

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON.COM, INC., AMAZON.COM SERVICES LLC,
AND AMAZON WEB SERVICES, INC.
Petitioner,

v.

SOUNDCLEAR TECHNOLOGIES LLC.,
Patent Owner.

IPR2025-00673
Patent 11,244,675 B2

Record of Oral Argument
Held: July 8, 2026

Before MICHAEL R. ZECHER, DAVID C. McKONE, and
IFTIKHAR AHMED, *Administrative Patent Judges*.

APPEARANCES:

ON BEHALF OF THE PETITIONER:

COLIN B. HEIDEMAN, ESQ.
NATHAN D. REEVES, ESQ.
Morgan, Lewis & Bockius LLP
1301 2nd Avenue - Suite 3000
Seattle, WA 98101
(206) 274-6400
colin.heideman@morganlewis.com
nathan.reeves@morganlewis.com
amazon-soundclear@morganlewis.com

ON BEHALF OF THE PATENT OWNER:

STEVEN J. REYNOLDS, ESQ.
STEPHEN MCBRIDE, ESQ.
KEVIN H. SPRENGER, ESQ.
ERIN HADI, ESQ.
Daignault Iyer LLP
8229 Boone Boulevard - Suite 450
Vienna, VA 22182
(312) 636-4674
sreynolds@daignaultiyer.com
smcbride@daignaultiyer.com
ksprenger@daignaultiyer.com
ehadi@daignaultiyer.com

The above-entitled matter came on for hearing on July 8, 2026,
commencing at 1:00 p.m.

P R O C E E D I N G S

- - - - -

THE CLERK: All rise.

JUDGE ZECHER: Please be seated. All right. Good afternoon.

This is a hearing for IPR2025-00673. The claims at issue are Claims 1–7 of U.S. Patent No. 11,244,675. The parties today, we have Petitioner, which is Amazon.com Inc., Amazon.com Services LLC, and Amazon Web Services Inc. We have Patent Owner, SoundClear Technologies, LLC. I'd like to start the hearing by taking a rollcall to see who's with us today. For Petitioner, Amazon, I'd ask that the parties step up to the lectern so we can make sure that the Judges participating virtually can hear you.

MR. HEIDEMAN: Good afternoon, Your Honors. Colin Heideman from Morgan, Lewis & Bockius on behalf of Amazon. With me today is my colleague, Nathan Reeves, also from Morgan, Lewis.

JUDGE ZECHER: Thank you, Mr. Heideman. For Patent Owner, SoundClear?

MR. REYNOLDS: Good morning, Your Honors. Steve Reynolds from the law firm of Daignault Iyer. Doesn't sound like it's spelled. Along with me is co-counsel, Stephen McBride, Kevin Sprenger, and Erin Hadi, from our firm as well.

JUDGE ZECHER: Thank you, Mr. Reynolds. So, just to introduce the panel, I'm Judge Zecher. I have with me on my right, Judge McKone. He's participating virtually from the Detroit, Michigan Regional Office. And on my left, I have Judge Ahmed. He is participating remotely from Houston, Texas.

1 So, in the hearing order that we issued in this case, which is Paper
2 35, I believe we gave each party 45 minutes of total argument time. I'm
3 going to do the clock slightly different than when we did in the related
4 proceeding a couple of weeks ago. I'm going to start it at 45. It'll just count
5 down. Petitioner, you can, of course, reserve some rebuttal time. Patent
6 Owner, you can reserve some surrebuttal time, but you'll have the total time
7 just coming down so you'll know what's left. I think that pretty much covers
8 everything, so we'll go ahead and turn the floor over to Mr. Heideman, so
9 Petitioner can present their case in chief.

10 MR. HEIDEMAN: Thank you, Your Honor. The central issue in
11 this proceeding is similar to the issue we discussed several weeks ago in the
12 related proceeding, and that is whether the prior art here discloses
13 classifying a voice based on distance. There can be no dispute that the
14 answer here is yes.

15 The prior art references here describe exactly what the patent
16 claims and the specification describes: receiving a voice, calculating the
17 distance between the user and the device, determining whether that distance
18 exceeds a threshold, and then altering the output based on whether the
19 distance exceeds the threshold.

20 Indeed, as we'll see, this is exactly how Patent Owner interpreted
21 its claims District Court. There, Patent Owner asserted that the claims
22 merely require calculating the user-device distance and classifying the voice
23 as either near or far based on whether it exceeds a distance threshold.
24 Again, the prior art discloses exactly the same thing.

25 I'm going to start with that issue. I'll address kind of the

1 differences between the claims here and the claims we addressed last time,
2 and how the prior art discloses classifying a voice based on distance. We'll
3 then touch on the motivation to combine, which is the second big issue here.
4 And to the extent we have time or the Board has questions, we can address
5 Claim 5 as well, which is the only claim that deals or references a whisper of
6 all the claims.

