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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TESLA, INC.,
Petitioner

v.

CHARGE FUSION TECHNOLOGIES, LLC,
Patent Owner.

IPR2025-00032 (Patent 11,563,338 B1)
IPR2025-00152 (Patent 11,990,788 B2)
IPR2025-00153 (Patent 11,631,987 B2)

Record of Oral Hearing
Held: March 31, 2026

Before MITCHELL G. WEATHERLY, CARL M. DeFRANCO, and BRENT M. DOUGAL, *Administrative Patent Judges*.

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing Tuesday, March 31, 2026, commencing at 11:00 a.m. EDT, at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

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

11:01 a.m.

JUDGE WEATHERLY: Good morning. This is an IPR for IPR 2025-00032, 00152, and 00153, that involves US patent numbers 11,563,338. Thankfully, on the transcript, this pause won't show. Take that and make sure that's not on record. I just want to read the other two patent numbers for the record.

COURT REPORTER: Do you want the order draft?

JUDGE WEATHERLY: That's what I was looking for. Okay. Well, I've got it now.

COURT REPORTER: Okay.

JUDGE WEATHERLY: 11,990,788, 11,631,987, respectively. My name is Mitchell Weatherly. I'm joined by Judges DeFranco on the monitor on my right and Dougal, the monitor on my left. They're appearing remotely. We have the hearing broken up into two phases, the first being for the '032 IPR, 45 minutes a side. And then we'll address the other two IPRs in another session, 30 minutes per side, after a short break.

We're going to play it by ear in terms of what kind of break we all want, so be thinking about that if you haven't already thought about that. I'm flexible.

I would ask that when the parties come to the podium that you -- if you're using your slides, which I suspect you will be, that you make sure that you specify the slide number that you're on. That makes the record a lot clearer. It makes it easier for my colleagues who are remote to follow along.

I like to have people introduce themselves before we begin. So I'll start with Petitioner's side, and then we can move to Patent Owner's side before I ask some more questions.

MS. RAW: Good morning, Your Honor. Lydia Raw from Erise IP for Petitioner Tesla, Inc. With me today is Jennifer Bailey, also from Erise IP. And I have two client representatives here with me. This is Paul Marguiles and Ashraf Fawzy.

JUDGE WEATHERLY: Okay. You said they were client representatives?

MS. RAW: Correct, from Tesla.

JUDGE WEATHERLY: Okay. Thank you very much.

MR. TECCE: Good morning, Your Honor. Fred Tecce from Altima Advisors for the Patent Owner, Charge Fusion. And with me is Sal Guerriero of my office --

JUDGE WEATHERLY: Excellent. Petitioner, how much time would you like to reserve for rebuttal?

MS. RAW: Can I reserve ten minutes for rebuttal, please?

JUDGE WEATHERLY: Yes. I'll remind the parties that the rebuttal is not something to be used to present arguments for the first time. So anything that you want to get in play, so to speak, make sure you deliver that during your opening portion. Patent Owner, I'll ask you later how much time you want to reserve when it's time for you to make your presentation.

MR. TECCE: And Your Honor, I apologize. I wanted to make sure. So we're going to do the '032 first for 45 minutes?

JUDGE WEATHERLY: Yes.

MR. TECCE: And so you're asking me how much time I want to save for rebuttal with respect to that one?

JUDGE WEATHERLY: With that 45-minute period, right.

MR. TECCE: Okay.

JUDGE WEATHERLY: Now, I will say this. I mean, I'm speaking from my memory and my review of the order. The parties actually asked for something that was a little bit different and sort of consolidate the hearing for all three IPRs into kind of a date that was sort of in between the other hearing dates. I thought that was fantastic, personally. So I'm glad you did that. Is there some other way that we want to do the presentation?

MS. RAW: So our one concern would be we would ask for a consolidated transcript across all the proceedings.

JUDGE WEATHERLY: Sure.

MS. RAW: We don't want to have to repeat arguments on amount of charge, for example, twice.

JUDGE WEATHERLY: Right.

MS. RAW: I think we're in agreement on that.

MR. TECCE: And this won't be the first time, but I may have misunderstood this reflecting myself. I thought we were arguing because the issues were very, very similar across all three patents.

JUDGE WEATHERLY: They are.

MR. TECCE: We were going to hit most of those, and then if there was additional issues for the last patent that weren't covered by the other three.

JUDGE WEATHERLY: All right. Well, let me ask this then. So the total amount of time that's been assigned in hearing order, at least, was 1 hour and 15 minutes per side. Does it make more sense to do 1 hour and 15-minute presentation? It sounds, Patent Owner, like that is what you would prefer, but I want to hear from Petitioner about it.

MS. RAW: I don't have an objection, if that's your preference.

MR. TECCE: You know what, I don't -- I may have misunderstood. I didn't realize that there was 1 hour and 15 minutes for each side. So I --

JUDGE WEATHERLY: That's the total amount of time.

MR. TECCE: Yeah. So you know what, however -- if the Petitioner wants to break it up and the Court wants us to do it, we're happy to do it that way. I may be a little bouncy with my slides.

JUDGE WEATHERLY: You all remember, there used to be a cartoon with chipmunks where they were competing with each other for how polite they could be.

MR. TECCE: I'm old enough to remember that cartoon.

JUDGE WEATHERLY: So am I.

MR. TECCE: Here we go.

JUDGE WEATHERLY: It's right, you're not old enough to remember that cartoon.

MS. RAW: I'm not.

JUDGE WEATHERLY: It was funny, in an old school kind of way. But this reminds me of those kinds of exchanges. Either way works for me. And --

MS. RAW: I'm happy to stick with what we have then. Do arguments on the first set of arguments, pause, and then if there's anything remaining for the two others.

JUDGE WEATHERLY: Let's do it that way.

MR. TECCE: Perfect.

JUDGE WEATHERLY: Let's do it that way. I mean, yeah, I know that the amount of charge claim interpretation issue, for example, does span all three IPRs. There are aspects of some of the IPRs that are unique to the extent that you guys want to address those. I'm sure you will. The papers definitely do, and the papers are going to be the thing that dictates the outcome at the end of the day. So I'll keep my 35 minutes on the clock for the opening argument. Are you -- Ms. Raw, are you going to be delivering the argument for Petitioner?

MS. RAW: I am.

JUDGE WEATHERLY: Okay. You can come to the podium and get started whenever you're ready.

MS. RAW: I'll begin my argument on slide DX-2. Primary dispute between the parties is the meaning of the term amount of charge. That's where I'm going to begin my argument today before turning to Patent Owner's challenges to various obviousness combinations in the petition.

Turning to slide DX-3, there are three grounds in the '338 petition. They do cover all claims. All claims remain challenged. All claims of the '338 patent include the term amount of charge.

Turning to slide DX-4, the parties dispute the meaning of the term amount of charge. And the question before the Board is whether to adopt

the Patent Owner's negative limitation such that amount of charge covers a percentage charge level, but does not cover a charge range level. There's no support in the three --

JUDGE WEATHERLY: Are there other things that amount of charge covers besides percentages, in your view?

MS. RAW: There could be. There are no other units to measure amount of charge that are listed in the patent. But you could say, you know, milliwatts or something like that is a way to measure charge. It's just not one of the examples that's provided in the '338 patent. It's also not relevant to the prior art that's being asserted in this particular case.

JUDGE WEATHERLY: Okay.

MS. RAW: And that brings me to one of the primary points here, which is that that 80 percent and that 110 miles, those are just different units being used to measure the same amount of charge in the battery. So then if 80 percent is an amount of charge, 110 miles is just a different unit for measuring that same amount of charge in the battery.

JUDGE WEATHERLY: Is 110 miles always going to be equivalent to 80 percent?

MS. RAW: It depends on your vehicle. Certainly, they would not always be equivalent, but there's always going to be a mileage equivalent for --

JUDGE WEATHERLY: For a given vehicle, is there always a mileage equivalent? And does the mileage equivalent change at all based on the weather or other factors?

MS. RAW: Yeah. So various factors are absolutely going to impact what mileage you're going to get out of your vehicle. Similarly, the percentage charge is going to be impacted by some of those factors. So the efficiency of your battery, for example, is going to be impacted by how cold it is. Both of those numbers are impacted by conditions.

JUDGE WEATHERLY: Okay.

MS. RAW: Turning to slide DX-5, so here we have one of Patent Owner's main arguments. So this comes from their surreply. And in the surreply, you'll see the Patent Owner is arguing that a user is specifying the given charge amount --

JUDGE WEATHERLY: Let me back up a minute.

MS. RAW: Yeah.

JUDGE WEATHERLY: So is there a similar kind of variation on the percentage? A scale of describing an amount of charge? I mean, I think a physicist would describe amount of charge not with neither percentage nor range. Physicists would describe it as coulombs or something else, some other unit. So you've already said that the range number can vary for a battery that has a certain amount, quote, unquote, amount. Not claimed amount, but amount of charge in coulombs or something. I hope I'm using it right.

MS. RAW: Sure.

JUDGE WEATHERLY: I'm looking back at the Tesla people to see if they're either shaking their head like I don't know what I'm talking about, which is possible, or they're nodding like maybe I'm onto something. But what I'm looking for is that it strikes me that the percentage might be a more

closely coupled way of describing the electrical characteristic of the state of charge.

MS. RAW: Ultimately, if you want to figure out the percentage charge in your battery, you're going to have to perform a series of calculations. If you're going to do it accurately, you would have to take into account things like how old that battery is and what the temperature is. You're going to have to do calculations the same way if you're going to measure in miles the amount of charge in your battery. So it's really a distinction without a difference.

JUDGE WEATHERLY: So a brand new Tesla with a brand new battery pack, 80 percent charge might reflect a certain number of kilowatt hours?

MS. RAW: If it's not in the middle of winter.

JUDGE WEATHERLY: If it's not in the middle of winter and on a different part of the season or five years later after the battery has been used for x number of miles --

MS. RAW: Right.

JUDGE WEATHERLY: -- 80 percent would mean something else --

MS. RAW: Right.

JUDGE WEATHERLY: -- to a battery chemist or physicist or whatever --

MS. RAW: Right.

JUDGE WEATHERLY: -- an engineer. Okay. All right. Fair enough. Sorry for the interruption.

MS. RAW: So turning to the argument in Patent Owner's surreply. So as they argue it, the user was going to specify a charge amount. And then the system is going to estimate how far the vehicle can travel on that charge amount and display that estimate as 110 miles. As the argument goes, then that means it's the vehicle that's doing the calculations and determining the 110 miles, not the user. That position is directly contradicted by the specification.

If we can turn to the next slide, DX-6. This is the paragraph cited by Patent Owner, cited by both parties repeatedly in the briefing. It begins in the very first sentence by saying that's the user that can also or alternatively view and/or change the desired charge range level. It is telling us it's the user that's making that selection. They can view and change that charge range level.

It also says also or alternatively here. So that's also or alternatively to setting a percentage charge. So that means you can have what we see in Figure 7, right? Where you're setting 80 percent. That's also setting 110 miles. But that phrase or alternatively means we might not have the percentage at all. So there's an embodiment here where you are just setting 110 miles. The user is not setting 80 percent and then there's some calculation by the system to set the 110 miles. The user is setting the 110 miles themself.

And if you look at the end of the same paragraph, it again confirms a user may determine a desired distance to travel and may set the desired charge range level to match the desired distance. So Patent Owner's

interpretation is excluding at least the embodiment where the user gets to set 110 miles without also setting a percentage.

JUDGE WEATHERLY: Is there a way though -- I mean, short of this -- other than this text, is there any other part of the patent that indicates that range and percentage are individually selectable by a user as a proxy for the, quote, unquote, amount of charge?

MS. RAW: So it is just this paragraph. That's the only discussion of the charge range level in the patent, but it does say that effectively three times here when it says that the user is changing the charge range level. The user is setting the charge range and it's an alternative to setting the percentage.

JUDGE WEATHERLY: I mean, on your next slide 7, this is the figure that we focused on in the institution decision that makes it seem as if the two, 718 and 720, the desired charge percent level and the desired range level respectively, are almost as if they slide together on the interface.

MS. RAW: And it's not --

JUDGE WEATHERLY: And that's what my imagination was saying. But you've described -- I think you asserted or argued that the text that we were just discussing on the previous slide implies that a person looking at this would think that they could individually slide the percentage indicator or the range indicator.

MS. RAW: So I would say that's an embodiment because it says also or alternatively --

JUDGE WEATHERLY: Because of that wording.

MS. RAW: Right.

JUDGE WEATHERLY: But certainly, that's not like illustrated in any of the figures.

MS. RAW: Correct, not. Correct.

JUDGE WEATHERLY: Those variations in that sort of permutations and combinations of different ways of specifying a charge level.

MS. RAW: Yeah. This is the one figure they gave us.

JUDGE WEATHERLY: Okay. All right.

MS. RAW: All right. So looking at slide DX-7. So one of Patent Owner's other arguments is that charge level and charge amount must mean something different because they are different terms. If we look at this figure, there's three different indications of charge. You first have your current charge level. So that's in the light green. In that case, that everyone agrees is displaying the current amount of charge in the battery. It's the current amount of charge.

JUDGE WEATHERLY: And we don't know how that's expressed. Like it's unitless, parameterless. It's just graphically represented.

MS. RAW: Correct. In this figure.

JUDGE WEATHERLY: Okay.

MS. RAW: But it's called the charge level. In fact, nothing in this Figure 7 is ever called an amount of charge by the specification. So you've got the current charge level --

JUDGE WEATHERLY: No, I know that. Believe me.

MS. RAW: Yeah.

JUDGE WEATHERLY: And that's one of the frustrating things for us.

MS. RAW: So if the current charge level is an amount of charge and the desired charge percent level is also an amount of charge, that's two instances where charge level is used interchangeably with amount of charge. And Patent Owner would agree those are both an amount of charge. So then two, the desired charge range level is also an amount of charge. It's using amount of charge and charge level interchangeably in that case as well.

JUDGE WEATHERLY: Okay.

