

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOTOROLA MOBILITY LLC AND GOOGLE LLC,
Petitioner,

v.

MULTIFOLD INTERNATIONAL INCORPORATED PTE. LTD.,
Patent Owner.

IPR2025-00040
Patent 9,134,756 B2

Record of Oral Hearing
Held: February 24, 2026

Before KRISTEN L. DROESCH, HYUN J. JUNG, and
BRIAN P. MURPHY, *Administrative Patent Judges*.

APPEARANCES:

ON BEHALF OF THE PETITIONER:

CHRISTOPHER HIGGINS, ESQ.
DANA SUBLETT, ESQ.
Orrick, Herrington & Sutcliffe
2100 Pennsylvania Avenue NW
Washington, D.C. 20037
(202) 339-8418
chiggins@orrick.com
dsublett@orrick.com

ON BEHALF OF THE PATENT OWNER:

MINGHUI YANG, ESQ.
Carmichael IP
8607 Westwood Center Drive, Suite 270
Vienna, VA 22182
(703) 646-9248
mitch@carmichaelip.com

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P R O C E E D I N G S

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JUDGE MURPHY: Good morning. I'm Judge Murphy. With me on the bench today are Judges Jung and Droesch. This is the oral hearing in IPR2025-00040. We're going to start with that argument first, followed by IPR2025-00059, Motorola Mobility and Google v. Multifold. Petitioners are challenging the patentability of Claims 1 through 9 in the '756 patent, and Claims 1 through 3, 5 through 9, 15, 16, 19, and 20 in the '135 patent. Okay. Appearances for Petitioner?

MR. HIGGINS: Good morning, Your Honors. Chris Higgins on behalf of Petitioners. With me is Dana Sublett. Both from Orrick, Herrington & Sutcliffe.

JUDGE MURPHY: Thank you. And Counsel for Patent Owner?

MR. YANG: Good morning. Minghui Yang on behalf of Patent Owner. I'm from Carmichael IP.

JUDGE MURPHY: All right. As we stated in the oral hearing order, each party will have 45 minutes to start in each of the two proceedings. Petitioner will open the hearing, presenting its case, challenging the claims in the 040 IPR. Patent Owner will respond, and both parties may reserve time for rebuttal. We'll take a short break and then we'll move on to the 059 case. Same sequence. Petitioner will start at 45 minutes, Patent Owner will respond, and any party may reserve time for rebuttal. On demonstratives, the reminder is always to try to refer to slide numbers, please, for the benefit of our Court Reporter. A friendly reminder that the demonstratives are not evidence. Just bear that in mind. I think you both did a nice job with that, including the cites for the record, so I

1 appreciate that. And I think that's it. Counsel for Petitioner.

2 MR. HIGGINS: One preliminary thing, Your Honor.

3 JUDGE MURPHY: Yes.

4 MR. HIGGINS: Since we're combining these hearings, it seems
5 like co-Counsel is going to be arguing the second petition from Paul
6 Hastings. I neglected to introduce them.

7 JUDGE MURPHY: Oh, sure.

8 MR. VALENTE: Good morning, Your Honors. David Valente,
9 Paul Hastings. With me is Daniel Zeilberger.

10 JUDGE MURPHY: Yeah, and we'll set up a new panel --

11 MR. HIGGINS: Um-hum.

12 JUDGE MURPHY: -- in between very quick. Counsel, do you
13 wish to reserve any rebuttal at this point?

14 MR. HIGGINS: Yes. I'd like to at least reserve 15 minutes for
15 rebuttal.

16 JUDGE MURPHY: All right. So, I'll start you on 30 minutes and
17 try to give you a two-minute warning.

18 MR. HIGGINS: And I also have hard copies of the slides, if
19 anyone would want them. If not, I can hold on to them.

20 JUDGE DROESCH: No, thank you.

21 JUDGE MURPHY: I think we're good. Thanks.

22 MR. HIGGINS: Good morning, Your Honors. I don't intend to
23 take much time in this opening for this IPR, because there's really no
24 substantive disputed issues. We'll walk through a few things here, but the
25 key thing I want to emphasize for the two independent claims -- Patent
26 Owner does not have any substantive dispute that there are any elements

1 missing from the prior art. There are two independent claims we'll talk
2 about. One is a method, one is a computer readable medium. They mirror
3 each other. They have the same elements, same substantive issues. And
4 their expert didn't dispute it either. There's no substantive disputes here.

5 I do want to quickly walk through the '756 patent. Just one slide,
6 take a few minutes to orient ourselves and what we're talking about, and then
7 I'll talk about the one kind of sole issue on the independent claim that Patent
8 Owner has raised. So, the '756 patent, the way I think about it, it's a split
9 screen display. You can put two applications on the screen at one time, and
10 it's shown in the figure. You can put one application over here, one
11 application over there, you can maximize them, minimize them. That's what
12 it's about. It's not about the hardware behind it, it's not about how it's done.
13 It's just this concept that you can have two displays showing at the same
14 time, and this is from late October 2010. If you think back, we all had
15 multiple monitors, multiple displays at that time, so this was nothing new.

16 And just to quickly orient ourselves with the claim, it's not much
17 more than what I described. You have this first set of receiving selecting --

18 JUDGE MURPHY: Counsel, you're referring to Slide 5?

19 MR. HIGGINS: Yes, Your Honor. Thank you.

20 JUDGE MURPHY: Okay, thanks.

21 MR. HIGGINS: Yeah. And on Slide 5, you have Claim 1 on the
22 left. It's pretty simple. Receiving, selecting, displaying -- that causes you to
23 put up new applications on the screen. A split screen display mode. And
24 then at the end of the claim, you take one of those applications that's up there
25 and you maximize it and it covers both displays. That's it for Claim 1.
26 There's not much more to it, and I think that's why we see from the grounds

1 that we have in this petition four anticipatory references. None are disputed
2 to actually include everything that's in the independent claims.

3 And I won't walk through all of these. I know there's a lot of slides
4 in the deck. I want to focus on the one sole disputed issue here, and -- but
5 before we get to that, I mentioned the two independent claims. They mirror
6 each other. They're color coded on the right and left with the sets of
7 elements that we grouped in the petition. They're mirrored outputs, the same
8 selecting, receiving, displaying steps. And again, none of these are disputed.
9 I may come back to this slide later, but this is just to orient ourselves here on
10 --

11 JUDGE MURPHY: And for the record, you're on Slide 7?

12 MR. HIGGINS: Yes, Your Honor. Thank you. So, if we move to
13 Slide 8, I mentioned the Patent Owner doesn't dispute any of those
14 substantive elements are missing from the prior art. Their expert doesn't
15 either, and this is from the expert declaration on the left, and this bold red
16 font, we did not add this. This is what their expert actually put in the
17 declaration. He wanted nothing to do with these independent claims. He
18 was not asked to give any opinion on the validity of these claims. He re-
19 affirmed it in his deposition. He gave testimony on one sole dependent
20 claim that we'll talk about later. It's about the shape of the icon on the
21 screen.

22 But as far as the independent claims go, again, no dispute by Patent
23 Owner that's there's a prior art. No dispute by their expert. We have
24 un rebutted expert testimony from the Petitioner's side for both of the
25 independent claims. So, if we go to Slide 9, what is the disputed issue?
26 Why are we even here today discussing this IPR? The sole disputed issue is

1 that in the petition, in one of the headings, we omitted the end of a claim
2 element. That's it. And that's only for Claim 1. For Claim 7, all of the
3 claim language is in there, but yet, that is all that Patent Owner is arguing.
4 They're not arguing it's not in the prior art. They're arguing we didn't put it
5 in the claim heading.

6 And for Claim 7, when we did the petition, we referred back to
7 Claim 1. And the key here is the language was in Claim 7 -- the displaying
8 both applications. So, we referred back to Claim 1. There's no dispute that
9 what we have in the petition shows that claim element. So, Claim 7, no
10 dispute there, but if you really think about it for Claim 1, the substance is
11 there. We showed it was in the prior art. The fact that some language -- and
12 we didn't have to put the claim language in the headings. A lot of times, we
13 don't for space, but yet, that's why we're here, that's their sole dispute.

