

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	Investigation No.
CERTAIN ELECTRONIC DEVICES,	)	337-TA-1376
INCLUDING MOBILE PHONES, TABLETS,	)	
LAPTOPS, COMPONENTS THEREOF, AND	)	
PRODUCTS CONTAINING THE SAME	)	

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1 UNITED STATES INTERNATIONAL TRADE COMMISSION
2 Washington, D.C.
3 BEFORE THE HONORABLE CAMERON R. ELLIOT
4 Administrative Law Judge

5 _____
6 In the Matter of:) Investigation No.
7 CERTAIN ELECTRONIC DEVICES,) 337-TA-1376
8 INCLUDING MOBILE PHONES, TABLETS,)
9 LAPTOPS, COMPONENTS THEREOF, AND)
10 PRODUCTS CONTAINING THE SAME)
11 _____

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13 International Trade Commission
14 500 E Street, S.W.
15 Washington, D.C.

16
17 Monday, August 19, 2024

18
19 EVIDENTIARY HEARING - Volume I

20
21 The Hearing commenced remotely, pursuant to the notice
22 of the Judge, at 9:00 a.m. Eastern.

23
24

25 Reported by: Karen Brynteson, FAPR, RMR, CRR

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

2 (9:00 a.m.)

3 JUDGE ELLIOT: Good morning. Have a seat,
4 please.

5 All right. We're here in the matter of Certain
6 Electronic Devices, Including Mobile Phones, Tablets,
7 Laptops, Components Thereof, and Products Containing the
8 Same, United States International Trade Commission
9 Investigation No. 337-TA-1376.

10 My name is Cameron Elliot, Presiding
11 Administrative Law Judge. May I have appearances from
12 counsel, please.

13 MR. SWAIN: Good morning, Your Honor. Adam Swain
14 from Alston & Bird on behalf of the Complainants, Ericsson.
15 And as you can tell, I have a whole team with me today. I'm
16 happy to introduce them if you would like or we can wait
17 until later.

18 JUDGE ELLIOT: Please do.

19 MR. SWAIN: Okay. Well, to my right is my
20 partner John Haynes.

21 MR. HAYNES: Good morning, Your Honor.

22 MR. SWAIN: Also of Alston. To my left is
23 Ms. Katie Donald, also of Alston.

24 MS. DONALD: Good morning.

25 MR. SWAIN: And on the far left is Mr. Shri

1 Abhyankar.

2 MR. ABHYANKAR: Good morning.

3 MR. SWAIN: Second row, we have Mr. Alex Chern

4 from McKool Smith.

5 MR. CHERN: Good morning, Your Honor.

6 MR. SWAIN: Mr. Elliott Riches from Alston &

7 Bird.

8 MR. RICHES: Good morning, Your Honor.

9 MR. SWAIN: Mr. Kevin Jablonski from

10 FisherBroyles.

11 MR. JABLONSKI: Good morning, Your Honor.

12 MR. SWAIN: And also Mr. Steve Anzalone from

13 FisherBroyles.

14 MR. ANZALONE: Good morning, Your Honor.

15 MR. SWAIN: And there are several -- a couple

16 additional people you'll be hearing from as well, Mike

17 Murray from FisherBroyles.

18 MR. MURRAY: Good morning, Your Honor.

19 MR. SWAIN: And we have a client rep here today,

20 Mr. Derek Neilson, in-house counsel for Ericsson.

21 MR. NEILSON: Good morning, Your Honor.

22 JUDGE ELLIOT: All right. Good morning.

23 MR. AROVAS: Good morning, Your Honor. Greg

24 Arovas for the Respondents, Lenovo and Motorola.

25 We have with us from Lenovo Ms. Shawna Yashar,

1 who is in the second row, first seat. Next to me, all from
2 Kirkland & Ellis, we have Karthik Ravishankar, Mr. Chris
3 Mizzo --

4 MR. MIZZO: Good morning.

5 MR. AROVAS: -- Ms. Diva Hollis.

6 MS. HOLLIS: Good morning.

7 MR. AROVAS: In the second row, also from
8 Kirkland, we have Mr. Ed Donovan --

9 MR. DONOVAN: Good morning, Your Honor.

10 MR. AROVAS: -- and Mr. Steven DeSalvo.

11 MR. DeSALVO: Good morning, Your Honor.

12 MR. AROVAS: Thank you. We're ready to proceed.

13 JUDGE ELLIOT: All right. Very good.

14 Okay. So I have a few things to discuss which
15 won't take very long, and then I'll hear from the parties if
16 there's anything else.

17 So, first of all, I have received your updated
18 order of witnesses and estimate of how much time it will
19 take. I would like you to tell me at the start of each
20 hearing day what your time is, you know, how things have
21 gone, the split in time. But you don't need to put anything
22 in writing. You can just tell me that orally.

23 Now, I understand that there were some motions
24 filed, a motion to amend the pretrial statement and a motion
25 to amend the exhibit list; the one to file an admitted

1 exhibit list, I've got a written ruling on that. I
2 understand it's unopposed, so it will be granted.

3 And then the motion to amend the pretrial
4 statement, I understand, is also unopposed, and I will just
5 orally rule that that's granted. Okay?

6 Otherwise, I don't think there are any other
7 pending motions. I resolved all of the motions in limine
8 that were left after withdrawals and various mootnesses.
9 Let's see.

10 So I think the only other thing I need to do is
11 admit the exhibits. And, of course, again, there weren't
12 very many MILs left, so I'm going to assume there are no
13 objections to the exhibits. I'm going to admit the exhibits
14 that are not just for impeachment purposes. I'm also not
15 going to yet admit any demonstratives. I usually wait until
16 the end of the hearing to admit the demonstratives.

17 But this is your last chance. Any objections to
18 the parties' exhibit lists?

19 MR. SWAIN: Nothing from Complainants, Your
20 Honor. Thank you.

21 MS. HOLLIS: We have no objections either, Your
22 Honor, but we wanted to clarify one thing, that the exhibits
23 on the exhibit lists that were identified for impeachment
24 and identification, the parties have agreed that both of
25 those would not be admitted.

1 JUDGE ELLIOT: Very well. All right. Good. So
2 the exhibits on the exhibit lists are admitted.

3 (Exhibits, as submitted by counsel and reflected
4 in the attached index, were received into evidence.)

5 JUDGE ELLIOT: Okay. That's it for me. So
6 anything else we need to take up before we start with the
7 first witness? Mr. Swain?

8 MR. SWAIN: One last thing but very important
9 thing, Your Honor, we have two NEXT advocates that you'll be
10 hearing from later in this hearing, and one is to my left,
11 Katie Donald, and the other is Mr. Elliott Riches, right
12 behind me. I just wanted to openly declare them for the
13 Court.

14 JUDGE ELLIOT: Very good.

15 MR. SWAIN: Thank you, Your Honor.

16 JUDGE ELLIOT: Mr. Arovas?

17 MR. AROVAS: The only other thing I would add,
18 and I think it's in the stipulations, but so Your Honor is
19 aware we have agreed to sequester fact witnesses during the
20 course of the trial until their testimony is completed.

21 JUDGE ELLIOT: Very good. All right. So I'll
22 ask counsel to police that because I obviously don't know
23 who these people are.

24 MR. AROVAS: And --

25 JUDGE ELLIOT: Okay. Very good. So if you're

1 ready, call your first witness.

2 MR. HAYNES: Your Honor, John Haynes for
3 Complainants. Our first witness will be --

4 JUDGE ELLIOT: I'm sorry, say that again, please.

5 MR. HAYNES: Your Honor, John Haynes for
6 Complainants. Our first witness will be Ms. Christina
7 Petersson.

8 May we hand out binders, Your Honor?

9 JUDGE ELLIOT: Yes, very good. Thank you.

10 Good morning. Have a seat and I need to swear
11 you in. And make sure -- you see this little disk here, tap
12 it right on the edge, and it should turn green, please.

13 Yes. Okay.

14 Whereupon--

15 CHRISTINA PETERSSON,
16 having been first duly sworn/affirmed, was examined and
17 testified as follows:

18 THE WITNESS: I do.

19 DIRECT EXAMINATION

20 BY MR. HAYNES:

21 Q. Good morning, Ms. Petersson.

22 A. Good morning.

23 Q. Could you please introduce yourself.

24 A. So my name is Christina Petersson, and I am head
25 of IPR and licensing for Ericsson.

1 Q. What are your duties at Ericsson?

2 A. So I am part of the team at Ericsson who is
3 responsible for all patent handling. So that would be
4 patent filing and licensing of patents, basically
5 maintaining the patent position of Ericsson.

6 Q. And for how long have you worked at Ericsson?

7 A. Since 1998, so that must be 26 years now.

8 Q. Okay. And prior to joining Ericsson, can you
9 just describe your educational background?

10 A. So I have an undergraduate degree in economics in
11 Sweden, where I was brought up, and I also have a law degree
12 from a university in Sweden.

13 Q. And what was the nature of your law practice?

14 A. So I started very early with Ericsson, so I have
15 been working mainly with negotiating contracts and drafting
16 contracts throughout my legal career.

17 Q. Okay. And you're testifying in English today.
18 Do you use English much in your job?

19 A. Yes, I do. So English is the corporate language
20 of Ericsson.

21 Q. Okay. If we could, let's pull up CDX-1.2. Can
22 you tell us what we're seeing here on the screen?

23 A. Yes. So this is a picture of our U.S.
24 headquarters. U.S. is our most important market for
25 Ericsson. And this is our headquarter in Plano, Texas,

1 which has 8,000 employees, both working in R&D as well as in
2 sales.

3 Q. If we could go to CDX-1.3.

4 Can you tell us what we see here on this slide?

5 A. Yes. So this is a 5G smart factory that we have
6 built in Lewisville, Texas, where, through 5G robots, we are
7 manufacturing 5G base stations for the U.S. market.

8 Q. Okay. I see that this is referred to as a smart
9 factory. Why is it a smart factory?

10 A. Because it is using 5G as the manufacturing -- as
11 the technology that can actually manufacture things through
12 robots.

13 Q. And why does Ericsson make such an investment in
14 the United States?

15 A. So the U.S. is a very important market to us. I
16 can give an example. I say very important; it is the
17 biggest market for Ericsson. As an example, just recently
18 we announced a 14 billion U.S. dollar deal with AT&T, one of
19 our biggest customers, helping them to build out open RAN in
20 the U.S., on the U.S. market.

21 Q. Before we get into some of the details of your
22 testimony, can you just tell us in your own words why it is
23 that Ericsson has come before the ITC seeking an exclusion
24 order on the implementation patents that are asserted here?

25 A. Because Lenovo is infringing two of our

1 implementation patents without compensating Ericsson for
2 that.

3 Q. Okay. And what are implementation patents?

4 A. So we separate between two different patents or
5 two buckets of patents, implementation patents and standard
6 essential patents. Implementation patents are those that we
7 have not committed to license, in contradiction to standard
8 essential patents, where we have a commitment, we have
9 voluntarily made a commitment to license those under certain
10 terms and conditions.

11 Q. Okay. So does Ericsson also have portfolios of
12 essential patents?

13 A. We do. We have thousands of standard essential
14 patents, both in -- actually in all the G's, but of course
15 now most importantly in 4G and 5G.

