

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

ORIGINAL

3
4 MOTOROLA MOBILITY LLC AND GOOGLE LLC,
5 Petitioners

6 v.

7 MULTIFOLD INTERNATIONAL INC. PTE. LTD.,
8 Patent Owner

9
10 Case IPR2025-00038

11 U.S. Patent No. 8,836,842
12

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17 DEPOSITION OF DR. JEFFREY J. RODRIGUEZ

18 TAKEN REMOTELY BY VIDEOCONFERENCE

19 August 8, 2025
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22
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24 Reported by: Mary Ann Payonk

25 Job No. 2599

August 8, 2025

8:33 a.m. Eastern

DEPOSITION OF DR. JEFFREY J. RODRIGUEZ, taken
remotely by videoconference pursuant to Notice and
agreement of counsel, stenographically reported by Mary
Ann Payonk, Shorthand Reporter and Notary Public, CA CSR
No. 13431.

All attorneys participating in this deposition
acknowledge that the reporter is not physically present
in the deposition room and there is no objection to the
oath being administered remotely.

1 APPEARANCES:

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1 THE REPORTER: My name is Mary Ann Payonk, and
2 my California license number is 13431. I will now swear
3 the witness.

4 DR. JEFFREY J. RODRIGUEZ,

5 called as a witness, having been duly
6 sworn, was examined and testified as
7 follows:

8 EXAMINATION

9 BY ATTORNEY SCHREINER:

10 Q. Good morning, Dr. Rodriguez. How are you?

11 A. I'm well.

12 Q. I'm Steve Schreiner and I'm here on behalf of
13 the patent owner, Multifold, and I'll be asking you a
14 series of questions relating to your expert testimony in
15 this case.

16 Does that make sense?

17 A. Yes.

18 Q. Okay. Can you please state your name for the
19 record.

20 A. My name is Jeffrey Rodriguez.

21 Q. And can you please close all applications and
22 documents on your computer except for the Zoom
23 application that I assume you have open for the
24 deposition.

25 A. I would prefer to remain with my Adobe Acrobat

1 application open to facilitate being able to refer
2 through the relevant documents. I can tell you which
3 documents I have open on my desktop.

4 Q. Okay, I'm fine with you having Adobe open, but
5 just please close those documents out. I'll introduce
6 documents as we go through the deposition, and when I
7 introduce documents, I'll give you time to just go ahead
8 and open them up.

9 Does that seem fair?

10 A. Okay. If I need to access a document, I'll
11 let you know which documents I'm opening.

12 Q. Let's try it this way. If you need to look at
13 a document, let me know and then we'll decide whether to
14 introduce it at that time. Okay?

15 A. Okay.

16 Q. Thank you.

17 Do you have any paper copies of any of the
18 exhibits or documents pertaining to this IPR?

19 A. Yes.

20 Q. Okay. Are they within reach?
21 Are they at your desk there?

22 A. Yes.

23 Q. Okay. Are they clean copies or marked-up
24 copies?

25 A. They are clean copies of the documents.

1 Q. And let's go ahead and set those to the side
2 for the moment. Just like the electronic documents, you
3 know, we'll address those as I introduce those in the
4 deposition, okay?

5 A. Okay.

6 Q. Thank you.

7 Is there any reason you can't give truthful,
8 complete, and accurate testimony today?

9 A. No.

10 Q. Okay. Are you under the influence of any
11 sickness or medication that would impair your ability to
12 give complete and accurate testimony today?

13 A. No.

14 Q. Approximately how many times have you been
15 deposed in connection with expert matters?

16 A. I don't recall the number. More than a dozen.

17 Q. Do you think more than 20 times?

18 A. I don't recall.

19 Q. And what type of matters have you been deposed
20 in connection with?

21 A. I've been deposed a number of times in my
22 capacity as an expert witness in patent litigation
23 cases.

24 Q. So does that include District Court cases and
25 Inter Partes Reviews or IPRs like this?

1 A. It does.

2 Q. By the way, today I'll try to make my
3 questions clear. If any of my questions are unclear,
4 just let me know and I'll try to rephrase them.

5 Does that seem fair?

6 A. Okay.

7 Q. Great.

8 Do you recall that the priority date that's
9 assumed for the '842 patent at issue here is in
10 September of 2011?

11 A. No.

12 Q. Do you recall generally that there's a
13 priority date associated with the '842 patent that you
14 assumed for purposes of your analysis?

15 A. Yes.

16 ATTORNEY SCHREINER: Let's do this. Let's go
17 ahead and introduce Exhibit 1001, which is US Patent
18 Number 8,836,842 titled Capture Mode Outward Facing
19 Modes. Lead inventor is named Sirpal, S-I-R-P-A-L. And
20 you can go ahead and either access your paper copy,
21 Dr. Rodriguez, or pull it up on Adobe, whatever is more
22 comfortable for you.

23 THE WITNESS: Okay.

24 (Exhibit No. 1001, previously marked, was
25 referenced and indexed.)

1 BY ATTORNEY SCHREINER:

2 Q. Do you see on the first page there's a section
3 that says Related US Application Data and it refers to a
4 provisional application dated September 27, 2011?

5 A. Yes.

6 Q. Is that what you assumed as the priority date
7 for purposes of your expert analysis?

8 ATTORNEY MOSS: Objection, form.

9 A. I don't recall.

10 BY ATTORNEY SCHREINER:

11 Q. But you do recall that there was a priority
12 date that you assumed associated with your analysis.
13 Correct?

14 A. Yes.

15 Q. Okay. So just generally, when I ask you
16 questions today regarding your expert analysis, you
17 should assume that the time frame is that, as of that
18 priority date.

19 Do you understand that?

20 A. Can you say that again?

21 Q. Sure.

22 When I ask you questions today about your
23 expert analysis, you should be assuming or treat the
24 time frame as of the priority date of the '842 patent.

25 Does that make sense?

1 ATTORNEY MOSS: Objection, form.

2 A. Which priority date are you referring to?

3 Q. The priority date of the '842 patent.

4 A. I'll have to consult my declaration to see
5 which priority date I used in my analysis.

6 Q. Okay. We can just hold off on that for a
7 moment.

8 How many times have you been an expert for
9 Motorola?

10 A. I don't recall.

11 Q. More than five times?

12 A. I don't think so, but I don't recall.

13 Q. Okay.

14 ATTORNEY SCHREINER: John, you can take that
15 exhibit down. It's a little hard for me to see
16 Dr. Rodriguez.

17 BY ATTORNEY SCHREINER:

18 Q. Have you been an expert for Motorola in
19 connection with both District Court patent matters and
20 IPRs in the past?

21 A. I -- without looking at my CV, I wouldn't be
22 able to recite which matters I was involved with
23 Motorola or Motorola Mobility.

24 Q. Have you been an expert for any Motorola
25 entities in the past for District Court matters?

1 A. I don't recall specifically without consulting
2 my CV.

3 Q. So you don't recall whether you've appeared on
4 behalf of Motorola in connection with a patent
5 litigation matter in the past?

6 ATTORNEY MOSS: Objection, form.

7 A. That's correct. I don't recall whether I
8 appeared in a deposition or in court on behalf of
9 Motorola or one of Motorola's entities.

10 I know I have done work for either -- for
11 Motorola and/or Motorola Mobility in the past, I just
12 don't recall specifically whether it was a District
13 Court matter or another matter, prelitigation matter.

14 BY ATTORNEY SCHREINER:

15 Q. Have you been an expert for Google in the
16 past?

17 A. Yes, I believe so.

18 Q. Has that been in connection with both District
19 Court matters and IPRs?

20 ATTORNEY MOSS: Objection, form.

21 A. Without consulting my CV, I wouldn't be able
22 to recall which venue that was.

23 ATTORNEY SCHREINER: Let's go ahead and
24 introduce Exhibit 1014. That's Dr. Rodriguez's CV.

25 (Exhibit No. 1014, previously marked, was

1 referenced and indexed.)

2 BY ATTORNEY SCHREINER:

3 Q. Are you pulling that up on Adobe,
4 Dr. Rodriguez?

5 A. Yes.

6 ATTORNEY SCHREINER: Okay. And, John, you can
7 go ahead and take that down, the exhibit. Thank you.
8 We don't need to put them up unless I ask for them.

9 BY ATTORNEY SCHREINER:

10 Q. So, Dr. Rodriguez, let's go back to those
11 several questions that we were discussing.

12 So starting with Motorola, have you
13 appeared -- have you acted as an expert in connection
14 with litigation matters for Motorola in the past?

15 A. Well, I did work for Motorola Mobility in
16 connection with several IPRs within the past year.

17 I believe I have done work for one of the
18 Motorola entities in the past as well, but I don't see
19 it listed in my CV in connection with this matter
20 because that prior involvement must have been more than
21 about five years in the past.

22 Q. Okay. Have you acted as an expert on behalf
23 of a patent owner in the past?

24 Let's start with the past five years.

25 A. I know that I have acted as an expert witness

1 on behalf of patent owners in the past, I just don't
2 recall specifically which matters those were.

3 Q. Can you identify a litigation matter where you
4 acted on behalf of a patent owner?

5 A. Let me review my current CV. There are
6 multiple matters in my CV that are listed.

7 The first one appears to be Intellectual Tech
8 LLC versus Zebra Technologies Corporation where
9 Intellectual Tech LLC is the plaintiff.

10 Q. I see.

11 And that's on page 2 of your CV?

12 A. Yes.

13 Q. Okay. Is that an ongoing litigation?

14 Is that what that is?

15 A. Yes.

16 Q. Any other representations of patent owners in
17 District Court matters?

18 A. Yes.

19 Q. And what would those be?

20 A. The next one appears to be an ITC matter where
21 the client was Nokia Technologies and Nokia Corporation.
22 They were the Complainant.

23 Q. That's on page 5 of your CV?

24 A. Yes.

25 Q. Have you represented a patent owner in

1 connection with an IPR proceeding?

2 A. I don't recall. We could review the rest of
3 the list in my CV.

4 Q. Please do.

5 A. The matters that I mentioned appear to be the
6 only matters within about five years where I worked on
7 behalf of the patent owner. Prior to that, we'd have
8 to -- I'd have to offline consult other records.

9 Q. It appears on your CV on pages 5 through 7 you
10 list a series of IPRs you worked on as an expert, right?

11 A. Yes.

12 Q. And are those all for petitioner's side?

13 A. The ones within the last five years appear to
14 be on behalf of the petitioner.

15 Q. Do you recall working on any IPRs as an expert
16 on behalf of a patent owner in the last five years?

17 A. Within the last five years, you asked?

18 Q. Correct, yes.

19 A. No, I -- not within the last five years.

20 Q. Please refer to page 24 of your declaration.
21 You've got a list of patents that you've been involved
22 in. And let me know when you're there at page 24.

23 A. I don't believe I list any patent matters on
24 page 24 of my declaration.

25 Q. I'm sorry, what I was referring to is the

1 patent applications where you were named as an inventor
2 on the top of page 24.

3 Do you see that?

4 A. I don't believe that that is listed on page 24
5 of my declaration.

6 Q. Oh, I'm sorry. Not your declaration, your CV.
7 Your CV, Exhibit 1014.

8 A. Yes, I see that.

9 Q. These are pretty interesting.

10 Can you describe what the invention involving
11 "Monitoring of Autonomic Nervous System Activities
12 Through Sweat Pore Activation," what does that invention
13 involve?

14 A. This was a research project that I was
15 involved with recently where we were investigating
16 possible techniques to monitor basically soldiers to
17 determine their level of stress in a noninvasive manner.

18 And one method that we were exploring was to
19 determine sweat pore activation. When one is nervous,
20 highly stressed, sweat pores become activated. And
21 there was an interest for military applications to
22 figure out if there's a way to get an early warning of
23 stress of soldiers before putting them back into combat,
24 for example.

25 So we implemented -- we designed and

1 implemented an imaging system where we used, for
2 example, thermal imaging to capture digital images of
3 skin surfaces on individuals and then implemented
4 software algorithms to locate individual sweat pores to
5 determine the degree of sweat pore activation.

6 Q. That's pretty interesting.

7 And then if there's a high level of sweat pore
8 activation, that's an indicator of high stress?

9 Is that the general idea?

10 A. Correct. We were hoping to be able to have an
11 early warning system before, you know, there was visible
12 sweat pore activation that was apparent to the naked
13 eye. We determined that with thermal imaging systems we
14 could make this determination even quicker.

15 Q. And how well did that work at predicting
16 stress levels in an early fashion?

17 A. Unfortunately, the project lost its funding
18 source partway through. So, you know, after we were
19 able to get kind of a proof of concept implemented, we
20 weren't able to do further testing on large sets of
21 individuals.

22 But initially, we were able to sense sweat
23 pore activation and generate automatic counts of sweat
24 pore activity.

25 Q. And so was the testing, was that performed on

1 soldiers who were actually engaged, or what was your,
2 like, test population?

3 A. Our test populations early on, before we got
4 the go-ahead for larger studies, our test population was
5 graduate students and undergraduate students that
6 volunteered.

7 Q. Got it.

8 How would you -- would you impose stressors in
9 order to use them as test objects?

10 A. Yes, that was the idea. I think early on, I
11 think they had them just doing a few minutes of exercise
12 prior to being imaged.

13 Q. And there's a -- still on page 24 of your CV,
14 there's a second patent application entitled "Imaging
15 Human Respiratory Gas Patterns to Determine Volume Rate
16 and Carbon Dioxide Concentration."

17 What was that invention about?

18 A. This project was a research project that we
19 undertook soon after the COVID pandemic. The idea was
20 to be able to detect whether individuals had elevated
21 level of carbon dioxide.

22 There was some concern at that time that
23 wearing masks, facemasks for prolonged period of time
24 would lead to a buildup of carbon dioxide gases within
25 the body, so this was a method that we explored to

1 automatically measure the proportion of carbon dioxide
2 in exhaled gases.

3 So we used an imaging system to capture
4 images, and then the plan was to do -- well, we had a
5 number of aspects to it. One was to do stereo imaging
6 system with multiple cameras to recover a
7 three-dimensional model of the exhaled gas cloud and
8 then to use some other sensing methods to determine
9 which portion of that gas cloud was corresponding to
10 carbon dioxide and then proceed with quantitative
11 measurements.

12 Q. How would you use imaging data to determine a
13 proportion of carbon dioxide in exhaled air?

14 A. Well, the goal was to look at different
15 wavelengths in the image capture system. That was an
16 area that was kind of the realm of -- well, of
17 colleagues that were experts on the different
18 wavelengths of light that were correlated with different
19 types of gases.

20 But the idea was that different gases would
21 respond to different wavelengths differently, and that
22 was one of the keys to be able to sense that.

23 Q. And how well did that invention perform in
24 predicting or determining levels of carbon dioxide in
25 exhaled air?

1 A. This was a project that really didn't get off
2 the ground very much. We designed the system, came up
3 with a procedure, did some simulated experiments but
4 were not able to get the funding to purchase the very
5 expensive imaging equipment that would be needed. So
6 unfortunately, we didn't to test it on large
7 populations.

8 Q. Gotcha.

9 And what was expected to be the application of
10 this invention? I know you mentioned people wearing
11 masks and high levels of CO2 building up.

12 What did you guys -- what did you as the
13 inventor foresee as the application for this?

14 A. Well, the -- dealing with effects of COVID was
15 a primary application, but it's been a few years. My
16 understanding was there were other applications, other
17 applications where individuals might have, due to some
18 disorder, might have elevated levels of carbon dioxide
19 in their exhaled gases.

20 Q. Going back to just your general background as
21 an expert, have you ever been disqualified as an expert
22 in connection with a litigation matter or IP matter?

23 A. No.

24 Q. Has a court ever limited or restricted your
25 testimony in connection with a litigation matter or IPR

1 matter?

2 A. No.

3 Q. Okay. And who hired you for this engagement
4 as an expert in this IPR?

5 A. In this IPR, I was retained by both Orrick and
6 Paul Hastings on behalf of Motorola Mobility.

7 Q. Is it correct that you're acting as an expert
8 on behalf of both Motorola and Google? Or is it just
9 Motorola?

10 A. Motorola and Google, yes. I misspoke, I
11 believe.

12 Q. And how much are you being compensated to be
13 an expert in connection with this IPR?

14 A. Honestly, I don't recall. I'll have to
15 consult my billing records.

16 Q. Yeah, I didn't see it in your declaration.
17 What's your normal rate for matters such as
18 this?

19 A. It changes from year to year, and I was first
20 engaged in this matter a year ago so I would expect my
21 billing rate would have been somewhere between 550 and
22 600 an hour, probably.

23 Q. Does your billing rate change when you're
24 giving deposition testimony?

25 A. No, I use a flat rate.

1 Q. Okay. And how much time did you spend
2 preparing for today's deposition?

3 A. I don't recall.

4 Q. Did you review some documents in connection
5 with preparing for this deposition?

6 A. Yes.

7 Q. Okay. What documents did you review?

8 A. I reviewed at least my declaration, the patent
9 at issue, the Chin reference, and the Whitehorn
10 reference. Those are the primary documents. There may
11 have been others as well.

12 Q. Okay. And when did you review those documents
13 to prepare for this deposition?

14 A. Within about the last couple of weeks, two or
15 three weeks, perhaps.

16 Q. And you did that across multiple days?

17 A. Yes.

18 Q. Would you estimate that you spent more than 8
19 hours preparing for this deposition?

20 A. Yes.

21 Q. More than 20 hours?

22 A. Possibly. I don't recall a specific number.

23 Q. Would it be fair to say somewhere between 8
24 and 20 hours?

25 A. I don't -- I don't recall the exact number. I

1 haven't added up the time.

