

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner,

v.

SMITH INTERFACE TECHNOLOGIES, LLC,
Patent Owner.

IPR2024-01115
IPR2024-01116
IPR2024-01119
Patent 10,656,754 B

Record of Oral Hearing
Held: November 14, 2025

Before MIRIAM L. QUINN, SHARON FENICK, and
BRIAN P. MURPHY, *Administrative Patent Judges*.

IPR2024-01115
IPR2024-01116
IPR2024-01119
Patent 10,656,754 B

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The above-entitled matter came on for hearing Friday, November 14, 2025, commencing at 12:00 p.m., at the Southwest Regional Outreach Office of the U.S. Patent and Trademark Office, 207 South Houston Street, Dallas, Texas.

P-R-O-C-E-E-D-I-N-G-S

(12:00 p.m.)

JUDGE FENICK: Thank you. We are convened today to hear for oral arguments in IPR2024-01115, 01116, and 01119, which relate to claims of U.S. Patent 10,656,754. I'm Judge Fenick, and my colleagues are Judge Quinn, in the Dallas courtroom, and Judge Murphy, who is appearing remotely from Alexandria.

The Hearing Order provided that each party have 60 minutes total time to argue their cases. Petitioner has the ultimate burden of establishing unpatentability and will open the hearing by presenting its case as presented in the three petitions, regarding the alleged unpatentability of the challenged claims. Petitioner can reserve rebuttal time no more than half its argument time. After that, the Patent Owner will respond to the Petitioner's arguments. Patent Owner may reserve surrebuttal time, again, no more than half of its total argument time. Otherwise, the parties can use the allotted time to discuss the case as they choose.

We ask that you make it clear which challenges and claims you are addressing to have a clear record. Also, to ensure the clarity of the record, after we're done, we'll wait and provide the Court Reporter a chance to ask for spellings or other clarifications.

Just so you know, there is a public line which has been provided, and third parties may be virtually attending this hearing. We haven't received any notice of any business-confidential information, so we assume that that's fine, but if not, please let us know.

1 We ask that the parties hold any objection regarding the party's
2 arguments until it is your time at the podium. And with my thanks, Judge
3 Quinn will be maintaining the clock and will -- you'll be able to see it there
4 in the courtroom in Dallas.

5 There may be a bit of delay, given the different appearances of judges
6 from different places, but I think Judge Murphy and I are both able to hear
7 everything and see Counsel when you are at the podium. If there is any
8 delay that leads to anyone speaking over anyone else, we apologize, but
9 we're -- we'll try and minimize that.

10 So we can get started with appearances from both sides, starting with
11 Petitioner.

12 MR. HOLT: Yes, Your Honor. David Holt, appearing on behalf of
13 Petitioner, Apple, and I'm joined today by Lead Counsel Karl Renner, who
14 may also offer remarks.

15 JUDGE FENICK: Thank you. And for Patent Owner, please.

16 MR. ROBINSON: Your Honor, Eagle Robinson for Patent Owner,
17 Smith Interface. With me is Mr. Chad Wallis. I will primarily be speaking,
18 but Mr. Wallis may offer some remarks on certain claims as well.

19 JUDGE FENICK: Thank you. All right. Petitioner, come to the
20 podium and let us know if you'd like to reserve any rebuttal time.

21 MR. HOLT: Thank you, Your Honor. I'd like to reserve 15 minutes
22 for rebuttal, please.

23 JUDGE QUINN: You may start when you're ready.

24 MR. HOLT: May it please the --

25 JUDGE FENICK: All right. Thank you.

1 MR. HOLT: May it please the Board, again, my name is David Holt,
2 appearing on behalf of Petitioner, Apple. And again, I'm joined today by
3 Lead Counsel Karl Renner, who may also offer remarks.

4 If you'll turn to Slide 2, we direct your attention to three main issues
5 that we plan to address during today's presentation. The first issue relates to
6 the prior art's disclosure of progressively blurring, a limitation recited by
7 each independent claim. The second issue relates to the prior art's disclosure
8 of two user interface elements moved at different speeds while a contact is
9 detected to move across the display, which is recited by only Independent
10 Claim 1. The third issue relates to Dependent Claim 208 only and
11 disclosures within Shiplacoff that are cited to demonstrate obviousness of
12 that claim.

13 The record includes contentions regarding several other dependent
14 claims. We plan to leave the bulk of those to the papers, but time
15 permitting, we're happy to answer any questions that Your Honors may have
16 and also respond to any of Patent Owner's arguments with respect to those as
17 well.

18 If you'll turn to Slide 4, the Petition presented two combinations that
19 addressed the full complement of challenged claims in the three consolidated
20 proceedings. Here, we see all three of the petitions include Ground 1A,
21 which is a combination of Ahn and Chaudhri-842. And the third petition,
22 which is 01119, adds Shiplacoff for Independent Claim 1 and several
23 dependent claims. We'll start with Issue 1, for which we'll discuss the Ahn
24 and Chaudhri combination.

1 If you'll turn to Slide 6, we see Independent Claim 2 of the '754
2 Patent. And as Your Honors are likely aware, there are ten patents owned
3 by Patent Owner that Apple is challenging in IPRs. Of those patents,
4 Independent Claim 2, that we see here, is the shortest and most
5 straightforward. There are only three substantive limitations, and the first
6 two are, frankly, so broad as to cover almost every touch screen user
7 interface.

8 It's the limitation highlighted in green that is the clear focus of this
9 claim and the focus of the first disputed issue we'll discuss today. This part
10 of the claim relates to blurring at least a portion of a user interface object
11 based on a change in a magnitude of a gesture detected on a touch screen. It
12 does not impose any requirements regarding how much blur there is, just
13 that there is blur. And the claims set forth certain conditions under which
14 the blurring takes place.

15 If you'll turn to Slide 13, the Ahn-Chaudhri combination renders
16 obvious blurring at least a portion of a user interface object based on a
17 change in a magnitude of a gesture detected on a touch screen. Ahn teaches
18 a touch-and-drag operation, in which a user's finger is touched down near an
19 edge of the touch screen and slid toward the center of the touch screen, while
20 maintaining contact. As shown, correspondingly, a menu associated with
21 the right edge of the screen is opened progressively more and more.

22 To belabor the point, in the three images, we see the menu
23 progressively covering more and more of the screen as the finger moves
24 across the screen. Thus, this touch-and-drag gesture results in the opening
25 of a menu associated with that edge of the screen.

1 The Petition presented two theories regarding how this aspect of the
2 Ahn-Chaudhri combination meets the blurring limitation. First, Ahn teaches
3 that the menu itself can be transparent, translucent, or opaque. The figures
4 of Ahn all show examples of a transparent menu. However, where the menu
5 is translucent, as also and yet alternatively disclosed, the menu itself would
6 blur items that are progressively covered by it. That is, as the translucent
7 menu emerges onto the screen, more of the user interface is covered by the
8 menu, and therefore, blurred by it, including items under it, like the clock
9 widget.

10 JUDGE QUINN: I have a question for if you want to --

11 MR. HOLT: Oh, yeah.

12 JUDGE QUINN: What are you -- what are you relying on in your
13 position in the challenge for the translucency of the menu; what is the
14 importance of that in your challenge exactly? Because there's two things:
15 there's the blurring of the object in the background, and then there's also this
16 aspect of translucency. What is the importance of that in your challenge?

17 MR. HOLT: So those are the basis of the two theories. The first
18 theory --

19 JUDGE QUINN: Are they separate theories, just so you --

20 MR. HOLT: Yes, Your Honor.

21 JUDGE QUINN: Okay.

22 MR. HOLT: Yes, Your Honor.

23 JUDGE QUINN: Go ahead.

24 MR. HOLT: So, in the first theory, the menu itself is a window, is
25 what we hear from Ahn. And in the figures, what we see of that window is a

1 transparent window. You can kind of see the outline of the window, and it
2 has several objects, usually icons, set on the menu. But what we're told is
3 that transparent window, on which those objects are displayed, can also be
4 translucent or opaque.

5 And so, our argument is that, in the context of this combination, the
6 user would begin their touch-and-drag gesture from the edge of the display,
7 and as they did so, that menu would open with their gesture, so at the same
8 time during their gesture. And as it comes onto the display, more and more
9 of the display real estate is now going to be covered by that translucent
10 menu. And as a result, you are progressively increasing the blur of what's
11 being covered by that menu, because it is covering more and more of the
12 background.

13 JUDGE QUINN: So the second object that is blurred in that situation
14 is what exactly?

15 MR. HOLT: It would be anything under the menu, including the
16 portion of the clock widget that would be under the menu.

17 JUDGE QUINN: So you're blurring the second object, not really
18 blurring the object; you're putting something on top of the object that makes
19 it look blurry.

20 MR. HOLT: The perception to the user would be that the object is
21 now blurred because the translucent -- you can imagine, there's -- I think of
22 maybe some of the windows that might in a bathroom. You can see light
23 through them, and sometimes, you can even see objects in the back of them.
24 That's what this translucent menu would be like.

1 JUDGE QUINN: Okay. But in this situation, you're still relying on
2 the clock being blurred; is that correct?

3 MR. HOLT: Well, what we're saying is that any portion of the
4 background, any object that would be there, any part of the background, and
5 we talk in other parts of the combination with respect to other claims about
6 how there might be other objects on that background screen, including
7 things like application icons.

8 JUDGE QUINN: Well, your Petition focused on the clock, so that's
9 why I want to focus this conversation. So, if you focused on the object that's
10 in the back, which is a clock, and that's the only thing that we see sort of
11 blurring, then the menu coming out of the edge in however shape or form,
12 but its being translucent, it also views the view; the viewer sees it as a
13 blurring, at least to the point in which the menu overlaps that object.

14 MR. HOLT: So what I'm -- excuse me. Pardon me, Your Honor. So,
15 I would say that the second theory, which we haven't yet talked about, it
16 focused on the clock widget, at least for the basis of the combination and
17 what is being disclosed with respect to blurring, even if it were a transparent
18 menu.

