper 14, “PO Resp.”), Petitioner filed a reply (Paper 18, “Pet. Reply”), and Patent Owner filed a sur-reply (Paper 21, “PO Sur-reply”). On October 17, 2025, the parties presented oral arguments, and the Board entered a transcript into the record. Paper 27 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6(b)(4). For the reasons set forth in this Final Written Decision, we determine that Petitioner demonstrates by a preponderance of evidence that claims 1, 9, 12, 19–22, 24–32, 36–43, 47, 58, 59, 63, 71, 74, 81–84, 86–94, 97–105, 109, 119–121, and 124 of U.S. Patent 10,656,758 B1 are unpatentable, but does not demonstrate that claims 35 or 57 of U.S. Patent 10,656,758 B1 are unpatentable.

B. *Real Parties in Interest*

Petitioner names only itself as a real party in interest. Pet. 70. Patent Owner names only itself as a real party in interest. Paper 3 (Patent Owner’s Mandatory Notices), 1.

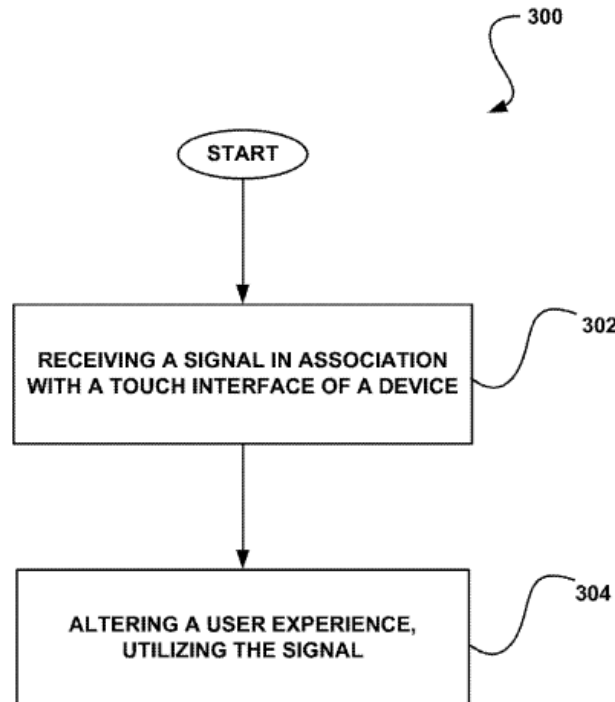
C. *Related Matters*

Petitioner and Patent Owner each informs us of the following related matters: *Smith Interface Technologies, LLC v. Samsung Electronics Co., Ltd.*, 2-22-cv-00290 (EDTX) (terminated) and *Smith Interface Technologies,*

LLC v. Apple Inc., 3-23-cv-01187 (SDCA) (pending) (the “District Court Litigation”). Pet. 70; Paper 3, 1.

D. The '758 Patent

The '758 patent is entitled “Gesture-Equipped Touch Screen System, Method, and Computer Program Product,” and describes electronic devices with touch-sensitive surfaces (e.g., touch-sensitive screens). Ex. 1001, 1:39–40, codes (54), (57). Figure 3 of the '758 patent, reproduced immediately below, “shows a method for altering a user experience based on a received signal.” *Id.* at 4:65–67.



The two step method in Figure 3 includes a step of receiving a signal in association with a touch interface (element 302) and then altering a user experience utilizing that signal (element 304). *Id.* at 16:17–35. Figure 4, reproduced immediately below, describes “a method for defining a selection made within a user interface based in part on contact pressure” and

illustrates that the application of a “sufficient pressure” can be used to select objects on the screen. *Id.* at 5:1–3, 28:20–30.

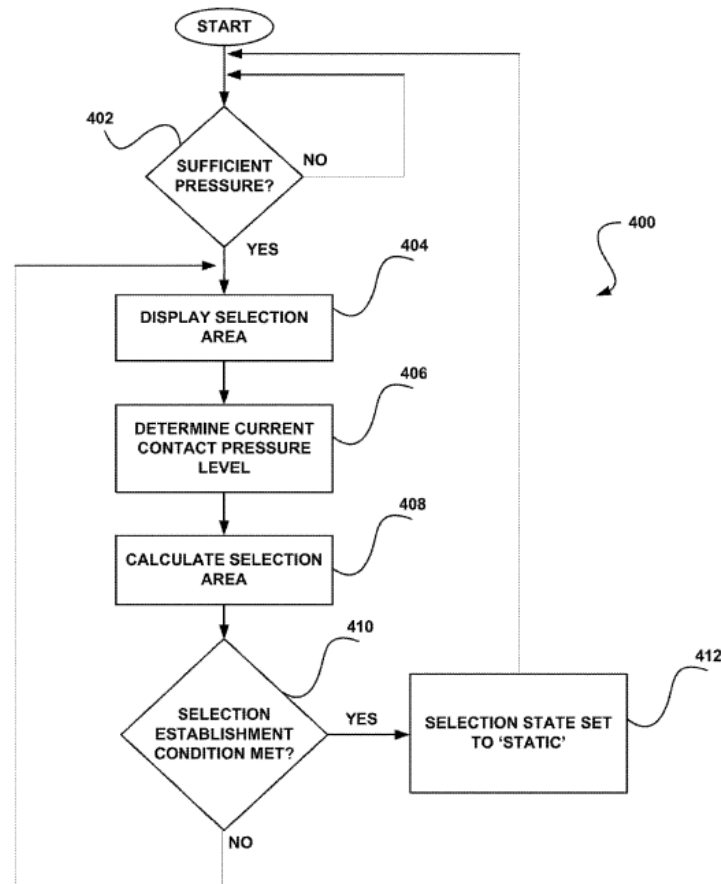


FIGURE 4

The method in Figure 4 describes a method that determines whether sufficient pressure has been used on the screen, and if it has, determines the contact pressure level and the selection area of the contact. *Id.* at 28:42–47, Figure 6. Based on the applied pressure, the context of touch from the user can be determined, for example, within a context determination zone that may be initially defined as a function of one or more elements of user input upon which the selection itself is based, such as the touch or pressure of that input. *Id.*

E. Illustrative Claim

Of the challenged claims, claims 1, 63, and 124 are independent claims. Claim 1 is illustrative of the challenged claims and is reproduced immediately below, with identification of claim limitations in brackets corresponding to those used by the parties.

1. An electronic device, comprising:

[1.a] a display;

[1.b] a touch-sensitive surface;

[1.c] one or more processors;

[1.d] memory;

[1.e] and one or more programs, wherein the one or more programs are stored in the memory and configured to be executed by the one or more processors, the one or more programs including instructions for:

[1.f] displaying, on the display, an application launching user interface that includes a plurality of application icons for launching corresponding applications;

[1.g] while displaying the application launching user interface, detecting a first single-finger touch input that includes detecting the first single-finger touch input at a location on the touch-sensitive surface that corresponds to a first application icon of the plurality of application icons, wherein the first application icon is for launching a first application that is associated with one or more corresponding action options; and

[1.h] in response to detecting the first single-finger touch input, determining a response to the first single-finger touch input based on evaluating the first single-finger touch input against at least one of a plurality of criteria, including evaluating a duration of the first single-finger touch input against at least one of: one or more application-launch criteria, one or more action-option-display criteria, or one or more operation criteria, and further including

evaluating a movement of the first single-finger touch input against one or more movement criteria, for:

- [1.i] in accordance with a determination that the first single-finger touch input meets the one or more application-launch criteria that is met when the duration of the first single-finger touch input is evaluated to be less than a first time threshold, launching the first application,
- [1.j] in accordance with a determination that the first single-finger touch input meets the one or more action-option-display criteria that is met when the duration of the first single-finger touch input is evaluated to be greater than the first time threshold, displaying one or more action option objects associated with the first application without launching the first application,
- [1.k] in accordance with a determination that the first single-finger touch input meets the one or more operation criteria that is met when the duration of the first single-finger touch input is evaluated to be greater than a second time threshold that is greater than the first time threshold, performing an operation in connection with the first application icon, and
- [1.l] in accordance with a determination that the first single-finger touch input meets the one or more movement criteria, moving the first application icon in a foreground virtual display layer so that the first application icon appears to float above a background virtual display layer.

Ex. 1001, 97:29–98:18.

F. Evidence

Petitioner relies on the following published patent references as evidence.