7 So, unless the Board would like me to start with a particular issue,
8 I will just walk through the claim language and give an overview of this
9 patent. So, this patent, the figures show on Slide 1, they're the same figures
10 that we looked at last time. In Figure 1, you have a User H speaking to a
11 device. That's V1 in Figure 1 on the left-hand side, and the device provides
12 a voice response. That's V2 coming back to the user. On the right-hand side
13 of this slide shows a diagram of the system and the process, and we're really
14 focused on the right-hand side.

15 So, there's a voice acquiring unit 30 in the middle. From there out
16 to the right-hand side, there's a voice classifying unit 42, and the output of
17 that voice classifying unit goes all the way down to the output content
18 generating unit 40. Based on the voice classification, it will output one of
19 two responses. There's the other stream that deals with interpreting the
20 intent and acquiring the content to be provided back, but those limitations
21 are not in dispute and will not be the focus of the discussion today.

22 JUDGE ZECHER: Hey, Counsel, I don't know that we need an
23 overview of the claims and the --

24 MR. HEIDEMAN: Okay.

25 JUDGE ZECHER: -- subject matter. If we just move right to the

1 issues, that'd be appreciated.

2 MR. HEIDEMAN: Absolutely. So, the primary issue is limitation
3 1-B that's shown on Slide 3, and that is the voice classifying unit. The claim
4 recites is configured to calculate a distance between the user and the device
5 by a proximity sensor to calculate the voice into -- or sorry, to classify the
6 voice into either a first voice or a second voice based on the calculated
7 distance. And then depending on how you classify the voice, that's either a
8 first voice or a second voice, the output varies. And in this claim, the output
9 varies by replacing words.

10 So, in the last proceeding, depending on the voice classification,
11 you would omit words from the response and change the volume. Here,
12 there's no change in volume and you don't omit words. You just replace
13 words in the content that you're providing back to the user.

14 The grounds, we're relying on the same primary references, Shin
15 and Shimomura. The secondary reference is listed on Slide 5, Aoyama and
16 Iwase disclose word replacement. That was a technique that was well-
17 known in the art and described in those references.

18 As I mentioned, the central issue here is whether the prior art
19 discloses classifying a voice based on distance. And last time, we walked
20 through, pretty slowly, a paragraph of the '337 patent. That same paragraph
21 appears in this patent. Although the two patents are not formally related,
22 they were filed by the same inventor days apart and contain much of the
23 same disclosure. And this paragraph is exactly the same, that's what we
24 looked at last time and is the only disclosure in the patent of classifying
25 based on distance.

1 So, as a brief refresher, the highlighted portions: the specification
2 says that the voice classifying unit can perform the classification to the first
3 voice or second voice using any method. It lists several ways you could
4 classify the voice. The relevant part is highlighted in the middle, where it
5 says that a proximity sensor can be provided in the device. A distance
6 between the user H and the device is calculated from a detection result of the
7 proximity sensor and the distance can be used as a feature value to perform
8 the classification to the first voice and the second voice. It gives another
9 example, and then it concludes by telling the reader how to do that
10 classification.

11 In these cases, the voice classifying unit sets a threshold of the
12 feature value and classifies the voice to either the first voice or the second
13 voice, based on whether the feature value exceeds the threshold. And so, as
14 shown on the right-hand side of this slide, when you're using distance as the
15 feature value, you're looking at whether that distance exceeds a threshold
16 distance or not, and that tells you whether it's a first voice or a second voice.

17 The prior art discloses exactly the same thing. Last time, we spent
18 a lot of the hearing discussing a reference called Shin. There's no doubt or
19 dispute that Shin receives a voice, calculates the distance between the user
20 and the device using a proximity sensor, and compares that distance to
21 thresholds. And so, Shin is shown on Slide 8. On the left-hand side, you
22 have the user talking to the device. You have a voice input and content
23 being provided back by the device. And the key disclosure in Shin is Table
24 3, which is shown on the slide.

25 And Table 3 shows the comparison of the calculated distance,

1 which is obtained by a proximity sensor, to various distance thresholds. So,
2 on the left-hand side of Table 3, you have the different thresholds. Here,
3 there's five. And then on the right-hand side, you have the amount of
4 information that's being provided back to the user. So, if the user is within a
5 meter of the device when it provides the voice input, then it falls into the
6 first class, the first row, and the device will provide a certain amount of
7 information back; all of the information available.

8 As the user gets further away when they're talking to the device,
9 Shin simplifies the output by abbreviating it. And so, the user gets less
10 information further away, and the rationale in Shin is that makes it easier to
11 understand. As the user gets further and further away, you provide less
12 information to make it more understandable to users at greater distances.

13 JUDGE ZECHER: Mr. Heideman, let me ask you a question
14 about that. I think you're correct that Shin does teach as you move farther
15 away from the device, you're provided, at least output-wise, more
16 abbreviated content or simplified content. I know here in the claims, we're
17 talking about word replacement. So, can you kind of dive further into why
18 you believe the abbreviation or simplification of the content would result in
19 word replacement?

20 MR. HEIDEMAN: Yeah, there's really only two options here. So,
21 Shin discloses abbreviating the content, and our expert says there's only two
22 ways to abbreviate that content as the user gets further away. One option is
23 to omit information, and that's the example we walked through last time
24 where there's complete output with the weather and it had five different
25 aspects of the information that could be provided. And as you get further

1 away, it omits it and simplifies it.