14 JUDGE MURPHY: So, in terms of the facts, there's no dispute
15 that "displaying element" isn't in the subheading for Claim 1?

16 MR. HIGGINS: That's correct, Your Honor. Yeah.

17 JUDGE MURPHY: All right. But the argument is you, you know
18 -- Petitioner addressed it in the petition. So, are you going to walk us
19 through the substance of how the Petitioner addressed it?

20 MR. HIGGINS: Yes. That's correct, Your Honor. And then
21 before I move on from Slide 9 here, the one thing I want to point out
22 -- Patent Owner said that this language -- the claim language appeared
23 nowhere in the petition. That's actually not right. If you look at page 10, for
24 example, of our petition, we actually say that Claim 1 requires displaying the
25 two elements on all the prior art disclose it. So, it's in the petition. It was
26 left off of the heading, but again, it's maybe a matter of form over substance,

1 but really, the substance is in the petition. We covered the element.

2 So, to address this issue, there are really three reasons, even setting
3 aside that, you know, we didn't need to put this in, in the first place, but there
4 are three things I want to walk through that are listed here on Slide 10. The
5 first is the institution decision. It put this element in the institution decision,
6 it found it was present in the prior art, it recognized that the petition
7 addressed it.

8 Second, the petition has multiple examples for every prior art
9 reference of where it shows displaying two applications. It's really not
10 disputing, nor could it be. It's clearly in through figures, through texts,
11 everywhere. It's what these prior art references are all about. And then
12 finally, Patent Owner in its preliminary response -- we went back and looked
13 at it -- they recognized that we did address it. They tried to make a different
14 argument, and by making that argument, they actually said we showed -- the
15 prior art in our petition showed displaying two applications.

16 JUDGE MURPHY: Well, they're not bound by that, right? So
17 -- but I take your point.

18 MR. HIGGINS: Yes. Correct, Your Honor. So, on Slide 11, I
19 want to quickly address what the institution decision found. And if you see
20 highlighted on the screen here for limitation 1B, this is the element -- the
21 text that was missing from Claim 1 -- the petition recognized we referred
22 back from Claim 7 has the same elements. We addressed it substantively.
23 The institution decision found each prior art reference showed displaying
24 two applications on the -- each display, side by side.

25 So, now I want to walk to the -- step on to the second part, which is
26 each prior art reference. Each of the grounds, where did we address this in

1 the petition, and this was in our reply brief, but I want to walk through it
2 now just to kind of put this issue to rest. Grounds 1 and 2 were based on the
3 Yook reference. Ground 1 is anticipation, Ground 2 was obviousness for a
4 couple of dependent claims. You can see on the screen here, we covered it
5 in multiple areas in the petition under this claim element. Even looking at
6 just the figures, you can see, there's an application on the full screen. You
7 can split it, do a split screen. We labeled it, we color coded it, we showed
8 what button goes back and forth. You can go back and forth, maximize,
9 minimize, and then the text we put in. You can simultaneously output two
10 view areas, two applications. And the bottom example on Slide 12 is then
11 displayed on the second display. And again, displayed on the second
12 display. And there are more examples, even for just the Yook reference in
13 the application. I would say the figures showed this better than the text with
14 all of these. The figures from these prior references were better than you
15 can, you know -- or hope for in prior art. They showed exactly what the
16 claim requires, we highlighted them, we showed it for this claim element.
17 And again, the Patent Owner doesn't substantively dispute that.

18 JUDGE MURPHY: Right. And there's no testimony from Patent
19 Owner's expert on this point?

20 MR. HIGGINS: That is correct. Our expert testimony is
21 un rebutted. And then the next two grounds -- Grounds 3 and 4 -- this is
22 based on the Lee reference, and this is on Slide 13 I'm referring to.
23 Anticipation for Ground 3, obviousness for Ground 4, and it's the same issue
24 here as with Yook. Multiple examples were showed on Lee's two screens.
25 One application, a second application, you can maximize, minimize, and in
26 the text from our petition, you can display one application, then execute an

1 instruction to display the second application side by side. That's in the
2 petition. It's not disputed.

3 The same is true for Grounds 5 and 6 in the Aguilar reference.
4 Ground 5, anticipation. Ground 6, obviousness. The figures from Aguilar
5 -- this is like a touchscreen panel almost on a vehicle, where you can scroll
6 through and have a spindle. You can select one application to display on the
7 left display, one application on the right display. They're both displayed.
8 That's not disputed, and our petition addressed it saying, this is a split screen
9 prior art reference. You can display two applications at the same time.

10 JUDGE MURPHY: And Counsel, that's Slide 14, right?

11 MR. HIGGINS: Yep. And then on Slide 15, this addresses the last
12 two grounds for the Purcell reference. Ground 7 is anticipation. Ground 8 is
13 obviousness, Purcell and Yook. And it's the same issue here. Purcell may
14 be even more so. Purcell is a reference where you have two physical
15 computer monitors, I believe as a medical reference. You can display one
16 application on the left and you can view your x-rays on the right, and you
17 can maximize and minimize the windows over either screen. And in the
18 Purcell reference, what we cite in the petition for this element, you could
19 execute concurrently two display windows. The images are displayed, the
20 user can view them, and then the text we have that we paraphrased in the
21 petition, Purcell is directed to a system with multiple display monitors used
22 to display multiple applications at the same time to a user. So, again, this
23 directly covers the claim element. It is not disputed by Patent Owner.

24 And then finally, in the preliminary response that I mentioned,
25 Patent Owner decided to argue that the petition didn't show the selection step
26 was done by a processor. Again, we pointed to a processor instructions, but

1 when they did that, if you see on the screen here and the bottom highlights,
2 they said at most, this is teaching the display. So, we showed the display.
3 They were trying to argue something else. And when you actually step back
4 and look at this, they didn't dispute the last elements of the claim. I'll go
5 back a few slides here and highlight this.

6 So, I'm back on Slide 9 now. If you look at the last two elements
7 of the claim, you're selecting one of the two displayed applications to
8 maximize. They didn't dispute that we showed that. By not disputing that,
9 they recognized we showed that the two applications were displayed. I think
10 this is just yet another reason why this was clearly shown in the petition, and
11 by -- if nothing else, even if it wasn't, by not arguing and disputing this, it
12 means we showed that two applications were displayed because you had to
13 pick one to maximize.

14 So, that addresses the dispute with Claim 1, and Claim 7 doesn't
15 have the issue. Claim 1 really, in my view, doesn't have an issue either. It's
16 there, it wasn't disputed. The only other claims that the Patent Owner
17 disputes are three dependent claims. I want to cover those briefly.

18 The first is Claim 5. Dependent Claim 5. This is dependent on
19 independent Claim 1. This adds that there's a visual indicator. The visual
20 indicator first appears in Claim 4. It's what you -- you can click on it to
21 maximize or minimize one of the applications. And Claim 5 adds that that
22 visual indicator has a wave shape. That is the only claim their expert
23 provided testimony on, and as we'll see, he pretty much abandoned that in
24 his deposition.

25 The other two issues are dependent Claims 8 and 9. These are
26 dependent on independent Claim 7. Again, Claim 7 was just a computer

1 readable medium format of independent Claim 1, so it adds instructions.
2 They tried to argue that we didn't show instructions. You know, I'll
3 demonstrate that we did. The reply brief showed it, the petition showed it.
4 We highlighted in purple for each reference the CPU processing unit input.
5 There's instructions and we directed the Board to each of that in the petition.

6 But to start with dependent Claim 5, our expert testified this would
7 be obvious in light of Yook. Yook shows, as we had on the screen earlier,
8 there's a merge in the splitter button. You can click on it, it goes full screen,
9 split screen. It's clearly disclosed. That's not disputed by the Patent Owner.
10 What they dispute is well, it's not this wave shape. This was just a design
11 choice, and frankly, if you look at the icons that are disclosed in Yook, you
12 have the one in the middle here that's that sawtooth. It looks like a wave
13 shape to me. And the point being, it doesn't need to be for an obviousness
14 here, and it's just a design choice. There is no functional attributes tied to
15 this. It's like, you know, you have a button here and it could say merge or
16 split, like in Yook. You could have a wave shape. The point being, the
17 button works for what the claim says you have to do, that's a result or answer
18 to the claim. This is not a design patent.

