

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner,

v.

SMITH INTERFACE TECHNOLOGIES, LLC
Patent Owner.

Case IPR2024-01090
Patent 10,725,581

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

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LIST OF EXHIBITS

EX1001	U.S. Patent No. 10,725,581
EX1002	U.S. Patent No. 10,725,581 File History
EX1003	Declaration of Dr. Andrew Cockburn
EX1004	US 2008/0259041 (“Blumenberg”)
EX1005	US 2008/0235594 (“Bhumkar”)
EX1006	US 2011/0248948 (“Griffin”)
EX1007-1019	RESERVED
EX1020	Newton MessagePad, Models: original (OMP) and 100 (MP100), https://web.archive.org/web/19990202045806/https://msu.edu/~luckie/gallery/mp100.htm (1999)
EX1021	Of mice and menus: designing the user-friendly interface, IEEE Spectrum (1999)
EX1022	Newton 2.0 User Interface Guidelines (1996)
EX1023	US 7,479,949
EX1024	US 8,954,887
EX1025	US 2009/0244023
EX1026	US 4,885,565
EX1027	Active Click: Tactile Feedback for Touch Panels (2001)
EX1028	Snap-Crackle-Pop: Tactile Feedback for Mobile Touch Screens (2006)

EX1029	Tactile Feedback for Mobile Interactions (2007)
EX1030	Design and Evaluation of Identifiable Key-Click Signals for Mobile Devices (2011)
EX1031	US 2006/0197753
EX1032	Issues and Techniques in Touch-Sensitive Tablet Input (1985)
EX1033	US 5,612,719
EX1034	US 2008/0036743
EX1035	US 8,830,181
EX1036	US 9,760,241
EX1037	Android Developers Guide, Creating Menus, https://web.archive.org/web/20110216140646/http://developer.android.com/guide/topics/ui/menus.html (2011)
EX1038	The State of the Art of Mobile Application Usability Evaluation (2012)
EX1039	Usability Heuristics for Touchscreen-based Mobile Devices (2012)
EX1040	Web Usability: A Review of the Research (1999)
EX1041	US 11/367,749
EX1042	Evolution of Mobile Devices and Operating Systems (2013)
EX1043	US 2008/0094368
EX1044	US 2008/0168405

EX1045	iPhone User Guide: For iPhone OS 3.1 Software (2009)
EX1046-1049	RESERVED
EX1050	Xlib—C Language X Interface, X Window System Standard (2002) (excerpts)
EX1051	US 2013/0007665
EX1052	US 2011/0252380
EX1053	Transcript of the Deposition of Dr. Mahon
EX1054	Ten Usability Heuristics (Copyright 2005) (archived 2010)
EX1055	Merriam Webster’s Collegiate Dictionary, Eleventh Edition (2003) (excerpt)
EX1056	The Chambers Dictionary, Tenth Edition (2006) (excerpt)
EX1057	U.S. Patent No. 16/377,142 File History (excerpt)
EX1058	Supplemental Declaration of Dr. Andrew Cockburn
EX1059-1096	RESERVED
EX1097	United States District Courts — National Judicial Caseload Profile (Dec. 31, 2023) United States Courts (uscourts.gov), https://www.uscourts.gov/sites/default/files/fcms_na_distprofile1231.2023_0.pdf (last visited June 25, 2024)
EX1098	Memorandum, Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation (USPTO June 21, 2022) (“Guidance”)
EX1099	Case Management Order, Smith Interface Technologies, LLC v. Apple Inc., 3-23-cv-01187, S.D. Cal. (June 20, 2024)

LISTING OF CHALLENGED CLAIMS

Claim 1	
[1.pre]	An electronic device, comprising:
[1.a]	a display;
[1.b]	a touch-sensitive interaction surface;
[1.c]	an actuator;
[1.d]	one or more processors;
[1.e]	memory; and
[1.f]	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 to:
[1.g]	display, on the display and via a user interface of a network browser application, a first web page including a hyperlink that identifies a second web page;
[1.h]	detect a first contact starting at a first contact point at a first contact time on the touch-sensitive interaction surface;
[1.i]	detect an end of the first contact at a second contact time;
[1.j]	determine a duration of the first contact as a difference between the first contact time and the second contact time;
[1.k]	determine whether there is a contact movement of the first contact between the first contact point and a second contact point;
[1.l]	determine whether the first contact point of the first contact corresponds with a location of the hyperlink of the first web page;
[1.m.i]	when: the first web page is displayed via the user interface of the network browser application,

[1.m.ii]	when:...the duration of the first contact is determined to be less than a first user-configurable predefined duration, and the end of the first contact is detected:
[1.m.iii]	avoid display, on the first web page, a result of any operation based on the first contact;
[1.n.i]	when: the first web page is displayed via the user interface of the network browser application,
[1.n.ii]	when...the duration of the first contact is determined to be greater than the first user-configurable predefined duration and less than a second user-configurable predefined duration,
[1.n.iii]	when...the first contact point of the first contact is determined to correspond with the location of the hyperlink of the first web page,
[1.n.iv]	when...it is not determined that there is the contact movement of the first contact between the first contact point and the second contact point, and
[1.n.v]	when...the end of the first contact is detected:
[1.n.vi]	replace the display of the first web page with the second web page via the user interface of the network browser application; and
[1.o.i]	when: the first web page is displayed via the user interface of the network browser application,
[1.o.ii]	when...the duration of the first contact is determined to be greater than the second user-configurable predefined duration,
[1.o.iii]	when...the first contact point of the first contact is determined to correspond with the location of the hyperlink of the first web page,
[1.o.iv]	when...it is not determined that there is the contact movement of the first contact between the first contact point and the second contact point, and
[1.o.v]	when...the end of the first contact is not detected:

[1.o.vi]	output, utilizing the actuator, a first feedback that is perceptible by touch and
[1.o.vii]	display a menu including at least one option for, in response to detection of a selection thereof, performing an operation on a web address associated with the hyperlink of the first web page, and
[1.o.viii]	further display at least a portion of the second web page, such that at least the at least portion of the second web page is displayed in at least one first virtual display layer which appears above at least one second virtual display layer that includes at least a portion of the user interface of the network browser application that remains at least partially visible.
Claim 2	
[2.pre]	The electronic device of claim 1, wherein the electronic device is configured such that:
[2.a]	the user interface of the network browser is configured for performing an operation in response to it being determined that there is the contact movement of the first contact between the first contact point and the second contact point; and
[2.b]	the at least portion of the second web page is displayed in a view that is not configured for performing the operation in response to it being determined that there is the contact movement of the first contact between the first contact point and the second contact point.
Claim 3	
[3]	The electronic device of claim 1, wherein the electronic device is configured such that the first feedback that is perceptible by touch is output prior to the display of the menu.
Claim 21	
[21.pre]	The electronic device of claim 1, wherein the electronic device is configured such that:

[21.a]	the user interface of the network browser is configured for displaying: scrolling of the second web page via the user interface of the network browser application in response to detection of longitudinal contact movement, opening of one or more hyperlinks of the second web page in response to detection of a selection thereof, and opening of one or more manually entered web addresses in response to detection of a manual entry thereof; and
[21.b]	the at least portion of the second web page is displayed in a view that is different from the user interface of the network browser application in that the view is configured for not displaying: the scrolling of the second web page via the user interface of the network browser application in response to detection of the longitudinal contact movement, the opening of the one or more hyperlinks of the second web page in response to detection of the selection thereof, and the opening of the one or more manually entered hyperlinks in response to detection of the manual entry thereof.
Claim 29	
[29]	The electronic device of claim 1, wherein the electronic device is configured such that the at least portion of the second web page is displayed in the at least one first virtual display layer where, in response to detection of a selection of the at least portion of the second web page, the second web page is enlarged.
Claim 30	
[30]	The electronic device of claim 1, wherein the electronic device is configured such that the at least portion of the second web page is displayed in the at least one first virtual display layer where, in response to detection of a selection of the at least portion of the second web page, the at least one first virtual display layer is enlarged.

Claim 31	
[31]	The electronic device of claim 1, wherein the electronic device is configured such that the at least portion of the second web page is displayed in the at least one first virtual display layer where, in response to detection of a selection of the at least portion of the second web page, the at least portion of the second web page is displayed via the user interface of the network browser application.
Claim 42	
[42.pre]	A method, comprising:
[42.a]	at an electronic device including a display, a touch-sensitive interaction surface, an actuator, one or more processors, and memory:
[42.b]	displaying, on the display and via a user interface of a network browser application, a first web page including a hyperlink that identifies a second web page;
[42.c]	detecting a first contact starting at a first contact point at a first contact time on the touch-sensitive interaction surface;
[42.d]	detecting an end of the first contact at a second contact time;
[42.e]	determining a duration of the first contact as a difference between the first contact time and the second contact time;
[42.f]	determining whether there is a contact movement of the first contact between the first contact point and a second contact point;
[42.g]	determining whether the first contact point of the first contact corresponds with a location of the hyperlink of the first web page;

[42.h]	based on detected usage where: the first web page is displayed via the user interface of the network browser application, the duration of the first contact is determined to be less than a first user-configurable predefined duration, and the end of the first contact is detected: avoiding display, on the first web page, a result of any operation based on the first contact;
[42.i]	based on detected usage where: the first web page is displayed via the user interface of the network browser application, the duration of the first contact is determined to be greater than the first user-configurable predefined duration and less than a second user-configurable predefined duration, the first contact point of the first contact is determined to correspond with the location of the hyperlink of the first web page, it is not determined that there is the contact movement of the first contact between the first contact point and the second contact point, and the end of the first contact is detected: replacing the display of the first web page with the second web page via the user interface of the network browser application; and
[42.j]	based on detected usage where: the first web page is displayed via the user interface of the network browser application, the duration of the first contact is determined to be greater than the second user-configurable predefined duration, the first contact point of the first contact is determined to correspond with the location of the hyperlink of the first web page, it is not determined that there is the contact movement of the first contact between the first contact point and the second contact point, and the end of the first contact is not detected: outputting, utilizing the actuator, a first feedback that is perceptible by touch and displaying a context menu including at least one option for, in response to detection of a selection thereof, performing an operation on a web address associated with the hyperlink of the first web page, and further displaying at least a portion of the second web page, such that at least the at least portion of the second web page is displayed in at least one first virtual display layer which appears above at least one second virtual display layer that includes at least a portion of the user interface of the network browser application that remains at least partially visible.

Claim 43	
[43.pre]	The method of claim 42, wherein:
[43.a]	the user interface of the network browser is configured for performing an operation in response to it being determined that there is the contact movement of the first contact between the first contact point and the second contact point; and
[43.b]	the at least portion of the second web page is displayed in a view that is not configured for performing the operation in response to it being determined that there is the contact movement of the first contact between the first contact point and the second contact point.
Claim 44	
[44]	The method of claim 42, wherein the first feedback that is perceptible by touch is output prior to the display of the context menu.
Claim 54	
[54.pre]	The method of claim 42, wherein:
[54.a]	the user interface of the network browser is configured for displaying: scrolling of the second web page via the user interface of the network browser application in response to detection of longitudinal contact movement, opening of one or more hyperlinks of the second web page in response to detection of a selection thereof, and opening of one or more manually entered web addresses in response to detection of a manual entry thereof; and
[54.b]	the at least portion of the second web page is displayed in a view that is different from the user interface of the network browser application in that the view is configured for not displaying: the scrolling of the second web page via the user interface of the network browser application in response to detection of the longitudinal contact movement, the opening of the one or more hyperlinks of the second web page in response to detection of the selection thereof, and the opening of the one or more manually entered hyperlinks in response to detection of the manual entry thereof.

Claim 62	
[62]	The method of claim 42, wherein the at least portion of the second web page is displayed in the at least one first virtual display layer where, in response to detection of a selection of the at least portion of the second web page, the second web page is enlarged.
Claim 63	
[63]	The method of claim 42, wherein the at least portion of the second web page is displayed in the at least one first virtual display layer where, in response to detection of a selection of the at least portion of the second web page, the at least one first virtual display layer is enlarged.
Claim 64	
[64]	The method of claim 42, wherein the at least portion of the second web page is displayed in the at least one first virtual display layer where, in response to detection of a selection of the at least portion of the second web page, the at least portion of the second web page is displayed via the user interface of the network browser application.
Claim 65	
[65]	The method of claim 42, wherein the at least portion of the second web page is displayed in the at least one first virtual display layer where, in response to detection of a selection of the at least portion of the second web page, the at least portion of the second web page is displayed via the user interface of the network browser application.

CONVENTIONS OF THIS REPLY BRIEF

- All emphasis is added unless noted otherwise;
- Bold-italic emphasis correlates to claim language;
- Quotations are generally reserved for exhibits; and
- The phrase “as discussed” and equivalent phrases incorporate fully the analysis of the cross-cited portion of the Reply Brief.

The Petition establishes that the '581 patent's putative invention is merely an obvious variant of the prior art. In response, Patent Owner takes the shotgun approach of contesting every conceivable point regardless of relevance or merit. Yet each of Patent Owner's many arguments either misunderstands the pertinent issue, misapplies the law, or misreads the record. The Board should reject them all and find the Challenged Claims unpatentable.

I. The Blumenberg-Bhumkar-Griffin Combination Satisfies All Elements of Independent Claims 1 and 42; Patent Owner's Erroneous Prior Art Interpretations and Claim Constructions Do Not Prove Otherwise

The Petition explains how the '581 patent's Independent Claims 1 and 42 outline three alternative "scenarios" regarding a user's contact with a touch screen device, each having specific touch contact durations and associated functions. *See* Pet., 4–5. Patent Owner employs the same "scenario" nomenclature. *See* POR, 10–11. The parties diverge, however, on how the Blumenberg-Bhumkar-Griffin Combination applies to the three claimed scenarios. The Petition provides a robust mapping analysis for each of them, accounting for every word of every limitation. *See* Pet., 24–53. By contrast, Patent Owner's alleged distinctions rely on erroneous interpretations of the prior art and the '581 patent's broad claim language.