2 The only other way to simplify content for the user would be to
3 replace words. For example, if the output had in the response, the United
4 States Patent and Trademark Office, one way to simplify the output for the
5 user and make it easier for them to understand at a distance would be to
6 replace those words with something much simpler, like PTO or the Agency.
7 And that's what our experts said would have been obvious to a person of
8 skill in the art.

9 JUDGE MCKONE: And this is Judge McKone. Shin doesn't
10 actually disclose that second option, though, correct?

11 MR. HEIDEMAN: Shin doesn't have an example specifically
12 describing that. Shin just says, you abbreviate the output and you make it
13 easier for the user to understand, and our expert said, a person of skill in the
14 art reading that would have understood that you could do that in only two
15 ways -- omit information or replace words that makes complicated sentences
16 easier to understand.

17 So, Shin doesn't have a specific example to that. We think it
18 would have been obvious in view of Shin's disclosure, and that's what our
19 expert testified. And we have the references that explicitly disclose word
20 replacement, which is why we have the 103 combination in the Petition.

21 JUDGE AHMED: Mr. Heideman, do you think there's a
22 difference between abbreviating content and abbreviating words? Because
23 the example that you give is basically abbreviating words. Is that different
24 than abbreviating content in the way that Shin teaches?

25 MR. HEIDEMAN: Shin does teach abbreviating content by

1 omitting certain content, but another way to abbreviate the content and make
2 it easier for a user to understand at a distance. The purpose of Shin is to
3 make it easier for users to understand at a distance. And our expert testified
4 that one way to do that, really the only other way to do that, would be to
5 simplify it by replacing complicated words or phrases with simpler words.

6 JUDGE AHMED: Okay, thank you.

7 MR. HEIDEMAN: So, moving to Slide 9, we just have our
8 expert's annotations. So, Shin has these different voice classifications, based
9 on distance. And so, these are distances from which the voice is received.
10 It's not distance in the abstract. It's a user speaking to the device. This is the
11 distance from which the voice is received, and the rows are the thresholds or
12 the classifications that the voice can fall into. And so, in this patent, it's a
13 little backwards in that if you're less than a meter away, it's the second voice
14 because there's no altering of the output. And if you're at any of the greater
15 distances, then it's classified as a first voice because you're abbreviating the
16 content.

17 And so, with respect to whether Shin discloses classifying the
18 voice based on the distance, it's important to refer back to that part of the
19 specification that we went through. Shin discloses classifying the voice in
20 exactly the same way the specification describes.

21 On Slide 10, we have the patent on the left-hand side, which says
22 you set a threshold for the feature value and classify the voice based on
23 whether the feature value exceeds a threshold. And in Shin, you have
24 exactly the same thing. It's calculating the distance using a proximity
25 sensor. It's using distance thresholds to then classify the voice into one of

1 several categories.

2 I'm going to start with Patent Owner's response in their Surreply,
3 and their primary argument now seems to be that the voice classification
4 cannot be based solely on distance because distance thresholds do not alone
5 delineate one class of voice from another. They're taking the position that
6 you cannot classify voice based on distance. That argument contradicts the
7 claim language, the spec, their interpretation of the claims in the prior art or
8 in the District Court, and both parties' experts. So, I just want to walk
9 through each of those quickly, because this is, I think, the central dispute in
10 this proceeding.

11 JUDGE ZECHER: Mr. Heideman, do we really need to go outside
12 the claims here to understand what they say, or just plain language control?

13 MR. HEIDEMAN: I don't think you need to, which is why I'm
14 starting with the claim language and the specification. I think that resolves
15 the issue, but I do think it's important for the Board to understand that Patent
16 Owner itself characterized its claims in a certain way in District Court, and
17 now they're taking completely different view of the claims.

18 JUDGE ZECHER: Well, do we need to go outside the intrinsic
19 record? In other words, do we have to go to these District Court
20 representations? I mean, it seems to me that if the plain language and the
21 specification support it, and even if we dig further into the prosecution
22 history, there may be some support, as well, that would be enough.

23 MR. HEIDEMAN: I agree with that.

24 JUDGE ZECHER: Okay.

25 MR. HEIDEMAN: So, let me start with the claim language and

1 the intrinsic evidence. And that is, the claim language is on Slide 12. It
2 says, you classify the voice into the first voice or second voice based on the
3 calculated distance. Not based on anything else, just based on the distance.
4 On Slide 13, we have the portions of the spec we just looked at. The spec
5 tells you that the distance can be used as a feature value to perform the
6 classification with the first voice or the second voice, and you do that by
7 looking at whether that feature value exceeds a threshold.

8 These are the references to the District Court, which I'll skip over,
9 except it's important, I think, to recognize that in the District Court, they're
10 arguing that you can classify the voice as near or far based on a distance
11 threshold. So, there's no other classification that needs to be made here. It's
12 near or far is a sufficient classification. It doesn't have to be whisper, non-
13 whisper. It doesn't have to be person A versus person B. It can just be
14 what's the distance between the user and the device. Does it exceed a
15 threshold or not? It can be classified as near or far.