19 JUDGE MURPHY: Counsel, just one question on that. So, Claim
20 5 depends from Claim 4 --

21 MR. HIGGINS: Yes.

22 JUDGE MURPHY: -- and Claim 4 indicates that the visual
23 indicator -- recites that the visual indicator has to signify that a desktop or
24 application appearing on the display can be maximized. So, what impact
25 does that have on the notion of the visual icon in Claim 5, you know,
26 whether it has to have some type of functional element, if you will, but it has

1 to signify the ability to -- capability to have a response?

2 MR. HIGGINS: I don't think it has any impact, Your Honor. And
3 if we look at Claim 4 first, which is not disputed by the Patent Owner, that
4 Yook does disclose that its icon signifies you could maximize or minimize.
5 In Yook, it has multiple examples. I can go back a couple slides and pull
6 that up.

7 JUDGE MURPHY: Um-hum.

8 MR. HIGGINS: I'm going back to Slide 12. Actually, that's the
9 wrong slide there. But in Yook -- I'll skip the examples for now -- oh, it's
10 actually shown here. The merge button, one of the icons here, and there is
11 another icon that says --

12 JUDGE MURPHY: Which slide are you on?

13 MR. HIGGINS: I'm back to Slide 18, Your Honor.

14 JUDGE MURPHY: Back to 18.

15 MR. HIGGINS: You have the merge button here. Further in
16 Yook, one of the examples we pointed to, it has the full screen written on it.
17 You see on the right here, you have the two windows. You can see in like
18 the Windows application, it signifies minimizing, maximizing. What Claim
19 5 is adding is it's a wave shape. It doesn't say that wave shape has to signify
20 what this functional attribute is. That's covered in Claim 4. That's not
21 disputed.

22 What we have here, and then if we look at what their expert -- we
23 asked their expert this. They said the same question Your Honor is asking
24 here. Other than looking at the patent here, do you have any examples that a
25 wave shape signifies to someone of skill in the art minimizing and
26 maximizing. The answer was, I don't think so. And we further asked, the

1 visual indicator would indicate that the user can do something, but not
2 necessarily what that something is. He said right. And what that tells us is
3 the wave shape is just whatever shape this could take. And they haven't
4 even said what the wave shape -- what that shape is. And as we showed in
5 Yook, they have that sawtooth design there. To me, that sawtooth is a wave.
6 And again, we're under obviousness here. We're not under anticipation for
7 this claim, and the expert testimony that we put forward, the one of skill, and
8 I reviewed this as a design choice -- their expert didn't address that. What he
9 tried to do was take the icons in Yook.

10 If I go to Slide 20, he tried to stretch them and say, oh, the wave
11 shape has to be able to stretch with the application. It comes from nowhere,
12 other than Patent Owners and their expert's mind. But what they've tried to
13 do here is say a person of skill in the art would understand that the wave
14 shape visual indicator is a specific functional embodiment that can expand
15 with the application. It just -- that's not in -- that's not supported by the
16 specification.

17 JUDGE MURPHY: Well, isn't that in Figure 10? I mean, I
18 thought they were referring to the specific embodiment of Figures 10A
19 through C, I think.

20 MR. HIGGINS: If you look at Figure 10, there's a squiggly line
21 shown on one side, and then it seems to get longer. Again, we're looking at
22 figures in a patent. You know, the case law is clear. If not drawn to scale,
23 you can't rely on that. There's nothing in the patent that says, you have a
24 visual indicator, you have a wave shape, and the purpose of that wave shape
25 is so that it can expand. And frankly, you can take that sawtooth design
26 from Yook and expand it. It's the same thing. It's in a wave shape. And

1 when we asked the expert, there's -- he agreed. There's nothing in the claim.
2 They didn't claim that it says that. They pointed to no lexicography. All
3 they pointed to is at best, and I don't agree that this even shows that, is one
4 potential example.

5 But the key here is when you look -- and we're on Slide 20 now. If
6 you look at what they cited to, if you go to their expert declaration and go to
7 their Sur Reply, they were citing to Column 31, lines 23 of 27, but they left
8 off the rest of the sentence. The rest of the sentence says, however, it shall
9 be understood that other graphical representations can be provided for the
10 indicator 1002, such as an icon or other type of visual indicator located on
11 other parts of the screen. It can be anything, as long as it maximizes and
12 minimizes the screen, Claim 5 says you can make it a wave shape. We've
13 shown that in Yook.

14 The patent is telling us it's an aesthetic. It's a design choice.
15 There's no functional capability tied to the wave shape. It does the same
16 thing as Claim 4. What Claim 5 is saying is put it in a different design. It
17 could've been a triangle, it could've been a square. It shows a wave shape
18 here, but again, Patent Owner has tied nothing -- there's no specific
19 lexicography. They didn't even argue lexicography. All they've argued here
20 is a convoluted instruction trying to get around the prior art, which I would
21 argue, even under their construction, it doesn't get around the obviousness
22 argument in Yook. You can expand any of Yook's -- it doesn't say it has to
23 look pretty. You can expand it, and that sawtooth example would cover the
24 same functional aspect that Claim 5 requires.

25 And then finally, for dependent Claims 8 and 9, dependent Claim 8
26 -- and I'm on Slide 21 now -- this is the same substance as dependent Claim

1 4, which was dependent on Claim 1. Patent Owner did not dispute
2 dependent Claim 4, which we just talked about -- the visual indicator. All
3 Claim 8 says is that there are instructions that cause the maximizing on the
4 screen. We pointed to instructions, and again -- and here's the slide I was
5 talking about in Yook -- the splitter and the merge button shown on the
6 screen.

7 And what we pointed to in Yook -- and again, this is on dependent
8 claim -- independent Claim 7, which we showed in the petition the
9 processor, the ROM, and the instructions, but we also specifically pointed
10 that out for the Yook reference on page 37 and 38 of the petition; for the Lee
11 reference, pages 54 and 55; Aguilar, pages 68 and 69; and Purcell, pages 81
12 to 82. We specifically pointed to instructions that perform each of the
13 method steps. There's no substantive dispute here, again. They found the
14 word "instructions" and since we referred back, they said we didn't address
15 it. We clearly did. There's no substance to their argument here.

16 And the same is true for Claim 9. Claim 9 is the same as Claim 8,
17 except Claim 9, you're minimizing now. So, when you maximize
18 something, you want to minimize it. It's the same issue. We showed that
19 there are instructions that do that. We've clearly showed it in Yook. Going
20 back and forth -- all the references -- going back and forth, maximizing,
21 minimizing. There's no dispute as to the substance.

22 JUDGE MURPHY: And Counsel, for Claims 8 and 9, is it correct
23 that Patent Owner's expert also did not address those claims?

24 MR. HIGGINS: That is correct, Your Honor. He had no opinions
25 on these at all. The last thing I'll address for Claim 9 is we saw this in their
26 Patent Owner response and kind of in the Sur Reply. I'm not really sure I

1 understand what the argument is. They are trying to argue that the same
2 instruction that maximizes the application in Claim 7 also has to minimize.
3 That makes no sense to me. You're going to have an instruction on your
4 computer, it's going to do one thing -- maximize. Another instruction that
5 minimizes. They're talking about a set of instructions. We've pointed to
6 that. I'm not sure I understand what they're saying here. The claim refers
7 back to your minimizing one of the two selected displays. Again, it's not
8 disputed by their expert, so I'm not sure --

9 JUDGE MURPHY: Well, I struggled with the claim language, so
10 tell me what your best assessment is.

11 MR. HIGGINS: Yes. And the claim language, I agree, Your
12 Honor, is a bit odd. So, it says resulting in the selected one being displayed,
13 only one of the first and second displays, according to the instructions for
14 the third input. Reading that literally, it's referring back into Claim 7 where
15 you've taken one of those and maximized them. So, it's just confirming,
16 you're saying you're going to minimize that one that you maximized
17 according to those instructions. That's how I read it. I'm not sure what
18 Patent Owner is arguing, if there's a typo or something, should this be a
19 fourth instruction instead of a third input, but I don't understand what their
20 argument is. I can address that in rebuttal, but the way I read the claim is
21 how I just recited to Your Honor. It's just saying you're minimizing one of
22 the two displays that you selected earlier.