16 Q. Okay. Do you have any other portfolios in things
17 like video, for example?

18 A. Yes, we do. So we have a standard essential
19 patent portfolio in video technology as well.

20 Q. Okay. Are any standard essential patents
21 involved in this investigation?

22 A. Not in this investigation, no.

23 Q. So I want to shift gears a little bit and talk a
24 little bit about Ericsson's licensing activities.

25 How long have you been involved in patent

1 licensing at Ericsson?

2 A. So I have been involved in patent licensing since
3 2003, calculating that must be 21 years now.

4 Q. Okay. And does Ericsson have any general
5 policies that it applies in its patent licensing practice?

6 A. We do, but it depends on the patent. We do have
7 a general policy for standard essential patents, where we
8 have given a commitment to license those under certain terms
9 and conditions. So there we have a policy.

10 When it comes to implementation patents, that
11 would be on a case-by-case basis if it makes business sense.

12 Q. Why is Ericsson's approach to licensing
13 implementation patents different from its approach to
14 licensing standard essential patents?

15 A. Because these -- first of all, we don't have a
16 commitment to license these patents. They are our
17 proprietary rights. We're willing to do so, but it has to
18 make business sense on a case-by-case basis. It's our
19 proprietary rights.

20 Q. Okay. You referred to "these patents" in your
21 answer. Were you referring to implementation patents there?

22 A. Yes.

23 Q. Has Ericsson --

24 MR. HAYNES: Actually, Your Honor, at this point,
25 we need to go very briefly on the Ericsson confidential

1 record.

2 JUDGE ELLIOT: Very well.

3 (Whereupon, the hearing proceeded in confidential
4 session.)

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1 O P E N S E S S I O N

2 BY MR. HAYNES:

3 Q. Now, with respect to Lenovo and Motorola, is
4 Ericsson currently in licensing negotiations?

5 A. Yes, we are.

6 Q. And are you personally involved in those
7 negotiations?

8 A. Yes, I am.

9 Q. And have implementation patents been the focus of
10 the negotiations with Lenovo?

11 A. No. So the focus is on standard essential
12 patents.

13 Q. Is Ericsson requiring Lenovo to license its
14 standard essential patents in order to obtain a license to
15 Ericsson implementation patents?

16 A. No, we're not doing that. No.

17 Q. Okay. What about the opposite, is Ericsson
18 requiring a license to SEPs in order to talk about
19 implementation patents?

20 A. No.

21 Q. And in the course of negotiations, what has
22 Lenovo's position been with respect to implementation
23 patents?

24 A. The position by Lenovo has been that we should
25 include implementation patents in a deal that values

1 standard essential patents, basically to toss them in.

2 Q. Okay. Is Ericsson willing to entertain Lenovo's
3 request that Ericsson throw in its implementation patents
4 into an SEP licensing deal for free?

5 A. No, not for free. That has to be -- it has to
6 make business sense for the particular case.

7 Q. Okay. Now I'd like to talk about a particular
8 defense that Lenovo has raised in this case involving a 2011
9 license agreement between Ericsson and Motorola Mobility.

10 A. Okay.

11 MR. HAYNES: And, at this point, Your Honor, it
12 probably makes sense -- we're going to talk a lot about this
13 license. It will be party confidential information, so on
14 the confidential record but Lenovo's representatives can
15 stay in the room.

16 JUDGE ELLIOT: Very well.

17 (Whereupon, the hearing proceeded in confidential
18 session.)

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1 O P E N S E S S I O N

2 Whereupon--

3 ERIC W. BURGER,
4 having been first duly sworn/affirmed, was examined and
5 testified as follows:

6

7 THE WITNESS: I do.

8 DIRECT EXAMINATION

9 BY MR. MURRAY:

10 Q. Dr. Burger, good morning.

11 A. Good morning.

12 Q. Could you introduce yourself for the record,
13 please?

14 A. Yes. I am Eric William Burger.

15 Q. Is your microphone turned on?

16 JUDGE ELLIOT: Just try to talk toward it.

17 THE WITNESS: Is this better?

18 JUDGE ELLIOT: This is better. I am hearing you.

19 THE WITNESS: Okay, good, thank you.

20 BY MR. MURRAY:

21 Q. Dr. Burger, what is your role in this
22 investigation?

23 A. I was retained by Ericsson to review some
24 patents.

25 Q. Did you prepare some slides to assist in your

1 testimony today?

2 A. Yes, I did.

3 Q. And if you look in the binder that I think you
4 have in front of you and look at Complainant's demonstrative
5 Exhibit CDX-2C, which we are showing on the screen.

6 Are these the slides that you prepared?

7 A. Yes, they are.

8 Q. If we can go to slide 2, please.

9 Can you briefly summarize your educational
10 background for us?

11 A. Yes. I have a Bachelor's in electrical
12 engineering, Ph.D. in computer science. I also have an MBA
13 from the Massachusetts Institute of Technology, Illinois
14 Institute of Technology at Catholic University of Leuven.

15 Q. Can you summarize your work experience?

16 A. Yes, I served in government. I was the assistant
17 director for telecommunications and cyber security in the
18 White House Office of Science and Technology Policy, where I
19 was responsible for promoting 5G wireless, as well as
20 wireless security amongst other roles there.

21 I was just down the street here at the Federal
22 Communications Commission as the chief technology officer,
23 where I worked on items such as wireless location for 911,
24 enhancing that, as well as securing the public networks
25 using encryption to secure the signaling. And finally, I

1 worked on 988, the suicide prevention hotline.

2 Prior to that I worked in industry. I worked at
3 carriers such as MCI and Cable & Wireless, as well as being
4 a C-level executive at a number of public and private
5 network equipment manufacturers.

6 I have highlighted two here. One was Neustar,
7 which provided a service called ultraviolet, which was how
8 the video companies would allow you to rent or buy a digital
9 movie and be able to play it through different services.

10 And as well I was founder and CTO of a company
11 called Snowshore Networks, which was the first CIP
12 controlled IP multimedia media server. Amongst other
13 things, we provided video over the Internet, had a number of
14 wireless carriers as customers.

15 All of these products included user interfaces
16 that either I wrote or people working for me wrote all the
17 way back to in my early career writing device drivers for
18 basically the image processing part of going from drawings
19 and pictures to printers.

20 Q. And can you describe your experience in academia,
21 please.

22 A. Yes. I have been a research professor of
23 computer science at Georgetown University. I was there for
24 a little more than a decade. While there, I taught classes
25 such as advanced networking, where I would teach the

1 protocols used for multimedia playback, as well as networks
2 -- sorry, advanced network security, where we would teach
3 about encryption technologies amongst other things.

4 In 2022, I was recruited to Virginia Tech. I
5 have a position as research director of the Commonwealth
6 Cyber Initiative. That is about a \$100 million a year
7 research program, mostly in wireless security, but focusing
8 on cyber security broadly. And I also have a position as a
9 research professor of electrical and computer engineering.

10 In terms of industry, I was also in 2022
11 recruited to be the technical program director of what is
12 known as the NextG Alliance. That is an
13 industry/university/government alliance. And what we're
14 working on is basically ensuring that 6G wireless, the next
15 generation of wireless, reflects the needs and priorities of
16 North America.

17 Q. And if you look at the binder at
18 Exhibit CX-1440C.

19 Do you recognize that document?

20 A. Which number?

21 Q. It is 1440C. It should be your CV. But please
22 confirm that.

23 A. There it is, yes.

24 MR. MURRAY: Your Honor, we offer Dr. Burger as
25 an expert in wireless technology, including encrypted

1 communications and also as an expert in user interfaces for
2 mobile devices.

3 JUDGE ELLIOT: Very well.

4 BY MR. MURRAY:

5 Q. We can move to slide 3, please.

6 Dr. Burger, what patents will your testimony
7 address today?

8 A. So I will be addressing the '178 patent, which is
9 about securely delivering video over the Internet, and the
10 '654 patent, which is about an improved user interface for
11 setting images for a camera.

12 Q. Okay. Ken, can you go to slide 4, please.

13 So let's take them one at a time. This is Figure
14 1 from the '178 patent. In general terms, can you just
15 describe the invention of the '178 patent?

16 A. Yes. The top half of Figure 1 here is the, what
17 we call the packaging process where we take content like a
18 movie or a TV show and cut it up into segments. That
19 packager also encrypts the content and makes the keys
20 available to a license server for the client to use.

21 Q. You referred to keys. What do you mean by keys
22 in that context?

23 A. So these are encryption keys. The idea is that
24 the content providers want to ensure that only the people
25 who have subscribed to, like, a TV show or have purchased a

1 movie have the access rights for that movie.

2 As well, the video providers may have different
3 qualities of service, so they may charge one fee for a
4 standard definition rendering of a movie and a different fee
5 for an ultra high definition version of that movie.

6 And so they use encryption to ensure that the
7 client can only view the proper stream.

8 Q. So you described what is happening in the top of
9 Figure 1. What is happening in the bottom of Figure 1?

10 A. So at the bottom of Figure 1, the client is
11 retrieving those keys and retrieving the content and using
12 those keys to decrypt the content.

13 Q. How does the client retrieve the keys?

14 A. It has a key identifier to know which keys to get
15 from the license server.

16 Q. Does the client use the same key to decrypt an
17 entire, say, program or movie?

18 A. No. Part of the roles of the packager is to
19 segment the movie to use different keys. And the term that
20 we use is that those keys will be rotated. We will use
21 different keys for different segments.

22 Q. How does the client know when to change the keys?

23 A. There are basically two methods that are
24 described by the patent. One is a time-based expiration and
25 the other is a notification that it is -- the key needs to

1 be changed.

2 Q. And why would the client receive a notification
3 to change a key?

4 A. The content provider may be concerned about those
5 keys being compromised and so will inform the client that it
6 needs to change the key.

7 Q. Is there a particular part of this system that is
8 the focus of the claims?

9 A. Yes. That's the client 110, which can be a
10 Smartphone or tablet or laptop, and that is the subject of
11 actually my next slide, Figure 3.

12 Q. Can we move to the next slide, please, which is
13 slide 5.

14 So can you explain the operation of the client
15 device with respect to Figure 3?

16 A. Yes. Figure 3 is an overview of the steps that
17 the computer program will use in order to practice the '178
18 patent.

19 Q. So we can move to slide 6. Dr. Burger, if you
20 could walk us through the steps of Figure 3, please.

21 A. Yes. So when the user, the client, wants to view
22 the movie, they will make a playback request. And it will
23 -- the client will get a response, which has content
24 location and encryption information, such as the keys, the
25 key IDs, and these timers we talked about.

1 Q. And moving to slide 7, what happens next in
2 Figure 3?

3 A. This is where we enter into a loop, where the
4 client will retrieve the content and keys as necessary and
5 decode the video, so that it can be displayed to the user.

6 Q. And let's move to slide 8. If you could just
7 walk you us through the steps of the loop and what is
8 happening, please.

9 A. Yes. So 306 is where we get that content. 308
10 is what the patent terms the detection step. And this is
11 where the client is continuously on the lookout to detect if
12 a key change request was made.

13 And so here, in step 308, if it detects that key
14 change, it notes that it will need to expire the current
15 key.

16 Q. And moving to slide 9, can you explain how this
17 key change notification is sent in the encrypted stream?

18 A. Yes. One of the embodiments described by the
19 disclosure is that that notification can come in a prepended
20 header, a header that is put in before the start of a
21 segment that would require the new key.