19 But what we're saying in Theory One is that any part of that
20 background screen and any objects on it, including, for example -- and the
21 Petition talks about, for example, the clock widget, because that is one of the
22 objects shown with the background -- would be blurred. But this theory
23 would cover any part of that background, including, frankly, the background
24 image itself being blurred, because that's what we would see if that menu

1 was over the whole part of that side of the display, and that background
2 image would equally be an object that's being --

3 JUDGE QUINN: Well, can you show me where in Ahn do you have
4 the background blurred or changed in appearance, other than the clock,
5 obviously, that is blurred because of the overlay of the menu?

6 MR. HOLT: It is described with respect to paragraphs, and give me
7 one moment to pull that up, Your Honor. One moment. I apologize. Here
8 we go. This is Paragraph 70. It says, in the above-described
9 implementations, menus corresponding to a direction selected by the user are
10 transparently displayed on the standby screen 300.

11 So what we're being told is that all of these figures show a transparent
12 window. And so, they will not show other parts of the background being
13 blurred because it's a transparent window. That is, everything that is on the
14 backside of that window can be seen through the window. But Paragraph 70
15 goes on, please note, however, that this is an illustration and menus
16 displayed on the Standby Screen 300 can be embodied in a translucent form
17 or an opaque form, depending on implementation.

18 So this ground relies upon this description and no figures because Ahn
19 is admitting that it doesn't show either a translucent or an opaque window
20 background of the menu in any of its figures. But Dr. Terveen, through
21 support from this paragraph, explains how the objects in the background
22 screen, any of them that's covered by the menu, would be blurred by them
23 because of the translucency. And I will note that the POR does not
24 specifically challenge that point.

1 JUDGE FENICK: Mr. Holt, for this to -- for Ahn, without Chaudhri,
2 to teach Limitation 2D's change in magnitude, you know, blurring based on
3 a change in magnitude of a gesture, we would have to find that the menu
4 does slide out with the finger, with the dragging gesture; is that right?

5 MR. HOLT: That's correct, Your Honor.

6 JUDGE FENICK: Because that's what is gradually blurring the clock
7 is the -- as the menu comes out, because the menu slides over the clock or
8 the other background parts of the screen, that is the face, the based on a
9 change of magnitude; that is what teaches based in the change in magnitude
10 in your Petition; is that right?

11 MR. HOLT: Yes, Your Honor. And if --

12 JUDGE FENICK: All right. Thank you.

13 MR. HOLT: Yes. And just to go perhaps a little bit further, looking
14 at Element 2D, which, again, we can see on Slide 6, it says, during detection
15 of at least a portion of the gesture before completion thereof is detected --
16 that, as you were noting, Judge Fenick, would be that the menu is moving
17 along with the finger before the finger's touch-and-drag operation is
18 complete -- blur based on a change in a magnitude of a gesture being
19 detected on the touch screen of the at least one other object.

20 So, here, the based on a change in a magnitude of a gesture being
21 detected on a touch screen would be that you are actually pulling more and
22 more of the menu onto the screen in correspondence with the touch-and-drag
23 operation described by Ahn.

24 JUDGE MURPHY: Mr. Holt, this is Judge Murphy in New York.
25 Can you hear me?

1 MR. HOLT: Yes, Your Honor.

2 JUDGE MURPHY: Yes. I have a couple of questions. On your
3 Slide 13, I take it those images come from your expert's Reply Declaration.

4 MR. HOLT: Yes, Your Honor. That's correct.

5 JUDGE MURPHY: And can you confirm that the middle image does
6 not appear in Ahn?

7 MR. HOLT: That's correct, Your Honor. This is an amalgamation of
8 aspects of Ahn's disclosure. And these images were created to illustrate the
9 combination as it was described in the petition.

10 JUDGE MURPHY: And so, what you're illustrating, or what your
11 expert is illustrating in the center drawing, is your contention. It's not --

12 MR. HOLT: That's correct.

13 JUDGE MURPHY: It's not a fact, right?

14 MR. HOLT: We would say that it comes directly from the teachings
15 of Ahn, as well as from the combination with Chaudhri, but yes, this is not a
16 figure explicitly provided by Ahn.

17 JUDGE MURPHY: And in your contention, is with respect to the
18 claim language, is the magnitude being detected in Ahn, is that the distance,
19 D1 or D2?

20 MR. HOLT: No. That is a separate aspect of Ahn that's relied upon
21 for other claim language. In this instance, I believe, I think -- let me actually
22 clarify, Your Honor. Are you speaking to Figure 16 and its distances 1 and
23 2?

24 JUDGE MURPHY: Correct.

1 MR. HOLT: Yes, so this theory doesn't rely upon Figure 16. This
2 theory is instead relying upon the aspects of particularly Paragraphs 118 and
3 119, and their description of how the menu would react to the touch-and-
4 drag operation.

5 JUDGE MURPHY: Yes, but what's the change in magnitude of the
6 gesture if it's not the distance?

7 MR. HOLT: It is the distance, Your Honor. It's just not the first or
8 second distance specifically of Figure 16.

9 JUDGE MURPHY: What distance is it?

10 MR. HOLT: It is the distance from the edge where you began the
11 gesture. So there's a beginning location, and as that is -- as that gesture is
12 being completed, you're correct, the distance of that gesture will correspond
13 to the increasing display of the menu emerging from the edge of the display.
14 But the specific first and second distances, kind of thresholds that are talked
15 about in Figure 16, are not themselves required for this theory.

16 JUDGE MURPHY: So you're reading that into Paragraph 18 of Ahn,
17 if I'm understanding correctly.

18 MR. HOLT: It would be -- you know, our expert, Dr. Terveen, is
19 saying that when a POSITA reads Paragraph 118, in light of its temporal
20 language, that's how they would read it. But I will say that the Petition goes
21 further and relies upon obviousness in light of the teachings of Chaudhri for
22 that.

23 JUDGE MURPHY: Yeah, but I'm focused on the change of
24 magnitude in the claim.

25 MR. HOLT: Yes.

1 JUDGE MURPHY: If it's not distances D1 and D2, it's some other
2 distance, and where is that distance described in Ahn? Is it Paragraph 118 or
3 something else?

4 MR. HOLT: So, yes, Your Honor, it is the distance that would be
5 accounted for in Figure 16. So Figure 16 is evaluating the distance of the
6 touch-and-drag operation in order to compare it to the first distance and the
7 second distance and in determining which of two possible menus to display.
8 But the display of more than one menu is not what we're relying upon for
9 this. And so, yes, the distance magnitude that's being talked about in Figure
10 16, that's being evaluated against those thresholds, is the distance magnitude
11 we're talking about for the touch-and-drag operation. But those specific
12 thresholds are not being relied upon here. Does that make sense?

13 JUDGE MURPHY: So -- not really. How do you square that with
14 your expert's deposition testimony that the -- that there is no menu display
15 until the gesture is complete, i.e., the dragging gesture is completed?

16 MR. HOLT: So, when he was looking, as I recall -- and I'd have to
17 pull up the exact testimony you might be referring to; if you have a cite, I'm
18 happy to do that, but my recollection of this portion of the deposition was he
19 was responding to questions about the description of Figure 16 and how
20 Figure 16 describes the display of two different menus.

21 JUDGE MURPHY: Well, Figure 16 is the flowchart for how Ahn
22 works, isn't it?

23 MR. HOLT: It's the flowchart for how one specific embodiment of
24 Ahn works that has to do with the display of the two menus shown in Figure
25 17, which is not what we're relying upon here.

1 JUDGE MURPHY: Right. And so, I come back to my question,
2 where in Paragraph 118 are you relying on some other distance that's a
3 change in magnitude for the display, what you're calling a progressive
4 display, or what have you, that appears on the screen before the gesture is
5 complete? Patent Owner's point, as I take it in their Response and Sur-reply,
6 is every implementation in Ahn requires completion of the gesture before
7 there's a display of the menu. And that's the point I'm trying to resolve with
8 you.

9 MR. HOLT: Understood, Your Honor. Thank you for that
10 clarification. That's helpful. The part of Paragraph 18 that we're reading to
11 understand this is particularly -- you know, if you look to Slide 14, there is a
12 final sentence of Paragraph 118 that reads, in this case, as the user drags the
13 graphic shadow 1800, the menu list 1500 can be displayed along the dragged
14 graphic 1800.

15 So it's the temporal language there that says, as the user drags, that
16 Dr. Terveen is saying that a POSITA reading that particular language would
17 have understood that language to mean that the menu is being displayed as
18 emerging from that side of the --

19 JUDGE MURPHY: Well, let me stop you there.

20 MR. HOLT: Yes, Your Honor.

21 JUDGE MURPHY: It doesn't say that. The first clause says, as the
22 user drags the graphic shadow 1800, comma. So that's the active verb form.
23 The user drags the graphic. Then it says, after the comma, the menu list can
24 be displayed along the dragged graphic. It doesn't say it can be displayed or
25 is displayed while the graphic is being dragged. It doesn't say that. So it's

1 conditional. And it's conditional on the duration in the claim, on the change
2 in the duration of magnitude, which, if it's not the distance D1 or D2, I'd like
3 to know what it is.

4 MR. HOLT: It is the -- again, I'm trying to search for a way to
5 perhaps say this differently. The Dr. Terveen, when he was reading this
6 description in 118 -- and he also looked to similar temporal language
7 described in 119 -- he is saying that at least one way to interpret this
8 language, including the can be language that Your Honor just noted, would
9 be that this language would be understood by a POSITA in this context to
10 mean that the menu sticks to the finger. And therefore, the distance is the
11 amount that the user has dragged, which is the underlined in red.

12 JUDGE MURPHY: The amount meaning the distance?

13 MR. HOLT: Yes, Your Honor.

14 JUDGE MURPHY: And Ahn doesn't display a menu until the
15 distance is measured at completion of the drag; is that right, or is that not
16 right?

17 MR. HOLT: I would say, Your Honor, that that's only true with
18 respect to the flowchart in Figure 16, which is not in relation to this part of
19 Figure 18 and its description.

20 JUDGE MURPHY: Well, you say this part. There's nothing else in
21 this part other than this sentence.

22 MR. HOLT: Yes, Your Honor. And this is the sentence that
23 Dr. Terveen tells us would be interpreted this way by a POSITA.