A. The First Claimed Scenario: Avoiding Display of Any Operation When the Contact Is Less Than a First Duration (Elements [1.m] and [42.h])

As the Petition explains, “Blumenberg’s technique disregards inadvertent contact”—i.e., contact less than a selection threshold (*first duration*)—and, thus, *avoids displaying the result of any operation based on the first contact*, as claimed. Pet., 34–36. Patent Owner’s attempts to deny this mapping fail. POR, 32–37.

1. Refusing to Look Through the Lens of a Skilled Artisan, Patent Owner Disregards Blumenberg’s Clear Teachings to Disregard Inadvertent Touches

Patent Owner’s initial critique is that Blumenberg “merely [teaches] avoiding display of the hyperlink preview information” and “does not address whether contacting the hyperlink for less than the predetermined time would [cause] the display to change in some other way.” POR, 33–34 (citing EX1004, [0049]). Even if this were true, such a hypothetical would not help Patent Owner because “a reference need not state a feature’s absence in order to disclose a negative limitation.” *AC Techs. S.A. v. Amazon.com, Inc.*, 912 F.3d 1358, 1367 (Fed. Cir. 2019). Accordingly, Blumenberg need not state the lack of any change in the display to meet the negative *avoiding display* limitation. Patent Owner’s concessions that Blumenberg “avoid[s] display” of the preview and “does not address” any other change in the display are enough. *See Süd-Chemie, Inc. v. Multisorb Techs., Inc.*,

554 F.3d 1001, 1004–05 (Fed. Cir. 2009) (finding disclosure of “uncoated” film where the reference did not describe or suggest that the film was coated).

In any event, a POSITA would have understood Blumenberg to affirmatively teach or suggest the ’581 patent’s ***avoiding display*** limitation. Pet., 34–36. As Petitioner’s Dr. Cockburn explains, the POSITA would have applied Blumenberg’s general teaching about disregarding inadvertent contact with icons to Blumenberg’s subsequent teachings about selecting and activating a similar kind of selectable GUI element—hyperlinks. EX1003, ¶¶118–119 (citing EX1004, [0039], [0049]). Patent Owner’s complaint that these are two “different embodiment[s]” treats the POSITA like a rote automaton, myopically focused on one statement at a time. POR, 34–35.

Patent Owner neglects that a POSITA possesses “ordinary creativity” and can fit multiple teachings together, “like pieces of a puzzle.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 420–21 (2007). Such a person would have heeded Blumenberg’s instruction that its general teachings about the icons of Figure 2 apply “as well [to] the others described below.” EX1004, [0039]. And such a person would have found the ***avoiding display*** limitation obvious because “the purpose of disregarding inadvertent contact logically applies generally to all different types of selectable GUI elements, including hyperlinks.” EX1003, ¶118; EX1058, ¶¶37–38 (“[I]t is even more important to disregard inadvertent contact [with hyperlinks] because the consequence of a mistakenly initiated action is more frustrating to the user.”).

Lastly, Patent Owner and its expert, Dr. Mahon, fare no better by suggesting that “there is no support” for deeming contact “less than 0.2 seconds” to be “inadvertent.” POR, 35 (citing EX2008, ¶86).¹ For one, this issue is irrelevant because the ’581 patent’s claims are not limited to any specific quantity or range of the claimed *first user-configurable predefined duration*. Nor is Blumenberg. In addition to the exemplary value of 0.2 seconds, Blumenberg also envisions “another value between 0.1 and 0.25 seconds.” EX1004, [0049]; EX1058, ¶¶40–41 (“duration thresholds are [adjustable] variables”). Besides, Dr. Mahon’s testimony is hardly credible, as it is corroborated solely by a document archived in 2020 (EX2005) that provides no indication of representing the state of the art at the assumed Critical Date in 2011. *See* EX1053, 118:9–121:13; EX1058, ¶42.

2. Griffin Confirms That It Would Have Been Obvious to Disregard Inadvertent Touches

The Petition provides an alternative basis to address the *avoiding display* limitation based on Griffin’s supplemental teachings to “reduce inadvertent input,” including a process flow where, “[w]hen the one or more values related to the touch

¹ To the extent Patent Owner contends Blumenberg is limited to distinguishing between a tap and a swipe, that argument also fails because a POSITA would not confine their understanding to a single non-limiting example. *See* EX1058, ¶39.

[e.g., the touch duration] do not meet any touch threshold, the process continues” by looping back to the start without performing any functions. EX1006, [0033], [0053], Figure 7; *see also* [0032] (“a time duration of touch”), [0043] (“A touch may be considered inadvertent, for example, based on...duration of touch...”), [0061]; Pet., 35; EX1003, ¶¶90–93, ¶120; EX1058, ¶43.

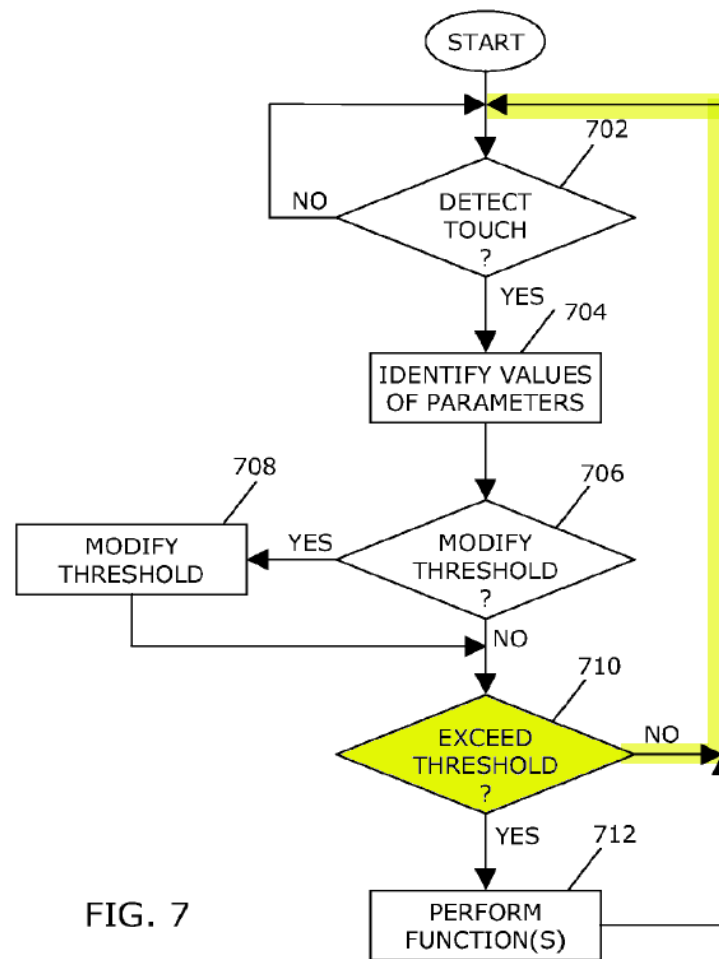


FIG. 7

EX1006, Figure 7 (annotated).

