

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

REED SEMICONDUCTOR CORP.,
Petitioner,

v.

MONOLITHIC POWER SYSTEMS, INC.,
Patent Owner.

IPR2024-01158
Patent 9,041,377 B2

Record of Oral Hearing
Held: October 23, 2025

Before JEAN R. HOMERE, KARL D. EASTHOM, and
KEN B. BARRETT, *Administrative Patent Judges*.

APPEARANCES:

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P R O C E E D I N G S

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JUDGE BARRETT: Good morning, everyone. We're on the record in IPR2024-01158, Reed Semiconductor Corporation versus Monolithic Power Systems Incorporated. I am Judge Barrett, and with me at the bench today is Judges Homere and Easthom.

Let's start with the parties' appearances. Who do we have for Petitioner?

MR. GRAY: Good morning, Judge. My name is Andrew Gray from Morgan Lewis in Silicon Valley. I'm accompanied by my colleague Annaliese Parker, also from our Silicon Valley office.

JUDGE BARRETT: Welcome. And for Patent Owner?

MR. BOMBACH: You have Miguel Bombach here from Foley and Lardner on behalf of Monolithic Power Systems, the Patent Owner.

JUDGE BARRETT: Good morning, Mr. Bombach. Okay. We set forth the procedure for today's oral argument in our order. But just to remind everybody how this is going to work, Petitioner, you will have 60 minutes total. And Patent Owner, you will also have 60 minutes total to present your arguments. Petitioner will go first and may reserve time for rebuttal.

Patent Owner will then go and may reserve time for surrebuttal. Then Petitioner will present its rebuttal arguments, and Patent Owner will close us out with its surrebuttal. We do have your demonstrative exhibits pulled up on our computers, and we have access to the record. Whenever you are referring to a slide in your demonstrative exhibits, please read the slide number into the record. That will help us immensely in following

1 along and in reviewing the transcript afterwards. If you go outside the
2 demonstratives into the record someplace, just clearly identify where you
3 are--exhibit, column, line number, page, something like that--so we can
4 easily track this down afterwards.

5 These hearings are open to the public, and there is an open line that
6 allows the public to view these proceedings today. I know we do have some
7 information in the record that's sealed, but I don't expect any confidential
8 information to come out today. If (INDISCERNIBLE - TECHNICAL
9 DIFFICULTY) and we will proceed as appropriate if we need to shut the
10 public line down, and I don't want to close out the public. Any questions or
11 concerns, Petitioner?

12 MR. GRAY: No, sir.

13 JUDGE BARRETT: Any questions or concerns from Patent
14 Owner?

15 MR. BOMBACH: No, Your Honor.

16 JUDGE BARRETT: Well then with that, let us begin. Petitioner,
17 you may approach. And as you do, how much time would you like to
18 reserve?

19 MR. GRAY: I think 10 minutes.

20 JUDGE BARRETT: Okay. Reserving 10. That leaves you with
21 50. Whenever you are ready.

22 MR. GRAY: Good morning, Judges. I'd like to first begin with a
23 quick overview of the (INDISCERNIBLE - TECHNICAL DIFFICULTY).
24 We can see that the '377 Patent is generally directed to switch mode, DC-to-
25 DC on-time control circuits for controlling high-side and low-side switches
26 that are found in the on-time generator. There are two main arguments that

1 we're going to make today. Looking to Slide 8, our first argument is that
2 control signal should be construed in accordance with its plain and ordinary
3 meaning as a "signal configured to control a circuit component." Second,
4 and looking to Slide 9, the Tateishi reference discloses each of the
5 limitations and anticipates each of the challenge claims, including the
6 claim's control signal limitation.

7 In particular, Tateishi's control signal is configured to control the
8 input voltage sensing circuit and the power stage, both of which were cited
9 in the claims because Tateishi's control signal drives these components both
10 directly and also indirectly through logic gates. Turning to claim
11 construction and Slide 11, as I noted a few moments ago, control signal
12 should be construed in accordance with its plain and ordinary meaning as "a
13 signal configured to control a circuit component." This construction is
14 supported by both the intrinsic and the intrinsic -- and extrinsic evidence.

15 Turning to Slide 12, looking to the intrinsic evidence and the
16 claims, the language found in each of the claims recites a control signal that
17 serves several claim functions, namely to control the input voltage sensing
18 circuit and the power state.

19 JUDGE HOMERE: Shouldn't a control signal be
20 (INDISCERNIBLE) signal that controls the circuit to perform a particular
21 function?

22 MR. GRAY: Yes, Judge. That's exactly correct.

23 JUDGE HOMERE: So therefore, if a control signal is emitted and
24 then at the -- was emitted, would that still constitute a control signal because
25 of the fact that the signal sent out was not received -- a different signal other
26 than what was sent out was received?

1 MR. GRAY: Well , Judge, you're honing in on the very semantic
2 difference that much of this dispute is about. If you're looking at the
3 function of control and the fact that the flip-flop, in this case, has emitted a
4 signal that ultimately controls the power stage or the input voltage sensing
5 circuit when it's received by that, then that control function is achieved even
6 if the signal is altered in some way along its path.

7 JUDGE HOMERE: Well, so essentially your position is although
8 the signal is altered, it's still controlling. But seems to me that the signal that
9 was emitted then is different from what was received. So how can that be
10 the intended control? How could that be achieved?

11 MR. GRAY: Well, Judge, were that signal not to have been
12 generated and emitted but for that signal, the change would not take place at
13 the input voltage sensing circuit or at the power stage. It's this control
14 functionality. If the flip-flop doesn't generate the high signal, there will be
15 no change. And that is what the claim is focused on. If you look at kind of
16 the purpose here, it's how do we turn on the high-side switch or the low-side
17 switch? We need something to tell it to turn on or off. And the patent
18 teaches that it's -- that this flip-flop, the Q coming out of it, controls it by
19 sending a signal that does that.

20 JUDGE HOMERE: Let me be clear here. Your position is
21 irrespective of what the outcome is? So long as a signal is received, that
22 should constitute the control signal.

23 MR. GRAY: That's what the claims require, Judge.

24 JUDGE HOMERE: Thank you.

25 MR. GRAY: And as I would just say, it's implicit from the
26 language of the claims that the control signal must be construed to include a

1 control function. Looking to Slide 13, then this is from the specification. So
2 still with the intrinsic evidence, moving from the claims to the specification,
3 the specification also supports Petitioner's construction by giving multiple
4 examples of the control signal controlling switches.

5 In the examples shown on Slide 13, which is from column 5, lines
6 21 through 23 of the '377 Patent, in describing the input voltage sensing
7 circuit shown in Figure 4, the specification refers to the control signal's
8 control of switch K. And turning to Slide 14, here we can see from column
9 8, lines 32 through 34 of the '377 Patent on Figure 11, this specification,
10 once again refers to the control signal's control of high-side switch Q1 and
11 low-side switch Q2.

12 But not only does the intrinsic evidence support this construction,
13 but so too does the extrinsic evidence. In addition to the expert testimony
14 that we cited in our petition and in our reply, the dictionary definition that
15 we provided from the Wiley Electrical and Electronics Engineering
16 Dictionary defines a control signal as, "a signal utilized to control a device
17 or process." This is kind of exactly what we're proposing.

18 Turning to Slide 16, but despite this intrinsic and extrinsic
19 evidence, Patent Owner seeks to read control, the very function of this, out
20 of the claims. But Patent Owner's arguments ignore the fact that a key
21 aspect of the '377 Patent is to control the high-side and low-side switches.
22 And the claim --

23 JUDGE BARRETT: Counsel, could you explain your argument a
24 little bit better why you say Patent Owner is trying to read out the word
25 control? I believe in one of their later briefs they said, well, control's
26 implicit in our proposed construction.

1 MR. GRAY: Well, they're trying to read it out because if they
2 keep it in, then the Tateishi reference anticipates their claims. And they
3 need to read it out in an effort to preserve the validity of the claims. They
4 argue that you have to look to the logical state of the signal rather than the
5 function of it, but there's nothing in the intrinsic or extrinsic evidence to
6 support that. They ignore the fact that the key aspect of this patent is to
7 control the high-side and low-side switches. And this claim control signal is
8 explicitly what is claimed to provide this control.

9 So the Patent Owner then argues that the construction of control
10 signal should describe the signal itself rather than describing its function or
11 its purpose as is captured by Petitioner's construction of control signal. To
12 me, that's a signal configured to control a circuit component.

13 At this point and turning to Slide 18, it's worth noting that it's set
14 forth at page 6 of Petitioner's reply, even MPS's expert concedes that
15 Petitioner's construction is correct. In this regard, Mr. McAlexander
16 testified as follows. The question, "In the context of the '377 Patent, you
17 would agree that a control signal is a signal that controls the circuit
18 components, correct? I would agree with that, yes." Thus, when you
19 actually dig in on this, you can see that Patent Owner and its expert cannot
20 dispute this core concept that the control signal needs to control other circuit
21 elements. This fundamentally supports Petitioner's claim construction.

22 And looking to Slide 19 and as the Board correctly found on page
23 17 of its institution decision and based on the evidence then before it, Patent
24 Owner's proposed construction of control signal is overly narrow and it is
25 unsupported by the intrinsic record. In particular, in the institution decision,
26 the Board did three things. First, it refused to read logical into control

1 signal. Second, it did not construe control signal as excluding logic gates
2 between the logic control circuit output and the second input terminal of the
3 input voltage sensing circuit. And three, it did not construe control signal to
4 require that the control signal be the exclusively controlling factor of a
5 component. Despite this in the institution decision, in its response, the
6 Patent Owner did not identify any new evidence to support its claim
7 construction position or in its surreply. There is none. That's why it didn't.