Name	Patent Document	Exhibit
Martyn	US 2004/0051726 A1	Ex. 1005
van Os	US 2011/0167382 A1	Ex. 1007
Griffin et al.	US 2011/0248948 A1	Ex. 1006
Chaudhri	US 2011/0252372 A1	Ex. 1004

Petitioner additionally relies on two declarations of Dr. Andrew Cockburn (Ex. 1003 and Ex. 1067). Patent Owner relies on a declaration of Dr. Vijay Madiseti (Ex. 2005).

G. Prior Art and Asserted Grounds of Unpatentability

Petitioner asserts that claims 1, 9, 12, 19–22, 24–32, 35–43, 47, 57–59, 63, 71, 74, 81–84, 86–94, 97–105, 109, 119–121, and 124 would have been unpatentable on the following grounds:

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1, 9, 12, 19–22, 24–32, 35–43, 47, 57–59, 63, 71, 74, 81–84, 86–94, 97–105, 109, 119–121, 124	103 ¹	Chaudhri, Martyn, Griffin
1, 9, 12, 19–22, 24–32, 35–43, 47, 57–59, 63, 71, 74, 81–84, 86–94, 97–105, 109, 119–121, 124	103	Chaudhri, Martyn, Griffin, van Os

II. ANALYSIS

A. Legal Standards

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed.

¹ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112–29, 125 Stat. 284 (2011), amended 35 U.S.C. §§ 102 and 103, effective March 16, 2013. Petitioner asserts that the claims of the ’758 patent are not entitled to the earliest claimed priority date of August 5, 2011, but notes that all prior art applied precedes that date. Pet. 3, 6. Patent Owner asserts a priority date of December 2011 for “the ’758 patent” (PO Resp. 5; Ex. 2005 ¶ 28), which we understand to mean an assertion of this priority date for all claims of the ’758 patent. The parties do not further address the proper priority date to apply or any effect of the disparity between the August and December 2011 dates, and we understand all arguments to apply to each date. We apply the pre-AIA version of the relevant statutes. Our analysis here would not change if we applied the AIA version of the statutes.

Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring *inter partes* review petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)). This burden of persuasion does not shift to Patent Owner. *See Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015) (citing *Tech. Licensing Corp. v. Videotek, Inc.*, 545 F.3d 1316, 1326–27 (Fed. Cir. 2008)) (discussing the burden of proof in *inter partes* review).

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

“To satisfy its burden of proving obviousness, a petitioner cannot employ mere conclusory statements. The petitioner must instead articulate specific reasoning, based on evidence of record, to support the legal conclusion of obviousness.” *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016).

² Neither party presents any argument regarding objective evidence of nonobviousness.

B. Level of Ordinary Skill in the Art

Petitioner asserts, citing the testimony of Dr. Cockburn that a person of ordinary skill in the art (“POSITA”) would have had “a bachelor’s degree in computer science, computer engineering, or a comparable field and at least two years of professional experience working with graphical user interfaces and applications for computers” and that “[a]dditional years of experience could substitute for an advanced-level degree (and vice-versa).” Pet. 7 (citing Ex. 1003 ¶ 39). Petitioner adds that:

“the POSITA would have possessed extensive background knowledge and understanding of the pertinent technologies employed by the ’758 patent, including touch screen mobile devices, menus in computer graphical user interfaces, and duration-based touch gestures. These technologies were developed and commercially adopted before 2011.”

Id. (internal citations omitted) (citing Ex. 1003 ¶¶ 41–53).

In our Decision on Institution, we noted that Petitioner’s definition left it unclear whether the bachelor’s degree in the proposed definition would be considered by Petitioner to be “an advanced-level degree,” and did not adopt the portion of the definition relating to the substitution of years of experience for a degree. Dec. on Inst. 9. Additionally we did not adopt Petitioner’s proposed additional requirement that one of ordinary skill “would have possessed extensive background knowledge and understanding of the pertinent technologies employed by the ’758 patent.” *Id.* We adopted, for the purposes of the Decision on Institution, the portion of the definition proposed by Petitioner requiring “a bachelor’s degree in computer science, computer engineering, or a comparable field and at least two years of professional experience working with graphical user interfaces and applications for computers” as consistent with the problems and solutions in the ’758 patent and prior art of record and supported by declarant testimony.

Id. Patent Owner adopted this definition (PO Resp. 11), noting Dr. Cockburn’s testimony regarding it (Ex. 2007, 9:7–23), and, for the same reasons discussed in the Decision on Institution, we adopt it here.

C. Claim Construction

1. Resolved Claim Construction Arguments

Although, before institution, neither party argued that any claim would require interpretation, in our Decision on Institution we noted that an issue might exist regarding whether the claims should be interpreted to require a single continuous touch meeting limitations 1.k and 1.l of claim 1 (and similar claim limitations in the other independent claims challenged). *See* Dec. on Inst. 10; Pet. 38–39 (discussing the obviousness of claim 1 over Chaudhri, Martyn, and Griffin if a single continuous touch were required to meet both limitations), 65–67 (adding van Os to the combination to address this issue).

The parties addressed these issues in the briefing, with Patent Owner at first contending that these limitations require a continuous touch meeting both limitations; however, Patent Owner withdrew the request to construe the claim to require one continuous gesture to meet the two limitations, agreeing with Petitioner’s assertion that either one continuous gesture or two separate gestures could meet the limitations. PO Resp. 15–18; Pet. Reply 3–5; PO Sur-reply 3–4; Tr. 28:20–29:2.

Because we agree with the parties that this is the correct construction, there is no remaining controversy regarding this construction that would require us to decide any claim construction issue. *See Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (“[W]e need only construe terms ‘that are in controversy, and only to the

extent necessary to resolve the controversy.” (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

Similarly, certain arguments regarding whether logic resulting in the performance of each of the actions described in limitations 1.i, 1.j, 1.k, and 1.l of claim 1 (and similarly in other dependent claims) must be shown (rather than logic for the actions in just one of these limitations) have been resolved between the parties, no remaining controversy that would require us to decide a claim construction is necessary. PO Resp. 12–17; Pet. Reply 1–2; PO Sur-reply 2–3.

2. “*user interface element*” – Claim 47

Petitioner and Patent Owner present arguments relating to the proper construction of “user interface element,” as recited in claim 47. Patent Owner asserts that “user interface element” should be construed as “an element of a device interface that a user interacts with, which requires more than simply being a display element.” PO Resp. 18–19 (emphasis and internal quotation mark omitted). Petitioner asserts that a “user interface element” should be construed simply as an element of a user interface. Pet. Reply 5–6.

As discussed further *infra* at Section II.D.5.d, we do not need to construe this term to resolve the controversy before us with respect to the patentability of claim 47, and thus, we do not provide a claim construction. *See Nidec Motor Corp.*, 868 F.3d at 1017.

No additional controversies require us to construe any additional claim terms. *Id.*

*D. Obviousness of Challenged Claims
Over the Combination of Chaudhri, Martyn, and Griffin*

Petitioner argues that 1, 9, 12, 19–22, 24–32, 35–43, 47, 57–59, 63, 71, 74, 81–84, 86–94, 97–105, 109, 119–121, and 124 would have been obvious over a combination of Chaudhri, Martyn, and Griffin. Pet. 15–61. Patent Owner presents arguments with respect to whether certain limitations are taught in the combination, and with respect to the propriety of the proposed combination. PO Resp. 24–48; PO Sur-reply 6–19.

We begin with a description of the prior art references and then discuss the parties’ contentions and provide our analysis.

1. Chaudhri

Chaudhri is entitled “Device, Method, and Graphical User Interface for Managing Folders,” and was published on October 13, 2011. Ex. 1004, codes (54), (43).

Chaudhri generally discloses an electronic device with a touch-sensitive surface. *Id.* at code (57). To facilitate “more efficient methods and interfaces for managing folders,” Chaudhri discloses “user interfaces for computing devices with touch-sensitive surfaces.” *Id.* ¶¶ 7–8.

Chaudhri discloses two modes: a “normal operation mode” and a “user interface reconfiguration mode.” *Id.* ¶¶ 217–218. In the “normal operation mode,” tapping on an application will launch the application. *Id.* ¶ 217. In “user interface reconfiguration mode,” a visual indication that the device is in the mode is displayed, and a user is able to rearrange applications and can reach a “pop-up dialogue” by touching a separate “object modification target.” *Id.* ¶¶ 218, 274.