Patent Owner’s attempt to confine Griffin’s teachings to examples where “a large number of ‘inadvertent touches occur’” makes little sense. POR, 36–37

(quoting EX1006, [0043]). That Griffin also teaches optional add-on functionalities to address situations where inadvertent touches frequently occur does not take away from Griffin’s clear disclosure of taking no action—and, thus, *avoiding display*—when there is a short-duration inadvertent touch. *See* EX1058, ¶¶44–46.

Just as Patent Owner misreads Griffin, Patent Owner also misreads the Petition and complains inaccurately that it lacks a motivation-to-combine analysis. POR, 36. But the Petition is clear—Blumenberg at least suggests the basic functionality to disregard short-duration inadvertent touches, and a POSITA would have been motivated by Blumenberg’s suggestions to seek out additional implementation details from analogous references like Griffin. *See* Pet., 23, 34–35.

Lastly, Patent Owner cannot rebut the Petition’s case-in-chief on obviousness by claiming that “Blumenberg already solves [the inadvertent touch] problem by permitting a user to lock the screen.” POR, 37. Even if that were a cure-all (which it is not), the fact that Griffin’s touch duration threshold solves “the same problem,” was a “suitable” approach, and was not beyond a POSITA’s skill is “enough.” *Intel Corp. v. PACT XPP Schweiz AG*, 61 F.4th 1373, 1380–81 (Fed. Cir. 2023); EX1058, ¶44 (explaining that inadvertent touches can occur “while the device is unlocked”).

B. The Second Claimed Scenario: Replacing the Current Webpage With the Hyperlink Identified Webpage When the Contact Is Greater Than the First Duration and Less Than a Second Duration (Elements [1.n] and [42.i])

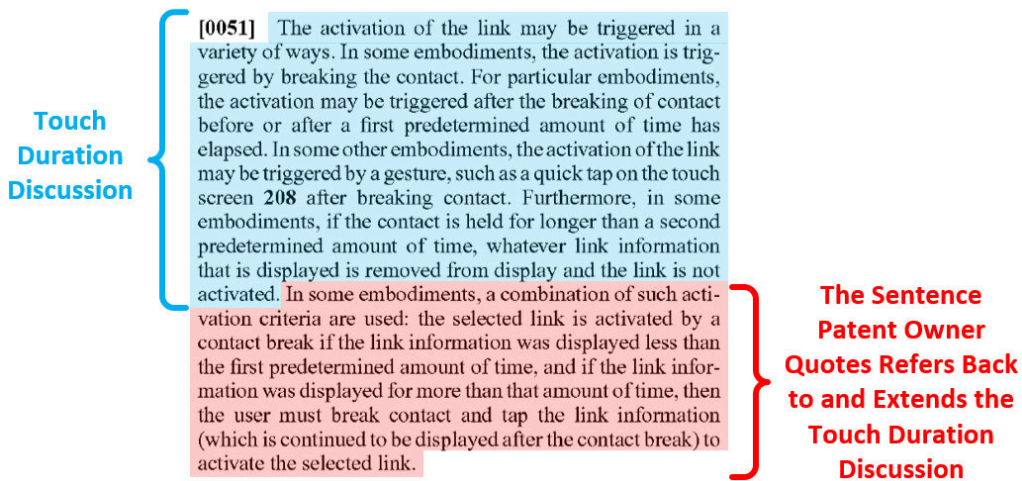
The Petition explains that the combined teachings of Blumenberg and Griffin “provide that a link is activated when the user ends the contact with the link at a *duration* that is *greater than* the selection threshold (*first predefined duration*) and less than the activation threshold (*second predefined duration*).” Pet., 38. Patent Owner tries but fails to credibly contest this mapping. POR, 37–42.

1. Blumenberg Teaches the Claimed Touch Contact Durations, as Patent Owner and Its Original Expert Conceded

Patent Owner principally argues that Blumenberg teaches to activate a hyperlink “based on a display duration” rather than the duration of the contact, as claimed. POR, 40–41 (citing EX1004, [0051]) (emphasis altered). Here, again, Patent Owner promotes a distorted view of Blumenberg that is easily debunked. *See generally* EX1058, ¶¶47–51.

The cited paragraph of Blumenberg is about triggering “activation of the link” by “breaking the contact before or after a [] predetermined amount of time has elapsed.” EX1004, [0051]. Throughout Blumenberg, the “time” that matters is the touch contact duration. The clause Patent Owner misinterprets within this paragraph—“if the link information was displayed less than the [] predetermined

amount of time”—is no different. *Id.* The sentence in which the clause appears (**red**) refers to “a combination of such activation criteria” as were described in the preceding discussion about touch durations (**blue**). *Id.* (“the contact is held”).



EX1004, [0051] (annotated); *see also* [0049]. In short, Blumenberg never describes link activation in a manner divorced from touch duration. EX1058, ¶¶49–50.

Tellingly, this understanding that Blumenberg teaches touch contact durations (not display durations) is a view Patent Owner itself espoused in the Preliminary Response. There, Patent Owner stated unequivocally that, in Blumenberg, “activating the target link [is] based on the contact” and “the operation is based on the amount of time the contact is maintained before the contact break.” POPR, 15–16. More than mere attorney argument, Patent Owner’s former view of Blumenberg was informed by the testimony of its initial expert, Dr. Davis, whose testimony Patent Owner recently abandoned. *See* EX2001, ¶41, ¶46 (explaining that “contact is held” to achieve “activation of the selected link”). These clear party admissions

are “evidence appropriately considered by [the Board]” that bolsters the Petition. *Cook Grp., Inc. v. Bos. Sci. Scimed, Inc.*, 809 F. App’x 990, 1000 (Fed. Cir. 2020).

2. Attacking the References in Isolation, Patent Owner Fails to Address the Combined Teachings of Blumenberg and Griffin

If there is any doubt as to whether Blumenberg teaches touch contact duration thresholds or merely display thresholds, the Petition makes clear that the Blumenberg-Bhumkar-Griffin Combination employs the former. Patent Owner’s suggestion that “Petitioner does not articulate any specific modification of Blumenberg or combination with Bhumkar or Griffin” is demonstrably wrong. POR, 41–42. Time and again, the Petition makes clear that the Combination includes “the predictable and expected result of applying in the context of Blumenberg’s web browser...Griffin’s teachings on multiple user-configurable touch duration thresholds.” See Pet., 12–13; *see also* 22–23, 36–38; EX1058, ¶51.