24 JUDGE MURPHY: So you're asking us to accept that interpretation
25 based on one sentence in this patent?

1 MR. HOLT: Certainly not in isolation, Your Honor, no. This again
2 was an obviousness argument. But if all you're talking about is an
3 anticipation argument with respect to Ahn, that would be the part that
4 Dr. Terveen would rely upon, but this is --

5 JUDGE MURPHY: But I'm not -- I'm not talking about anticipation.
6 I'm talking about your first theory of obviousness.

7 MR. HOLT: Yes, Your Honor.

8 JUDGE MURPHY: That's your theory that the menu screen
9 progressively slides onto, or however you want to characterize it, while or
10 during, as the claim language says, during the dragging of the graphic
11 shadow icon.

12 MR. HOLT: Yes, Your Honor.

13 JUDGE MURPHY: And that is, as far as I can tell, not consistent
14 with any embodiment described in Ahn.

15 MR. HOLT: And I appreciate --

16 JUDGE MURPHY: So give me somewhere in Ahn where it's
17 measured in a different way, the change in magnitude that would allow
18 someone to understand that you're progressively sliding the menu list onto
19 the display screen. Where is it in Ahn, except for this one sentence that
20 we're focused on?

21 MR. HOLT: This is the one sentence, Your Honor.

22 JUDGE MURPHY: Thank you.

23 MR. HOLT: Okay. I think that's probably a good opportunity to
24 transition to Slide 15, because again, the Petition didn't stop with Ahn's
25 teachings. It turned to Chaudhri. And as we see here, Chaudhri describes

1 moving display graphics in correspondence with the magnitude of gestures
2 associated with those graphics in order to provide the user who is
3 performing the gesture a visual confirmation and help direct them on how to
4 complete the gesture.

5 As we see here, one example of that type of graphic is an unlock
6 image 402 that follows a user's finger as they complete a dragging gesture to
7 unlock the phone. And this goes directly to the points we were just talking
8 about, Judge Murphy. We were talking about how there is a magnitude of
9 distance that directly correlates to the movement of the graphic, and that's
10 what we're seeing in the figures of Chaudhri.

11 And Chaudhri explains that that's particularly helpful in order to help
12 the user understand what their gesture is going to do. If you waited until the
13 end of the gesture in order to display the menu, the user would not have any
14 idea during that gesture what's going to happen. Whereas, if the menu starts
15 to come out with the gesture, the user is going to see, I see my gesture is
16 having a result. I see what that result is. And the user, at that point, can ask
17 themselves, is this the result I was seeking with my gesture or not?

18 And this dragging gesture we see on these figures of Chaudhri is very
19 similar to the touch-and-drag operation that we were just discussing with
20 respect to Ahn. Again, you are moving the graphic to help the user visualize
21 the gesture and provide feedback to the user as the gesture is completed
22 about what the gesture is doing and where it would be completed.

23 JUDGE QUINN: What do you say about Patent Owner's argument
24 that what you're seeing in Ahn, even with Chaudhri's contribution, that Ahn

1 really uses an animation as opposed to like something graphically that is tied
2 to the gesture itself?

3 MR. HOLT: I think what I would say, Your Honor, again, is that that
4 argument may pertain to Ahn in isolation, and again, we would argue that
5 the sentence we were just looking at in Paragraph 118 suggested the contrary
6 because it says as the gesture is being completed.

7 But that being said, I think that argument cannot possibly apply to
8 Chaudhri because Chaudhri does literally show the finger moving and the
9 graphic following it simultaneously. And it talks in various aspects about if
10 you want to let go, the graphic will actually go back to the start position, and
11 you will not have unlocked the display. So that can't be an animation that's
12 independent of the extent of the gesture. It is directly correlated to the
13 distance of the gesture in Chaudhri. And what we're arguing is that that
14 concept is equally applicable to the display of the menu as it emerges from
15 the side of the display.

16 JUDGE QUINN: But -- excuse me. Chaudhri's gesture is different
17 insofar as there is a corresponding visual representation of where the gesture
18 is moving to from beginning to end. And Ahn, well, it has a starting point,
19 arguably. There is no such other trajectory that the user can really perceive
20 that at some point, you've reached the end of that gesture that could
21 accomplish the menu opening.

22 MR. HOLT: Certainly, the example that we see of the unlock gesture
23 has the channel as an additional indication to the user, but there's nothing in
24 Chaudhri that requires that channel be a part of the visual indication.

1 In the combination, what Dr. Terveen tells us is that the emergence of
2 the menu itself is a visual indication of A, what the gesture is doing, and B,
3 what you need to do to finish it. You'll be able to tell, looking at the menu, I
4 need to continue my gesture in order to fully open the menu.

5 JUDGE QUINN: But isn't that -- isn't that part of Chaudhri's teaching
6 that you, in addition to the changing of the translucency, or intensity rather,
7 that you also have this visual cue?

8 MR. HOLT: And here, in the combination, the menu itself is that
9 visual cue.

10 JUDGE QUINN: So you need two things. You need not just a
11 sliding of the menu onto the screen, but you also need some sort of intensity
12 change between the beginning of the gesture and the end of the gesture.

13 MR. HOLT: I'm not sure that I would say that's a necessity with
14 respect to the first theory, but that is a part of the combination.

15 JUDGE QUINN: Why not?

16 MR. HOLT: Because the, for instance, blurring of the clock widget,
17 while helpful in the context of Ahn in helping the user visualize the end
18 result, which is that the user interface object is going to be blurred for that
19 particular figure we were looking at, let's assume for a moment that user
20 interface object wasn't there, and it was just a background. So the clock
21 widget is not there. The first theory says that as the menu opens, that alone
22 provides the feedback taught by Chaudhri, and you are, in fact, changing the
23 intensity because of the translucency of the menu.

24 JUDGE QUINN: But the translucency of the menu, if it's not
25 changing, then how is it blurring based on the change of magnitude?

1 MR. HOLT: Because more real estate of the underlying background
2 is being blurred as you progress your gesture. And therefore, more of the
3 menu is being opened.

4 JUDGE QUINN: How does that tie with the claim language? The
5 claim language doesn't say that it's the portion of the object that it needs to
6 be blurred as a change of magnitude.

7 MR. HOLT: And the portion of the object here is the background
8 screen.

9 JUDGE QUINN: But the act of blurring is not changing. The blur is
10 the same at the beginning or the end. You're just changing how much of it is
11 blurred.

12 MR. HOLT: The intensity of the blur itself, the translucency of the
13 menu, I agree, does not change for this theory, or any theory, for that matter.
14 What is changing is the amount of the background that's being blurred as the
15 gesture progresses and the menu emerges onto the display. And that amount
16 of blur is in correspondence to the distance magnitude of the gesture.

17 JUDGE QUINN: And this is the same for Theory One or Theory
18 Two?

19 MR. HOLT: Theory Two also has the menu emerging, but it now
20 focuses on the clock widget and that particular description, as well as the
21 corresponding descriptions in Chaudhri.

22 JUDGE FENICK: When you say "the menu emerging," you mean
23 sliding from a side, not becoming, just becoming more visible in one place.
24 So both theories require the menu is -- Ahn to be teaching a menu sliding
25 onto the screen.

1 MR. HOLT: That's correct, Your Honor.

2 JUDGE FENICK: Thank you.

3 MR. HOLT: We can touch briefly on Slide 17. Here, we see that the
4 purpose of the various graphical elements that we're pointing to are related
5 to one another in purpose. Chaudhri talks about the various visual cues and
6 hints, and it gives a number of them. And Ahn equally wants to provide
7 hints. In this case, with respect to Figures 18A and B, it's that graphical
8 shadow 1800. So both references are seeking to provide these indications to
9 the user in correlation to that gesture. And therefore, they're looking to
10 perform the same purpose but different manners of reaching that goal.

11 And I'll note that the theory of obviousness that was articulated in the
12 Petition, and by Dr. Terveen in his original declaration, is not something that
13 was completely unheard of. We cited, in the Reply, Hisatomi, which is
14 Apple-1011. And as Hisatomi clearly shows, there is, in fact, a menu
15 emerging from an edge of the display. And if I haven't said it already, this is
16 Slide 18. Apologies if I hadn't called that out. But as you see on Slide 18,
17 the menu is emerging from the edge of the display progressively along with
18 the gesture.

19 And so, we're not citing Hisatomi as a basis of the ground but instead
20 as further evidence that the obviousness position taken by Dr. Terveen, with
21 respect to Ahn and Chaudhri, was something that was known to users at the
22 time.

23 So too again do we see in Nan, on Slide 19. Nan specifically teaches,
24 quote, a user experience of dragging out the user interface from the edge of
25 the gesture is performed with the user interface appearing to stick to the

1 gesture. So, again, further evidence that the obviousness theory advanced in
2 the Petition was not something wholly extraordinary. There were a number
3 of references talking about this at the time.

4 If Your Honors agree that the menu follows a user's gesture was
5 obvious, as the evidence clearly demonstrates, Independent Claims 2 and
6 225 are obvious.

7 Now, Judge Quinn, I know you were asking the question about the
8 intensity of the translucency and how that relates to the claim language, but I
9 would like to note, at this point, that particular theory was not advanced in
10 the POR. That's not an argument that we are facing here. There is no
11 argument that as the menu comes onto the display and more and more of the
12 real estate is taken up, that that would meet Limitation 2D. Instead, the
13 argument is that you wouldn't have the menu follow the user's finger. That's
14 the primary argument here for Theory One.

15 JUDGE QUINN: Yeah, but we still need to find if whatever theory
16 you have is consistent with the references that you have provided. So, to the
17 extent that there is an intensity change in Chaudhri, but you, you know, now,
18 it may be there or not there, but you're not relying on it. We just need to
19 know what your position is.

20 MR. HOLT: Understood, Your Honor. And I appreciate that. What I
21 would say is it is there in the combination. But again, Theory One is not
22 specifically relying upon that part of the combination. It's a different part of
23 the combination.

1 JUDGE QUINN: But if the resulting combination would have it, then
2 that's what I want to know. Like, how do you claim it could work with the
3 teaching of that's how Chaudhri does it.

4 MR. HOLT: So, in the totality of the combination, as it would be
5 embodied by a POSITA in light of the teachings and as explained by
6 Dr. Terveen in his original declaration, what would happen is you would
7 have the identifier icon at the side of the screen. You would touch down at
8 that start position that's identified by the -- a menu icon, and you would
9 move your finger. As your finger was moving, the menu would emerge
10 simultaneously, like the graphic in Chaudhri moves, and that clock icon
11 would begin to blur.