MS. RAW: Turning to slide DX-8. This is the same paragraph we were looking at, but just emphasizing that it does use charge amount and charge level. So one of Patent Owner's arguments is because charge amount and charge level both appear in this paragraph, they must mean something different. Again, we just saw that this patent is already using charge amount and charge level interchangeably, repeatedly. And here, if you reverse the terms charge level and charge amount, the statement has the same meaning.

So currently, it's saying we're estimating how far the vehicle can travel on a given charge amount, using that to express a desired charge level in terms of distance. Reverse it. Estimate of how far the vehicle can travel on a given charge level, utilized to express the desired charge amount in terms of distance. Doesn't change the meaning.

JUDGE WEATHERLY: So sort of implied by your argument, I think, is that this portion of the specification could say that -- could you replace in the second part of the highlighted spec, utilize to express the desired charge level in terms of distance capable of being traveled. No, that's not going to work. I was going to wonder whether you could express the desired charge level in percentage terms. But that wouldn't make sense

with the beginning of the sentence, which begins an estimate of how far the vehicle can travel on a given charge amount.

I mean, you've argued that charge level and charge amount mean the same thing here, and I'm not sure that I agree with you. I'm not sure that I agree with Patent Owner's argument about the distinction that's being drawn here either, but I'm still chewing on it.

MS. RAW: Right. Can we go back one slide to DX-7? So when trying to figure out what could be the difference between a charge amount and a charge level, one of the things that came to mind was, well, if we're talking about a level, I think about, like, the top amount. So think about a beaker full of water or something. The level is like the meniscus. It's like the top of that beaker, and then the amount is like the total volume that's in the beaker.

Ultimately, though, that's just two different ways of looking at the same value, and I think you kind of see that in Figure 7 too. So like 716, our current amount of charge, 716 is indicating that top level. It's that top line there. 716 is also indicating the whole striped area, that whole amount. So charge level, charge amounts, it's just yet another example of them being used interchangeably here.

JUDGE WEATHERLY: Are you saying that 716 is an annotation for not just the portion of battery capacity that is charged, but also can refer to the entire capacity?

MS. RAW: No. So do you see where it says 716 by the current?

JUDGE WEATHERLY: Yes.

MS. RAW: And that's -- so I'm saying that if you look at what's the current level. So if you think of level as like it's that top line, it's what the charge has gotten up to.

JUDGE WEATHERLY: The top line. What do you mean by the top line?

MS. RAW: So the line that says current and that has a triangle under it.

JUDGE WEATHERLY: Yes.

MS. RAW: That's the line.

JUDGE WEATHERLY: Yes.

MS. RAW: That shows the top of the current charge. That's how much is charged currently.

JUDGE WEATHERLY: Okay.

MS. RAW: Yes. So we're labeling that, but we're also saying it includes all of the charge currently in the battery. Includes that entire light green portion.

JUDGE WEATHERLY: Oh, I see. So it refers to the amount that's in the area, not just the location of the line.

MS. RAW: Correct.

JUDGE WEATHERLY: Okay.

MS. RAW: And they're calling both of those the charge level in the context of the patent.

JUDGE WEATHERLY: Yeah. I mean, to me, it's unfortunate that the claims introduce this term amount of charge that isn't used anywhere. Now it does appear twice in the spec, but in a different context, I think.

MS. RAW: Correct.

JUDGE WEATHERLY: And Patent Owner wants us to interpret amount of charge as referring to desired charge percent level, 718. Well, I am left wondering, well, then why didn't Patent Owner just write that in the claim? There'll be plenty of time for me to ask questions of Patent Owner about that. I'm sure they'll have an answer when it's their turn. Go ahead.

MS. RAW: Turning to slide DX-9. So one of the other arguments Patent Owner makes is that limitation 1(n), which also uses the term amount of charge, they say, well, every time amount of charge appears in the claims, it has to have the same meaning. We agree. They say, okay, well, 1(n) requires the amount of charge residing in the battery reach a predefined threshold, okay? And they say, well, 1(n) must be referring back to the limitations above, which are about mode of operation, running air conditioner, suitable for a pet.

There's nothing in 1(n) that actually has antecedent basis back to any of those limitations. So for that reason alone, Patent Owner's argument fails. But let's assume it does. Let's assume we're talking about a predefined threshold based on running my air conditioner for my pet.

Even in that scenario, it makes complete sense to measure amount of charge in terms of miles. Because if my car is sitting there and I have the air conditioner running, I want to know and I want an alert to my phone if I'm not going to be able to get home if I keep running my air conditioner.

JUDGE WEATHERLY: Or get to the next charging.

MS. RAW: Or get to a charging station. And in fact, if we go to the next slide, which is DX-10, this is one of the examples in the specification of

the '338 patent. It talks about a desired charge level being set based on a desired distance of travel because you want enough power to travel 20 miles to get home. So this particular description in the '338 patent, it makes sense even if you're running the air conditioner for your pet in that embodiment. And so to say a distance is excluded from amount of charge doesn't make sense for limitation 1(n) either. We would be excluding embodiments of the specification again.

JUDGE WEATHERLY: But if I understand your position though, the alert can refer to something that's -- or the threshold, maybe more accurately. The predefined threshold can also refer to the value that you're trying to charge up to --

MS. RAW: Correct.

JUDGE WEATHERLY: -- not just some other number.

MS. RAW: Correct.

JUDGE WEATHERLY: Minimum amount of capacity -- not capacity. A minimum amount of charge left in the battery. But it can refer to the desired charge level so that -- let's say I wanted to get 150 miles worth of charge not connected to a charger. When I get up to that amount, I could get an alert. And that would be a type of alert that this element would read on in your view, correct?

MS. RAW: That's all correct, yes.

JUDGE WEATHERLY: Okay.

MS. RAW: 1(n) could refer to both a maximum or a minimum sort of amount of charge.

JUDGE WEATHERLY: And the Patent Owner on one point wants to argue that the alert has to be sent to an operator who's not in the vehicle?

MS. RAW: Correct.

JUDGE WEATHERLY: What's your argument in response to that?

MS. RAW: Yeah. Can we jump to slide DX-26? Yeah, so the last part of 1(n) is that send an alert limitation we've been referring to. So sending an alert to the operator indicative of the charge residing in the vehicle reaching the predefined level.

So my first response to why displaying an alert on the screen counts as sending an alert to the operator is because the specification says it does.

JUDGE WEATHERLY: Okay.

MS. RAW: So the specification says that the electric charging system may send a message to the user such as a message on a dashboard display device. So for that reason alone, displaying an alert on the dashboard display must be displaying an alert to the user.

Secondarily, I would also say the claims do not require the user to be in any particular position. At best, they say that if you're running this pet air conditioner, it means you could leave your vehicle. There's no requirement that the user actually does or is in any particular position. So for that reason also, displaying an alert on the display is alerting the user.

JUDGE WEATHERLY: I could imagine using the pet mode to keep myself comfortable while I'm sitting there.

MS. RAW: Or maybe you and your pet are watching a baseball game. There's lots of reasons I can think of to be in the vehicle.

JUDGE WEATHERLY: All right.

MS. RAW: Okay. Can we go to DX-10? Sorry, 11, please. Patent Owner then argues that there's some inconsistency with prior decisions, in this case prior decisions on the '135 patent, which is in the same family.

First off, there's no inconsistency with any prior decisions. There's no prior decision that says anything about the meaning of amount of charge or whether amount of charge excludes or includes miles. It just wasn't an issue in the prior decisions whatsoever.

Secondly, those prior patents do have notably different claim language. So in that case, in the '135 patent, it does claim operating at climate control --

JUDGE WEATHERLY: Which -- remind me, which -- and for the record, which IPR did the '135 patent? What's the IPR number that corresponds to that?

MS. RAW: I will have to grab the IPR number.

JUDGE WEATHERLY: Because I will tell you, I think -- well, at least this APJ, I think of in terms of IPR numbers primarily.

MS. RAW: That's fair. I don't know it off the top of my head, but I will get that for you.

JUDGE WEATHERLY: You can come back to it.

MS. RAW: Yeah. The key, though, is that in the '135 patent, it did claim operating a climate control mechanism until the amount of charge residing in the battery reached a predetermined level. So that we would imagine would be the battery level has lowered to a point that we're then going to reach that threshold. But regardless, as already explained, it doesn't

-- it would still make sense to measure charge as mileage, even in that circumstance. Turning to DX-12 --

JUDGE WEATHERLY: If I make sense, what I hear you saying really is that it would be meaningful to a user?

MS. RAW: Correct. The user would find value in knowing how far their vehicle can travel.

JUDGE WEATHERLY: Okay.

MS. RAW: In conclusion, amount of charge includes at least setting a charge percent level or setting a charge range level in terms of a distance in the context of this patent and this family of patents. There is nothing in the specification or claims that justifies excluding the embodiment, which is 720 on Figure 7, which shows setting a mileage. Are there any other questions on amount of charge before I move on?

JUDGE WEATHERLY: Not at this moment, no.

MS. RAW: Okay.

JUDGE WEATHERLY: I never promise to not have more questions, though.

MS. RAW: All right. So the Patent Owner also raises a number of challenges to different obviousness combinations in the petition. I've kind of listed them on this slide. I know we already talked about sending an alert. Are there any others in particular you want me to make sure to spend time on?

JUDGE WEATHERLY: Bluntly, I think that the weakest part of your case actually revolves around having to rely on six different references and

knit them together with rationale for combining them. So, I mean, that's the part that I'm most curious about from your perspective.

MS. RAW: Okay. Well, let me address that point first. So, yes, there are six different references. We also have a patent that has a lot of limitations that aren't necessarily tied to each other. We have a patent where we've got a vehicle sensor detecting whether we're in a parking space --

JUDGE WEATHERLY: Right.

MS. RAW: -- and then we never refer to that limitation at all later in the patent. We never use that for anything in the claims. We're sending an alert, but an alert based on a predetermined threshold, which again is not related to any other limitation prior in the claims.

JUDGE WEATHERLY: Well, it's related to the amount of charge and the predetermined --

MS. RAW: It is, but it says an amount of charge.

JUDGE WEATHERLY: Yes.

MS. RAW: So it's not even necessarily the same amount of charge we were talking about when we were talking about the vehicle charge indicator. We also --

JUDGE WEATHERLY: Fair enough.

MS. RAW: And then we also have this --

JUDGE WEATHERLY: Well, it may not be the amount of charge on the vehicle indicator because we're talking about a threshold for that value. Okay.

MS. RAW: Yeah. And then we have operating the vehicle in a mode that's suitable for a pet. And once again, that's not described or claimed as

being related to any of the other limitations. It's not claimed as being related to the alert. It's not claimed as being related to our sensor for the parking space, and it's not claimed in relationship to our vehicle charge indicator.

JUDGE WEATHERLY: Well, the Patent Owner says the pet mode and the alert aren't related to each other.

MS. RAW: They do. But even if we accept that, it's --

JUDGE WEATHERLY: No, I understand what you're saying about it. It's almost as if this is really just, like, a combination of features that normally you would find introduced in a dependent claim that hangs on a kind of most generic expression of an invention.

MS. RAW: Yeah.

JUDGE WEATHERLY: But --

MS. RAW: Also, in context, we're talking about a vehicle, and vehicles have lots of different features, and it makes sense that references in the prior art would not necessarily be talking about every feature of a vehicle that references in the prior art, which a POSITA would logically look to, would focus on one particular feature or another.

It makes sense that if you have a reference that's talking about how do I keep my pet safe in the car, they're also not necessarily talking about charging an electric vehicle because that's just not the focus of that particular individual. And it makes sense that a POSITA would have to look at different references for something as complicated as a car with so many different features.

Also, at the end of the day, there's no rules, there's no Federal Circuit case that says there's a different standard, depending on how many

references we are combining. So the question is just whether each of the individual combinations makes sense, is supported, and is actually a combination that a POSITA could and would have implemented. And we provide substantial evidence on each of those points for these combinations.

JUDGE WEATHERLY: Okay.

MS. RAW: So I'll just briefly go through these obviousness combinations. So if we could go to slide DX-14. So the first combination that they're challenging is the combination of Letendre, Donnelly, and Ferro for the vehicle charge indicator. So let's go ahead and jump forward.

Well, first off, when it comes to Letendre, there's no argument that Letendre doesn't disclose a slider. The question is just whether Letendre's slider sets an amount of charge. That's subsumed within the amount of charge argument we already discussed. If setting a mileage is an amount of charge, Letendre teaches it. Can we skip forward two slides? Now, in DX-17 --

JUDGE WEATHERLY: Is there any significance to the sort of apparent logarithmic character of the scale on Letendre's slider?

MS. RAW: Yeah. Can we go to DX-18? So that is the primary challenge to the combination, is that Patent Owner says that a POSITA would not have been able to take Letendre's slider and put it on a bar graph such as that shown by Donnelly. That's a matter of basic math. There's no actual allegation that a POSITA could not have done the math required to implement a slider on a bar graph, first off.

Second off, if we could go to the next slide. The real question here in that combination is what the combined teachings of the references would have taught to the POSITA. So here, we have --

JUDGE WEATHERLY: So Donnelly discloses a display of the state of charge, graphically indicating the state of charge in a diesel-electric locomotive. Letendre has a slider, a physical slider, with a scale next to it. And which is the other?

MS. RAW: And then Ferro is our base reference. Ferro teaches, for example, a user setting a maximum and a minimum amount of charge, but doesn't provide detail on the GUI or interface the user would use.

JUDGE WEATHERLY: Right. Just that there is a display.

MS. RAW: Correct.

JUDGE WEATHERLY: Without any depiction of the display.

MS. RAW: Correct.

JUDGE WEATHERLY: Well, without a graphical depiction of the display, maybe a logical depiction of the display. Okay.

MS. RAW: So two notes on that. First, when we are talking about Donnelly, Donnelly does talk about a train. Donnelly also says, and this is at column 26, lines 6 through 8, they say the various inventive features are applied to vehicles other than locomotives, such as cars.

JUDGE WEATHERLY: Okay.

MS. RAW: So, yeah, it is a car reference.

JUDGE WEATHERLY: But this is -- but Donnelly's display isn't really a display that enables the selection of a charge, a desired charge level.