The fact that Patent Owner somehow overlooked the Petition’s evidence-backed assertions about the Combination is no basis to uphold the ’581 patent. “[A]ttacking [combined] references individually” has never been a valid rebuttal, *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986), and arguments not made in the Response should “be deemed waived,” (Paper 9 at 9).

3. Patent Owner's Narrow Claim Construction Is Unnecessary and Wrong

Adjudicating Patent Owner's erroneous claim construction of "the first contact" is not necessary to resolve this proceeding. POR, 20–21. Patent Owner only advances this construction to the extent "Blumenberg's 'quick tap' hyperlink activation" is relied upon to satisfy the '581 patent's second claimed scenario (Elements [1.n], [42.i]). POR, 41 (quoting EX1004, [0051]). The "quick tap," though, is merely an independent alternative basis for establishing obviousness. It is moot if the Board accepts the Petition's primary mapping. *Supra*, §§I.B.1–2.

Nevertheless, Patent Owner's position that the claims require "evaluating the duration of the first contact [by] evaluating a single, common contact event" is confusing, unsupported, and improper. POR, 21. For one, this concept has no basis in the '581 patent's specification, which focuses on touch parameters involving location and pressure, not duration. *E.g.*, EX1001, 14:31–44, 15:19–29, 15:65–16:9, 16:26–65, 17:16–25, 19:35–42, 21:54–22:21, 24:35–57, 44:1–22, 59:54–60:28. Like the specification, words stating or implying Patent Owner's "common... starting point" idea also do not exist in the '581 patent's claims. Everyone agrees that the claims outline three different scenarios, each involving certain functions performed when certain touch contact conditions occur. *See* Pet., 4–5; POR, 10–11. These scenarios are mutually exclusive. For example, their respective limitations

about the duration of the contact and whether the end of the contact has been detected cannot exist at the same time. *Compare* EX1001, 103:10–17, *with id.*, 103:18–32, *and with id.*, 103:33–55; *see also* EX1053, 52:8–17 (Dr. Mahon agreeing that “if you are detecting the end of the first contact, it can’t be less than and greater than at the same time”). Patent Owner’s strained antecedent basis logic cannot create a new and nonsensical claim limitation where mutually exclusive scenarios somehow “require a single, common contact event.” POR, 20.

C. The Third Claimed Scenario: Outputting Tactile Feedback, Displaying a Menu, and Displaying a Portion of the Hyperlink Identified Webpage When the Contact Is Greater Than the Second Duration (Elements [1.o] and [42.j])

The parties’ dispute hinges on whether the display of link information previewing a target webpage in the Blumenberg-Bhumkar-Griffin Combination (*portion of the second webpage*) occurs *when* the contact surpasses the activation threshold (*second duration*). *See* Pet., 49–53; POR, 43–55. It does.

As the Petition explains, “when the user maintains the contact for a duration greater than the activation threshold, the web browser remains on the current page and continues displaying the link information.” Pet., 49 (citing EX1004, [0049], [0051]). Patent Owner says this mapping does not work because the claim language—the term *when*—requires the webpage preview to occur “in response to” the contact surpassing the activation threshold. But there is no support in the ’581

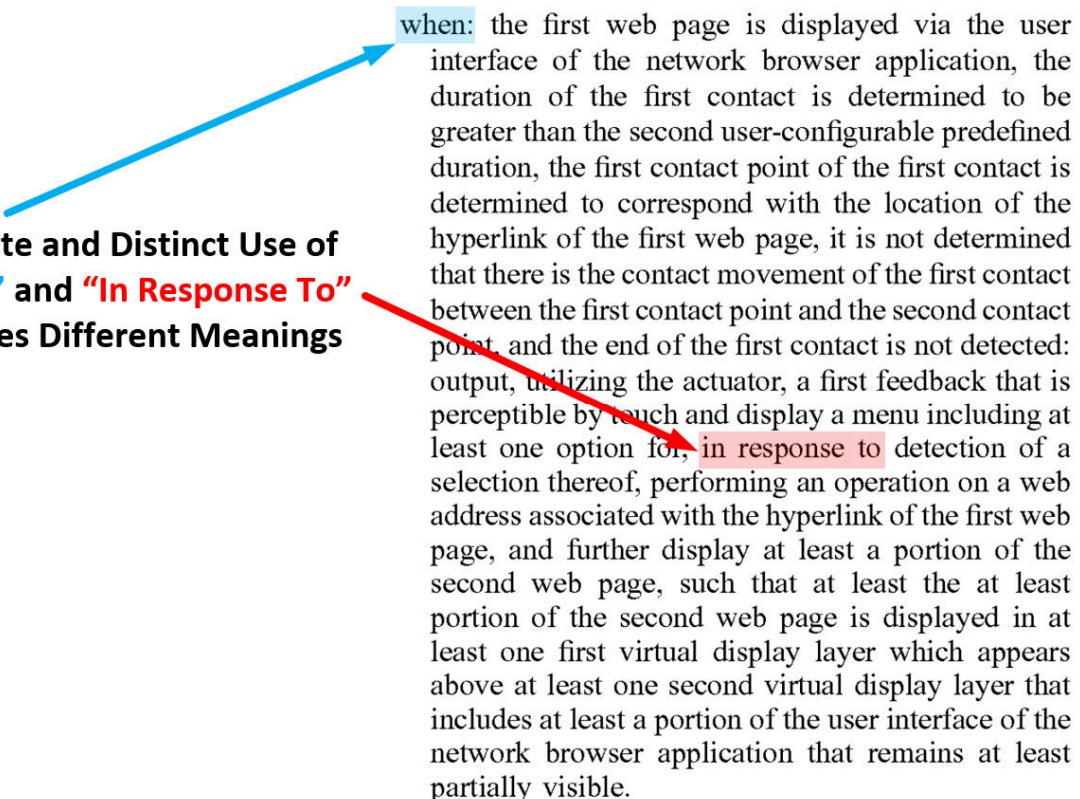
patent for equating “when” and “in response to.” *Infra*, §I.C.1; EX1058, ¶¶52–64.

And even if such a narrow construction were adopted hypothetically, the Petition shows that the ’581 patent would still be obvious. *Infra*, §I.C.2; EX1058, ¶¶65–66.

1. Properly Construed, There Is No Debate That the Blumenberg-Bhumkar-Griffin Combination Satisfies the Third Claimed Scenario

The words “when” and “in response to” are not synonymous in common parlance or in the ’581 patent. *See* EX0155, p.3 (defining “when” as “at or during the time that”); EX1056, p.3; EX1058, ¶57. One need look no further than the ’581 patent’s claim language in the third scenario of Independent Claim 1 to see that the patentee intentionally used these claim terms separately and in different contexts:

**Separate and Distinct Use of
“When” and “In Response To”
Indicates Different Meanings**



when: the first web page is displayed via the user interface of the network browser application, the duration of the first contact is determined to be greater than the second user-configurable predefined duration, the first contact point of the first contact is determined to correspond with the location of the hyperlink of the first web page, it is not determined that there is the contact movement of the first contact between the first contact point and the second contact point, and the end of the first contact is not detected: output, utilizing the actuator, a first feedback that is perceptible by touch and display a menu including at least one option for, in response to detection of a selection thereof, performing an operation on a web address associated with the hyperlink of the first web page, and further display at least a portion of the second web page, such that at least the at least portion of the second web page is displayed in at least one first virtual display layer which appears above at least one second virtual display layer that includes at least a portion of the user interface of the network browser application that remains at least partially visible.