22 Q. So moving to slide 10, what happens next in the
23 flow chart of Figure 3?

24 A. So 310 is a decision box. This is where the
25 client will check to see if we need to expire the key and

1 that there are two cases. One is that normal period-based
2 expiration and the explicit key change notification that the
3 client detected in step 308.

4 Q. Moving to slide 11, what happens as a result of
5 this decision box and step 310?

6 A. So if we do not need to expire the key, then we
7 continue processing on the right-hand side.

8 Q. Moving to slide 12, what's the alternative?

9 A. So if we do need to rotate the key because the
10 timer has passed or the client has been told that this
11 segment now needs a new key, then the keys are rotated.

12 Q. And moving to slide 13, can you explain what is
13 going on in the right side of the loop in Figure 3?

14 A. Yes. So, again, the point is for the user to
15 view the movie, so this is where that segment will be
16 decrypted with the current key for that segment.

17 Q. And moving to slide 14, could you continue
18 explaining the right side of the loop?

19 A. Yes. So in 316, we're going to have a check.
20 And that is whether the current content encryption key is
21 about to expire here. It says imminent. Or if a content
22 encryption key change request for a future segment was
23 detected in the detecting step 308. If the answer is no, it
24 goes through the loop.

25 If the answer is yes then we get to step 318,

1 which is the prefetch step, which is where the client will
2 request the new key ahead of when it needs it.

3 Q. So why does the client need to determine if the
4 expiration of a key is imminent?

5 A. For a user experience purposes, if it waited
6 until it needed that new key, then the time for it to make
7 the request, get the response, playback would basically
8 stop, which would be a bad user experience. So it wants to
9 prefetch it, so that when it does -- the client does need
10 the key to play out the playback, it will have the key.

11 Q. Let's move to slide 15, please.

12 Is the loop that you have been describing
13 finished at this point?

14 A. No. We will -- the client will keep looping
15 through this loop until the movie is over or the television
16 show is over.

17 Q. So let's move to slide 16 and address the claims.
18 Have you analyzed asserted claim 16 and 17 shown here on
19 slide 16?

20 A. Yes, I have.

21 Q. And did you reach any conclusions about
22 infringement?

23 A. Yes, I did. All of the Lenovo accused products
24 infringe claim 16 and 17.

25 Q. Let's move to slide 17.

1 What devices did you examine as part of your
2 analysis?

3 A. So I examined a Moto G Stylus 5G, a mobile phone;
4 Tab M10 Plus, a tablet; and two laptops, the Chromebook Duet
5 3, and the ThinkPad X1.

6 Q. What did you do with these products in general
7 terms?

8 A. So I examined them and noted that they all have a
9 package called Widevine, which is a Google product that
10 comes preloaded on these devices. The Widevine software
11 provides the foundation to practice the claims of the '178
12 patent.

13 Q. Moving to slide 18, did you also examine a
14 product for the domestic industry?

15 A. Yes, I did. I examined the Samsung Galaxy S23.

16 Q. Can you summarize your findings with respect to
17 the S23 product?

18 A. The S23 practices the claims 16 and 17 of the
19 '178 patent.

20 Q. So let's move to slide 19. Dr. Burger, let's
21 take the elements of the claim one at a time.

22 Did you analyze the preamble of claim 16 to
23 determine infringement by the Lenovo mobile phones?

24 A. Yes, I did. This term requires the device be a
25 computerized device that is operable as a client for

1 handling secure distribution of content. And the Lenovo
2 devices are computerized devices and the evidence I cited is
3 here on slide 19.

4 Q. Did you determine that the Lenovo mobile phones
5 have the Widevine software on them?

6 A. Yes, I did. And I did that by inspecting the
7 phones and using an application called DRMinfo, which is a
8 common tool used to verify what content -- digital rights
9 management software comes on the phone.

10 Q. Moving to slide 20, does this show the results of
11 your analysis with respect to the Lenovo mobile phones to
12 determine if Widevine is on the phone?

13 A. Yes. Here we see the Widevine version that comes
14 preinstalled on the phone.

15 Q. This is a screenshot that you took yourself?

16 A. I took the screenshot.

17 Q. Now, returning -- if you go back to slide 19 --
18 is the Widevine software enough to provide the claimed
19 capability in the accused mobile phones?

20 A. No, it is not. The device also needs a suitable
21 player installed. In the case of the phones, I looked for a
22 framework called ExoPlayer, which is also a Google open
23 source product, which are applications used to create
24 players. And ExoPlayer, when playing encrypted content, can
25 use Widevine.

1 To determine whether these applications had
2 ExoPlayer, I decompiled the applications on the phone and
3 looked for the ExoPlayer framework.

4 Q. If we could go to slide 21, did you list the
5 applications that you found on the mobile phone in the chart
6 that's on slide 21?

7 A. Yes, I did. This is an abbreviated listing of
8 the applications using ExoPlayer. And it includes YouTube
9 and NewsPop.

10 Q. So what does this list of applications tell us
11 about what's happening on these devices?

12 A. It tells us that we have Widevine preinstalled
13 and we have a suitable player preinstalled.

14 Q. Let's move to slide 22. Returning to the
15 preamble of claim 16, did you do a similar analysis for the
16 other categories of accused products?

17 A. Yes, I did.

18 Q. And what were the results of that analysis?

19 A. So the tablet also comes with Widevine
20 preinstalled, as well as players. The Chromebooks also come
21 with Widevine preinstalled and players. And the Windows
22 laptop comes with the Widevine software installed.

23 Q. Are there any differences across the products in
24 terms of how they meet the preamble of claim 16?

25 A. Within the preamble of claim 16, the tablets

1 operate substantially the same as the phones, both running
2 Android. The Chromebooks running Chrome OS which is a
3 derivative of Lynix, which Android is as well, and as well
4 they are running the Android applications, also operates
5 similarly.

6 The windows laptops are different.

7 Q. Let's start with the Chromebooks. Did you find
8 an application that uses ExoPlayer for the Chromebook
9 laptops?

10 A. Yes. There aren't many applications that come
11 preloaded but the COM Google Android video package is
12 installed on the Chromebook.

13 Q. And moving to slide 23, did you find applications
14 that use ExoPlayer for the tablets?

15 A. Yes, I did. Here, again, I have an abbreviated
16 listing. And I will note that there are applications such
17 as YouTube, Opera and support for Netflix.

18 Q. Will you go back to slide 22, please.

19 Did you find evidence of a player that uses
20 Widevine on the Windows laptops?

21 A. Not at the point of importation to the U.S.

22 Q. So how did you conclude that the Windows devices
23 satisfy the claims?

24 A. Well, the purpose of having Widevine preinstalled
25 is -- you know, one of the uses is for playing encrypted

1 content and for the purposes of this patent, where the
2 content provider is using key rotation.

3 So this would be a case of contributory
4 infringement.

5 Q. And moving to slide 24, did you find evidence of
6 inducement with respect to the laptops?

7 A. Yes. Lenovo encourages its users to install
8 media players. Here I have a copy of basically copy,
9 advertising copy, noting that Lenovo is encouraging its
10 users to install Netflix as an example of a player.

11 Q. This is CX-1247 for the record that's on this
12 slide.

13 So let's go to slide 25. And return, again, to
14 the preamble. Did you reach any conclusions about whether
15 the Samsung DI devices meet the preamble of the claim?

16 A. Yes. The Samsung DI device does practice this
17 claim limitation.

18 Q. And is the evidence you relied on shown here in
19 the chart?

20 A. It is.

21 Q. Let's move to slide 26 which shows CX-1237.34.

22 How did you confirm the use of Widevine on the
23 S23?

24 A. So, again, I ran that same application, DRMinfo,
25 and this is what DRMinfo is telling us that Widevine is

1 installed out of the box.

2 Q. Let's move to slide 27.

3 Were you able to show that the S23 had a player
4 that works with the Widevine software?

5 A. Yes. Again, this is an abbreviated list, but
6 amongst the applications on here, we see YouTube and
7 Spotify.

8 Q. And let's move to slide 28.

9 And the next element of claim 16, element 16a,
10 what is element 16a?

11 A. So this requires the devices to have memory to
12 store computer program instructions, that the device has one
13 or more processors, input/output interface circuitry and
14 that they are all connected together.

15 Q. And did you reach any conclusions about whether
16 the accused devices and the DI device meet this element of
17 the claim?

18 A. Yes. All the accused devices infringe on this
19 claim, the DI device practices this claim.

20 Q. And is the evidence you relied on shown here on
21 slide 28?

22 A. Yes, it is.

23 Q. Let's move to slide 29, which shows CX-1244 and
24 CX-0894.

25 Can you explain the evidence for this element of

1 the claim with respect to these two products?

2 A. Yes. So this is referring to the Moto G Stylus
3 5G and the Tab M10 Plus. They both have central processing
4 units, they have memory, they have I/O devices and they have
5 operating systems.

6 Q. If we could go to slide 30, which has a portion
7 of CX-1369, CX-1250, at page 2 and CX-0897 at page 2.

8 Can you explain this evidence with respect to
9 these products?

10 A. Yes. These are, again, the specifications,
11 Chromebook, this is from a picture I took of the packaging,
12 as well as specifications. So the ThinkPad X1 and Samsung
13 S23, and, again, they all have CPUs and memories and
14 input/output devices.

15 MR. MURRAY: Your Honor, at this point we have to
16 go on the confidential record. This will be Google
17 confidential information. So anyone that doesn't have
18 access to Google confidential information should leave the
19 courtroom.

20 JUDGE ELLIOT: Very well.

21 (Whereupon, the hearing proceeded in confidential
22 session.)

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1 O P E N S E S S I O N

2 MR. MURRAY: And we're going to address the next
3 patent, the '654 patent, and my partner, Steve Anzalone,
4 will address that with Dr. Burger.

5 JUDGE ELLIOT: Very well.

6 MR. ANZALONE: May I begin?

7 DIRECT EXAMINATION

8 BY MR. ANZALONE:

9 Q. Dr. Burger, as you did for the '178 patent, have
10 you prepared some demonstrative exhibits concerning the '654
11 patent?

12 A. Yes, I have.

13 Q. If you look at CDX-3-1, is this the set of
14 demonstratives you prepared?

15 A. Yes, it is.

16 Q. Are you familiar with the '654 patent?

17 A. Yes, I am.

18 Q. If we could turn to slide 2, CDX-3-2. Do you see
19 the title of the patent refers to controlling image
20 capturing setting?

21 A. Yes.

22 Q. What does the patent say about controlling
23 settings for image capture by a camera?

24 A. So you'll notice on Figure 23 here I have noted
25 an auto focus guide. And the essence of the patent is being

1 able to have that auto focus guide up so you can see what is
2 being focused and at the same time adjust another setting.
3 And so you can basically do two things at once conveniently.

4 The other thing that the patent talks about is
5 what's noted as 33 here, which is an indicator. The slider
6 bar there goes from a minimum and a maximum value, and we
7 have the indicator 34, which can move along that indicator
8 to indicate the value of the setting.

9 Q. On slide 2, you've marked something called auto
10 focus guide. Does the patent say what an auto focus guide
11 is?

12 A. Yes, it does. The auto focus guide appears
13 around a point that the user touches. In the disclosure,
14 it's a square or a rectangle. And that that indicates to
15 the user roughly where the focusing will be.