Figures 5A and 5B, reproduced below, illustrate an embodiment of this visual indication, with Figure 5A showing a user interface with a

plurality of selectable user interface objects and Figure 5B showing a user interface page after “the device detects a contact 5008 with the solitaire application icon 5002-4 for more than a predetermined period of time (e.g., 2 seconds) and, in response, the device enters a user interface reconfiguration mode.” *Id.* ¶¶ 59, 216–218.

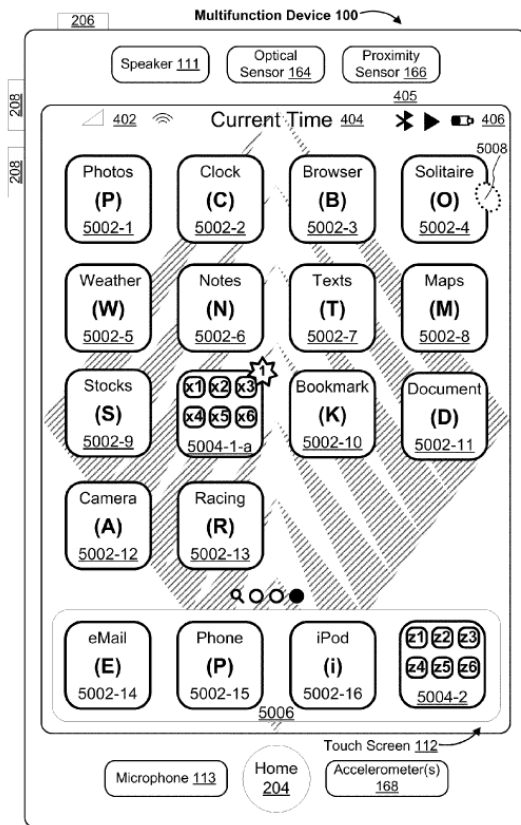


Figure 5A

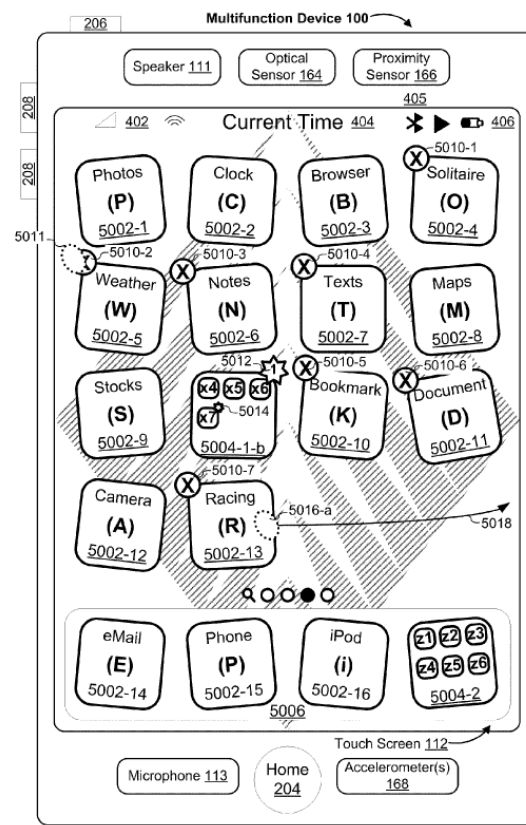


Figure 5B

As depicted in Figure 5B, once the device has entered a user interface reconfiguration mode, “the selectable user interface objects jiggle as though they are floating.” *Id.* ¶ 218. Chaudhri also discloses different gestures on the touch-sensitive surface with different contact patterns, including a drag gesture used to rearrange applications when in “user interface reconfiguration mode.” *Id.* ¶¶ 101–102, 217–220, 273, 248–249, 328–38, Figs. 5B–C, 9A–9B, 5KK–5MM.

2. Martyn

Martyn is entitled “Computing Device with Improved User Interface for Applications,” and was published March 18, 2004. Ex. 1005, codes (54), (43).

Martyn describes that, in computing device with a small screen, different user functions in different applications may be available to a user. *Id.* at ¶¶ 2, 4. To assist a user attempting to locate a desired function, Martyn describes providing a “snap-shot” view of an application that brings together, in one summary window, a limited list of common functions and commonly accessed stored data. *Id.* ¶¶ 9–10, 15, 18. This “summary window,” which Martyn calls an “App Snapshot,” is accessible directly from the Martyn main view, which lists several applications, by selecting the name of the application. *Id.* ¶ 17. Figures 2 and 3 of Martyn, reproduced immediately below, show the summary window snapshot view of functions in the screen of a device. *Id.*



Figure 2



Figure 3

As seen in these figures, a window associated with the Messages application includes links to common functions (e.g. “Create message”) and commonly requested data associated with the application (e.g. “3 unread emails”). *Id.* ¶¶ 16–18, 25, Figs. 1–3.

The selection of an item from the snapshot window may be accomplished by using scrolling functionality to highlight the name of an application for a certain amount of time, by executing “a press and hold . . . when an application name is highlighted,” or by using a cursor key. *Id.* Highlighting is available for the list in the snapshot window, and when an item in that list is selected, the required application may be automatically opened. *Id.* ¶ 18.

3. *Griffin*

Griffin is entitled “Touch-Sensitive Device and Method of Control,” and was published October 13, 2011. Ex. 1006, codes (54), (43).

Griffin discloses applying “touch thresholds” to certain monitored parameters of the user’s contact with the touch screen of a mobile device. *Id.* ¶¶ 3, 32, 40, 53. These parameters may be related to, e.g., the force imparted by a user’s touch, a displacement distance of a part of the display, an area of contact of a touch, or a time duration of a touch. *Id.* ¶ 32. Multiple touch thresholds may be applicable to a detected touch. *Id.* Different touch thresholds may be associated with different functions. *Id.*

Based on a comparison between the value of a touch parameter and a given threshold criterion, the device performs a corresponding functionality, illustrated in a flow chart below shown in Figure 7 of *Griffin* and reproduced immediately below. *Id.* at ¶ 53.

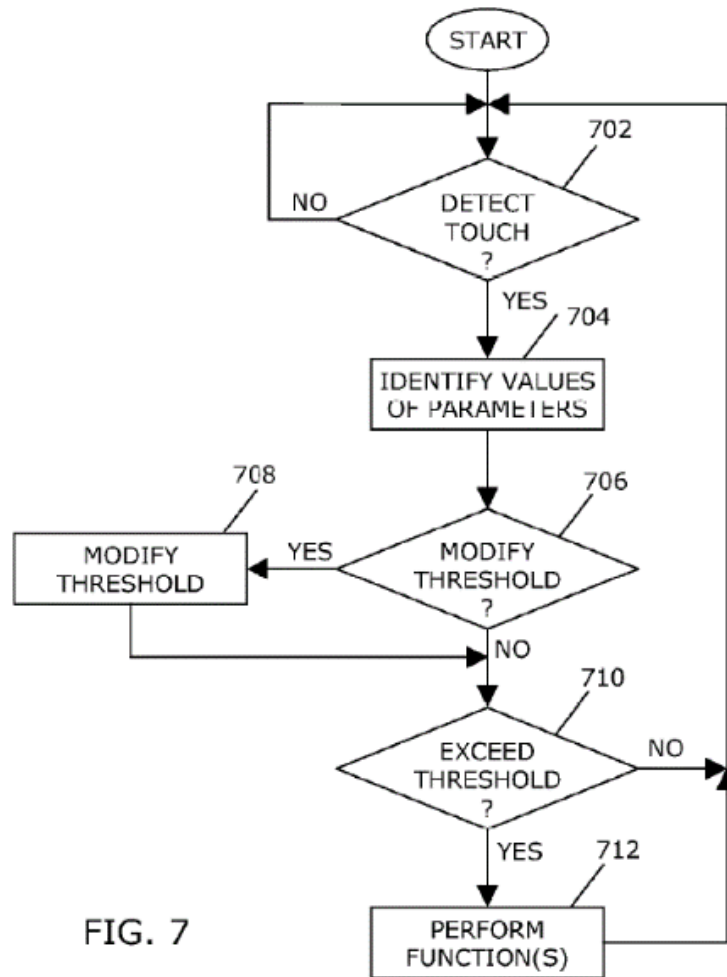


FIG. 7

The flow chart of Figure 7 shows that when a touch is detected (step 702), values of parameters of the touch are identified and compared to a threshold (step 710) to determine if a function is to be performed (step 712). *Id.* at ¶¶ 39–40, 53. The comparison may be to multiple touch thresholds, and a detected touch may meet multiple thresholds. *Id.* ¶ 53.