EX1001, 103:33–55 (annotated). The separate use of “when” and “in response to” in such close proximity within the same claim supports the reasonable inference that they carry different meanings. *See CAE Screenplates, Inc. v. Heinrich Fiedler GmbH & Co. Kg*, 224 F.3d 1308, 1317 (Fed. Cir. 2000) (“[W]e must presume that the use of these different terms in the claims connotes different meanings.”); *Ethicon Endo-Surgery, Inc. v. U.S. Surgical Corp.*, 93 F.3d 1572, 1579 (Fed. Cir. 1996) (similar).

The inference that “when” does not mean “in response to” is confirmed by further comparison to the additive narrowing limitations of the dependent claims. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005) (“Differences among claims can also be a useful guide in understanding the meaning of particular claim terms.”). For example, Dependent Claim 41 further limits Independent Claim 1 by reciting the feature that “each instance of said when includes while.” EX1001, 111:37; *see also* 123:22–23. Because “[a]n independent claim impliedly embraces more subject matter than its narrower dependent claim,” *Intamin, Ltd. v. Magnetar Techs., Corp.*, 483 F.3d 1328, 1335 (Fed. Cir. 2007), Independent Claim 1 must at least include within its scope embodiments where “when includes while” and, thus, is not constrained to the narrow phrase “in response to.”

The Board’s Institution Decision provides another example—Dependent Claim 3. Because this dependent claim requires a particular sequencing of events, it stands to reason that the corresponding independent claim is broad enough to allow

“that the functions recited in Limitation [1.o] necessary can happen at different times, as opposed to, for example, only responses that are triggered by [Patent Owner’s] so-called ‘prerequisite elements.’” Paper 8 at 11. *See Phillips*, 415 F.3d at 1315 (“[A] dependent claim that adds a particular limitation gives rise to a presumption that the limitation in question is not present in the independent claim.”).

Importantly, this is not a case where the patentee acted as its own lexicographer or otherwise indicated in the specification that it intended to equate “when” and “in response to.” *See, e.g.,* EX1001, 4:65–13:43 (sections on “Definitions” and “Terminology” that do not define the word “when”). The only disclosure resembling the claim language appears in a “Brief Summary” section that the patentee added by amendment during prosecution. EX1001, 1:41–2:27; EX1002, 482–484. But there is a material distinction that Patent Owner and Dr. Mahon did not consider. *See* EX1053, 93:7–99:14 (“I did not do a direct comparison.”). Where Claim 1’s third scenario broadly recites the function of “further display at least a portion of the second web page,” (EX1001, 103:48–49), the specification more narrowly says “further subsequently display at least a portion of the second webpage,” (*id.*, 103:16–17). The same distinction appears when comparing the ’581 patent’s issued claims to the proposed claims the patentee walked away from during prosecution. *Compare* EX1002, 475–478, *with id.*, 427–430. Like Dependent Claim 3, the specification language and the claim language

abandoned during prosecution includes an additional temporal limitation—“subsequently”—that does not appear in the third scenario of Independent Claim 1. Here again, we see that the patentee deliberately chose to claim more broadly.

The prosecution history of a prior parent application sharing common subject matter—No. 16/377,142—is yet another piece of intrinsic evidence that works against Patent Owner’s attempt to narrow the unmodified conjunction “when.” *See* EX1001, Cover (63), 1:9–25; EX1057, pp.55–210; EX1053, 30:12–31:8. There, in an amendment filed before the ’581 patent issued, the patentee [i] proposed multiple dependent claims using the narrower phrase “only when” to constrain the broader term “when” in the independent claims, (EX1057, pp.9, 11, 24, 43); and [ii] defined narrowing dependent claim language such as “each instance of said in response to includes while” and “each instance of said in response to includes when,” (*id.*, 44). Patent Owner should not be permitted to constrict the scope of the ’581 patent’s broad claims through claim construction after the patentee revealed to the Office during co-pending prosecution that express claim language is required to change the meaning of terms like “when” and “in response to.” *See Wang Labs., Inc. v. Am. Online, Inc.*, 197 F.3d 1377, 1384 (Fed. Cir. 1999) (applying statements from prosecution of a parent application where subject matter was common).

Against this pile of intrinsic evidence, Patent Owner presses the untenable argument that Claim 1’s recitation of program “instructions” somehow implies a

specific kind of “programming logic to determine when all recited preconditions in a limitation are met and, in response to that determination trigger performance of the recited action.” POR, 14. Claim 1, however, doesn’t say “trigger” or “in response to”; it just says “when.” Plus, the ’581 patent makes clear that it is not limited to the kind of “causal-connection” or “decision-tree logic” that Patent Owner concocted to distinguish the prior art, (*id.*, 14, 16)—instead, “any type of logic” will do, (EX1001, 14:21–25). So even in a hypothetical where the specification described preferred embodiments of the third claimed scenario using decision trees and causal connections, as Patent Owner inaccurately suggests, that is no reason to “import [such a] limitation into the claims.” *Retractable Techs. v. Becton, Dickinson & Co.*, 659 F.3d 1369, 1372–73 (Fed. Cir. 2011); *see also* EX2008, 61:17–66:13 (Dr. Mahon equivocating and unable to identify specific disclosures); EX1058, ¶¶58–61 (Dr. Cockburn addressing the specification pin cites in Dr. Mahon’s declaration).

Because the intrinsic evidence rejects Patent Owner’s position and makes clear that “when” just means “when,” it would be “improper to rely on extrinsic evidence.” *Vitronics Corp. v. Conceptiontronic*, 90 F.3d 1576 (Fed. Cir. 1996). Even so, Patent Owner appeals to the testimony of Dr. Mahon, who insists “the claims reflect standard conditional programming structures” and, thus, the claimed system must “perform the recited actions as a direct consequence of determining that the input preconditions have been met.” EX2008, ¶¶50–52; *but see* EX1058, ¶¶56–57

(Dr. Cockburn: “Neither the structure nor the words of the ’581 patent’s claims resemble code or pseudo code.”). Yet when pressed during cross-examination, Dr. Mahon was forced to admit that “it is not prescribed [in the claim] as a particular way that it must be done, other than that the preconditions must be met and the action must be taken.” EX1053, 39:12–40:4; *see also* 58:8–19 (similar). This admission tells the tale. When the claimed touch contact limitations are met, the claimed functions must be performed. Nothing more, nothing less.

Beyond its erroneous view that “when” means “in response to,” Patent Owner does not dispute that the Blumenberg-Bhumkar-Griffin Combination satisfies the third claimed scenario. Accordingly, if the Board rejects that flawed construction, a result the intrinsic evidence compels, the matter is settled.