16 Q. And you also refer to a slider on your exhibit.
17 What does the patent say about adjusting a camera setting?

18 A. So it says that the user can make the adjustment
19 by tracing their finger along the touchscreen. So that's --
20 we'll see it called as a touch trace. And that the slider
21 will indicate, so it talks about an indicator that, relative
22 to the user's touch, will set that setting.

23 Q. And there's an element 33. What does the patent
24 refer to that element as?

25 A. Yes. So that is an indicator bar or slider that

1 appears when the auto focus guide appears.

2 Q. All right. In this example, there's a finger
3 shown moving in a counterclockwise direction on the screen.

4 What is a touch trace operation?

5 A. Yeah, so here the description for Figure 23 talks
6 about the user starting at E, which is 34a, and as they go
7 through H it moves to 34d. As they get to I, it moves to
8 34e, so that the indicator is indicating what the setting
9 is.

10 Q. Okay. And what is a progress bar?

11 A. That's the 33, is the progress bar.

12 Q. Let's turn to slide 3. Looking at the next
13 slide, can you explain how the owner of a camera would use
14 the auto focus guide and slider features you described in
15 the patent?

16 A. Yes. We see the auto focus guide that appeared
17 where I touched the screen.

18 Q. And how would they actually activate it?

19 A. From touching the screen. And you notice that
20 the display stays on. And in this case, I made an
21 adjustment to the setting, got brighter, and we see still
22 the auto focus guide in the setting.

23 Q. And what were you actually sliding in this case?

24 A. So the slider was the sun, which is the indicator
25 used on this phone. And so I moved the sun over, which

1 adjusted the brightness.

2 Q. Okay. Let's turn to slide 4.

3 Let's talk about the products you analyzed in
4 this case. In addition to the Moto G Stylus 5G phone you
5 described for the '178 patent, what other Motorola phones
6 did you look at?

7 A. The Motorola Edge.

8 Q. And what other accused products did you look at?

9 A. I looked at the Tab M10.

10 Q. Okay. What accused device did you chart for
11 purposes of infringement of the '654 patent?

12 A. The Motorola phone as being representative.

13 Q. And what accused -- and what do the accused
14 devices contain that's relevant to your findings?

15 A. So, at importation, they all contain a camera and
16 camera application, which performs the steps of the '654
17 patent.

18 Q. Do you have an opinion whether the Motorola Edge
19 product that you chart is representative of the other
20 accused Lenovo products?

21 A. Yes, I do.

22 Q. And what's the basis for that opinion?

23 A. They all include the cameras and processors and
24 camera application running similar operating systems.

25 Q. If we can turn to slide 5.

1 MR. MIZZO: Objection, Your Honor. Move to
2 strike with regard to the Lenovo tablets, which I think was
3 encompassed by that answer, because there is no such
4 analysis in his expert report.

5 JUDGE ELLIOT: Okay, hold on. Let me review the
6 question and answer here.

7 All right. Mr. Anzalone, where does he say this
8 in his expert report?

9 MR. ANZALONE: Your Honor, I thought this was
10 addressed by your order in MIL 4 denying. They tried to
11 prevent us from saying exactly what he just said.

12 JUDGE ELLIOT: Well, I don't think I precluded
13 them from objecting if they thought that it was beyond the
14 scope of his expert report.

15 So where does it say -- let me just make sure I
16 have the actual issue here. So he's opining that the
17 Motorola Edge is representative of other accused Lenovo
18 products. I assume that means all the products.

19 MR. ANZALONE: Well, no, that just means the
20 accused products for the '654 patent, which are tablets and
21 phones, not --

22 JUDGE ELLIOT: Understood.

23 MR. ANZALONE: -- computers and other things.

24 JUDGE ELLIOT: Okay. And then you say what's the
25 basis for that opinion, and his answer is they all include

1 the cameras and processors and camera applications running
2 similar operating systems.

3 MR. ANZALONE: Right.

4 JUDGE ELLIOT: So does it say that in his expert
5 report?

6 MR. ANZALONE: I don't remember.

7 JUDGE ELLIOT: Well, let's see if we can find it.

8 MR. ANZALONE: He says, in paragraph 367: My
9 understanding is that the basic functionality of the camera
10 app is -- in the accused Lenovo phone and tablet products,
11 is the same across all the accused products.

12 That's paragraph 367 of his report. So they
13 could have asked him at his deposition what was that based
14 on.

15 JUDGE ELLIOT: All right. I'll overrule the
16 objection, but you can cross-examine him on this.

17 MR. MIZZO: Thank you, Your Honor.

18 BY MR. ANZALONE:

19 Q. All right. What do those -- let's talk about the
20 domestic industry products. What Galaxy -- what Samsung
21 Galaxy phone product did you chart for purposes of domestic
22 industry?

23 A. I charted the Samsung Galaxy S23.

24 Q. Okay. And what do the -- what do the Samsung
25 phones contain that is relevant to your findings?

1 A. They also contain the camera and the circuitry
2 and the camera application that practice the '654 patent.

3 Q. And do you have an opinion whether the Samsung
4 Galaxy S23 series is representative of other Samsung Galaxy
5 phones?

6 A. I do.

7 Q. And what's the basis?

8 A. That they're running similar operating systems
9 with similar camera applications.

10 MR. MIZZO: I will object, Your Honor, again.
11 Other than a conclusory statement in an expert report,
12 there's nothing about Samsung DI products running on the
13 same operating system or other -- any other information
14 about any Samsung DI product, other than the Galaxy S23.

15 JUDGE ELLIOT: Well, you know, I actually
16 remember now, I think, saying something on the last
17 objection in the order resolving the motion in limine, but
18 show to me, again, in his expert report where he says that
19 he makes this assumption.

20 MR. ANZALONE: I don't see it in 403. That's
21 where he talks about the claim chart. He talks about the
22 Samsung Galaxy phones, and in the chart, he selects the S23.
23 So he says, I have prepared a claim chart that explains in
24 detail the use of the claims, by the Samsung Galaxy phones.
25 And we have identified which ones those are. And then he

1 says Appendix N is his claim chart where he selects one of
2 those types of phones, an S23.

3 JUDGE ELLIOT: So he doesn't say anywhere that
4 the other series are running similar operating systems with
5 similar camera applications?

6 MR. ANZALONE: I do not think so, Your Honor.

7 JUDGE ELLIOT: All right. Very well. I'll
8 sustain the objection. Did you move to strike?

9 MR. MIZZO: Yes, Your Honor.

10 JUDGE ELLIOT: All right. Granted.

11 BY MR. ANZALONE:

12 Q. Okay. Let's turn to the next slide. Let's look
13 at the asserted claims in this case. Have you analyzed the
14 asserted claims 1, 3, and 16?

15 A. I have.

16 Q. Have you analyzed the asserted claims 1, 3, and
17 16 and reached any conclusions about infringement, and
18 domestic industry for the Lenovo and Samsung products?

19 A. Yes. The accused Lenovo products infringe 1, 3,
20 and 16, and the Samsung DI products practice 1, 3, and 16.

21 Q. Okay. Let's turn to the next slide, slide 7.
22 And let's have the fun of going through claim charts. Okay?

23 For the preamble of claim 1, what conclusions did
24 you reach and what evidence did you rely on?

25 A. These devices are obviously mobile terminals, and

1 as well a review of the specification indicates they're
2 mobile terminals.

3 Q. If we turn to slide 8 and talk about element 1a,
4 a camera. What conclusions did you reach and what evidence
5 did you rely on?

6 A. The Motorola devices include a camera. The
7 Samsung device includes a camera. So they infringe and
8 practice respectively this term. And I have the
9 specifications, pictures I took of the devices, as well as
10 the Lenovo representative's testimony.

11 Q. If you could turn to slide 9 and show us some of
12 that evidence.

13 A. Yes, here --

14 Q. That's what you were referring to?

15 A. Yes. Here are the camera specifications for the
16 Motorola Edge and the Samsung S23.

17 Q. If we can turn to slide 10 and move to the next
18 element of the claim, a touchscreen. What conclusions did
19 you reach and what evidence did you rely on as to whether
20 the accused Lenovo products and Samsung phones meet the
21 requirement?

22 A. Yes. The Motorola devices infringe on this term,
23 the Samsung device practices this term, and from inspection
24 and the testimony of the Lenovo witness.

25 Q. Okay. Turn to slide 12.

1 What did you show here relevant to this element?

2 A. So on slide 12 --

3 Q. Slide 11, excuse me.

4 A. Slide 11, I'm showing the touchscreen of both the
5 Motorola Edge and the Samsung S23.

6 Q. And who took the pictures in slide 11?

7 A. I took these pictures.

8 Q. Okay. If we can turn to slide 12 and move to the
9 next element of the claim.

10 A. Yes. So this element requires a controller, and
11 both the Motorola Edge and Samsung S23 practice this claim.
12 They have controllers, which is evidenced by the
13 specifications of the devices.

14 Q. If we can turn to the next slide, slide 13. What
15 evidence shows that they have a controller?

16 A. So this shows the specifications for the Motorola
17 Edge and the Samsung S23 and that they have processors or
18 running Android, have memory, other devices.

19 Q. Okay. Let's turn to the next element of the
20 claim, 1d, on slide 14. And we'll refer to it in the next
21 two slides. It refers to preview images. What conclusions
22 did you reach and what evidence did you rely on?

23 A. Yes. The Motorola Edge infringes and the Samsung
24 S23 practices. This claim requires the controller to
25 control the touchscreen to display the preview images that

1 are received by the camera.

2 Q. Okay.

3 A. And, again, I have pictures of manipulating the
4 cameras as well as the Motorola camera source code.

5 Q. Okay. If we turn to slide 15. And what evidence
6 does this show?

7 A. So this is showing the preview image out of my
8 back deck.

9 Q. Okay. Let's turn to the next element of the
10 claim on slide 16, element 1e, which is "control the
11 touchscreen to display an auto focus guide at a specific
12 point of the touchscreen in response to a first touch input
13 to the specific point."

14 What does this element actually require?

15 A. So this element requires that the user touches
16 the touchscreen and that the controller brings up an auto
17 focus guide at a specific point where the user touched the
18 controller. And the patent does say that "at a specific
19 point" means centered around that point.

20 And I demonstrated that or determined that from
21 manipulating the devices, as well as testimony of the Lenovo
22 representative, reviewing the camera source code, and as
23 well the Motorola Edge user guide.

24 Q. And what guidance does the patent provide about
25 the displaying of an auto focus guide at a specific point?

1 A. That the specific point defines the center of the
2 auto focus guide. Again, they're all squares or rectangles
3 in the disclosure. And that that, you know, forms an area
4 of interest.

5 Q. And what does the patent say about how that
6 specific point is then used?

7 A. So that point is then used to define an area, a
8 focus area, is what the patent calls it, or the auto focus
9 window. And so it uses that point that was used to generate
10 the auto focus guide. That same point is used to define the
11 center of the auto focus window.

12 Q. If we can turn to slide 17. What does the
13 Motorola Edge user guide indicate to a user about focusing
14 in an area?

15 A. So this tells the user to tap the touchscreen to
16 focus on that area, and they can touch anywhere. Then
17 wherever they touch, that will be the focus area.