16 JUDGE MCKONE: Now, has the District Court made any
17 decisions on any of this? Or you're just presenting to us what the arguments
18 have been in a different forum?

19 MR. HEIDEMAN: The Court has not made any decision on this.
20 This is how Patent Owner itself was interpreting its claim before it saw the
21 prior art in this proceeding. And so, it's not surprising that they're backing
22 off that now, but that's only in response to the prior art, because the prior art
23 clearly does what the claims say and what the specification says and it does
24 exactly what they were accusing of infringement in the District Court.

25 On Slide 17, again, this is their representation of the District Court.

1 Classifying the incoming voice as first or second voice is a binary decision,
2 and we did it with a distance calculation, not anything else. The experts in
3 this proceeding have both testified that distance can be used to classify
4 voices. So, on Slide 18, we have a couple of quotes from their expert, where
5 he said that feature values, including user-to-device distance and threshold
6 thereof, are determined and set for the purpose of distinguishing one class of
7 voice from another.

8 That's right. The whole purpose of having a distance threshold is
9 to classify -- distinguish between classes of voice. And he said at the bottom
10 of Slide 18, the voice classifying units at certain feature values, such as
11 distance, that distinguish between different voices.

12 On Slide 19 we have the quotes from our expert who testified that
13 the voice classifying unit can classify the user's voice based solely on the
14 user-device distance and based on distance alone, as consistent with the
15 specification. So, we don't think there's any real dispute that distance alone
16 can be used to classify the voice. And their response in their Surreply
17 acknowledges that the prior art references classify distance -- in their words,
18 classify distances, not voices. But they ignore not only the claim language
19 and the specification that says you can classify voice based on distance, but
20 they ignore that the distance in the prior art reference is the distance from
21 which the voice is received.

22 And we have that on Slide 21. And when we pointed that out in
23 our Reply, they said this is a totally new argument, you're gap-filling, that's
24 not what you argued. That's been the argument all along. The devices here
25 receive a voice, they calculate a distance between the user and the device,

1 they compare that distance to a threshold, and they alter their output.

2 The distance in all of these references is the distance from which
3 the voice was received, it's not a distance in the abstract, it's not distance
4 separated from voice. It's the distance from which the voice was received
5 when the user was speaking to the device. They're also backing off another
6 argument, and that is distance is an aspect or a characteristic of human voice.
7 Their expert has made that statement in this proceeding. We have that on
8 Slide 22, and then they're starting to back away from that to argue that
9 distance is not a characteristic or aspect of the voice.

10 So, on Slide 23, their argument now in this proceeding is that
11 distance is a feature value, but it has no direct relationship with any voice
12 attribute or characteristic. In the previous proceeding, they acknowledged
13 that the specification exemplifies distance as a feature value that is indicative
14 of the characteristics of the voice, so they're walking back their recognition
15 that distance is a characteristic of the voice.

16 A voice has many characteristics. One of them is distance. So,
17 we're not conflating distance and voice. We're saying that distance is one
18 aspect of voice, and it can be used to classify a voice, just as the spec says.
19 On Slide 24, we have another instance where they're walking back their
20 position. On the left-hand side, in this proceeding, they're saying distance is
21 not an aspect of voice. In the prior proceeding, they said that distance is but
22 one aspect of voice. There are others, but distance is one aspect of the voice.

23 And again, that's right. Distance is one aspect of the voice. And
24 the spec and the claims make it clear that you can classify a voice based on
25 distance. The Board doesn't have to actually decide whether distance is a

1 voice characteristic or not; we know from the claims that you can classify a
2 voice based on the distance between the user and the device. We know from
3 the specification that distance is a feature value that can be used to classify
4 voice. So, the Board doesn't have to decide whether it's a voice
5 characteristic or not, but it clearly is, and their expert has acknowledged that
6 in various places throughout the proceeding.

7 Those were the arguments that they primarily relied on in their
8 Surreply. If we go back to their Reply, they made three arguments that were
9 virtually identical to arguments we discussed at the last hearing, so I'll just
10 cover them very quickly. The first argument in their Patent Owner response
11 was that Shin only mentions voice in connection with the output, that's
12 clearly wrong. We went through several instances of Shin where it's
13 describing voice as a voice input, and I have a few examples on Slide 25. I
14 don't think they're continuing to argue that Shin only mentions voice in
15 connection with the output.

16 Their second argument in their Patent Owner response was that
17 Shin's Table 3 discloses only a calculation of distance and nothing else. I
18 have Shin's Table 3 again on Slide 26. It doesn't disclose a calculation of
19 distance at all. The calculation of distance is done by the proximity sensor.
20 Table 3 is showing the classes and the thresholds for the different
21 classifications of the voice.

22 Once you calculate the distance, then you can apply the thresholds
23 in Table 3 to determine what the output is. But Table 3 is not disclosing the
24 calculation of distance. Their last argument was that Shin's device would
25 not distinguish between the voices of two different users. We discussed that

1 last time. There's nothing in the claims that requires distinguishing between
2 two different users. That brings us to word replacement.