2. Even Under Patent Owner’s Flawed Construction, the Third Claimed Scenario Is Satisfied

The Blumenberg-Bhumkar-Griffin Combination provides the very kind of causal connection in the third claimed scenario that Patent Owner (erroneously) says is required. As the Petition explains, the Combination envisions a system configured such that “when the user maintains the contact for a *duration greater than the activation* threshold (*second user-configurable predefined duration*), the web browser remains on the current page while also previewing the target webpage.” Pet., 42 (citing EX1004, [0049], [0051]; EX1003, ¶136); *see also* 9–10, 49

(“continues displaying”). This arrangement “plainly satisfies...even a causal conditional relationship”—i.e., the system’s continued display of the link information previewing the webpage (*portion of the second web page*) is caused or triggered by a set of conditions that includes the contact being maintained beyond the activation threshold (*second duration*). See EX1003, ¶157; EX1058, ¶65.

As an alternative and independent basis, the Blumenberg-Bhumkar-Griffin Combination would likewise still render the third claimed scenario obvious because “the POSITA would have been motivated to incorporate the supplemental teachings of Griffin and Bhumkar such that the output of *feedback perceptible by touch* (as taught by Griffin) and the display of a *menu* (as taught by Bhumkar) occur in response to the user’s contact *duration* exceeding the activation threshold.” Pet. 52 (citing EX1003, ¶158). As a result, the full set of three functions—the link information (*second webpage portion*), tactile *feedback*, and *menu*—would occur “only after and as a consequence of the activation threshold.” *Id.*; EX1058, ¶66. Patent Owner’s three attacks on this mapping analysis fail.

First, Patent Owner suggests it is “belated[],” which cannot be true because it was raised in the Petition, as demonstrated by the quoted text above. POR, 52.²

² Patent Owner spends an entire subsection arguing against a strawman hypothetical that Petitioner never raised. See POR, 47–51.

Second, Patent Owner says the Petition “does not cite any evidence to support” a motivation for introducing tactile *feedback* and a *menu* after the activation threshold or “explain how such a modification would allegedly satisfy the Challenged Independent Claims.” *Id.* But Dr. Cockburn’s testimony provides sufficient evidentiary support, and the Petition explains the mapping in sufficient detail, as discussed. EX1003, ¶¶77–82, ¶88. Third, Patent Owner complains that no single reference describes displaying a menu “based on a subsequent action,” (POR, 54), which is irrelevant because obviousness “include[s] recourse to logic, judgment, and common sense...that do not necessarily require explication in any reference,” *Perfect Web Techs., Inc. v. InfoUSA, Inc.*, 587 F.3d 1324, 1329 (Fed. Cir. 2009).

II. Contrary to Law, Patent Owner Treats the Skilled Artisan Like an Automaton; There is Ample Motivation to Combine Blumenberg, Bhumkar, and Griffin

A. Patent Owner Misreads the Prior Art and Misunderstands the Law; Blumenberg and Bhumkar Are Not Contradictory and Do Not Teach Away

According to Patent Owner, there are “numerous incompatibilities and teachings away” that preempt the combination of Blumenberg and Bhumkar’s teachings. POR, 60. Not so.

To start, Patent Owner is wrong to suggest that Bhumkar’s teachings are limited to “conventional web browsers used in a desktop or laptop computer” and,

thus, “not transferrable to” Blumenberg’s “mobile-device screen-size problems.” POR, 55–56. Bhumkar expressly states “that the [described] invention can be practiced with...hand-held devices..., micro-processor-based or programmable consumer electronics[and]...minicomputers.” EX1005, [0080]; *see also* [0022]; EX1053, 19:3–14, 108:8–111:5.

Again giving short shrift to Bhumkar, Patent Owner suggests this reference only teaches a toolbar menu in conjunction with “displaying a preview window ...includ[ing] ‘a fully functioning web page,’” “contrary to Blumenberg’s teaching to provide a limited subset of information.” POR, 57–59. Bhumkar, however, also describes examples where the “preview may be [just] an image of a target web page.” EX1005, [0047]; *see also* Abstract, [0014]–[0016], [0020], [0041]–[0043], [0047]–[0048], [0050], [0053]–[0059], [0067], [0089], Claim 1; EX1058, ¶¶17–18. And nothing in Bhumkar suggests a non-functional image in the preview window is incompatible with the toolbar menu. *See id.*, Abstract (“preview windows...may have associated toolbars” and “the target web site is displayed as an image thereof in the preview window”), [0041]–[0043] (similar); EX1058, ¶19 (explaining why it “makes sense that Bhumkar’s toolbar menu teachings apply equally to the non-functional image and fully functioning webpage embodiments”).

Next, Patent Owner says the “limited information” of Blumenberg’s webpage preview “would not advance Bhumkar’s objective to provide more information to

the user.” POR, 59. But that’s not true. Providing a preview with even limited content from the webpage targeted by a hyperlink is plainly “more information” than the hyperlink alone. And Bhumkar endorses this approach by describing examples where the “target web page may be clipped prior to conversion to an image” that only includes “‘select’ information.” EX1005, [0067], [0041]; EX1058, ¶¶20–23.

To summarize, none of Patent Owner’s alleged “teachings away” hold water from a factual perspective. And even if assumed factually correct, they do not meet the high legal threshold of “criticiz[ing], discredit[ing], or otherwise discourag[ing] investigation into the invention claimed.” *Galderma Labs., L.P. v. Tolmar, Inc.*, 737 F.3d 731, 739 (Fed. Cir. 2013) (cleaned up).

B. Patent Owner Fails to Undermine Any of the Petition’s Four Independent Motivation Rationales

1. First Motivation: Menus Like Bhumkar’s Were a Well-Known Solution to a Well-Known Problem

Here, as before, Patent Owner ineffectually tries to rebut the Petition by confining Blumenberg’s teachings to “a fully functioning webpage.” POR, 60; *see supra*, §II.A. Patent Owner similarly misses the mark by contending that “adding a toolbar with multiple small icons to Blumenberg’s hyperlink preview window would increase the risk of unintentional selection that Blumenberg seeks to alleviate.” POR, 61. A POSITA would take the inverse view. As Dr. Cockburn explains, the

POSITA “would obviously understand the challenges raised for users in interacting with small items,” and it “would have been well within the skill level of [the] POSITA” to make the menu items “easy and intuitive for users to interact with.” EX1058, ¶¶24–26; *see also* EX1004, [0057] (because of Blumenberg’s disclosed selection techniques, the user is “relieved of having to worry about the precision of his finger contact” when interfacing with “small size” hyperlinks). Lastly, the Board should not adopt Patent Owner’s misreading of the Petition as reliant on “the mere fact that menus were widely used” by 2011. POR, 61. That “menus had been a core feature in GUIs for nearly half a century” certainly supports a motivation to combine, but the Petition does not stop there. Pet., 14–15 (citing EX1003, ¶¶40–46, ¶¶71–72). It further explains that Bhumkar employs this ubiquitous technology for solving the known problem of “presenting available actions and functionalities for selection by the user” in a context—webpage previews—like Blumenberg’s. *Id.*

2. Second Motivation: A POSITA Would Have Known That Bhumkar’s Menu Would Predictably Improve Blumenberg

Repeating its prior mistake, Patent Owner’s gets it wrong again by suggesting that Bhumkar’s toolbar menu is incompatible with the “limited information” of Blumenberg’s webpage preview. POR, 63–64. As discussed, Bhumkar expressly provides compatibility with handheld devices and describes examples where the preview includes only clipped, select information from the target page. *Supra*, §II.A.