8 Yet the Patent Owner persists in arguing the same construction of
9 control signal that it argued in its preliminary response. While this may be
10 Patent Owner's best and perhaps only way to avoid having the claims of the
11 '377 Patent held to be invalid based on the prior art and the Tateishi
12 reference, it remains incorrect, and it remains unsupported by the evidence.

13 So turning to anticipation, to Ground 1, the Tateishi reference
14 anticipates Claims 1 through 4, Claims 9 through 14, and Claims 17 through
15 18. Looking to Slide 21, these claims are recited plainly. They require a
16 control signal generated by a flip-flop that is received by an on-time
17 generator that is used to control the high-side and low-side switches. While
18 working at Texas Instruments, Tateishi developed a solution taught in the
19 '377 Patent two years prior.

20 The '377 Patent is essentially a copy of Tateishi's work, and this is
21 the reference to the Tateishi publication on which we rely today. Tateishi
22 teaches the control signal received by the input voltage sensing circuit.
23 Tateishi also teaches the control signal received by the power stage. In
24 particular, Tateishi's control signal 122 is configured to control both the
25 input voltage sensing circuit and the power stage recited in in the claims.

26 So here on Slide 23, we're showing Tateishi's Figure 3, which

1 shows the elements of Claim 1. This slide and with the green highlighting
2 there, illustrates the control signal, which is 122 put by the flip-flop, the
3 PWM latch 116, kind of in the top, just left to center, being received by the
4 input voltage sensing circuit. And that's kind of dead in the middle where
5 you see it entering that transistor 82. Tateishi teaches that the Q signal
6 output by the PWM latch 116 is the signal that is used to control the on-time
7 generator.

8 If the PWM latch sends an on signal, then the on-time generator
9 can turn on. If the PWM latch does not send an on signal, then the on-time
10 generator cannot turn on. That's the control. The intervening logic circuitry
11 on which Patent Owner relies in its arguments exists to support other
12 features of the circuit because there, the Tateishi reference teaches multiple
13 inventions and other embodiments.

14 JUDGE EASTHOM: Counsel, I thought your friends argued
15 -- and there was a truth table that I know it said when the on signal gets
16 emitted from the Q, then it'll turn on the on-time timer. It can turn on the
17 on-timer. But I thought there was another time when they showed logically
18 some of these other signals will either prevent that or in the flip flop case, I
19 can't remember which one it was, the flip side, it could send it off signal. It's
20 not always going to be off, that other things can override at the other inputs
21 to the NOR gate (INDISCERNIBLE).

22 MR. GRAY: Yes, Judge. That's right. So the Tateishi reference
23 teaches multiple functions. It has multiple embodiments. And some of the
24 other functions taught in Tateishi, which for other purposes relating to the
25 efficiency and operation of the circuit may, for reasons unrelated to the
26 embodiments relevant to today, prevent the signal 122 from turning on the

1 on-time generator at 82. But those are unrelated to the embodiment
2 referenced here. If the flip-flop, the PWM latch 116, does not instruct the
3 on-time generator to turn on, it won't turn on. And in a minute I'll -- I don't
4 know. It's another slide or two slides -- will show that there are
5 embodiments where this is -- the signal passes through such that there is this
6 -- an embodiment where the truth table is just completely irrelevant, and it
7 all passes through.

8 JUDGE BARRETT: Before you move on, I need some
9 clarification. You've used the word embodiment quite a bit. My
10 understanding is your case is based on what I would call the embodiment of
11 Figure 3. And if it's not correct, then please let me know. But I think Judge
12 Easthom's question is directed to the zero-crossing comparator or the zero-
13 crossing latch and the minimum off-time timer, those output signals that
14 seemingly could override the signal from the flip-flop.

15 MR. GRAY: Yes. I understood his question in that way. The
16 zero-crossing latch may, in fact, combine other signals with the signal output
17 by the latch 116. But they will not control the on-time generator. They will
18 not turn on the on-time generator unless the PWM latch 116 instructs it to
19 turn on. And in fact, there's situations where when the ZC latch is set that it
20 creates a pass through and that all of the gates are open, and the signal
21 passes through without change, all the way through. And again, I have a
22 slide on that.

23 JUDGE BARRETT: Okay. I think I understand where you're
24 coming from. Then for terminology purposes, when you say embodiment,
25 you're really talking about different scenarios within in Figure 3.

26 MR. GRAY: Well, no. I'm using it as Figure 3 shows circuitry

1 that is used for separate inventions beyond this one that we're -- on which
2 we're relying. So this circuitry, the intervening logic that we're seeing here,
3 is used for other functionality beyond what's relevant to this case.

4 JUDGE BARRETT: Now, I'm a little confused. You seem to say
5 you're using a subset of Figure 3. Are you saying the embodiment you're
6 relying on would not have the zero-crossing latch or the minimum off-time
7 timer?

8 MR. GRAY: I'm saying those aren't relevant to it.

9 JUDGE BARRETT: I think Patent Owner would say they're very
10 relevant. So how can you say they're not relevant? Because I think again, to
11 Judge Easthom's point, it seems like it, at least in some aspects, those two
12 components interject themselves into the signal that would be coming from
13 -- the Q signal coming from the flip-flop.

14 MR. GRAY: Yeah. So this goes back to how control signal is
15 construed. So long as control signal is construed to include the control
16 function, then the function shows that when the PWM latch instructs the on-
17 time generator to turn on, that's what happens. And that if the PWM latch
18 116 does not instruct the on-time generator turn on, it will not turn on. The
19 logic gates, the zero-crossing latch, they may change the logical value of that
20 signal from high to low or low to high or whichever way it may do it, but
21 they don't change the fact that, unless the PWM latch 116 instructs transistor
22 82 the input voltage sensing circuit to turn on, it won't turn on.

23 JUDGE BARRETT: Okay. That's in one direction, if you will.
24 They could override the signal, could they not, and -- whichever it is, the 0,
25 1 -- prevent the on-time timer from operating?

26 MR. GRAY: That's correct, Judge.

1 JUDGE BARRETT: Okay.

2 MR. GRAY: Yeah. So just my final point here that I think
3 responds to what I just said, none of this circuitry, the logic gates or the
4 zero-crossing latch, can turn on or otherwise control the on-time generator.
5 The Q output by the PWM latch is necessarily the control signal required by
6 the claims. So turning to Slide 24, faced with this Tateishi reference, the
7 Patent Owner is forced to argue that Figure 3 shows two separate signals
8 because there's a logic gate between the PWM latch 116 and the transistor
9 82. Patent Owner argues that because the value of Q can have different
10 logical states based on the logic gates through which it passes, it can't be the
11 control signal.

12 This argument, however, misses the plain language of the claims
13 and ignores the reality that the logic gates at issue in Figure 3 do not change
14 the signal's ability to perform the essential control function. As Petitioner's
15 expert Dr. Holberg has confirmed, the '377 Patent's claimed control signal
16 may pass through intervening logic gates and may even change logical
17 values along its path without changing the fact that it is the claim control
18 signal. This was in Dr. Holberg's supplemental declaration in paragraph 16.
19 So long as the control function is present, none of this intervening logic
20 matters. Moreover, this argument fails to account for Tateishi's express
21 teachings that control signal 122 does not necessarily change logical states
22 as Patent Owner claims.

23 In this regard, if you look at column 8, line 16 through 24 of the
24 Tateishi reference, Tateishi teaches that the DC to DC buck converter 10 of
25 Figure 3 operates in much the same manner as that of Figure 1 when the
26 output of element 64 in Figure 3 is zero. When this happens, the control

1 signal 122 acts as a pass through such that the signal value has the same
2 logical value -- has the same logical state along its path because the logic
3 gates do not change the signal's beginning value. And Dr. Holberg had this
4 in his supplemental declaration at paragraph 28.

5 Turning to Slide 25, this narrow construction that Patent Owner
6 tries to read into the claims is neither implicitly nor explicitly taught.
7 Additionally, and as I noted earlier, the institution decision already rejected
8 Patent Owner's narrow construction, and the Patent Owner is not able to
9 identify any intrinsic evidence to the contrary in either its response or its
10 surreply. Consistent with the institution decision, Dr. Holberg has offered
11 his opinion in connection with the construction of control signal that a signal
12 can pass through intervening logic gates and/or change logical values along
13 its path and still be the claim control signal if the control function is present.
14 So that's what's shown in Tateishi 's Figure 3, which we show here.

15 Turning to Slide 26, but we don't have to go here. And I think,
16 Judge Easthom, this is responsive to your question earlier. When the
17 circumstances are such that the zero-crossing comparator is outputting a
18 zero, the control signal 122 passes through every gate such that the signal
19 received by the input voltage sensing circuit at transistor 82 is the same
20 logical value as a control signal output by PWM latch 116. So I would
21 direct the Board to the Federal Circuit's decision in re Morsa 803 Fed.3rd
22 1374 at 1377. Here, the Fed Circuit said for a prior art reference to be
23 enabling, it need not enable the challenge claim its entirety. But instead, the
24 reference need only enable a single embodiment of the claim. And then
25 more recently, on June 11th --

26 JUDGE BARRETT: Counselor, before you move on, enablement

1 of a reference, that seems like a concept you just injected into this case. I
2 don't understand where enablement by a reference comes into play.

3 MR. GRAY: I'm citing this Federal Circuit decision to show the
4 fact that there is one embodiment which satisfies the '377 Patent's claims
5 even if there are embodiments where it doesn't because, for example, a logic
6 gate is closed. That that is sufficient to establish anticipation.