For example, a light touch on a “ALT” virtual key 604 highlights the “ALT” virtual key 604 when the touch meets a first touch threshold, and when the touch stays in the same location and is more forcefully applied until a second touch threshold is met, an alternate set of characters is displayed on the keyboard 604. Optionally, a third touch threshold may also be applied, and when the touch meets the third threshold in this example, an “ALT” lock may be engaged, wherein a lock indicator is

displayed, and the alternate set of characters is displayed and characters from the set are entered until a subsequent touch or tap on the “ALT” key. Tactile feedback may also be provided when the second touch threshold is met, and alternatively when the third touch threshold is met.

Id.

4. Claim 1

a) Motivation to Combine Chaudhri, Martyn, and Griffin

Petitioner describes a combination of Martyn’s teachings regarding its snapshot menu and Griffin’s teachings regarding evaluating user touch input with Chaudhri’s user interface teachings. Pet. 15–22.

(1) Chaudhri and Martyn

Petitioner argues that one of ordinary skill would have integrated Martyn’s summary window with common application functions into Chaudhri’s touch screen user interface with selectable application icons, yielding a mobile device displaying a summary window in response to a touch-and-hold gesture. *Id.* at 15–16 (citing Ex. 1003 ¶¶ 63–69).

Petitioner asserts that the summary window is a sub-menu of a type that was present in graphical user interfaces (GUIs) at the relevant time and was well-known to solve the problem of “presenting contextually relevant and available actions and functionalities for selection by the user based on the state of the device.” *Id.* at 16 (citing Ex. 1003 ¶¶ 43–48, 64–65).

Petitioner additionally argues that this would have provided a predictable improvement for this purpose, and thus would have been superior “from a usability standpoint” and thus more attractive to consumers. *Id.* at 17–18 (citing Ex. 1005 ¶¶ 4–8, 15; Ex. 1003 ¶¶ 66–68). Petitioner notes that Chaudhri discloses “pop-up dialogue” sub-menus that provide the user with options for modifying a user interface object, and argues that one of ordinary

skill would have been prompted to seek out similar sub-menus to augment the Chaudhri user interface. *Id.* at 18–19 (citing Ex. 1004 ¶¶ 274, 317, Fig. 5LLL; Ex. 1003 ¶ 69). Petitioner asserts that press-and-hold input, as in Martyn’s device, would have been understood by one of ordinary skill as analogous to a touch-and-hold gesture on a touch screen. *Id.* at 16 (citing Ex. 1003 ¶¶ 49–53, 63).

Patent Owner asserts that the motivations provided by Petitioner to combine Martyn with Chaudhri are deficient, in that Petitioner only presents evidence regarding the addition of the menu from Martyn, and not the “press and hold of the select function” from Martyn. PO Resp. 3–4, 32–37. Patent Owner asserts that Petitioner has not shown why Martyn’s disclosed press-and-hold would teach a touch-and-hold gesture, and that one of ordinary skill in the art using Chaudhri’s disclosures would have implemented the teachings of Martyn differently (offering two alternate implementations), especially in light of Chaudhri’s use of a touch-and-hold gesture for a different function. PO Resp. 4–5, 42–48; PO Sur-reply 15–17. Patent Owner also contends that Chaudhri’s disclosure of a context menu in reconfiguration mode would have provided a gesture to call such a menu (tapping on a target region) and so one of ordinary skill would not have consulted Martyn for its press-and-hold gesture, in any event. PO Resp. 4, 31–32 (citing Ex. 1004 ¶¶ 273–274), 37–42, 44–46; PO Sur-reply 18–19.

We determine that Petitioner has sufficiently shown that one of ordinary skill in the art would have combined the snapshot menu and press-and-hold gesture of Martyn with Chaudhri as Petitioner proposes, resulting in a device that provides a contextual shortcut sub-menu of common application functions in response to a touch-and-hold user input. We credit Dr. Cockburn’s testimony in Petitioner’s showing that Martyn’s contextual

sub-menu would predictably improve Chaudhri's user interface for a user, to allow the user to accomplish recurring tasks more quickly. Pet. 15–17 (citing, *inter alia*, Ex. 1003 ¶¶ 61–62, 66–67). Contrary to Patent Owner's contentions, Petitioner provides a showing of a motivation to use, in the resulting combination, both Martyn's menu and its mechanism for calling the menu. Pet. 15–17 (citing Ex. 1003 ¶¶ 49–53, 63); Ex. 1067 ¶ 21. We credit Dr. Cockburn's supported testimony of the motivation for the combination Petitioner proposes, using the teachings of Martyn identifying its App Snapshot called through a press-and-hold as allowing a user access to multiple options pertaining to one application at one time in one menu, for ease and speed of navigation. Pet. 15–18; Ex. 1003 ¶¶ 61, 63 & n.3, 68 (citing Ex. 1005 ¶¶ 4–8, 15); Ex. 1067 ¶¶ 20, 21. Additionally, we credit Dr. Cockburn's testimony regarding the analogousness of the touch-and-hold mechanism to trigger the menu to the press-and-hold trigger for the menu in Martyn, which Patent Owner criticizes as unsubstantiated (PO Sur-reply 18) but we find to be supported by record evidence. Pet. 16 (citing Ex. 1003 ¶¶ 49–53, 63); Reply Br. 17 (citing Ex. 1067 ¶¶ 16–22), 20 (citing Ex. 1067 ¶¶ 30) ; Ex. 1003 ¶¶ 53 (citing, *inter alia*, Ex. 1022 ¶ 183), 63 & n.3.

Although Patent Owner argues that one of ordinary skill would have implemented the teachings of Chaudhri and Martyn in other ways, the presence of these alternate implementations does not compellingly show that one of ordinary skill in the art would be discouraged from or led in a divergent direction from the Chaudhri and Martyn combination of teachings discussed by Petitioner and supported by the evidence Petitioner presents. Dr. Madisetti testifies that a POSITA would have implemented the asserted teachings resulting in the use of a physical or virtual click wheel to determine which specific application the App Snapshot will be used for. PO

Resp. 45–46; Ex. 2005 ¶¶ 130–131. We credit Dr. Cockburn’s testimony on the Chaudhri/Martyn combination over the testimony of Dr. Madisetti’s alternate implementation: the use of touch-based gestures such as those discussed extensively with respect to the Chaudhri device would have been “far more aligned” with Chaudhri’s disclosure as a whole than the use of a click wheel, as described in only one paragraph of Chaudhri. Ex. 1067 ¶¶ 32–33 (citing Ex. 1004 ¶¶ 8 (“the user interacts with the GUI primarily through finger contacts and gestures on the touch-sensitive surface”), 93, 102, 174, 217, 220, 283, 346).

In Patent Owner’s second alternate implementation, Martyn’s menu would be called by a tap on a target area (a circle placed in the corner of an application icon), mirroring Chaudhri’s disclosures of such an area used in reconfiguration mode. PO Resp. 38–42 (citing Ex. 1004 ¶¶ 246–247, Fig. 5KKK; Ex. 2005 ¶ 113; Ex. 2007, 54:17–55:7). Petitioner presents evidence that this would create a crowded user interface. Pet. Reply 20–21 (citing Ex. 1067 ¶ 27). This is a less compelling argument by Petitioner, as these target areas are already used in Chaudhri; the disclosure of these target areas during reconfiguration is the source for the target areas proposed in Patent Owner’s alternate implementation. However, we are persuaded by Petitioner’s evidence that it would be problematic to have two areas in close proximity activated by the same gesture, as per Patent Owner’s alternate implementation, which would not be the case in Chaudhri’s reconfiguration mode. Pet. Reply 20–21; Ex. 1067 ¶¶ 28–29. In any event, a showing of obviousness in “predictable use of prior art elements according to their established functions” (as per *KSR*, 550 U.S. at 417) requires only a showing that the combination be a suitable option, rather than a showing that it is the

best option. *Intel Corp. v. Qualcomm Inc.*, 21 F.4th 784, 799–800 (Fed. Cir. 2021).