12 And that's actually consistent with Ahn. Ahn shows that that clock
13 widget blurs. So the question is just how does it blur, and Chaudhri provides
14 us that answer. So, in the total combination --

15 JUDGE QUINN: So what you're saying, though, is that Ahn's
16 blurring is -- it's either intense or blurred, or not intense. There is no gradual
17 decreasing of --

18 (Simultaneous speaking.)

19 MR. HOLT: The translucency of the menu itself stays the same.
20 We're not arguing that Chaudhri would teach that the translucency of the
21 menu window, what is kind of behind those icons, is changing. Rather, it's
22 that we know that you transition from a fully displayed clock widget to one
23 that's blurred. And so, the blurring intensity or the optical intensity change
24 taught by Chaudhri is a teaching of how a POSITA would have implemented
25 that blur that we see in the figures.

1 JUDGE QUINN: So it is -- so, again, so without the menu, full
2 intensity. As the menu is coming out, does the intensity of the translucency
3 change as the menu comes out of the clock?

4 MR. HOLT: Yes. So, the clock widget as a whole will blur
5 progressively according to Chaudhri. What I just want to be clear about is
6 that the entire window background of the menu that's emerging onto the
7 display, its translucency doesn't --

8 JUDGE QUINN: It will stay the same. Okay. Thank you.

9 MR. HOLT: And that, I think, leads us, frankly, maybe into a brief
10 discussion of the combination with Chaudhri and how that comes about, and
11 this is on Slide 24.

12 We see at the top right of Slide 24 that Chaudhri calls for and
13 introduces, quote, more efficient, user-friendly procedures for transitioning
14 devices between user interface states.

15 On the middle right, Chaudhri broadly defines user interface states to
16 which its teachings apply, quote, a user interface state is a state in which the
17 device 100 responds in a predefined manner to user input.

18 With this explanation, it's clear that Chaudhri is not limiting its
19 teachings to the unlock images that we see or even the transition in user
20 interfaces of applications that it talked about. It is saying that these
21 teachings are broadly applicable to all transitions in user interface states.

22 At left, we see, to achieve this goal of a more efficient, user-friendly
23 user interface transition, it progressively transitions the optical intensity of
24 user interface objects as a function of the user's progress toward completion
25 of the gesture that cause the UI's transition.

1 And at bottom right, in an excerpt from Paragraph 79 of Chaudhri,
2 Chaudhri teaches an example where this may involve fading in the second
3 user interface and fading out the first user interface.

4 One of the arguments you heard in the POR was that this figure only
5 relates to elements of the second user interface state, which, for what it's
6 worth, we see in Ahn's figures includes the clock widget just blurred, but if
7 you were to say that the clock widget is only part of the first user interface
8 state, which we do not believe that it is, Chaudhri's teachings still teach that
9 objects with respect to the first user interface state may have their optical
10 intensity changed as part of this transition process.

11 If you turn to Slide 25, there were several reasons outlined in the
12 Petition for this combination. One of them, though, we see here. And it was
13 that when you look at Ahn, there is a clock widget in one figure with the
14 menu closed that it is completely visible, and a figure in which the menu is
15 open, where it is clearly blurred. And again, there is no dispute of those two
16 states. And so, the Petition posited and Dr. Terveen confirmed that doing so
17 either binary or as a smooth transition or transition in correspondence with
18 the gesture would have been one of two ways to accomplish this, and that
19 therefore, it would have been an obvious to try rationale, consistent with the
20 Uber case.

21 This particular motivation for the combination was never addressed in
22 the POR or in Dr. Rosenberg's Declaration. And so, we have no evidence on
23 the record from Patent Owner's expert or advanced in argument in the POR
24 to suggest, for example, that there is anything other than two ways of doing
25 this. And so, it's a limited number of options.

1 JUDGE QUINN: Well, I mean, they don't have to. If it's conclusory
2 and not relying on supporting facts, we can't rely on it either.

3 MR. HOLT: I understand, Your Honor, but what I would say is that
4 there's no evidence that there's more than these two. And logically speaking,
5 it stands to reason --

6 JUDGE QUINN: You mean there is no evidence that there is more
7 than these two, more options to try?

8 MR. HOLT: More options for the transition.

9 JUDGE QUINN: Okay.

10 MR. HOLT: So the evidence tells us --

11 JUDGE QUINN: But you still need to have a motivation to choose
12 between the options that you are presented with.

13 MR. HOLT: What the KSR case, and even the case that you heard
14 my colleague quote in the last proceeding, says is --

15 JUDGE QUINN: We cannot refer to the last proceeding in this, so --

16 MR. HOLT: Understood. I apologize, Your Honor. I don't have the
17 case cite in front of me.

18 JUDGE QUINN: Okay.

19 MR. HOLT: And I will find that. But what I would say, Your Honor,
20 is that when we evaluate the obvious to try from KSR, it requires that you
21 have a design need -- and from a case that I will, again, find the cite for -- or
22 a market need, and you have a limited number of options. And we're saying
23 that the evidence has a limited number of options, and Ahn gives us the
24 design need. The design need here is we know from Ahn the clock widget
25 gets blurred. And so, the design need is how do you blur. And Chaudhri

1 gives us one of a limited number of options for how to implement that. And
2 so, that meets what is required by the law. Does that make sense?

3 JUDGE QUINN: It makes sense what you're saying. I may not agree
4 with it, but that's fine.

5 MR. HOLT: Understood. Beyond the obvious to try argument, there
6 were additional motivations advanced in the petition, and we see one of
7 them on --

8 JUDGE QUINN: Are you addressing Shiplacoff at any point in your
9 argument today?

10 MR. HOLT: Yes, Your Honor.

11 JUDGE QUINN: Because you're close to your rebuttal time.

12 MR. HOLT: That's a fair point, and we should probably move to that.

13 So, for Independent Claim 1, we can move on to that. We have, for
14 instance, this is shown on Slide 7, and this is the language at issue. What is
15 required of this claim is that two different user interface elements move at
16 different speeds while a contact is being detected moving across.

17 JUDGE QUINN: What is your best evidence that you have different
18 speeds in the card shuffle or dragging movement?

19 MR. HOLT: So it is that we are told that the shifting of the cards
20 301C and D to fill the gap happens at a speed, and that's not defined. It is a
21 speed, but we know it is a speed. It has to happen, right? It's shown. What
22 we also know is that 301B is going to move in direct correspondence to the
23 user's gesture.

24 JUDGE QUINN: Do you have a figure? When you were talking
25 about 301B and 301C, what are you talking about?

1 MR. HOLT: This is on Slide 31. So 301B is the card that's in the
2 center of the display that the user is attempting to relocate. They are
3 dragging that card up and away from its position in the order of the cards.
4 And that card, we are told by Shiplacoff, moves along with the user's
5 gesture, which is going to be varying based on whatever the user chooses to
6 input. On the other hand, 301C and 301D will move to fill that gap that's
7 created as it moves out of the order. That's going to have a set speed.

8 And we're told, further in Shiplacoff, that the animations are said to
9 snap. And Dr. Terveen further looks to that explanation about these
10 animations, and we see that, for example, on Slide --

11 JUDGE QUINN: So let me ask you something.

12 MR. HOLT: Yes.

13 JUDGE QUINN: If the word snap alone is not sufficient to convey
14 that the speed is of a certain magnitude, such that it exceeds the dragging
15 motion, okay, do we -- do you have an argument that, in those situations in
16 which, whatever that speed is, is greater than a slow drag motion, that meets
17 the claim?

18 MR. HOLT: Yes, that's correct, Your Honor. And it's because this
19 device would be configured to handle whatever speed the user used to drag
20 301B. Its configuration, its programming must necessarily handle, in order
21 to embody what is described by Shiplacoff, card 301B moving at whatever
22 speed that gesture is moving at.

23 JUDGE QUINN: Do you have any expert testimony on this particular
24 point that you want to point me to?

1 MR. HOLT: Yes, Your Honor. There is discussion of it in
2 Dr. Terveen's original deposition, at, I believe, it would've been Paragraphs
3 365 to 366.

4 JUDGE QUINN: You mean his declaration, not deposition.

5 MR. HOLT: Yes, his original declaration. Did I say deposition? I
6 apologize.

7 JUDGE QUINN: Okay.

8 MR. HOLT: So, here, he's describing the operation of Shiplacoff and
9 how 301B would move in correspondence with the user's gesture, and he
10 describes how that will vary throughout the movement. And that is in
11 Paragraph -- pardon me -- 364. He says a POSITA would have understood
12 and found obvious that the described dragging would have been
13 implemented by the touch screen 101 detecting movement of the user's
14 finger across the display and updating the location, such that the speed of the
15 card moving across the display would have matched the speed of the user's
16 finger.

17 And later, we see his explanation that a POSITA would have
18 understood that that would have naturally varied throughout the gesture of
19 the user. Otherwise, you'd be requiring the user to move the card at exactly
20 the same speed at all times, and that just is, frankly, against logic.

21 I will very briefly touch on Dependent Claim 208.

22 JUDGE QUINN: You're over time, just to let you know.

23 MR. HOLT: Understood, Your Honor.

24 JUDGE QUINN: Okay.

25 MR. HOLT: Thirteen minutes left, I think.

1 JUDGE QUINN: Yes, 13, 12 seconds.

2 MR. HOLT: Thank you. So, for Dependent Claim 208, there is far
3 more limitations that provide additional context to the gesture and the
4 outcome. Those come from the combination with Shiplacoff. And the
5 Petition walks through what that combination with Shiplacoff would look
6 like.

7 Effectively, and very briefly, Shiplacoff utilizes this card, this card
8 metaphor -- excuse me -- in order to allow a user to move between various
9 applications. And it does so, for instance, in being able to display a full
10 screen mode when an application is selected, transition into a card mode
11 when you want to move between multiple applications or multitask with
12 those applications, or you can go back to a home screen where you can
13 select new applications to open. But the Petition sets forth why it would
14 have been obvious to utilize that, and what the benefits were of that.

15 The outcome of it, though, would be that, in the instances where you
16 are transitioning from full-screen mode to either card mode or home screen,
17 you will, in that instance, be meeting each and every limitation of Dependent
18 Claim 208. The touch-and-drag operation to open a menu would be then
19 mapped to this transition of display modes described by Shiplacoff.