7 JUDGE EASTHOM: What you really mean is there's other cases
8 that directly say it but claim is sometimes met, then that's all
9 (INDISCERNIBLE).

10 MR. GRAY: So on June 11th, the Fed Circuit in the Agilent
11 versus Synthego case at page 13 -- and it's too new for me to have a site for
12 it because it's not yet been put in a reporter. But it's Agilent versus
13 Synthego, Fed Circuit, June 11th, 2025, page 13 of the slip opinion. The
14 Federal Circuit said an enabling anticipatory prior art reference need only
15 enable a single embodiment of the claim. So the case law supports that this
16 gets us where we need to be.

17 JUDGE BARRETT: So this feels like a claim construction issue.
18 Are you saying that the claim only requires, say, one instance of the
19 controlling action? And if there's other times when the flip-flop or the PRM
20 latch does not control, that doesn't matter because you've already shown one
21 instance of it controlling?

22 MR. GRAY: Yes, Judge. I don't know whether that goes to claim
23 construction or anticipation, but yes, that's what I'm saying. Turning to Slide
24 27, Patent Owner also argues that Tateishi's control signal fails because it is
25 not input directly into the input voltage control circuit. This, however, is a
26 limitation that is neither required nor suggested by the claims. The claims

1 and specification contain no concept, much less a requirement, of input.
2 Rather, they speak to receiving. The language of the claims requires only
3 that the control signal generated as a Q output of PWM latch 116 be
4 received at the input to transistor 82, which is exactly what's shown in
5 Tateishi's Figure 3.

6 JUDGE HOMERE: Counselor, this is Judge Homere. Is there any
7 evidence on this record that Tateishi -- the configuration of Tateishi as
8 depicted in Figure 3 here is operable without the zero-crossing comparator
9 and the minimum off-timer?

10 MR. GRAY: Yes. Figure 1, which I referenced earlier -- Tateishi
11 teaches for this embodiment is equivalent to Figure 3 -- shows just such an
12 embodiment. And I would say it's the same embodiment.

13 JUDGE HOMERE: And I guess we keep stressing also that as
14 long as the function intended by the control signal is achieved, that is
15 sufficient to meet the control signal. What is the function? What is the
16 underlying function here in this case?

17 MR. GRAY: Well, the function is to turn on the high-side switch
18 or to turn off.

19 JUDGE HOMERE: Nothing more?

20 MR. GRAY: Nothing more.

21 JUDGE HOMERE: Turn it on or turn off.

22 MR. GRAY: And I did give an example where the logical signal
23 passes through unchanged. So even under Patent Owner's preferred
24 construction, when the zero-crossing latch is zero, that signal 122 passes
25 through unchanged. But yeah, it's the function of control. And the control is
26 to turn on the on-time generator.

1 JUDGE HOMERE: Okay. So in this case, we're dealing with the
2 high and the low, zero or one.

3 MR. GRAY: Yes, Judge.

4 JUDGE HOMERE: Okay.

5 MR. GRAY: And it could be set whichever one turns it on or off.

6 JUDGE HOMERE: Okay.

7 MR. GRAY: That's a little bit arbitrary.

8 JUDGE BARRETT: Yeah. Just to be precise, then, the function
9 of the particular control signal that we're talking about would be to operate
10 transistor 82, correct?

11 MR. GRAY: Yes, Judge.

12 JUDGE BARRETT: Okay. Okay. Thank you.

13 MR. GRAY: So, in the institution decision -- and now, turn to
14 Slide 28. When discussing how a person of skill in the art would understand
15 the meaning of control signal, the Board cites the specification which shows
16 that Figure 3 operates in the same manner as Figure 1. Indeed, Figure 1
17 shares the same reference numerals and the same circuits with Figure 3, as
18 you can see when you compare them. Furthermore, the institution decision
19 acknowledges that, in reference to how a person of skill in the art would
20 understand a control signal, the Q signal 122, which is Tateishi's control
21 signal, is unobstructed prior to entering the input voltage sensing circuit in
22 Figure 1.

23 For example, the institution decision recites, Tateishi's disclosure
24 is more consistent with Petitioner's position that discharging transistor 82 is
25 driven by the control signal 122. And this is from page 27 of the institution
26 decision. As the Board found in its institution decision, Figure 1 shows that

1 a person of skill in the art would understand Tateishi's control signal to be
2 configured to control the input voltage sensing circuit and power stage
3 because the control signal drives these components both directly and
4 indirectly through the logic gates. Patent Owner did not dispute these
5 findings by the Board in either its response or its reply.

6 JUDGE BARRETT: Counselor, let me clarify the record. I was
7 the author of that decision. We were not making a finding. We weren't
8 making any findings in the institution decision. That's a preliminary matter.
9 I don't even like using the word finding with a DI, preliminary
10 determinations. We were using the discussion of Figure 1 for claim
11 construction purposes, talking about what may indicate a person of ordinary
12 skill in the art's idea of control or whether passing through intervening logic
13 negates its characteristic as the control signal. But we did not make a
14 finding that Figure 1 anticipates. And I want everybody to be
15 (INDISCERNIBLE). We were evaluating Petitioner's case, which was
16 primarily on Figure 3.

17 MR. GRAY: We understand the institution decision exactly as
18 you described it.

19 JUDGE BARRETT: Okay.

20 MR. GRAY: And I've not made an argument that Figure 1
21 anticipates regardless of whether it does. I've merely referred to it as
22 understanding of a person of skill in the art might understand control signal
23 exactly set forth in the institution decision.

24 JUDGE BARRETT: Okay. Thank you. I think we're on the same
25 page. But there was a remark in the Petitioner reply, I believe, about how
26 the 122, the Q signal in Figure 1, goes directly, or at least through an

1 inverter, into 82, and that --

2 MR. GRAY: It does.

3 JUDGE BARRETT: It does. It does not do so in Figure 3. I'm
4 sure you're well aware that prompted a motion to strike as a new theory. But
5 what I hear you saying is you're not relying on Figure 1 as an anticipatory
6 reference. You're relying on Figure 3 and only referring to Figure 1 the
7 same way the Board did for claim construction purposes.

8 MR. GRAY: Yes, Judge. That's correct.

9 JUDGE BARRETT: Thank you. Thank you.

10 MR. GRAY: So, turning to Slide 29 and further illustrating a
11 person of skill in the art's understanding of the control signal, the institution
12 decision preliminarily found that Tateishi's control signal drives the on-time
13 generator. Additionally, Slide 30 further illustrates how a person of skill in
14 the art would understand Tateishi's control signal with respect to how the
15 control signal drives the power stage. Looking at Slide 31, here, we show
16 how the institution decision correctly pointed out how Tateishi's control
17 signal 122 controls transistor 82 in the input voltage sensing circuit
18 contained in the on-time generator 50.

19 Okay. Turning to Ground 2, Tateishi also renders Claims 5
20 through 7, 8, and 15 obvious. Looking at Slide 34, as shown in the petition,
21 Tateishi's Figure 4 illustrates each of the elements of the dependent claims
22 contested in Ground 2. Patent Owner chose not to address any of the
23 Ground 2 arguments in a response, stating merely that Ground 2 fails for the
24 same reasons as Ground 1. By choosing not to make any Ground 2
25 arguments, Patent Owner has waived its arguments with respect to this
26 ground.

1 Okay. Next, as you saw in our motion to submit supplemental
2 evidence, Patent Owner and its expert, Mr. McAlexander, are making
3 contradictory arguments and providing contradictory testimony in the
4 parallel District Court case pending in the U.S. District Court for the District
5 of Delaware. As we've been discussing today, MPS argues in this IPR that
6 the '377 Patent's control signal cannot have any intervening logic between
7 the output of the flip-flop and the input of the input voltage sensing circuit.

8 In the District Court, however, Patent Owner is confronted with the
9 reality that the accused products made by my client, Reed Semiconductor,
10 do in fact have intervening logic between the output of the flip-flop and the
11 input of the input voltage sensing circuit. As a result, Patent Owner and its
12 expert, Mr. McAlexander, are arguing that this intervening logic in the
13 accused products should be disregarded. To put this into context, Patent
14 Owner argues that the logic gates shown in green in Figure 3, that's on the
15 left there, that those logic gates from Tateishi preclude signal 122 from
16 being the '377 Patent's claim control signal because the logic may, in some
17 circumstances, combine additional signals with and/or potentially obstruct
18 signal 122.

19 In a schematic on the right, however, which is taken from Patent
20 Owner's expert Mr. McAlexander's expert report, you can see the flip-flop,
21 which is what we've highlighted in kind of pink, and output to the input
22 voltage sensing circuit, which is on the right in blue. Between these, you
23 can see intervening logic. There's a NOR gate with three inputs and a pair of
24 inverters --

25 JUDGE EASTHOM: Counselor --

26 MR. GRAY: -- in this accused product.

1 JUDGE EASTHOM: -- I'm having a little trouble following.

2 Sorry. Is that Slide 37 (CROSSTALK)?

3 MR. GRAY: Oh, Slide 37. I apologize.

4 JUDGE EASTHOM: No. I mean I think my slide --

5 JUDGE BARRETT: Your slide deck's off one from ours.

6 JUDGE EASTHOM: Oh, is it 38 then?

7 MR. GRAY: 36.

8 JUDGE BARRETT: This is 36 in the slide deck that --

9 JUDGE EASTHOM: (CROSSTALK).

10 JUDGE BARRETT: -- you filed with the Board.

11 MR. GRAY: We had a PDF version and a PowerPoint version.

12 And if I do the PDF version, it doesn't go into presentation mode. I

13 apologize if I'm --

14 JUDGE EASTHOM: Oh, that's okay --

15 MR. GRAY: -- causing confusion here.

16 JUDGE EASTHOM: -- I noticed now that -- I don't mind that

17 much about the number. I just want to follow your argument.