Patent Owner's quibble that the webpage preview is "independent from Blumenberg's web browser" is mistaken and beside the point. POR, 62–63. The impetus behind Blumenberg's disclosure is the "need" to resolve the "hit-or-miss character" of using hyperlinks while users are "web browsing...on portable devices." EX1004, [0004]–[0005]. And Blumenberg plainly describes the webpage preview as a user interface feature employed in conjunction with "a webpage" being "rendered in a web browser application 131 in the device." *Id.*, [0036].

In any event, whether the preview is an integral part of the browser does not matter. What matters is that upgrading Blumenberg's preview feature with menu options, as taught by Bhumkar, would "allow the user to accomplish common tasks associated with the target webpage...more quickly and efficiently." Pet., 15 (citing EX1003, ¶¶73–74). Making computers easier to use was the established problem-solving purpose of GUI menus, and a POSITA would have expected Bhumkar's menu options to serve that purpose when applied to Blumenberg's preview. *Id.*; EX1003, ¶42; EX1058, ¶¶27–31. Patent Owner's gripe that the Petition "provides no comparison of the number of user inputs necessary to share a webpage in Blumenberg's unmodified system" is misplaced. POR, 64. The law does not require "an 'improvement' in a categorical sense" when, as here, a rudimentary feature like a menu provides a known solution to a known problem. *Intel*, 61 F.4th at 1381.

Like its other mishaps, Patent Owner scores no points by arguing that “the addition of Bhumkar’s sharing functionality [to Blumenberg’s small-screen device] would provide nothing more than the ability to share a hyperlink of undetermined relevancy.” POR, 63–64. There is no problem with determining the relevancy of a hyperlink in Blumenberg. Blumenberg teaches the opposite—a feature set for displaying a preview of webpage content at an accommodating size and at an unobstructed location, which allows a user to “more easily view information associated with hyperlinks...even if the hyperlinks are displayed at such a small size that the hyperlinks are illegible or barely legible.” EX1004, [0057]; EX1058, ¶23.

3. Third Motivation: Bhumkar Identifies Specific Advantages That Are Applicable to Blumenberg

Most of Patent Owner’s arguments here have already been debunked above. *See* POR, 64–66. As discussed,

- There is no material distinction between Blumenberg’s webpage preview and Blumenberg’s web browser application. *Supra*, §II.B.2.
- Bhumkar envisions applying its teachings of a toolbar menu to handheld devices like Blumenberg’s where the preview is merely a snippet of an image of the target webpage. *Supra*, §II.A.
- Bhumkar’s menu option for sharing hyperlinks is fully compatible with Blumenberg, a reference that teaches features to make webpage previews easy to read. *Supra*, §II.A, §II.B.2.

Patent Owner's only new argument is that Bhumkar's menu option to enter a full-screen mode "provides no tangible benefit" because Blumenberg's preview content is already easily readable. POR, 66. Although it is certainly true that Blumenberg makes content in the webpage preview easy to see, that unremarkable fact does not support Patent Owner's view, which seems premised on a misunderstanding of Bhumkar. As Dr. Cockburn explains, "[r]ather than just making the content snippet in Blumenberg's preview larger, integrating Bhumkar's full-screen toolbar menu item would provide an additional mechanism for the user to navigate to the previewed webpage and view that page in a full-screen mode." EX1058, ¶35; *see also* ¶¶32–34; EX1003, ¶149; EX1005, [0073].

4. Fourth Motivation: Blumenberg's Disclosure Shows Why a Menu Like Bhumkar's Would Help the User

The Petition's fourth motivation rationale is articulated clearly and comprehensively. Patent Owner's contrary claim is misplaced. POR, 67–68. As the Petition explains, a contact with a hyperlink that extends beyond Blumenberg's activation threshold is an indicator of "the user's competing interests in [i] potentially interacting with the candidate target webpage; and/or [ii] leaving the current webpage." Pet., 17. In other words, the prolonged contact suggests the user may be deciding whether navigating to the targeted webpage is preferable to staying on the current page. Providing menu options like those taught by Bhumkar at this

time “would naturally assist the user with choosing and accomplishing their next step.” *Id.*, 17–18. For example, the user could share the link with contacts without leaving the current page. *Id.*, 10, 15–16, 46–48. Beyond that, displaying Bhumkar’s menu options after Blumenberg’s activation threshold provides benefits that Patent Owner does not deny—providing “visual feedback” and avoiding confusion from displaying menu options “before the user [can] fully interact with them.” Pet., 18.

III. The Dependent Claims Are Not Patentably Distinct; Patent Owner Fails to Effectively Rebut the Petition

The ’581 patent’s dependent claims recite rudimentary bolt-on features that do not materially change the question of patentability. Although Patent Owner tries to identify minor distinctions from the Blumenberg-Bhumkar-Griffin Combination, none of those allegations stick.

Claims 2 and 43: Patent Owner confusingly argues that Blumenberg’s webpage preview—a mere snippet of content—somehow updates the link selection in response to contact movement. POR, 69. Yes, the link selection is updated, but Blumenberg never teaches or suggests that the non-functional webpage preview performs the updating function.

Claims 21 and 54: Repeating the same mistake, Patent Owner erroneously ascribes the functionality of opening a hyperlink to the non-functional snippet of content that is Blumenberg’s webpage preview. POR, 70–71.

Claims 29–30 and 62–63: Here, Patent Owner merely repeats its discredited theory that a POSITA would not have been motivated to employ Bhumkar’s full-screen menu option in Blumenberg. POR, 71–72; *supra*, §§II.B.3–4.

* * * * *

Respectfully submitted,

Dated: July 23, 2025

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CERTIFICATION UNDER 37 CFR § 42.24

Under the provisions of 37 CFR § 42.24(d), the undersigned hereby certifies that the word count for the foregoing Petitioner's Reply to Patent Owner's Response totals 5,589 words, which is less than the 5,600 allowed under 37 CFR § 42.24(c)(1).

Dated: July 23, 2025

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e)(4)(iii), the undersigned certifies that on July 23, 2025, a complete and entire copy of this Petitioner's Reply to Patent Owner's Response and supporting exhibits were provided via email to the Patent Owner by serving the email correspondence addresses of record as follows:

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