20 And one of the reasons for that that was talked about in the Petition is
21 that the card mode is like a menu, and a POSITA would understand it as a
22 menu. It is showing a menu of possible open applications from which a user
23 can select. And so it assumes, effectively, the same role as any other menu
24 within Ahn. And so it would have been obvious to utilize it as one of the

1 menus available to the user as a result of the touch-and-drag operation
2 described in Ahn.

3 Are there any questions about that at this point?

4 JUDGE QUINN: No.

5 MR. HOLT: Okay. I'll reserve the rest of my time, Your Honors.
6 Thank you.

7 JUDGE FENICK: Thank you.

8 Mr. Robinson, would you like to reserve time for a surrebuttal?

9 MR. ROBINSON: Fifteen minutes, please, Your Honor.

10 JUDGE FENICK: Thank you. You can begin when you're ready.

11 MR. ROBINSON: Thank you. Good afternoon, Your Honors. Eagle
12 Robinson for Patent Owner, Smith Interface. At the outset, both of these
13 obviousness theories for claim -- well, for all of the independent claims, rely
14 on Ahn's menu to progressively appearing, as Petitioner described it. The
15 Reply at Page 2 confirms that both of those theories rely on the menu in Ahn
16 sliding, so I want to start there briefly.

17 Ahn's Paragraph 118 and Figure 18A are what Petitioner points to in
18 Ahn to begin. Critically, Figure 18A in Ahn shows the finger dragging,
19 shows the start point; it shows the point to which it's moved, and it does not
20 do the same for the graphic shadow or the menu. So, Figure 18A and
21 Paragraph 118 of Ahn suggest the opposite of a menu progressively
22 appearing with a gesture.

23 So, then turning to the Chaudhri combination, it really comes down to
24 whether the Petition has articulated some motivation and some theory that

1 would render it obvious to progressively slide Ahn's menu from the right-
2 hand side, out over the clock. It does not.

3 Just now, Petitioner's Counsel pointed to Petitioner's Slide 24, and
4 three paragraphs there of Chaudhri, Paragraphs 6, 48, and 79. Critically,
5 those three paragraphs are only cited in the petition's overview of Chaudhri.
6 They are never cited in the explanation of the combination or the purported
7 motivations for modifying it.

8 If we dig into the description of Chaudhri's Figures 5A and 5B, which
9 Petitioner also pointed to, that has the unlock image 402 sliding within the
10 channel, I believe it's 404, Paragraph 78 in Chaudhri describes that. And
11 what Paragraph 78 and the surrounding paragraphs make clear in Chaudhri
12 is that the unlock image 402 is not the visual cue. The channel is the visual
13 cue. The other aspects around that that lets you see the progress of the
14 image along that channel or the visual cues that give you some sense of sort
15 of the progress.

16 I think heard today for the first time that the menu itself was the visual
17 cue, and all it takes is sliding that to see progress of its deployment. That
18 petition -- sorry. That theory is not advanced in the Petition. It's just not
19 there. And so, the Patent Owner --

20 JUDGE QUINN: Petitioner does rely on the obviousness -- on an
21 obviousness case in modifying, I guess, Ahn. It would've been obvious to
22 have in Ahn a progressive display of the menu.

23 MR. ROBINSON: No, Your Honor. There's never a modification of
24 Ahn to progressive --

1 JUDGE QUINN: Well, not modification, that it would have been
2 obvious that the movement of the -- the sliding in of the menu, it would have
3 been progressive.

4 MR. ROBINSON: I'm not sure I follow the distinction, Your Honor.
5 It's either disclosed or it's got to be modified to include it.

6 JUDGE QUINN: Well, no. Someone of ordinary skill in the art, if
7 there is no disclosure of progressive sliding in, one of skill in the art can fill
8 in the gaps and say it would have been obvious to have done it that way, or it
9 would have been obvious that that's how it does it.

10 MR. ROBINSON: Well, Your Honor, I think that I would refer back
11 to the point where I started, which is, Figure 18A actually shows that it
12 doesn't progressively slide in. Ahn doesn't say that it progressively slides in,
13 and in fact, what it discloses affirmatively is the -- when it's talking about
14 the drag is a finger dragging across the screen and across the shadow in 18A.
15 It shows that finger moving. Nothing else is moving. So Ahn affirmatively
16 discloses that the operation of its menus are binary. It's not just silence.
17 And so, if the operation of the menus is binary, there is, by necessity, a
18 modification. Even if you accepted their silence -- I'm sorry. I didn't mean
19 to interrupt.

20 JUDGE FENICK: No. Please finish your thought.

21 MR. ROBINSON: Even if you accepted that there is silence, we're
22 left with their sort of obvious to try theory.

23 Judge Quinn, to your --

24 JUDGE FENICK: Mister Robinson --

25 MR. ROBINSON: I'm sorry. Your Honor. Go ahead.

1 JUDGE FENICK: You said that the activation of a menu is binary,
2 but your expert talks about the possibility that there's an animation that gets
3 triggered. And so, is the animation effect that your expert is talking about,
4 that seems like that would be some kind of movement of the menu in, and an
5 animation of the menu would either, you know, slowly appear, or it slides in.
6 It feels like your expert and your argument is that Ahn does have these
7 animations.

8 And so, I'm not sure that if Ahn discloses animations, that they would
9 not be a menu sliding in. But if it wasn't, even if you do accept the binary
10 argument -- and also with respect to Figure 18, I mean, the animation is
11 described with respect to Figures 7A through 7C, which also don't show
12 what you're -- what you argue is lacking in 18. I'm not sure how you would,
13 in still figures, show an animation of a menu sliding in. Can you address
14 your expert's discussion of an animation being disclosed in Ahn?

15 MR. ROBINSON: Certainly, Your Honor. There's two things. First
16 is, Petitioner has attempted to sort of broaden this animation to include
17 movement of a menu. And so, I want to be precise there that in Paragraph
18 119, it talks about gradually disappearing, graphic 1800 gradually
19 disappearing. And certainly, once a gesture is completed, the menu appears.
20 Whether or not that would be arguably an animation is not something that
21 has been sort of established by Petitioner.

22 The other point that I think we pointed to, and to Your Honor's
23 question specifically, as -- was it 4A through 4C?

24 JUDGE FENICK: It was 7A. I'm sorry. I'm looking at your
25 declarant Rosenberg's Declaration, Paragraph 52, on Page 24. It says,

1 referring to the figures, an input is received corresponding to a left menu.
2 An animation effect is displayed after the input. And the left menu is
3 depicted after the animation of that.

4 MR. ROBINSON: I'm just waiting for that document to open. You
5 said Paragraph 52, Your Honor?

6 JUDGE FENICK: Yes, Page 24.

7 MR. ROBINSON: Give me just one moment. The wheel of death is
8 turning slowly right now.

9 JUDGE FENICK: It's also discussed in your Response if that's easier.
10 You talk about Ahn's menus are binary operations, but also cite the fact that
11 there is an animation effect that happens.

12 MR. ROBINSON: Your Honor, I suppose there's two points here to
13 make. The first is that it's if we accept that an animation is a menu
14 progressively sliding, it's not enough that it progressively slides for the
15 Petitioner's theory. It has to slide with the gesture. And so, when I say
16 binary, specifically, what I'm referring to is in each of Ahn's disclosed
17 embodiments, nothing happens with the menu until the gesture is complete.

18 And so, the modification here is, I guess, twofold. One is, it's not you
19 need to show that it slides, and you need to show that it slides during the
20 swipe gesture.

21 JUDGE FENICK: Right, but some of that comes from Chaudhri in
22 the combination of Ahn and Chaudhri.

23 MR. ROBINSON: No, Your Honor, it doesn't, and here's why. The
24 combination, there's this reference to the lock image 402 now, but if you
25 look at the Petition, it doesn't actually point to that lock image and say, oh,

1 this would have been a reason to modify and make the menu slide out during
2 a gesture. That's point one.

3 Point two is, even if you look at the transitions between user interface
4 states that are discussed in Chaudhri, any they actually point to two different
5 embodiments in Chaudhri and sort of mix and match, but ultimately, those
6 transition interface states also happen after a completion of a gesture. And
7 so, there is not a disclosure in Chaudhri of -- that they've pointed to or laid
8 any theory reliant on the Petition of actually having a gesture and
9 simultaneously blurring or fading a background while also, you know,
10 sliding out a menu. It's hit or miss, and it's sort of pick and choose to try to
11 fit the claims.

12 And I'll give you an example on the obvious to try. You know,
13 Petitioner's Counsel said, oh, there's not more options in the evidence, but
14 Chaudhri itself discloses sort of a laundry list of transitions and blurring and
15 fading and fading in and fading out, not one of which in and of itself fits the
16 claims.

17 So, even the part that they're looking at in terms of transitioning
18 between user interface states talks about transitioning the optical intensity of
19 the second user interface state, which they said is the menu, but as they've
20 applied it to Ahn now, they're saying, well, the intensity of the menu doesn't
21 change at all. That stays the same. The only part we're going to sort of
22 selectively pluck from that is fading or blurring the clock.

23 And I guess, one other point on that, just to make sure it's buttoned up,
24 as there was some confusion over whether the second object mapped in the
25 Petition was limited to the clock, and it is. So, at 119, Petition at Pages 23 to

1 24, mapping Limitation 2B specifically points to the clock widget as the
2 other object that then has to be blurred in accordance with the rest of the
3 claim.

4 JUDGE QUINN: I want to ask you about Figure 18B and Paragraph
5 119 of Ahn. There has been a lot of argument about prepositions that are
6 used in a paragraph as to whether there is some timing discussed. And it
7 seems to me that that paragraph could support the idea that you do have a
8 menu that slides onto the screen as the gesture is occurring. But you're
9 relying on very specific words of that -- of those sentences in there to say
10 that it's -- that nothing happens during the gestures. You could complete it
11 or not complete it. And I want to focus on the part of the Paragraph line 119
12 that says that the menu list can be displayed as emerging from the left side of
13 the display. That tells me that there is room for a progressive slide of the
14 menu.

15 MR. ROBINSON: So, Your Honor, I want to be very careful here.
16 119 refers to Figure 18B, which is not relied on in the Petition for this
17 modification. Now, Figure -- or Paragraph 119 is referenced in sort of this
18 overall discussion of Ahn, but it is not relied to -- relied upon in Petition for
19 the modification on this particular element.