MS. RAW: Donnelly is not setting the charge level. It is a touchscreen-based GUI, which is showing the user what the current charge is.

JUDGE WEATHERLY: Okay. So it gets at the concept in the claims of depicting not only the amount of charge that's currently in the battery, but the amount that remains to be charged?

MS. RAW: That's correct.

JUDGE WEATHERLY: You know, the uncharged capacity, I suppose.

MS. RAW: That's correct.

JUDGE WEATHERLY: Forget exactly the language in the claim. Okay.

MS. RAW: And then Letendre --

JUDGE DEFRANCO: Counsel.

MS. RAW: Yes.

JUDGE DEFRANCO: Counsel, this is Judge DeFranco. Remind me why Donnelly is necessary here?

MS. RAW: So Donnelly --

JUDGE DEFRANCO: What is missing from Ferro that Donnelly needs to cure?

MS. RAW: Yeah, can we go back two slides? So Donnelly is being used for the first two requirements of the vehicle charge indicator. So we have to have a vehicle charge indicator with a first portion indicative of an amount of charge residing in a battery of the electric vehicle, and a second portion indicative of an uncharged capacity of the battery. So that's what

Donnelly is adding. Donnelly is adding that visual depiction of the charged portion and the uncharged portion, which is Donnelly's bar graph.

JUDGE DEFRANCO: So go to the picture of what you had up. I think it's DX-7.

MS. RAW: Seven or 17?

JUDGE DEFRANCO: Yeah. No, I think it's your slide 7, which depicts --

JUDGE WEATHERLY: From this front --

JUDGE DEFRANCO: Oh, 17. I'm sorry.

MS. RAW: Here at 17.

JUDGE DEFRANCO: Right, 17. And that's -- okay. What is Ferro? What is Ferro teaching?

MS. RAW: So Ferro doesn't have a picture of the user interface. Ferro does teach a user setting a maximum and a minimum amount of charge, but they don't have a GUI displayed or discussed.

JUDGE DEFRANCO: Okay. Got it.

MS. RAW: Yeah.

JUDGE DEFRANCO: All right. Thank you.

JUDGE WEATHERLY: Ferro doesn't use the phrase Graphical User Interface, but it does use the -- it does refer to the, quote, unquote, interface, for interacting with the vehicle, right?

MS. RAW: Correct, it talks about the interface. And I believe it also has a display, but I don't think it goes so far as to say it's a touchscreen or to provide an image of what it would look like.

JUDGE WEATHERLY: What are the -- what is the user interface that's described in Ferro in connection with setting that minimum and maximum?

MS. RAW: Ferro doesn't describe how the user is setting the minimum and maximum.

JUDGE WEATHERLY: I mean, does it refer to like a keyboard, or --

MS. RAW: It does, yeah. So it does have like physical controls that you're using, like buttons.

JUDGE WEATHERLY: And a display?

MS. RAW: And a display.

JUDGE WEATHERLY: Okay.

MS. RAW: And then adding to Ferro, if we go through in the petition, adding to Ferro that it would be a touchscreen-based display at the time well obvious to a POSITA, well within the scope of a POSITA to use a touchscreen-based display. And then adding also Donnelly's bar graph. Explain in detail why it is that you would add the bar graph, and that's not seriously challenged.

If we can turn to the next. The one other point I wanted to note, there was kind of an allegation that Letendre's slider is just like a physical slider that you're, like, grabbing onto --

JUDGE WEATHERLY: It looks like that.

MS. RAW: And that is certainly an option in Letendre. Letendre teaches you can put it on a web page.

JUDGE WEATHERLY: Okay.

MS. RAW: And so if Letendre's slider, what we're seeing, the same interface is on a web page, then that's not physical at that point.

JUDGE WEATHERLY: Unless it's displayed on a touch screen that you can touch --

MS. RAW: Sure.

JUDGE WEATHERLY: -- as a physical aspect.

MS. RAW: Yeah. If we could just turn to DX-27, just because I have the quote there to support us. So Letendre says that the example control panel shown in Figure 1, that's the figure we're just looking at, they say whether the control is physical on the dash or on a web page, the idea is basically the same.

JUDGE WEATHERLY: Okay.

MS. RAW: All right. Can we go back to slide 18? Okay. Unless there are further questions on this combination, I'll move on to the next argument. Okay.

JUDGE WEATHERLY: None right now.

JUDGE DEFRANCO: I do not.

MS. RAW: DX-19, please. 20, and 21. There's also an argument from Patent Owner that suggests specific coding is required --

JUDGE WEATHERLY: This is on slide 21, right?

MS. RAW: On slide 21, yes.

JUDGE WEATHERLY: Okay.

MS. RAW: There's an argument from Patent Owner that specific coding is required to put together our vehicle charge element. There's no coding required by the claims or described in the specification of the '338

patent. There's also no allegation that it would be beyond the scope of a POSITA to implement these described features in code.

DX-22. I'll finally, with my remaining two minutes, briefly address limitation 1(e), and that is the vehicle sensor limitation. So it requires a vehicle receiving from a vehicle sensor information indicative of a presence of the electric vehicle in a parking space.

Turning to DX-23. Oyobe teaches a vehicle position detecting apparatus. It detects that the vehicle is parked at the location which charging equipment is installed. You can see in the image the charging equipment there, it's 56. We're detecting that we are by the charging equipment.

The slides Patent Owner is presenting today all focus on this idea of intent to charge and whether Oyobe teaches an intent to charge. That's not a requirement of the claims. That's a statement that they pulled from the obviousness combination we put in the petition. It's just one of the reasons why it would have been obvious to combine Oyobe and Ferro is the value of knowing, hey, this user has pulled into a parking space.

They're indicating their intention to charge. And then the system to charge, for example, wireless charging, can kick off with less input from the user at that point. But intent to charge is not actually a requirement of the claims. So Oyobe absolutely teaches exactly what the claims require. With that, unless there are further questions, I'll reserve the remainder of my time.

JUDGE WEATHERLY: I don't have anything further right now.

MS. RAW: Thank you.

JUDGE WEATHERLY: You virtually hit your target right on the dot. Good for you.

MR. TECCE: Can I set this up here?

JUDGE WEATHERLY: Absolutely.

MR. TECCE: Thank you.

JUDGE WEATHERLY: Petitioner, I have you with ten minutes remaining, just as you asked for.

MR. TECCE: And how much time do I have, Your Honor?

JUDGE WEATHERLY: You have a total of 45 minutes, and you are free to reserve time for a response to Petitioner's second rebuttal.

MR. TECCE: I'll reserve five minutes, please.

JUDGE WEATHERLY: Okay. Let me get the timer ramped up to 40 minutes.

MR. TECCE: To answer Your Honor's question, the IPR -- the previous IPR was IPR 2023-00063.

JUDGE WEATHERLY: Okay.

MR. TECCE: That was resolved this morning in part by the Federal Circuit. Resolved in part with respect to one of the independent claims --

JUDGE WEATHERLY: Okay.

MR. TECCE: -- on a different claim construction than were used in the slides.

JUDGE WEATHERLY: Sure. Before we go into your time, there were three IPRs before.

MR. TECCE: There were, Your Honor.

JUDGE WEATHERLY: And two of them went in the Patent Owner's favor and were appealed by the Petitioner. Are both of those appeals now resolved?

MR. TECCE: They are now resolved. The '753 was resolved on the 22nd of February.

JUDGE WEATHERLY: And the other one was resolved --

MR. TECCE: Resolved this morning.

JUDGE WEATHERLY: This morning?

MR. TECCE: Yes, Your Honor.

JUDGE WEATHERLY: Wow.

MR. TECCE: I was almost late because I was trying to read it.

JUDGE WEATHERLY: Okay.

MR. TECCE: When your lips move when you read, it's tough. Let me see if I can make this so you can see the whole thing.

JUDGE WEATHERLY: And you said the opinion this morning, did it remand the case to the Board?

MR. TECCE: It was remanded to the Board for further reconsideration with respect to the claim construction used in claim 1.

JUDGE WEATHERLY: Okay.

MR. TECCE: And --

JUDGE WEATHERLY: I don't need to know the details. I'm just -- since you already know about it. At least some of us are likely to be involved in a remand.

MR. TECCE: I'm trying to figure out how to get it so we just see the slide. No, that's not it. Okay. I'll go with this. So this whole issue about amount of charge really stems from the Petitioner's need to make a desired range be an amount of charge to make Letendre relevant. And yes --

JUDGE WEATHERLY: I don't know if I agree with you.

MR. TECCE: Understood. You'll be the first judge who doesn't agree with me, and fortunately or unfortunately, I don't know, you won't be the last.

JUDGE WEATHERLY: Well, the beauty of my position is that there's always at least one party who's upset with me after I write a final decision, and sometimes I upset everybody. So we'll see how this one turns out. I'm used to it.

MR. TECCE: But the point is this, Your Honor. The way -- I want to put a little bit of a finer point on our claim construction argument. Our claim construction argument is, as used in this claim -- in these claims, particularly the two patents that are relevant to -- one of the claim elements is that you're in a parking space. Desired range doesn't really tell you the amount of charge that's in the body. For the reasons that Your Honor asked Petitioner's counsel, the desired range --

JUDGE WEATHERLY: Well, frankly, neither does percentage.

MR. TECCE: But it does tell you, because remember, the claim is written in such a way that you're selecting an amount of charge to operate the HVAC system.

JUDGE WEATHERLY: Where does the claim language say that?

MR. TECCE: Let me pull up -- if I look at claim --

JUDGE WEATHERLY: I know that claim 1 includes a series of limitations that are directed to this so-called pet mode, but I don't see the connection between amount of charge and the pet mode, that the reason for selecting an amount of charge is because you want to operate some sort of pet mode.

MR. TECCE: But claim 1(j), receive a selection of a mode of operation of the electric vehicle that's defined by a stored temperature, which a temperature control system of an electric vehicle is to be set to maintain the interior temperature of the electric vehicle while the electric vehicle remains in a parked state. Then you display that via a Graphical User Interface, which if the driver was in the car, it could be disabled. While in the selected mode comprises maintaining the entire interior temperature, suitable for a pet, operate the temperature control system.

While in that mode, to determine that an amount of charge residing in the battery electric vehicle has reached a predefined threshold and send an alert to the operator of the electric vehicle indicative of the charge residing in the battery having reached the predefined threshold. The predefined threshold was set to run the HVAC system. And this new argument that -- maybe it was in their papers and I missed it, but this new argument that you would alert the vehicle that the range -- the fighter is going to be dead 20 miles, that doesn't tell you anything.

And this whole thing about amount versus -- the spec is broad enough so that an amount of charge and desired range can be different. We can write a claim and that talks about amount of charge. We could write a claim that says, well, you selected desired range. The specification talks about that. This claim, these claims, these embodiments, were written with the term amount of charge. It's a tenure on a --

JUDGE WEATHERLY: So is claim 28, and claim 28 doesn't have any --

MR. TECCE: It does not. Claim 28 does not.

JUDGE WEATHERLY: -- pet mode. So does amount of charge in claim 28 mean something different from what amount of charge means in claim 1?

MR. TECCE: I think claim 28 is a little bit -- is broader because claim 28 is charging the vehicle in accordance with the at least two charging preferences, whereas claim 1 was the charging preference set to maintain the vehicle -- temperature of the vehicle.

JUDGE WEATHERLY: If I were deposing you, I would say, objection, non-responsive.

MR. TECCE: Okay. And that would be under Federal Rule of Evidence 106, and that would be your objection. So let me go back here and say because in claim 28(e), wherein at least two charging preferences are defined by an operator of the vehicle, and wherein at least a predetermined amount of charge is defined by user input via a Graphical User Interface and adapted to display a vehicle charge indicator element comprising a first portion indicative of the amount of charge residing in the battery, a second portion indicative of an uncharged capacity of the battery of the electric vehicle, and wherein the vehicle charge indicator element further comprises a slider.

So it would be the two -- so the answer is, in this claim, it's whatever the two preselected parameters are. Does that answer your question?

JUDGE WEATHERLY: In this claim meaning claim 28?

MR. TECCE: I'm sorry?

JUDGE WEATHERLY: This claim meaning claim 28?

MR. TECCE: Being claim 28, yes. Does that respond to your question?

JUDGE WEATHERLY: No.

MR. TECCE: Okay. The --

JUDGE WEATHERLY: Because you've argued that amount of charge refers to the amount of charge related to being able to support a pet mode because claim 1 also recites limitations directed to a pet mode, and range doesn't make any sense in connection with pet mode because you want to prevent Fido from being dead. I may be unfairly paraphrasing, and I want you to correct me if I am. And I don't see why that argument is true when there's an independent claim in the same patent here that doesn't have any pet mode limitations and uses the same phrase, amount of charge, that's used in claim 1.

Also, I'm -- we're left having to render a decision in connection with a phrase that frankly isn't really meaningfully used in the specification. There are two places in the specification that use the phrase amount of charge.

MR. TECCE: Correct.

JUDGE WEATHERLY: Those don't seem to be probative to me on how the claims use that phrase. Is that correct?

MR. TECCE: Well, I think the standard under Markman is whether or not they limit --

JUDGE WEATHERLY: I want you to answer my question.

MR. TECCE: The answer is no, that's not correct.

JUDGE WEATHERLY: Okay.

MR. TECCE: Okay. No, I disagree with that. I respectfully disagree.

JUDGE WEATHERLY: So it is probative?

MR. TECCE: It is probative --

JUDGE WEATHERLY: So two uses of amount of charge in the spec is probative on what amount of charge in the claim means?

MR. TECCE: It's probative. The answer is yes.

JUDGE WEATHERLY: How so?

MR. TECCE: How so? To the extent that it's a broad recitation that indicates that amount of charge could be amount of charge in the battery -- we could write a claim wherein we dictate that the amount of charge is a desired range and the spec would be broad enough to support that.