Patent Owner additionally argues that one of ordinary skill would not have been motivated to combine Chaudhri and Martyn, citing Petitioner’s statement that the combination of Chaudhri and Martyn creates the “**problem** of distinguishing between different gesture commands.” PO Resp. 42–44 (quoting Pet. 21, emphasis added in PO Resp.). Patent Owner asserts that one of ordinary skill “would not be motivated to select an implementation that **creates a problem** when doing so does not solve any unsolved problem or have any benefit over other solutions that do not” do so. *Id.* at 42–43. Patent Owner asserts that a combination that creates a problem that must be solved is effectively taught away from, as one of ordinary skill would be discouraged from following the path set forth in the combination of references. *Id.* at 43 (citing *Meiresonne v. Google, Inc.*, 849 F.3d 1379, 1382 (Fed. Cir. 2017)). Patent Owner describes the problem that arises as one that makes the combination not a “suitable option,” again arguing that Chaudhri “teaches away” from the combination. *Id.* (discussing *Intel Corp. v. Qualcomm Inc.*, 21 F.4th 784). Petitioner, however, argues that because Chaudhri discusses using touch gestures with different durations for different purposes, the design problem is solvable by known techniques and known solutions and does not constitute a teaching away. Pet. Reply 21.

Petitioner has the better side of this argument. While the Petition asserts that Griffin would be used as a solution to “the problem of distinguishing between the different gesture commands” in a Chaudhri/Martyn combination (Pet. 20–21), the Petition also turns to Griffin to provide additional information regarding the triggering of functionalities in Chaudhri alone (Pet. 20). Thus, a need for Griffin is not created by some

problem inherent only in a combination of Chaudhri and Martyn, but Griffin is used for its additional teachings regarding distinguishing between gestures, including gestures described specifically in Chaudhri.

Additionally, in *Intel*, the court reasoned that “simultaneous advantages and disadvantages” do not automatically obviate a motivation to combine. *Intel Corp.*, 21 F.4th at 795 (quoting *Medichem, S.A. v. Rolabo, S.L.*, 437 F.3d 1157, 1164 (Fed. Cir. 2006)). Here, having weighed the testimony and evidence, the advantages of the combination of Chaudhri and Martyn outweigh the disadvantages, especially as those disadvantages can be addressed via teachings from Chaudhri regarding triggering different functionalities based on the characteristics of a user’s touch screen contact, along with additional information regarding use of different gestures from Griffin. Pet. 8–9, 19–22 (citing, *inter alia*, Ex. 1004 ¶¶ 102, 174; Ex. 1003 ¶¶ 55, 70).

For these reasons, the alternate implementations alleged by Patent Owner do not show that one of ordinary skill in the art would have been discouraged from or led in a divergent direction from Petitioner’s proposed combinations and motivations, and instead that Petitioner has properly shown the motivation for its proposed combination of Chaudhri and Martyn.

(2) *Chaudhri, Martyn, and Griffin*

Petitioner asserts that one of ordinary skill would have sought additional details to supplement Chaudhri’s teaching of using different user touch duration (e.g. tap and touch-and-hold) for different functionalities, and would have sought Griffin’s teachings regarding process flows for evaluating the parameters of a user touch of a touch screen. Pet. 19–21 (citing Ex. 1004 ¶¶ 217, 218; Ex. 1002 ¶¶ 70–73, 75). Additionally, Petitioner contends that the third functionality added in the combination of

Chaudhri and Martyn would have required distinction between three duration-based touch gestures at an application icon, which would have further caused one of ordinary skill to look to Griffin for evaluating a duration parameter of a user's touch. *Id.* at 21–22 (citing Ex. 1006 ¶¶ 32, 40, 53; Ex. 1003 ¶¶ 76–77).

Patent Owner asserts that the further modifications including Griffin's teachings are only included in order to solve a problem created by the modification of Chaudhri with Martyn. PO Resp. 32, 42–43, 48; PO Sur-reply 12–15.

We determine that Patent Owner does not address the rationale provided for the modification by Petitioner, which we find sufficiently shows why one of ordinary skill would have used Griffin in combination with Chaudhri and Martyn. We credit Petitioner's expert describing how Griffin complements the functionalities of the Chaudhri/Martyn combination, and that a POSITA would have turned to Griffin for the additional detail regarding evaluating parameters of a touch input against specified criteria. Pet. 19–21 (citing Ex. 1006 ¶¶ 32, 40, 53; Ex. 1003 ¶¶ 70–74, 76), 28–30 (citing Ex. 1006 ¶¶ 32, 37, 40, 42–43, 50, Fig. 7; Ex. 1003 ¶¶ 90–92). We note, as discussed above, that Petitioner describes the use of Griffin for its disclosure not just to distinguish between two long-duration gestures, but also to provide detail regarding the distinction between the tap and touch-and-hold gestures described in Chaudhri on its own and used in the asserted combination of art. *Id.* at 20–21, 29–30 (citing Ex. 1003 ¶¶ 90–91). Therefore Patent Owner's assertions that Griffin is used by Petitioner solely to address a “self-induced” problem are not compelling.

For these reasons, we determine that Petitioner has made a sufficient showing regarding motivation to combine for its proposed combination of Chaudhri, Martyn, and Griffin.

b) Limitations of Claim 1

(1) Preamble and Limitations 1.a through 1.f

The preamble of claim 1 recites “[a]n electronic device,” and limitations 1.a and 1.b recite that this device comprises a display and a touch-sensitive surface. Ex. 1001, 97:29–31. Petitioner asserts that these limitations are taught by Chaudhri’s description of electronic devices that have a display and a touch-sensitive surface.³ Pet. 22–23 (citing Ex. 1004 ¶¶ 3, 9, 74, 78, 177, Figs. 1A, 1B, 2, 3; Ex. 1003 ¶¶ 79–80).

Claim 1 also recites, in limitations 1.c, 1.d, and 1.e, that the device comprises processor(s), memory, and program(s) including instructions for performing the steps of 1.f through 1.l. Ex. 1001, 97:32–37. Petitioner asserts that these limitations are disclosed in Chaudhri as well, citing Chaudhri’s multifunction device with a display, processors, memory, and programs. Pet. 23–24 (citing Ex. 1004 ¶¶ 15, 17, 80–81, 98, 127, 146, 177; Ex. 1003 ¶ 81).

With respect to limitation 1.f of claim 1, reciting the display of “an application launching user interface that includes a plurality of application icons for launching corresponding applications” (Ex. 1001, 97:38–40), Petitioner asserts that Chaudhri’s user interface pages displayed on its display present a menu of application icons for activating applications. Pet.

³ As we find Petitioner’s showing sufficiently shows that the preamble is taught or suggested, we do not determine whether the preamble is limiting. *See Nidec Motor Corp.*, 868 F.3d at 1017.

24–25 (citing Ex. 1004 ¶¶ 29, 179–180, 216, 217, Figs. 4A–5PPP; Ex. 1003 ¶ 82).

Patent Owner does not dispute any of these contentions. Upon consideration of the record, Petitioner shows by a preponderance of the evidence that these limitations are taught by Chaudhri in the combination of Chaudhri, Martyn, and Griffin as set forth above.

(2) Limitations 1.g through 1.l

Limitation 1.g of claim 1 recites, although the application launching user interface (of limitation 1.f) is displayed, “detecting a first single-finger touch input” at a location on the surface of the device “correspond[ing] to a first application icon . . . for launching a first application that is associated with one or more corresponding action options.” Ex. 1001, 97:41–48. Petitioner asserts that Chaudhri teaches this, at least in its disclosure of an user interface icon that launches a solitaire application upon detection of contact with a specific icon and launches a photos application upon detection of contact with a photos action icon. Pet. 26 (citing Ex. 1004 ¶¶ 216–217, 276, Figs. 5A, 5000; Ex. 1003 ¶¶ 84–85). Petitioner argues that the contact described for this in Chaudhri is a “finger tap gesture” at the icon. *Id.* at 27 (citing Ex. 1004 ¶¶ 101, 102, 216–217, 276, 280, 302, 210–311; Figs. 5A, 5000, 7A, 7C; Ex. 1003 ¶ 86). For the “corresponding action options” with which the first application is associated, Petitioner argues that the functions in the applications disclosed in Chaudhri teaches these, as well as the application-specific functions present in Martyn’s snapshot menu. *Id.* (citing Ex. 1004 ¶ 146; Ex. 1005 ¶¶ 15–19, Figs. 2–3; Ex. 1003 ¶ 87).