18 MR. GRAY: No. Thank you. I apologize for this. Anyway, as

19 you can see, on the left, MPS says this doesn't work. And on the right, MPS

20 says this does work. And this is the conflict. Turning to the next slide --

21 JUDGE EASTHOM: (INDISCERNIBLE) I had a question about

22 the --

23 MR. GRAY: Yeah, yeah.

24 JUDGE EASTHOM: Oh, so that AND gate, it looks like it has

25 three separate inputs. Is that one of your points?

26 MR. GRAY: Yes, Judge.

1 JUDGE EASTHOM: Okay.

2 JUDGE BARRETT: Yes. So for clarification, the AND gate is in
3 the prior art reference. The accused device uses a three input NOR gate, N-
4 O-R.

5 MR. GRAY: Yes.

6 JUDGE BARRETT: And you're saying, effectively, that's
7 analogous under Patent Owner's theory?

8 MR. GRAY: Yes, Judge.

9 JUDGE BARRETT: Thank you.

10 MR. GRAY: Here on Slide 38 or on Slide 37 in your deck, you
11 can see, when questioned about it at his deposition, the Patent Owner's
12 expert asserts that the flip-flop generates the control signal highlighted in
13 blue despite the intervening NOR gate and inverter. On the next slide, Slide
14 38, we highlight the argument that Patent Owner advanced for the first time
15 in its surreply that Tateishi's control signal fails because there's a logic
16 mismatch where a signal can be either a zero or a one depending on the
17 logic. However, when asked about this at his deposition, Patent Owner's
18 expert says that the logical value of the control signal does not matter for
19 purposes of infringement.

20 On the next few slides, we'll see further example of Mr.
21 McAlexander disregarding the intervening logic. For example, on Slide 39
22 shown now, he testifies that there is nothing that says in the claim that the
23 signal, the one that's received by the input voltage sensing circuit, has to be
24 the one that I've defined on the output pin of the flip-flop. Taking this
25 further on Slide 40, you can see that Mr. McAlexander, when referring to the
26 control signal in the Reed accused product, which is labeled as a PWMHS

1 signal, testified that it is the generated control signal by the flip-flop. You'll
2 note that he has invented the precursor concept here to explain how it's okay
3 for the logical value of the signal output of the flip-flop to change.

4 Turning to Slide 41, Mr. McAlexander acknowledges the existence
5 of the intervening logic in his testimony before explaining it away with his
6 testimony that all that is required is for the output of the flip-flop to be
7 coupled to the power stage, so ignoring the intervening logic. Slide 42
8 highlights another inconsistent argument that Patent Owner and Mr.
9 McAlexander are making. In this IPR, Patent Owner argues that some of the
10 logic shown in Tateishi's Figure 3 combines additional signals with the
11 control signal via the pink logic gate shown in the annotated Figure 3 from
12 the Patent Owner's response. Patent Owner and Mr. McAlexander then
13 allege that this signal combination creates a mismatch in states between the
14 two signals, such that Tateishi signal 122 cannot be the claim control signal.

15 Looking at Slide 43, of course in the District Court case, Patent
16 Owner needs to argue just the opposite, and that's what we're pointing out
17 here on Slide 43. On the right hand side, the Reed accused product
18 illustrates intervening logic that includes a NOR gate and an inverter
19 between the flip-flop, again the pink box, and the input voltage sensing
20 circuit, the blue circle. This NOR gate of the Reed accused product, as we
21 discussed a moment ago, is a three input NOR gate that receives not only the
22 output of the flip-flop, but also two other signals, which incidentally are the
23 combination of at least five other signals and several other digital
24 components. Despite this, Mr. McAlexander opines that the Reed accused
25 product satisfies the '377 Patent's control signal limitation in his expert
26 report. And I'm going to save the rest of my time for rebuttal unless you

1 gentlemen have questions for me now.

2 JUDGE BARRETT: I think we're fine. So I have you down for 16
3 minutes remaining. Good morning, Counsel. As you're setting up, how
4 much time would you like to reserve?

5 MR. BOMBACH: About 15 minutes, Your Honor.

6 JUDGE BARRETT: 15, one five?

7 MR. BOMBACH: Yeah. I think I will also end a little early as
8 well. (INDISCERNIBLE - TECHNICAL DIFFICULTY). I apologize.

9 JUDGE BARRETT: No worries.

10 UNKNOWN SPEAKER: (INDISCERNIBLE) last name.

11 MR. BOMBACH: Miguel Bombach. Bombach. Thank you,
12 Your Honor. Yeah, I would actually like to start with Paper 40. And I think
13 it shows -- Mr. Gray's discussion of Mr. McAlexander's testimony really
14 shows a big issue that we have. It's not that the control in itself. It's when
15 does a signal no longer become the same signal? There's no contradiction at
16 all, as Mr. McAlexander testified. It's just a buffer. That flip-flop of their
17 product has -- does not have the capability to drive. So you invert it. You
18 invert it. You invert it. You invert it. It's the same thing. And we never
19 have argued that the simple fact of some intervening inverter changes what
20 something is. It's whether there's a logical mismatch. And in the Tateishi
21 reference --

22 JUDGE BARRETT: Before you move on, Counselor.

23 MR. BOMBACH: Yes.

24 JUDGE BARRETT: So you mentioned the inverter. And so I can
25 understand your position there, it comes in a zero, goes out a one, or vice
26 versa. What about the three input NOR gate?

1 MR. BOMBACH: Mr. McAlexander testified that the three input
2 NOR gate simply acts as a buffer. This is their product. Mr. Gray said
3 there's other signals, and the evidence here is that it just acts as a buffer.
4 And Mr. Gray has presented no evidence to the contrary. If there's evidence
5 to the contrary that it doesn't act as a buffer, he's free to present that in other
6 proceedings. As of this proceeding, it's a buffer.

7 JUDGE BARRETT: I'm sorry to interrupt there. So for me, one
8 of the issues is, and you can correct me if I'm wrong, but Patent Owner
9 seems to have much of its claim construction riding on the fact that
10 Tateishi's AND gate has multiple inputs. And the NOR gate in the accused
11 device has multiple inputs. So how are they substantively different?

12 MR. BOMBACH: They're substantively different because there's
13 other control effectuating the AND gate in the Tateishi reference. You have
14 the off-timer. You have the signals that we identified. And it actually
15 creates a significant mismatch when the PWM latch of the Tateishi reference
16 is outputting a signal. And the mismatch is so significant that you can't say
17 that the output 122 of the Tateishi reference is the same signal that goes into
18 82. It's logically inconsistent.

19 JUDGE EASTHOM: But you have the same problem with that
20 NOR gate. It's simple logic. If you have three zeros, you'll get a one. And
21 if you have any one in there, you'll get a zero.

22 MR. BOMBACH: Yeah. It --

23 JUDGE EASTHOM: And then so sometimes, when the middle
24 one is zero, the one that's the control signal, other times, it could be
25 overridden. A zero won't represent a zero on the output as it would if there
26 were three zeros. So you get a mismatch in that situation there.

1 MR. BOMBACH: I understand your point, Your Honor. But as
2 Mr. McAlexander had testified and the evidence presented here is that the
3 NOR gate simply acts as an inverter, a double inverter, with the other
4 inverter, and it just acts as a driver.

5 JUDGE EASTHOM: I mean, I understand that response, but it
6 doesn't seem to be really addressing point. But the difference in the -- I
7 looked at your logic gate. And the mismatch seemed to be that sometimes
8 when it's a zero for the signal, you could get a one or a zero. And the same
9 thing happens in the NOR gate.

10 MR. BOMBACH: There could theoretically be a situation
11 applying a NOR gate where there would be a logical mismatch in theory.
12 But there has been no evidence presented that Mr. McAlexander, after
13 analyzing those circuits, found any logical mismatch. Mr. Gray, as
14 representative of Reed with the schematics, has presented no situation where
15 there is a logical mismatch. There must be wiring extrinsic to the excerpt
16 there where there is no logical mismatch.

17 JUDGE EASTHOM: Oh, I understand your point. You're saying
18 that there's no evidence that NOR gate gets all its eight separate inputs that
19 one would expect for a NOR gate.

20 MR. BOMBACH: Or that the inputs don't arrive in a situation
21 where there is just a double inversion of the flip-flop. And the only evidence
22 presented here is that it -- that's exactly what the NOR gate with the inverter
23 does.

24 JUDGE HOMERE: Counselor, this is Judge Homere. Can we
25 turn you a Slide 18 of your presentation demonstrative?

26 MR. BOMBACH: Yes, Your Honor. Let me go full screen here.

1 Yes.

2 JUDGE HOMERE: Okay. So this is the depiction of Figure 3 of
3 Tateishi here. It seems that in all the illustration of that circuit, the depiction
4 that the output from the PWM latch is different from the input, what's
5 received at transistor 82 here. Is there a particular case? Is there anything,
6 as you understand Tateishi, that discloses any instance in this reference
7 where the output out of the latch is the same as the input in the transistor 82?