JUDGE WEATHERLY: Yeah. Well, right now we're trying to look at the claim that was written rather than a claim that could be written. I mean, I know that there are co-pending applications still where you could be writing a claim. Feel free to do that in those co-pending applications. Right now, I'm trying to figure out what does amount of charge mean here. And is it correct -- Petitioner characterizes your argument as you want to exclude from the scope of amount of charge an amount that's expressed in terms of range. Is that true?

MR. TECCE: We did advance arguments along those lines, but I think a finer point is that when you read the term amount of charge in connection with the claims, particularly the ones that are limited to a car park, the range, the desired range, doesn't fit.

JUDGE WEATHERLY: I'm not going to let you say, particularly when limited to the claims directed to a car being parked, because all the

claims are not the same scope yet all the claims recite the term amount of charge.

MR. TECCE: Actually, Your Honor, I checked. The claims of the '788 do not have that limitation in them.

JUDGE WEATHERLY: Amount of charge?

MR. TECCE: Parking, the parking condition.

JUDGE WEATHERLY: Okay. But they do recite amount of charge.

MR. TECCE: Yes, they do, Your Honor. Yes.

JUDGE WEATHERLY: So whenever you say -- whenever you want to limit your description of what amount of charge means based on claims that include parking or include a pet mode or something like that implies to me that you want us to divide the claims into subsets on the issue of what does amount of charge mean. And my belief is that we should be interpreting amount of charge to mean the same thing --

MR. TECCE: Agreed.

JUDGE WEATHERLY: -- for every claim that uses the term amount of charge.

MR. TECCE: I agree with that.

JUDGE WEATHERLY: Okay.

MR. TECCE: Okay. And I believe that amount of charge recites the amount of charge that's actually in the battery. It is an empirical -- when you pull into a gas station, you don't ask for 200 miles worth of unleaded. You ask for an amount. And what that amount ultimately ends up giving you in the way of a range may be something different. Where you are, are you

going to drive on the beltway, are you going to drive in the mountains, are you going to drive cold, is it hot?

So amount of charge is a number. And in fact, if I could get my slides to work. If you look at Fig 7. Let me see if I can pull it up.

JUDGE WEATHERLY: Figure 7 of the --

MR. TECCE: Of the patent that was --

JUDGE WEATHERLY: -- of the '338 patent?

MR. TECCE: Yeah. Let me see if I can --

JUDGE WEATHERLY: I'm going to pause the time because I would like you to get your slides --

MR. TECCE: Yeah, no, I appreciate that.

JUDGE WEATHERLY: -- sorted out so that I can see which slide and you can use the slides the way you had planned on using them.

MR. TECCE: Got it. Sorry. Okay. So let me just scroll through here and I'll find -- right here. Slide 2 shows Fig 7. And I'm talking about -- if you look up here, Your Honor, where it talks about 12 cents per kilowatt hour right there, and it points down to here, that's the amount of charge. That's what we signed --

JUDGE WEATHERLY: Let me just --

MR. TECCE: Go ahead.

JUDGE WEATHERLY: Words like here and there don't translate into the record very well. If I can just get you to be a little more precise about what you're directing our attention to so the record makes more sense when I read it back later.

MR. TECCE: Understood. Yeah. So looking at slide 2, Fig 7 --

JUDGE WEATHERLY: Yes.

MR. TECCE: -- which was Exhibit 1001. We look up at the top underneath where you see where it says Vehicle Charging Dashboard.

JUDGE WEATHERLY: Mm-hmm.

MR. TECCE: And then underneath, we have with this representation of the slider. It says E, empty on the left, F, full on the right. The hash mark section 716 is the current state of charge of the battery. And then on the right here, we have 718, which was a percentage of the battery, and 720 underneath it, which is the range, an estimated range or the range of the battery. And I think there was some discussion earlier. I think both of those move together when you move them. I don't think they move separately.

JUDGE WEATHERLY: Well, the text seems to indicate otherwise. Maybe that's one of the pitfalls when two patent attorneys get together and write a patent application.

MR. TECCE: I've been living in that pitfall for years, Your Honor. I understand what you're saying. But that's an interesting point. If that's true, then it gets back to the question that I was --

JUDGE WEATHERLY: If those two sliders are independently movable?

MR. TECCE: Yeah. If they're movable, then you could select -- the spec teaches that a user, you could write a claim that allows for the selection of a desired range or an estimate of it, or that you could slide the top and just move for the selection of a desired charge amount --

JUDGE WEATHERLY: So it sounds like you're arguing that that isn't true.

MR. TECCE: I'm not saying it is or it isn't. It's --

JUDGE WEATHERLY: Well, you need to say whether it is or isn't. Now's the time.

MR. TECCE: Well, understood. But here's the point. Actually, it actually doesn't matter. I'll say it doesn't matter whether you move them together because you're seeking a desired range.

JUDGE WEATHERLY: Let me ask my question this way. And this really gets -- I think this begins to get at the sort of difficulty that I've had with this aspect of the case for your side. Aren't there a lot of different ways to express the amount of charge that is in a battery?

MR. TECCE: Yes.

JUDGE WEATHERLY: And don't those include a percentage and a range and things like coulombs and things like kilowatt hours? I mean, all of those things are ways of expressing an amount of charge in a battery, right?

MR. TECCE: Yes.

JUDGE WEATHERLY: So your specification seems to expressly describe two of those ways, a percentage and a range.

MR. TECCE: Yes.

JUDGE WEATHERLY: And frankly, when a claim says something that's fairly high up on the level of abstraction scale, like amount of charge, it makes sense to me to look at the spec and interpret that phrase to encompass at least the ways of expressing amount of charge that the spec describes, and maybe even broader than that.

But we don't have to go into are there other aspects of amount that are covered, that are encompassed within amount of charge, because the prior art put before us doesn't -- there's no argument, for example, that a prior arc reference that describes setting the amount of charge based on I want x coulombs put into my battery. That's not before us. All this before us is a prior art reference that describes setting the amount of charge by selecting a range.

MR. TECCE: In connection with --

JUDGE WEATHERLY: So why should I exclude one of the two different ways of describing amount of charge from the meaning of amount of charge? I don't see any kind of disavowal of one over the other. I don't see anything in the dependent claims that distinguishes between the two kinds. Because the claim has to be read in the context, the element that you're talking about, amount of charge -- everything you said is absolutely correct. I agree with it. But the claim has to be read, the amount of charge claim element has to be read in connection and in conjunction with the other elements of the claim of which it is a part.

MR. TECCE: Okay.

JUDGE WEATHERLY: Okay. And so I look at claim 1, now I understand you picked claim 28, but amount of charge, for the purposes of -- and I understand that it's not in every claim element, but amount of charge has to really be given the same, as you say, the same meaning across -- well, it doesn't have to be, but certainly my initial reaction is to give it the same meaning for all the claims that are at issue, but it doesn't have to be. There

are ways in which maybe it means a different thing if the context makes it clear.

But I don't hear that that's what you're arguing. I hear that you're arguing instead that amount of charge really does mean the same thing across all claims and that the context that's provided in claim 1 puts this, causes amount of charge to not encompass setting the amount of charge by range. But that context isn't present in every claim.

MR. TECCE: But it is in most of them. There is --

JUDGE WEATHERLY: So what? Most is not good enough unless you want to tell me that amount of charge does mean something different in claim 28.

MR. TECCE: I don't, because it doesn't -- but my point is that I'm allowed -- as a Patent Owner, the two patent lawyers who wrote this specification are allowed to write a patent claim using one definition that's consistent with the rest of the parts of the claim. I think it was a mistake for us -- I want to say mistake. It was a mistake for us to argue that it excludes --

JUDGE WEATHERLY: But that is what you're arguing, isn't it?

MR. TECCE: No. I'm arguing that that's not a viable claim interpretation of a word that exists in -- certainly every one of the claims that's in the '338, and I forget which other one had the park, every one of the ones that has the vehicle is in a parked state. Why is the range relevant? If you're going to -- why is the amount of charge in the battery given as a range relevant to a claim that requires an element that the car be in a parked state,

which is in at least two of these patents, every claim in at least two of these patents, every independent claim.

JUDGE WEATHERLY: So are you arguing that if the user is parked in their car, they don't care about the range, but if they're driving, they do?

MR. TECCE: Not that they don't -- the answer is they may care about the range, but --

JUDGE WEATHERLY: You said relevant. I mean, relevant is a really broad concept. So I'm trying to understand really what you're arguing.

MR. TECCE: What I'm saying is that when you're going to read the term amount of charge, it's like how many gallons of gas do I have in my tank, right? I have enough gas to get this. Do I have enough gallons of gas in my tank? Do I have enough kilowatt hours in the battery to achieve the rest of the objectives of the other elements of the claim? And so when you write amount of charge in that fashion, particularly when you're in a parked state, you may care about your range, but not in connection with these claims.

I mean, this notion that somehow -- this new argument that you could be alerted that your car's not going to have enough range to get to another place, that's not recited in any of these claims. What's recited is that the essence of these -- when I say essence, the Federal Circuit's never going to do that. But the claim elements in these claims all deal with an amount of charge that's relevant to the operation of certain variables and elements that are chosen by the user. None of them are range.

JUDGE WEATHERLY: And why does the --

MR. TECCE: I could have written a claim that says -- we could have written a claim, an amount of charge indicative of a range. We could do that. The spec's broad enough to do that.

JUDGE WEATHERLY: Well, and I'm not going to predict, but maybe you will. Who knows?

MR. TECCE: I'm getting old, Judge. I don't think I'm going to live to see that. Let me just walk through these, if I could, in my last 21 minutes. Claim 2 talks about the -- I'm sorry, slide 3 shows a representative challenge claim to the '338, which we've been talking about.

JUDGE WEATHERLY: Which slide again?

MR. TECCE: That was slide 3.

JUDGE WEATHERLY: Okay.

MR. TECCE: Slide 4 continues with the '338 representative claim, including the element send an alert to an operator of the electric vehicle. Slide 5 is a representative challenged claim of the '788 patent adapted to display a unitary vehicle charge indicator comprising a combination of --

JUDGE WEATHERLY: This is a good example in the slide 5. So here the amount of charge represents the desired charge level of the battery. That is a quote, specific amount of charge desired to reside in the battery after increasing the level of charge.

MR. TECCE: Correct, Judge. But one of the things that --

JUDGE WEATHERLY: So that's not the pet mode lower limit for a threshold. That's not, I mean --

MR. TECCE: Judge, here's the thing about this, because I don't think that they're combinations. If you were to find our way on claim construction, we win. If you're to find their way --

JUDGE WEATHERLY: And that's probably not going to happen.

MR. TECCE: That's why I laid it out there, because I knew it wasn't going to happen. I know it's not going to happen. I understand that. But the point --

JUDGE WEATHERLY: Well, right now what I'm really trying to do is, I mean, I really, really want to understand your argument so that I can adjudicate it fairly. And I am having a very hard time understanding your argument, honestly. If you want to keep talking to me about amount of charge, that's fine. I mean, it's your time to argue. But if you think that there are other aspects of the case --

MR. TECCE: I'm going to get to this. But this is a good time to remind me that I wanted to tell you that because, like, for instance, in the '788, it talks about a unitary vehicle charge indicator comprising. The word unitary is in all the independent claims of the '788. And when I talk about the combination of Ferro, Letendre, and Donnelly, they don't teach a unitary charge. There's no teaching of a unitary charge indicator comprising.

JUDGE WEATHERLY: What I hear you saying, or the way I hear what you're saying, is that none of those references individually teaches a unitary vehicle display.

MR. TECCE: Correct. And there is no --

JUDGE WEATHERLY: Petitioner's position is going to be that collectively, a skilled artisan with those teachings in front of him or her would find a unitary vehicle charge indicator to be obvious.

MR. TECCE: And the only way for a skilled artisan to do that would be to follow the roadmap of the claims. And that's going to be part of my argument.

JUDGE WEATHERLY: Yeah.

MR. TECCE: So I've read your institution decision. I saw what you said about motivation to combine. I think it's a little bit more of a subtle point, and that is that to pick these elements out, for instance, Ferro, Ferro is a system that's designed to set a charging schedule -- not schedule, but to set all kinds of charging parameters once you plug in. And it can include the selection of an amount of charge, maximum, minimum, some other amount based upon the source of the energy.

JUDGE WEATHERLY: Right.

MR. TECCE: Okay? But there's no -- the only display in Ferro that talks about -- first of all, all the input's done kind of beforehand so that when you plug it in -- so there's no teaching in Ferro that the user would have some reason to want to adjust the amount of charge in the battery before or after, other than in connection with the pre-programmed system parameters that were placed in there.

So there's no reason to take the Donnelly display, which is a GUI display, out of a locomotive that does one thing. It has a slider in it, it has an electric slider in it, that shows you empty to full, but it has no teaching because Donnelly has no teaching of the user adjusting the amount of

charge. And in fact, in Donnelly, it teaches that the GUI slider -- not slider. The GUI display can be used to respond to certain things.

So Donnelly knew how to do inputs through a GUI system, but had no reason to because the operator of a locomotive has no reason to set the desired charge, amount of charge, desired range. So why you would take a Donnelly system, put it in a Ferro -- a Donnelly display, put it in a Ferro system that has absolutely no teaching or suggestions for the use of such a system, and then there's no other than to pick parts out of the prior art and put them together. And then to add, to use Oboye --

JUDGE WEATHERLY: Oyobe.

MR. TECCE: Oyobe. To use Oyobe as a vehicle indicator, as an indication in a parking spot. Oyobe is a system that senses state of charge, condition of the ignition, and whether or not someone is sitting in the seat, seat sensor. And it has an external display that when you walked out of the car, you should plug in. But --

JUDGE WEATHERLY: But Oyobe does describe a system that includes a sensor to determine whether the car is near a charger, right?

MR. TECCE: Ferro doesn't need that. Ferro teaches that when you arrive at a charging station and you plug in to initiate the charging system, the charging parameters that were pre-programmed, there's no need for it. What's the need for a vehicle sensor? And it's even more interesting, because then they come up with this argument I think in the reply, where they say, oh, but Oyobe would allow you to make -- when you combine Ferro and Oyobe, the driver can make the decision to charge while in the

vehicle. But that's not what Oyobe teaches. Oyobe teaches that the system doesn't operate or activate until the driver's gotten out of the vehicle.