2 Q. Okay. Who did you meet with to prepare for
3 this deposition?

4 A. I met with counsel from Orrick as well as Paul
5 Hastings.

6 Q. Okay. And from Orrick, that'd be Mr. Moss?

7 ATTORNEY MOSS: I'd just caution the witness
8 not to divulge the contents of any communications with
9 counsel.

10 A. Yes, I met with Mr. Moss.

11 BY ATTORNEY SCHREINER:

12 Q. Okay. Anybody else you met with from Orrick?

13 A. Yes.

14 Q. And who would those individuals be?

15 A. I recall meeting with Chris Higgins and Vann
16 Pierce.

17 Q. Okay. Who did you meet with from Paul
18 Hastings to prepare for this deposition?

19 A. Honestly, I don't recall their names. I know
20 that there were one or two attorneys from Paul Hastings
21 that sat in on some meetings.

22 Q. And the meetings that you had, were they
23 in-person meetings or virtual meetings?

24 A. Virtual meetings.

25 ATTORNEY SCHREINER: I'd like to introduce

1 Exhibit 2004. This is a list of challenged claims from
2 the '842 patent. So, John, if you could share that
3 through the chat so that Dr. Rodriguez has access to a
4 copy. And, Dr. Rodriguez, let me know when you receive
5 a copy of that so we can just talk about it briefly.

6 THE WITNESS: Okay.

7 (Exhibit No. 2004, previously marked, was
8 referenced and indexed.)

9 ATTORNEY SCHREINER: I'll represent to you
10 this is a list of the challenged claims that are
11 addressed in your declaration, and the limitations are
12 numbered as set forth in your declaration. I'll be
13 referring to these limitations periodically so I wanted
14 to make this exhibit available to you so you can refer
15 to it as well. That make sense?

16 THE WITNESS: Yes.

17 ATTORNEY SCHREINER: And, Geoff, let me
18 mention as just a bookkeeping comment, the -- so it has
19 the limitations as they're numbered in his declaration
20 and in the petition. The petition has a list of the
21 claims I think at the end. And, like, limitation 1E,
22 you see for Claim 1, limitation 1E is not numbered in
23 that list in the petition at the end but it is
24 separately set forth in the petition, you know, when
25 it's analyzed, both in the petition and in his

1 declaration.

2 ATTORNEY MOSS: Okay. So this aligns with the
3 structure of his declaration, which is the subject of
4 today's deposition. Correct?

5 ATTORNEY SCHREINER: That's correct, yeah.

6 ATTORNEY MOSS: Okay. And we'll accept your
7 representation that these lay out the language of the
8 limitations. And, you know, if we see it didn't, you
9 know, anything that's a discrepancy, we'll let you know.

10 ATTORNEY SCHREINER: Yes, certainly.

11 BY ATTORNEY SCHREINER:

12 Q. And let's refer back to the '842 patent that's
13 Exhibit 1001.

14 Do you recognize the '842 patent,
15 Dr. Rodriguez?

16 A. Yes.

17 Q. Okay. Are you very familiar with the subject
18 matter disclosed in the '842 patent?

19 ATTORNEY MOSS: Objection, form.

20 A. Yes, I'm familiar with the subject matter of
21 the '842 patent.

22 ATTORNEY SCHREINER: Okay. And let's go ahead
23 and introduce Exhibit 1004, which is U.S. Patent
24 Publication Number 2009/0190295 to Chin, C-H-I-N.

25 (Exhibit No. 1004, previously marked, was

referenced and indexed.)

BY ATTORNEY SCHREINER:

Q. Dr. Rodriguez, why don't you go ahead and pull up the Chin reference. And let me know when you have it.

A. Okay.

Q. Do you recognize Exhibit 1004, the Chin reference?

A. Yes.

Q. Fair to say that you're pretty familiar with Chin?

ATTORNEY MOSS: Objection, form.

A. Yes, I'm familiar with the Chin reference.

BY ATTORNEY SCHREINER:

Q. Okay. Did you study it pretty carefully?

ATTORNEY MOSS: Objection, form.

A. Yes, I studied the Chin reference.

BY ATTORNEY SCHREINER:

Q. Pretty carefully?

ATTORNEY MOSS: Objection, form.

A. I made my best effort to study the Chin reference carefully.

(Exhibit No. 1005, previously marked, was referenced and indexed.)

ATTORNEY SCHREINER: Okay. And let's go ahead

1 and introduce Exhibit 1005. That's U.S. Patent
2 Publication Number 2005/0078211 to Whitehorn
3 W-H-I-T-H-O-R-N. And let me know when you have that
4 document available, Dr. Rodriguez.

5 A. Okay.

6 Q. And do you recognize Exhibit 1005, the
7 Whitehorn reference?

8 A. Yes.

9 Q. Okay. Did you study the Whitehorn reference
10 carefully?

11 A. Yes. I made my best effort to study the
12 Whitehorn reference carefully.

13 ATTORNEY SCHREINER: And let's go ahead and
14 introduce Dr. Rodriguez's declaration. That's
15 Exhibit 1003.

16 (Exhibit No. 1003, previously marked, was
17 referenced and indexed.)

18 BY ATTORNEY SCHREINER:

19 Q. And, Dr. Rodriguez, you can go ahead and pull
20 that up. And let me know when you have it available.

21 A. Okay.

22 Q. And do you recognize Exhibit 1003, Declaration
23 of Jeffrey J. Rodriguez?

24 A. Yes.

25 Q. And what is this document?

1 A. This is the declaration concerning the '842
2 patent that I prepared.

3 Q. Okay. How long would you estimate you spent
4 preparing this declaration?

5 A. It was almost a year ago. I don't remember
6 how many hours that was.

7 Q. How many pages is this declaration?

8 A. It appears to be 139 pages.

9 Q. Would you expect that you spent more than 30
10 hours preparing this declaration?

11 A. Probably, but I don't recall the specific
12 number.

13 Q. Describe for me the process that you undertook
14 to prepare this declaration.

15 ATTORNEY MOSS: And I'll just caution the
16 witness not to divulge the contents of any
17 communications with counsel.

18 A. It's been almost a year, but I'm sure I
19 followed my normal procedures, which is that I review
20 the documents relevant to the case, relevant to the
21 study I've been asked to perform. And then I would meet
22 with counsel to discuss the issues at hand and to
23 discuss the opinions that I've formulated.

24 And then I would proceed to prepare an initial
25 draft of my declaration, even if it's a limited draft.

1 Then I would share that with counsel.

2 Counsel then helps me draft the declaration so
3 that it is a full explanation of the opinions that I've
4 formed, in the proper format, etc., and then we go back
5 and forth with edits. I do extensive editing to make
6 sure that the declaration is complete and accurate and
7 represents my opinions.

8 Q. And so who prepared the initial draft of this
9 declaration?

10 A. I believe I did.

11 Q. And without divulging any communications with
12 counsel, what attorneys did you work with in preparing
13 this declaration?

14 A. It's been almost a year. I would presume
15 it's -- it was mostly the same attorneys that I'd been
16 interacting with in preparing for this depo.

17 Q. We referred a few minutes ago to the Chin
18 reference, Exhibit 1004.

19 Do you recall that?

20 A. Yes.

21 Q. How did you learn about the Chin reference?

22 A. It was provided to me by counsel.

23 Q. Had you seen the Chin reference before it was
24 provided by counsel?

25 A. I don't recall seeing the Chin reference prior

1 to this matter.

2 Q. What about the Whitehorn reference,
3 Exhibit 1005?

4 How did you learn about that reference?

5 A. The Whitehorn reference was provided to me by
6 counsel.

7 Q. Had you seen the Whitehorn reference prior to
8 it being provided by counsel?

9 A. I don't recall seeing the Whitehorn reference
10 prior to this matter.

11 Q. Let's look at paragraph 50. Well, let me just
12 back up here. Yeah, paragraph 51 of your declaration.

13 A. Okay.

14 Q. And is it correct that you define the field
15 for the POSITA as involving image capture, image
16 processing, image display, and user interfaces?

17 ATTORNEY MOSS: Objection, form.

18 A. At paragraph 51, I state that the field of art
19 pertaining to the '842 patent includes image capture
20 using a handheld computing device.

21 BY ATTORNEY SCHREINER:

22 Q. And do you go on to describe the POSITA and
23 what experience the POSITA has?

24 A. Yes.

25 Q. Okay. And what's the experience that a POSITA

1 has?

2 A. At least two years of experience in image
3 capture, image processing, image display, user
4 interfaces, or a related field.

5 Q. So paragraph 51, you refer to the field
6 including using a handheld computing device, and then
7 you also refer to image capture, image processing, image
8 display, and user interfaces.

9 Is that fair to say?

10 A. In paragraph 51, I state that the field of art
11 includes image capture using a handheld computing device
12 and that a POSITA would have experience of at least two
13 years in image capture, image processing, image display,
14 user interfaces, or a related field.

15 Q. I'm just trying to understand paragraph 51 in
16 your declaration.

17 So how would you characterize the field of the
18 '842 patent?

19 ATTORNEY MOSS: Objection, form.

20 A. In my opinion, the field of art pertaining to
21 the '842 patent includes image capture using a handheld
22 computing device.

23 BY ATTORNEY SCHREINER:

24 Q. Does the field include, quote, "image capture,
25 image processing, image display, and user interface --

1 and user interfaces"?

2 A. One moment. Perhaps you could clarify what
3 you mean by "field." Perhaps your interpretation of the
4 term "field" is a bit different than mine.

5 Q. Yeah, I'm just asking you your understanding
6 of what the field is for the '842 patent.

7 So I'm looking at paragraph 51, and you
8 reference image capture using a handheld computing
9 device, and you also reference image capture, image
10 processing, image display, and user interfaces.

11 So how would you characterize the field? As
12 an expert in this case, how would you characterize the
13 field of the '842 patent?

14 ATTORNEY MOSS: Objection, form.

15 A. As I've stated, in my opinion, the field of
16 art pertaining to the '842 patent includes image capture
17 using a handheld computing device.

18 BY ATTORNEY SCHREINER:

19 Q. Does the field include image capture, image
20 processing, image display, and user interfaces?

21 ATTORNEY MOSS: Objection, form.

22 A. I stick with the way I expressed my
23 understanding of the field.

24 BY ATTORNEY SCHREINER:

25 Q. So you're saying the field of the '842 patent

1 includes image capture using a handheld computing
2 device. Correct?

3 A. Correct.

4 Q. And then you say a POSITA would have
5 experience in, quote, "image capture, image processing,
6 image display, and user interfaces," right?

7 A. Or a related field.

8 Q. So if the field includes a handheld computing
9 device and a POSITA would have experience in image
10 capture, image processing, image display, and user
11 interfaces, are the latter part of the field, in your
12 view?

13 ATTORNEY MOSS: Objection, form.

14 A. In my opinion, the field -- the term "field"
15 to me is a broader term.

16 BY ATTORNEY SCHREINER:

17 Q. Okay.

18 A. And so that's why I describe the field of art
19 for the '842 patent as including image capture using a
20 handheld computing device.

21 When I analyzed the level of skill for a
22 POSITA, I had to contemplate the different technologies
23 that a POSITA would require in order to be able to
24 understand the various aspects of the '842 patent.

25 To me, those are similar but slightly

1 different terms, field of art versus the required
2 experience to be able to practice in that field of art.

3 Q. Okay. You refer to handheld computing device
4 here. You see that in paragraph 51, right?

5 A. Yes.

6 Q. The '842 patent, Exhibit 1001, would you say
7 it's -- would it be fair to say that it generally
8 relates to a dual-screen handheld computing device?

9 A. The abstract of the '842 patent says that the
10 patent is directed to presenting a user interface in a
11 dual-screen device.

12 Q. And if you could look at the summary section
13 of the '842 patent, this is on page 41 at the bottom of
14 that document. But it's column 1 and it's the summary.

15 Do you see that?

16 A. Yes.

17 Q. Okay. And the first line, it refers to
18 handheld computing device.

19 Is that right?

20 A. That's correct.

21 Q. So the abstract refers to a dual-screen device
22 and the summary refers to a handheld computing device?

23 A. That's correct.

24 Q. So does the '842 patent, does it pertain to a
25 dual-screen handheld computing device?

1 A. As the '842 patent explains, the patent
2 pertains to a user interface in a dual-screen device as
3 well as a dual multi-display, multi -- a dual
4 multi-display handheld computing device.

5 Q. And so as an expert, would you understand that
6 that corresponds to a dual-screen handheld computing
7 device?

8 ATTORNEY MOSS: Objection, form.

9 A. The patent does mention a dual-screen device,
10 and it does mention a multi-display handheld computing
11 device.

12 BY ATTORNEY SCHREINER:

13 Q. Do the figures in the '842 patent depict a
14 dual-screen handheld computing device?

15 A. In Figure 1A, we see a device that includes
16 both a primary screen 104 and a secondary screen 108.
17 Thus, there are dual screens in that figure.

18 Q. So would that be a dual-screen handheld
19 computing device?

20 A. I don't recall if that's the wording that the
21 patent uses to refer to it, but it does have a dual
22 screen. It can be handheld, and it does perform
23 computing.

24 Q. So would you understand it to be depicting a
25 dual-screen handheld computing device?

1 ATTORNEY MOSS: Objection, form.

2 A. As I said, it does depict a device that has
3 dual screens, can be handheld, and does perform
4 computing.

5 BY ATTORNEY SCHREINER:

6 Q. So your definition of the field in your
7 declaration is image capture using a handheld computing
8 device, right?

9 ATTORNEY MOSS: Objection, form.

10 A. Yes. In paragraph 51, I describe the field of
11 art as including image capture using a handheld
12 computing device.

13 BY ATTORNEY SCHREINER:

14 Q. And the '842 patent discloses a handheld
15 computing device, right?

16 A. Yes.

17 Q. Okay. And it discloses a handheld computing
18 device that has dual screens.

19 Fair to say?

20 A. Yes.

21 Q. The Chin reference, does the Chin reference
22 describe a dual-screen handheld computing device?

23 ATTORNEY MOSS: Objection, form.

24 A. Yes. The Chin reference discloses a handheld
25 computing device that has two screens.

1 BY ATTORNEY SCHREINER:

2 Q. Just for simplicity of our discourse, is it
3 fair to refer to that as a dual-screen handheld
4 computing device?

5 A. I don't see where Chin refers to it that way,
6 but in my opinion, it is a handheld computing device
7 that has two screens.

8 Q. So again, this is just for simplicity of our
9 discourse.

10 Would it be fair for us to refer to that as a
11 dual-screen handheld computing device?

12 ATTORNEY MOSS: Objection, form.

13 BY ATTORNEY SCHREINER:

14 Q. And if it's not fair, tell me why it's not
15 fair.

16 ATTORNEY MOSS: Objection, form.

17 A. It's fine for you to use that phrase if you
18 like, and I'll understand that you mean a handheld
19 computing device that has two screens.

20 BY ATTORNEY SCHREINER:

21 Q. Okay. And both the '842 patent and Chin, they
22 also have a camera functionality, right? Image capture
23 functionality.

24 Is that correct?

25 A. Yes.

1 Q. So these are dual-screen handheld computing
2 devices with a camera function?

3 Is that a fair way to describe it?

4 ATTORNEY MOSS: Objection, form.

5 A. If you describe it that way, I will understand
6 what you mean.

7 BY ATTORNEY SCHREINER:

8 Q. Okay. Is it better to describe it as a
9 dual-screen handheld computing device with image
10 capture?

11 Which parlance works best for you?

12 ATTORNEY MOSS: Objection, form.

13 A. I would simply say it's a handheld computing
14 device that includes two screens and includes image
15 capture capability.

16 BY ATTORNEY SCHREINER:

17 Q. Okay. So in your declaration on page --
18 excuse me, in paragraph 50, what did you assume to be
19 the priority date of the '842 patent for purposes of
20 your analysis?

21 A. For my analysis, I was asked to assume that
22 the date of the claimed invention is the filing date of
23 the provisional.

24 Q. And what is the filing date of the provisional
25 for the '842 patent?

1 A. The cover of the '842 patent says the filing
2 date of the provisional application was September 27,
3 2011.

4 Q. Okay. So you assumed -- for purposes of your
5 analysis, you assumed that the date of the invention or
6 the priority date was September 2011.

7 Is that correct?

8 A. Yes. But my opinions would be the same if the
9 date of the claimed invention was determined to be the
10 date of the application.

11 Q. Can you describe, what was your professional
12 experience with dual-screen handheld computing devices
13 with image capture as of September 2011?

14 ATTORNEY MOSS: Objection, form.

15 A. Prior to September 2011, I had had significant
16 experience with handheld computing devices, including
17 devices that could perform image capture.

18 BY ATTORNEY SCHREINER:

19 Q. Describe that experience for me, if you would,
20 if you can.

21 A. Well, both personal experience as well as
22 professional experience, personally --

23 Q. No, let's start with professional, please.

24 A. Professional experience, I regularly attend
25 professional engineering conferences where new

1 technologies are presented. I read the current
2 literature to stay up to speed on current technologies
3 that are being developed.

4 In my research activities, we use equipment
5 that involves current technologies. My research area
6 focuses on image processing and image analysis so I need
7 to be up to speed on what the current technologies are
8 for image capture, image capture devices.

9 Q. And so what would have been your professional
10 experience as of September 2011 with dual-screen
11 handheld computing devices with image capture?

12 A. In my research lab, we employ hardware systems
13 that have image capture capability as well as multiple
14 screens so that we can display multiple images at the
15 same time, which is essential for the image analysis
16 research that we do.

17 Q. Did that work involve handheld computing
18 devices?

19 A. In my research lab, we generally have had --
20 not had the need for the equipment to be handheld simply
21 because of the nature of the experiments that we
22 perform. But, of course, I was fully aware that
23 handheld systems -- handheld devices were available.