Limitation 1.h of claim 1 requires that a response to the detection of the single-finger touch input be determined “based on evaluating [that] touch input against at least one of a plurality of criteria, including evaluating a

duration of [the] touch input” against at least one of an “application-launch criteria,” an “action-option-display criteria,” or an “operation criteria,” and evaluating movement of the touch input against at least one movement criteria. Ex. 1001, 97:49–59. Petitioner asserts that this is taught in Chaudhri’s detection of a tap gesture (the “single-finger touch input”) to launch an application (launching an application in response to the detection of a tap touch), as discussed with respect to limitation 1.g, and that, among other criteria Petitioner asserts are taught in Chaudhri, this use of a tap gesture shows how Chaudhri teaches an application-launch criterion. Pet. 28, 29–30 (citing Ex. 1003 ¶¶ 89, 91). Petitioner additionally asserts that limitation 1.i, which recites that application-launch criteria is determined to be met when the touch is of a duration shorter than a first time threshold, and the application is launched (Ex. 1001, 97:60–64), is taught by Chaudhri for substantially the same reasons. Pet. 30–31 (citing Ex. 1003 ¶¶ 93–94). Returning to limitation 1.h, with respect to the evaluation of the first single-finger touch, Petitioner asserts that Griffin’s cyclical process flow describes the determination of parameters of a touch, evaluation of those parameters against criteria, and determination of responsive functions. *Id.* at 28–29 (citing Ex. 1006, ¶¶ 32, 37, 40, 42–43, 50, Fig. 7; Ex. 1003 ¶ 90).

Limitation 1.j requires that, upon a determination that the duration of the user’s touch input is greater than the first time threshold, one or more action option objects will be displayed, associated with the first application, without launching that application. Ex. 1001, 97:65–98:4. Petitioner argues that, in its proposed combination, the display of Martyn’s snapshot menu upon a longer user touch teaches or suggests this limitation. Pet. 31–33 (citing Ex. 1005 ¶¶ 9–11, 17, Figs. 1–3; Ex. 1003 ¶¶ 95–96). Petitioner asserts that the distinction between a tap gesture (to launch an application)

and a “touch-and-hold” gesture (to trigger the snapshot menu) teaches or suggests the first time threshold, which distinguishes between these two gestures. *Id.* at 33 (citing Ex. 1003 ¶¶ 95–96).

For limitation 1.k, which requires that, upon a determination that the user’s touch input is greater in duration than a second time threshold, “an operation in connection with the first application icon” is performed (Ex. 1001, 98:5–11), Petitioner argues that the “operation” of this limitation is taught or suggested by the entry into a user interface reconfiguration mode in Chaudhri. Pet. 33–35 (citing Ex. 1004 ¶¶ 180, 217–218, 313, Fig. 5B; Ex. 1003 ¶¶ 97–99). Petitioner asserts that one of ordinary skill would have understood that Chaudhri’s example of a touch lasting longer than two seconds causing the device to enter this mode, with the duration being outside of “normal” mode (where a tap or touch-and-hold gesture relate to launching or selecting functionality). *Id.* at 22–23, 34–35 (citing Ex. 1003 ¶¶ 77, 97–98).

For limitation 1.l, which requires that when a touch meets movement criteria, an application icon is moved “in a foreground virtual display layer so that the first application icon appears to float above a background virtual display layer,” (Ex. 1001, 98:12–18), Petitioner asserts that when, during Chaudhri’s reconfiguration mode, an icon is moved with a touch that moves across the touch-sensitive surface, Chaudhri teaches that the icon moves in front of a background and in front of non-moving application icons. Pet. 35–38 (citing Ex. 1004 ¶¶ 87, 101–102, 218, 220, 282–283, 328–331, 368, Figs. 5A–5E, 5M–5N, 5JJ–5MM, 9A, 9B, 5KK, 5MM; Ex. 1003 ¶¶ 100–104).

Patent Owner raises several arguments disputing these contentions. First, Patent Owner contends that Petitioner has not consistently mapped

“the first application icon” because Petitioner focuses on Chaudhri’s “solitaire” application icon and “photos” application icon when discussing limitation 1.g, but in its discussion of limitation 1.l, uses Chaudhri’s disclosure concerning the “racing” application icon. PO Resp. 1, 24–27; PO Sur-reply 6–12. Patent Owner asserts that because the “first application icon” in limitation 1.l finds its antecedent basis in limitation 1.g, the use of different icons in the showings for the two claim limitations fails to show a “first application icon” as recited in the claims. PO Resp. 1, 24–27; PO Sur-reply 1, 6–12.

Petitioner responds that Patent Owner’s argument elevates form over substance, and that the Petition’s limitation 1.g analysis is not limited to the solitaire application or photo application icons. Pet. Reply 7–10. Petitioner notes that its citation for limitation 1.g cites Chaudhri’s disclosure that all icons are selectable with a finger tap. *Id.* at 8–9 (citing Pet. 26–27; Ex. 1004 ¶¶ 174, 216–217).

We agree with Petitioner. The Petition describes the plurality of application icons for launching corresponding applications as taught or suggested by Chaudhri’s user interface pages, which present “a menu of applications” that include a plurality of application icons for activating respective applications. Pet. 24 (quoting Ex. 1004 ¶ 180). The Petition, in describing the plurality of application icons (discussing limitation 1.f) cites Chaudhri’s paragraphs 216–217, for the disclosure that “selecting one of the action icons will activate an application,” and, immediately after that, Chaudhri paragraph 280, as “illustrating an example” where selecting a solitaire application icon will launch the solitaire application. Pet. 24. This explanation is explicitly incorporated into the discussion of limitation 1.g, which also includes citations to these paragraphs. Pet. 25–27. The

discussion of the movement of the racing application icon is introduced in the Petition and is explicitly presented as an “example” of a broader disclosure, namely, “Chaudhri’s teaching to move an application icon in conjunction with a detected drag gesture.” Pet. 36. We would be mistaken, on the facts present before us, to read the Petition as narrowly as Patent Owner urges, and we take heed that our reviewing court has cautioned that “the Board abuses its discretion when it parses petitions and replies with ‘too fine of a filter’” and that we might err if we “refus[e] to consider arguments ‘expressly incorporated’ by reference to earlier portions of a petition. *Apple Inc. v. MemoryWeb, LLC*, No. 23-2361, 2025 WL 3494991 at *5 (Fed. Cir. Dec. 5, 2025) (quoting *Ericsson Inc. v. Intellectual Ventures I LLC*, 901 F.3d 1374, 1379–81 (Fed. Cir. 2018) and *CRFD Research, Inc. v. Matal*, 876 F.3d 1330, 1346 (Fed. Cir. 2017)). We determine that the Petition does not limit the mapping of “[a/the] first application icon” to the solitaire application icon or photo application icon with respect to limitation 1.g or to the racing application icon with respect to limitation 1.i, and thus that the Petition does not fail to be consistent in the identification of “the first application icon.”

As discussed *supra*, Patent Owner makes in the Patent Owner’s Response certain arguments relating to its abandoned argument that the same touch must be used to select and move an application icon according to the claim. *See* PO Resp. 2, 12–18, 27–28; PO Sur-reply 2–4 (withdrawing the arguments).

Upon consideration of the record, Petitioner shows that these limitations are taught by Chaudhri in the combination of Chaudhri, Martyn, and Griffin as set forth above in the summary of Petitioner’s contentions.

(3) Conclusion

After consideration of the arguments of the parties and the record, we determine that Petitioner shows by a preponderance of the evidence that claim 1 would have been obvious over the combination of Chaudhri, Martyn, and Griffin.

5. Additional Challenged Claims – Combination of Chaudhri, Martyn, and Griffin

a) Claims 63 and 124

Claim 63 is an independent method claim that includes steps similar to those claimed in limitations 1.f through 1.l of claim 1. Ex. 1001, 108:41–109:22. Claim 124 is an independent claim directed to a non-transitory computer readable storage medium storing programs that cause an electronic device to perform steps similar to those claimed in limitations 1.f through 1.l. of claim 1. Ex. 1001, 114:60–115:44. Petitioner argues these claims with reference to its arguments relating to claim 1. Pet. 61. Patent Owner makes no additional arguments specific to these claims.