18 Q. And what is the shape of the auto focus guide on
19 the Motorola Edge?

20 A. It's a circle.

21 Q. Okay. If we turn to slide 18, do you have any
22 images to show your testing of this feature on the Motorola
23 phones?

24 A. Yes. I see when I touch kind of halfway up, the
25 auto focus guide appears about halfway up, and when I touch

1 near the bottom, the auto focus guide appears at the bottom.

2 Q. And so the relationship between the spot you
3 touched and that circle, what is that again?

4 A. So where I touched, that was the center of the
5 circle.

6 Q. Okay. And what purpose does that little circle
7 provide that you've seen on the Motorola Edge?

8 A. So, again, it's called the auto focus guide. It
9 allows the user to know roughly where that focus area will
10 be.

11 Q. Okay. Did you do a similar test on the Samsung?

12 A. Yes, I did.

13 Q. If we could turn to slide 19. Can you explain
14 what you did?

15 A. Yeah, and, again, when I touched the touchscreen,
16 the auto focus guide appears at that point.

17 Q. And can you explain what part is the focus guide
18 and what the other images are here?

19 A. Can you say again?

20 Q. What part is the guide and what part -- what is
21 the other images we see here in the blowup?

22 A. Yes. So the part that's the guide is the circle.
23 As well, we see the adjustment slider of the circle.

24 Q. Okay. Now, for purposes of this claim element,
25 does it matter what the perimeter of those circles in the

1 Edge and the S23 does not actually intersect the specific
2 exact point that was touched?

3 A. No.

4 Q. Why not?

5 A. Because the disclosure states that the auto focus
6 guide is centered on that point and that that focus area is
7 centered on that point.

8 Q. Let's move to the next element, element 1f. It
9 requires focusing the preview images based on a location of
10 the auto focus guide.

11 What does this element require?

12 A. So this requires that when I touch the screen,
13 which creates a location for the auto focus guide, that the
14 focusing will occur based on the location of the auto focus
15 guide, in this case the center of the auto focus guide.

16 Q. And what guidance does the patent provide about
17 focusing preview images based on a location of the auto
18 focus guide?

19 A. That the auto focus area may not be 100 percent
20 coincident with the auto focus guide.

21 Q. And what is a focusing area?

22 A. That is the area that the camera will use to
23 focus generally to find an object, to find an edge, to be
24 able to focus on.

25 Q. Okay. If you can turn to slide 21. And can you

1 explain your testing of the Lenovo accused product with
2 respect to this element?

3 A. Yes. In the image on the left, you see me
4 touching the trees on the far side of the lake, and they are
5 in focus. And on the right, you see me touching the deck,
6 and the deck is in focus and the trees are blurry.

7 Q. Does the claim element, which states, focus based
8 on a location of the auto focus guide, actually require you
9 to use the auto focus guide to focus an image?

10 A. No.

11 MR. ANZALONE: Your Honor, we have to go on the
12 Lenovo confidential record for about five minutes.

13 JUDGE ELLIOT: Very well.

14 (Whereupon, the hearing proceeded in confidential
15 session.)

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1 O P E N S E S S I O N

2 BY MR. ANZALONE:

3 Q. If we could turn to slide 22.

4 Did you do similar testing for the Samsung S23?

5 A. Yes. We see that I've touched the table leg,
6 which is close, and how the trees are blurry. And I touched
7 the trees and now they're in focus and the foreground items
8 are blurry.

9 Q. If we can turn to the next element, element 1g.
10 "Determine an image capturing setting responsive to an
11 object dragged along the touchscreen."

12 What conclusions did you reach and what evidence
13 did you rely on?

14 A. That the Motorola products infringe this element,
15 and the Samsung S23 practices this element.

16 Q. If we could turn to slide 24. I'm going to ask
17 you, what guidance does the patent provide about increasing
18 or decreasing the value of a setting in response to an
19 object being dragged?

20 A. Yeah, so in this Figure 20 from the patent, it
21 describes going along a line for setting the image capture
22 setting.

23 Q. Okay. If we could turn to slide 25, can you
24 discuss your testing of the Lenovo accused products for this
25 element?

1 A. Yes. When I touched and the auto focus guide
2 appeared, the indicator, the slider, appears that I could
3 slide in different directions.

4 Q. And can you explain how you can increase or
5 reduce the brightness on the Lenovo accused product?

6 A. Yeah, on the Lenovo -- excuse me. On the Lenovo
7 product, when the sun rises, it gets brighter. When the sun
8 sets, it gets darker.

9 Q. Okay. And let's now turn to the DI products,
10 slide 26.

11 Can you discuss your testing of the Samsung S23
12 to this element?

13 A. Yes. Again, you know, when I touched to
14 establish the auto focus guide, this progress bar appears,
15 the slider, and I was able to slide it to change the
16 brightness.

17 Q. Okay. Let's now move on to the next element in
18 slide 27, element 1h.

19 What conclusions did you reach and what evidence
20 did you rely on?

21 A. Okay. So this element states that the image
22 capturing setting is increased when you go in one direction
23 and decreased when you go in the other direction.

24 Q. Okay. And if you can turn to slide 28, can you
25 discuss your testing of the Lenovo accused products for this

1 element?

2 A. Yes. After touching the screen to establish the
3 auto focus guide, when I dragged the sun up in one
4 direction, it got brighter. And when I dragged the sun down
5 in the other direction, it got darker.

6 Q. Let's now turn to slide 29. Can you discuss your
7 testing of the Samsung domestic industry product for this
8 element?

9 A. Yes. Similarly, after I touched the screen to
10 get the auto focus guide, when I dragged the slider to the
11 right, the image got brighter. When I dragged it to the
12 left, the image got darker.

13 Q. If we could turn to slide 30 and talk about the
14 next element of the claim.

15 A. Yes. So this element requires that while the
16 touchscreen is displaying the indicator for the current
17 image capture setting, it is maintaining the displayed auto
18 focus guide at the specific point.

19 Q. Okay. Let's turn to slide 31.

20 For this claim element, what guidance does the
21 patent provide about displaying an indicator for indicating
22 the current image capture setting?

23 A. Yes. Well, the Lenovo devices infringe in the
24 way that this disclosure describes, as well as the Samsung
25 product's practicing the claim. You know, we see the slider

1 and we see the indicator moving to the right to increase.
2 And it describes how, in Figure 23, when you move to the
3 left, it decreases the value.

4 Q. And what is the indicator labeled as and what is
5 the progress bar in this slide?

6 A. The progress bar in this image is -- Figure 22,
7 is number 28, and the indicator is 34. And this shows
8 various values as the indicator moves between 34a, b, and c.

9 Q. Okay. We can now talk about your testing of the
10 Lenovo accused products for this element, if we go to slide
11 32.

12 How did you establish that the Lenovo accused
13 products practice this element?

14 A. Yes. So when I touched and had the auto focus
15 guide appear, I was able to move the indicator up to
16 increase the brightness and down to decrease the brightness,
17 all while the displayed auto focus guide was maintained.

18 Q. And what advantages does this feature provide to
19 the camera user?

20 A. So they know the area of focus -- that's the area
21 around the auto focus guide -- while at the same time being
22 able to set a setting; in this case, the brightness.

23 Q. We can turn to slide 33. And can you discuss
24 your testing of the Samsung S23 product and how it meets the
25 element?

1 A. Yes. Likewise, when I touched the touchscreen
2 and the auto focus guide appeared, when I manipulated the
3 indicator, the setting, the displayed auto focus guide was
4 maintained.

5 Q. You can turn to slide 34. And can you explain
6 the basis for your opinion that the sun that appeared on the
7 Samsung device and the Lenovo accused devices moving along a
8 slider corresponds to the claimed indicator, even though it
9 doesn't have any numbers on the bar?

10 A. Well, none of the preferred embodiments have
11 numbers on the bar. So that's, you know, the best
12 indication. And it's proportional to what the value is.

13 Q. Okay. And so how does someone discern a value of
14 a setting based on what's shown in Figures 22 and 23?

15 A. Well, we know it varies from minimum to maximum
16 and, depending on the kind of setting, will be whether it's
17 a continuous or discrete steps.

18 Q. Okay. Let's move on to the next element on slide
19 35, "capture an image according to the current image capture
20 setting."

21 First of all, the claim language says, "capture
22 an image." Does this image have to be the preview images
23 that were referred to earlier in the claim?

24 A. No, it does not.

25 Q. Okay. What conclusions did you reach and what

1 evidence did you rely on for this element?

2 A. Well, the point of a camera is, at the end of the
3 day, to take pictures. And I was able to take pictures
4 where the image was brighter or darker corresponding to how
5 I had set it.

6 The Motorola Edge infringes this claim, the
7 Samsung S23 practices this claim, with the evidence I've
8 listed on this slide.

9 Q. If you can turn to slide 36 and discuss your
10 testing of the Lenovo accused product for this element.

11 A. Yes. So after setting various brightness values,
12 I had taken a picture by pressing the big white button below
13 what's right now labeled "photo."

14 Q. Okay. And when you press --

15 A. That's the image capture button.

16 Q. And when you press the button, is the image
17 captured according to some setting?

18 A. That is correct.

19 Q. Okay. Did you personally do this on the Motorola
20 Edge phone?

21 A. Many times.

22 Q. Okay. If you can turn to slide 37, let me know
23 if this illustrates what you did.

24 A. Yes. We'll see that I capture images with the
25 maximum brightness, the default brightness, and the minimum

1 brightness in these images here.

2 Q. You can turn to slide 38. Can you discuss your
3 testing of the Samsung DI product for this product?

4 A. Yes. On the Samsung DI product, I also took
5 pictures by first getting the auto focus guide, adjusting
6 the brightness, and taking -- capturing the image.

7 Q. Let's turn to slide 39, which is claim 3. Which
8 requires "the indicator for indicating the current image
9 capturing setting is displayed in response to the first
10 touch input."

11 What conclusions did you reach and what evidence
12 did you rely on?

13 A. So the Motorola products infringe this claim, the
14 Samsung S23 practices this claim, from using the phones, as
15 well as reviewing the Motorola source code.

16 Q. Okay. In both the accused and DI products, what
17 appears on the first touch?

18 A. So what appears on the first touch is the auto
19 focus guide and an indicator. Now, it's different on the
20 Tab because, on the Tab, only the indicator appears. The
21 slider bar does not appear.

22 Q. Okay.

23 MR. MIZZ0: Objection, Your Honor, beyond the
24 scope and move to strike.

25 JUDGE ELLIOT: Okay. Let's see. Where does it

1 say that in his expert report?

2 MR. ANZALONE: He did for the representative
3 product. He said there's the indicator, and the -- I don't
4 think there's any dispute about that.

5 JUDGE ELLIOT: Well, we got an objection, so I
6 think there is a dispute.

7 MR. ANZALONE: I'm sorry. Same the claim chart,
8 the Motorola Edge is representative of the Lenovo phone and
9 tablet products as identified in Exhibit 12, and they all
10 operate using the same software to control a camera and
11 related functions to this patent. In a claim chart for N,
12 which is CX-1453, page 1, we say the Samsung Galaxy S23 is
13 representative of at least the other Samsung Galaxy products
14 for purposes of practicing the asserted claims because they
15 all operate using the same software to control a camera and
16 related functions as relevant to this patent.

17 JUDGE ELLIOT: Well, that's not what he just
18 said, though. His answer was it was a little bit different
19 in his recent testimony because you asked him what appears
20 on the first touch.