23 JUDGE MURPHY: Thank you, Counsel.

24 MR. HIGGINS: And that's all I have, unless Your Honors have
25 questions, and then I'll --

26 JUDGE MURPHY: I did. I just wanted to ask you -- I know

1 you're going to have rebuttal time, but you've got a few minutes left. So, the
2 dispute over whether there's a new argument being made, either in the Sur
3 Reply or the Reply. And in the Sur Reply, the Patent Owner took the
4 position that there was a new argument in the reply to which they were
5 entitled to respond, and they began to -- they argued that the sequence of
6 steps in Claim 1 -- the method steps -- require an ordered sequence. Can
7 you respond -- one, answer the question, is that a new argument -- or is the
8 Sur Reply a new argument? And if it is, why isn't it responsive to a new
9 argument in the Reply?

10 MR. HIGGINS: Yes, Your Honor. So, to answer the first part of
11 your question, Patent Owner's Sur Reply, yes, it is a new argument. It even
12 comes across as this is a new claim construction. It was never addressed
13 before. The second part of your question -- what is it responsive to -- I'm
14 not sure. All we put in our reply was -- cites to our petition showing where
15 each of those elements was shown. This goes back to the Claim 1 on the
16 displaying element. I think what happened is they realized we did address
17 this in the petition. This whole we left it out of the heading really isn't going
18 to work, so what can we come up with now. And I think we saw this claim
19 construction argument that neither side's expert addressed. Not sure their
20 expert could've addressed it since he had no opinion on Claim 1 anyways,
21 but to the substance of it, even if you do look at it, what we showed in the
22 prior art -- even if you view this as some ordered sequence -- yeah, you're
23 going to have an input to minimize or maximize an application. We showed
24 that sequence.

25 If you view the figures in Yook and Lee, for example, it has arrows
26 going back and forth, selecting, going back and forth with that. So, even if

1 this is considered, I think it's much ado about nothing. We did show a
2 sequence. You're going to pick two applications, put them on the screen. If
3 you want to maximize it, you've got to have two applications on there to
4 pick one. So, it does flow in that ordered sequence.

5 And again, I think it comes back to if they want to argue that this
6 does require an order, they haven't disputed the last element met. That does
7 show that -- again, that in the petition, all of the prior art references display
8 two applications. If they want to require this ordered sequence, it almost
9 undercuts their argument that this wasn't shown in the petition. Sorry, that
10 was a long-winded way of answering your question, but I think yes, it's a
11 new argument. I don't think it's responsive to anything, but even if we
12 consider it, we've shown that in all of the prior art references.

13 JUDGE MURPHY: Thank you, Counsel. All right. So, you'll
14 have, I guess, 19 minutes for rebuttal, if you need that much.

15 MR. HIGGINS: Thank you, Your Honor.

16 JUDGE MURPHY: Counsel, how much time would you like to
17 reserve, if any, for rebuttal?

18 MR. YANG: I'd like to reserve 15 minutes for rebuttal.

19 JUDGE MURPHY: All right. So, I'll give you 30 minutes, also.

20 MR. YANG: Yes, thank you.

21 JUDGE MURPHY: All right. Whenever you're ready.

22 MR. YANG: Thank you, Your Honors. I actually want to start
23 with Petitioner's Slide 40. On Slide 40, Petitioners admit, "Claims 1 and 7
24 are substantively the same." And we also know from the petition that their
25 evidence for Claim 7 is simply citations to Claim 1. So, this idea the
26 Petitioners brought up that they can somehow meet their burden with respect

1 to Claim 7, if they haven't met their burden with respect to Claim 1, is
2 -- without merit -- just based on that admission. If they fail on Claim 1, then
3 they cannot succeed on Claim 7.

4 So, turning now to Patent Owner's Slide 3. We all know that the
5 scope of the IPR is limited by 35 USC 312a(3). 312a(3) requires the petition
6 to identify, with particularity, the evidence for each claim element. This is a
7 simple statutory requirement that requires a petition to identify each claim
8 element and the evidence from the prior art relied on for that element.

9 And on Slide 2, this requirement is also found in 37 CFR
10 42.104(b)4. The petition must --

11 JUDGE JUNG: With, you know, the figures in Yook, Purcell,
12 Aguilar, etcetera, and in the argument made in the petition --

13 MR. YANG: That, Your Honor, is actually the bulk of my
14 presentation. Yes. That is the bulk of my presentation. So, first of all, I
15 want to turn to now Slide 5. This is Petitioner's identification of Claim 1.

16 JUDGE JUNG: Actually, Mr. Yang, before you move on, I just
17 want to go back to this Rule 104(b)4 on Slide 2 of your presentation.

18 MR. YANG: Sure.

19 JUDGE JUNG: It seems like they met this rule, right? They
20 identified the claim, they identified the evidence, you know, Yook or Lee,
21 and in their argument -- although it's not specified in their heading -- they
22 specified where each element of the claim is found in their prior art
23 reference, right?

24 MR. YANG: Well, Your Honor, I disagree with that. If you look
25 at the petition, the words of that element appear nowhere in it. They don't
26 -- they never use the language of that element. How can they identify with

1 particularity evidence for an element if they don't even say, this is the
2 evidence for that element.

3 JUDGE JUNG: But if you look at their argument, they point us to
4 figures, for example, in Yook which show two applications, one application
5 on one display, a second application on a second display, and that seems to
6 meet the claim element, although it's not explicitly spelled out in that
7 fashion, but that argument and that evidence is already in the record. Are
8 you saying we can't look at it in that manner? We can't use that evidence
9 and argument for the displaying element that Yook --

10 MR. YANG: I'm saying that the statute requires the petition to
11 say, this is the evidence for that element. They've always said, this is the
12 evidence. They haven't said, for that element. If you permit this, from
13 -- every petition from now on, it's going to be 80 pages of descriptions of the
14 prior art, followed by therefore, the prior art teaches the claim. Because
15 what we're -- what we have to do if they don't specify, this is the evidence
16 for the element, and they only specify the element, is go hunting in the
17 petition for teachings, and then try to map it ourselves which element they're
18 referring to.

19 JUDGE JUNG: I understand your position, but this is pretty clear.
20 This is, you know -- it's not a proceeding where we're looking through 100
21 pages of reference material to find one element that may or may not have
22 been argued by the Petitioner. This is, you know, within their argument for
23 the surrounding limitations they have -- they appear to have, this element
24 argued. They point us to the evidence, and it seems like you're reading a lot
25 in -- it seems like you're reading 104(b)4 to say that if there was a typo in the
26 heading, which happens, you know, somewhat often in these proceedings,

1 that Petitioner can't meet its burden, even though it argued in the body of its
2 petition where the element is found, where to look for it in the references,
3 and where to look for it in the record.

4 It seems like you're putting an additional constraint on top of
5 what's already just plainly said in the rule. They just have to specify where
6 the element is found in the prior art. That is it. They don't have to call it out
7 in the headings. They don't even have to -- like Mr. Higgins pointed out,
8 they don't even have to repeat it in the petition. They could've just left it in a
9 claim limitation chart in the beginning.

10 MR. YANG: Well, Your Honor, I want to clarify that. This is not
11 simply a typo in the headings. If it was just a typo in the headings, I would
12 excuse this and I wouldn't be making this argument. If you look at their
13 claims chart for the claim, they leave it out there. They don't use the words
14 of that element anywhere in the petition. I heard earlier Petitioners say, look
15 at Claim --

16 JUDGE MURPHY: Can I stop you there for a minute? Counsel
17 just walked us through where the petition uses the word "display" or
18 "displaying" for a first and a second application or desktop for every single
19 reference.