24 Usually, the handheld devices don't have the
25 same quality or level of performance as systems that are

1 not confined to a handheld package, so in context of a
2 research lab, it's typical to -- it's common to use a
3 more professional system that involves a larger package
4 than could be held in one's hand.

5 Q. So is it fair to say that your research
6 involved more sophisticated technologies than handheld
7 computing devices?

8 ATTORNEY MOSS: Objection, form.

9 A. Yes.

10 BY ATTORNEY SCHREINER:

11 Q. So in your professional work as of
12 September 2011, you said you hadn't had any need to use
13 or apply handheld computing devices in that research.

14 Is that correct?

15 ATTORNEY MOSS: Objection, form.

16 A. If you read the '842 patent as well as the
17 other references that I discuss in my declaration, they
18 explain that one of the needs, one of the applications
19 for handheld devices is for consumer electronics
20 applications where one may be walking down the street
21 and needing to take a snapshot photo.

22 That's an entirely different application than
23 what we focused on in our research lab environment and
24 so I didn't need to use handheld devices in our research
25 lab. Instead, we used larger systems that could, for

1 example, capture images at a much higher resolution or
2 with higher quality electronics to get a better-looking
3 captured image.

4 BY ATTORNEY SCHREINER:

5 Q. Yeah, understood. That makes sense.

6 So your research as of that time didn't
7 involve the use of handheld computing devices.

8 ATTORNEY MOSS: Objection, form.

9 A. As I said, I was very familiar with handheld
10 computing devices that were available on the market. I
11 encountered them in the literature I read to keep up to
12 speed on the field as well as, of course, seeing what
13 was being marketed to consumers.

14 In fact, I purchased digital cameras of
15 various sorts over the years for personal use, so I was
16 familiar with handheld computing devices that could
17 capture images.

18 BY ATTORNEY SCHREINER:

19 Q. But that wasn't part of your professional
20 work. Correct?

21 A. Part of my professional work includes being
22 aware of these technologies because we developed the
23 technologies that could lead to the next generation of
24 such devices. So to develop the next generation of
25 technologies that might be utilized in a handheld

1 computing device that captures images, we can
2 investigate those newer technologies without using a
3 handheld platform.

4 It's usually better to not restrict yourself
5 to a handheld computing platform when you're developing
6 the next generation of technologies.

7 Q. Did you conduct research in a lab?

8 A. Yes, in part.

9 Q. Did the research conducted in your lab involve
10 the use of handheld computing devices?

11 A. Yes.

12 Q. How so, please?

13 A. From time to time, graduate students in my lab
14 would use handheld camera devices to capture digital
15 images when convenient. It wasn't necessarily the --
16 always the case. As I mentioned, we had standalone
17 camera systems as well.

18 Q. What was your professional experience in
19 September 2011 with handheld computing devices with dual
20 screens and image capture?

21 A. As I stated, I had lots of involvement and
22 awareness of handheld computing devices, devices with
23 multiple screens, devices with camera functions as well.

24 Q. What would be an example of a dual-screen
25 handheld computing device with image capture that you

1 were familiar with in 2011?

2 A. I can't recite a specific device that had all
3 of those features. I'm sure I had seen literature
4 describing such devices, though.

5 Q. Okay. But you can't recall a specific one at
6 this time?

7 A. Not at this time.

8 ATTORNEY SCHREINER: We've been going I guess
9 a bit over an hour. Would you like to take a break?

10 THE WITNESS: Okay.

11 ATTORNEY SCHREINER: Okay. How's 10 minutes
12 sound?

13 THE WITNESS: Fine.

14 ATTORNEY SCHREINER: Okay. Geoff?

15 ATTORNEY MOSS: That works.

16 ATTORNEY SCHREINER: Okay, great. Thanks,
17 gentlemen.

18 (Recess taken.)

19 BY ATTORNEY SCHREINER:

20 Q. So still looking at your -- talking about your
21 declaration, Exhibit 1003, if I could refer you to
22 paragraphs 62 through 66 of your declaration. And just
23 let me know when you get there and when you've had a
24 moment to review those paragraphs, 62 to 66.

25 A. Okay.

1 Q. Okay. And so you mention several references
2 there, right?

3 A. Yes.

4 Q. And why did you include a discussion of those
5 references in those paragraphs?

6 A. The purpose of this section of my declaration
7 is to provide some general technology background.

8 Q. Do those references represent, like, the state
9 of the art?

10 A. Not necessarily.

11 Q. So what do you mean by general technology
12 background?

13 A. As I explain in paragraph 61, as of September,
14 you know, by September 2011, handheld devices had long
15 been known in the art and were in widespread use in
16 society. Many of these devices had more than one
17 screen, could take images in different configurations,
18 and/or had different physical states. Various prior art
19 references describe these types of drives with some or
20 all of these characteristics. And then I proceed to
21 give a number of examples.

22 Q. And how many examples do you give in
23 paragraphs 62 to 66?

24 A. After mentioning Chin and Whitehorn in
25 paragraph 61, I mention the Aono publication in

1 paragraph 62. I mention Lee in paragraph 63. Kim in
2 paragraph 64. Kawasaki in paragraph 65. And Park in
3 paragraph 66.

4 Q. Okay. So that's, what, five references?

5 A. It looks like it's five references in addition
6 to Chin and Whitehorn.

7 Q. And are these five references, are they in the
8 field of handheld computing devices?

9 A. I believe so.

10 Q. So let's -- I'd like to refer you. In
11 paragraph 258 of your declaration, you make a statement
12 that a POSITA, quote, "would have been motivated to turn
13 off or disable a screen that is not facing the user."

14 Do you see that in paragraph 258?

15 A. No.

16 Q. Okay.

17 A. Which part of the paragraph? Oh, in the first
18 sentence I say that a POSITA in or around 2011 would
19 have been motivated to turn off or disable a screen that
20 is not facing the user because doing so would save
21 power.

22 Q. And in paragraph 376, you make the same
23 statement. Is that correct?

24 A. Yes, it appears so.

25 Q. And so in paragraph 258 where you make the

1 statement that a POSITA, quote, "would have been
2 motivated to turn off or disable a screen that is not
3 facing a user," do you cite any references to support
4 that statement in paragraph 258?

5 A. I didn't need to cite specific references
6 because that statement was very clear based on my
7 personal knowledge.

8 Q. But you didn't cite any references. Correct?

9 A. I didn't need -- I didn't cite any references
10 because it wasn't necessary, since my personal
11 professional experience allowed me to explain why that
12 statement was accurate.

13 Q. And in paragraph 376 where you make that same
14 statement, that a POSITA, quote, "would have been
15 motivated to turn off or disable a screen that is not
16 facing a user," did you cite any references in support
17 of that statement in paragraph 376?

18 A. I did not cite any references because it was
19 not necessary because I was able to explain the support
20 for that statement based on my own personal knowledge.

21 Q. And the five references that you discussed in
22 paragraphs 62 to 66, Aono, Lee, Kim, Kawasaki, and Park,
23 did you cite any of those in support of your statement
24 regarding turning off or disabling a screen not facing
25 the user?

1 A. As I said, I did not cite any references when
2 making that statement because it wasn't necessary since,
3 based on my own personal knowledge as an expert
4 practicing in this field over many years, I was able to
5 explain the support for that statement.

6 Q. Did you examine those five references to see
7 if they disclosed this feature of turning off or
8 disabling a screen that is not facing the user?

9 ATTORNEY MOSS: Objection, form.

10 A. Those references might disclose that feature.
11 I don't recall.

12 BY ATTORNEY SCHREINER:

13 Q. Do you recall examining them to see whether
14 they disclose that feature?

15 ATTORNEY MOSS: Objection, form.

16 A. I recall examining those references, but I
17 don't specifically recall examining them in the context
18 of that particular feature.

19 BY ATTORNEY SCHREINER:

20 Q. Okay. And just to be clear, you didn't cite
21 any of those references with regard to that statement in
22 either paragraph 258 or 376 of your declaration, right?

23 ATTORNEY MOSS: Objection, form.

24 A. As I stated, in making that statement at those
25 two locations in the declaration I did not cite those

1 references because it was not necessary, since my own
2 professional experience allowed me the ability to
3 explain the support for that statement based on my own
4 personal knowledge.

5 BY ATTORNEY SCHREINER:

6 Q. Let's turn to paragraph 76 of your declaration
7 discussing the Chin reference.

8 A. Okay.

9 Q. That's Chin, C-H-I-N. In Chin, how does --
10 strike that.

11 Chin has a first display unit 51 and a second
12 display unit 52, right?

13 A. Yes.

14 Q. How does the user control the first and second
15 display units?

16 ATTORNEY MOSS: Objection, form.

17 A. In paragraph 76, I quote a statement from the
18 reference that says: A user can operate electronic
19 apparatuses of the first panel 10 or the second panel 20
20 such as the first and second display units 51 and 52 or
21 the digital camera 40 by using the button unit (i.e.,
22 pressing a button or buttons thereof).

23 BY ATTORNEY SCHREINER:

24 Q. So how does a user control the first and
25 second display units?

1 ATTORNEY MOSS: Objection, form.

2 A. As I -- as the reference states, a user can
3 operate the first and second display units by using the
4 button unit.

5 BY ATTORNEY SCHREINER:

6 Q. Okay. And where is the button unit located in
7 Chin?

8 A. Chin explains that the connecting unit 30
9 includes a button unit.

10 Q. So the button unit is on connecting unit 30?

11 ATTORNEY MOSS: Objection, form.

12 A. The connecting unit 30 includes a button unit.

13 BY ATTORNEY SCHREINER:

14 Q. Okay. No, I understand you can read the
15 patent. I'm asking you to, you know, put it in your own
16 words as an expert. So is it your understanding that
17 the connecting unit 30 -- strike that.

18 Is it your understanding that the button unit
19 is on connecting unit 30?

20 ATTORNEY MOSS: Objection, form.

21 A. It is my understanding that the connecting
22 unit 30 does include a button unit.

23 BY ATTORNEY SCHREINER:

24 Q. And is that button unit used to control the
25 first display unit 51 and second display unit 52?

1 ATTORNEY MOSS: Objection, form.

2 A. Yes. The reference says that the button unit
3 can be used by the user to operate the first and second
4 display units 51 and 52.

5 BY ATTORNEY SCHREINER:

6 Q. And what is the -- strike that.

7 What does the connecting unit 30 do?

8 ATTORNEY MOSS: Objection, form.

9 A. Well, the connecting unit houses the button
10 unit, for example.

11 BY ATTORNEY SCHREINER:

12 Q. Does it do anything else?

13 A. Connecting unit connects the first panel and
14 the second panel.

15 Q. And is it correct that the first panel has the
16 second display 52 and the second panel has the first
17 display 51?

18 A. The reference explains that the first display
19 unit 51 is configured on a first planar surface 21A of
20 the second flat board unit 21, and the second display
21 unit 52 is configured on the first generally planar
22 surface 11A of the first flat board unit 11.

23 Q. Looking at Figure 1 of Chin, is it correct
24 that the first display unit 51 is on second panel 20?

25 A. To be more precise, the first display unit 51

1 is configured on the second flat board unit 21, and the
2 second flat board unit 21, in turn, is part of second
3 panel 20.

4 Q. So is it fair to say the first display unit 51
5 is part of second panel 20?

6 A. That's not the way the reference describes it
7 so I wouldn't use that wording. I would stick with the
8 way the reference describes it.

9 Q. What's the relationship between -- strike
10 that.

11 I'm just trying to -- it's -- I'm just trying
12 to establish the basics of Figure 1, just so you
13 understand where I'm going, just the basics of Figure 1.
14 It's kind of counter parallel, right, because it refers
15 to the second panel 20 but then it has the first display
16 51, and then you've got the first panel 10 and it's got
17 the second display 52.

18 Do you see the nomenclature, the parlance
19 that's used there in Figure 1?

20 ATTORNEY MOSS: Objection, form.

21 BY ATTORNEY SCHREINER:

22 Q. Okay. So what is the function of connecting
23 unit 30 in Figure 1?

24 A. One function, as I stated, is that connection
25 unit 30 connects the first panel 10 and the second panel

1 20.

2 Q. So is connecting unit 30 a physically separate
3 component from the first and second panel?

4 A. I wouldn't characterize it that way.

5 Q. How would you characterize it?

6 A. Instead of being separate, I would
7 characterize it as connecting the first panel and the
8 second panel. My understanding is that it is in contact
9 with the first panel and the second panel rather than
10 being separate from them.

11 Q. Is it fair to say that on one side of
12 connecting unit 30 it connects to the second panel 20,
13 and on the other side of connecting unit 30 it connects
14 to first panel 10?

15 A. The connecting unit 30 has more than two
16 sides. I would say that one side connects to panel 20
17 and another side connects to panel 10.

18 Q. I'd like to refer you to paragraph 61 of Chin,
19 Exhibit 1004. Can you describe for me in your words
20 what paragraph 61 of Chin is discussing?

21 ATTORNEY MOSS: Objection, form.

22 A. It is discussing a button unit.

23 BY ATTORNEY SCHREINER:

24 Q. And which button unit is it discussing?

25 A. Button unit 33A.

1 Q. And where is button unit 33A located?

2 A. It is depicted in Figure 2.

3 Q. Where is it physically located? And if you
4 could refer to Figure 1, please, that's second button
5 unit 33A.

6 A. In Figure 1, the button unit 33A is depicted
7 on a face of the connecting unit.

8 Q. And I'd like to refer you to the last sentence
9 of paragraph 61 of Chin where it states, quote, "the
10 structure of the second button unit 33A is not limited
11 to the above structure, and may be embodied by using
12 different components such as a touchscreen-type liquid
13 crystal display."

14 Do you see that?

15 A. Yes.

16 Q. What would a POSITA understand that to be
17 describing?

18 A. That's describing an alternative way to
19 implement the second button unit.

20 Q. And the second button unit being part of the
21 connecting unit 30. Correct?

22 ATTORNEY MOSS: Objection, form.

23 A. The reference explains that one way to
24 implement the second button unit is as part of
25 connecting unit 30 but explains also that it could be

1 implemented in a different way.

2 BY ATTORNEY SCHREINER:

3 Q. And what is that different way?

4 A. By using different components, such as a
5 touchscreen-type liquid crystal display.

6 Q. And the second button unit is depicted as
7 being part of connecting unit 30 in Figure 1. Correct?

8 A. It's depicted as being on a face of the
9 connecting unit 30 in Figure 1.

10 Q. On or at paragraph 102 of your declaration
11 you've got a markup of Figure 1 of Chin.

12 Do you see that?

13 A. Yes.

14 Q. And you've got a red box around a component
15 that is 32A.

16 Do you see that?

17 A. Yes.

18 Q. What is component 32A?

19 A. 32A is a first button unit.

20 Q. And what is the first button unit used for?

21 ATTORNEY MOSS: Objection, form.

22 A. Button unit 32A allows the controlling unit 70
23 to receive signals by a user manipulating the buttons.

24 BY ATTORNEY SCHREINER:

25 Q. And where is first button unit 32A located?

1 A. It's located on the second face 32 in
2 Figure 1.

3 Q. And where is the second face 32 on which first
4 button unit 32A is located?

5 A. Second face 32 is located on the connecting
6 unit 30.

7 Q. And if I could refer you to your discussion at
8 paragraph 114 and thereabouts.

9 A. Okay.

10 Q. You refer to something called the
11 self-photographing mode in Chin.

12 Do you recall that?

13 A. Yes.

14 Q. And what is the self-photographing mode?

15 A. It's a mode where the user photographs him or
16 herself by using the digital camera.

17 Q. Is that shown in Figure 5 of Chin?

18 A. Figure 5 shows the second position of the
19 device, which could be used for self-photographing mode.

20 Q. Is Figure 5 in Chin described as an example of
21 the device in the self-photographing mode?

22 ATTORNEY MOSS: Objection, form.

23 A. At paragraph 32, Chin describes Figure 5 as a
24 perspective view of the portable information terminal of
25 Figure 1 oriented in a second position.

1 BY ATTORNEY SCHREINER:

2 Q. Is Figure 5 of Chin disclosing Chin's device
3 in the self-photographing mode?

4 A. As I --

5 ATTORNEY MOSS: Objection, form.

6 A. As I said, Figure 5 shows the device oriented
7 in a second position, which could be used in
8 self-photographing mode.

9 BY ATTORNEY SCHREINER:

10 Q. And what paragraph were you referring to for
11 that in Chin?

12 A. For what?

13 Q. That Figure 5 shows the device in a
14 configuration where it can be used in the
15 self-photographing mode.

16 A. If you look at Figure 9 of Chin, there's a
17 flow chart which shows that in order to get to a
18 self-photographing mode, the device first must determine
19 whether it's in a second position.

20 So, as I said, if the device is in the second
21 position, then it's able to be used in
22 self-photographing mode.

23 Q. So in Figure 9 where you're referring --
24 Figure 9 that you're referring to, there's a step 160.
25 It says: Display images on second display unit before

1 photographing.

2 Do you see that?

3 A. Yes.

4 Q. That's the device operating in the
5 self-photographing mode?

6 A. Yes. That's a step that would occur if the
7 device is in self-photographing mode.

8 Q. And which figure showing the configuration of
9 Chin would correspond to that step?

10 ATTORNEY MOSS: Objection, form.

11 A. I'm not sure there's a specific figure
12 corresponding just to step S160 in Figure 9.

13 BY ATTORNEY SCHREINER:

14 Q. Going back to your declaration in the area of
15 paragraph 114, is it correct that the self-photographing
16 mode can either be set by the user or automatically set
17 based on the relative positions of the panels?