So my point is that you want to look at the use of a roadmap to pick out parts and try and jam them together to get this claimed invention of this GUI slider. I mean, this is the sixth IPR we've been through with Tesla, sixth. Seven if you count one filed by Unified Patents, right? And not a single reference has been found --

JUDGE WEATHERLY: I'm guessing it won't be the last either.

MR. TECCE: It won't. But after today, there's ultimately going to be a trial. Not a single reference has been found that shows the unitary slider. The --

JUDGE WEATHERLY: There's not a requirement to find a single reference that describes that.

MR. TECCE: I'm sorry?

JUDGE WEATHERLY: There's no requirement to find a single reference that describes that.

MR. TECCE: That's why they're all 103 references. But there is a requirement that they don't use the claim language as a roadmap to go through, pick references that arguably have to do with electrical charging. Most of them, I'll give them that. But they pick disparate -- tiny little disparate pieces out and try to move them all together. And then they don't really -- they kind of gloss over the motivation to do it.

So, you know, so -- yeah, enough said. Let me just go through these. I have a charge. I think we've talked about what's in 12. I'm going to hit the points, Your Honor, that I think are relevant to the conversations that we're

having. If we look at slide 16, I do want to hit this because this gets to a question that Your Honor asked me that I didn't very artfully answer.

The specification at the top distinguishes amount of charge from desired change. It should be charge range level. That's in the Patent Owner's response. But the section in the spec, which I believe is at column 15, lines 2 through 7, is that an estimate of how far the vehicle can travel on a given charge amount, which may be a general average and/or may be computed based on specific itinerary and/or past driving habits, can be determined, for example, and utilized to express the desired charge level. So they are different. They are different. An amount of charge can be a request for a range. An amount of charge could be a percentage of the battery. It could be kilowatt hours. But the terms are a little bit different.

We've talked about Fig 7 shown in slide 17. In slide 18, the Petitioner's claim construction arguments do contradict one another in their surreply where they talk about, regarding the '338 patent, collectively the '338 patent describes, one, determining how far the vehicle can travel on a given charge amount, two, utilizing this determination of how far the vehicle can travel to express the desired charge level, and three, user selections of the desired charge level as either a charge percent level expressed as a percentage amount or the charge range level.

But then in their statement two, in their reply, they indicate nothing in the '338 specification or claims mandate constructing amount of charge to be something different than a charge level to include only a charge percent level or to exclude a charge range level.

I do want to talk about slide 20. Title, Petitioner's improper claim construction. First of all, it reads at the top, charge amount is not interchangeable with charge level. That really should have read, charge amount is not interchangeable with desired range level. That's the point. If you take the language from column 15 and if you look on the right, and you alter it by saying an estimate of how far the vehicle can travel on a given desired range level and utilize to express the desired charge level in terms of distance capable of being traveled. And that same is true with slide number 21. Actually, I'm sorry. Slide 20.

Actually, so go back. I believe I talked about -- I'm sorry. For the record, I was talking about slide 20. Going back, the same at the top of slide 19, charge amount is not interchangeable with charge level. It should be charge amount is not interchangeable with desired range level. So those slides were --

Let me go -- let me talk about some of these combinations. The combination of Sutardja, Ferro, and Donnelly, and Letendre is improper. Does not show any references that teaches or suggest to claim slider by which an amount of charge may be specified. This gets back to what I was talking about, slide 24. Neither Ferro nor Donnelly teaches or suggest the slider is claimed.

JUDGE WEATHERLY: Now, is that because they don't teach selecting charge as a percentage?

MR. TECCE: No, it's because they don't -- irrespective of how you call that, it's because the systems aren't designed for the user to be able to

select the charge. Ferro, by the use of a GUI slider input in the vehicle, Ferro is a system -- I'm sorry.

JUDGE WEATHERLY: What about the proposed combination of teachings from the prior art? I'm trying to get -- I've been unable to distinguish this argument of the prior art doesn't teach or suggest a slider from the claim interpretation issue on amount of charge. To me, they've always been linked together.

MR. TECCE: Okay. So --

JUDGE WEATHERLY: But I hear you saying they're not linked together. There is a different reason.

MR. TECCE: There is a different reason. So let's do it this way. Let's say amount of charge can be a selected range, okay? The system in Ferro, you put in the selected range, desired range, as an input into a system so that when the car pulls up to the charge station and plugs in, it gets charged in accordance with the principal's parameters that have been pre-programmed, okay? So there's no need. The decision about what the charge is going to be was made long before --

JUDGE WEATHERLY: But Ferro doesn't disclose a slider of any kind.

MR. TECCE: Right. Ferro doesn't disclose the ability of the principal or user to input a desired charge level no matter how you decide to find amount of charge, other than in connection with the programming. So there'd be no reason in Ferro to add a slider.

JUDGE WEATHERLY: When you say in connection with the programming, you mean the user input that defines the minimum and maximum charge level? Sorry.

MR. TECCE: Right. All that's done as part of --

JUDGE WEATHERLY: But the user does that, right?

MR. TECCE: Correct.

JUDGE WEATHERLY: Okay.

MR. TECCE: He does it before -- he does it using a keyboard and parameters and information that's put in.

JUDGE WEATHERLY: Is there really an indication in Ferro that that's done before you park and can't be changed while you're parking?

MR. TECCE: There's no indication in Ferro that the user can adjust the amount of charge other than in connection with the input of the --

JUDGE WEATHERLY: But that input can be provided at any moment, right? Even while the vehicle's charging.

MR. TECCE: It could be. But again, we're looking for motivation in Ferro to put in a Graphical User Interface that has a slider.

JUDGE WEATHERLY: Okay. Well, to me, I've always thought of motivation arguments being directed to a slightly different concept than the slider. Right now, what I'm trying to get at is really understanding the basis for your argument that the slider isn't taught. And I think I'd always linked that with us having to agree with your interpretation of minimum charge.

MR. TECCE: No.

JUDGE WEATHERLY: But now what I hear you saying essentially is that none of the references individually describe this type of slider. And

my reaction to that as a professional decider is that that's not the argument that the Petitioner is making. The argument that the Petitioner is making is that the combined teachings of three prior art references do suggest the claimed slider.

And I hear you attacking the individual references as being fatally flawed individually. But there's no requirement that they have -- there's not an anticipation challenge.

MR. TECCE: I understand that. But there has to be some suggestion or teaching in any one of these references --

JUDGE WEATHERLY: And we're back to the motivation and whether the motivations that Petitioner has identified are sufficient.

MR. TECCE: But it's not just motivation, okay? The evidence that they've used to claim there's a road map is that they try to jam teachings from one reference into another reference that doesn't need it. Why does Ferro --

JUDGE WEATHERLY: We call that a kind of -- the Petitioner hasn't shown that the features from one reference could be bodily incorporated into another. And generally, we find those arguments to be weak, because the law doesn't require that the Petitioner prove that Letendre's slider could physically be incorporated into Ferro's system that has a keyboard input.

MR. TECCE: Well, there's two parts to that, right? Whether it could be or whether it would be, right? We're not arguing that. I mean, somebody of ordinary skill in the art could do that. But why would they? Why would you take a vehicle -- a sensor, a parking sensor, and put it into a system that is presupposed and works upon the theory and only teaches that the car gets

plugged in and that's what starts the charging? So why do you need to know?

Why does a person of ordinary skill in the art need to know what Oyobe teaches about vehicle sensor when combining with Farrow that teaches expressly, because we have to work within the four bounds of what the reference teaches, teaches that the charging starts in accordance with a predetermined plan, which I'm sure may or may not be able to be amended. There's no need. But my point is that it starts when the car gets charged in. So why do I have to have a vehicle sensor for a system that starts when the car is at a charging station and plugged in?

JUDGE WEATHERLY: I think Petitioner's response to that would be, Oyobe explains why you want a sensor in the car that tells the system and the user, I'm near a charging station so that they can charge the car.

MR. TECCE: But it doesn't tell them until they've gotten out of the car. It doesn't tell them until they've gotten out of the car, right?

JUDGE WEATHERLY: I'm not sure that that's true, but --

MR. TECCE: Well, it talks about seat sensor, state of charge, and ignition off.

JUDGE WEATHERLY: Yeah.

MR. TECCE: So either you're parked at a charging station or you're not. It reminds it, hey, by the way, you're by a parking station, charge in, charge off. But again, you don't need that to be combined with Ferro for the reasons I've already said.

JUDGE WEATHERLY: Okay.

MR. TECCE: All right. And as far as Donnelly is concerned, Donnelly does teach a GUI, a Graphical User Interface, that shows a slider, that shows -- not a slider, but shows, in essence, the state of charge, all right? No different than the claim elements that talk about having a Graphical User Interface in the vehicle alerting us to the conditions.

JUDGE WEATHERLY: What I hear you saying is that Donnelly does depict the first portion and second portion of the charge indicator that's claimed.

MR. TECCE: Yes.

JUDGE WEATHERLY: Okay.

MR. TECCE: You know, we haven't really talked about this because, I mean, I think the art's fairly analogous. But remember in Letendre, the whole thing in Letendre was that when the utilities offload power, when the car's being -- when the electricity's being taken out of the vehicle, the user gets to set a limit as to where he wants to be able to go in the morning or when things stop.

I mean, and I could -- the claims require -- I'm talking about charging a battery. Letendre does talk about charging. It's got a charger light indicator on there, but again, with respect to why we started to put all these things together, you know, that is a difference that cannot be ignored.

They don't -- the Petitioners go through no reason as to why they would match up the linear scale with the non-linear scale of Letendre as shown in slide 28. I think I've already talked about this.

JUDGE WEATHERLY: This being what's shown on slide 34?

MR. TECCE: Yes, slide 34, talking about Oyobe, vehicle position detecting system does not provide information that enables identifying intention to charge. That was a response to arguments that had been made by the Petitioner in their petition. But the second point is more important. On slide 34, Oyobe's intention is for the driver to get out of the vehicle, contrary to the alleged motivation to combine with Ferro. And Oyobe is not akin to the wireless interrogation vehicle sensor example in the '338.

JUDGE WEATHERLY: I don't know if you're seeing the clock.

MR. TECCE: No, I'm watching the clock.

JUDGE WEATHERLY: Okay.

MR. TECCE: I'll finish with this as shown on slide 37 for Oyobe. I mean, Oyobe is akin to having the low fuel light go on in a gas car after you've pulled up to the pump, after you've decided to put gas in the car, and after you've gotten out of the car. So it adds nothing to Ferro. And I think that's it for me for my time.

JUDGE WEATHERLY: Okay. Got you with exactly five minutes remaining for rebuttal. Are those your slides, Petitioner?

MS. RAW: These are my slides.

JUDGE WEATHERLY: They're back. So we're -- which one is this? I think that might have been slide 23, but I don't know if that's where you're wanting to pick up, or --

MS. RAW: Slide 25 is the --

JUDGE WEATHERLY: Twenty-five?

MS. RAW: -- my slide I'm currently planning on using.

JUDGE WEATHERLY: For my co-panelists, we're having trouble with the AV equipment at the moment. That's what's causing the pause and keeping me quiet.

(Pause.)

MS. RAW: This isn't 25, but I'm happy to just -- there. Okay. Perfect.

JUDGE WEATHERLY: Slide 25?

MS. RAW: Yes.

JUDGE WEATHERLY: Okay.

MS. RAW: I heard Patent Owner make a number of arguments about the combinations presented. I just want to address a few of those combination arguments briefly.

JUDGE WEATHERLY: Sure.

MS. RAW: So the first argument I wanted to address was the combination with Oyobe. And the statement was made that, well, Ferro doesn't need Oyobe. What is it adding? This is actually a very, very closely related to an issue that was decided in a prior IPR. There was a prior IPR where it was Ferro being modified, and it was being modified in the same way to add this signal that's identifying, hey, you're in a parking space.

JUDGE WEATHERLY: In view of Oyobe?

MS. RAW: It wasn't in view of Oyobe. But the question was, would you add to Ferro -- would Ferro want a signal saying you're in a parking space? And that is the basis of our combination.

JUDGE WEATHERLY: Okay.

MS. RAW: And the decision was made in that IPR, and I do have your IPR number, which is 2023-00062. The decision was made there that you would absolutely want to add that to Ferro. And part of the basis of the decision there was that Ferro describes that you could wirelessly charge the vehicle, but it doesn't really provide details on how you would implement wireless charging. And so --

JUDGE WEATHERLY: You can't wireless charge unless you're close enough to the inductor.

MS. RAW: Right. And so that was the motivation that was presented there. That's the motivation presented in this case as well.

JUDGE WEATHERLY: Okay.

MS. RAW: And so for that reason, there is a motivation to add Oyobe, which is not at all based on hindsight. Similarly, very briefly, in the combination of Donnelly and Letendre and Ferro, we start with Ferro. You have a system that teaches that the user is inputting their maximum and minimum charge amounts. It's got a display. It's got input-outputs. It's like a keyboard that says you could use a mouse, all of those things. But it doesn't show you what the display looks like.

JUDGE WEATHERLY: Right.

MS. RAW: It's a system where the user would want to know how much charge is in their vehicle. Of course, you want to know how much charge is in your vehicle. But there's no depiction of a GUI showing you how much charge is in your vehicle. So of course, a POSITA is going to go look to prior art, how might I set up a display to show me what charge is in my vehicle?

JUDGE WEATHERLY: When you say, of course, a skilled artisan is going to go look to the prior art, I think that's where the Patent Owner wants to criticize you. The reason that the Patent Owner says a skilled artisan wants, quote, unquote, wants to go look at the prior art, in Patent Owner's view, is improper hindsight. That it's the claims that are acting as a roadmap for what you're searching for in the prior art. How do you respond to that criticism?

MS. RAW: My response is that at no point during any of our motivations to combine do we reference the patent, because we don't have to. Because separate and apart from that patent, if I just said, hey, here's your vehicle, drag it to your destination, you'd want to know, do I have enough charge to get to my destination? How are you going to know that? You're going to need something on a GUI or display telling you what's in your vehicle. I mean, that's been true of how much gas is in your car, how much charge is in your EV.