21 MR. ANZALONE: Correct. And he charted on the
22 first touch what appears.

23 JUDGE ELLIOT: Oh, did he? Oh, okay. Well, show
24 me where it says that in his charts.

25 MR. ANZALONE: Okay. Page 99. He has got an

1 indicator.

2 MR. MIZZO: And, Your Honor, just for the
3 record's sake, the objection is to the discussion with
4 regard to the Lenovo tablet. I think what you're about to
5 see is an image of a Smartphone.

6 MR. ANZALONE: Right.

7 JUDGE ELLIOT: I'm sorry, I didn't hear the last
8 part. An image of what?

9 MR. MIZZO: Yes. I said the objection and the
10 motion to strike was testimony with regard on to the
11 functionality for the Lenovo tablet. What you are about to
12 see is an image from a Smartphone, not an image of a Lenovo
13 tablet.

14 JUDGE ELLIOT: Okay. Well, actually, hold on.
15 Let me make sure. Maybe I'm not -- give me a moment here.

16 Oh, I see, okay. All right.

17 So show me where he charts what happens on the
18 first touch for the Lenovo products.

19 MR. ANZALONE: Let me try and turn it on. Sorry.
20 Claim 3, the indicator, first touch.

21 JUDGE ELLIOT: Okay. I'm sorry. Are you -- the
22 objection is to things other than Smartphones.

23 MR. MIZZO: That's right, Your Honor. This is a
24 Smartphone. The objection was to testimony about the Lenovo
25 tablets.

1 JUDGE ELLIOT: Do you have any expert either
2 opinion or charts for something other than the Smartphones?

3 MR. ANZALONE: Well, we do for the Smartphone.

4 JUDGE ELLIOT: But you don't for the tablets
5 or --

6 MR. ANZALONE: We have the statement on the chart
7 that says -- let me get it -- the Motorola Edge is
8 representative of the Lenovo mobile phone and tablet
9 products because they all operate using the same software to
10 control the camera and related functions as relevant to this
11 patent.

12 JUDGE ELLIOT: Well, I'll allow you to ask him
13 about that, but your question was what happens on first
14 touch?

15 MR. ANZALONE: Okay.

16 JUDGE ELLIOT: So I don't see anything in the
17 charts about that as to the tablets --

18 MR. ANZALONE: Okay.

19 JUDGE ELLIOT: -- or anything other than a
20 Smartphone.

21 MR. ANZALONE: Okay. Let me reask it.

22 JUDGE ELLIOT: Okay. So I'll sustain the
23 objection.

24 MR. ANZALONE: Okay.

25 BY MR. ANZALONE:

1 Q. Dr. Burger, what happens on the accused Lenovo
2 phones and the Samsung phones on the first touch?

3 A. The auto focus guide appears and the indicator
4 appears.

5 Q. Okay.

6 A. In response to that first touch.

7 Q. I'm sorry, I wasn't -- what else appears?

8 A. In response to the first touch.

9 Q. What appears, exactly?

10 A. The auto focus guide and the indicator.

11 Q. Okay. All right. Let's now turn to slide 40.

12 Can you discuss your testing of the Lenovo
13 accused product for claim 3?

14 A. Yes. When I touched the auto focus guide, the
15 indicator appeared, and the indicator appears on the first
16 touch in its default position.

17 Q. Okay. Now, if we can turn to slide 41, can you
18 discuss your testing of the Samsung phone for claim 3?

19 A. Yes. When you touch the touchscreen at a point,
20 the indicator -- I'm sorry, the auto focus guide appears, as
21 does the indicator in response to that first touch.

22 Q. Okay. And let's go to slide 42 and move on to
23 claim 15.

24 What additional features are set forth in claim
25 15?

1 A. So this is where the setting is done by dragging
2 the indicator across a line.

3 Q. Okay. What conclusions did you reach and what
4 evidence did you rely on for claim 15?

5 A. The accused Motorola products infringe this
6 claim, and the Samsung DI product practices this claim.

7 Q. If we can turn to slide 43, and can you discuss
8 your testing of the Lenovo accused products for this
9 element?

10 A. Yes. When I touched the touchscreen and the auto
11 focus guide appeared, the indicator appeared. And when I
12 drag it up a first direction, it gets brighter. When I drag
13 it down a second direction, it gets darker.

14 Q. Okay. If we can turn to slide 44, and can you
15 discuss your testing of the Samsung DI products for this
16 element?

17 A. Yes. So, again, when I touch the screen, the
18 auto focus guide appears. And I can drag the brightness
19 setting along the line.

20 Q. Okay. Now let's move on to claim 16, which is
21 slide 45.

22 A. Yes. So here this is where the image capturing
23 setting corresponds to brightness, so that we're adjusting
24 the brightness by dragging in one direction or the other
25 along the line.

1 Q. Okay.

2 A. The Motorola devices infringe this claim. The
3 Samsung S23 practices this claim.

4 Q. Turning to slide 46, can you discuss your testing
5 of the Lenovo accused products with respect to this element
6 relating to setting of brightness?

7 A. Yes. So when I touched the touchscreen and the
8 auto focus guide appeared, responsive to that first touch,
9 the indicator and line appeared. When I drag it up along
10 the line, claim 15 in the case of the Motorola Edge, the
11 bright -- the brightness setting increases. When I drag
12 along the line downwards, the brightness decreases.

13 Q. So what is actually the sun doing on the accused
14 products?

15 A. The sun is the indicator.

16 Q. Okay. And what direction does it indicate it's
17 brighter and what direction does it indicate it's darker?

18 A. Brighter is up and darker is down.

19 Q. Okay. Now, if we turn to slide 47, the Samsung
20 DI products for this element, claim 16. How did you
21 establish that these were practiced?

22 A. So, again, I touched the touchscreen. The auto
23 focus guide and indicator appeared, responsive to that first
24 touch. Dragging to the right along the line increases
25 brightness. Dragging to the left along the line decreases

1 brightness.

2 Q. Okay. With respect to this issue of
3 representative products to the S23, is the S23
4 representative of other Galaxy products and why?

5 A. Yes, it is. It is running substantially the same
6 code.

7 Q. And is the Lenovo Edge phone representative of
8 the Lenovo mobile phones and tablets and why?

9 A. Yes, it is. They're running, again,
10 substantially the same code and they behave similarly.

11 Q. Okay.

12 MR. ANZALONE: No further questions, Your Honor.

13 JUDGE ELLIOT: Very well.

14 MS. DiMARCO: Your Honor, may we approach the
15 podium?

16 JUDGE ELLIOT: Yes.

17 MR. CORBETT: Your Honor.

18 JUDGE ELLIOT: We had two different attorneys for
19 Complainant for the two different patents, and, I'm sorry,
20 maybe I'm getting confused. How many attorneys are going to
21 be questioning?

22 MR. CORBETT: Yes, Your Honor, same on the
23 Respondents' side. We're going to have two different
24 attorneys split between the two different patents. So I am
25 going to be handling the cross-examination with respect to

1 the '178 patent.

2 JUDGE ELLIOT: But you weren't objecting. I'm
3 sorry. Tell me your name, ma'am?

4 MS. DiMARCO: Libbie DiMarco.

5 JUDGE ELLIOT: Okay. Well, I would normally not
6 allow this. I heard no objection. But is there any
7 objection to doing it this way? Mr. Murray or Ms. -- yes.

8 MR. HAYNES: Your Honor, I can address this. The
9 parties did exchange e-mails about this and agreed that
10 Complainants could have two questioners and they could have
11 two people crossing. And we did not get into the details of
12 who would do objections. I guess our assumption was that
13 the attorney that was covering the patent would object on
14 that patent that they were going to cross-examine on. I
15 think there was only one objection, and I think we're fine
16 with what has occurred so far.

17 But I think our intent would be, for the first
18 part on '178, Mr. Murray would address objections. When
19 they switch lawyers, Mr. Anzalone would address objections.

20 JUDGE ELLIOT: Okay. Very well. Go ahead.

21 THE WITNESS: Your Honor?

22 JUDGE ELLIOT: Yes, sir.

23 THE WITNESS: And if we're close to a break, can
24 we take a break?

25 JUDGE ELLIOT: Oh, well, we can. Yes,

1 absolutely. Okay.

2 So let's take a short break. I have 2:33. Let's
3 come back at 2:45, 2:45.

4 And during our break, please don't discuss your
5 testimony with anyone.

6 (A recess was taken at 2:33 p.m., after which the
7 proceedings resumed at 2:45 p.m.)

8 JUDGE ELLIOT: Have a seat.

9 All right, go ahead.

10 MR. CORBETT: Thank you, Your Honor.

11 And if I may, before I begin, we conferred with
12 the other party just for clarification on the procedure.

13 We're going to do cross of the one patent,
14 followed by cross of the other patent, followed by redirects
15 of the other two patents, rather than go cross,
16 redirect/cross, redirect.

17 Does that -- the parties are in agreement if
18 Your Honor --

19 JUDGE ELLIOT: If the parties agree, that's fine.

20 MR. CORBETT: Okay.

21 CROSS-EXAMINATION

22 BY MR. CORBETT:

23 Q. Good afternoon, Dr. Burger.

24 A. Hello.

25 Q. You have -- some of your opinions are that the

1 Chromebook infringes, correct?

2 A. Can you -- it is hard to hear. Can you say it
3 again?

4 Q. Can you hear me?

5 So some of your opinions are that certain Lenovo
6 Chromebooks running Chrome OS operating system in Widevine
7 are infringing, correct?

8 A. That is correct.

9 Q. And that's because you believe the Chromebook
10 comes preloaded with Widevine?

11 A. Yes, I do.

12 Q. And you would agree that there are differences
13 between the Android operating system and the Chrome
14 operating system, correct?

15 A. That is correct.

16 Q. And you would agree that the CDM, the Widevine
17 CDM, sits in the operating system layer?

18 A. That's correct.

19 Q. You would agree with me that the Chrome OS
20 version of Widevine has different architecture, is written
21 in a different programming language, than the version of
22 Widevine written for Android?

23 A. That's correct.

24 Q. You cite to a document in your slide, in your
25 slide 31. It is CX-0863C.

1 You can put the cover page of that up.

2 And you cite to this document in your slides
3 today, correct?

4 A. That's correct.

5 Q. This is a Google document?

6 A. Yes, it is.

7 Q. Google is a third-party in this case?

8 A. That's correct.

9 Q. Google provided documents, correct?

10 A. That is correct.

11 Q. Google provided source code for Widevine?

12 A. That is correct.

13 Q. And you rely on this document for your analysis
14 you cited?

15 A. In what I cited, that's correct.

16 Q. If we can turn to page 5, please.

17 Do you see CX-0863.0005?

18 A. Yes, I see that.

19 Q. I think this might be the wrong slide. If we can
20 go two slides forward, please. One more slide forward,
21 please.