18 A. Yes. The device can be configured to allow
19 the controlling unit to automatically select the mode
20 when the first and second panels are in the second
21 position.

22 Q. I'd like to refer you now to paragraph 130 of
23 your declaration where you're looking at limitation 1E,
24 which recites, quote, "wherein each image capture mode a
25 display on the first or second screen is different."

1 And let me know when you're at that portion of
2 your declaration.

3 A. Okay.

4 Q. So the claim refers to a first screen and a
5 second screen. This is referring to Claim 1, right?

6 ATTORNEY MOSS: Objection, form.

7 THE WITNESS: What do you mean by "this"?

8 BY ATTORNEY SCHREINER:

9 Q. Claim 1 refers to a first screen and a second
10 screen, right?

11 A. Yes.

12 Q. And what's your understanding of the meaning
13 of this limitation 1E, quote, "wherein each image
14 capture mode a display on the first screen or second
15 screen is different"?

16 ATTORNEY MOSS: Objection, form.

17 A. I'm not quite sure what you're asking. The
18 claim language is pretty clear that it's requiring that
19 a display on the first or second screen is different,
20 which to me simply means that something different is
21 being displayed.

22 BY ATTORNEY SCHREINER:

23 Q. Does "different" mean between different image
24 capture modes?

25 ATTORNEY MOSS: Objection, form.

1 THE WITNESS: I'm not sure I understand your
2 question, but we can perhaps discuss it in a context of
3 what I explain in my declaration.

4 ATTORNEY SCHREINER: Let me try to ask it a
5 different way.

6 BY ATTORNEY SCHREINER:

7 Q. Is "different" in that limitation referring to
8 different screens across different image capture modes?

9 ATTORNEY MOSS: Objection, form.

10 THE WITNESS: I'm not sure what you're meaning
11 by "across."

12 ATTORNEY SCHREINER: Yeah, let's do what you
13 said.

14 BY ATTORNEY SCHREINER:

15 Q. So in paragraph 133 for this limitation 1E,
16 you're referring to Chin in the self-photographing mode.
17 Correct?

18 A. Yes.

19 Q. And can that be performed by the device as
20 configured and shown in Figure 5?

21 A. Can you repeat that?

22 Q. Can the self-photographing mode be performed
23 by the device as it's depicted in Figure 5? I just want
24 something for us to refer to.

25 A. Yes.

1 ATTORNEY MOSS: Objection, form.

2 BY ATTORNEY SCHREINER:

3 Q. And so in the self-photographing mode, you
4 indicate that second display 52 displays something.

5 What is that?

6 A. What do you mean by "that"?

7 Q. What does -- in the self-photographing mode,
8 what does second display 52 present?

9 A. In self-photographing mode, the second display
10 unit 52 can display live, preview, or -- and/or captured
11 images obtained by the camera.

12 Q. And if you could look at paragraph 78, which
13 you cite in Chin, is it correct in paragraph 78 that
14 Chin states, quote, "the user can perform the
15 self-photographing function while viewing him or herself
16 displayed on the second display unit"?

17 Do you see that?

18 A. Yes.

19 Q. So does that correspond to what you were
20 referring to in paragraph 133 of your declaration?

21 A. Yes.

22 Q. So in this mode, the second display unit 52
23 can display a preview of the user.

24 Is that fair to say?

25 ATTORNEY MOSS: Objection, form.

1 A. It can be -- the second display in
2 self-photographing mode can be used to display a preview
3 image of the user.

4 BY ATTORNEY SCHREINER:

5 Q. So in this mode, the user's basically taking
6 what is called in the vernacular a selfie, right?

7 A. Yes.

8 Q. Okay. In paragraph 134, you say "when the
9 device is in the other mode."

10 Do you see that?

11 A. Yes.

12 Q. What is the other mode?

13 A. The other mode is a different mode where the
14 user is taking an image where the camera is facing away
15 from the user.

16 Q. And you refer to this in your declaration
17 somewhere as the outward-facing mode.

18 Is that right?

19 A. That would be an outward-facing mode.

20 Q. And in paragraph 134, is it correct that
21 you're indicating that the first display unit 51 would
22 display a preview of the subject of the photograph?

23 A. Yes. In this other mode, the first display
24 unit would display the preview image, which is different
25 from how the display was done in the self-photographing

1 mode.

2 Q. And in this other mode, the preview is the
3 preview of the image. Strike that.

4 In this other mode, the preview is a preview
5 of the subject of the photograph in this outward-facing
6 mode, right?

7 A. Yes.

8 Q. So in your analysis here, is it correct that
9 you're comparing the preview on second display unit 52
10 in the self-photographing mode to the preview on first
11 display unit 51 in this outward-facing mode?

12 ATTORNEY MOSS: Objection, form.

13 A. Which comparing are you referring to?

14 BY ATTORNEY SCHREINER:

15 Q. In your analysis in paragraph 132 to 135.

16 A. In paragraphs 132 to 135, it explains that the
17 preview image appears on different screens depending
18 upon the image capture mode.

19 Q. And by "different screens," you're referring
20 to the second display 52 in the self-photographing mode
21 versus the first display 51 in the other mode. Correct?

22 ATTORNEY MOSS: Objection, form.

23 A. In the self-photographing mode, the preview
24 image appears on the second display unit 52, whereas in
25 the other mode, the preview image appears on the first

1 display unit, which would be 51.

2 BY ATTORNEY SCHREINER:

3 Q. So where you say "different screens," you're
4 referring to second display unit 51 compared to first
5 display unit 52. Correct?

6 A. Just to be clear, the -- between the
7 self-photographing mode and the other mode, the preview
8 image is appearing on different screens, first display
9 unit 51 versus second display unit 52.

10 Also, I should point out that within the
11 self-photographing mode, the first display unit and
12 second display unit have a different display because one
13 of them is not displaying anything.

14 Likewise, in the other mode, the first and
15 second display units are displaying different things
16 because one of the screens is not displaying anything.

17 Q. Okay. Yeah, we'll discuss that.

18 In 135 where you refer to it appears on
19 different screens, in that paragraph, you are referring
20 to second display unit 52 in the self-photographing mode
21 and then first display unit 51 in the other mode, right?

22 ATTORNEY MOSS: Objection, form.

23 A. In paragraph 135 where I say "different
24 screens," I mean first display unit 51 versus second
25 display unit 52.

1 BY ATTORNEY SCHREINER:

2 Q. And let's take a look at page 62 of your
3 declaration, which is part of paragraph 135 of your
4 declaration. There's some figures that you've prepared.

5 A. I don't see any figures on page 62.

6 Q. My apologies. Page 61.

7 A. Okay.

8 Q. So what is the annotated Figure 6,
9 self-photographing mode, what is that illustrating?

10 A. It's illustrating that the preview image is
11 being displayed on the second display unit in selfie
12 mode.

13 Q. Second display unit 52. Correct?

14 A. Yes. That's in Figure 5.

15 Q. And then Figure 6, which you have labeled as
16 the outward-facing mode, what is that illustrating?

17 A. That's illustrating that the preview image in
18 the outward-facing mode or the other mode is being
19 displayed on the first display unit 51, which is
20 different from the display unit that was used in the
21 self-photographing mode.

22 Q. And why is it different?

23 A. Because the first display unit 51 is different
24 from the second display unit 52.

25 Q. And can you explain for me, what do you mean

1 by the first display unit 51 is different from the
2 display unit 52?

3 A. Here, they are physically different.

4 Q. Okay. And in the outward-facing mode as
5 you've got it annotated, is it correct that it's showing
6 a preview of the subject, which is a -- appears to be a
7 spotted dog?

8 A. Yes.

9 Q. In the self-photographing -- strike that.
10 For this limitation 1E, are you making any
11 sort of inherency argument, or is your argument that
12 Chin expressly discloses this limitation?

13 ATTORNEY MOSS: Objection, form.

14 A. I don't believe I used the term "inherency" in
15 my declaration here. I'm simply stating that between
16 self-photographing mode and the outward-facing or other
17 mode, the display on the screens is different.

18 You know, for example, we see the difference
19 of display unit 51 versus display unit 52. We also see
20 that between the two modes, there's a difference of
21 what's being displayed in the preview image.

22 In the self-photographing mode, it's
23 displaying a preview image that is an image of the user,
24 whereas in the outward-facing or other mode, the preview
25 image is an image of what the camera sees in the scene,

1 looking away or outward from the user.

2 So there are many ways to look at the
3 differences, but regardless, the display on the screens
4 is different.

5 BY ATTORNEY SCHREINER:

6 Q. And let's refer briefly to paragraph 19 of
7 your declaration. You discuss your understanding of the
8 law of anticipation. Just let me know when you've
9 gotten there, paragraph 19.

10 A. Okay.

11 Q. And you state: I have been advised the patent
12 claim is, quote, "anticipated" and therefore invalid
13 when a single prior art document describes, or a prior
14 art document -- product includes every element recited
15 either expressly or inherently in the claim.

16 Do you see that?

17 A. Yes.

18 Q. So what we have been discussing is your
19 arguments on anticipation by Chin. Correct?

20 A. Correct.

21 Q. So is your argument that Chin expressly
22 includes limitation 1E or inherently includes limitation
23 1E?

24 ATTORNEY MOSS: Objection, form.

25 A. When I analyzed this reference, I looked at

1 what was expressly disclosed in the reference regarding
2 the function -- how the device is configured and
3 functions. And in my opinion, a person of ordinary
4 skill would have understood the descriptions and
5 illustrations in the reference to be disclosing this
6 claim limitation.

7 BY ATTORNEY SCHREINER:

8 Q. Just to be clear, you're not making an
9 inherency argument here.

10 ATTORNEY MOSS: Objection, form.

11 A. I am not using the word "inherency."

12 BY ATTORNEY SCHREINER:

13 Q. Let's take a look at paragraph 155 of your
14 declaration.

15 A. Okay.

16 Q. And in the middle of it, you make a reference
17 of Figure 11 of the '842 patent, and you state, quote,
18 "the lens 1136 is associated with the first screen 110."

19 Do you see that?

20 A. Yes.

21 Q. And could we look at paragraph 34, lines 40
22 through 52.

23 A. Which document are you referring to now?

24 Q. I'm sorry, the '842 patent, column 39. I'm
25 sorry, column 34 starting with, like, line 45. So

1 column 34, line 45 in the '842 patent.

2 A. Okay.

3 Q. And it makes reference to what you said in
4 your declaration, right? It says: As shown in
5 Figure 11, the lens 836 is associated with the first
6 screen 110.

7 Do you see that?

8 A. No.

9 Q. Line 34. Sorry, column 34, line 45 through
10 46.

11 A. Okay.

12 Q. As shown in Figure 11, the lens 1136 is
13 associated with the first screen 110.

14 Do you see that?

15 A. Yes.

16 Q. And if you refer to Figure 11 in the '842
17 patent, is it correct that the lens 1136 is located on
18 first screen 110?

19 ATTORNEY MOSS: Objection, form.

20 A. In Figure 11, the lens is shown at the top
21 left corner of the device but is missing the label
22 "1136" that the specification refers to.

23 BY ATTORNEY SCHREINER:

24 Q. Would a POSITA understand that to be
25 indicating that lens 1136 is on first screen 110 in --

1 ATTORNEY MOSS: Objection. Apologize,
2 counsel. Objection, form.

3 A. A POSITA, in reading the text of the patent
4 and looking at the figures, would have understood that
5 the lens is associated with the first screen 110.

6 BY ATTORNEY SCHREINER:

7 Q. Okay. Is it correct that it's located on the
8 first screen 110?

9 ATTORNEY MOSS: Objection, form.

10 A. The reference says that the lens is associated
11 with the first screen 110. It does not say that it has
12 to be on the first screen 110.

13 BY ATTORNEY SCHREINER:

14 Q. As illustrated in Figure 11, would a POSITA
15 understand that the first -- that the lens 1136 is
16 located on the first screen 110?

17 ATTORNEY MOSS: Objection, form.

18 A. I'm not sure what you mean by "located on."
19 Instead, a POSITA, in reading the patent, would have
20 understood that the lens is associated with the first
21 screen 110.

22 BY ATTORNEY SCHREINER:

23 Q. If we look at -- let's look at Figure 1B of
24 the '842 patent.

25 Do you see Figure 1B?

1 A. Yes.

2 Q. And is it correct that Figure 1B shows a
3 primary screen 104?

4 A. Yes.

5 Q. And is it correct that Figure 1B depicts a
6 lens 168 that is on primary screen 104?

7 A. It's unclear from the figure whether it's on
8 the screen 104. The specification says that the device
9 includes a camera 168 and that the camera is associated
10 with the screen.

11 Q. So you're saying in Figure 1B that the camera
12 168 might not be on the screen 104?

13 ATTORNEY MOSS: Objection, form.

14 A. I'm not sure what you mean by "on" in this
15 case.

16 BY ATTORNEY SCHREINER:

17 Q. Okay. So I have a cellphone here and
18 there's -- do you see there's camera lenses located on
19 the device?

20 A. I do.

21 ATTORNEY MOSS: Objection, form.

22 BY ATTORNEY SCHREINER:

23 Q. Okay. So in Figure 1B, if the camera lens is
24 not located on screen 104, where else could it be
25 located?

1 A. It could be inserted through the screen, for
2 example.

3 Q. Okay.

4 A. Could be beneath. There may be various design
5 choices one could make.

6 When you say "on the screen," to me, that's
7 very vague. It has the connotation to me that you have
8 a screen and then you select a camera device and you
9 set -- place or set the camera device on the screen. In
10 that case, if you tip the screen, it will roll right
11 off, so it doesn't make much sense to me.

12 Q. Fair enough.

13 ATTORNEY MOSS: Counsel, we've been going
14 about an hour and 20 minutes. Is this a good place to
15 take a quick break?

16 ATTORNEY SCHREINER: Yeah, yeah, certainly.
17 Dr. Rodriguez, 10 minutes? 15 minutes? What would be
18 good?

19 THE WITNESS: At some point, I'll -- I guess,
20 yeah, we can do a 10-minute break now, and then at some
21 point I'll need a lunch break.

22 ATTORNEY SCHREINER: Okay, sure. So it's,
23 what, 11:23 your time, so yeah, maybe after the next
24 series of questions we'll go about an hour and then
25 we'll take a lunch break. Does that sound about right?

1 THE WITNESS: Okay, great.

2 (Recess taken.)

3 BY ATTORNEY SCHREINER:

4 Q. Let's take a look at paragraph 162 of your
5 declaration, Dr. Rodriguez.

6 A. Okay.

7 Q. And just to orient ourselves, this analysis
8 involves ground 1, that Chin anticipates Claim 6.

9 Is that correct?

10 A. Yes.

11 Q. And so that means that Chin has to expressly
12 disclose or inherently disclose Claim 6.

13 Is that fair to say?

14 ATTORNEY MOSS: Objection, form.

15 A. Yes.

16 BY ATTORNEY SCHREINER:

17 Q. And for Claim 6, am I right that you're not
18 making an inherency argument?

19 A. What I'm arguing with regard to Claim 6 is
20 that a POSITA, having reviewed the documents, would have
21 understood from the teachings in Chin that the elements
22 of Claim 6 are disclosed.

23 Q. That's not an inherency argument, right?

24 A. I've not used the term "inherency" in my
25 argument in the declaration for Claim 6.

1 Q. Your position is that Chin expressly discloses
2 Claim 6, right?

3 A. Yes. The teachings in the Chin reference,
4 when analyzed by a person of ordinary skill in the art,
5 do disclose all the elements of Claim 6, in my opinion.

6 Q. Let's take a look at what you labeled as the
7 outward-facing mode in Figure 6 of Chin.

8 ATTORNEY MOSS: Objection to the extent that's
9 a question. Form.

10 THE WITNESS: And can you direct me to the --

11 ATTORNEY SCHREINER: Oh, sure.

12 BY ATTORNEY SCHREINER:

13 Q. Looking at Figure 6 of Chin, which you
14 characterized as being the outward-facing mode.

15 A. Can you direct me to where in the declaration
16 I characterize Figure 6 as the outward-facing mode?

17 Q. Sure. If everybody would just give me a
18 moment, I seem to have lost my realtime.

19 Do you recall the figures we were looking at
20 before we took the break on page 61 of your declaration?

21 Page 61, you have Figure 6 of Chin labeled as
22 outward-facing mode.

23 A. On page 61 of my declaration, I have an
24 annotated version of Figure 6 called outward-facing mode
25 that shows the device being used in an outward-facing

1 mode to take a picture of a spotted dog.

2 Q. And in that mode, is it correct that there's a
3 preview of the subject, the spotted dog, shown on first
4 display unit 51?

5 A. Yes.

6 Q. In that mode, what does Chin say regarding
7 what is displayed on the other side on second display
8 unit 52?

9 ATTORNEY MOSS: Objection, form.

10 A. In Chin at Figure 9 as well as the associated
11 text that discusses Figure 9 it explains that the device
12 determines whether or not it is in self-photographing
13 mode at step S150.

14 If it is in self-photographing mode, then it
15 displays images on the second display unit before
16 photographing. And if it determines that it is not in
17 self-photographing mode, then it displays the images on
18 the first display unit before photographing.

19 So this is very clear that there's a choice
20 that's being made as to where the preview image is being
21 displayed. It's either being displayed on a second
22 display unit in self-photographing mode or on the first
23 display unit if it's not in self-photographing mode.

24 BY ATTORNEY SCHREINER:

25 Q. So if it's not in self-photographing mode,

1 that corresponds to what you refer to as the
2 outward-facing mode. Correct?

3 A. Yes.

4 Q. And that would be step 170 in Figure 9.
5 Correct?

6 A. Step 170 is where it displays a preview image
7 when it's in the outward-facing or other mode.

8 Q. And it indicates that -- is it fair to say
9 that Chin, in the figures and in the discussion,
10 indicates that in the self -- let me rephrase that.