8 MR. BOMBACH: No, Your Honor. I don't believe there is. But
9 there is situations where -- actually, let me take that back. And I will point
10 to Petitioner's expert's timing diagram where you have the orange and green
11 signals. They're inverted of themselves here. Oh, I guess --

12 JUDGE BARRETT: And you're looking at --

13 MR. BOMBACH: Yes.

14 JUDGE BARRETT: -- Slide 27, correct?

15 MR. BOMBACH: Slide 27. It's inverted here. And then, once it
16 goes zero, it's still -- you're still going to have the inversion for a short period
17 of time. Thereafter, they're going to match. So there is an instance where
18 they match each other, but there's also an instance where they're an
19 inversion. The question from our point is not (INDISCERNIBLE -
20 TECHNICAL DIFFICULTY) signal. Where is the dividing line where there
21 is a logical mismatch? And I'll just --

22 JUDGE BARRETT: Counselor, as a matter of precision, you're
23 using the word signal. Is it the same signal? Is not the same signal? The
24 claim term is control signal, and I sense you're talking about logical signal.
25 And I understand your proposed construction is those are one and the same.
26 But I guess I'm making more of a statement than a question. But in my

1 mind, there's some precision here that -- and this is a fundamental issue for
2 me -- is how would a person of ordinary skill in the art understand the term
3 control signal apart from a logical signal?

4 MR. BOMBACH: So that's a good question in that when we're
5 looking at -- and I jumped to Slide 30. When we're looking at -- and you
6 could look at Tateishi Figure 3. And there's annotation onto that to where
7 Petitioner's expert had said any of those can be a control signal. There's
8 feedback. Everything affects something else. Everything effectuates control
9 onto something else. You can logically trace something from the feedback
10 all the way to something else, all the way to something else. To what is a
11 signal? I mean, the question isn't really what is control. It could say signal
12 A. This is actually a varying -- we've been just talking about control signal.
13 But this is a very narrow claim.

14 I have Claim 18 here with all the signals introduced highlighted. A
15 feedback signal is a little hard to see, but there is, I believe, eight signals.
16 Those eight signals are generated by something, and they are used by other
17 circuit components to generate something else. And to your question, is it
18 logical? I would point to the language that at F, limitation 18 E, the flip-flop
19 generates the control signal. So the flip-flop generating a control signal, yes,
20 I believe the control signal is logical. And the --

21 JUDGE BARRETT: Counselor, are you making a claim
22 differentiation argument maybe, where you point to there's many uses of the
23 word signal in Claim 18. I believe, if I understand your point, is Petitioner's
24 argument is any of those could be a quote unquote "control signal." But in
25 the claim there's only one particular control signal.

26 MR. BOMBACH: Yes. The particular control signal that they've

1 identified in their petition for when it was first introduced, when it's first
2 given its antecedent basis, it has to track throughout. It has to be the same
3 signal. And then when there is a logical mismatch between, for example,
4 when the control signal is introduced as being received from the off-time
5 -- sorry, the on-time generator and where it's generated, then the -- their
6 identification of what the claim -- control signal breaks down. And it would
7 be no different if the claim just said signal A, signal B for -- instead of
8 switching signals, signal A, signal B, et cetera.

9 JUDGE EASTHOM: But I don't understand that because you said
10 there would be -- there could be different logic gates in between. So you're
11 not getting the same signal under your construction either.

12 MR. BOMBACH: Oh, yes, you would because what our
13 construction is getting at is there's -- because it's generated, it's a logic
14 signal, there's two distinct states. The flip-flop generates a one or a zero.
15 And then if you look at, for example, if you looked at 82, and there was a
16 logical match between the two -- and we're not saying just a simple
17 inversion doesn't make the control signal a control signal, so long as there's a
18 state match. Then, yes. But there is not a -- there's not the same state match.
19 And you could see that when the orange is zero, the tracking of what that
20 signal is between orange and green breaks down.

21 JUDGE BARRETT: Can you articulate your proposed
22 construction? Because I don't know if this was the intent, but it seemed to
23 evolve over the briefing. And the initial construction was something about
24 two states, a signal with two states. But every signal we're talking about
25 here, maybe except for one in Tateishi, are two state signals and --

26 MR. BOMBACH: Yes.

1 JUDGE BARRETT: -- Petitioner is mapping the particular signal
2 to a one or a zero. That's two states.

3 MR. BOMBACH: Yes.

4 JUDGE BARRETT: And so you say it could be inverted. So an
5 output of zero received as a one is okay. But you almost seem to want to
6 insert negative limitations. But it's not okay if something else happens.

7 MR. BOMBACH: Okay. Yes. That's a excellent question. And
8 I'll go back to Slide 30. For example, if for -- if they (INDISCERNIBLE -
9 TECHNICAL DIFFICULTY) the control signal in -- as a control signal,
10 what's going into transistor just in theory, if they identified the signal going
11 into 150 as a control signal, okay, it controls this transistor. But it has to
12 track that it's the same control signal, the same state. It's defining the same
13 state. If it goes through an inverter, it's still defining the same state. If it's
14 some sort of stepped up step down voltage, if it's filtered, it's still defining --

15 JUDGE EASTHOM: It's not the same state --

16 MR. BOMBACH: -- the same state.

17 JUDGE EASTHOM: -- though. It's a different state. What are
18 you saying is a state? There's only two states, I thought.

19 MR. BOMBACH: Yeah. The logical concept of a state -- so if it's
20 one here and that's inverted, it's zero. It's still trying to define the same state
21 and --

22 JUDGE EASTHOM: Well, you're just saying it can't be controlled
23 by anything else.

24 MR. BOMBACH: Controlled by anything else that adds
25 additional states that creates a mismatch between what they identified as
26 being generated --

1 JUDGE EASTHOM: And is there --

2 MR. BOMBACH: -- by flip-flop.

3 JUDGE EASTHOM: -- any evidence on the record that's the plain
4 and ordinary meaning of control signal?

5 MR. BOMBACH: So with respect to -- yes, Your Honor. We've
6 had a lot of back and forth, so I'm having a little trouble with the question to
7 articulate it to your satisfaction. And so please help me if I am not
8 answering the question. But yes, with the PWM latch, it's outputting a one
9 or --

10 JUDGE EASTHOM: No, no. I mean, that's in -- you're --

11 MR. BOMBACH: Yes.

12 JUDGE EASTHOM: -- relying on your embodiment, the intrinsic
13 record, I guess. And I was asking --

14 MR. BOMBACH: Yes, yes.

15 JUDGE EASTHOM: So I'm wondering --

16 MR. BOMBACH: Yes. We also have the flip-flop.

17 JUDGE EASTHOM: I was wondering. Okay. Well, seems like
18 you're relying on a specific embodiment to define the plain meaning of the
19 term, which we know is not how we do claim construction, can't limit it by
20 what's in the spec. It has to be consistent with the spec. But do you have
21 any extrinsic evidence about what the plain and ordinary meaning is of a
22 control signal that fits your what seems to me to be a narrower definition
23 than the plain and ordinary meaning?

24 MR. BOMBACH: With respect to the plain ordinary meaning, it's
25 the flip-flop generates the control signal. It's in the claim itself. I don't
26 know of any flip-flop that, when it generates a Q output, that it's going to

1 have multiple or any analog-type signals.

2 JUDGE BARRETT: Counselor, let me kind of jump ahead
3 because I think what Judge Easthom is talking about, and it's sort of, again,
4 my wording, not yours, it feels like you're trying to inject a negative
5 limitation. It's a signal, but it can't be influenced by something else or
6 however you want to articulate it. And the ultimate question for all of us is
7 how would a person of ordinary skill in the art understand the term control
8 signal or the plain and ordinary meaning of control signal? You seem to just
9 jump to the assumption that, well, it's a logical signal without X or
10 something.

11 MR. BOMBACH: Yes. And I understand the question, and we're
12 not injecting a negative limitation to the construction. It is just a logical
13 signal. If they design their whole petition around 82, the transistor into 82
14 being a control signal, okay. If they had Q being a control -- the output Q
15 being a control signal, okay. They're different control signals.

16 JUDGE BARRETT: Counselor, and pardon me if I had a tone.
17 That's kind of the ultimate issue. And so your argument is I win because I
18 say so. We need the steps in between. Start with how would a person of
19 ordinary skill in the art understand control signal. And while I'm rambling,
20 the antecedent basis argument, I don't think Petitioner disagrees with you.
21 Control signal at the top part of the claim is the same control signal at the
22 bottom part of the claim. And they are mapping it to the output Q and then
23 the input at 82. And you're saying, well, that's not the same control signal.
24 Petitioner says it is. If that's the end of your argument, that's not satisfying
25 to me.

26 MR. BOMBACH: Okay. Yes. A person of ordinary skill in the

1 art would not look at Claim 30 and the recitation within the -- I don't have
2 the embodiments.

3 JUDGE BARRETT: You mean Claim 18?

4 MR. BOMBACH: Claim 18. Yes --

5 JUDGE BARRETT: Okay.

6 MR. BOMBACH: -- thank you. On Slide 30 of the narrow and
7 prescribed signals and the embodiments of the '377 Patent to describe any
8 point within an electronic circuit that effectuates some form of control into
9 any other point in electronic circuit. A control signal, although there may be
10 a match in what's been identified as V out, which their expert says can be a
11 control signal, and the 102, that signal off of C off, even though they're both
12 logical --

13 JUDGE EASTHOM: Yeah.

14 MR. BOMBACH: -- they can be described as logical. Even
15 though there is some sort of -- this is a feedback system. And in the figures
16 of the '377 Patent, a person ordinary skill in the art would not see that as the
17 signal generated by the flip-flop. You look at 82 of Tateishi, the signal
18 going into 82, that is not the signal generated by the flip-flop.

19 JUDGE BARRETT: So that's a factual assertion. But why would
20 a person of ordinary skill in the art not think that's a control signal under the
21 plain and ordinary meaning? The flip-flop has an output. And I guess the
22 open issue is would a person of ordinary skill in the art think that controls
23 82?