22 The slide with the title: Playback Level 3.

23 A. What slide are you on?

24 Q. There we go. Do you see that?

25 A. Yes, I do.

1 Q. Just for the record, if I can get the page number
2 on that. CX-0863.0006. Okay.

3 You see on the right side it says: "Remember
4 Chrome Alcatraz CDM looks different"?

5 A. Yes, I do.

6 Q. You don't disagree that Chrome Alcatraz CDM looks
7 different?

8 A. No, I do not.

9 Q. If we can look to page 18, the title says Chrome
10 Alcatraz CDM.

11 A. I see that.

12 Q. Do you see that?

13 And it says at the right side: "CDM code base is
14 separate from Android and CE-CDM code base."

15 Do you see that?

16 A. Yes, I do.

17 Q. Now if we can go back to page 2 of that same
18 document.

19 Do you see -- if you can highlight on the third
20 line down -- "Chrome is very different."

21 Do you see that?

22 A. Yes, I do.

23 Q. So you understand that the Chrome version of
24 Widevine is very different than the Android version of
25 Widevine?

1 MR. CORBETT: Your Honor, we should be on the
2 confidential record.

3 JUDGE ELLIOT: Very well.

4 MR. CORBETT: This is Google's CBI, as well as
5 Respondent's CBI.

6 JUDGE ELLIOT: All right. So -- very well.

7 (Whereupon, the hearing proceeded in confidential
8 session.)

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1 O P E N S E S S I O N

2 MR. MIZZO: Your Honor, may I begin?

3 JUDGE ELLIOT: Yes. Go ahead.

4 MR. MIZZO: Thank you.

5 CROSS-EXAMINATION

6 BY MR. MIZZO:

7 Q. Good afternoon, Dr. Burger.

8 A. Good afternoon.

9 Q. So in addition to offering opinions about the
10 '178 patent, you also offered opinions about the '654
11 patent, correct?

12 A. That is correct.

13 Q. And the '654 patent is unrelated to the '178
14 patent?

15 A. That is correct.

16 Q. The '654 patent involves different technology,
17 correct?

18 A. That is correct.

19 Q. The subject matter disclosed and claimed in the
20 '654 patent generally relates to a user interface for a
21 camera, correct?

22 A. That is correct.

23 Q. Now, you offer opinions about both alleged
24 infringement and technical domestic industry, correct?

25 A. That is correct.

1 Q. And in your opinion source code is unnecessary to
2 prove any element of the asserted claims for the '654
3 patent, correct?

4 A. That is correct.

5 Q. And on direct you testified under oath that the
6 Samsung Galaxy S23 is representative of other Samsung
7 products because it uses the same software, right?

8 A. I may have misspoke. It uses similar software.

9 Q. Okay. But let's be clear. For Judge Elliot, you
10 did not review any source code for the Samsung Galaxy S23,
11 right?

12 A. That is correct.

13 Q. You did not review any source code for any other
14 alleged Samsung domestic industry product, correct?

15 A. That is correct.

16 Q. Rather, the only thing that you testified about
17 was that you had used a Samsung Galaxy S23, and you took
18 images when you were using its functionality, correct?

19 A. That's correct.

20 Q. And in your direct, you did not include any
21 images of any other Galaxy phones, correct?

22 A. That's correct.

23 Q. And in your direct you did not show any analysis
24 of any other Galaxy products, correct?

25 A. That's correct.

1 Q. And in your direct you did not show what software
2 was running on the various Samsung Galaxy products to show
3 His Honor that similar software runs on them, correct?

4 A. That's correct. All I did was use my phone.

5 Q. I would appreciate if you answer "yes" or "no" or
6 "that's correct" to my questions. That was a correct or not
7 correct question. Okay, do you understand?

8 A. So correct, not correct, yes, no.

9 Q. Then you understand. Then let me go back.

10 You did not show any analysis of the Galaxy
11 products and nor did you show the different software that is
12 running on the Samsung Galaxy products, correct?

13 A. In my report, that's correct.

14 Q. Right. And in your testimony, you didn't show
15 His Honor how there's any substantial similarity between the
16 software running on the Samsung Galaxy S23 and any other
17 Samsung Galaxy phone, correct?

18 A. That is correct.

19 Q. Okay. Let's discuss your testimony regarding
20 alleged infringement, okay? You offered testimony about
21 certain accused products, right?

22 A. That's correct.

23 Q. But you only showed images for one product,
24 right?

25 A. That's correct.

1 Q. And that is the Motorola Edge 2022, correct?

2 A. That's correct.

3 Q. Now, let's look at claim 1 of the '654 patent.

4 If we could pull up RDX-16.10.

5 Okay. So I have broken this up in various
6 elements by 1pre through 1i. Do you see that?

7 A. Yes, I do.

8 Q. And it is substantially similar to what you had
9 done, except for element 1g, you had broken up into two
10 separate elements. I went along with how the claim is
11 structured, and I just want to bring that to your attention.
12 Okay?

13 A. That's correct.

14 Q. All right. So starting with the preamble, the
15 preamble refers to a mobile terminal, correct?

16 A. Correct.

17 Q. Now, His Honor has not construed the preamble,
18 correct?

19 A. As far as I'm aware.

20 Q. Right. And you have not offered an opinion that
21 the preamble is limiting, correct?

22 A. That's correct.

23 Q. And the term "mobile terminal" doesn't appear in
24 the body of the claim, correct?

25 A. That is correct.

1 Q. And we can agree "mobile terminal" is a broad
2 term that encompasses a wide range of mobile devices, right?

3 A. That is correct.

4 Q. So following the preamble, we see there's a
5 number of limitations, and 1a through 1c recite conventional
6 camera, touchscreen, and controller components, correct?

7 A. That is correct.

8 Q. And the elements 1d through 1i recite functional
9 requirements, correct?

10 A. That is correct.

11 Q. So let's discuss those functional requirements.
12 If we could please pull up RDX-16.12.

13 And what I have done for some of my
14 demonstratives is I have included some of your
15 demonstratives inside them. And then I have tried to put
16 them in the context of different claim elements. Okay?

17 A. I understand.

18 Q. So limitation 1d requires the touchscreen to
19 display preview images received via the camera. Do you see
20 that?

21 A. Yes, I do.

22 Q. And this slide shows the images that you relied
23 on from CDX-3C.15 to satisfy limitation 1d, correct?

24 A. That is correct.

25 Q. And based on your direct, limitation 1d is met

1 because a preview image from each camera is displayed on the
2 screen, correct?

3 A. That is correct.

4 Q. So let's go to RDX-16.14, and let's consider
5 limitation 1e. 1e requires, "control the touchscreen to
6 display an auto focus guide at a specific point of the
7 touchscreen in response to a first touch input to the
8 specific point." Correct?

9 A. Correct.

10 Q. And in your opinion the specific point is the
11 point on the screen touched by the user, correct?

12 A. That is correct.

13 Q. The slide shows the images you use -- and by this
14 slide, I'm referring to CDX-3C.19 -- shows the images you
15 use to satisfy limitation 1e, correct?

16 A. That is correct.

17 Q. And the images of a Smartphone user interface
18 where you identify the alleged auto focus guide, right?

19 A. Correct.

20 Q. And you use red arrows to identify the alleged
21 auto focus guide, correct?

22 A. That's correct.

23 Q. And specifically you are identifying the white
24 circle with the padlock at the top as the alleged auto focus
25 guide, right?

1 A. Correct.

2 Q. And the white circle does not touch the specific
3 point touched by the user, correct?

4 A. That's correct.

5 Q. The white circle does not intersect the specific
6 point, correct?

7 A. That's correct.

8 Q. And no graphic is displayed at the center of the
9 white circle, correct?

10 A. That's correct.

11 Q. Rather, the white circle is drawn around the
12 specific point, correct?

13 A. That is correct.

14 Q. And in your opinion an auto focus guide displayed
15 around and not intersecting with the specific point touched
16 by the user meets limitation 1e, correct?

17 A. That is correct.

18 Q. Let's go to RDX-16.21 and look at limitation 1f.
19 1f recites, "focus the preview images based on a location of
20 the auto focus guide," right?

21 A. Correct.

22 Q. Now, this slide shows the images that you rely on
23 from CDX-3C.22 that you identify as satisfying limitation
24 1f, correct?

25 A. Correct.

1 Q. And as we discussed, the alleged focus guide is
2 the circle with the padlock, correct?

3 A. Correct.

4 Q. And in your opinion this limitation 1f is met if
5 the preview image is focused based on an object, correct?

6 A. In the auto focus guide.

7 Q. So please listen to my question. Okay?

8 In your opinion, limitation 1f is met if the
9 preview image is focused based on an object, right?

10 A. I fear there's -- so I guess I can't answer that
11 directly. I fear there's a lot of context missing from the
12 question.

13 Q. Okay. You gave a deposition in this case, right?
14 You testified under oath, right? So let's go to that
15 deposition.

16 RDX-16.22 has the excerpt from page 230 at lines
17 22 through 25. You were asked a question:

18 "Question: Now, you offer the opinion that the
19 preview images are focused based on an object which is
20 visible in the preview images, correct?

21 "Answer: That's correct."

22 Sir, you gave that testimony under oath, correct?

23 A. Correct.

24 Q. And you don't contend that the white circle, the
25 alleged auto focus guide in the accused products is used to

1 focus the preview images, correct?

2 A. Correct.

3 Q. Let's go to RDX-16.24, which shows limitation 1g.

4 And I will try and summarize it. And I won't
5 have you suffer me reading the entire thing, but we can
6 agree, I think, that 1g begins by referring to determining
7 an image capturing setting of the camera responsive to an
8 object dragged along the touchscreen, correct?

9 A. Correct.

10 Q. And then it states that the image capturing
11 setting is decreased when you drag in one direction and
12 increased when you drag it in the other. Right?

13 A. Correct.

14 Q. Now, this slide, which shows your CDX-3C.26
15 demonstrative, identifies the images that you rely on as
16 satisfying limitation 1g, correct?

17 A. From my testing, correct.

18 Q. From your direct, right?

19 And on the left-hand side is an image with, I
20 think you called it, a sun icon in the middle of the line,
21 correct.

22 A. The sun indicator, correct.

23 Q. And that line that it is on is a slide bar,
24 correct?

25 A. Correct.

1 Q. And that slide bar is used to reduce or increase
2 brightness, right?

3 A. Yes.

4 Q. Let's go to RDX-16.26 and discuss limitation 1h.
5 1h says, "control the touchscreen to display an indicator
6 for indicating the current image capturing setting while
7 maintaining the displayed auto focus guide at the specific
8 point." Correct?

9 A. Correct.

10 Q. And this slide shows your CDX-3C.32, which has
11 annotated images that you rely on to satisfy limitation 1h,
12 correct?

13 A. Correct.

14 Q. And no numbers appear on the slide bar, correct?

15 A. That's correct.

16 Q. No gradation marks appear on that slide bar that
17 is shown in CDX-3C.32, correct?

18 A. Correct.

19 Q. And no values appear on that slide bar, correct?

20 A. Correct.

21 Q. But in your opinion this image that is shown in
22 CDX-3C.32 satisfies limitation 1h because there's an
23 indicator and the alleged auto focus guide is maintained at
24 a specific point?

25 A. Yes.

1 Q. So let's go to RDX-16.29 and turn to limitation
2 1i, which recites "capture an image according to the current
3 image capturing setting."