11 Is it fair to say that Chin discloses, through
12 the figures and the narrative, that in the
13 outward-facing mode there is a preview shown in first
14 display unit 51?

15 ATTORNEY MOSS: Objection, form.

16 THE WITNESS: Can you rephrase that question?
17 I got lost.

18 ATTORNEY SCHREINER: Sure.

19 BY ATTORNEY SCHREINER:

20 Q. In the outward-facing mode of Chin, is it
21 correct that Chin discloses that the first display unit
22 51 provides a preview of the subject of the photograph?

23 A. You're asking about in the self-photographing
24 mode?

25 Q. No. So we're talking about the outward-facing

1 mode of Figure 6.

2 A. Yes, being referenced at paragraph 79,
3 discloses that when the device is in the other mode,
4 taking an outward-facing image, the device displays
5 images on a first display unit before a photograph is
6 taken so that the first display unit can perform a
7 preview function. So that's what I was referring to as
8 a preview image.

9 Q. And what does Chin say regarding the second
10 display unit 52 when the device is in the outward-facing
11 mode?

12 ATTORNEY MOSS: Objection, form.

13 A. In the outward-facing mode in Figure 9, the
14 result of the self-photographing mode test at step S150
15 would direct the processing to take the branch labeled
16 "no" if we're in outward-facing mode, and that would
17 proceed to step S170, where the preview image is
18 displayed on the first display unit.

19 And in this same flow chart, we see that step
20 S160 is skipped in that event, that is, the preview
21 image is not going to be displayed on the second display
22 unit.

23 In my opinion, a person of ordinary skill,
24 when reviewing this Figure 9 and the associated
25 description, would have understood that the purpose of

1 this flow chart is to show the order, the sequence of
2 steps that are being performed and the way the
3 self-photographing mode test is being applied, namely,
4 that the device is going to take either the "no" branch
5 or the "yes" branch but not both at the same time;
6 otherwise, the flow chart would have been presented in a
7 different way.

8 BY ATTORNEY SCHREINER:

9 Q. And the "no" branch indicates that a preview's
10 going to be presented on the first display unit 51.
11 Correct?

12 A. Yes.

13 Q. It doesn't say anything there about what, if
14 anything, is displayed on second display unit 52.
15 Correct?

16 ATTORNEY MOSS: Objection, form.

17 A. To the contrary, the flow chart indicates that
18 the step S160 where images are displayed on the second
19 display unit is going to be skipped in the event that we
20 are in an outward-facing mode.

21 BY ATTORNEY SCHREINER:

22 Q. Okay. So let's take the outward-facing mode
23 and think about Figure 6.

24 Is it correct that in that mode, the second
25 display unit 52 could present, for example, a

1 screensaver?

2 ATTORNEY MOSS: Objection, form. Scope.

3 A. Can you direct me to where in Chin it
4 discusses a screensaver?

5 BY ATTORNEY SCHREINER:

6 Q. No. I'm asking you would a POSITA understand
7 that in Figure 6 of Chin, the second display unit could
8 display a screensaver?

9 ATTORNEY MOSS: Objection, form. Scope.

10 A. No. I see nothing in the Chin reference to
11 suggest implementing a screensaver as an additional
12 element in this device.

13 BY ATTORNEY SCHREINER:

14 Q. Are you saying that a POSITA would -- so are
15 you saying it would be impossible for the second display
16 unit 52 to present a screensaver in the outward-facing
17 mode?

18 ATTORNEY MOSS: Objection, form.

19 A. I did not say that. What I said is that
20 there's nothing in the reference to suggest it.
21 Further, a person of ordinary skill would have
22 understood that it wouldn't make sense to devote extra
23 resources and, you know, more power draw or more cost to
24 implement features that are not necessary for the
25 device. If the device is pointed in such a way that one

1 of the screens is not even visible to the user, why
2 would one want to expend resources to implement a
3 screensaver on that screen? Wouldn't make sense.

4 BY ATTORNEY SCHREINER:

5 Q. In that mode, that second display unit can be
6 visible to the subject, right? The person whose
7 photograph is being taken by the user.

8 ATTORNEY MOSS: Objection, form.

9 A. Okay.

10 Q. Is that a yes?

11 A. What was the question?

12 Q. The question was in that mode, the
13 outward-facing mode, the second display unit could be
14 visible to the subject of the photograph.

15 A. You're referring to a subject such as the dog
16 in the annotated Figure 6. I guess that display unit
17 would be facing the subject, but my prior statement
18 still stands.

19 Q. So what if -- let's take, for example, what if
20 the -- strike that.

21 Can the outward-facing mode, instead of taking
22 a picture of a dog, can it be used to take a picture of
23 a person? The user's taking a picture of another
24 person?

25 ATTORNEY MOSS: Objection, form. Scope.

1 A. Yes, it could.

2 BY ATTORNEY SCHREINER:

3 Q. And it could be taking a picture of another
4 person who's close to the camera. Correct?

5 ATTORNEY MOSS: Objection, form. Scope.

6 A. Yes.

7 BY ATTORNEY SCHREINER:

8 Q. Could the second display unit 52 facing the
9 subject of the photograph have an image that says
10 "Smile!" with an exclamation point?

11 ATTORNEY MOSS: Objection, form. Scope.

12 A. There are many ways one could redesign the
13 device disclosed in the Chin reference, but there's
14 nothing in the Chin reference that suggests the features
15 that you're referring to.

16 So in my opinion, a person of ordinary skill
17 in the art would not have thought that the Chin
18 reference intended these extra features to be, you know,
19 part of the device.

20 BY ATTORNEY SCHREINER:

21 Q. Are you saying that it would be impossible for
22 the second display unit 52 in Chin's Figure 6
23 configuration to display an image that says "Smile!"?

24 ATTORNEY MOSS: Objection, form.

25 A. I did not say it would be impossible. But,

1 for example, just to illustrate the point, it would be
2 possible to redesign Chin's device so that it has a long
3 power cable that one could plug into a wall so that it
4 wouldn't run out of energy. But there's nothing in the
5 Chin reference that suggests that or indicates that, so
6 a person of ordinary skill, in reading the Chin
7 reference, would have understood the Chin reference to
8 be presented the way it is presented in the reference
9 and to not include a power cord that's plugged into the
10 wall.

11 BY ATTORNEY SCHREINER:

12 Q. Does Chin state anywhere that screen 52 in
13 Figure 6 is turned off or disabled?

14 ATTORNEY MOSS: Objection, form.

15 A. Yes.

16 BY ATTORNEY SCHREINER:

17 Q. And where is that?

18 A. As I said, in Figure 9 and the associated text
19 that describes Figure 9, we see the flow chart where in
20 the self-photographing mode test at step S150 one of the
21 two branches is taken, either the "no" branch or the
22 "yes" branch, not both at the same time.

23 A person of ordinary skill would have
24 understood that this flow chart illustrates that only
25 one of those branches is to be taken, which means that

1 the preview image is displayed on only one display so
2 that the other display, since it's not facing the user,
3 would be disabled or turned off or inactive or blank.

4 Q. Wouldn't it be equally valid that a POSITA
5 would understand Figure 9 as describing the movement of
6 the preview from the first display to the second display
7 but not addressing at all the other display in each of
8 those two configurations?

9 ATTORNEY MOSS: Objection, form.

10 A. That's not the way I see it.

11 BY ATTORNEY SCHREINER:

12 Q. Were screensavers for handheld mobile devices
13 known in the art at the relevant time period here of
14 2011?

15 ATTORNEY MOSS: Objection, form. Scope.

16 A. I haven't done that analysis so I wouldn't be
17 able to say right now.

18 BY ATTORNEY SCHREINER:

19 Q. Sure. You referred to the original Apple
20 iPhone in your declaration.

21 Do you recall that?

22 A. I don't recall the location. Can you direct
23 me to where you're referring?

24 Q. Yeah, paragraph 253.

25 A. Okay.

1 Q. Did you acquire an iPhone, one of the original
2 iPhones in the 2007 time frame?

3 A. I did own an iPhone around that time frame. I
4 don't know if it was the original iPhone.

5 Q. Do you recall that the iPhone had a
6 screensaver?

7 ATTORNEY MOSS: Objection, form.

8 A. No, I don't specifically recall.

9 BY ATTORNEY SCHREINER:

10 Q. Were screensavers known in the 2011 time
11 frame?

12 ATTORNEY MOSS: Objection, form.

13 A. Screensavers were known in other contexts,
14 yes.

15 BY ATTORNEY SCHREINER:

16 Q. Certainly some personal computers in that time
17 frame had screensavers, right?

18 A. Correct. Like, for a desktop computer, it was
19 known that you could implement a screensaver on a
20 desktop computer.

21 Q. And it's pretty common at this time for
22 handheld computing devices such as smartphones to have
23 screensavers, right?

24 ATTORNEY MOSS: Objection, form. Scope.

25 A. I don't know. I know on my smartphone I don't

1 have a screensaver running, but maybe there are
2 screen -- smartphone devices out there that do have
3 screen -- I -- I assume there probably is a way to
4 configure it so it has a screensaver.

5 BY ATTORNEY SCHREINER:

6 Q. Let me try to be a little more precise. By
7 screensaver, I mean, a default image that the device
8 goes to when it's been idle for a period of time.

9 Does that make sense?

10 ATTORNEY MOSS: Objection, form.

11 A. That would be one type of screensaver. I know
12 that on my personal iPhone, I have it configured so that
13 if it goes idle after a certain amount of time, the
14 display turns off.

15 BY ATTORNEY SCHREINER:

16 Q. Because you've set it up that way.

17 A. I don't know if I set it up that way or that
18 was the default configuration. I can't recall.

19 Q. And on the question as to whether screensavers
20 were known in the 2011 time frame for handheld computing
21 devices, I just want to be clear on your answer.

22 Is your answer no, screensavers for handheld
23 computing devices weren't known, or you don't recall?

24 ATTORNEY MOSS: Objection, form. Scope.

25 A. I don't recall any specific handheld computing

1 device with a screensaver around that time frame. I
2 would guess that they probably existed, but to the point
3 whether or not that technology was available and
4 existed, Chin clearly describes a device that has a
5 decision being made as to where to display the preview
6 image and displaying an image on the second display unit
7 is expressly skipped in the event that the camera is
8 configured in the outward-facing mode.

9 BY ATTORNEY SCHREINER:

10 Q. Is it fair to say that you're reading into
11 Chin that it must have code that turns off the other
12 screen when it's in the outward-facing mode?

13 ATTORNEY MOSS: Objection, form.

14 A. It has some way of implementing the flow chart
15 that's in Figure 9.

16 BY ATTORNEY SCHREINER:

17 Q. And that would be through some computer code
18 or instructions running on the Chin device, right?

19 ATTORNEY MOSS: Objection, form. Scope.

20 A. That would be the logical way of implementing
21 the steps shown in Figure 9.

22 BY ATTORNEY SCHREINER:

23 Q. Does Chin disclose anywhere that it's coded or
24 it has instructions to turn off the outward-facing
25 screen when you're in the Figure 6 outward-facing mode?

1 ATTORNEY MOSS: Objection, form. Scope.

2 A. Yes. At paragraph 52 of Chin, it says that
3 the controlling unit 70 includes controlling software.
4 A person of ordinary skill would have understood that
5 the controlling software is in the form of code or
6 computer instructions or computer-executable
7 instructions or instructions that can be executed by a
8 processor in order to perform the functions described in
9 the reference.

10 And those functions include the functions
11 embodied in Figure 9 which, as we've discussed, involves
12 skipping the display of images on the second display
13 unit when the device is in the outward-facing mode and
14 taking pictures.

15 BY ATTORNEY SCHREINER:

16 Q. So let's say the user is in the
17 self-photograph mode of Figure 5. And in that mode,
18 second display unit 52 is showing a preview of the user,
19 right?

20 A. Right.

21 Q. Now, if the user switches from the
22 self-photographing mode of Figure 5 to the
23 outward-facing mode of Figure 6, do you follow that?

24 A. No. That statement didn't make sense.

25 Q. Okay. So would it be -- is it correct that a

1 user could be operating the device in the
2 self-photographing mode of Figure 5 and then the user
3 could change to the outward-facing mode of Figure 6?

4 A. Yes.

5 Q. And when the user's in the self-photographing
6 mode, second display 52 is showing a preview, right?

7 A. Yes.

8 Q. When the user changes to the outward-facing
9 mode, your position is that second display unit 52 would
10 be turned off and disabled and displaying nothing,
11 right?

12 ATTORNEY MOSS: Objection, form.

13 A. Once the device is operating in the
14 outward-facing mode, then the second display unit would
15 be not displaying anything.

16 BY ATTORNEY SCHREINER:

17 Q. But isn't it possible that the second display
18 unit which was displaying a preview in the
19 self-photographing mode could continue to display a
20 preview in the outward-facing mode?

21 ATTORNEY MOSS: Objection, form. Scope.

22 A. It is possible to design a different device
23 that operates in the manner you described, but that's
24 not -- that's not the device described in the Chin
25 reference.

1 The Chin reference doesn't -- the Chin device
2 doesn't operate that way. A person of ordinary skill
3 would have understood from Figure 9 and the associated
4 description of the figure that it wouldn't make sense to
5 implement it that way.

6 BY ATTORNEY SCHREINER:

7 Q. So are you saying it wouldn't make sense for,
8 in the outward-facing mode, for the second display unit
9 to be presenting a preview to the subject of the
10 photograph?

11 ATTORNEY MOSS: Objection, form. Scope.

12 A. Perhaps I misunderstood the scenario you were
13 describing. Maybe we should set it up again.

14 BY ATTORNEY SCHREINER:

15 Q. Sure. You were talking about it not making
16 sense for the second display 52 to be presenting
17 anything in the outward-facing mode, right? That's the
18 essence of what you said, right?

19 A. Right. So that if you switch from
20 self-photographing mode to outward-facing mode, the
21 display unit that is no longer facing the unit would be
22 turned off.

23 Q. And that's based on your belief that the
24 display unit is only for the benefit of the user, right?

25 ATTORNEY MOSS: Objection, form.

1 A. No. It's based on my analysis of the
2 reference.

3 BY ATTORNEY SCHREINER:

4 Q. Can the display unit be used for the benefit
5 of the subject whose photograph is being taken?

6 ATTORNEY MOSS: Objection, form.

7 THE WITNESS: Could you direct me to where in
8 Chin you see that discussion?

9 BY ATTORNEY SCHREINER:

10 Q. I'm just asking would a POSITA understand that
11 the outward-facing display unit 52 could be presenting
12 something for the subject of the photograph to see?

13 ATTORNEY MOSS: Objection, form. Scope.

14 A. As I mentioned earlier, a POSITA would
15 understand that you could redesign the device of Chin to
16 do many different things. But what I was asked to do is
17 to analyze the Chin reference to determine whether a
18 person of ordinary skill in the art at the time of the
19 '842 patent would have understood that the device that
20 is disclosed in Chin discloses the elements of the
21 asserted claims and so that's the analysis I did.

22 I did not try to analyze other devices that
23 could be designed based on combinations of references,
24 etc.

25 BY ATTORNEY SCHREINER:

1 Q. And so is it correct that your position is
2 that the processor in Chin would be coded to turn off
3 the outward-facing second display unit 52 when the
4 device is in the outward-facing mode of Figure 6?

5 ATTORNEY MOSS: Objection, form.

6 A. Yes. In my opinion, the teachings in Chin
7 indicate that in the outward-facing mode, the second
8 display unit would be off because of Figure 9 and the
9 associated description of it.

10 BY ATTORNEY SCHREINER:

11 Q. And that means that the processor would be
12 coded to turn off or disable that second display unit.

13 That's your position, right?

14 ATTORNEY MOSS: Objection, form.

15 A. Chin explains that controlling unit 70 is the
16 processing unit that controls the operation and that
17 implements the functionality depicted in Figure 9. So
18 yes, a person of ordinary skill would have understood
19 that controlling unit 70 would be the element in Chin's
20 device that would be turning off the second display unit
21 when the device is in the outward-facing mode.

22 BY ATTORNEY SCHREINER:

23 Q. But you're not disputing that Chin's processor
24 could be coded to present a screensaver on that second
25 display unit 52 in the outward-facing mode of Figure 6?

1 ATTORNEY MOSS: Objection, form. Scope.

2 A. As I said, one could redesign the device to
3 make it do something completely different. But what I
4 was doing is analyzing the Chin reference to determine
5 what device Chin was disclosing and whether the device
6 disclosed in Chin performs the elements of the asserted
7 claims from the understanding of a person of ordinary
8 skill at the time.

9 BY ATTORNEY SCHREINER:

10 Q. Okay. But you're not suggesting that it would
11 be possible for Chin to be coded to present a
12 screensaver on second display 52 in this outward-facing
13 mode?

14 ATTORNEY MOSS: Objection, form. Scope.

15 THE WITNESS: Can you restate that question?

16 ATTORNEY SCHREINER: Yeah, let me correct it.

17 BY ATTORNEY SCHREINER:

18 Q. You're not suggesting that it would be
19 impossible for Chin to be coded to present a screensaver
20 on that outward-facing second display unit in Figure 6?

21 ATTORNEY MOSS: Objection, form. Scope.

22 A. As I said, it would be possible to redesign
23 Chin's device to make it do something very different.

24 BY ATTORNEY SCHREINER:

25 Q. And you're not suggesting that it would be

1 impossible for the outward-facing second display 52 to
2 present a default image such as "Smile!"?

3 ATTORNEY MOSS: Objection, form. Scope.

4 A. It is not impossible to have a device that
5 operates in other manner such as what you're describing,
6 but that would no longer be the Chin device. So what I
7 opined on in my declaration is how the Chin device
8 operates.