3 I think it's pretty clear that the prior art discloses classifying a
4 voice based on distance in the same way that the specification describes and
5 the claim requires. And so, when we get to word replacement, we discuss
6 -- we think it would have been obvious in view of Shin alone, and our expert
7 has testimony to that effect, but the prior art clearly discloses word
8 replacement. It was a well-known feature in these types of devices. It was
9 disclosed in many different references.

10 The only issue is really whether a person of skill in the art would
11 have been motivated to incorporate word replacement into Shin's system.
12 The example in the '675 patent of word replacement is when somebody asks
13 about a schedule and there's two possible outputs. One output has all of the
14 information in its standard format. So, Mr. Yamada's schedule on March
15 20th, 2020, is a meeting with Mr. Yoshida from 1500 at Tokyo Building.
16 There's a second alternative output that replaces a word, so you can replace
17 Mr. Yoshida with Yoshi. So, that's one of the examples from the
18 specification.

19 JUDGE MCKONE: Now, are there any examples of replacing
20 words for the purpose of reducing the amount of information, abbreviating
21 the amount of information? Here it's changing Mr. Yoshida to Yoshi. It's
22 the same person, so there really isn't a difference in information, but it's
23 more changing the style of speech based on the person that is going to
24 receive the speech. So, do you have any other examples that show reduction
25 of information?

1 MR. HEIDEMAN: I don't have off the top of my head examples
2 in the '675 patent that do that. We can try to find some while we're talking.
3 I don't recall off the top of my head --

4 JUDGE MCKONE: But --

5 MR. HEIDEMAN: -- a specific example.

6 JUDGE MCKONE: But I think there is a context in this -- you
7 calling it the '675 patent, that's fine. Where I think is similar to Shin, in the
8 sense that it's a context where you'd want reduced information. For
9 example, where the user is stressed out or has a lower level of composure in
10 the '675 patent's language. Isn't it the case, though, in that situation, Aoyama
11 or the '675 patent talks about reducing the amount of information? For
12 example, instead of giving you directions to the Tokyo Station and giving
13 you the weather, it will hack off the weather and just give you directions to
14 the Tokyo Station. Am I wrong? Am I wrong about that?

15 MR. HEIDEMAN: No, you're correct. Sorry. So, if we're talking
16 about Aoyama, yes, it has those examples that you're referring to. This is
17 the example in the '675 patent itself.

18 JUDGE MCKONE: Okay.

19 MR. HEIDEMAN: So, when the '675 patent is talking about word
20 replacement, this is one of the examples it gives. You can replace, for
21 example, somebody's name.

22 JUDGE MCKONE: Okay.

23 MR. HEIDEMAN: It --

24 JUDGE MCKONE: I'm looking in the prior art. Is there any
25 examples of word replacement for the purpose of information reduction?

1 So, that's -- thank you for the clarification and getting me straight on the
2 references, but my question is really in the prior art. Are there any examples
3 of reducing information through word replacement?

4 MR. HEIDEMAN: So, Aoyama replaces words for several
5 different reasons. And so, it looks at the user state, the degree of composure,
6 the environment, and the speech style. And from that, it generates a
7 response parameter that can then alter the output. And so, one of Patent
8 Owner's arguments is that it only replaces words in response to the user's
9 speech style, and that's not true. It describes replacing words based on the
10 user identification, which is in paragraphs 219 to 220 of Aoyama.

11 It describes replacing words based on the time of day, which is in
12 paragraph 224. It describes replacing words based on who's present. That's
13 in paragraph 225. And it has an example of replacing words based on the
14 degree of composure, which is in paragraph 154. And that's where they're
15 talking about, whether they're calm or hurried, and they can replace words.

16 So, it's not just in response to the speaking style. And you're
17 correct that Aoyama also discloses varying the amount of information that's
18 provided. But that's, that's exactly the point, and that supports the references
19 combination. They're both trying to do the same thing, and that is make the
20 output easier for the user to understand, make the conversation more natural.

21 And so, I'll just walk through. So, on Slide 30, we have an
22 example from Aoyama. It's very similar. It has names and they can be
23 replaced with nicknames. Again, it's a device. It's a speech device similar to
24 the devices in Shin, where the user is talking to it and they're getting a
25 response back. And as I said, it can vary the response based on user state,

1 the degree of composure, the environment, or the speech style, and it can
2 replace words.

3 So, Aoyama has an example that's almost the same as the '675
4 patent. So, on Slide 31, we have that disclosure. So, Aoyama also has an
5 example where the user asks about the schedule and there's two possible
6 output sentences. One has the full name and has a certain date and time
7 format, 13:00, and the date is 10/1/2014. And it discloses that you can
8 replace words.

9 So, you could replace tomorrow with Mr. and then you could
10 replace the date and time format with tomorrow at 1:00 p.m. -- a different
11 date and time format. So, there's no dispute that Aoyama discloses word
12 replacement. Really, it's just a question of motivation to combine. So, on
13 Slide 32, we have many of the motivations to combine that our expert relied
14 upon, and I don't want to go through them all, but I do want to touch on the
15 first one and one other one.