For the same reasons discussed above, After consideration of the arguments of the parties and the record, we determine that Petitioner shows by a preponderance of the evidence that claims 63 and 124 would have been obvious over the combination of Chaudhri, Martyn, and Griffin.

b) Claims 21 and 22

Claim 21 depends from claim 1, and further recites that the first application is “a content creation application,” that “the one or more action option objects include a respective action option object that is associated with displaying at least a portion of previously created content,” and that program(s) additionally include instructions for, “detecting selection of the respective action option object” and in response to such detection,

“displaying the at least [a] portion of previously created content.” Ex. 1001, 101:4–15. Claim 22 depends from claim 21 and additionally recites that the content creation application includes an email application, and the displayed “at least [a] portion of previously created content includes a previous email message, for generating a reply thereto.” *Id.* at 101:16–20.

Petitioner asserts that Chaudhri and Martyn each disclose email or message client application and corresponding icon, and that Martyn discloses that its snapshot menu includes selections that allow a user to request the display of unread emails or the content of an ongoing chat. Pet. 41–44 (citing Ex. 1004 ¶¶ 75, 128, 131–132, 187, 191, Fig.4A; Ex. 1005 ¶¶ 17–18, Fig. 3; Ex. 1003 ¶¶ 114–117). Petitioner contends that the selection of the “unread emails” element of the snapshot menu for the email application would display unread emails, which would be a display of at least a portion of content previously created by other users. *Id.*

Patent Owner makes an argument in response (PO Resp. 49–50) but withdraws this separate argument in the sur-reply (PO Sur-reply 20), relying on arguments with respect to claim 1, from which these claims depend, which have been previously addressed.

Petitioner’s showing that its proposed combination would allow a user to select “unread emails” from a snapshot menu to view unread emails from others sufficiently shows that the recitations of claims 21 and 22 are taught or suggested in Chaudhri and Martyn. Ex. 1004 ¶¶ 75, 131–132, 187, 191, Fig.4A; Ex. 1005 ¶¶ 17–18, Fig. 3; Ex. 1003 ¶¶ 114–117. We determine that Petitioner has shown by a preponderance of the evidence that claims 21 and 22 would have been obvious over the combination of Chaudhri, Martyn, and Griffin.

c) Claim 35

Claim 35 depends from claim 1, and further recites that the electronic device of claim 1 “is configured such that, in accordance with the determination that the first single-finger touch input meets the one or more movement criteria, multiple of the plurality of application icons is moved in the foreground virtual display layer so that the multiple of the plurality of application icons appear to float above the background virtual display layer.” Ex. 1001, 102: 9–16.

Petitioner asserts that this is taught by the movement of icons during reconfiguration mode, including while the movement of a first application icon occurs during the movement of a single-finger touch input that meets the movement criteria. Pet. 51–52 (citing Ex. 1004 ¶¶ 218, 220, Fig. 5B, 5C; Ex. 1003 ¶ 130). Patent Owner asserts that the reconfiguration mode is entered into with a different touch input, which causes the jiggling of the application icons, and that the touch input that meets the movement criteria to move an icon therefore does not occur “in accordance with the determination” that that second touch input meets the movement criteria, as the application icons are “*already* jiggling.” PO Resp. 50–51 (citing Ex. 2005 ¶¶ 154–155).

Petitioner responds that the phrase “in accordance with” in the claim does not require that the icons not being moved “cannot be jiggling before the claimed movement criteria are met.” Pet. Reply 24–25 (emphasis omitted). Petitioner additionally cites Chaudhri’s teaching that the additional application icons are rearranged during the movement of a selected application icon across the display. *Id.* at 25 (citing Ex. 1004 ¶ 252, Figs. 500, 5PP).

Patent Owner argues that Petitioner ignores the language of the claim, that requires a multiple of the plurality of application icons to be moved in accordance with a determination regarding the touch input, namely the determination that the touch input meets the one or more movement criteria. PO Sur-reply 20–21. Patent Owner asserts that Petitioner’s additional mapping and citation to Chaudhri in the Reply is belated and should not be considered. *Id.* at 21.

We determine that Patent Owner’s arguments are persuasive with respect to this claim. Claim 35 requires that multiple of the plurality of application icons are moved “in accordance with” a determination of movement criteria being met by an input, and the mapping in the Petition to “jiggling” of icons that begins with a different gesture input, even though it continues during a gesture that meets the movement criteria does not show or explain how the cited jiggling/movement occurs in Chaudhri “in accordance with” such a determination, as opposed to merely continuing to occur after the determination.

With respect to the additional evidence introduced in Petitioner’s Reply, this evidence relates to a different showing from Chaudhri than the evidence relied upon in the Petition and a different theory on how Chaudhri teaches the additional recitation of claim 35, and we therefore do not consider it. 37 C.F.R. § 42.23(b); PTAB Consolidated Trial Practice Guide (Nov. 2019),⁴ 73 (“Petitioner may not submit new evidence or argument in reply that it could have presented earlier, e.g. to make out a *prima facie* case of unpatentability.”), 74 (“‘Respond,’ in the context of 37 C.F.R. § 42.23(b), does not mean proceed in a new direction with a new approach as compared

⁴ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

to the positions taken in a prior filing.”). Therefore we do not consider this argument.

We therefore determine that Petitioner does not show by a preponderance of the evidence that the portions of Chaudhri cited in the Petition teach or suggest the recitation of claim 35, and thus has not shown claim 35 to be unpatentable.

d) Claim 47

Claim 47 depends from claim 1, and further recites that “the electronic device is configured such that, during detection of the first single-finger touch input and prior to displaying the one or more action option objects, a user interface element is displayed to appear at least partially behind the first application icon.” Ex. 1001, 103:16–21.

Petitioner asserts that Chaudhri’s background wallpaper, displayed behind application icons, is a user interface element. Pet. 8 (citing Ex. 1004 ¶¶ 180, 215, 366, 368, Fig. 4A; Ex. 1003 ¶¶ 55–58), 59 (citing Ex. 1003 ¶ 139).

Petitioner and Patent Owner present arguments relating to the proper construction of “user interface element,” with Patent Owner asserting that “user interface element” should be construed as “an element of a device interface that a user interacts with, which requires more than simply being a display element.” PO Resp. 18–19 (emphasis and internal quotation mark omitted). Petitioner asserts that a “user interface element” should be construed simply as an element of a user interface. Pet. Reply 5–6.

While Petitioner disagrees with Patent Owner’s construction, it presents a responsive argument based on Patent Owner’s proposed construction, noting that Chaudhri’s wallpaper is more than simply a display element, but responds to a user interaction by dividing into two portions.

Pet. Reply 25–26 (citing, *inter alia*, Ex. 1004 ¶¶ 45–50, 237–239, 244, 257, 268, 309, 368–372, 377, Figs. 5X, 5Y, 5DD, 5UU–5WW, 5CCC–5FFF; Ex. 1067 ¶¶ 61–63). Patent Owner contends that this area is not wallpaper but “a location on the display . . . that is outside of the folder view” and is only active when the device is displaying a “folder view.” PO Sur-reply 21 (citing Ex. 1004 ¶¶ 255, 257, 309, 377). PO adds that the Petition only refers to wallpaper “in normal mode outside of folder view.” *Id.* at 22.

On review of the record, we determine that Petitioner has shown that the wallpaper is a user interface element using either Petitioner’s construction or Patent Owner’s construction. For Petitioner’s construction, Petitioner’s showing that the wallpaper is an element of a user interface that is displayed behind the Chaudhri application icons shows how Chaudhri teaches this element. Ex. 1004 ¶¶ 180, 366, Fig. 4A; Ex. 1003 ¶¶ 55–58. If we assume Patent Owner’s construction, Petitioner has shown that the wallpaper responds to user interaction in certain instances. Ex. 1004, Fig. 5UU; 1067 ¶¶ 61–63. Patent Owner’s contention that this area is not wallpaper does not appear to be correct and is not supported by Patent Owner’s citation to Chaudhri. Ex. 1004 ¶ 257. Because the wallpaper responds to user interaction in certain instances, even if not in all instances, we agree that Petitioner has shown it is “an element of a device interface that a user interacts with, which requires more than simply being a display element,” as per the Patent Owner’s proposed construction. *See Hewlett-Packard Co. v. Mustek Systems, Inc.*, 340 F.3d 1314, 1326 (Fed. Cir. 2003) (“a prior art product that sometimes, but not always, embodies a claimed method nonetheless teaches that aspect of the invention”).

Thus, Petitioner shows for either construction how Chaudhri teaches the additional recitations of claim 47. We determine that Petitioner has

shown by a preponderance of the evidence that claim 47 would have been obvious over the combination of Chaudhri, Martyn, and Griffin.

e) Claim 57

Claim 57 depends from claim 1, and further recites that “the electronic device is configured such that at least one of the one or more action option objects includes content that is dynamically generated.” Ex. 1001, 104:29–32.