9 BY ATTORNEY SCHREINER:

10 Q. Let's take a look at Claim 10. This is
11 starting with your paragraph 165.

12 A. Okay.

13 Q. So you've just got two paragraphs here, 165
14 through 166. Are you making any kind of inherency
15 argument here?

16 ATTORNEY MOSS: Objection, form.

17 ATTORNEY SCHREINER: Actually, let me withdraw
18 that. Let me back up from that.

19 BY ATTORNEY SCHREINER:

20 Q. You refer in this -- you refer in paragraph
21 166 to paragraph 61 of Chin.

22 Do you see that?

23 A. Yes, I see that I cite paragraph 61.

24 Q. Okay. And do you -- and why don't you go
25 ahead and take a look at paragraph 61. We discussed

1 this earlier, paragraph 61 in Chin.

2 And do you recall your testimony about
3 paragraph 61 of Chin discussing that the second button
4 unit 33A on the connecting device 30 could be a
5 touchscreen liquid crystal display?

6 A. Yes.

7 Q. And we talked earlier about connecting device
8 30 being a component that is between the first panel and
9 second panel in Chin as shown in Figure 1.

10 ATTORNEY MOSS: Objection, form.

11 A. Yes. The connecting unit connects the first
12 panel and second panel.

13 BY ATTORNEY SCHREINER:

14 Q. And referring to Figure 1 in Chin with
15 paragraph 61 in mind, is it correct that Chin is
16 disclosing that the second button unit 33A connecting
17 unit 30 can be a touchscreen-type LCD?

18 A. In my opinion, Chin is disclosing that the
19 second button unit could be implemented using different
20 components other than what's shown in Figure 1 in
21 connecting unit 30.

22 For example, one could use a touchscreen-type
23 liquid crystal display. In my opinion, a person of
24 ordinary skill, when reading that statement, would have
25 understood that there would be multiple ways of

1 implementing the second button unit using a
2 touchscreen-type liquid crystal display.

3 One could incorporate a touchscreen-type
4 liquid crystal display into connecting unit 30, or one
5 could implement the -- either of the two display units
6 51 and 52 as a touchscreen-type liquid crystal display
7 so that the second button unit could be incorporated
8 into display units 51 and/or 52.

9 Q. Does paragraph 61 of Chin expressly state that
10 the second button unit could be implemented as a
11 touchscreen that is part of either the first display 51
12 or second display 52?

13 ATTORNEY MOSS: Objection, form.

14 A. Yes. In my opinion, a person of ordinary
15 skill, reading that statement in the context of the
16 reference, would have understood that Chin was not
17 intending for the structure of the second button unit to
18 be limited to what's depicted in Figure 1.

19 Figure 1 shows the second button unit as part
20 of the connecting unit 30. Chin is expressly stating
21 that the device is not limited in that way. Instead,
22 one could use different structures, such as a
23 touchscreen-type liquid crystal display.

24 A person of ordinary skill, when reading that
25 statement, would immediately think that since there's

1 already a display unit 51 and a display unit 52 that one
2 could implement those as either, or both of those as a
3 touchscreen-type liquid crystal display, which perhaps
4 would save costs not having to have a third liquid
5 crystal display device present.

6 But, of course, one could use a third liquid
7 crystal -- or one could use a third display device so
8 that the connecting unit 30 could be implemented as a
9 touchscreen-type liquid crystal display in addition to
10 the display unit 51 and display unit 52.

11 Chin is very clear that they did not intend to
12 limit the structure of the second button unit to simply
13 be implemented on as part of the connecting unit shown
14 in Figure 1.

15 Q. So is your position that if a reference is not
16 limited to something then it expressly discloses
17 everything that it's not limited to?

18 ATTORNEY MOSS: Objection, form. Scope.

19 A. No, that's not what I said.

20 BY ATTORNEY SCHREINER:

21 Q. Does paragraph 61 of Chin even mention first
22 display 51 or second display 52?

23 ATTORNEY MOSS: Objection, form.

24 A. It mentions a display which, in my opinion,
25 would cause a person of ordinary skill to immediately

1 think of the other displays that have already been
2 mentioned, namely, display unit 51 and display unit 52.

3 BY ATTORNEY SCHREINER:

4 Q. So a POSITA reading paragraph 61 would, in
5 your words, immediately think of the other displays?

6 A. Yes, because --

7 ATTORNEY MOSS: Objection, form.

8 A. -- the last sentence of 61 is expressly
9 referring to a display.

10 BY ATTORNEY SCHREINER:

11 Q. It's referring to the display for the second
12 button unit 33A, right?

13 A. It's stating that the structure of the second
14 button unit 33A is not limited to the above structure.
15 And by "the above structure," it's referring to the
16 connecting unit 30 that houses those buttons.

17 Q. Isn't it referring to the plurality of
18 push-type buttons that's mentioned at the beginning of
19 paragraph 61?

20 ATTORNEY MOSS: Objection, form.

21 A. The plurality of push-type buttons for the
22 second button unit 33A are located on a face of the
23 connecting unit 30, as the reference says.

24 BY ATTORNEY SCHREINER:

25 Q. So when you read paragraph 61, what does "the

1 above structure" refer to?

2 A. Where do you see the word "above"?

3 Q. It's in the third line from the bottom of
4 paragraph 61 in Chin: Second button unit 33A is not
5 limited to the above structure.

6 Wouldn't a POSITA look at this paragraph and
7 understand that the above structure is referring to the
8 second button unit being implemented using, quote, "a
9 plurality of push-type buttons"? And it's saying that
10 instead of using a plurality of push-type buttons, it
11 could be implemented using a touchscreen -- a touch-type
12 LCD.

13 ATTORNEY MOSS: Objection, form.

14 A. But you have to read this paragraph in the
15 context in which it's given, and the specification has
16 already explained that the second button unit 33A is
17 implementing a -- the structure of that second button
18 unit is implemented as part of the connecting unit 30.

19 So when I read the last sentence of
20 paragraph 61, my thinking was that "the above structure"
21 was referring to the second button unit 33A as part of
22 connecting unit 30 that includes a plurality of
23 push-type buttons. I was thinking of the full context
24 rather than the narrow read that you are suggesting.

25 BY ATTORNEY SCHREINER:

1 Q. So your reading, you're saying a POSITA would
2 read paragraph 61 and a POSITA would not understand "the
3 above structure" to be referring to the plurality of
4 push-type buttons implementing second button unit 33A.

5 Is that correct?

6 A. No.

7 ATTORNEY MOSS: Objection to form.

8 A. No. That's not what I said.

9 BY ATTORNEY SCHREINER:

10 Q. Does "the above structure" -- would a POSITA
11 understand "the above structure" to be referring to
12 structure that is disclosed above in paragraph 61?

13 A. "Above structure" to me refers to the
14 structure that's described above in the patent
15 specification. And I, in my -- when I read through
16 this, I was not -- to just a --

17 (Reporter clarification)

18 A. I'm sorry, I was not limiting the structure to
19 just the structure in that first sentence of
20 paragraph 61 but, instead, referring to the structure in
21 paragraph 61 in the context of the description above.
22 "Above" refers to everything above that last sentence of
23 paragraph 61, and that includes the earlier description
24 that explains that the second button unit 33A is part of
25 the structure of connecting unit 30.

1 BY ATTORNEY SCHREINER:

2 Q. Where in Chin is there a disclosure that
3 second button unit 33A could be located on the first
4 display 51 or second display 52?

5 A. That --

6 ATTORNEY MOSS: Objection, form.

7 A. That disclosure appears in the last sentence
8 of paragraph 61 where it says that second button unit
9 may be embodied by using different components such as a
10 touchscreen-type liquid crystal display.

11 BY ATTORNEY SCHREINER:

12 Q. So you're pointing to paragraph 61. Is there
13 any other paragraph that you assert in Chin discloses
14 the second button unit 33A being on one of the displays
15 51 or 52?

16 A. There may be other portions in Chin that
17 address this, but the disclosure at the end of
18 paragraph 61 is clear to me. The only displays that
19 Chin has mentioned prior to paragraph 61 are the display
20 unit 51 and the display unit 52. So when it's talking
21 about a display, those two display units would
22 immediately be displays that come to mind.

23 Q. Okay. But to be clear, you're referring to
24 paragraph 61. You said there may be other sections, but
25 you haven't identified any other sections to support

1 this argument, right?

2 ATTORNEY MOSS: Objection, form.

3 A. I did identify other sections in the
4 declaration.

5 BY ATTORNEY SCHREINER:

6 Q. And what are those?

7 A. For example, at paragraph 166, I explain that
8 Chin discloses that the display units can be a liquid
9 crystal display apparatus, referring to paragraphs 45
10 and 46 of Chin.

11 Q. Does that disclose that second button unit 33A
12 could be on one of the display units, which is your
13 argument here?

14 ATTORNEY MOSS: Objection, form. Scope.

15 A. You asked whether I refer to any other
16 portions of the Chin reference to support the argument
17 that the second button unit could be implemented as part
18 of display unit 51 or display unit 52, and the
19 disclosures in paragraph 45 and paragraph 46 do support
20 that in that Chin discloses that the display units can
21 be a liquid crystal display apparatus.

22 Further, in paragraph 61, Chin discloses that
23 the second button unit could be implemented as a
24 touchscreen-type liquid crystal display. The only
25 liquid crystal display that's been mentioned so far is

1 the liquid crystal display that Chin says can be used
2 for display unit 51 and display unit 52.

3 BY ATTORNEY SCHREINER:

4 Q. Right. And display unit 51 and 52 are not
5 mentioned in paragraph 61, right?

6 A. The number 51 and the number 52 does not
7 appear in paragraph 61, but my point still stands.

8 Q. So we're in Anticipation Land here, right?
9 This ground is arguing that Chin anticipates
10 Claim 10, right?

11 A. That's correct.

12 Q. And that means that Chin has to expressly
13 disclose the limitation or inherently disclose the
14 limitation, right?

15 ATTORNEY MOSS: Objection, form.

16 A. As it was explained to me, a patent claim is
17 anticipated and, therefore, invalid when a single prior
18 art document describes or a prior art product includes
19 every element recited either expressly or inherently in
20 the claim.

21 BY ATTORNEY SCHREINER:

22 Q. And your position here with respect to
23 Claim 10 is that Chin expressly discloses the limitation
24 of Claim 10, right?

25 A. Yes, for the reasons I've just discussed, that

1 Chin in paragraph 61 expressly says that the second
2 button unit could be implemented as a touchscreen-type
3 liquid crystal display, and the only liquid crystal
4 display that was previously mentioned is the option for
5 display unit 51, display unit 52 to be liquid crystal
6 displays.

7 Q. And you state here in paragraph 166:
8 Accordingly, a POSITA would have understood that one or
9 more controls are presented on the second screen.

10 Do you see that?

11 A. Yes.

12 Q. Okay. What is the second screen? Is that
13 first display 51 or second display 52 in Chin?

14 ATTORNEY MOSS: Objection, form.

15 A. Both are disclosed. Chin discloses that there
16 are two display units, display unit 51 and display unit
17 52. Each of those, Chin says, can be a liquid crystal
18 display and thus, a POSITA reading these disclosures
19 would have understood that the second button unit could
20 be implemented as part of a touchscreen-type liquid
21 crystal display that could be either display unit 51 or
22 display unit 52. So each of those individually would
23 qualify as the claimed second screen for the purpose of
24 Claim 10.

25 BY ATTORNEY SCHREINER:

1 Q. Claim 10 depends from -- strike that.

2 ATTORNEY MOSS: Steve, are we getting close to
3 a point where that lunch break might make sense?

4 ATTORNEY SCHREINER: Yeah. Let me take a look
5 at my line of questions here and do this in a way that
6 works best for everybody.

7 BY ATTORNEY SCHREINER:

8 Q. So just to be clear, in paragraph 61 of Chin
9 where it says that the second button unit 33A is not
10 limited to the above structure, your position is that a
11 POSITA would understand that to be referring to all the
12 prior disclosure in Chin and not referring to the
13 structure referred to at the beginning of paragraph 61,
14 push-type buttons?

15 ATTORNEY MOSS: Objection to form.

16 ATTORNEY SCHREINER: Well, let me restate
17 that. That was kind of a messy question.

18 BY ATTORNEY SCHREINER:

19 Q. So just to be clear, in paragraph 61 of Chin
20 where it says the second button unit 33A is not limited
21 to the, quote, "above structure," your position is that
22 a POSITA would understand that to be referring to all of
23 the structure that Chin had disclosed before
24 paragraph 61?

25 ATTORNEY MOSS: Objection, form.

1 A. Yes, in part. More specifically, a POSITA
2 would understand that "the above structure" refers to
3 the first sentence of paragraph 61 as well as the prior
4 disclosures that relate to the button unit, namely, the
5 fact that the button unit appears as part of connecting
6 unit 30. So a POSITA would have understood that "the
7 above structure" refers to the second button unit 33A
8 housed as part of connecting unit 30, including a
9 plurality of push-type buttons.

10 BY ATTORNEY SCHREINER:

11 Q. Can you point to a figure in Chin that depicts
12 second button unit 33A being anywhere other than on
13 connecting unit 30?

14 ATTORNEY MOSS: Objection. Form, scope.

15 A. I don't believe there's a figure that was
16 offered to illustrate it, but the last sentence of
17 paragraph 61 does say that the second button unit could
18 be embodied in a different way, such as part of a
19 touchscreen-type liquid crystal display with the
20 reference to the -- let me rephrase this.

21 When it refers to a touchscreen-type liquid
22 crystal display, a POSITA would have immediately thought
23 of the only other liquid crystal displays that were
24 mentioned, and that was display unit 51 and display unit
25 52, which are the displays mentioned earlier which were

1 expressly stated that they could be a liquid crystal
2 display.

3 BY ATTORNEY SCHREINER:

4 Q. But there's no figure in Chin that depicts the
5 second button unit 33A being anywhere else than other
6 than on connecting unit 30, right?

7 ATTORNEY MOSS: Objection, form.

8 A. There is no figure to illustrate this
9 particular embodiment, but a person of ordinary skill in
10 the art would have understood that it's being described
11 in paragraph 61 at the last sentence.

12 ATTORNEY SCHREINER: Okay, how long would you
13 like to take for a break for lunch?

14 THE WITNESS: Maybe half an hour would be
15 enough.

16 ATTORNEY SCHREINER: Sure. Geoff?

17 ATTORNEY MOSS: I can make that work sure.

18 ATTORNEY SCHREINER: Okay.

19 (Recess taken.)

20 BY ATTORNEY SCHREINER:

21 Q. Dr. Rodriguez, let's take a look at paragraph
22 211 of your declaration, Exhibit 1003. And this is
23 limitation 1H relating to the first or second screens
24 being different for image capture modes.

25 Do you see that above paragraph 211?

1 A. No. In my declaration it's labeled as element
2 11H instead.

3 Q. Oh, right. So 11H. That's the same language
4 that's in limitation 1E. Correct?

5 A. Yes.

6 Q. Okay. I just want to confirm. Your argument
7 for limitation 1H is the same as the argument for
8 limitation 1E.

9 Is that correct?

10 ATTORNEY MOSS: Objection, form.

11 A. I don't present an argument for limitation 1H.
12 BY ATTORNEY SCHREINER:

13 Q. Yeah, you say in paragraph 212: The
14 limitations of Claim 11H are the same as the limitations
15 of Claim 1E; thus, Chin discloses the limitations of
16 Claim 11H for the same reasons it discloses the
17 limitations of Claim 1E, right?

18 A. Right.

19 Q. Okay. So that's indicating that your argument
20 for limitation 11H is the same as the argument for
21 limitation 1E. Correct?

22 Just want to confirm that.

23 A. Yes.

24 Q. And if we could look at Claim 13, this is --
25 we're still in ground 1, anticipation by Chin, in your

1 paragraph starting with 222.

2 A. Okay.

3 Q. So for Claim 13, it spans paragraphs 222
4 through 226. And is it correct, looking at paragraph
5 226, that your argument for Claim 13 is the same as your
6 argument for Claims 6 and 7 regarding Chin allegedly
7 disclosing a, quote, "full and disabled mode"?

8 A. With regard to Claim 13, my analysis does
9 refer to the analysis for Claims 6 and 7, but I also
10 have a sentence in paragraph 226.

11 Q. Right. In paragraph 226, it says: And the
12 second display unit displays nothing and is disabled.

13 Do you see that in paragraph 226?

14 A. Yes.

15 Q. And that's the same argument as set forth for
16 Claims 6 and 7, right, regarding Chin?

17 A. There are additional statements that appear
18 for -- regarding Claim 6 and Claim 7.

19 Q. In paragraph 226, you state, in Chin's
20 outward-facing mode, you state, quote, "the second
21 display unit displays nothing and is disabled."

22 Do you see that?

23 A. Can you repeat that? I lost where you were
24 indicating the quotation marks.

25 Q. Sure. In paragraph 226, you state that in

1 Chin's outward-facing mode, you state, quote, "the
2 display -- second display unit displays nothing and is
3 disabled."

4 Do you see that?

5 A. Yes.

6 Q. Okay. So it's your position that Chin
7 expressly discloses that the second display unit not
8 only displays nothing, but that it's disabled in that
9 mode.

10 Is that correct?

11 A. Yes.

12 Q. And that's based on Figure 9 of Chin.

13 ATTORNEY MOSS: Objection, form.

14 BY ATTORNEY SCHREINER:

15 Q. Is that correct?

16 ATTORNEY MOSS: Same objection.

17 A. What do you mean by "that"?

18 BY ATTORNEY SCHREINER:

19 Q. Oh, that the second display unit is -- it's
20 not -- strike it. Strike that.

21 You state in paragraph 226 that the second
22 display unit displays nothing and is disabled.

23 Do you see that?

24 A. Yes.

25 Q. And we're talking about the outward-facing

1 mode. So your position is that the second display unit
2 52 is -- it's displaying nothing and it's disabled,
3 right?