16 Our expert testified that the combination using word replacement
17 in Shin would further Shin's primary goal of simplifying output for users at
18 greater distances and making the information easier for users to grasp. For
19 example, replacing full names with simple nicknames or complicated date
20 and time formats with simpler ones. He went through a bunch of other
21 motivations. That one is very common sense. They're similar systems
22 designed for a similar purpose, and Shin's goal of making it easier to
23 understand would have led a person of skill in the art to implement word
24 replacement.

25 The rest of these are equally common sense, I think. And when we

1 get down to number four is really the *KSR* argument, in that this
2 combination merely represents the addition of one known element, word
3 replacement, which was well known and described, to another known
4 element or system, Shin's, to obtain a predictable result, which is providing
5 content to users at greater distances that is abbreviated or simplified using
6 word replacement.

7 JUDGE ZECHER: Is there a reason you guys set forth seven
8 different rationales and not just kind of stuck with one?

9 MR. HEIDEMAN: There's a lot of reasons a person of skill in the
10 art would have done this. The risk is always if you pick one, and there's a
11 bunch, that that one that we chose might not be persuasive. But when there's
12 a bunch of reasons why a person of skill in the art would have made a
13 modification to a prior reference, our expert is going to set forth all the ones
14 that make sense to him.

15 JUDGE ZECHER: So, is it your view that Patent Owner has to
16 knock down all seven?

17 MR. HEIDEMAN: They do. If there is a motivation for a person
18 of skill in the art to modify Shin to incorporate word replacement, regardless
19 of what that is, the claim's obvious, and the Supreme Court said so in *KSR*.
20 And so, there's a statement in *KSR* where the Supreme Court said that if a
21 technique has been used to improve one device. Here, Aoyama is using
22 word replacement to simplify its output to the user. And a person of
23 ordinary skill in the art would recognize that it would improve similar
24 devices -- Shin's is a similar device -- in the same way by simplifying the
25 output. Using the technique is obvious. It is obvious, unless its actual

1 application is beyond his or her skill.

2 JUDGE MCKONE: So, we have to find that Aoyama improves its
3 device by simplification, correct?

4 MR. HEIDEMAN: No, that's not right. So --

5 JUDGE MCKONE: In order for this -- but it has to then improve
6 Shin in the same way. So, if the improvement in Aoyama is simplification,
7 then it would have to improve Shin in that same way through simplification,
8 correct?

9 MR. HEIDEMAN: I don't think that's right. So, in *KSR*, the
10 Supreme Court talked about -- that's exactly the error the Federal Circuit
11 made in *KSR*.

12 JUDGE MCKONE: I'm just going with the language that you just
13 quoted from *KSR*.

14 MR. HEIDEMAN: It is simplifying in the same way. Whether
15 that was the intended purpose of Aoyama, that doesn't have to be true. So,
16 in *KSR*, the Supreme Court said that the Federal Circuit erred in its obvious
17 analysis when it made the assumption that a person of skill in the art,
18 attempting to solve a problem, will be led only to the elements of prior art
19 designed to solve the same problem. And that's essentially their argument, is
20 that Aoyama discloses word replacement, but it's not solving the same
21 problem. That's what the Supreme Court said the Federal Circuit got wrong.

22 It's disclosing word replacement. It's a well-known feature. It did
23 improve Aoyama's device. And a person of skill in the art modifying Shin,
24 or using Shin, or looking to modify Shin to simplify its output, would have
25 looked to Aoyama's word replacement as one way of furthering its purpose.

1 Shin's purpose was to simplify content for users at greater distances. Word
2 replacement was a known feature of these types of systems, and a person of
3 skill in the art would have therefore been motivated to incorporate that.

4 JUDGE ZECHER: Doesn't your obvious argument here have a
5 couple layers of complexity? Because if we're looking at Shin by itself and
6 we have the abbreviation and simplification of content. I think your primary
7 argument, or one of your arguments, at least as I understood it, is that at least
8 in some instances abbreviation and simplification encompasses replacing
9 words. It may not be all instances, could be omitting, could be something
10 -- I think you said omitting and replacing are the two options, but in some
11 instances it would. But then are you tacking on Aoyama to say, well, in the
12 instances where it wouldn't include replacing words, here's a clear teaching
13 that it would be obvious to do so.

14 MR. HEIDEMAN: No, the first, I think, is true. Shin discloses
15 abbreviating content, simplifying its output. That could be either through
16 omission or through word replacement. Our expert testified that that would
17 have been an obvious implementation of Shin based on its disclosure alone.
18 Even if Shin didn't disclose that, or the Board finds that that wouldn't have
19 been obvious in view of Shin alone, it would have been obvious to modify
20 Shin to simplify its output for users at greater distances by using word
21 replacement, which was a known technique for simplifying output and
22 replacing output in these types of devices. And so, really the question is,
23 would it further Shin's purpose? It would.