That's something you need to tell the user. This isn't an optional feature. It's just something that the details of was not already described in Ferro. But if you're going to implement this as a real car, of course you need that. So doing it as a bar graph, frankly, probably already one of the obvious options that a POSITA would have looked to. But nevertheless, we have Donnelly's specific depiction of what that could look like. Similarly --

JUDGE DEFRANCO: Counsel?

MS. RAW: Yes.

JUDGE DEFRANCO: Counsel, does your expert testify to that?

MS. RAW: To which point?

JUDGE DEFRANCO: To the fact that somebody looking at Ferro and seeing that it discloses an input-output device would naturally look to another reference to see what type of device could be used as an input-output, as a slider.

MS. RAW: Yes. So there's two pieces where the expert discusses that. So first is Donnelly specifically being a touchscreen as the input-output device. There's discussion of our expert doing that. But then you get to the slider part. And on the slider part, we already have Ferro saying the user's putting a max and min. And our expert discusses what are the different ways you could input a max and min.

He said, you know, one option our expert discusses is how you could, you know, just have a number that you're, like, tapping up and down on arrows to go up and down. I imagine people, like, resetting their clocks after daylight savings time. That's obnoxious. We would not want to do that. So what are some other options? And he talks about how common sliders were at the time during his deposition.

He actually had an example of some code for a slider that he was personally familiar with from when he was designing a GUI for an electric vehicle before the time of this patent. And why you would actually want to use the slider because it's easier to use and why it would have been obvious. All of that information is in the declaration. And then he further supported it in his deposition.

JUDGE DEFRANCO: Right. So it's more user-friendly. What do you say to Patent Owner's argument that Ferro is only concerned with a vehicle that's in a parked condition at a charging station?

MS. RAW: The claims do require this vehicle to get a signal indicating it's parked at a charger. So I think it's fair to start from the supposition that we're at a charger. I don't know that there is any requirements in the claim that say you couldn't, you know, leave or have moved. But nevertheless, I don't think it changes any of my arguments whether the vehicle remains parked here or not.

So that answer already covered the further point I was going to make, which was that if you just have Ferro, you're going to ask the question, how am I going to input my maximum and mins? And why would you use a slider? And all of that evidence has been provided in our declaration.

JUDGE WEATHERLY: Ferro describes it.

JUDGE DEFRANCO: Does --

JUDGE WEATHERLY: Go ahead.

JUDGE DEFRANCO: Does Patent Owner's expert rebut what you just said? I mean, to what extent? You know, either weak rebuttal or strong rebuttal?

MS. RAW: So when it came to the slider, the main argument from the deposition made by their expert was that you're not using the slider to set a mileage at all because the slider is actually setting a percentage, and then the system is calculating the mileage, which was an argument I already addressed earlier today.

JUDGE DEFRANCO: All right. But it was all about the amount of charge with the medians?

MS. RAW: It was.

JUDGE DEFRANCO: And that's a claim construction argument?

MS. RAW: Correct.

JUDGE WEATHERLY: Is there any evidence -- I apologize for not knowing this detail from the record yet, but is there evidence in the record from the expert about what's going on under the hood, so to speak, in terms of the charge, the state of charge? I doubt that any real system is looking at percentage, but that percentage is just a calculation based on data that's collected by the system.

Probably voltages, maybe some other things, but what sort of evidence, if any, exists in the record about what's going on under the hood in terms of, quote, unquote, amounts of charge, in the real engineering sense?

MS. RAW: Yes, there was a lot of discussion about that in Mr. Andrews' deposition. And so in terms of under the hood, he answered some questions about how practically --

JUDGE WEATHERLY: Maybe I should say under the floor in EE.

MS. RAW: Sure. But how practically -- like how are we measuring it? You know, he made the observation you don't measure percents.

JUDGE WEATHERLY: No.

MS. RAW: Right, that's not what we're measuring. So percent is itself also a calculation, and then actually both experts discussed and substantially agreed on what criteria are going to go into these calculations. Like, what do you have to know about your system to be able to determine the mileage or to determine the percentage? Those were discussed in detail in both depositions, actually.

JUDGE WEATHERLY: Okay. Okay.

MS. RAW: Yeah. So final point, there were a few allegations by Patent Owner that an example I used, about 20 miles to get home, was a new argument. It's not a new argument. It is on page 8 and 9 of our Petitioner's reply, and it quotes exactly what I had on the slides.

JUDGE WEATHERLY: I think their argument was that the argument in the reply was new as compared to the arguments made in the petition.

MS. RAW: It was a direct rebuttal to this new position about 1(n) being connected to this pet air conditioner. So it was just a rebuttal to that.

JUDGE WEATHERLY: Okay.

MS. RAW: Unless there are further questions.

JUDGE WEATHERLY: I'm okay.

JUDGE DEFRANCO: Yeah. Counsel, before you leave. So on your slide 7, which is depicting the challenged patents, Figure 7, I believe.

MS. RAW: Yes.

JUDGE DEFRANCO: And I don't think there's been any discussion of what full charge means. I mean, you go into a gas station, you say, fill it up --

MS. RAW: Oh, full charge?

JUDGE DEFRANCO: -- what does that mean to you? Right.

MS. RAW: Full charge and the battery maximum. I think it's equivalent to, you know, if Ferro's -- you wanted to set your maximum charge to the maximum amount of charge your battery could possibly hold, which isn't advised, by the way. Don't do that with your devices. But if you did, I think that's what we'd be referring to.

JUDGE DEFRANCO: Is that a percent? Is it mileage? What is it?

MS. RAW: That's an interesting question that I would pass to my expert if he were here on what is the full charge of a battery, and can you truly get to full charge depending on conditions. That's responsive. If you're talking about how would you measure full charge, I think that could absolutely be measured in mileage. If you buy a vehicle, it tells you, you know, what's your maximum charge range.

JUDGE DEFRANCO: Right. Because usually vehicles come with a range. You know the range of those batteries.

MS. RAW: Right.

JUDGE DEFRANCO: Okay. All right. Thank you.

MS. RAW: Thank you.

JUDGE WEATHERLY: Thank you.

JUDGE DOUGAL: Sorry, I have one question.

JUDGE WEATHERLY: For Petitioner?

JUDGE DOUGAL: Yeah. Sorry.

JUDGE WEATHERLY: Okay. No worries.

JUDGE DOUGAL: Going back to Oyobe --

MS. RAW: Yes. Oyobe is my best guess.

JUDGE DOUGAL: Oyobe, okay. So in the petition, talking about the reasons to combine, we've got that Ferro discloses wireless charging and Oyobe teaches a sensor. When you get to the charger, it knows when you're at the charging station. The first statement is predictable results, but then you also talk about allowing the user to instruct charging without exiting the vehicle and without physically interacting with the charging station. Is that from a particular teaching of Ferro or Oyobe, or is that just a determination

that your expert made that would be a benefit of the combination? Where is that coming from?

MS. RAW: I believe it came from Ferro. So we're citing there the Ferro 109. I believe Ferro was the one who discussed the intention to charge, which is why it was quoted. Let's see if I have that here. Yeah. So Ferro, in 109, it describes the electric vehicle arrives at charging station 403 and indicates an intention to charge, discharge, or store electric energy on an electric vehicle 400. It just doesn't describe any particular signal or what that intent to charge is.

And so that was another part of the basis of the combination is Ferro already teaches I'm pulling up to a charger, there's an intention to charge, then charging is going to start, but it just doesn't describe what signaling goes between the devices. And that is a place where Oyobe's teaching fills in.

JUDGE DOUGAL: So is it Ferro's intention to charge that kind of implied that you want to charge without interacting with the device in the vehicle and without physically interacting with the charging station? Is that what you're saying?

MS. RAW: Yeah. So can I also read just the next sentence in paragraph 109, just right after where I stopped? Ferro goes on to say, electric vehicle 400 may indicate an intention to charge to -- sorry. An intention to begin a charging transaction by plugging into an electric outfit for charging and de-charging the power, and it continues on.

But the idea is if you're plugging in and that's your intention to charge and it starts charging, in the context of wireless charging, which Ferro also

mentions, pulling into the parking station and then having the sensor that says you're next to a charger is the equivalent to plugging it in in that scenario, and so would be equivalent to this intention to charge that kicks off the process.

JUDGE DOUGAL: Okay. That was it. Thank you.

MS. RAW: Thank you.

JUDGE WEATHERLY: So I think we just dragged you past your time.

MS. RAW: Take it off the next session we have.

JUDGE WEATHERLY: No, we don't have to do that. But I want to make sure that the other side, if they want to have extra time, that they have an opportunity. I think my estimate is that maybe about three minutes worth of extra time. And Patent Owner, so I'm going to set your time for eight minutes. I don't know if you're going to use eight minutes or not.

MR. TECCE: I probably will -- I'll take it, but I won't --

JUDGE WEATHERLY: Feel free to use it or not.

MR. TECCE: You know, one of the big lies is I won't use it. I'll be brief. Let me remember how to get this back up. All right. A couple of things. That conversation that just took place is the point that I was trying to make. Ferro knows that it's at a charging station, so it doesn't need the Oyobe sensor to know that it's at a charging station.

And if you read from paragraph 109 of Ferro, which Counsel read, it said, this is -- let me back up. One other thing. Remember, Ferro is a financial transaction system. That's what Ferro is. And it's designed to create parameters so that when you go to charge, there's a number of things

that have been considered that have been put into it so that when it gets to the charging station and it initiates a charge by either plugging in or, interestingly, as it says in paragraph 109, electric vehicle 400 may indicate an intention to begin a charging transaction.

Because, again, this is a financial transaction system. By plugging into an electric outlet for charging/discharging electric power, selecting an option for charging/discharging an electric power at an input/output device associated with charging station 403, informing an operator or attendant of charging station or otherwise indicating a desire to begin a charging transaction. So it's there. Ferro teaches that it's there before the transaction begins.

And Counsel made a comment that nowhere did Tesla cite to the slide, you know, they never relied upon the claim in going through and picking it. I mean, it seems they never referenced it. Well, so there's no direct evidence, but there's substantial circumstantial evidence that that's what they did. And there is some direct evidence. If I go to slide 51. Am I not up?

JUDGE WEATHERLY: No, you're not.

MR. TECCE: Why is that not coming up?

JUDGE WEATHERLY: I think we need some assistance with the AV.

MR. TECCE: Did I break it?

PARTICIPANT: No, it fell asleep.

MR. TECCE: Thank you. Slide 51. It was Dr. Andrews. Scott Andrews was Petitioner's expert. Question by Mr. Pomeroy, counsel for

Patent Owner, is there a motivation to add Letendre to Donnelly separate and apart from Ferro? Witness, well, no, I haven't really provided a separate combination of Letendre and Donnelly. Question, similar to that, do you provide any specific motivation in your declaration to combine Oyobe with Donnelly? No.

So those are some of the references that were put together without any testimony as to the reason for it. I stand by what I said with respect to, there's no reason to put a vehicle sensor indicator of Oyobe with Ferro. And I think that's it. Thank you.

JUDGE DEFRANCO: Counsel, I have a question. So you're saying that Oyobe and Donnelly are incompatible with each other?

MR. TECCE: Well, they are incompatible in that the system of Oyobe doesn't activate until it senses that the operator has gotten out of the vehicle, and that it was near a charge station. What I'm saying is that because Ferro's system requires that -- teaches that the car engages in the financial transaction regarding the charging parameters when plugged in or at a charging station, there's no reason -- there's no need to add Oyobe. Why add it? It does nothing. Ferro already had that.

JUDGE WEATHERLY: If I heard my co-panelist's question correctly, I think he asked you whether there's some sort of incompatibility between Donnelly and Oyobe, not Donnelly and -- not Oyobe and Ferro or Donnelly and Ferro.

MR. TECCE: I thought I started my answer with it's not that they're not incompatible. Because, I mean, they both talk about charging electric vehicles.

JUDGE WEATHERLY: The question is directed to a different "they" than your answer was directed to.

MR. TECCE: Okay. Then I misunderstood, Your Honor. What's the they? I'll get it right.

JUDGE WEATHERLY: I think -- I'll let my co-panelist clarify if he wants to. I thought he asked you about compatibility between Oyobe and Donnelly.

MR. TECCE: You know what? If he did, I apologize --

JUDGE DEFRANCO: That's correct.

MR. TECCE: -- I apologize. I thought you said between Oyobe and Ferro. I apologize.

JUDGE WEATHERLY: Well, that was apparent from your answer.

MR. TECCE: Obviously. So let me ask, is there an incompatibility? It's not that there's an incompatibility. But there's nothing in Oyobe that the system of Oyobe that would benefit from the GUI device in Donnelly, which is both an output and an input device. Because what Oyobe does is when you get to a charge station, it activates literally a physical device, and you get out of the car, activates a physical device that says the state of charge is below a certain level, you're out of the car, and the car's off.

So at that point, what Donnelly teaches is that when the amount of electricity gets below a certain point, it gives an indication on that GUI interface in the locomotive cab. Well, there'd be no reason to do that with Oyobe, because all the cars -- the car's already sensed that there's a low charge. It's already sensed that the car's off, and it's already sensed that you're out of the car. So there's no need to give a low -- Oyobe already gives

an indication that there's a low charge. So what does Donnelly adding to Oyobe accomplish? Did I answer it that time?

JUDGE DEFRANCO: Yes. I understand your position.

MR. TECCE: Okay.

JUDGE WEATHERLY: Okay. I believe that brings us to the end of what I'll describe as the opening session that's dealing with the '032 IPR prime end. My proposal, and I'm flexible about this, is to take maybe like a ten-minute break. I'm looking at the screens at my co-panelists to see -- seeing some shrugs that indicate that that sounds fine. I'd like at least a bathroom break, and want to offer that to everyone if that's something that's desirable. See some shrugs that are -- some ambivalence, and others like, yeah, please.

So let's take a ten-minute break and shoot for being back here let's say 1:05. That's a little bit more than ten minutes, but see you all soon. And then we can pick up. It'll be 30 minutes per side. We can reserve rebuttal time as we've done before if you'd like. Okay. We'll take a little recess. Thanks.