4 A. Right.

5 Q. And what do you mean by disabled?

6 A. It's turned off, not displaying anything,
7 inactive.

8 Q. Okay. So the screen's actually turned off?

9 ATTORNEY MOSS: Objection, form.

10 A. There's no image being actively displayed on
11 that display unit.

12 BY ATTORNEY SCHREINER:

13 Q. Right. That's the first part of your
14 statement. You say second display unit displays
15 nothing. But you also state that it's disabled, right?
16 In paragraph 226.

17 A. Yes. It's not displaying anything, and it's
18 disabled.

19 Q. Can you show me where -- where does Chin
20 anywhere disclose disabling a screen?

21 ATTORNEY MOSS: Objection, form.

22 A. For example, if the second display unit is a
23 touchscreen LCD display, it is not receiving inputs when
24 the device is configured in an outward-facing mode.

25 BY ATTORNEY SCHREINER:

1 Q. Does Chin anywhere use the term "disable"
2 regarding one of the display units?

3 A. I don't recall the term "disable" being used
4 explicitly in Chin, but it's clear from Chin's Figure 9
5 and the associated descriptions that when the device is
6 in the outward-facing mode that the "no" branch in
7 Figure 9 step S150 has been selected rather the "yes"
8 branch, and thus, the second display unit is not being
9 used.

10 There's nothing in the flow chart that
11 indicates for the outward-facing mode that the second
12 display unit is displaying anything or is receiving any
13 inputs. Thus, a person of ordinary skill would
14 understand that this indicates the second display unit
15 has been disabled in that mode.

16 Q. So you're reading step S170 in Figure 9, and
17 you're saying there's an additional affirmative step
18 where the second display unit 52 is disabled. Correct?

19 ATTORNEY MOSS: Objection, form.

20 A. No, I didn't say that.

21 BY ATTORNEY SCHREINER:

22 Q. You are saying that the second display unit is
23 disabled, right? You've got it here in paragraph 226.

24 A. That's correct.

25 Q. And I think you just said that in the "no"

1 branch on Figure 9 where you're in the outward-facing
2 mode that the second display unit 52 would be disabled.

3 Is that right?

4 A. That's right.

5 Q. And that would occur in the "no" branch on
6 Figure 9, right?

7 A. When the "no" branch at step S150 is taken,
8 the preview image would be displayed on the first
9 display unit and the second display unit would be
10 displaying nothing and would be disabled.

11 Q. And you're saying it would be disabled, second
12 display unit 52, even though Figure 9 in the "no" branch
13 doesn't state anything about disabling second display
14 unit 52?

15 ATTORNEY MOSS: Objection, form.

16 A. The figure, when taken as a whole, is clear
17 that the second display unit is used when the "yes"
18 branch is taken at step S1 -- after step S150, and that
19 after -- when the "no" branch is taken after step S150,
20 it's the first display unit that is being used. So a
21 person of ordinary skill would understand that this is
22 indicating that the second display unit is disabled when
23 the "no" branch is taken after step S150.

24 BY ATTORNEY SCHREINER:

25 Q. So just to be clear, the second display unit

1 52, it not only displays nothing but it's also disabled.
2 That's your position. Correct?

3 ATTORNEY MOSS: Objection, form.

4 A. In the outward-facing mode, when the "no"
5 branch is taken after step S150, the preview images are
6 displayed on the first display unit and the second
7 display unit is displaying nothing and the second
8 display unit is disabled.

9 BY ATTORNEY SCHREINER:

10 Q. Wouldn't a POSITA reading Figure 9 expect that
11 if the second display unit 52 was disabled that there
12 would be an operation reflected in the flow chart of
13 Figure 9 of --

14 ATTORNEY MOSS: Objection. Sorry. Objection,
15 form.

16 A. In my opinion, no.

17 BY ATTORNEY SCHREINER:

18 Q. There's a difference between a device
19 displaying nothing and being disabled, right?

20 That's why you used that language in paragraph
21 226, right?

22 ATTORNEY MOSS: Objection, form.

23 ATTORNEY SCHREINER: I'll withdraw that
24 question.

25 BY ATTORNEY SCHREINER:

1 Q. If I could refer you to paragraph 252 of your
2 declaration, Exhibit 1003, we're now in the ground 2,
3 obviousness based on Chin.

4 A. Did I miss the question?

5 Q. No, you didn't. You haven't. Let's take a
6 look at paragraph 256 of your declaration. This is on
7 claim limitation 1E regarding the different displays
8 across different image capture modes.

9 I'm trying to understand your analysis
10 starting at 256 on this limitation 1E. Are you applying
11 essentially the same claim construction for limitation
12 1E as you did in the analysis under ground 1 for
13 anticipation?

14 ATTORNEY MOSS: Objection, form.

15 A. Regarding the claim construction, I discuss
16 that at paragraphs 55 through 57 in my declaration.

17 BY ATTORNEY SCHREINER:

18 Q. Right. And I don't think you addressed
19 limitation 1E there.

20 What I'm asking is did you apply the claim
21 language -- for this analysis of obviousness for
22 limitation 1E in paragraph 257, are you applying the
23 claim language in the same way you understood it for the
24 anticipation analysis for limitation 1E?

25 ATTORNEY MOSS: Objection, form.

1 A. In both cases, I have assumed the meaning as
2 understood by a POSITA at the time of the claimed
3 invention, where appropriate, in light of the patent
4 specification, claims, and file history.

5 BY ATTORNEY SCHREINER:

6 Q. So paragraph 257, when you say -- in the
7 middle of it, you say: A POSITA at least would have
8 found it obvious that the display on each of the screens
9 changes between modes.

10 Do you see that language?

11 A. Yes.

12 Q. Is that referring to the same thing that we
13 discussed earlier where you said in the one mode you're
14 going to have a preview on second display unit 52, and
15 then when you go to the other mode in Figure 6, the
16 preview is going to be on first display unit 51?

17 ATTORNEY MOSS: Objection, form.

18 A. In paragraph 257, what I'm saying is that the
19 display on each of the screens changes between those two
20 modes, the selfie mode and the outward-facing mode.

21 BY ATTORNEY SCHREINER:

22 Q. Right. But there's two screens in each mode,
23 right?

24 A. Yes. There are two screens, and each of --
25 for each of those two screens, the display changes

1 between modes.

2 Q. So to be precise, you're saying that first
3 display unit 51 has a different display unit in the
4 self-photographing mode than it does in the
5 outward-facing mode; and likewise, second display 52 has
6 a different display in the self-photographing mode than
7 it does in the outward-facing mode.

8 Is that correct?

9 ATTORNEY MOSS: Objection, form.

10 A. No, that's not what I said.

11 BY ATTORNEY SCHREINER:

12 Q. Okay. What did you say?

13 A. What I said is for each of the two screens,
14 the display changes between modes.

15 Q. And the two screens you're referring to are
16 first display 51 and second display 52, right?

17 A. The two screens are the first display unit 51
18 and the second display unit 52.

19 Q. And so I'm just trying to understand what you
20 mean here. So are you saying that -- let's start with
21 first display unit 51.

22 Are you saying that when you change modes that
23 first display unit 51 is different in the first mode
24 than first display unit 51 is in the second mode?

25 A. No, that's not what I said.

1 Q. Okay. So tell me in terms of first display
2 unit 51 and second display unit 52 what you mean by the
3 display of each of the screen changes.

4 A. What I mean is that the display on each of the
5 screens, display unit 51 and display unit 52, changes
6 between modes.

7 Q. Okay, let's -- again, let's start with display
8 unit 51. So explain for me how -- strike that.

9 Are you saying that display unit 51 is
10 different in the self-photograph mode than display unit
11 51 in the outward-facing mode?

12 Is that what you're saying?

13 A. No.

14 Q. Okay. What's different?

15 A. What I'm saying --

16 Q. The modes are different, right?

17 We agree on that, right?

18 The self-photographing mode and the
19 outward-facing mode are two different modes, right?

20 A. Yes, they are two separate modes.

21 Q. And so how do the -- how do the displays on
22 each of the screens change between those modes?

23 ATTORNEY MOSS: Objection, form.

24 BY ATTORNEY SCHREINER:

25 Q. And I know you're saying that they change, but

1 specifically, what do you mean?

2 Like, what's on display unit 51 in the one
3 mode and then what's on display unit 51 in the second
4 mode? And then same thing with the first -- the second
5 display 52.

6 ATTORNEY MOSS: Objection, form.

7 BY ATTORNEY SCHREINER:

8 Q. Unless I totally don't understand. I mean, I
9 might not -- it may be that I'm not understanding your
10 theory and you're not comparing first display unit 51 to
11 first display unit 51, you know, across the two modes
12 and likewise with display unit 52.

13 Does that make sense?

14 ATTORNEY MOSS: Objection, form.

15 THE WITNESS: Does what make sense?

16 ATTORNEY SCHREINER: Apparently not.

17 BY ATTORNEY SCHREINER:

18 Q. Okay, you say in paragraph 257: The display
19 on each of the screens changes between modes.

20 What are you comparing when you make that
21 statement?

22 A. I'm comparing the display on each of the
23 screens.

24 Q. Which display?

25 A. The display on display unit 51 and also the

1 display unit -- display on display unit 52.

2 Q. Are you saying that each one of those displays
3 changes when you go from one mode to the other?

4 A. Yes. On display unit 51, the display changes
5 when you change between modes. And on display unit 52,
6 the display changes when you change between modes.

7 And also, as I discussed before, in each of
8 the modes, the display on display unit 51 is different
9 from the display on display unit 52.

10 Q. Okay. So you're comparing display unit 51
11 against 52 across modes as well as display unit 51
12 against display unit 51 across modes?

13 Is that right?

14 ATTORNEY MOSS: Objection, form.

15 A. Regardless of how you do the comparison, the
16 displays are different.

17 BY ATTORNEY SCHREINER:

18 Q. You state in paragraph 257: Indeed, a POSITA
19 would have understood that the screen not described as
20 showing the preview would have one of two states:
21 Either on or off. Correct?

22 A. Yes, that's what I wrote.

23 Q. So that other screen could be on or that other
24 screen could be off, right?

25 A. Right.

1 Q. Okay. So in paragraph 258, we talked about
2 this earlier, your statement that basically, that it was
3 known to, quote, "turn off or disable a screen that is
4 not facing the user."

5 Do you see that language in paragraph 258 on
6 page 98 of your declaration?

7 A. No.

8 Q. Yeah, actually, it's on page -- it's paragraph
9 258, the first line. Do you see it says would have been
10 motivated, quote, "to turn off or disable a screen that
11 is not facing the user"?

12 Do you see that?

13 A. Yes.

14 Q. And just to make sure we're clear from the
15 record before, you don't cite any references to any
16 prior art in support of that statement here in paragraph
17 258, right?

18 ATTORNEY MOSS: Objection, form.

19 A. I did not cite references for that statement
20 because it wasn't necessary. It was clear to me what a
21 POSITA would have known in and around 2011.

22 BY ATTORNEY SCHREINER:

23 Q. And in paragraph 258, you state: Turning off
24 power to one screen in a multi-screen device was a known
25 design option.

1 Do you see that in paragraph 258?

2 A. Yes.

3 Q. Okay. You cite no references in support of
4 that statement in paragraph 258, right?

5 A. I did not cite references for that statement
6 because it wasn't necessary, since I knew what a POSITA
7 would have known and would have been able to do.

8 Q. Did you look for any references to support
9 your statement about it being a known design option to
10 turn off power on one screen when it's not pointing
11 towards the user?

12 ATTORNEY MOSS: Objection, form. Scope.

13 A. It wasn't necessary to look for references
14 since to me, this is very obvious.

15 BY ATTORNEY SCHREINER:

16 Q. Okay. You said you have experience with the
17 iPhone in the time frame when it came out, 2007, circa
18 2007. Is that fair to say?

19 A. Yes.

20 Q. And the iPhone had camera functionality,
21 right?

22 A. Yes.

23 Q. And if the user of the iPhone took an
24 outward-facing picture of a subject, the user would see
25 a preview of the subject. Correct?

1 ATTORNEY MOSS: Objection, form. Scope.

2 A. I have not had the opportunity to evaluate
3 every model of the iPhone and every version of its
4 software, so I wouldn't be able to give a definitive
5 answer to that question.

6 BY ATTORNEY SCHREINER:

7 Q. Okay. You say in your paragraph -- this is
8 your statement in paragraph 253: Famously, the original
9 iPhone launched in 2007 with a full touchscreen
10 interface and a camera.

11 A. Which paragraph are you reading from?

12 Q. 253.

13 A. Yes, I see that.

14 Q. And that was, in your words, that was a famous
15 event, right? The launch of the iPhone in 2007.

16 A. Yes.

17 Q. And you knew about it when it happened in
18 2007, right?

19 A. Yes.

20 Q. And as you indicated, the iPhone in 2007 had a
21 touchscreen interface and a camera, right?

22 A. Yes.

23 Q. And the iPhone in its camera mode could be
24 used to take a picture of a subject. Correct?

25 A. Yes.

1 Q. And the touchscreen interface of the iPhone
2 would show a preview of that photograph. Correct?

3 A. I know that at least in some models with some
4 versions of the software the iPhone displayed a preview
5 image prior to taking a photo.

6 Q. Okay. And that applies to versions of the
7 iPhone prior to 2011, right?

8 A. Yes, at least to some versions. I -- again, I
9 haven't had the opportunity to evaluate every version of
10 the software and every model of the iPhone prior to
11 2011.

12 Q. Right. Did I recall correctly that you
13 indicated earlier that you bought one of the early
14 versions of the iPhone or you acquired an early version
15 of the iPhone?

16 A. I have bought a number of models of the iPhone
17 over the years. I don't recall the first model that I
18 ever purchased, but it would have been very early.

19 Q. Right. Prior to 2011?

20 A. Yes.

21 Q. So we discussed that at least in some models
22 of the iPhone in that time frame, a user could take an
23 outward-facing picture and the user would see a preview
24 of the image on the touchscreen of the iPhone. Correct?

25 A. Correct.

1 Q. And a user could take the iPhone and turn it
2 around and take a selfie, right?

3 ATTORNEY MOSS: Objection, form. Scope.

4 A. That functionality I believe has changed over
5 the years depending on which model you're talking about,
6 because I know the number of cameras in the device has
7 changed over the years.

8 BY ATTORNEY SCHREINER:

9 Q. But even in the most basic iPhone, a user
10 could take it in the camera mode and turn it around and
11 take a selfie, right?

12 A. Yes. I believe that was always possible.

13 Q. And in that case, the screen would be going
14 from facing the user to not facing the user, right?

15 ATTORNEY MOSS: Objection, form.

16 A. If the device was turned so that the screen is
17 not facing the user, then the screen is not facing the
18 user.

19 BY ATTORNEY SCHREINER:

20 Q. And is it correct that the iPhone in that time
21 frame, that the screen would continue to display a
22 preview of the image even though the screen is not
23 facing the user?

24 ATTORNEY MOSS: Objection, form. Scope.

25 A. I wouldn't know.

1 BY ATTORNEY SCHREINER:

2 Q. You said you used versions of the iPhone prior
3 to 2011, right?

4 A. That's right.

5 Q. And I assume you used them in your personal
6 capacity. Right?

7 A. Yes.

8 Q. Okay. And did you use your iPhone in that
9 time frame to take pictures of, let's say, family or
10 friends?

11 ATTORNEY MOSS: Objection, form. Scope.

12 A. I probably did take pictures of family and
13 friends.

14 BY ATTORNEY SCHREINER:

15 Q. Did you recall you or friends or acquaintances
16 using your iPhone to take a selfie?

17 A. No.

18 ATTORNEY MOSS: Objection to form. Scope.

19 A. Prior to 2011, I don't recall specifically
20 whether I used the iPhone to take a selfie. That was
21 years ago.

22 BY ATTORNEY SCHREINER:

23 Q. So your testimony at this time is in the --
24 prior to 2011, you don't know whether an iPhone used in
25 the selfie mode would continue to be displaying a

1 preview of the image when the display is facing away
2 from the user?

3 ATTORNEY MOSS: Objection, form. Scope.

4 A. I don't recall ever operating the device in
5 that manner. And even if I did, that's not something I
6 would have been able to observe.

7 BY ATTORNEY SCHREINER:

8 Q. Would you have seen other people using iPhones
9 in that time frame to take selfies?

10 ATTORNEY MOSS: Objection, form. Scope.

11 A. I don't recall. You're talking about almost
12 15 years ago. I have no way of distinguishing in my
13 memory which versions of iPhones I would have seen
14 operating during which years and which ones were being
15 used to take selfies, which ones had a single camera,
16 which ones had multiple cameras embedded. There's so
17 many variables, so I have a hard time answering that
18 question.

19 BY ATTORNEY SCHREINER:

20 Q. But iPhones were a part of the state of the
21 art. That's why you mentioned the iPhone in your
22 declaration, right?

23 ATTORNEY MOSS: Objection, form.

24 A. Yes. Of course, iPhones were prevalent prior
25 to 2011. I did mention them in my declaration. But you

1 are asking about a very particular usage of an iPhone,
2 and I believe you're asking about the usage of an iPhone
3 that has a single camera, and I don't remember which
4 year Apple transitioned to multiple cameras.