24 And that's what the Supreme Court said and *KSR* said you look to.
25 Would it further the purpose of the primary reference? The secondary

1 reference doesn't have to address the same problem. And there's no
2 argument here that this would have been beyond the scale. It was well
3 known. It was described in multiple references. The question is just
4 whether a person of skill and art would have incorporated into Shin or
5 Shimomura.

6 JUDGE ZECHER: I know we spent a lot of time on the
7 classification issue and the word replacement. Did you want to touch on
8 dependent Claim 5 or move to Iwase?

9 MR. HEIDEMAN: I do. Just to finish up on the motivation to
10 combine, their argument in their response is essentially a teaching away
11 argument, and the standard for teaching away is pretty high and has not been
12 met here. So, I think it's important for the Board, as the Board evaluates
13 their arguments on the motivation to combine, to realize that teaching away,
14 you have to just discredit the approach. And there's no teaching like that in
15 Aoyama or Shin. So, I don't think there's any real basis for arguing that
16 prior references teach away.

17 JUDGE AHMED: Is there anything in Aoyama that suggests that
18 replacing names in the way it does is in fact a simplification, rather than just
19 based on the user or the situation? I know it seems natural that nicknames
20 may be a simplification, but is there something in Aoyama that tells us that?

21 MR. HEIDEMAN: I think that's common sense that it's
22 simplifying. I don't know if Aoyama has specific language saying that it is a
23 simplification, but it has not only the examples you listed, but it's replacing
24 names. The date and time replacement, that's clearly simplifying. And so,
25 the question is whether a person of skill and art having Shin and seeing

1 Aoyama, would have had a motivation to implement word replacement. A
2 person of skill and art would have realized that that would help simplify the
3 system and therefore, would have been motivated to implement it, even if
4 Aoyama itself doesn't say, do it for the same purpose, which is
5 simplification.

6 So, on Claim 5, just to touch on that quickly, Claim 5 recites that
7 the device is configured to determine the voice to be the predetermined
8 voice when the voice spoken by the user is a whisper. There's a dispute here
9 as to whether the claim requires detecting the whisper or not. And I think
10 what you're going to see in their slides is they're going to skip from
11 determine to the voice spoken to be a whisper. The claim doesn't actually
12 recite determining the voice to be a whisper. It says, determine the voice to
13 be the predetermined voice. And there's an antecedent basis problem here,
14 too.

15 JUDGE ZECHER: Do I understand, at least reading your Petition,
16 that you refer to the predetermined voice as the first voice or the second
17 voice in Claim 1, correct?

18 MR. HEIDEMAN: Correct.

19 JUDGE ZECHER: Okay.

20 MR. HEIDEMAN: And their expert essentially agreed with that.
21 And that's why the Board can undertake its obviousness analysis, even
22 though there's this indefinite issue in the background.

23 JUDGE ZECHER: And then I guess just to kind of cut to the
24 chase, even if we thought that dependent Claim 5 required determining a
25 whisper or the first voice, second voice to be a whisper, I understand you to

1 at least introduce Schuster for that.

2 MR. HEIDEMAN: We do. Schuster clearly discloses detecting a
3 whisper and then classifying the voice. And basically, what it does is it says
4 if the user -- if you detect a whisper or they're within a certain distance, then
5 output your response at the lowest volume. It's relatively straightforward is
6 --

7 JUDGE ZECHER: Do you think we need to construe a whisper? I
8 know Patent Owner brought this up in their briefs. It appears there is some
9 sort of lexicographic definition in the specification, but would that matter?

10 MR. HEIDEMAN: So, that definition doesn't matter, and I think
11 the Board has to be careful about how they're presenting that. I think we'll
12 see it in their slides, but with the specification, when it talks about whisper,
13 it says the whisper is when you don't move the vocal cords -- I don't have the
14 language in front of me.

15 JUDGE ZECHER: I have it right here. So, a whisper is an
16 unvoiced voice spoken without vibrating the vocal cords but is not limited
17 to.

18 MR. HEIDEMAN: Exactly. And it's the next part that's relevant,
19 because the specification basically says you can classify it as a whisper, even
20 when it's not technically a whisper.

21 JUDGE ZECHER: Yeah.

22 MR. HEIDEMAN: So, just classify it however you want. You set
23 a threshold and you classify it. The whisper is more of a label than it is a
24 technical definition of how that works.

25 JUDGE ZECHER: But you don't dispute that? It's really kind of a

1 lexicographic definition, but it's kind of open-ended --

2 MR. HEIDEMAN: It's --

3 JUDGE ZECHER: -- left --

4 MR. HEIDEMAN: You define it however you want.

5 JUDGE ZECHER: Okay.

6 MR. HEIDEMAN: You can call anything a whisper, according to
7 the spec.

8 JUDGE ZECHER: Well, there's no dispute Schuster teaches a
9 whisper, right?

10 MR. HEIDEMAN: Correct. And it --

11 JUDGE ZECHER: All right.

12 MR. HEIDEMAN: -- teaches detecting it. So, I'll reserve the
13 remainder of my time.

14 JUDGE ZECHER: Okay.

15 MR. HEIDEMAN: Thank you.

16 JUDGE ZECHER: Thank you. So, we have six and a half
17 minutes left for Amazon for rebuttal. I'll turn the floor over to SoundClear
18 and Mr. Reynolds for their presentation. And Mr. Reynolds, I'm going to do
19 the same with you. I'm going to start the clock at 45 minutes. It'll count
20 down. Of course, you can reserve time for surrebuttal, but this will be your
21 total time.