20 JUDGE QUINN: Well, I'm not saying that they are arguing a
21 modification. In the Petition at Page 27, as I read the Petition, maybe I'm
22 reading it wrong. Maybe we will hear from Petitioner on this. They're
23 taking the position that a POSITA would have found it obvious that as a user
24 drags a gesture to open a translucent menu, the menu will progressively slide
25 on the display, and they specifically rely on Paragraphs 18, 118, 119, and

1 Figures 18 in supporting that, and that's my question to you as this paragraph
2 is concerned.

3 MR. ROBINSON: To make sure -- sorry.

4 JUDGE QUINN: The wording there does seem to support the
5 concept that there is a progressive slide.

6 MR. ROBINSON: To ensure I'm speaking directly to what you are,
7 which petition are you referring to, Your Honor?

8 JUDGE QUINN: Petition in the 2024-01119.

9 MR. ROBINSON: Nineteen, okay. And you said Page 27?

10 JUDGE QUINN: Yes, sir.

11 MR. ROBINSON: So, I think, on Page 27 of the 119 Petition, the
12 only citation I see for Paragraph 119 is that the graphic shadow indicates the
13 start position of the touch along the first edge. Beyond that, it looks only to
14 the menu list being displayed along the dragged graphic 118. So I guess I'm
15 -- I don't think the Petition relies on the sort of emerged language from 119.

16 JUDGE QUINN: But it is in the same paragraph, and it's all
17 describing the same motion.

18 MR. ROBINSON: Respectfully, Your Honor, they're different
19 paragraphs talking about different figures that show different embodiments.
20 So 119 talks about 18B. 118 talks about 18A. They are different input
21 gestures and different responses to those gestures. So it --

22 JUDGE QUINN: Is Figure 18B part of Figure 18?

23 MR. ROBINSON: I mean, they both have the same number, but it
24 talks about two alternative behaviors for two alternative gestures.

1 JUDGE QUINN: So your position is that if we read this as supporting
2 Petitioner's position, that this is not something Petitioner has relied on?

3 MR. ROBINSON: They certainly didn't rely on it for sort of
4 interpreting Paragraph 118's disclosure. So 118 shows the movement, and to
5 Your Honor's question of how they would have shown movement of an
6 object, Figure 18, again, shows the finger moving but no movement of the
7 shadow or the menu. In other places, Ahn does show movement. So, Figure
8 4A to 4B, I believe, shows a folder moving, right? Certainly, 18A or 18B
9 could have shown, in response to sort of movement of a finger, could have
10 shown a menu moving, but it doesn't.

11 And so, and it is explained in sort of Patent Owner Response in a
12 number of places, Ahn uses words like as and drag. And it does so in very
13 specific ways corresponding to completion of a gesture before there is a
14 reaction, absolutely, sort of binary decision-making. You finish the gesture,
15 and then there's a reaction. So those words, in the context of Ahn and in the
16 context of what Ahn actually shows in the features, does disclose you make
17 this gesture. The gesture is completed. The software says, hey, is the
18 gesture complete? And if so, then it displays the menu.

19 And there's -- but I think that's -- I want to find the --

20 JUDGE QUINN: I don't think that answers my question.

21 MR. ROBINSON: All right.

22 JUDGE QUINN: I was asking you about, specifically, if Petitioner
23 has cited Paragraphs 118 and 119 and Figures 18, which includes Figures
24 18A and 18B, to support the proposition that it would have been obvious for
25 a POSITA to understand that there is a progressive slide of the transparent

1 menu, why are you saying that we cannot rely on anything that Paragraph
2 119 says as far as the emerging menu from the left side? And you can
3 disagree as to whether that discloses a progressively sliding menu or not.
4 That's okay. I'm just asking. You took a position that that's -- that we
5 cannot rely on something that's stated in 119 for that proposition.

6 MR. ROBINSON: Your Honor, I think I would go back to the same
7 thing that I started with, which is that 119 is referenced generally as
8 disclosing the start position, as the graphic shadow is showing its start
9 position, but 119 is not relied on on Page 27 of the Petition as sort of
10 informing the display of anything else. They say, here's the start position.
11 The graphic shadow start shows it in 18A and 18B -- sorry -- 118 to 119.
12 And then, when it goes on to talk about what they're actually doing and the
13 behavior of the menu, it transitions back to 118 immediately after, in the
14 next sentence.

15 So, respectfully, I don't think that articulates a theory of why you
16 would use 119 to interpret 118 in the context of what they have said 118
17 discloses. And if they are trying to mix and match two behaviors, that is --
18 that would be a modification of 18A's behavior to only have part of what I
19 guess they would arguably say is disclosed by 119, but not other parts of it.
20 So it's mixing and matching distinct elements from two different disclosures.

21 And 119, just, I don't read Page 27 of the Petition as relying on 119 to
22 sort of inform the behavior of the menu, right? It just says this is where a
23 graphic shows the start position. It immediately transitions back to just 118
24 on the following sentence.

1 JUDGE MURPHY: Mr. Robinson, Judge Murphy. On Paragraph
2 119, the reference to the menu list, emerging from the side, the left side of
3 the display, as I understand it, that's in response to a gesture that's a press
4 gesture, not a touch-and-drag gesture.

5 MR. ROBINSON: That's true, Your Honor.

6 JUDGE MURPHY: And does it matter for purposes of the
7 obviousness argument?

8 MR. ROBINSON: Well, it does because they're relying on the
9 behavior, the swipe of Paragraph 118. They're not relying on the press, so
10 they're relying on a gesture with movement.

11 The other thing I would add, Your Honor, is, there is nothing in Ahn
12 to suggest that emerging means anything other than sort of extending from.
13 That in and of itself is not necessarily an animation. Each of the menus from
14 a side sort of emerges from the side in the sense that they begin at a side and
15 end somewhere in the middle.

16 JUDGE MURPHY: So, I guess, the point, are you saying that the
17 Petitioner did not make the argument that during the touch-and-drag gesture,
18 there's an emerging menu list from the side as in 119?

19 MR. ROBINSON: So they made the contention that the menu
20 appears progressively from a side. I think the question is whether they
21 supported that in the Petition with any reference or explanation with respect
22 to Paragraph 119.

23 So they certainly point to 119 as discussing a graphic shadow as the
24 start position of a gesture, but they don't say that you would -- they don't sort
25 of explain in that they think emerging in 119 is in and of itself an animation

1 in the Petition. They don't say that you would take that animation and
2 import it into 118. They don't say that you would only take that but not the
3 swipe gesture -- or sorry -- not the press gesture. They just -- they don't
4 articulate any of that with respect to 119.

5 And again, the Petition doesn't sort of rely on that emerging language
6 as disclosing it. They relied on kind of 118 and the drag along, and as -- but
7 119, as cited on 27, only as saying it shows the graphic start position.

8 JUDGE MURPHY: And then the claim requires that the blurring --
9 the blurring of the object occurs during the gesture before the gesture is
10 complete, so that can only apply to the touch-and-drag gesture as I
11 understand it.

12 MR. ROBINSON: Yes, Your Honor. The touch-and-drag gesture, or
13 they've, I think, referred to it as a swipe gesture in some places, is the only
14 gesture to which they have mapped the gesture --

15 (Simultaneous speaking.)

16 JUDGE MURPHY: Well, but if it applies to touch-and-drag that you
17 have a menu list emerging from the left side of the display, why can't the
18 menu emerge from the left side when you touch the display, as in press it?

19 MR. ROBINSON: I'm not sure if that came out in the order. Is the
20 question if it says that you can touch, the menu emerges, then why can't it
21 also emerge when you swipe?

22 JUDGE MURPHY: No, when you touch it before you swipe. I mean,
23 you have to touch it to drag it, right? It's called touch-and-drag. So, if you
24 touch it, as in a press, why can't the menu emerge before the drag is
25 complete, and did they argue that?

1 MR. ROBINSON: One, they did not argue that. Two is if the menu
2 emerges with the touch, it's not clear how it would move with the drag. So, I
3 guess, one, they didn't argue it, and two, even if they had, I'm not sure how it
4 would meet everything that is recited in the claim.

5 JUDGE MURPHY: All right. Thank you.

6 MR. ROBINSON: So the Reply points to Hisatomi, Hinckley, and
7 Nan for sliding menus with a gesture. Those were not part of the Petition's
8 theory, so they certainly should not supplement it at this stage.

9 And then, I think just broadly I touched on it, but I think it's worth just
10 noting again that what Chaudhri actually discloses as transitions happens
11 after the transition between user interface states. One talks about changing
12 the intensity of the second user interface state, which, in the combined or
13 modified Ahn, would have been the menu appearing, not the background,
14 not the clock widget. And in terms of transitions, Chaudhri also discloses
15 transitions happening after a gesture is complete, because before that, you
16 don't know whether it's going to be -- whether it's going to be a transition,
17 essentially.

18 With that, unless there are any other questions on that Ahn-Chaudhri
19 foundation, I'd like to speak a bit to Shiplacoff.

20 To Your Honors questions about kind of evidence on whether
21 Shiplacoff discloses two different speeds, I would like to highlight
22 Dr. Rosenberg's testimony, Exhibit 2018. I believe it starts at about
23 Paragraph 180. And I don't want to belabor that sort of line by line, but at a
24 high level, there's really two things.

1 One is Shiplacoff in its shuffle mode, and I'll try to refer you to a
2 picture. I think in Petitioner's Slide 31 has the foundation of this theory, at
3 least the images from Shiplacoff that they rely on. It really comes down to
4 one: they started with the assumption that snap means fast. Dr. Rosenberg
5 explained why that is not the case, that snap really speaks to alignment.

6 The next theory now is, if a user moves a card really slowly, that
7 whatever speed the snap happens at will be faster than the card moving
8 really slowly. The problem with that is -- well, there are a few, but the
9 biggest problem with that, I think, is in looking at Shiplacoff on Petitioner's
10 Slide 31, specifically Figure 9B. The cards 301C and 301D don't move over
11 to fill the gap until card 301B is already up and out of the way. So that
12 seems to illustrate that 301B is far enough out of the way and seemingly
13 stopped moving before those other cards snap into position, regardless of the
14 speed. The claim requires that the second motion, the faster speed, happen
15 while the gesture is moving. And so when card 301 --

16 JUDGE QUINN: Are you saying that there is no overlap between the
17 dragging of card 301B and the shifting of cards 301C and the next ones?