24 MR. BOMBACH: So this is a feedback -- and I go back to this is
25 a feedback mechanism. Everything's interrelated. Everything leads to the
26 effectuation of control or flipping of a bit of any other component in the

1 system. The same is true of when I press a O on my laptop keyboard.
2 There's going to be a lot of different things. Or if I plug in my USB-C to my
3 laptop, it's going to trigger some power that triggers things down the line. Is
4 82 itself, in a vacuum, a control signal?

5 JUDGE EASTHOM: Do you agree with your friend that if Q does
6 not say turn on, then it will not turn on the 82?

7 MR. BOMBACH: If Q does not say turn on, that it will not turn
8 on 82?

9 JUDGE EASTHOM: Yeah. Yes.

10 MR. BOMBACH: Well, I mean it's -- it would not. And here's an
11 instance where it would not. When the Q output is zero, green is going to be
12 zero. That transistor is going to remain off. It isn't effectuating control as it
13 would, for example, if there was a one. So it's a different signal.

14 JUDGE HOMERE: This is Judge Homere. Can we go Back to
15 Slide 30? Now, this control signal that we're talking about here, essentially
16 the function that we're looking at is turning on or turning off that transistor.
17 We're talking about 82? And you understand this circuit right here. Is this
18 circuit operable without the zero-crossing comparator and the minimum off-
19 timer.

20 MR. BOMBACH: Now, this circuit in itself, I mean, it's -- you
21 would nuke some gates. You would have to redesign it. So you --

22 JUDGE HOMERE: All I'm saying is that someone with a skill in
23 the art knowing basic circuitry, would they be able to operate this circuit,
24 taking out the zero-crossing comparator and the minimum off-timer in the
25 circuit? Would that circuit operate?

26 MR. BOMBACH: A elimination --

1 JUDGE HOMERE: I'm sure you understand what's going on in
2 the circuit?

3 MR. BOMBACH: Yeah. Elimination of certain features would
4 change the embodiment. I think a lot of gates would have to be removed to
5 have that work. The wirings would have to be rewired. But I think that's
6 true in any circuit of any electronic. Yes, in theory, things could be rewired
7 to have them work. But then we're getting away from what Figure 3 is, and
8 we're talking about anticipation of Figure 3 that has very --

9 JUDGE HOMERE: Is there anything in the claim that precludes
10 the addition to -- for the circuitry to the DC, I guess, regulator?

11 MR. BOMBACH: Yes, yes. Now I understand the question. Yes,
12 there is language that precludes that.

13 JUDGE HOMERE: What?

14 MR. BOMBACH: The language is the flip-flop generates the
15 control signal in 18 E. And where does that control signal -- where is it
16 received? Where is that signal A received? It's received at the on-time
17 generator. And moreover, the on-time generator uses that signal.

18 JUDGE HOMERE: If you were to take out the flip-flop from the
19 circuit, the -- yes. But if you were to take out the minimum off-timer or the
20 zero-crossing comparator, the transistor would still receive a signal from the
21 flip-flop?

22 MR. BOMBACH: I would have to -- and I'm not trying to be
23 evasive. I would have to see how things are wired and what logic gates are
24 removed. If you wired 122 directly to 82, that's what the claim, at least that
25 clause I had identified, is saying.

26 JUDGE HOMERE: No. But that's what you admitted to earlier.

1 You said that without a signal coming out of the flip-flop, then there would
2 not be -- there's no way that you can drive what's going on at the transistor.
3 So in other words, this circuit can't work. This transistor would not -- would
4 be useless without getting a signal, regardless of where the signal is --

5 MR. BOMBACH: Yes.

6 JUDGE HOMERE: -- around the --

7 MR. BOMBACH: Oh, sorry to interrupt.

8 JUDGE HOMERE: Yes, yes.

9 MR. BOMBACH: Yes, Your Honor. I mean it is true. And just
10 for clarity, I think we're talking about the 116? Or --

11 JUDGE BARRETT: Yes, yes.

12 MR. BOMBACH: Yeah. Okay. Yeah. If that's removed, the
13 circuit -- I don't think it would work. But I mean, that would be same -- the
14 same would be true if you removed inductor 26, if you removed the
15 feedback loop. So everything within this circuit is -- there's part of the
16 feedback loop that's interrelated that won't work without that particular
17 component.

18 JUDGE BARRETT: Counselor, this line of questions and
19 responses goes back to, again, my term, negative limitation. You seem to
20 say the claim requires effectively a direct signal from the flip-flop. I'm
21 mixing claims and embodiments. But from Tateishi's flip-flop to 82, it has
22 to be a direct connection.

23 MR. BOMBACH: Not a direct physical connection, a direct
24 logical connection to where the control signal can be or signal A can be said
25 to be the same signal. I mean of course, not if it goes through a resistor, it
26 goes through an inverter, it goes through a driver, you can still track --

1 JUDGE BARRETT: It goes through a NOR gate with three
2 inputs?

3 MR. BOMBACH: If it acts as a buffer, yes.

4 JUDGE BARRETT: But if it has an AND gate with three inputs,
5 it's no longer a control signal.

6 MR. BOMBACH: If it acted as a buffer and there was a logical
7 consistency, I would still qualify it as the same signal.

8 JUDGE BARRETT: I think we're still on Slide 30. First, I'll make
9 a statement and then maybe a question, and then you can react because I
10 may be misunderstanding things. But it feels to me like the zero-crossing
11 latch and the minimum off-time timer, those have the ability to override the
12 output from the PWM latch, the flip-flop. But other than those scenarios,
13 the PWM latch, the flip-flop, that's in charge.

14 MR. BOMBACH: They do override, and it's not just under certain
15 scenarios they have the ability to. It's in practice they do, and I have the
16 information on other slides. But when you have Q 122 as zero -- so it's
17 going to be zero for a little bit. It's going to turn transistor 124 of the
18 minimum off-time timer at below left, it's going to turn it off. That's going
19 to charge C off, and that's going to happen almost instantaneously. Well,
20 there's going to be some time.

21 And then the 106 comparator is going to output a one that's going
22 to change everything. So it's a change that happens pretty quickly. And you
23 could see from their expert's timing diagram, when he charted out everything
24 of Figure 3, that's exactly what he showed, starting at the yellow portion.
25 You have orange zero. Green flips to one. And then very quickly thereafter
26 you have zero, zero. So it's something that happens. It's built in, and it's

1 designed into Figure 3.

2 JUDGE BARRETT: So is your claim construction then -- I'm still
3 trying to -- I'm struggling with your articulation of your claim construction.
4 Is it that the receiver of the control signal is controlled exclusively by the
5 component that generated the control signal?

6 MR. BOMBACH: Your Honor, as the way the claim is
7 articulated, that one thing has to be wired to the other, yes. The signal has to
8 be the controller of that component.

9 JUDGE BARRETT: The exclusive controller?

10 MR. BOMBACH: The exclusive controller, yes.

11 JUDGE HOMERE: Where is that in the claim?
12 (INDISCERNIBLE).

13 MR. BOMBACH: It was intended within the -- because to Your
14 Honor's question, if there is a logical mismatch, and that's what we were
15 trying to get at. If there's a logical mismatch, it isn't the exclusive controller.
16 It's part of a larger control scheme. And Mr. McAlexander provided the
17 larger control scheme where the logical -- the signal 122 is part of the
18 control scheme, but it's part of many other signals that have the control
19 scheme. I don't have the -- I can bring up the equation that he provided in
20 his declaration, the citation to it. In the interest of time, I'll do that later.
21 Yes, it has to be the signal. It has to be the same signal that goes in, receives
22 -- that is received at the on-time generator, and is -- has to be the signal that
23 is used to generate the on-time signal.

24 JUDGE BARRETT: So I want to jump topics for a moment
25 because I want to get your response. Petitioner brought up the portion of the
26 institution decision that referred to that Figure 1 discussion in Tateishi. And

1 you don't necessarily need to pull this up, but it's -- portions of paragraph 52
2 of Tateishi talk about an output of a latch turning off a transistor and turning
3 on a transistor and I think another instance of turning off something. Some
4 of those go through logic components. Some are direct connections.
5 Doesn't that suggest that the person of ordinary skill in the art, when they
6 say a control signal, they're using it a little more broadly than you are?

7 MR. BOMBACH: And I apologize, Your Honor. I'm trying to --

8 JUDGE BARRETT: No need to apologize. I may have --

9 MR. BOMBACH: (CROSSTALK).

10 JUDGE BARRETT: -- caught you off guard here.

11 MR. BOMBACH: And you're referring to paragraph 57?

12 JUDGE BARRETT: 52. The top right of column 4.

13 MR. BOMBACH: Can you please repeat the language? I
14 apologize. I'm trying to qualify.

15 JUDGE BARRETT: Do you have it in front of you?

16 MR. BOMBACH: Yes, I do. Right here.

17 JUDGE BARRETT: Starting about line 5 on the -- at the top of
18 page 4, the right column.

19 MR. BOMBACH: Yes.

20 JUDGE BARRETT: So it's talking about a reset input to the SR
21 latch turns off its output 122. This turns off a high-side switch. It turns off a
22 discharging transistor. It turns on a discharging transistor 82. And the
23 schematic of Figure 1 shows those three different things. Some go through
24 logic elements, and some are direct connections. So how I read that is a
25 person of ordinary skill in the art thinks -- it's not using the precise
26 terminology you are. A POSITA says a signal turns on or off things

1 downstream, even if there's intervening logic. So is my analysis flawed?