20 MR. YANG: Actually, I was going to -- that was my next point.

21 JUDGE MURPHY: Hang on.

22 MR. YANG: Sorry.

23 JUDGE MURPHY: I'm looking at the slides that the Petitioner's
24 Counsel just went through, where they quote from the petition for this
25 limitation, the use of the words "display", "displaying", "reveal", "revealing"
26 for every single prior art reference. Why is that your view? Why doesn't

1 that suffice?

2 MR. YANG: Because if you --

3 JUDGE MURPHY: It satisfies the rule.

4 MR. YANG: Sorry. Because if you look at Claim 1, there are
5 actually two displaying limitations. There's a first displaying limitation
6 where it displays on two different displays, and then there's a second
7 displaying limitation that maximizes. If they don't use the claim language to
8 clarify which of those two displaying limitations they're referring to --

9 JUDGE MURPHY: Well, that's not correct, Counsel. I'm looking
10 at the petition. Page 27 and 28, addressed to the Yook reference. You
11 know, and they quote -- yeah, on Slide -- excuse me -- Petitioner's Slide 12,
12 they're quoting from those two pages and it says -- for Yook, it discloses
13 how a user can select one of multiple running applications to reveal on each
14 display, and then it continues. It says, you selected from a stack in order to
15 display on the second display, and it goes on from there. I mean, so if the
16 disputed claim language says displaying by the processor the selected first
17 and second desktops or applications on the first and second displays, when
18 they say they display it on the second display, how is that not compliant?

19 MR. YANG: Because, as I said, it has multiple display elements.
20 They have --

21 JUDGE MURPHY: This is limitation 1(b). This isn't the other
22 limitation. This is quoting from their petition for -- specifically, for
23 limitation 1B, which has the "displaying" the selected first and second
24 desktops or applications on the first and second displays. It's not referring to
25 a different limitation.

26 MR. YANG: Well, let me clarify limitation 1(b). There's a

1 different limitation 1(b) in the institution decision versus limitation 1(b) in
2 the petition. Limitation 1(b) in the petition doesn't have the display
3 language. That was added in the institution decision, and by adding
4 (INDISCERNIBLE) decision, I would submit that you've now changed the
5 IPR and inserted your own design, rather than what was in the petition and
6 the claim language whatsoever.

7 JUDGE JUNG: Okay. Let me just ask some questions. If we
8 accept your premise that Petitioner did overlook this element -- this
9 displaying limitation -- how was -- and they were prejudice -- like for
10 example, you know, we have an argument that may not be directly linked to
11 the displaying element limitation, but it seems pretty clear that the reference
12 would need a -- did you argue against the reference actually showing this
13 limitation if the Patent Owner -- or I'm sorry, excuse me -- if the Petitioner
14 didn't actually argue it? It seems like it's --

15 MR. YANG: Yes, Your Honor. That was in the Sur Reply, and
16 the reason it was added in the Sur Reply is because it was a response to
17 Petitioner's new argument in the reply where they identified those, for the
18 first time, as corresponding to the displaying elements. They didn't
19 (INDISCERNIBLE) Petitioner's reply, and that's why in the reply, it doesn't
20 correspond to the order of steps required by Claim 1.

21 JUDGE JUNG: That was for the order, yes, but the actual
22 displaying limitation -- displaying these two applications on two different
23 displays, do you -- does Patent Owner dispute that that's shown by the
24 references?

25 MR. YANG: My argument is that there's a statutory bar based on
26 what Petitioner has said in the petition. If Petitioners didn't say it in the

1 petition, it's improper for Your Honors to go looking for it in the prior art.
2 That would be --

3 JUDGE DROESCH: Can I interrupt you?

4 MR. YANG: Certainly.

5 JUDGE DROESCH: Have there been any Federal Circuit cases --

6 MR. YANG: The Patent Owner response -- that's on page
7 -- Petitioner's prior art reference for a dependent ground. And they also
8 argued that it was a typo and they should've included the prior art reference,
9 and the Federal Circuit said because you left that out of the dependent claim,
10 that ground is not in the IPR, and the same logic applies here. They left out
11 an entire claim element for Claim 1. They never addressed it, and they tried
12 to -- after the fact -- we pointed this out -- they cobbled together various
13 disclosures from their petition in order to say that it's -- those things that
14 they've written, which they've never identified as corresponding to the
15 element.

16 So, if you look at their citations in Petitioner's reply, like some of
17 them refers to the background description of the prior art. It's not even from
18 any of the other claim elements. So, because they never mentioned the
19 displaying step in the petition, that step is -- that claim element is now
20 outside the scope of this IPR. So, it shouldn't be addressed. Does that
21 answer your question, Your Honor?

22 JUDGE DROESCH: Yes.

23 JUDGE JUNG: I have an additional question. Like Mr. Higgins
24 pointed out, you know, further on down the claim, you need to maximize
25 one of these applications. In order to maximize it -- does Patent Owner
26 agree that it was displayed?

1 MR. YANG: Well, part of it -- well, part of this reading is that it
2 has to be done in that specific order, so there could be multiple teachings of
3 displaying in the prior art. Whatever teaching the Petitioner relies on for the
4 first displaying element has to be consistent with the order of steps through
5 the second displaying element, so they could point to any number of
6 displaying steps in the prior art. And whatever they identified in the prior art
7 for that -- for the first displaying element, has to be consistent with the order
8 of steps for the other displaying elements. And that's part of the reason why
9 it's so important to require Petitioners to identify exactly what they're relying
10 on for the displaying step explicitly, because if they don't do that, they could
11 identify a random displaying step that doesn't correspond to the remaining
12 claim language and doesn't meet the order of steps, which is what they've
13 done in the Petitioner's reply.

14 JUDGE JUNG: So, in Patent Owner's view, where does this
15 displaying step come up in the Petitioner's argument? Do you think it comes
16 up right before the displaying by the processor, the last limitation -- the
17 selective one of the first or second desktops in a maximized condition? Is
18 that where you think Petitioner failed?

19 MR. YANG: In our view, they had never made an argument with
20 respect to the displaying -- the first displaying step in the petition. They've
21 only made an argument with respect to that step in Petitioner's reply. If you
22 look at the petition, the words of that claim element don't appear anywhere.
23 They don't say, X is this claim element. They leave it out of their claim
24 chart. They don't have no heading, but like I understand they're saying that
25 it's a typo with its heading, but the rest of the evidence overwhelmingly
26 shows that they simply ignore this claim element. They never said the

1 teaching X in the prior art refers to this claim element.

2 JUDGE JUNG: Okay. I guess I'm asking you, what's a different
3 reading of the -- how else can you read the order of these steps so that it
4 doesn't match up with the Petitioner's mapping? Like we have a -- we
5 received a first input to display a first application. Then the processor
6 selects that first application to display. You receive a second input or a
7 second desktop or application, and then the processor selects that second
8 application to display, then we'll skip the displaying step, then you receive a
9 third input and then you display the application in a maximized state. See,
10 even if a Petitioner omitted displaying the first and second desktop
11 applications, by virtue of their arguments for the previous steps, they would
12 meet the specified order of steps in Claim 1.

13 MR. YANG: Well, first of all, Your Honor, I want to clarify that if
14 they didn't address this step, that ends the IPR. If they didn't address the
15 step, the statute prevents you from looking at the evidence itself. That's
16 what the statute says. They have to actually address it in their petition. And
17 second of all --

18 JUDGE MURPHY: What prevents us from looking at the
19 evidence? There's evidence in the petition. They cited to it. I'm reading it.
20 You're telling me I can't consider it because they left out the language in that
21 subheading of an argument? Is that really your position?

22 MR. YANG: My position isn't that you can't consider it because
23 it's not in a subheading. My position is that you can't consider it because it's
24 not in the petition at all.