18 MR. ROBINSON: I'm saying there is no basis to conclude from
19 Shiplacoff that there would be any overlap. Shiplacoff talks about moving
20 that card out of the way, moving the other cards to fill the gap, and then
21 moving that card back down.

22 And if we look at Figure 9B and Figure 9C, that card 301B is in the
23 same place in both of those. So, when the other cards are moving, it is
24 stopped. So they -- again, it's 9A to 9B. They have mapped the movement
25 of 301B up as the first movement. They have mapped the movement of

1 301C and 301D to the left as the second movement. They have not pointed
2 to anything in Shiplacoff that says that those two things would overlap in
3 any way.

4 And in fact, their expert explains, well, you could move it really
5 slowly, and that might impact it, but it would come to a stop at the top. And
6 there's no explanation in Shiplacoff that those other cards would start
7 moving before you got that card up out of the way.

8 JUDGE QUINN: Is there a dispute here as to whether there is a --
9 that the while clause applies also to the second movement?

10 MR. ROBINSON: I don't believe that Petitioner has taken the
11 position that the movement only needs to apply to the second. And Patent
12 Owner has certainly taken the position in the Patent Owner Response that
13 the movement of the gesture, that the while clause applies to both of the
14 resulting actions.

15 The last thing I'll add is --

16 JUDGE MURPHY: Mr. Robinson, Judge Murphy. Let me just pipe
17 up for one -- I mean, this is the point that Petitioner has made is that
18 Shiplacoff teaches variable speeds of these actions. They're not going to be
19 the same. So why is it unreasonable for us to read the combination as the
20 second speed being faster than the first speed in the claimed movement?

21 MR. ROBINSON: Well, Your Honor, at the outset, I think that it's
22 important to note that that's an inherency theory. I don't believe there is any
23 specific language in Shiplacoff that's been cited as doing different speed.

24 I think the -- but the position, as I understand it, is that the snapping of
25 the cards 301C and 301D to the left in Figure 9B will happen at a speed, and

1 that if a user moves really fast, then that speed would be slower, but if a user
2 moves really slow, and that movement happens before 301B stops moving,
3 that the sort of constant movement of 301C and 301D in that set of
4 circumstances would be faster.

5 That doesn't meet the notion of instructions that are executable to
6 cause that relationship to happen. That's pure happenstance. Even if we
7 accept all of that on its face, it's pure happenstance. That's not instructions
8 that cause 301C and 301D to move faster than 301B.

9 JUDGE MURPHY: Yeah, but implementing programming
10 instructions is, I assume, within the level of skill in the art. The point is,
11 does Shiplacoff fairly teach variable speeds where the second speed can be
12 programmed to be faster than the first speed?

13 MR. ROBINSON: Your Honor, I'm --
14 (Simultaneous speaking.)

15 JUDGE MURPHY: Are you saying Shiplacoff needs to say that there
16 are programming instructions so that the motion of, I guess, it's 301C and D
17 have to be faster than the motion of dragging 301B upward?

18 MR. ROBINSON: No, Your Honor. What I'm saying -- and I'm sure
19 Petitioner's Counsel will correct me if I'm wrong on this -- is that I don't
20 believe the Petition or Petitioner's expert have pointed to anything in
21 Shiplacoff that teaches variable speed, or any speed at all, for the movement
22 of cards 301C and 301D.

23 My understanding of their theory is cards 301C and 301D move when
24 they snap. There must be a speed at which they do that, and that if card
25 301B is moved really slow, then there might be times where the program

1 speed of 301C and 301D ends up being faster. I don't believe there is any
2 discussion of the speed of that movement in Shiplacoff itself, much less it
3 being variable or having any type of enforced relationship relative to the
4 speed at which card 301B moves.

5 JUDGE MURPHY: Okay. Thanks.

6 MR. ROBINSON: So, with that, unless there are any other questions
7 on Shiplacoff, I'd like to briefly address the theory with respect to, I believe
8 it's Claim 208.

9 Claim 208 depends from Claim 2. Claim 2 has a swipe gesture that
10 comes from the right side of the screen into the screen in Ahn to make Ahn's
11 menu from the right extend from the right edge and overlap a part of the
12 clock widget that needs to be blurred as the other object. It's important
13 because the only menu in Ahn for which the appearance of the clock widget
14 changes is that menu on the right. Ahn has other menus that don't overlap
15 the clock widget that do not blur the clock widget. So, when, for the theory
16 for Dependent Claim 208, the Petition shifts to an upward swipe from the
17 bottom, that difference is material because it is a different gesture.

18 Now, Petitioner has said on Reply, well, it's a swipe gesture that opens
19 a menu, and so it's, essentially, it doesn't matter. But if we look at the 119
20 Petition at page -- I'm sorry. I lost the page. Give me one moment. Look at
21 the 119 Petition at Page 40, specifically says, when a user performs a touch-
22 and-drag gesture in the upward direction, akin to the swipe up gesture
23 described by Shiplacoff, quote, instead of displaying the service provider
24 additional service menu 620, instead of displaying that menu, the mobile

1 terminal would switch from full screen mode to card mode, or from card
2 mode to launcher screen.

3 So not only is it a different gesture, it is a different gesture that has
4 been modified to not display the menu that Ahn teaches. And notably, it's a
5 menu that does not blur the clock widget. So it -- the 208 theory falls apart
6 on that basis alone. That's a completely different gesture. It is not the
7 gesture of Claim 2, and it essentially retreats from the behavior that is
8 mapped to Claim 2.

9 With that, unless Your Honors have any specific questions, I'm happy
10 to cede a little bit of my time and just reserve 15 minutes for rebuttal.

11 JUDGE FENICK: All right. Thank you.

12 JUDGE QUINN: You have 24 minutes remaining. That's -- well,
13 you can sit down.

14 MR. ROBINSON: Thank you.

15 JUDGE QUINN: Are you ready?

16 MR. HOLT: I promised Your Honors a citation to a case while I was
17 up here in my original discussion, and that is Grunenthal v. Alkem Labs,
18 which is 919 F.3d 1333. This case states that to prove obviousness under an
19 obvious to try theory, the challenger must show, one, a design or market
20 need to solve a particular problem, and two, that there are a finite number of
21 identified predictable solutions that would lead to an expectation of success.
22 So those are the two pieces, and what we were arguing in the Petition is that
23 both of those pieces of the requirements, both one and two, are satisfied in
24 the Ahn-Chaudhri combination.

1 I wanted to touch on -- starting with the Ahn-Chaudhri discussion,
2 Judge Quinn, you were correct that the Petition, when addressing the
3 limitation of -- let's see where this is. I apologize. We were looking at Page
4 27 about the reliance of the Petition on Ahn, and particularly Paragraphs
5 118, 119, and Figure 18. What I believe I heard my colleague say was that
6 Page 27 doesn't rely upon Paragraph 119.

7 But what I would like to note is that if you go down to Page 28, after
8 discussing the teachings of both Ahn and Chaudhri, what the paragraph
9 concludes with is, quote, a POSITA would have found obvious from these
10 teachings that at least implementations like those described referencing
11 Figure 18 -- this is all of Figure 18, which again is 118 and 119, both of
12 which were cited earlier in the paragraph -- Ahn's menu list would have been
13 graphically displayed as sliding onto the display based on a change in a
14 magnitude of the touch-and-drag gesture being detected on the touch screen.

15 And so, the Petition does, in fact, as Judge Quinn, you were
16 identifying, rely upon the whole of Figure 18 and its associated teachings.

17 JUDGE QUINN: Well, it's also -- I saw it in your Reply as well that
18 you addressed that situation, but unfortunately, I think what we were
19 focusing on is that particular language of the emerging menu. And I did not
20 see that in your petition expressly, but I think you address it in a Reply, if
21 you could remind me of that.

22 MR. HOLT: Yes, Your Honor. This would be -- let me find it very
23 quickly. I know I'm a little bit limited on time here. So this is addressed on
24 Page 3, and it addresses both Figure 18A and 18B and does rely on the
25 emerging language there.

1 I'd also like to note, though, what I believe I heard was that there's
2 been no discussion of the word emerging necessarily meaning an animation,
3 but that's a bit surprising to me to hear, because if you look at
4 Dr. Rosenberg's own declaration -- and this is Paragraph 60 -- he talks about
5 an animation effect is displayed. And he's arguing that it's after the input,
6 but he's saying there is an animation effect. And for support for that, he
7 quotes the menu list 1500 can be displayed as emerging.

8 So their own expert is the one that's mapping the emerging language
9 to an animation. And truly, and this is also talked about in the Reply. The
10 question we're now at, in light of Dr. Rosenberg's testimony, is simply to
11 when does that animation happen. Does it have to happen after the gesture
12 is complete? And there's nothing in Ahn that requires that, and there'd be no
13 reason to.

14 Are there any questions about Ahn and Chaudhri further before I
15 move on? Okay.

16 JUDGE MURPHY: Just one clarification for me. Is Dr. Rosenberg,
17 that's the Patent Owner's expert, right?

18 MR. HOLT: Yes, Your Honor. Sorry. That's correct, Your Honor.

19 JUDGE MURPHY: So was the argument made in the Petition or in
20 the Petitioner's Expert Declaration?

21 MR. HOLT: What I cited to in the Petition, Your Honor, on Pages 27
22 and 28?

23 JUDGE MURPHY: Yes.

24 MR. HOLT: That's the theory that is relying upon the descriptions of
25 Figure 18, but there is no explicit discussion of that emerging language. I

1 just wanted to address the fact that my colleague was saying there's been
2 nothing on the record to tie the emerging language of those paragraphs to an
3 actual animation. That emerging, I think what I heard is, can mean that it's
4 simply there. And because we see it there on the side, it has, quote/unquote,
5 emerged from that side. But again, that's undermined by their own expert's
6 testimony.