5 BY ATTORNEY SCHREINER:

6 Q. But there was a time when the iPhone had a
7 single camera, right?

8 A. I believe so.

9 ATTORNEY MOSS: Object to form.

10 A. I believe the original iPhone had a single
11 camera. I could be mistaken. It's been many years.

12 BY ATTORNEY SCHREINER:

13 Q. Let me ask you this. Would it surprise you to
14 know that the early iPhones, when used in the -- to take
15 a selfie, the outwardly facing display continued to
16 present a preview?

17 Would that surprise you if that was the case?

18 ATTORNEY MOSS: Objection, form. Scope.

19 A. I -- again, you're asking about a -- perhaps a
20 hypothetical situation I haven't thought about before.
21 I don't have specific thoughts one way or the other on
22 that at this time.

23 BY ATTORNEY SCHREINER:

24 Q. You used the word "hypothetical" but, I mean,
25 there's no -- you don't disagree that iPhones prior to

1 2011 had a camera functionality and users used them to
2 take selfies.

3 You don't dispute that, do you?

4 ATTORNEY MOSS: Objection, form. Scope.

5 A. I agree that even the first iPhone had a
6 camera device incorporated.

7 BY ATTORNEY SCHREINER:

8 Q. And users used them to take selfies, among
9 other things?

10 A. I don't recall firsthand observation of users
11 taking selfies with the original camera iPhone model,
12 but I am sure that some users would have.

13 Q. Let's go ahead and transition to the Whitehorn
14 reference. This is ground 3, anticipation by Whitehorn.
15 And I'd like to refer you to paragraph 279 of your
16 declaration.

17 There's a passage from Whitehorn that you
18 quote towards the end of your paragraph 279 that a
19 bottom large screen interface 124 accepts a pen -- a pen
20 inputs while user selections are made with the
21 touch-sensitive pad 126.

22 Do you see that?

23 A. Yes.

24 Q. What does that mean?

25 What is Whitehorn disclosing there?

1 I find the sentence confusing. If you don't
2 have an immediate answer, just let me know and we'll
3 just move on.

4 A. In that sentence, Whitehorn is explaining that
5 the bottom large screen interface can accept pen inputs,
6 and it also says that user selections are made with the
7 touch -- touch-sensitive pad.

8 Q. Right. It uses that word "while," right? It
9 says "while user selections are made."

10 So would a POSITA understand that to be
11 indicating that pen inputs could be made to the bottom
12 large screen interface 124 that are not user selections
13 whereas user selections are made with a touch-sensitive
14 pad 126?

15 Is that how you would read that sentence?

16 A. No.

17 ATTORNEY MOSS: Objection, form.

18 A. No, that's not the way I read it.

19 BY ATTORNEY SCHREINER:

20 Q. Okay. Let's turn to paragraph 296 of your
21 declaration. And we're at ground 3, anticipation by
22 Whitehorn. Limitation 1E, quote, "wherein each image
23 capture mode a display on the first or second screen is
24 different."

25 Do you see that section of your declaration?

1 A. Yes.

2 Q. Is it correct that you're arguing here that
3 the top large screen interface 128 is different in one
4 image capture mode than top large screen interface 128
5 is in another image capture mode?

6 ATTORNEY MOSS: Objection, form.

7 A. No. That's not what it states.

8 BY ATTORNEY SCHREINER:

9 Q. Okay. So what's -- explain to me the argument
10 for limitation 1E here.

11 ATTORNEY MOSS: Objection, form.

12 A. As I stated in paragraph 296, in each of these
13 two image capture modes, a display on at least the top
14 large screen interface 128 is different.

15 BY ATTORNEY SCHREINER:

16 Q. Okay. So a display on top large screen
17 interface 128 is different in one image capture mode
18 than the display on top large screen interface 128 in
19 another image capture mode.

20 Is that correct?

21 ATTORNEY MOSS: Objection, form.

22 ATTORNEY SCHREINER: I'll withdraw that
23 question. I think I can move the ball ahead here.

24 BY ATTORNEY SCHREINER:

25 Q. If we go to your paragraph 299, you state: In

1 the first image capture mode, the top large screen
2 interface is not visible.

3 Do you see that?

4 A. Yes.

5 Q. And you go on to state that in that image
6 capture mode, quote, "it would not display an image on a
7 screen that was not visible to the user." Correct?

8 A. Yes.

9 Q. Isn't it true that Whitehorn is completely
10 silent on what top large screen interface 128 displays
11 in the first image capture mode?

12 ATTORNEY MOSS: Objection, form.

13 A. In the first image capture mode, the top large
14 screen interface is not visible so it would have been
15 clear to a POSITA that the device would not display an
16 image on screen that's not visible to the user.

17 BY ATTORNEY SCHREINER:

18 Q. Does it say that anywhere in Whitehorn?

19 A. I don't recall Whitehorn using those words,
20 but it would be very clear to a POSITA reading Whitehorn
21 that since the screen is not visible, the device would
22 not be displaying anything on it. That would simply
23 waste power.

24 Q. And your position here is that that is
25 expressly disclosed in Whitehorn. You're not relying on

1 inherency for that argument.

2 Is that correct?

3 ATTORNEY MOSS: Objection, form.

4 A. Correct.

5 BY ATTORNEY SCHREINER:

6 Q. If we could turn to Claim 3 starting on -- at
7 paragraphs 309, is it correct that for Claim 3, you are
8 applying Whitehorn's first image capture mode, which
9 would correspond to Figure 1 of Whitehorn?

10 ATTORNEY MOSS: Objection, form.

11 A. For satisfying Claim 3, I refer to the
12 Whitehorn device configured to capture an outward-facing
13 image in the first capture mode where the device can be
14 in a closed state, which is shown in Figure 3.

15 BY ATTORNEY SCHREINER:

16 Q. Right. And Figure 3 is just a side view of
17 the Figure 1, which also displays the first image
18 capture mode, right?

19 A. Yes. Figure 1 shows the device in the first
20 image capture mode.

21 Q. And turning to Claim 4, starting with your
22 paragraph 312 and referring to the diagram you have on
23 page 121 showing Figure 3 of Whitehorn, do you see that?

24 A. Yes.

25 Q. If you look now at Figure 4 of White House

1 [sic], do you see that? That's another side view in the
2 first image capture mode.

3 Is that correct?

4 A. Do you mean Figure 4 of Whitehorn?

5 Q. Yeah, Figure 4 of Whitehorn. I live in DC so
6 I've got the White House on my mind all the time.

7 A. Please repeat what your question was.

8 Q. Yeah. If you look at Figure 4 of Whitehorn,
9 do you agree that that shows a side view of the first
10 image capture mode on the other side of the device?

11 ATTORNEY MOSS: Objection, form.

12 A. Yes. Figure 4 shows a first image capture
13 mode.

14 BY ATTORNEY SCHREINER:

15 Q. Okay. And what is element 118 shown in
16 Figure 4?

17 A. Element 118 is a small screen interface.

18 Q. Is that basically a display for the user to
19 peer through to see a preview of the image in this
20 particular mode?

21 ATTORNEY MOSS: Objection, form.

22 A. Yes. The small screen interface 118 allows
23 users to view images.

24 BY ATTORNEY SCHREINER:

25 Q. Like a preview of a photo that's getting ready

1 to be taken, right?

2 A. Yes. That would be an example of an image
3 that can be viewed on the small screen interface 118.

4 Q. What's the shape of small screen interface
5 118?

6 A. I don't recall Whitehorn describing any
7 particular shape of the small screen interface 118.

8 Q. What would a POSITA understand to be the shape
9 of the small screen interface based on Figure 4 of
10 Whitehorn?

11 ATTORNEY MOSS: Objection, form. Scope.

12 A. In my opinion, the small screen interface
13 could have any shape that is consistent with what's
14 shown in Figure 4, or another shape. I mean, Figure 4
15 is just one example view of what the device could look
16 like.

17 BY ATTORNEY SCHREINER:

18 Q. Would you agree that Figure 4 in this
19 exemplary view, as you put it, shows a small screen
20 interface that appears to be circular or oval?

21 A. No. I see a big black area, and perhaps some
22 detail has been lost in the printing of the figure. I
23 do see a circular black region, but it's impossible to
24 discern exactly where the end of the squiggly line is
25 located for element 118. Possibly, it's pointing to the

1 whole black circular disk, or possibly it's pointing to
2 an interior object within that black circular disk and
3 because of the limited resolution in printing this
4 document, that may have been obscured. But regardless,
5 the specification does not appear to limit the shape of
6 the small screen interface.

7 Q. Let's go ahead and take a look at Claim 7
8 starting at paragraph 321. We're still in ground 3,
9 anticipation based on Whitehorn.

10 A. Okay.

11 Q. And I believe your read of Whitehorn in this
12 case is that the claimed second screen is small screen
13 118 and the claimed first screen is top large screen
14 interface 128.

15 Is that correct?

16 A. Yes.

17 Q. And we're in the first image capture mode of
18 Whitehorn as depicted in Figure 1, 3, and 4, right?

19 A. Yes.

20 Q. And is it your position that because top large
21 display 128 is not physically accessible in this first
22 image capture mode that that means that top large
23 display interface 128 is disabled per the claim?

24 ATTORNEY MOSS: Objection, form.

25 A. As I explain in the declaration, when the

1 device is in a first image capture mode, the top large
2 screen interface 128 is neither visible nor accessible
3 to the user; and thus, it would not display an image and
4 would be disabled.

5 BY ATTORNEY SCHREINER:

6 Q. And your argument here is that Whitehorn
7 expressly discloses Claim 7. You're not relying on
8 inherency.

9 Do I have that right?

10 A. Correct.

11 ATTORNEY SCHREINER: If we could turn to
12 paragraph 329 starting on page 124. And, by the way, I
13 think we're in the home stretch here, so if we can bear
14 with it, I think we can wrap up, Geoff and
15 Dr. Rodriguez, without taking another break.

16 ATTORNEY MOSS: That's lawyer talk for two
17 more hours, Dr. Rodriguez. I'm kidding, I'm kidding.

18 ATTORNEY SCHREINER: Yeah, tòuchè. I've seen
19 that before.

20 ATTORNEY MOSS: Like "the last question." I
21 get it, I get it.

22 ATTORNEY SCHREINER: I've seen that before and
23 done that before, right?

24 ATTORNEY MOSS: Who hasn't, right?

25 ATTORNEY SCHREINER: Yeah.

1 BY ATTORNEY SCHREINER:

2 Q. Okay, so starting at paragraph 329 and
3 paragraph 330, the limitation 11B states "wherein the
4 second screen faces an opposite direction from the first
5 screen when the device is closed."

6 Do you see that in limitation 11B?

7 A. Yes.

8 Q. And am I correct that in paragraph 330, you're
9 relying on Whitehorn's first image capture mode for the
10 read, which is -- corresponds to Figures 1, 3, and 4 of
11 Whitehorn?

12 ATTORNEY MOSS: Objection, form.

13 A. Yes. In paragraph 330, I'm -- and
14 paragraph 331, I'm referring to the first capture mode
15 as shown in Figures 1, 3, and 4.

16 BY ATTORNEY SCHREINER:

17 Q. Okay. And in the first image capture mode of
18 Whitehorn, isn't it the case that the bottom screen 124
19 and the top large screen 128 are facing each other, not
20 facing in opposite directions?

21 ATTORNEY MOSS: Objection, form.

22 A. No. They're facing in opposite directions.

23 BY ATTORNEY SCHREINER:

24 Q. This is in the first capture mode? Strike
25 that.

1 This is in the first image capture mode of
2 Whitehorn as depicted in, for example, Figure 1?

3 A. Yes. In Figures 1, 3, and 4, the device is in
4 the closed configuration and one screen is pointing one
5 direction, the other screen is pointing in the opposite
6 direction.

7 Q. Just so the record is clear, in that mode, top
8 large screen 128 is folded down onto bottom large screen
9 124. Correct?

10 ATTORNEY MOSS: Objection, form.

11 A. In the closed state, the top large screen 128
12 is -- I guess you could refer to it as folded onto the
13 bottom large screen. Seems like a strange way to refer
14 to it.

15 BY ATTORNEY SCHREINER:

16 Q. You see in limitation 11B, it goes on to refer
17 to, quote, "wherein an image capture lens is associated
18 with the second screen."

19 Do you see that?

20 A. Yes.

21 Q. And for that image capture lens, you're
22 pointing to image capture device 116 in Whitehorn's
23 first image capture mode such as shown on Figure 1 and
24 Figure 3.

25 Is that correct?

1 ATTORNEY MOSS: Objection, form.

2 A. Yes. In paragraphs 333 and 334, I refer to
3 the image capture device 116, which does appear in
4 Figures 1, 3 -- at least Figures 1 and 3.

5 BY ATTORNEY SCHREINER:

6 Q. Okay. And is it correct that the image
7 capture device 116 is part of the hinge 104 depicted in
8 Figure 1 of Whitehorn?

9 A. Whitehorn explains that the hinge includes
10 image capture device 116.

11 Q. So the image capture device 116, it's part of
12 hinge 104, it's not part of the top large screen
13 interface 128. Correct?

14 ATTORNEY MOSS: Objection, form.

15 A. Whitehorn explains that the hinge includes
16 image capture device 116, and a POSITA would have
17 understood that the image capture device 116 is
18 associated with the top large screen interface 128
19 because the images captured by the camera are displayed
20 there.

21 BY ATTORNEY SCHREINER:

22 Q. You're not slowing down. If I could turn you
23 to paragraph 376. And here, we're in ground 4,
24 obviousness based on Whitehorn.

25 You state in paragraph 376 that it was known

1 in the art to perform, quote, "turning off power to one
2 screen in a multi-screen device." Strike that. Let me
3 rephrase this.

4 You state in paragraph 376 that a POSITA would
5 have been motivated, quote, "to turn off or disable a
6 screen that is not facing the user."

7 Do you see that?

8 A. Yes.

9 Q. Okay. And similar to what we discussed with
10 regard to Chin, here we're talking about Whitehorn, you
11 don't cite any references to support that statement
12 regarding turning off or disabling a screen that is not
13 facing the user. Correct?

14 A. Correct. I didn't need to cite references for
15 that statement because it was clear to me what a POSITA
16 would have known at the time.

17 Q. Okay. Did you discuss with counsel any of the
18 substance of your testimony today during any of the
19 breaks?

20 A. No.

21 ATTORNEY SCHREINER: Okay. I have no further
22 questions for cross. I pass the witness to you,
23 Geoffrey. Thank you Dr. Rodriguez.

24 ATTORNEY MOSS: Give me two minutes to see if
25 I have any redirect.

1 ATTORNEY SCHREINER: Sure.

2 ATTORNEY MOSS: Thanks so much.

3 (Discussion held off the record.)

4 EXAMINATION

5 BY ATTORNEY MOSS:

6 Q. Dr. Rodriguez, in reviewing your declaration
7 to prepare for this deposition, did you notice any
8 clerical errors that you wanted to correct?

9 A. Yes. In reviewing my declaration for this --
10 in preparation for this deposition, I did notice there
11 were a few clerical errors that somehow came into being.

12 Q. Do you want to identify those?

13 A. Yes. There are four corrections that should
14 be made.

15 At paragraph 191, the phrase "is a computer"
16 should have been the phrase "includes controlling unit
17 70."

18 At paragraph 192, the phrase "in computers
19 such as" should have been "to execute software in."

20 At --

21 ATTORNEY SCHREINER: Just bear with me one
22 moment, if you don't mind. I'm trying to keep up with
23 you. Okay, thanks.

24 BY ATTORNEY MOSS:

25 Q. Anything else, Dr. Rodriguez?

1 A. At paragraph 263, the phrase "a computer"
2 should have been the phrase "execute software."

3 Q. What was the fourth one?

4 A. And the fourth one is at paragraph 384. The
5 phrase "and application" should have been the phrase
6 "and application programs, id., [0033] - [0034],
7 [0117]."

8 Q. And did any of these clerical errors change
9 the substance of any of the opinions in your
10 declaration?

11 A. No. They do not change any of the opinions
12 that are in the declaration.

13 ATTORNEY MOSS: Okay. No further questions,
14 Dr. Rodriguez. Thank you.

15 ATTORNEY SCHREINER: I'm good.

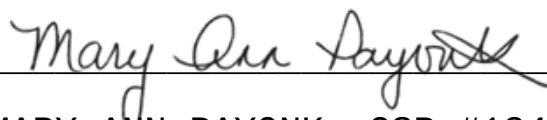
16
17 (Deposition adjourned at 2:42 p.m.)
18
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- REPORTER'S CERTIFICATE -

I, MARY ANN PAYONK, shorthand reporter and Notary Public, CA CSR No. 13431, do hereby certify that the witness whose deposition is hereinbefore set forth was sworn by agreement of all parties, that the proceedings were reported stenographically by me, and that this transcript is a true, correct, and full record of the testimony given.

I further certify that I am not related to any of the parties to this action by blood or by marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of August, 2025.

A handwritten signature in cursive script, reading "Mary Ann Payonk", is written over a horizontal line.

MARY ANN PAYONK, CSR #13431

Virginia Notary Registration No. 219251

My Commission expires 8/21/2026

ERRATA SHEET FOR: DR. JEFFREY J. RODRIGUEZ
CASE CAPTION: Motorola and Google vs. Multifold
DEPOSITION DATE: August 8, 2025

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Signature of Deponent Date

1 I,

2 DR. JEFFREY J. RODRIGUEZ,

3 state that I have read the foregoing deposition and
4 declare under penalty of perjury:

5 That the foregoing is my deposition under
6 oath;

7 That I have read same and have made the
8 necessary corrections, additions or changes to my
9 answers that I deem necessary;

10 That my answers as indicated are true and
11 correct.

12 Executed at _____ this
13 _____ day of _____, 2025.

14
15 _____
16 DR. JEFFREY J. RODRIGUEZ
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