25 JUDGE MURPHY: It is. I'm reading it.

26 MR. YANG: The claim language doesn't appear anywhere.

1 JUDGE MURPHY: Go ahead.

2 MR. YANG: Like the claim language doesn't appear anywhere. I
3 don't think that's in dispute. They never said anywhere in the petition, this is
4 what we rely on for this claim element. I don't think that's in dispute. My
5 argument is that they have to say in the petition, this is what we rely on for
6 this claim element in order to meet the statutory language to describe it with
7 particularity. They have to describe it with particularity. That simply didn't
8 happen. And this is all -- this is addressed in Patent Owner's Sur Reply
9 starting on page 3. If you look at this argument on page 3, the order of steps
10 requires you to actually first select and then display. And then if you look at
11 Petitioner's prior art, none of it actually meets that order of steps, as
12 addressed, starting on page 5.

13 For example, if you look at Yook, what they have identified for the
14 instructions for selecting step is that this thing is already shown on the page,
15 and I mean, they've already displayed it, and then they make the selection, so
16 like it's in the wrong order.

17 JUDGE MURPHY: Do you agree that this argument in your Sur
18 Reply is a new argument that was not in your response?

19 MR. YANG: Yes, Your Honor. I can see that this is a new
20 argument in the Sur Reply, but it is an argument that we're entitled to by due
21 process because they never made this argument in the petition. They never
22 identified these teachings in the petition as corresponding to that claim
23 element. They've --

24 JUDGE MURPHY: You -- the way I understand your position is
25 you're justifying making this new argument because the allegation is that
26 Petitioner made a new argument in the reply.

1 MR. YANG: Yes, Your Honor, they did, because in the reply --

2 JUDGE MURPHY: Tell me where in the reply the Petitioner did
3 anything other than refer back to and cite to the Petition.

4 MR. YANG: They said -- the citations in the Petition correspond
5 to this element. That is the new argument. They never argued in the petition
6 that any of these teachings correspond to this element. They made that
7 argument for the first time in their Reply. They're saying that these
8 teachings correspond to this element. Once they connected the teachings to
9 this element, that's a new -- that is a new argument that we are entitled, by
10 due process, to respond to.

11 JUDGE MURPHY: Thank you, Counsel.

12 MR. YANG: Okay. So, what I want to emphasize is, again, that
13 this omission is not just a typo. A missing word or a heading is a typo, but
14 that's not what happened here. The claim element isn't in the petition
15 anywhere and they never tied their evidence to this claim element. They
16 don't say this is the evidence for this claim element, and that's what the
17 statute requires, to identify the evidence to the claim element with
18 particularity. There's no particularity if you just put into your petition a
19 bunch of evidence and say, therefore, the evidence meets all the claim
20 elements. You have to say in the petition that this is the evidence for this
21 claim element, and that's simply missing from anywhere in the petition.

22 The other thing I wanted to address is their reliance on the Patent
23 Owner preliminary response. As Your Honors are aware, the preliminary
24 response is optional and Patent Owner is not obligated to make any
25 arguments in it whatsoever. So, the absence of any arguments in the
26 preliminary response has no bearing on whether this argument is accurate for

1 the Patent Owner response.

2 And I'd also like to address now dependent Claim 9, starting on
3 Slide 10. On Slide 10, Your Honors can see that dependent -- the language
4 of dependent Claim 9, and on Slide 11, you'll see that Petitioner's evidence
5 for dependent Claim 9 simply refers to Claim 6. The difference, though, as
6 shown on Slides 12 and 13, dependent Claim 9 is different in scope than
7 dependent Claim 6. Dependent Claim 9 has an additional limitation, which
8 says according to the instructions configured to respond to the third pre-
9 determined input. Petitioner didn't address that claim language in the
10 petition at all. So, based on the statutory requirement to address the
11 elements with particularity, that alone precludes invalidation of Claim 9.

12 But more important than that, Claim 9 depends from Claim 7, and
13 so the third pre-determined input in Claim 7 is an instruction to maximize.
14 So, Petitioner has to explain how, in the prior art, an instruction to minimize
15 also is configured to respond to an instruction to maximize, and they haven't
16 done that, so they haven't met their burden to explain why Claim -- why the
17 prior art suggests the language -- this additional element in Claim 9. In fact,
18 I would submit that Petitioners submitted no evidence of how the instruction
19 in Claim 9 is according to the instruction configured to respond to the third
20 pre-determined input in Claim 7.

21 And the same is true of Claim 4. If you go to Slide 19, you'll see
22 that Petitioners relied on Claim 4 for Claim 8, but Claim 8 also has an
23 additional element there, according to the instructions, configured to receive
24 a third predetermined input. And again, just like for Claim 9, Petitioners did
25 not address that additional element in Claim 8. They simply referred to their
26 evidence from Claim 4, which omits that element.

1 And finally, I'd like to address the wave shape of Claim 5, which
2 starts on Slide 24. On Slide 25, the '756 patent explicitly teaches that
3 element 1002 in Figure 10A is a wave shape. It literally says it in the '756
4 patent. And then the embodiment, Slide 10A, shows how the wave shape
5 -- the function of the wave shape. In Figure 10A, the wave shape, which
6 -- 1002, which is explicitly disclosed as a wave shape by the patent -- is
7 directly over the portion A1. And as A1 is -- in Figure -- if you look at
8 Figure 10B on Slide 15, as A1 is expanded, the wave shape 1002 is also
9 expanded. And in Figure 10C, once A1 has been fully expanded, the wave
10 shape 1002 is also fully expanded. So, the '756 patent itself teaches that the
11 wave shape has a specific functionality, and the functionality of the wave
12 shape is to also expand with the portion that you're -- the portion of the
13 display that you're expanding in order to indicate that the display can be
14 expanded and to indicate where the display is being expanded.

15 JUDGE MURPHY: Well, I think the issue here, as we discussed
16 with Counsel for Petitioner, is where is that in the claim language, though,
17 right? Claim 5 depends from Claim 4. Where is the expansion of the wave
18 shape visual indicator recited in the claim?

19 MR. YANG: By the words "the wave shape." The patent itself
20 teaches that the wave shape is functional, so by reciting the wave shape, the
21 patent requires whatever they've identified in the prior art to correspond to
22 the functions of the wave shape. For example, if I --

23 JUDGE MURPHY: So, Claim 5 says wherein the visual indicator
24 has a wave shape, period?

25 MR. YANG: Yes, Your Honor. And I submit to you that if
26 Petitioners were to identify a wave shape in the prior art, that could meet the

1 claim language. The problem is they didn't, and then they argue that the
2 wave shape is non-functional. And so, I am telling you that based on the
3 specification itself, the specification teaches you that the wave shape is
4 functional, and that's further supported by the declaration of our expert. And
5 I'll further note that they never provided any evidence that the wave shape is
6 non-functional. And because the wave shape is functional, they have to
7 identify something in the prior art that corresponds to the wave shape
8 -- either the wave shape itself or the functionality of the wave shape. They
9 haven't done that. They've identified completely different elements and they
10 argue that because the wave shape is non-functional, those elements could
11 substitute for the wave shape, and that's simply not true because the patent
12 itself teaches that the wave shape is functional.

13 JUDGE MURPHY: But why isn't that an example of reading a
14 preferred embodiment into broader claim language?

15 MR. YANG: It's not because the claim language itself says the
16 wave shape. That is the embodiment that's at issue is the wave shape.

17 JUDGE MURPHY: So, having a wave shape, what's the function
18 recited in the claim?

19 MR. YANG: The function recited in the claim is that the claim
20 discloses that the wave shape indicates that the -- this particular wave shape
21 expands -- indicates that it can expand -- the icon can expand with the
22 display.

23 JUDGE MURPHY: Well, that's not in the claim. That's in the
24 spec.

25 MR. YANG: Well, Your Honor, this is what happens in all patent
26 claiming is that you claim an element and then the specification teaches you

1 what the function of the element is. When you're claiming like a telescope,
2 you don't recite that -- you don't also say that the telescope is looking to
3 stars. This is identical claiming is that when you're looking at -- as that
4 -- the patent claims a wave shape and the specification tells you what the
5 functionality of the wave shape is.