Petitioner asserts that the dynamic generation of content is taught by Martyn’s disclosure that the device “may be able to learn what functionality [of the application] . . . [is] most likely to be of interest to a given user and . . . should therefore be included in a summary view” to that user discloses the dynamic generation of a snapshot menu “as determined by . . . usage patterns of the user,” as included in the asserted combination of prior art. Pet. 59–60 (quoting Ex. 1005 ¶ 26).

Patent Owner asserts, “what Petitioner identifies is a dynamic **selection** of existing available functions, not any content that is dynamically **generated**.” PO Resp. 52–53 (citing Ex. 2005 ¶ 160). The testimony from its declarant that Patent Owner relies on states that “[d]ynamic generation implies the creation of new content, whereas Martyn[] merely selects from already existing content. . . . Because this learning is based on existing information already present in the device it does not create new functionalities or new data and cannot be dynamic generation.” Ex. 2005 ¶ 160.

Petitioner responds with testimony from its declarant that Martyn does create items shown in its snapshot menu based on usage patterns. Pet. Reply 26 (citing Ex. 1067 ¶¶ 64–65). “This generated text content is created or

new in the sense that it is brought into existence by the device when called for by the user's usage patterns.” Ex. 1067 ¶ 64 (emphasis omitted).

Patent Owner responds that the Petition relied on the dynamic selection of content rather than generation of content, which Patent Owner argues is a new theory presented improperly in the Reply. PO Sur-reply 22.

We agree with Patent Owner. Martyn's selection of specific items to include in its snapshot menu may be dynamic, but the claim requires “*content* that is dynamically generated.” Ex. 1001, 104:29–32 (emphasis added). Petitioner's showing was limited to the argument that different functionality may be included in the snapshot menu based on the user's prior patterns. Pet. 59–60. This may show dynamic generation of a menu (a “display[] of one or more action option objects associated with the first application” as per limitation 1.j of claim 1) but does not teach or suggest “that at least one of the one or more action option objects includes content that is dynamically generated,” as recited in claim 57. Petitioner's argument in its Reply that constituent items of the menu may be dynamically generated (e.g. “3 unread emails”) is substantially different from the argument in the Petition, which merely argued that the items selected to be presented in the menu presented would vary based on a determination regarding what functionality is more likely to be of interest to a user. Pet. 59–60; Pet. Reply 26; Ex. 1067 ¶¶ 64–65. We therefore agree with Patent Owner's assertion (PO Sur-reply 22) that this is a new theory improperly raised in the Reply, and we decline to consider it.

Thus, Petitioner has not shown by a preponderance of the evidence that claim 57 would have been obvious over Chaudhri, Martyn, and Griffin.

f) Claims 9, 12, 19, 20, 24–32, 36–43, 58, 59, 71, 74, 81–84, 86–94, 97–105, 109, and 119–121

With respect to the challenged claims that are dependent claims, we have reviewed Petitioner’s assertions. *See* Pet. 40–61. Patent Owner makes no arguments specific to these dependent claims.

On the present record, Petitioner shows by a preponderance of the evidence that claims 9, 12, 19, 20, 24–32, 36–43, 58, 59, 71, 74, 81–84, 86–94, 97–105, 109, and 119–121 would have been obvious over the combination of Chaudhri, Martyn, and Griffin.

*E. Obviousness of Challenged Claims
Over the Combination of Chaudhri, Martyn, Griffin, and van Os*

Petitioner additionally argues that the challenged claims would have been obvious over a combination of Chaudhri, Martyn, Griffin, and van Os. Pet. 62–67. Petitioner contends that the addition of van Os provides for a “continuous touch” teaching a “first single-finger touch input” that meets *both* the operation criteria of limitation 1.k of claim 1 (“when the duration of the first single-finger touch input is evaluated to be greater than a second time threshold that is greater than the first time threshold”) and the movement criteria of limitation 1.l of claim 1 (“a determination that the first single-finger touch input meets the one or more movement criteria”). Pet. 62.

However, as discussed *supra*, the parties have agreed that the claims do not require such a continuous touch. *Supra* § II.C; PO Sur-reply 2–4.

On July 29, 2025, the Chief Administrative Patent Judge issued a Memorandum titled “Final Written Decision Procedures for AIA Trial Proceedings,” available at <https://www.uspto.gov/sites/default/files/>

documents/20250729095727582.pdf, stating that, “absent extraordinary circumstances, all Board panels assigned to an inter partes review . . . proceeding . . . will address all grounds raised in the petition in their final written decisions.”

Here, as previously discussed, the parties have agreed that a “continuous touch,” which is the sole reason for the introduction of van Os, and also the sole distinction from the ground over Chaudhri, Martyn, and Griffin (Pet. 62–67), is not required by the claim language. We determine this to be a circumstance justifying not reaching Petitioner's asserted ground based on Chaudhri, Martyn, Griffin, and van Os. No decision regarding this ground is necessary for compact decision making. Therefore, we do not reach this ground.

III. CONCLUSION⁵

Petitioner establishes by a preponderance of the evidence that claims 1, 9, 12, 19–22, 24–32, 35–43, 47, 57–59, 63, 71, 74, 81–84, 86–94, 97–105, 109, 119–121, and 124 of U.S. Patent 10,656,758 B1 are unpatentable, but

⁵ Should Patent Owner wish to pursue amendment of the challenged claims in a reissue or reexamination proceeding subsequent to the issuance of this decision, we draw Patent Owner's attention to the April 2019 *Notice Regarding Options for Amendments by Patent Owner Through Reissue or Reexamination During a Pending AIA Trial Proceeding*. See 84 Fed. Reg. 16,654 (Apr. 22, 2019). If Patent Owner chooses to file a reissue application or a request for reexamination of the challenged patent, we remind Patent Owner of its continuing obligation to notify the Board of any such related matters in updated mandatory notices. See 37 C.F.R. § 42.8(a)(3), (b)(2).

does not establish not that claims 35 or 57 of U.S. Patent 10,656,758 B1 are unpatentable, as follows:

Claim(s)	35 U.S.C. §	Reference(s)/ Basis	Claim(s) Shown Unpatentable	Claim(s) Not shown Unpatentable
1, 9, 12, 19–22, 24–32, 35–43, 47, 57–59, 63, 71, 74, 81–84, 86–94, 97–105, 109, 119–121, 124	103	Chaudhri, Martyn, Griffin	1, 9, 12, 19–22, 24–32, 36–43, 47, 58, 59, 63, 71, 74, 81–84, 86–94, 97–105, 109, 119–121, 124	35, 57
1, 9, 12, 19–22, 24–32, 35–43, 47, 57–59, 63, 71, 74, 81–84, 86–94, 97–105, 109, 119–121, 124	103	Chaudhri, Martyn, Griffin, van Os ⁶		
Overall Outcome			1, 9, 12, 19–22, 24–32, 36–43, 47, 58, 59, 63, 71, 74, 81–84, 86–94, 97–105, 109, 119–121, 124	35, 57

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that claims 1, 9, 12, 19–22, 24–32, 36–43, 47, 58, 59, 63, 71, 74, 81–84, 86–94, 97–105, 109, 119–121, and 124 of U.S. Patent 10,656,758 B1 have been proven to be unpatentable, but that claims 35 and

⁶ As discussed *supra*, Section II.E, we do not reach issue of unpatentability of the challenged claims over Chaudhri, Martyn, Griffin, and van Os.

IPR2024-01088
Patent 10,656,758 B1

57 of U.S. Patent 10,656,758 B1 have not been proven to be unpatentable;
and

FURTHER ORDERED that because this is a Final Written Decision, parties to the proceeding seeking judicial review of the Decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

IPR2024-01088
Patent 10,656,758 B1

FOR PETITIONER:

W. Karl Renner
Kenneth Darby
Joseph Bauer
FISH & RICHARDSON P.C.
axf-ptab@fr.com
kdarby@fr.com
jbauer@fr.com

FOR PATENT OWNER:

Eagle Robinson
Daniel Leventhal
Chad Wallis
NORTON ROSE FULBRIGHT US LLP
eagle.robinson@nortonrosefulbright.com
daniel.leventhal@nortonrosefulbright.com
chad.wallis@nortonrosefullbright.com