2 MR. BOMBACH: Well, with respect to something affecting
3 something else downstream in a feedback system, yes, that -- of course that
4 happens. So it starts by talking about the reset input. That triggers a
5 downstream change all the way to capacitor C off. And then it goes to the
6 transistor being turned on. So yes, there is a causal change. But with
7 respect to that, I go back to -- and actually, one thing. Mr. Gray referred to
8 122 within Tateishi is described as a control signal. I just want to point out
9 that's described as output 122. But could 70 itself be described as a control
10 signal? Yes. Could it be described as signal A? Yes. Is there a causal link
11 where you can tie 70 to another component? Yes. This is an electronic
12 system. You're going to always have some sort of causal link within a
13 feedback.

14 JUDGE BARRETT: Instead of focusing on the 70, focus on the
15 122. I believe that passage says 70 flips the state on the 122 signal. And the
16 122 does things, causes -- I think you just used the word causal, which I like
17 that term. I think Petitioner would say but for -- things happen downstream.
18 Some pass through logic gates and some don't. But the POSITA is still
19 saying that the 122 turns things on, turns things off.

20 MR. BOMBACH: It says that does flip the bits downstream. Yes,
21 that's what it says.

22 JUDGE BARRETT: And this is what I want to get your feedback
23 on. Show me why I'm wrong. Because this feels like a POSITA thinks,
24 well, it's a signal that controls things downstream, regardless of whether
25 there's intervening logic gates or things like that.

26 MR. BOMBACH: Yes. And how you articulated, a signal that

1 controls things downstream, it is. It's a signal that controls things
2 downstream. Is it the control signal that was generated by the flip-flop as
3 described in Claim 18? That's where there's a distinction.

4 JUDGE BARRETT: Okay. I think I understand your argument.

5 JUDGE EASTHOM: I asked you a question earlier about whether
6 you agreed with your friend that if Q does not say turn on, it won't turn on.
7 Well, you showed me a -- I don't think what you showed me the, two zeros
8 is -- shows me what I was asking. So I guess I'm looking at your logic table
9 on page 28 of your response, your Patent Owner response. I don't know. I
10 wish I had the paper number --

11 JUDGE BARRETT: I thought you --

12 JUDGE EASTHOM: -- in front of me.

13 JUDGE BARRETT: -- just passed it by. It --

14 MR. BOMBACH: It's Slide 20.

15 JUDGE EASTHOM: Yeah, that's it. Thank you.

16 JUDGE BARRETT: So if I could interject, I believe you used the
17 situation where Q equals zero. And I think my colleague here is asking what
18 about the scenario when Q is a one?

19 MR. BOMBACH: When --

20 JUDGE EASTHOM: That's right.

21 MR. BOMBACH: When Q is a one, it does -- the evidence does
22 -- it does track. The inversion tracks, and you could see it here in Mr.
23 McAlexander's table. You could see it in Petitioner's timing diagram.

24 JUDGE EASTHOM: This gets back to my initial question about
25 what the -- and I'm just trying to get straight here. But you're saying the
26 plain meaning of the term control signal has to show a logical input, where

1 in the table is always consistent. That's what, I guess, you're saying. I don't
2 want to --

3 MR. BOMBACH: Yeah. No. When you're talking about control
4 --

5 JUDGE EASTHOM: But why is that the plain and ordinary
6 meaning? Assuming that's correct and -- why is that the plain and ordinary
7 meaning? Why isn't that just an anomaly or part of your -- one of your
8 embodiments?

9 MR. BOMBACH: So I'll use a more simple example. If you have
10 a binary system, a light switch, if you turn it one way and it works, and you
11 turn it the other way and it doesn't work, that's not really the control for your
12 light. You can imagine the input to 82 being your bulb and the switch.

13 JUDGE EASTHOM: But why isn't it a control signal that's just
14 overridden by another control signal? Why isn't it still a control signal?

15 MR. BOMBACH: Because then the signal going into the light
16 bulb and the signal being output from the light switch would actually be a
17 different signal. If you wanted to talk about what the signal is going into the
18 light switch, it would have other components. It's a different type of signal.
19 The signal going into the light switch would be a control signal. The output
20 to the -- the input to the bulb, rather, would be a control signal. The output
21 of the light switch would be a control signal. But the light switch -- that
22 control signal will not be the same because you're going to turn it off. It's
23 not going to turn off.

24 JUDGE EASTHOM: Okay. I think I understand your argument.
25 Now, what about the argument that your friend made that if the circuit works
26 part of the time as a control signal, that's enough for anticipation?

1 MR. BOMBACH: Yeah. I mean, it doesn't match what a control
2 signal is. If in an electronic system -- and I don't think that's how a POSITA
3 would understand. If you find a momentary overlap or match in state -- and
4 when you're talking about logic signals, you're always going to find an
5 inversion. You're always going to find something where there is -- you
6 could say, oh, it's an inversion. Oh, there's a causal link. That's not the
7 control signal. And again, I'll go point to a light switch. If you turn it off
8 and your light doesn't actually turn off, you're not going to say that's a
9 control signal, a control for your light. You're just going to say it just kind
10 of works sometimes.

11 JUDGE BARRETT: Well, I think --

12 JUDGE EASTHOM: (CROSSTALK) depends on how broad the
13 claim is.

14 JUDGE BARRETT: I think the analogy might be you have two
15 switches, and you flip one. It doesn't work. But the other one, you flip it. It
16 does work certain times. Would a POSITA not think both switches give
17 control signals?

18 MR. BOMBACH: And you said both switches. And yeah, both
19 switches would provide independent control signals. It would not be -- so
20 I'll go to here again. If you flip the light switch and you have a momentary
21 pulse where it turns off or on, then it's not a control signal. Going further
22 with the analogy, if you think this green signal one, where it's just
23 momentarily one, is the light turning on, if you're sitting there, you turn the
24 switch orange one, your light doesn't turn on. And then you flip the switch,
25 zero, orange zero, and then you have a flicker of a light, you're not going to
26 -- and then it just goes off. You're not going to say this is your light. It's not

1 the same signal. You're going to say this thing is broken.

2 JUDGE BARRETT: So let me get your response again because I
3 think you answered the question when Judge Easthom asked it. But if
4 you've got that logic table, whatever slide that was.

5 MR. BOMBACH: It's Slide 20, Your Honor.

6 JUDGE BARRETT: Okay. So at least when the orange is a one,
7 the green is always a zero. Is the claim satisfied then?

8 MR. BOMBACH: No, Your Honor. It isn't. It's just there's one
9 situation where there is an inversion. And I'll go back to the light switch
10 analogy. Your light's off. Your switch is in one position. Your light's off.
11 So you're having green be zero. It's off. Yeah, when orange is one, green is
12 zero in this certain scenario. But it's also predicated on, yeah, when orange
13 is zero.

14 JUDGE BARRETT: Under your construction, then that -- is that a
15 control signal?

16 MR. BOMBACH: No, Your Honor. Oh, let me take a step back.
17 Are you referring to orange in itself as a single signal? Is that a control
18 signal? Are you referring to the whole color scheme of Slide 20?

19 JUDGE BARRETT: I may have taken this way too far down a
20 rabbit hole. Let me see. And I may have already asked this. I apologize.
21 But in Tateishi's Figure 3, if, again, under sort of my thinking that the zero-
22 crossing latch and the minimum off-time timer are overrides, in the
23 situations where they are not overriding, then the flip-flop is controlling in
24 my view. And you can disagree with that. But it seems, at least in those
25 scenarios, it's controlling the downstream component, and a POSITA would
26 think that's a control signal.

1 MR. BOMBACH: But it's not controlling the downstream
2 component. And I'll return back to Slide 27, because when you flip orange
3 to zero, it's not the same signal. Does flipping of one bit effectuate control
4 within another? I mean, you see it when you have one in the inversion of
5 green there, but it's not the same signal. And it's like --

6 JUDGE BARRETT: Are those when the other components are
7 overriding?

8 MR. BOMBACH: With the term overriding, I think you -- that's
9 probably not the, in my view, not the right way to describe it because it's -- it
10 implies that the other circuitry is extraneous, and it's not part of the control
11 scheme built into Figure 3. Here, it is part of the control scheme built into
12 Figure 3. And I think zero orange matching green is zero. That is actually
13 the standard state because one is on momentarily for the capacitor to charge
14 capacitor 100 of Figure 3.

15 JUDGE BARRETT: Okay. We're on the same page. And I thank
16 you for pointing out why my term override may not be appropriate. It's not
17 that I'm reading out those aspects or saying they're relevant. It's you don't
18 like the implication that those are just rare occurrences. You're saying those
19 are part and parcel of how the circuit works. So it's not just overrides.
20 They're a component of how it operates.

21 MR. BOMBACH: Yes, Your Honor.

22 JUDGE BARRETT: Thank you.

23 JUDGE EASTHOM: And if I could just wrap up what I was
24 asking you about the logic table real quickly. I mean, your friend said that it
25 will not turn on unless Q tells it to turn on, and I think that's true from your
26 logic table.

1 MR. BOMBACH: And this is a partial logic table from
2 Petitioner's expert of the annotation, if you look at Slide 26, the color
3 annotations. So that's why I say we assume. So we assume that orange is
4 the starting point. We assume orange goes to zero and what is effectuated
5 downstream.

6 JUDGE EASTHOM: Okay. Yeah. I mean, I understand that, but
7 -- and then it will not turn off unless the orange tells it to turn off.

8 MR. BOMBACH: Just so I understand, are you saying the --

9 JUDGE EASTHOM: Well, it will only turn off if orange is a one.
10 So orange, Q has to tell it to turn off, and it'll -- the transistor 82 will turn
11 off. You'll have a zero at the input of the transistor.

12 MR. BOMBACH: Oh, so green actually is -- if you see aqua,
13 when that signal -- and I'm on Slide 26. When aqua goes to one, green goes
14 to zero.