6 JUDGE MURPHY: Thank you, Counsel.

7 MR. YANG: And the last thing I want to point out before I end
8 my presentation is I heard Petitioner argue that for the wave shape, they -- at
9 this hearing, that for the wave shape, they're relying on a sawtooth icon, and
10 I submit that's a new argument that should be disregarded. They did not, in
11 any other papers, suggest that a sawtooth icon meets -- or has the
12 functionality of a wave shape, or is a wave shape. They did not submit that
13 the sawtooth icon is a wave shape or has the functionality of a wave shape.
14 And unless Your Honors have any further questions, I'd like to reserve my
15 remaining time for rebuttal.

16 JUDGE MURPHY: Okay. Thank you, Counsel. You'll have 18
17 minutes.

18 MR. YANG: Thank you, Your Honor.

19 JUDGE MURPHY: All right, Counsel. Would you do me a favor
20 and start with addressing Patent Owner's argument regarding Claims 9 and
21 6, and whether the petition properly addressed the extra claim language
22 that's in Claim 9 that's not in Claim 6?

23 MR. HIGGINS: Sure, Your Honor. And I think it goes back to
24 our discussion in the opening session of what does that claim language
25 actually mean. I still don't know what they're saying it means. It seems like
26 they're reading that these instructions are something separate than just

1 referring back to the two applications that were displayed. You have that
2 third input in Claim 7 and it says you pick your applications, and then you're
3 picking in Claim 9 maximize or minimize of the two that were displayed
4 according to that instruction. That's the only way to read that claim, that it
5 actually makes any sense. Otherwise, the way I think I heard them reading it
6 is that you need the exact same instruction to both, maximize and minimize.
7 That's nowhere in the patent.

8 It also makes -- there's no common sense to that. You can't have
9 the same specific instruction in a computer that's going to maximize and
10 minimize. It's an instruction set. You're going to have separate instruction.
11 But I think the way you read it, it's antecedent basis. You're minimizing one
12 of the two applications. Each of those claim elements have this language
13 according to instructions, according to instructions. It's a computer readable
14 medium claim. They just kind of threw this in at the end of every element,
15 and they haven't substantively disputed this. Their expert hasn't backed this
16 up.

17 JUDGE MURPHY: Well, but let's deal with the process aspect of
18 it.

19 MR. HIGGINS: Um-hum.

20 JUDGE MURPHY: I mean, it's the Petitioner's burden of proof.
21 This language is in Claim 9. It's not in Claim 6. Whatever it means, the
22 argument in the petition was, see Claim 6, which doesn't have the language.

23 MR. HIGGINS: Um-hum.

24 JUDGE MURPHY: So, how are we supposed to address that?

25 MR. HIGGINS: There's two parts to that. First, this is dependent
26 on Claim 7 and in Claim 7, in the petition for each of these references, we

1 showed, here are the instructions, here is the process that's required by this
2 claim, here is the instruction set, but we've pointed to it and we've said that
3 these instructions are used to perform each of these method steps.

4 JUDGE MURPHY: Right, but you didn't refer back to Claim 7 at
5 all. It's -- right? I mean, if I'm -- let me make sure I'm reading the correct --

6 MR. HIGGINS: I can shortcut this, Your Honor. I can actually go
7 to Claim 6.

8 JUDGE MURPHY: Yeah.

9 MR. HIGGINS: We have an example of a user inputting an
10 instruction to minimize an application that is initially displayed, as shown in
11 Figure 10. So, we included this instruction language into Claim 6 for other
12 references, knowing we're referring back. And we included it separately in
13 Claim 7, pointing to the processor. So, this is again where, I think, Patent
14 Owner is just trying to pick some words out. They haven't substantively
15 disputed it because it's substantively in the petition. I was reading from Page
16 37 of our petition.

17 JUDGE MURPHY: Yeah, okay. Thank you. Yeah.

18 MR. HIGGINS: I don't have much else I wanted to address. I
19 wanted to point out one thing, specifically, though. And this is about this
20 displaying element. Patent Owner is trying to suggest that we haven't
21 included -- there's nothing. I want to read from pages 55 to 56 of our
22 petition because independent Claim 7 is substantively the same as Claim 1.
23 We have a heading, instructions configured to respond to the first and
24 second pre-determined inputs, with outputs that caused the first desktop or
25 application to be displayed on the first display, and caused the second
26 desktop or application to be displayed on the second display. This is the

1 corollary to the same element we've been talking about for Claim 1, and it
2 says, see claim element 1B. This language is here, causing the applications
3 to be displayed. And we said, we put this in the section for claim element
4 1B. This is just another example. I think it was pretty clear, and then the
5 institution decision picked up on this, too. This element of displaying these
6 two --

7 JUDGE MURPHY: Just to be clear, whatever we said in the
8 institution decision, you know, it is what it is, but we're not bound by that.

9 MR. HIGGINS: Yeah.

10 JUDGE MURPHY: We're trying to -- we've had discovery,
11 they've had a chance to argue, we're trying to get it right.

12 MR. HIGGINS: I agree with that, Your Honor. And I think the
13 key there is they still haven't substantively disputed. I think you directly
14 asked Patent Owner on his argument and he couldn't substantively dispute it
15 because they haven't. And I just wanted to point this out because they're
16 saying this was not in here. This specifically directs to this element, and we
17 said, go see claim element 1B. We've shown how these were the same
18 elements. There's no disputes there. So, in addition to the three or four
19 reasons I walked through before, this is just another example where if we
20 needed something in the petition, this is here, this ties claim element 1B to
21 this specific element.

22 The only other thing I wanted to mention was the Apple case, I
23 think Patent Owner and Your Honor had asked about. They omitted an
24 entire claim that was intervening and they didn't substantively address it in
25 the petition. We addressed it in our Reply. It's just not applicable here. I
26 don't want to belabor this issue. We've walked through where it is in the

1 Petition, how we pointed it out, and I think now with Claim 7, how it's there.
2 I just wanted to point that out, that it is factually different and it was
3 completely missing there. Unless Your Honors have any specific questions,
4 that's all I had.

5 JUDGE JUNG: No questions.

6 JUDGE MURPHY: No. Thank you, Counsel.

7 MR. YANG: Thank you, Your Honor. First, with respect to
8 Claims 6 and 9, I want to point out that Petitioner never made a claim
9 construction argument in any other paper. We've raised the issue in our
10 Patent Owner response of Claim 9 and Claim 6's dependency and the
11 according language. Petitioner never raised a claim construction argument
12 in their Petitioner's Reply, and they never argued a different construction.
13 That is a new argument that should be disregarded. The only claim
14 construction -- the only construction for Claims 6 and 9 before, Your
15 Honors, is the one that was made in the Patent Owner Response, and they've
16 never disputed that. They never argued that Claims 6 and 9 should be
17 interpreted in a different manner. New construction for the first time at this
18 hearing and I would submit that that would be a due process violation.

19 And second of all, you've heard Petitioner's Counsel argue the
20 instruction language, but again, that's not the full language of Claims 6 and
21 9. The language we're specifically focused on is the language starting with
22 the word "according" and everything afterwards. Petitioners can point to
23 instructions all they want. They have to show how those instructions meet
24 the according language. That is what we submit is missing from their
25 petition. They never -- they point to instructions, but they never pointed to
26 evidence showing how those instructions meet the according language.

1 Moving on to Claims 1 and --

2 JUDGE MURPHY: Well, let me stop you there just because I
3 have a question. So, Counsel for Petitioner referred us to pages 36 and 37 of
4 the Petition, which is the substantive discussion of Claim 6, which they
5 referred to in Claim 9. And if I understand Counsel correctly, the substance
6 of the language you're pointing us to in Claim 9 is, in fact, addressed in
7 Claim 6. And so, on page -- if you have access to it, particularly --

8 MR. YANG: Yes, I'm looking at it, Your Honor.

9 JUDGE MURPHY: So, page 37 of the Petition, it says an example
10 of a user inputting an instruction to minimize an application that is initially
11 displayed on two displays is Figure 10. So, that paragraph -- and then they
12 reproduce the annotated version of Figure 10, which shows the minimization
13 according to the instruction. Why isn't that sufficient to satisfy the
14 Petitioner's obligation and their burden of proof for Claim 6 and Claim 9?