(Whereupon, the above-entitled matter went off the record at 12:52 p.m. and resumed at 1:05 p.m.)

JUDGE WEATHERLY: Back, everybody. Be seated.

MR. TECCE: Your Honor, Mr. Guerriero has to go back to our hotel. So it's okay if he leaves? I don't want to be disrespectful.

JUDGE WEATHERLY: Sure. Sure. Somehow I've misplaced my glasses. It's okay. I'll pretend I'm young again. Oh, I fell into a rabbit hole up here in my jacket. Petitioner, I think you're going to be opening the

argument. We're supposed to be dedicating our argument to the '152 and '153 IPRs to the extent that there's something specific to be focusing on there. 30 minutes is the allotted time. How much time would you like to reserve for rebuttal, if any?

MS. RAW: Ten minutes, please.

JUDGE WEATHERLY: Ten minutes, okay.

MS. RAW: And then we also just wanted to confirm that the transcript from the hearing we just had will also be entered into the record for these proceedings, so we don't have to repeat anything.

JUDGE WEATHERLY: That's perfectly fine from my perspective.

COURT REPORTER: It's going to be all one transcript.

JUDGE WEATHERLY: Perfect. Thank you.

MS. RAW: Perfect.

JUDGE WEATHERLY: So whenever you're ready, you can begin. It looks like my co-panelists are locked and loaded and ready also.

MS. RAW: Okay. May it please the Board. I'll start on slide DX-33. The '788 and '987 petitions, likewise, one has three grounds, one has two grounds. They do challenge all claims of each of those patents. If we could turn to slide DX-34. I won't spend time here, but I thought it would be useful to provide reference for the Board on which arguments do overlap. So the amount of charge and the slider arguments, there's some overlap there. And then otherwise, the main overlap is with dependent claims. So on slide DX-35, as mentioned, the amount of charge --

JUDGE DEFRANCO: Counsel?

MS. RAW: Yes.

JUDGE DEFRANCO: Counsel, is it your position that the amount of charge should be interpreted consistently across all three cases?

MS. RAW: That is correct.

JUDGE DEFRANCO: Is the term amount of charge at issue in any of those earlier cases, aside from these three IPRs?

MS. RAW: The term amount of charge appeared in prior claims and prior IPRs, but it was never discussed. And --

JUDGE DEFRANCO: Okay. Should that term be -- should it be interpreted consistently across these IPRs as well as those earlier IPRs that were the subject of a Federal Circuit review?

MS. RAW: Yes. I was not counsel in those proceedings, and so I haven't read all of the prior patents. But unless there's some compelling reason otherwise, which I am not aware of, they would be -- it would be interpreted consistently.

JUDGE DEFRANCO: Okay. Thank you.

MS. RAW: In terms of amount of charge argument, it was just two minor notes, which is that there is an independent claim in the '987 that amount of charge doesn't appear in. So obviously amount of charge would not appear to that claim and its dependence. And then finally, this did come up briefly in the first hearing, but there is a limitation in the '788 patent. We label it 1(b)(iv) in the petition, and it requires wherein the desired charge level of the battery represents a specific amount of charge desired to reside in the battery.

In our view, this is yet another instance where they're using a charge level and an amount of charge interchangeably. Here it says one represents

the other. That was the extent of the differences between the patents. Otherwise, same arguments apply as already heard today.

That moves me to slide DX-36. There are four new disputes in the '788 and '987 IPRs. First three disputes apply to both of the new petitions, and the final one is just based on the fact that Sutardja is used as a reference in the '788 instead of Ferro. Turning to slide DX-37. The first difference is both of the two additional IPRs use the phrase unitary vehicle charge indicator element. So the term unitary is new to these two patents. It wasn't in the '338.

Our definition in the petition was that that at least includes a bar graph comprising charged and charged and slider portions as illustrated in Figure 7. My understanding is that Patent Owner has misread our proposal and they're trying to read it as we're limiting the term unitary vehicle charge element to just what's in Figure 7. That's not the case. We say at least includes. So I don't think there's a dispute that if it looks like Figure 7, that would be a unitary vehicle charge element. And they can certainly correct me if I'm incorrect there.

Turning to slide 38, what we map in these petitions, just like the '338, is you've got Donnelly's bar graph and you've got Letendre's slider used on Donnelly's bar graph. The '788 there is your base reference, your '987 has Sutardja. But other than that, same arguments we already made applied. So to the extent that having a slider on a bar graph as taught by Donnelly, it's a unitary vehicle charge element. That's exactly what Figure 7 has, and so our art already teaches the unitary vehicle charge indicator element, regardless of what else unitary may add to the claim.

Are there any questions on the unitary vehicle charge element piece? If not, I'm moving on to the next argument.

So that takes us to DX-39. Another new argument raised in these additional two IPRs is printed subject matter. So the claims require in that unitary vehicle charge element that there be a first portion indicative of an amount of charge residing in a battery of the electric vehicle, and a second portion indicative of an uncharged capacity of the battery in the electric vehicle.

Before I discuss the printed subject matter argument, I'll also note our art teaches this claim amount element, regardless of the Board's decision on the printed subject matter argument. But nevertheless, what we have here is a claim that's claiming the contents of information, a charged portion and an uncharged portion, which meets step 1 of the printed subject matter doctrine.

And then at step 2, there's no functional relationship between the substrate, so the GUI here, the screen, and that first portion and second portion. And there's also not an interrelationship between this first portion and second portion and the rest of the claim.

JUDGE WEATHERLY: It's not immediately apparent to me how this limitation differs from the first and second portions that are recited, for example, in element 1(h) in the '338 patent.

MS. RAW: I would agree with that.

JUDGE WEATHERLY: So you just didn't make this argument in connection with that?

MS. RAW: That is correct. As was observed during questioning on the '338, there were a lot of disparate claim elements and combinations to be

discussed. And at a certain point, you make decisions based on word count limits.

JUDGE WEATHERLY: Okay.

MS. RAW: The only argument Patent Owner makes on step 2 about relationship to the rest of the claims, they say there's a relationship between that first portion and the second portion and then the slider. They suppose that the slider needs to be on the bar graph, and so say there's therefore a relationship because the slider is showing you relative to the amount of charge.

JUDGE WEATHERLY: So maybe the most interesting ex parte appeal decision I've ever written involved printed matter doctrine. That was 13 years ago and it was a plurality. So there were three different opinions written and I was kind of a rookie at the time. But is the reason that you're making this printed subject matter argument, does it turn on the use of the word indicative? I mean if this said, for example, a first portion capable of displaying an amount of charge, then there wouldn't be a printed matter issue, would there?

MS. RAW: Am not sure --

JUDGE WEATHERLY: It would be functionally, in other words, be more like the measuring cup case. You know what I'm talking about?

MS. RAW: I do. I'm not sure that that change makes it more functional.

JUDGE WEATHERLY: Okay.

MS. RAW: Like whatever function there would be for displaying an amount of charge seems like it would be the same whether it's indicative or capable of.

JUDGE WEATHERLY: Well, the reason I'm focusing on the word indicative is there's a way to read indicative as meaning that the claim requires a value to be shown. And that the value is not -- there's no functional relationship between the value and the substrate or the display. Nobody loves this doctrine. I'll just let you in on a secret here among us professional deciders that I refer to myself as. But I'm trying to understand why is this printed matter?

MS. RAW: So say from our view, when you look at a claim element like this one --

JUDGE WEATHERLY: More accurately, why is this directed to the content of information?

MS. RAW: But when you look at a claim element like this one and all it's claiming is something -- some amount of information that's being given to the user. Here, it doesn't even say that has to be a bar graph or it could be numbered. It doesn't provide that detail. But we're conveying information to a user in some form. I look at printed subject matter in that situation.

There's no relationship to the substrate because there's no relationship to the GUI. So substrate would be what it's displayed on, right? So we've got a screen, in this case, a touchscreen. There's nothing about the touchscreen that is functionally related to displaying information on the screen. Could be numbers, could be a bar graph, whatever.

So then the only saving grace here would be if it's interrelated to the rest of the claim. And there too, the only argument is, well, it would be interrelated with the slider. There's no particular claimed location of the slider in these claims. It just has to have one.

JUDGE WEATHERLY: Okay. Let me ask, is there any claim for which this argument is the only argument you're making?

MS. RAW: There's not.

JUDGE WEATHERLY: Good.

MS. RAW: With that, I think I'll move on then to DX-40, which talks about Seelig and its control signal. So Seelig is a reference that was not in the '338. Seelig is used for the limitation. Transmit a control signal to a parking space charge device that starts a charging in accordance with the charging schedule of the vehicle.

So as we had previously discussed, let's talk about Ferro first. So you've got Ferro, which already taught in 109. We talked about that in the first hearing, that you're pulling into a charging station and you're not using wireless. You're going to plug in your battery. And it explains that charging is going to begin.

For that charging process to begin, you're going to have to send a signal to start the charging. It just doesn't go into detail about what the actual signals sent back and forth to start the charging are. It just describes that charging has begun and here's how we're going to do it. And, you know, here's all the financial pieces of that.

Seelig teaches a charge initiation signal, which starts charging for a predetermined time. And that was a quote from Patent Owner's brief. They

agree that that's what Seelig teaches. Patent Owner also is not disputing that Seelig's charge initiation signal is transmitted to a parking space charge device. So Seelig meets literally the limitations of this claim.

And there's a motivation to combine because Ferro already needs to have this signal that is going to the charge device to start charging. It just doesn't provide the signal-level detail. So we look to Seelig to provide that detail on what that signal would look like. If we could turn to slide DX-42.

JUDGE DEFRANCO: Counsel, do you make any argument that Ferro inherently discloses this limitation?

MS. RAW: I believe we do in the '987 IPR. Because you would have to have a signal. But that said, Ferro provides a lot more detail about its embodiments where you're physically plugging in the car. It provides a lot less detail about an embodiment with a wireless charging system. And so in the context of wireless charging, Ferro didn't get as close. And you'd have to look to secondary references for how do I actually implement that? And that's something that a POSITA would have been motivated to do to implement wireless charging in the context of Ferro.

JUDGE DEFRANCO: Okay. Fair enough.

MS. RAW: So when it comes to Sutardja, Sutardja, very similar, already had a user setting charging preferences for charging the battery, already has a control module that's already receiving data from a user, and it already has charge monitoring module that's informing your control. The quote there was when the battery is charged to a predetermined level, for example, Sutardja, their example was full charge. That was indicated by their charging parameters.

So in the context of Sutardja, likewise, you already have a system where you're pulling up your vehicle, you're charging your battery. It just doesn't provide that signal-level detail on how charging is initiated.

Turning to DX-43, the other arguments made by Patent Owner with respect to Sutardja, it's the same argument we discussed for the '338, which is why are you going to combine Donnelly and Letendre? And the same arguments apply for why you would make that combination. Sutardja, there's nothing different about Sutardja that impacted those obviousness combinations. Those were the only new positions in the '788 and '987 IPRs. So unless there are any questions, I'll reserve the remainder of my time.

JUDGE WEATHERLY: I was wondering how you were going to use five minutes on your slide 44, the conclusion slide. I don't have any further questions right now. My colleagues are shaking their heads.

JUDGE DEFRANCO: I do not.

JUDGE WEATHERLY: We had you with five minutes left, so 15 minutes remaining for rebuttal if you want to use it. How much time would you like to reserve for rebuttal, counsel, if any?

MR. TECCE: I'm not going to use all of my time. How much time do I have?

JUDGE WEATHERLY: Thirty minutes.

MR. TECCE: Yeah, I'm not going to use that.

JUDGE WEATHERLY: I didn't think so.

MR. TECCE: I mean, I'll be close.

JUDGE WEATHERLY: How much time should I put on the clock?

MR. TECCE: Put five. I'll reserve five.

JUDGE WEATHERLY: So put 25 minutes on the timer.

MR. TECCE: Yes, please. Thank you.

JUDGE WEATHERLY: All right. Great. Did I break it again?

PARTICIPANT: It fell asleep again.

MR. TECCE: At least this time I know how to get it up. I wanted to address the last, I believe the part I was listening to was the combination of Donnelly and Letendre. I believe it was the last conversation.

JUDGE WEATHERLY: With Sutardja?

MR. TECCE: I'm sorry?

JUDGE WEATHERLY: With Sutardja?

MR. TECCE: I think that was -- hold on, let me pull up here. Let me look, Your Honor. I just want to make sure.

JUDGE WEATHERLY: Yeah. Talking about, I think, maybe a slide --

MR. TECCE: Yeah. So there was -- for the '788, it was Sutardja, Donnelly.

JUDGE WEATHERLY: Right. Slide 43 from the Petitioner.

MR. TECCE: I believe so, yes. So with respect, it begs the question, understanding that Letendre does disclose either a physical or possibly a web-based slider to select a range, desired range. Donnelly is not in any way -- does not in any way need, use, or disclose the ability to select a range. It's not a device that's designed to make any type of charge amount, no matter how you describe it.

JUDGE WEATHERLY: Does Sutardja describe that?

MR. TECCE: I don't remember. I don't think so. I don't remember. I'm not going to say I don't think so because I don't remember.

JUDGE WEATHERLY: Okay. Or Ferro?

MR. TECCE: Ferro does not. And in fact, here's the thing about Ferro. Exhibit 104 is Ferro from the -- I've pulled it up. It's Exhibit 104 from the '032, but it was also used in either the '152 or the '153. There is -- Letendre is a transaction -- Ferro is a transaction system. And if you look at Figure 1 --

JUDGE WEATHERLY: You have --

MR. TECCE: -- there's an electric -- yeah.

JUDGE WEATHERLY: I want to make sure for the record you've got Ferro on the screen right now.

MR. TECCE: I do. I have Ferro, Exhibit -- which was marked in the '032, but was also used in either one of the '153s. It's Exhibit -- it was Exhibit 104 in 2025-00032.

JUDGE WEATHERLY: By Exhibit 104, you mean 1004?

MR. TECCE: I do, Your Honor.