15 JUDGE EASTHOM: Yeah, but I'm not asking you that. I'm
16 asking you --

17 MR. BOMBACH: Okay.

18 JUDGE EASTHOM: -- about the orange output Q --

19 MR. BOMBACH: Yes.

20 JUDGE EASTHOM: -- which is the signal?

21 MR. BOMBACH: Yes, Your Honor.

22 JUDGE EASTHOM: Okay.

23 MR. BOMBACH: So orange, if I understand correctly --

24 JUDGE EASTHOM: If I'm right, I mean, I thought orange was
25 the one that was a signal that we were talking about with respect to this logic
26 table. That's the output. That's Q? Orange is?

1 MR. BOMBACH: Yes. Orange is Q.

2 JUDGE EASTHOM: So Q will not -- unless Q tells it to turn off,
3 the transistor will not turn off.

4 MR. BOMBACH: And just for clarity, when you refer to it, you're
5 referring to 82 --

6 JUDGE EASTHOM: Yes.

7 MR. BOMBACH: -- transistor? So you can actually see where
8 orange is zero. Transistor is still one. So you're getting a one input. And
9 then --

10 JUDGE EASTHOM: Yeah. It won't --

11 MR. BOMBACH: -- and then --

12 JUDGE EASTHOM: And then that's when it's telling it to turn.

13 MR. BOMBACH: And I apologize. It's getting my bits flipped in
14 my head.

15 JUDGE BARRETT: Counsel, as you may have noticed, you're
16 eating into your rebuttal time now. I know it's been a hot bench. Why don't
17 you go ahead and finish up with Judge Easthom and then do as you will.

18 MR. BOMBACH: Yes. No, I would like to answer Your Honor's
19 question. I apologize for getting my bits flipped in my head.

20 JUDGE EASTHOM: Well, I might have flipped them in my head
21 too. I apologize too. But the way I understand it is orange is Q or orange
22 represents Q. And unless Q tells this thing to turn on, it won't turn on. And
23 unless Q tells 82 not to turn on, then it'll be off.

24 MR. BOMBACH: Actually, this shows the exact opposite here.
25 Slide 26 is an excerpt -- the timing diagram is an excerpt of their expert's
26 declaration. Here, you can see orange is zero. Green is one. Orange

1 remains zero. Green goes from one to zero. So orange has zero effect there
2 on what's happening at green. Green remains zero. Here, look at right here.
3 Orange is going to one. There is no change in green. So it does not have
4 this type of causal link.

5 JUDGE EASTHOM: Well, green is still zero and it's not turning
6 on?

7 MR. BOMBACH: Well, green is still zero, but orange flips from
8 zero to one.

9 JUDGE EASTHOM: But the question is whether it turns on
10 unless orange tells it to. When orange tells it to -- it will not turn on unless
11 orange tells it to turn on. It won't turn on unless orange is zero?

12 MR. BOMBACH: So I mean, orange -- the orange signal is a
13 major component of the Tateishi. If you remove the flip-flop, the circuit
14 itself won't work. But with respect to the direct causal link on Slide 26, you
15 could see there is no direct causal link between orange and green. Green
16 remains one. Orange is zero, Green flips to zero. Orange remains zero. So
17 orange is not effectuating control onto green. Once orange flips to one
18 towards the end, green remains zero.

19 JUDGE EASTHOM: That's not the question I was -- I was asking
20 you about what this logic -- this does not contradict -- this slide doesn't
21 contradict the logic chart.

22 MR. BOMBACH: It does not contradict the logic chart --

23 JUDGE EASTHOM: Okay.

24 MR. BOMBACH: -- but it provides a more -- with timing. It
25 introduces timing, and it shows how the causal links, when something flips,
26 how long something's going to stay on relatively. And it's --

1 JUDGE EASTHOM: Okay. I appreciate that. I don't want to
2 belabor the issue. I just wanted to make sure I understood the logic table
3 correctly. Thank you.

4 MR. BOMBACH: And I apologize (INDISCERNIBLE -
5 TECHNICAL DIFFICULTY).

6 JUDGE EASTHOM: No. I think you raise a good point. I have
7 to think about it. Thank you.

8 MR. BOMBACH: And if there are no further questions, I think
9 the other issues are well described in the parties' papers. I'll reserve the rest
10 of my time for surrebuttal.

11 JUDGE BARRETT: Whenever you're ready.

12 MR. GRAY: The Petitioner has nothing further to say, Judges.

13 JUDGE BARRETT: Okay. Anything further?

14 MR. BOMBACH: No, Your Honor. Again, I would like to
15 emphasize Slide 26 and the timing diagram, which -- of Dr. Holberg, which
16 shows that there's no links between those two signals. When orange
17 transitions, you can see that green is not transitioning in the excerpt of -- I
18 think it was Slide 26. Thank you.

19 JUDGE BARRETT: The case is submitted. But let's stay on the
20 record for a moment. I want to get your views on this. There was some
21 discussion today about the supplemental information, the purported
22 inconsistent testimony of Mr. McAlexander in the District Court. It seems
23 like it was fairly thoroughly argued today. At least Petitioner had some
24 details in the demonstrative slides that weren't in a brief because the briefing
25 was completed.

26 Do we need another round of briefing to address that, or are the

1 parties content with resting on what was said here today and keeping in mind
2 that we may refer to the demonstrative exhibits as if they were a brief for
3 some of those aspects? Or if you don't want to answer now, you could meet
4 and confer and send an email to us. But if you're going to do that, do it
5 promptly. So if we're going to order briefing, we can get that out of the way.

6 MR. GRAY: Well, let me ask you a question, Judge. How many
7 examples of Mr. McAlexander's inconsistent testimony would you find
8 persuasive?

9 JUDGE BARRETT: Well, I'm certainly not going to answer that,
10 and I don't know what you would think if I said zero. The briefing, to the
11 extent there's briefing, was in the motion itself, and there weren't too many
12 citations to specifics. You placed a lot of pages in the record. Patent
13 Owner's not really had much of an opportunity to discuss. I believe did
14 reference the buffer argument in those motion papers and then again today
15 seemed to reiterate that's a buffer. That's what the expert testified to. It's
16 Petitioner's burden. And Petitioner hasn't come forward with evidence to
17 actually show that there's an inconsistency.

18 The parties are welcome to rest on the arguments. And let me add
19 to that again, Petitioner's motion didn't cite a lot of specific pages from, say,
20 the deposition transcript. You discussed and cited considerably more today
21 and in the demonstrative exhibits. And I want to make sure the Patent
22 Owner is comfortable with the record as it stands now, or if you think more
23 briefing would be appropriate to let you have your say?

24 MR. GRAY: The panel seems to understand the three input NOR
25 gate. We provided relevant excerpts from the expert report and his
26 deposition. We discussed them today. I was questioned on them today. I

1 think we're good. But if the Board would find helpful for us to put in brief
2 format the argument today, we're happy to do so. But I think the point's
3 been made. He's taken the exact opposite position in the District Court
4 because it turns out our product (INDISCERNIBLE).

5 JUDGE BARRETT: Okay.

6 MR. GRAY: I think that's pretty plain.

7 JUDGE BARRETT: The Patent --

8 MR. BOMBACH: Obviously, we disagree with that. And we
9 presented testimony in Paper 40 where he did provide evidence that it's just
10 a buffer. Mr. Gray has provided nothing to the contrary that -- with respect
11 to briefing, I don't think the Petitioner should get a third shot at trying to
12 present evidence. The supplemental information was identified that they
13 want to rely on in their initial motion, and their initial motion is the record of
14 what has been cited. So no further briefing is necessary from our
15 perspective, necessary or appropriate.

16 JUDGE BARRETT: So what I understood you to say is that
17 Petitioner's position -- the full position we should consider was in the
18 briefing papers. My take is that the demonstrative exhibits went further and
19 had some argument and had some pinpoint cites, maybe some quotations,
20 that were not in the briefing papers. And so your position would be we just
21 should not rely on anything there? Or we may?

22 MR. BOMBACH: Well, I'll answer that in -- I'll provide two
23 answers. I don't think that is -- their argument and their characterization is
24 inaccurate. So it's almost, in my view, irrelevant. But they had their
25 opportunity in the papers, in the briefing, to identify particular citations that
26 they had wanted to identify on the record. They know that demonstratives

1 are not exhibits, and they cannot rely on additional information within the 30
2 page citation. So I think what has been identified, and I forget their paper
3 number, which their (INDISCERNIBLE), I think it should be limited to that.

4 JUDGE BARRETT: Okay. And understanding the subtle nuance
5 is the entirety of the deposition transcript or the excerpts. That's all in the
6 record. So that's not new at this point.

7 MR. BOMBACH: Yes, Your Honor. They did provide a 30 page
8 citation. And, yes. I understand that.

9 JUDGE BARRETT: What I'm getting at is, cited or not by
10 Petitioner, if I'm reading those pages and I see something that affects the
11 argument, we may want to cite that in the final written decision. And I --

12 MR. BOMBACH: With respect to that, I don't think that actually
13 puts us on fair notice. If there's something within those 30 pages that
14 Petitioner had not brought up in the paper or even previewed, that would be
15 a step too far. I think their citations were a step too far. But it was mostly, I
16 believe, repetitive of what they had already -- the schematics they had
17 provided.

18 JUDGE BARRETT: Okay. I understand everybody's position.
19 For right now, no further briefing. And we will decide this case without
20 denying you due process and the opportunity to respond. If we feel that we
21 do need further briefing, we'll let you know as soon as possible. Thank you.
22 Now, we're off the record. Thank you, everyone.

23 (Whereupon, the above-entitled matter went off the record at 10:48
24 a.m.)

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