15 MR. YANG: Well, Your Honor, because the instruction in Claim
16 6 is different than the instruction in Claim 9. The instruction in Claim 6 is
17 an instruction to minimize a selected one of the first or second desktops or
18 applications. If you look at the Claim 9 language, that is not the instruction
19 that's according to. It says -- the instruction that's according to is according
20 to the instructions configured to respond to the third predetermined input.
21 That's different than the fourth predetermined input in Claim 6. As we
22 know, the third predetermined input is stated in the independent claim. In
23 the independent claims, it says that the third predetermined input is an
24 instruction to maximize.

25 So, saying that, for Claim 6, that it's according to instruction to
26 minimize, doesn't satisfy their burden to explain how for Claim 9 it's in

1 accordance with an instruction to maximize. That's a different instruction.

2 JUDGE MURPHY: Why?

3 MR. YANG: Because one is an instruction to minimize and the
4 other is an instruction to maximize. Minimize and maximize are different.

5 JUDGE MURPHY: How are you reading this claim language in
6 Claim 9?

7 MR. YANG: I am reading the claim language in Claim 9 just to
8 say that the display has to be according to the third predetermined input,
9 which is an instruction to maximize. That is what the claim language
10 requires, because Claim 9 depends on Claim 7.

11 JUDGE MURPHY: Well, the language says according to the
12 instructions configured to respond to the third predetermined input. What
13 Petitioner is saying, why isn't it responsive? Why isn't it configured to
14 respond to the third predetermined input by having a minimization or a
15 minimizing instruction?

16 MR. YANG: Well, first of all, Your Honor, Petitioner never made
17 that argument either in the petition or in the reply, so that would be a
18 completely new argument that's being raised for the first time in this hearing,
19 and we would have --

20 JUDGE MURPHY: No, it's in their Petition.

21 MR. YANG: Well, Your Honor, I disagree because their Petition
22 is pointing to a different instruction. They're pointing to the instruction to
23 minimize, whereas Claim 9 requires an instruction to maximize. Those are
24 different instructions.

25 JUDGE MURPHY: I just don't understand what you're saying.
26 Claim 9 starts with, wherein a fourth predetermined input is an instruction to

1 minimize a --

2 MR. YANG: Right, and you're --

3 JUDGE MURPHY: -- selected one of the first or second desktops
4 or applications and --

5 MR. YANG: Your Honor, I'm looking at the language according
6 to the instructions configured to respond to the third predetermined input.

7 JUDGE MURPHY: Let me ask you this. Did Patent Owner raise
8 the claim construction argument in the Response on this claim?

9 MR. YANG: We certainly argued that the third predetermined
10 -- according to the instructions configured to respond to the third
11 predetermined input has to be instructions to maximize based on Claim 7.
12 That's absolutely in the Patent Owner Response.

13 JUDGE MURPHY: Can you give me the cite, please?

14 MR. YANG: Certainly, Your Honor. I would like to read into the
15 record Patent Owner's Response, starting on page 23. At the bottom of page
16 23, it says, Claim 9 depends from Claim 7 and further recites, wherein a
17 fourth predetermined input is an instruction to minimize a selected one of
18 the first or second desktops or applications, resulting in a selected one being
19 displayed, only one of the first and second displays according to the
20 instructions configured to respond to the third predetermined input.

21 And then furthermore, on page 24 it says, Claim 9 recites an
22 additional element not found in Claim 6. Unlike Claim 6, which recites
23 wherein a fourth input is an instruction to minimize a selected one of the
24 first or second desktops or applications, and it goes on to recite Claim 6.
25 Claim 9 further requires that the selected one being displayed, only one of
26 the first and second displays according to the instructions configured to

1 respond to the third predetermined input.

2 And then on page 25 it says, because Claim 9 depends from Claim
3 7 by antecedent basis, the instructions configure the response to the third
4 predetermined input recited by Claim 9 are the instructions configured to
5 respond to the third predetermined input that causes displaying of the
6 selected one of the first or second desktops or applications in a maximized
7 condition recited by Claim 7. Thus, according to Claim 9, minimizing a
8 selected desktop or application must result in the selected one being
9 displayed according to the same instructions that caused the display, every
10 desktop or application, in a maximized condition. So, the --

11 JUDGE MURPHY: You're saying there's one instruction? It's to
12 maximize and minimize at the same time?

13 MR. YANG: I'm saying that the instruction to minimize has to be
14 according to the instructions that maximize. That is what the claim language
15 explicitly requires.

16 JUDGE MURPHY: Is that described anywhere in the patent, if
17 you know?

18 MR. YANG: Oh, Your Honor, I don't believe written description
19 is an issue that can be raised in an IPR.

20 JUDGE MURPHY: I'm not raising it. I'm just trying to
21 understand what it says and what your argument is.

22 MR. YANG: I submit to you that the claim is explicit.

23 JUDGE MURPHY: I'm hoping you'll point me to the
24 specification. If you don't want to help me, then you won't.

25 MR. YANG: I apologize, Your Honor. I absolutely want to help
26 you, but I submit to you that the claim language is not ambiguous at all. It's

1 antecedent basis. And the antecedent basis of the third predetermined input
2 is explicitly stated in Claim 7. I'm sorry, Your Honor. Was there a further
3 question?

4 JUDGE MURPHY: Nope.

5 MR. YANG: Okay. In that case, I'd like to move on to Claims 1
6 and 7. Petitioners in the rebuttal identified page 55 of the petition, where
7 they reproduced the language of Claim 7. The issue with this page 55 is that
8 they have no evidence on page 55. It simply refers back to the evidence on
9 page -- with respect to Claim 1. And my point earlier is that the statute
10 requires Petitioner to tie the evidence to the claim language. If they were
11 simply referred back to a different claim element, then they haven't tied
12 whatever evidence they're relying on through the explicit language of the
13 claim.

14 And further, with respect to Petitioner's attempt to distinguish the
15 Apple case, there's no difference between omitting a claim element and a
16 claim entirely. If they omit a claim element, then that claim element isn't in
17 the petition. That's no different than if you omitted a claim itself and then
18 the claim is not in the petition. So, unless Your Honors have any further
19 questions, that concludes my presentation.

20 JUDGE MURPHY: No. Any?

21 JUDGE JUNG: No, no questions.

22 JUDGE MURPHY: All right. Thank you, Counsel.

23 MR. YANG: Thank you.

24 JUDGE MURPHY: All right. That concludes the oral arguments
25 in IPR 2025-00040. Why don't we take a 15-minute break and reconvene
26 for the next case?

1 JUDGE DROESCH: At approximately 10:30 would that be? Oh,
2 well that clock is not correct.

3 JUDGE MURPHY: Yeah, 10:30.

4 COURT REPORTER: Okay. We're off the record at 10:15.

5 (Whereupon, the above-entitled matter went off the record at 10:15
6 a.m.)

IPR2025-00040
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PETITIONER:

Christopher Higgins
Timothy Pearce
ORRICK, HERRINGTON & SUTCLIFFE LLP
0chptabdocket@orrick.com
tvpptabdocket@orrick.com

Naveen Modi
Joseph Palys
Daniel Zeilberger
Quadeer Ahmed
David Valente
PAUL HASTINGS LLP
naveenmodi@paulhastings.com
josephpalys@paulhastings.com
danielzeilberger@paulhastings.com
quadeerahmed@paulhastings.com
davidvalente@paulhastings.com

PATENT OWNER:

James Carmichael
Stephen Schreiner
Minghui Yang
Stephen McBride
Christopher Abidin
CARMICHAEL IP, PLLC
jim@carmichaelip.com
schreiner@carmichaelip.com
mitch@carmichaelip.com
stevemcbride@carmichaelip.com
chris@carmichaelip.com