JUDGE WEATHERLY: Okay.

MR. TECCE: I apologize. 1004.

JUDGE WEATHERLY: I'm just clarifying the record. That's all.

MR. TECCE: I'm sorry. If there was an Exhibit 104, I apologize. I didn't mean to reference it. It's an electric vehicle. It's a system. It's a network.

JUDGE WEATHERLY: You're showing Figure 1. The only reason I'm speaking it into the record is because my colleagues can't see the screen that's here in the room.

MR. TECCE: Oh, they cannot. Oh, I apologize.

JUDGE WEATHERLY: No.

MR. TECCE: Oh, I'm sorry. I thought they could. All right. So on the screen is Figure 1 of the Ferro reference, which was Exhibit 1004 in the IPR 2025-00032. And I apologize. I looked for the Exhibit number in the '987 IPR, I couldn't find it. But remember, Ferro is a transaction system where inputs are made by clients on those display screens, which are computers that go in. There is no -- I searched the word display. There is no disclosure in Ferro of any type of a display of the vehicle for either inputting information or inputting charges. So why --

JUDGE WEATHERLY: Display 214 and input-output unit 212 in Figure 2.

MR. TECCE: Right there. Display 214 is shown in Figure 2, which is now up on the screen, input-output. I'll be more than happy we can walk through them if you want, Your Honor.

JUDGE WEATHERLY: No, you don't have to walk through it. I mean, I agree with you that Ferro doesn't have a graphical image of a display, but to say that there's no disclosure of a display is a different thing.

MR. TECCE: Well, but remember, we're talking about a claimed graphic display, unitary in some claims, that displays current state of charge, amount of charge, allows for the input of an amount of charge, current charge, maximum charge.

JUDGE WEATHERLY: Yeah.

MR. TECCE: So there's nothing like -- there's no display whatsoever in Ferro other than the display that's on the computer screen to input the parameters for the financial transaction device.

JUDGE WEATHERLY: I don't think I agree with your characterization. But go ahead.

MR. TECCE: Well, and ultimately that's your decision, Your Honor. But my contention is that there's nothing in Ferro, other than maybe a voltmeter that shows on the dashboard, there's nothing in Ferro that has anything to do with any type of input or indication of any of the parameters that are involved. Maybe just a voltmeter would show how many volts are in the battery. But other than that, there's no disclosure in Ferro of a system in the car that's involved for a Graphical User Interface in the car.

The only display is the display that it discloses, because again, it's a financial transaction system designed so that when a car gets to a charge station and plugs in, it gets charged in accordance with the parameters chosen by the principal, which could include amount of charge, maximum, minimum, all those. But all those decisions were made before the car ever got there.

JUDGE WEATHERLY: Got it.

JUDGE DEFRANCO: Counsel?

MR. TECCE: Yes.

JUDGE DEFRANCO: Counsel, did your expert testify as to what is meant by Ferro's use of the word, or the phrase, input-output device?

MR. TECCE: I don't -- I don't think he did, Your Honor.

JUDGE DEFRANCO: So if he did not, then all we have is Petitioner's expert testifying as to what the meaning of that term is.

JUDGE WEATHERLY: And Ferro itself.

MR. TECCE: Well, and Ferro itself, right? Because it's the reference.

JUDGE DEFRANCO: Right.

MR. TECCE: Well, my argument is --

JUDGE DEFRANCO: I'm just curious, does your expert rebut what Petitioner's expert says about Ferro --

MR. TECCE: I don't --

JUDGE DEFRANCO: -- Ferro's use of the word input-output device?

MR. TECCE: I don't remember. I don't know. I honestly do not know.

JUDGE DEFRANCO: Okay. Well, the record will say what it says.

MR. TECCE: Yes. Slide 24 I used in the earlier one, it's also applicable to --

JUDGE WEATHERLY: This is your slide 24?

MR. TECCE: Yes, slide number 24 is applicable to 2025. I used it in connection with the argument concerning the 00032. It's also applicable in 00153. I won't walk back through it. The same is true with slide 26, which I walked through earlier. I won't waste the Board's time walking through that again. I do want to talk about what's on slide 29. Again, I understand the motivation to combine stuff, but the burden of proof is on the Petitioner to prove unpatentable those issued claims that were actually challenged in the petition review, and for which the Board instituted a review. That burden never shifts to us.

In their reply, the Petitioner indicates, Patent Owner provides no reason why a POSITA, person of ordinary creativity with at least a bachelor's degree in engineering, would have been incapable of resolving any unclaimed implementation details, including a unified scale with basic math. But again, it's not our obligation to prove a negative. And the record, I think, is insufficient to prove that they've established that.

With respect to the motivation to combine, a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was independently known in the prior art. And it's still a law in this country that a combination of elements can be patentable. And care must be taken to avoid hindsight reconstruction by using the patent in suit as a guide through the maze of prior art references, combining the right reference in the right way so as to achieve the result of the claims in suit.

In the Federal Circuit, as established, the claims cannot be treated as mere catalogs of separate parts in disregard of the part-to-part relationships set forth in the claims. They give their meaning. This is, again, on slide 45, along with the citations. The motivation to combine A with B and A with C is not a motivation to combine A with B and C.

I've talked about this at length, so I won't repeat it in slide 46. It lays it out in kind of summary form about the elements from six separate or disparate references. I've listed them there. Petitioner's list of reasons contradict one another from time to time. With respect, again, as shown in slide 46, with respect to modifying Ferro with Oyobe, Petitioner states the motivation is to allow the user to conduct charging without exiting the vehicle. That's at the petition at page 12.

However, with respect for modifying Ferro and Zeigler, Petitioner, one, ignores Oyobe and other modifications, and then two, states that the motivation would be to display a confirmation of the selected mode so that the user can leave the vehicle with peace of mind.

In slide 46, I've put up a number of examples that have to do with IPR number '032 and '153. The alleged motivation, as shown in slide 48, equals an intention to charge while inside the vehicle. Citations are in there. No discussion of other references in motivation with respect to Donnelly or Letendre. An alleged motivation equals user can leave the vehicle to put together -- to use it with the reference Knockeart. Thank you.

JUDGE DEFRANCO: Counsel?

MR. TECCE: Yes.

JUDGE DEFRANCO: I do have one question. Let me ask the same question that I asked Petitioner's counsel. As far as the construction of amount of charge, should we interpret that consistently across all these cases?

MR. TECCE: It's in our brief, Your Honor. I think the law is that we should. And so, I mean, I think I talked earlier with Judge Weatherly about that. I mean, I think that --

JUDGE DEFRANCO: Yes or no?

MR. TECCE: I mean, I think the law is yes. I think that's the law, Your Honor. I think the law is that, yeah, we have to, you know. So as I stand here today, I thought I had a slide about this --

JUDGE DEFRANCO: Well, number one, I don't think that is the law. I think there are certain limitations of that law. And you're saying generally,

maybe that is the law. But there are exceptions. So my question to you, specifically for this family of cases, would you agree that we should be interpreting amount of charge consistently across these three cases?

MR. TECCE: So, Your Honor, you're correct, and I apologize if I implied something different. That's generally the law. With respect to the two patents that have a parking -- that have a limitation regarding parking, I think that in order to interpret the term amount of charge consistent with other elements of the claim, that would have to be an amount of charge in the battery as opposed to a selected desired range.

Because it's always a law, and I think this gets to what Your Honor may have been alluding to when you talk about what's generally the rule. Claims have to be construed, terms have to be construed, consistent with other elements of the claim. So as Judge Weatherly was peppering me, for lack of a better term, about claims that don't have parking, what do you do there? Right?

And so the answer is you may not -- there may not be a claim element in those claims that talks about parking, which I think is a claim element that renders a definition of amount of claim to be a desired range inconsistent with the rest of the claim. Did I answer your question?

JUDGE DEFRANCO: So my understanding of your answer is with respect to the claims that don't have parking, we should interpret the amount of charge more broadly than the claims that do have parking. Is that your answer?

MR. TECCE: It's half of my -- because I haven't looked at specifically the other elements of the claim in -- I think it's the '788 that

doesn't have the parking limitations. I can't, as I stand here right now, I can't point to you to a claim limitation that would dictate that in order to construe range, amount of charge, separate from the arguments that are in our brief, but in order for you to construe amount of charge differently in that patent than you would in the other two.

JUDGE DEFRANCO: Well, when you say differently, do you mean more broadly?

MR. TECCE: Well, do I mean -- well, would it be -- it may be more broad. It may be broader. I mean, I --

JUDGE DEFRANCO: Let me ask. If we adopt Petitioner's construction of range amount -- I'm sorry. Of amount of charge, do you lose?

MR. TECCE: No. For the reasons about --

JUDGE DEFRANCO: Because of the rationale to combine? Okay.

MR. TECCE: Yes. So no. So, I mean, if you describe that as range of charge, there's still no reason to combine. The combinations of these things, quite frankly, are forced. They're driven by the use of the claim as a roadmap. There's a lot of reasons in our brief as to why these elements shouldn't be picked out disparately and put in. I talked about Ferro and Oyobe all day, but there's a lot of others as well. And so, no.

So even if this court was to construe amount of charge, I think -- I do think amount of charge and charge level mean different things. I think the spec is broad enough that we could be -- we're permitted to write a claim amount of charge that is written in such a way with other elements of the claim as to exclude or not cover. But I also think we could have written a

claim that says amount of charge being a desired distance. We could do that. The claim -- the spec was broad enough to do all that. Thank you. Any other questions, Your Honor?

JUDGE WEATHERLY: I have nothing further.

JUDGE DEFRANCO: I have nothing further.

MR. TECCE: Thank you for your time.

JUDGE WEATHERLY: I didn't make a note about how much time you have left --

MS. RAW: It was ten minutes.

JUDGE WEATHERLY: -- but I think it's 15 minutes.

MS. RAW: Oh, well, I won't -- sure.

JUDGE WEATHERLY: I'm going to put 15 on here. Start whenever you're ready.

MS. RAW: Briefly, I'll first provide a citation in reference to the argument Patent Owner made about Ferro not having a display in the vehicle. That was the first I'd heard of that one. But just so it's clearly in the record, paragraph 39 of Ferro answers that question. It was cited in our petition, but it's also cited in the supporting declaration. If you look at the '987 IPR, that's IPR 2025-000153, it's in paragraph 79 of Exhibit 1002, which is our declaration.

But paragraph 39 of Ferro explains that Figure 2, which we're looking at, Data Processing System 200, may also be implemented as a computing device on board an electric vehicle, such as electric vehicle 116 in Figure 1. So that affirmatively answers the question of where is the display or can it be located. Then finally, the last several slides that Patent Owner --

JUDGE DEFRANCO: Counsel?

MS. RAW: Yes.

JUDGE DEFRANCO: I'm wondering if it was Patent Owner's point that the input-output device was not in the display. It was something different. Is that what Ferro is describing? Does Ferro describe the input-output as part of the display?

MS. RAW: So paragraph 39 talks about Data Processing System 200 being on the vehicle. If you look at Data Processing System 200, that's shown in Figure 2, includes both the display and the input-output unit. So they're both in the vehicle to the extent that was his argument.

JUDGE DEFRANCO: All right. Okay. Thank you.

MS. RAW: So the last several slides that Patent Owner presented shows the different references and kind of adds different labels to them based -- broadly categorizing them. Just a reminder, going back to basics here. The question of what art the POSITA would be looking at, what art we can combine, we're going to ask, is it reasonably pertinent to the problem? Is it analogous art? And those are the questions and that's how we should be asking, are these proper references to be looking at in the first place, which seems to be the argument Patent Owner has made.

But those terms don't even appear in their briefing. They also didn't appear in their argument today. They're not addressing the right question to just look at this very high level and say, well, you know, what are we doing talking about a train reference combined with, you know, Oyobe or something to that effect? That's just not addressing the arguments at that high level of generality.

It doesn't answer the questions at issue. It doesn't answer whether it's reasonably pertinent art. And it also just doesn't address the substance of the detailed obviousness combinations that we made in the petition and in the declaration. And that's where we need to be engaging. With that, unless there are questions, I conclude my argument.

JUDGE WEATHERLY: I don't have any further questions.

JUDGE DEFRANCO: Nor do I.

JUDGE WEATHERLY: Okay.

MR. TECCE: I have two sentences. Do I have time left?

JUDGE WEATHERLY: Yes.

MR. TECCE: One, I apologize. Counsel is right. I looked through this, and this data processing system may also be implemented. The computer may be in the car. So I misspoke and I apologize for that. Number one. And it wasn't as fine a point as Judge DeFranco I could put on there. It was just a flat out mistake. So that's number one.

Second thing is this. It's not -- our arguments are a little bit more focused. When I talk about Donnelly, which has absolutely nothing to do with selecting a charge amount, it's an indication that there's a low charge amount and there's a button. There's no -- it's a locomotive. If the battery gets low, it's got a generator built into it, or overhead lights --

JUDGE WEATHERLY: This portion of the argument is supposed to be limited to responding to what Petitioner just said in its rebuttal.

MR. TECCE: Yeah. And the last comment that counsel made about how we just talk about this stuff in general without any reason, that's not what we're doing. I'm saying about the specific elements that they pick out.

JUDGE WEATHERLY: Okay.

MR. TECCE: That shouldn't be -- unless you have a roadmap, there's no reason to stick them in other references. That's my point.

JUDGE WEATHERLY: Okay. Any further questions from either of the co-panelists? I see head shaking, so no?

JUDGE DEFRANCO: No.

JUDGE WEATHERLY: No further questions from me either. Thank you all for preparing and coming here to appear in person, at least in person in front of me. It's by far the best thing about being ordered to come back into the office that we get to do these in person again. I hope it keeps happening.

And the cases are submitted. And our next step, unless we hear something different from you all, will be to enter final written decisions. Thank you very much. We're adjourned.

(Whereupon, the above-entitled matter went off the record at 1:45 p.m.)

IPR2025-00032 (Patent 11,563,338 B1)
IPR2025-00152 (Patent 11,990,788 B2)
IPR2025-00153 (Patent 11,631,987 B2)

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