7 JUDGE MURPHY: Thank you.

8 MR. HOLT: I want to go to, very briefly, the Independent Claim 1
9 and the Shiplacoff disclosure. It was interesting to hear from Counsel. At
10 the very end, he used a phrase enforced relationship. He seems to be
11 suggesting that the claim language require that at all times, the speed of one
12 object be lesser than the speed of another object, but I would challenge that
13 that's not at all what the claims say. It simply says that at some point, the
14 programming supports, and is configured to support, one object moving at a
15 different speed during that gesture. And that's exactly what Shiplacoff
16 discloses.

17 JUDGE QUINN: I don't think he said at all times, but what I heard
18 was that Shiplacoff has no overlap of the dragging upward of card 301B.
19 And then that gesture is completed, and then the other card snaps into place.
20 So there's no overlap, but I didn't think you -- I didn't think you said that you
21 have to have them overlap at all times.

22 MR. HOLT: I was just reacting to that phrase enforced relationship,
23 Your Honor, as he was characterizing things. And it seemed to me as
24 though he was suggesting the claim requires that at all times, those two
25 speeds be with respect to the --

1 JUDGE QUINN: Okay. Well, why don't you respond to what he
2 actually argued? If you'd like-

3 MR. HOLT: Absolutely. If you look to Slide 33, this is Paragraph
4 106. Once the movement action has been initiated, the user can continue to
5 drag card 301 in any direction in order to place 301 at the described desired
6 position within the sequence of cards 301. This is Shiplacoff directly
7 addressing the fact that the movement of card 301B can continue throughout
8 the operation of what we're seeing in the figures. There is nothing in
9 Shiplacoff that states that card 301B stops. You cannot find that in the
10 description of Shiplacoff. And in fact, this paragraph undermines that
11 directly.

12 JUDGE QUINN: Well, I mean, you can continue to drag up until the
13 point you run out of screen space to drag, but the question was, when does
14 the other card snap in place of card 301?

15 MR. HOLT: Well, what I would say, Your Honor, is this sentence is
16 saying that that continuing drag can happen, and the cards will have to move
17 in order for it to be replaced. So the drag is continuing through the
18 replacement of the card into the order. And so, this sentence is saying that,
19 and Dr. Terveen speaks to this especially in the Reply Declaration, but this
20 was also cited in the Petition, that the card moves upward, and that this
21 sentence is saying you can continue that drag in any direction in order to
22 place card 301 in the desired position within the sequence.

23 When you read Shiplacoff in context, it talks about movements of
24 cards as you are dragging the card. So things are moving while the user
25 drags the card, and Shiplacoff directly addresses that.

1 I'll also like to note very quickly that, to a certain extent -- and I would
2 say that this has been admitted in the Sur-reply -- if you look at the top of
3 Page 32 of the Sur-reply, after having sat and argued for a long time about
4 card 301B coming to a full stop and never moving, we see the sentence,
5 thus, for the vast majority of the movement of card 301B, cards 301C and
6 301D do not move at all. That suggests that perhaps during some of it,
7 there's no movement, but at least during a portion of it, there is.

8 The paragraph, the very next paragraph, as such, Petitioner at best
9 alleges it is theoretically possible that a user might move card 301B at speed,
10 and that could be slower than the speed of movement of the card 301C for a
11 tiny subpart of the first contact. Again, the claims don't require this to
12 happen throughout the entire contact and gesture. As long as it happens at
13 any point, it is satisfying the claim language.

14 And again, the programming of Shiplacoff to have that card 301B
15 follow the gesture is the programming that allows for this to happen, along
16 with the programming that moves cards 301C and 301D. In combination,
17 that programming that allows for those displays of both card 301B to follow
18 the gesture and 301C and 301D to fill the gap, that's the programming of the
19 claims.

20 What I would say in relation to Dependent Claim 208 very quickly is,
21 if you look at the limitations carefully of Independent Claim 2 and
22 Dependent Claim 208, all that's talked about is a gesture and the gesture.
23 When we mapped the gesture or a gesture in the petition, it was to a drag -- a
24 touch-and-drag operation in Ahn, and in the combination of Ahn, Chaudhri,

1 and Shiplacoff. That drag operation is the gesture, and it satisfies, that
2 gesture satisfies all of the requirements of Claims 2 and 208.

3 I believe I am out of time, so unless Your Honors have any other
4 questions, all right. Thank you, Your Honors.

5 JUDGE QUINN: Thank you so much.

6 Are you ready?

7 MR. ROBINSON: Yes, Your Honor. Thank you. I'll start with
8 Paragraph 60 of Dr. Rosenberg's Declaration. Dr. Rosenberg does not
9 concede that emerging is an animation. What he says is that at no point does
10 Ahn describe that its menu will emerge and be displayed in some in-between
11 state where the menu is neither fully opened or closed.

12 For the animation that he talks about, he talks about the graphic 1800
13 gradually disappearing in the display 40. So, that first point, absolutely,
14 Dr. Rosenberg does not concede that emerging from a side of a screen is in
15 and of itself an animation.

16 JUDGE QUINN: Well, what if we disagree with you? What if what
17 we see is what it is, that he said an animation occurs, and that's the only
18 thing that's moving? What do you say about that?

19 MR. ROBINSON: I'd say, Your Honor, that's inconsistent with what
20 he actually says, which is that at no point does the menu partially emerge.
21 That can't be a concession that --

22 JUDGE QUINN: Then what animation is he referring to?

23 MR. ROBINSON: The graphic, which is specifically stated in Ahn,
24 the graphic gradually disappearing. So that's the one place that Ahn talks
25 about something gradually doing anything. It's that graphic shadow 1800

1 gradually disappearing. And he says that is the -- that's the animation that
2 he's talking about, after completion of the gesture. The sentence preceding
3 that is that Ahn never discloses its menu as every partially anything. So you
4 -- that can't possibly be the animation of a menu sliding when he starts the
5 whole thing with Ahn never says that its menu was partially emerging from
6 anything.

7 In terms of Shiplacoff and specifically Patent Owner's Slide 33, which
8 references a user continuing to drag the card in any direction, that cannot
9 save Petitioner's theory. The claim language itself talks about a gesture in a
10 first direction. So anything that happens in another direction cannot satisfy
11 that.

12 Last, at pages 31 through 32 of the Sur-reply, that is plainly
13 addressing what Petitioner's argument on Reply was. It says this is
14 untimely, and even taken on its face, wouldn't meet the instructions causing
15 what's recited in the claims in terms of behavior and the different speeds.

16 Ultimately, Petitioner's theories start from the faulty foundation that
17 Ahn teaches its menus progressively sliding with a gesture. It does not. In
18 fact, it depicts the opposite. The purported motivation to combine with
19 Chaudhri does not cure that defect, despite what Petitioner says in Reply,
20 confirms in Reply, that both of its obviousness theories depend on Ahn's
21 menu progressively sliding.

22 Finally, when it adds Shiplacoff, it does so with no better justification
23 or explanation, ultimately failing to point to any disclosure in Shiplacoff of
24 related speeds and pointing to an entirely different gesture for Claim 208.
25 The argument now seems to be that any swipe from an edge will do, but

1 what Petitioner overlooks is that Claim 208 refers to the same gesture that is
2 used to satisfy Claim 2, meaning a single gesture, the gesture has to satisfy
3 all those things at once. We can't just have one gesture here and one gesture
4 there.

5 With that, unless Your Honors have any specific questions, I'm happy
6 to submit the rest in a paper and cede some time.

7 JUDGE QUINN: I have one question for you. In the Reply,
8 Petitioner relied on additional references to support the proposition of the
9 progressive display of the menu, specifically at Pages 6 through 8 of the
10 Reply. Do you have any contention as to whether that is related argument?

11 MR. ROBINSON: Absolutely, Your Honor, and I think we make that
12 point in the Patent Owner Response that none of those are cited as part of the
13 theory. None of those are cited to say that, hey, what we said in our initial
14 petition theories was actually sufficient the way that it was. It's just, hey,
15 here's additional arguments that we could've made had we presented them
16 timely.

17 Now, they weren't presented timely, so Patent Owner has not had a
18 full opportunity to address them in a way that we would have if they were in
19 the petition. And certainly, there is no argument that some shifting,
20 unexpected claim construction position opened the door for those. They're
21 just untimely. And ultimately, they can't change what Ahn teaches. They
22 can't change the theory that the Petition articulated.

23 JUDGE QUINN: Is there an argument that they just expand on the
24 knowledge, the current knowledge of the person of skill in the art?

1 MR. ROBINSON: No, Your Honor. I don't believe the Petition's
2 theory ever pointed to kind of the knowledge of skill in the art in general as
3 teaching of a feature or a modification or a function, or anything else. They
4 relied on Ahn's menu sliding.

5 They pointed to Chaudhri and said, essentially, hey, this lock screen in
6 Reply, or this lock image in the Reply -- this lock image in Chaudhri would
7 have suggested a menu. But as the questions earlier revealed, all of that falls
8 apart when you dig into what Chaudhri actually discloses.

9 There is no modification of Ahn in the Petition. And interpretation of
10 Ahn is, I think, resolved again by Ahn itself. When it wants to gradually
11 disappear a shadow, it says, hey, this shadow gradually disappears. When it
12 wants to show an object moving, it shows an object moving. When it wants
13 to show a finger moving, it shows the finger moving. And in the, you know,
14 penultimate figure, 18A, it shows a finger moving, it shows the shadow not
15 moving, and it shows no menu.

16 No, I don't think there's anything there to supplement in the way of
17 kind of a POSITA's knowledge because it's not a modification. It's not a
18 combination. It doesn't supplement the interpretation. It's just, hey, here is
19 some other stuff that was -- that was known.

20 JUDGE QUINN: Okay.

21 MR. ROBINSON: All right. Thank you, Your Honors.

22 JUDGE QUINN: All right. Thank you.

23 JUDGE FENICK: I don't see any other questions from my Panel.
24 Okay. Thank you. The case is submitted.

1 Thank you both for your presentations today. It definitely thorough
2 and helped us understand the issues before us. The Court Reporter will let
3 you know if there is anything that remains ambiguous that you can clear up.

4 Judge Quinn, does the Court Reporter have any questions?

5 COURT REPORTER: I do not.

6 JUDGE QUINN: He does not.

7 JUDGE FENICK: All right. Thank you very much. Adjourned.

8 JUDGE QUINN: All right. Adjourned. Thank you.

9 (Whereupon, the above-entitled matter went off the record at 1:49
10 p.m.)

IPR 2024-01115
IPR 2024-01116
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