4 Do you see that?

5 A. Yes, I do.

6 Q. And RDX-16.29 shows your CDX-3C.36, correct?

7 A. What?

8 Q. Do you see your demonstratives on this slide?

9 A. Yes, I do, yes.

10 Q. And the demonstrative included from your direct
11 set of demonstratives is CDX-3C.36, correct?

12 A. Oh, yeah, I see it, yes.

13 Q. And so you rely on the image that is shown in
14 CDX-3C.36 as satisfying limitation 1i, correct?

15 A. Can I clarify that question?

16 Q. Well, either -- it is either yes or no, sir. If
17 you don't --

18 A. Am I relying on this image as the captured image?

19 Q. Well, that's a good question. Let's talk about
20 that for a second.

21 On this image that is shown on CDX-3C.36, it
22 shows an auto focus guide, correct?

23 A. Correct.

24 Q. And so because you can see an auto focus guide,
25 what is on the screen in this image is only a preview image,

1 correct?

2 A. Correct.

3 Q. It is not the captured image, right?

4 A. Correct.

5 Q. Let's go to RDX-16.30.

6 And this includes your CDX-3C.37 images, correct?

7 A. Correct.

8 Q. Now, this demonstrative shows other images that
9 you used to satisfy limitation 1i, correct?

10 A. You're 1i, yes.

11 Q. That's correct. And in the middle image it shows
12 a picture with, I think you called it, a default brightness?

13 A. Correct.

14 Q. And then the images on the left and right are
15 either brighter or darker, correct?

16 A. Correct.

17 Q. So let's talk about your claim 3 analysis and
18 turn to RDX-16.31.

19 Claim 3 requires that the indicator for
20 indicating the current image capturing setting is displayed
21 in response to the first touch input, correct?

22 A. Correct.

23 Q. And the first touch input refers to the first
24 touch input of claim element 1e, which sets the location of
25 the auto focus guide, right?

1 A. Correct.

2 Q. And in your opinion claim 3 is met when a user
3 touches the screen and the screen displays both the auto
4 focus guide and an indicator, correct?

5 A. And the indicator, correct.

6 Q. You also offered testimony today on claim 16,
7 correct?

8 A. Correct.

9 Q. Let's go to RDX-16.35. Claim 16 depends from
10 claim 15, correct?

11 A. Correct.

12 Q. Claim 15 requires basically changing an image
13 capturing setting by dragging along a line, correct?

14 A. Right.

15 Q. Claim 16 requires that the setting correspond to
16 brightness, right?

17 A. Correct.

18 Q. And there aren't any embodiments in the '654
19 patent that describe adjusting brightness by using a slider,
20 right?

21 A. Correct.

22 Q. In fact, the only setting that the '654 patent
23 specification describes adjusting using a slide bar is
24 focus, right?

25 A. That is an example, correct.

1 Q. Well, that's the only example it gives, the
2 patent gives for adjusting by a slide bar, correct?

3 A. That's correct.

4 Q. And the only time the '654 patent specification
5 references a brightness setting, it does so in the context
6 of a menu, correct?

7 A. Correct.

8 Q. But it is opinion that it would have been
9 understood that if brightness could be adjusted by a menu,
10 it could also be adjusted by a slider, correct?

11 A. Correct.

12 Q. Now, turning back to the RDX-16.35 that is here,
13 that is shown here, the slide shows images from your
14 CDX-3C.47 that you believe satisfies claim 16, correct?

15 A. Correct.

16 Q. In your opinion claim 16 is satisfied when a
17 slider can adjust a setting corresponding to brightness of
18 objects in preview image, correct?

19 A. Correct.

20 Q. Okay. We can take that down.

21 Now, on direct you testified that Lenovo tablets
22 allegedly infringe, correct?

23 A. Correct.

24 Q. And that was supposedly based on your view that
25 the Motorola Edge Smartphone is representative of Lenovo

1 tablets, right?

2 A. And my testing, that's correct.

3 Q. Well, move to strike, Your Honor. That was not
4 responsive to my question.

5 A. I'm sorry.

6 Q. My question was a simple yes or no.

7 MR. ANZALONE: Objection. It wasn't a yes or no.
8 I thought the rule was you had to say yes or no upfront, Your
9 Honor, and he opened the door.

10 JUDGE ELLIOT: Hold on. Hold on. Overruled.

11 BY MR. MIZZO:

12 Q. You referred to testing. There is no testing of
13 Lenovo tablets that's referred to in your expert report,
14 correct?

15 A. That's correct.

16 Q. And your counsel is not going to get up on
17 redirect and be able to point to any section in your expert
18 report or appendices or anything that you cite that shows
19 you tested Lenovo's tablets with regard to the '654 patent,
20 correct?

21 A. That I would have to review.

22 Q. Sir, you had access to Lenovo tablets, right?

23 A. Correct.

24 Q. You took images of Lenovo tablets, right?

25 A. That's correct.

1 Q. You pasted images of Lenovo tablets in your
2 report with regard to the '178 patent, right?

3 A. Correct.

4 Q. But you didn't do that for the '654 patent,
5 correct?

6 A. Correct.

7 Q. Now, it is pretty straightforward on how many of
8 these camera user interfaces work, correct?

9 A. That's correct.

10 Q. You just turn a device on, right?

11 A. Yes.

12 Q. Open up a camera app or you have a camera
13 already, correct?

14 A. Correct.

15 Q. And then you use it, right?

16 A. That's right.

17 Q. It takes a couple minutes, right?

18 A. Right.

19 Q. And this case was filed in October 2023, right?

20 A. That's right.

21 Q. And so in the time frame from when the case was
22 filed until when you served your expert report, there's not
23 a single illustration in your expert report of you actually
24 spending a couple of minutes to turn on a Lenovo tablet and
25 to test the camera functionality in it, correct?

1 A. No. I believe the question was did I do the
2 testing. That's not what you asked?

3 Q. No. That's incorrect, sir. What I said is in
4 your expert report, there is not a shred of evidence that in
5 several months you took a Lenovo tablet, you tested the
6 camera functionality, and you discussed it at all and showed
7 images of it in your expert report, correct?

8 A. In -- my expert report does not contain that,
9 correct.

10 Q. Now, you took images from the Motorola Edge 2022,
11 correct?

12 A. The Edge 2022, that's correct.

13 Q. And you took images from the Galaxy S23, right?

14 A. Correct.

15 Q. And we know from the images that you have shown
16 that those two user interfaces are good, correct?

17 A. Correct.

18 Q. And so you have not shown any two products to His
19 Honor that have the same camera user interface, correct?

20 A. I would have to review my appendices.

21 Q. Sir, that wasn't my question.

22 A. Okay.

23 Q. Okay? I am focusing --

24 A. On what we did today?

25 Q. Sir, please let me finish speaking.

1 A. Sure.

2 Q. Okay. I was talking about what you have
3 presented on direct testimony today. Do you understand?
4 Are you with me? Okay.

5 So on direct testimony today, right, the only
6 evidence of images you have with camera user interfaces are
7 that they are different, correct?

8 A. There was a lot of -- so no.

9 Q. So it's your testimony under oath that the Lenovo
10 -- or strike that. It's your testimony under oath that the
11 Motorola Edge 2022 user interface, that the camera looks
12 exactly like the Samsung Galaxy S23; yes or no?

13 A. No.

14 Q. Right. And so you have not shown two products to
15 His Honor that have the same camera user interface, correct?

16 A. No.

17 Q. Now, at the beginning of your direct, Ericsson's
18 attorney represented that you were an expert in user
19 interfaces for mobile devices. Do you recall?

20 A. Yes, I do.

21 Q. But let's be clear. You do not have any
22 experience designing user interfaces for cameras, correct?

23 A. For apps?

24 Q. Sir, listen to my question. You do not have any
25 experience designing user interfaces for cameras, correct?

1 A. That's correct.

2 Q. And you do not have any experience designing
3 cameras, correct?

4 A. Correct.

5 Q. And you do not have any experience designing
6 camera applications for mobile devices, correct?

7 A. Correct.

8 Q. And you have not worked with touchscreen gestures
9 in developing user interfaces, correct?

10 A. I don't believe so.

11 Q. Okay. So let's go to your deposition,
12 RDX-16.3545. It is from page 171, line 23 through page 172,
13 line 4. You were asked the question:

14 "Question: Okay. And so have you worked with
15 touchscreen gestures in developing the user interfaces?

16 "Answer: No. That was a thing that -- in fact,
17 going back to Valid, there were people that were like real
18 specialists on that -- well, that, that interactive user
19 interface, so people who worked for me."

20 That was your testimony under oath, correct?

21 A. Correct.

22 MR. MIZZ0: Pass the witness, Your Honor.

23 JUDGE ELLIOT: Very well.

24 (Whereupon, the hearing proceeded in confidential
25 session.)

1 O P E N S E S S I O N

2 BY MR. MURRAY:

3 Q. Dr. Burger, I want to address your attention to
4 the sentence that starts three-quarters of the way down. It
5 says "in another embodiment, authentication" -- actually the
6 next sentence, sorry, which also says "in another
7 embodiment."

8 "In another embodiment, authentication is
9 performed using symmetric key encryption." Do you see that
10 sentence?

11 A. Yes, I do.

12 Q. Does the '178 patent specifically disclose that
13 the keys can be encrypted as they are transferred to the
14 client device?

15 A. Yes, it does.

16 Q. If we could go back to CDX-2C and let's go to 43,
17 slide 43.

18 So you were asked some questions about the
19 redesign during cross. Do you recall that?

20 A. Yes, I do.

21 Q. Now, your analysis of the redesign, you focused
22 on elements -- I just hesitated because we do need to go on
23 the confidential record for the next couple of questions.

24 JUDGE ELLIOT: Very well.

25 (Whereupon, the hearing proceeded in confidential

1 session.)
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1 C O N T E N T S

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3	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
4	CHRISTINA PETERSSON	12	50	119	
5	ERIC W. BURGER	128	199	285	
6		167	266	292	

7

8 AFTERNOON SESSION: 152

9

10 CONFIDENTIAL SESSIONS

11	18 - 18
12	21 - 127
13	145 - 166
14	182 - 183
15	204 - 265
16	285 - 287
17	290 - end

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1 E X H I B I T S

2 EXHIBIT LISTS SUBMITTED FOR ADMISSION:

3 COMPLAINANTS' AND JOINT ADMITTED TRIAL EXHIBITS (DAY 1
4 8/19/24)

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6 ADMITTED DURING PRE-HEARING CONFERENCE

7 CX-0080C

8 CX-0081C

9 CX-0082C

10 CX-0083C

11 CX-0084C

12 CX-0086C

13 CX-0087

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15 CX-0090C

16 CX-0091C

17 CX-0092C

18 CX-0093C

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1 CERTIFICATE OF REPORTER

2 TITLE: Certain Electronic Devices, Including Mobile

3 Phones, Tablets, Laptops, Components Thereof

4 INVESTIGATION NO: 337-TA-1376

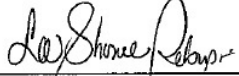
5 HEARING DATE: August 19, 2024

6 LOCATION: Courtroom B

7 NATURE OF HEARING: Evidentiary Hearing

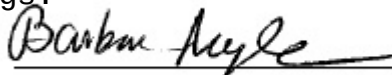
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11 Date: August 20, 2024

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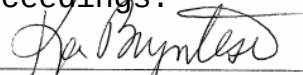
Signature of the Contractor of the
Authorized Contractor's Representative
1220 L Street, N.W., Suite 206
Washington, D.C. 20005

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15 and that I have proofread the above-referenced transcript
16 of the proceedings of the U.S. International Trade
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17 notes and recordings, for accuracy in transcription in the
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