22 MR. REYNOLDS: Understood, thank you. Good afternoon, Your
23 Honors. I have a one-sentence argument. It goes like this -- proximity
24 sensors are commonly known in speech recognition to determine if a user is
25 within a predetermined distance to a control device, but not to classify a

1 voice into a first voice, or a second voice based on distance. That's the
2 examiner in the Notice of Allowability.

3 I'm going to read it again. Proximity sensors are commonly known
4 in speech recognition to determine if a user is within a predetermined
5 distance to a control device, but not to classify a voice into a first voice or a
6 second voice based on distance. There's no confusion as to what these terms
7 mean. Classifying voice is not measuring distance. There never was any
8 confusion here on those plain words, until Amazon's Petition got involved.

9 Just imagine, as a mental exercise, handing someone who meets
10 -- let's just say we hand a thousand people who meet the definition of a
11 POSITA, Shin and Shimomura, and ask what's going on in these. Is anyone
12 going to say they're classifying voices? Absolutely not. They're measuring
13 distances and adjusting output, and they do it for completely different
14 reasons, whether it's to make the user comfortable, like in Aoyama, whether
15 it's because the user's face might be within centimeters of the screen like in
16 Iwase, but there's nothing in Shin or Shimomura that anyone would pick it
17 up and say, oh, we're classifying a voice.

18 And the examiner said the exact same thing here. The examiner
19 read the claims and noticed a clear, unmistakable distance -- sorry,
20 difference -- unmistakable difference between measuring a distance of a user
21 when interacting with this device and classifying a voice. And their expert
22 agrees. This is Dr. Stern in the deposition on December 10th, 2025. He's
23 asked about the prior art. All of the prior art citations involved a certain
24 amount of measuring what was going on in the environment and using that
25 to modify content.

1 JUDGE ZECHER: This is Slide 11, correct?

2 MR. REYNOLDS: I'm sorry, I keep doing that. Yes. This is
3 Patent Owner's Demonstrative 11. That's it. I mean, we don't need to go
4 any farther than this because that's the record. And we can go back and forth
5 on whether distance is a characteristic of voice or whether -- that's all a
6 subsidiary issue. What no one disputes is that distance is not voice, and
7 that's the primary issue.

8 You have a claim that recites classifying a voice, and that claim
9 also recites distance. Voice is something different than distance. The record
10 is crystal clear on that. Both experts agree. Everybody agrees voice is
11 something more complicated. It connotes human speech and passage of
12 ideas. We have quotes from Dr. Stern on that himself, that distance is not
13 voice. That's all this panel needs to determine. This panel does not need to
14 determine to what extent someone can argue that a voice -- that a distance is
15 a characteristic of voice or associated with voice.

16 But we're going to come back to this. The prior art discloses
17 measuring distance, not classifying voice. You've got the expert witness
18 testifying that. We've got the examiner who recognized that. I don't know
19 what else there is, what other basis there is here to change the meaning of
20 the claims. And then when we go to the prior art, nobody is arguing that
21 there's an express disclosure here. None. No express disclosure in Shin or
22 Shimomura of classifying, using that word, or voices. So, what are we
23 relying on? It's not inherency, because they've disclaimed inherency. What
24 else are we relying on? I don't know.

25 JUDGE ZECHER: Mr. Reynolds, looking at this slide here, do we

1 have to go outside the claims here to understand what to classify the voice
2 into either a first or second voice based on the calculated distance means?

3 MR. REYNOLDS: Absolutely not.

4 JUDGE ZECHER: So, it's the plain language that controls?

5 MR. REYNOLDS: That's right. But this is application of the
6 claims to the prior art, so the reason we're quoting this -- we definitely do
7 need to go because they need an evidentiary basis. We don't have an
8 expressed disclosure in the prior art.

9 JUDGE ZECHER: Do we need an express disclosure of the word
10 'classify' in the prior art?

11 MR. REYNOLDS: You do, unless they establish another ground
12 for it.

13 JUDGE ZECHER: In the context of an obviousness ground, we
14 need an express disclosure? We can't have something that would teach or
15 suggest doing so?

16 MR. REYNOLDS: The Court is clear. Bear with me just a
17 second. It's the Federal Circuit. In the context of anticipation, the question
18 is not whether a prior art reference suggests the claimed subject matter.
19 Rather, the dispositive question regarding anticipation is whether one skilled
20 in the art would reasonably understand or infer from a prior art reference.

21 JUDGE ZECHER: And I would agree with you, but that's
22 anticipation. We're talking about obviousness.

23 MR. REYNOLDS: Okay. So, in terms of a disclosure, yes, but
24 they haven't argued that. They're using Aoyama and Iwase for -- sorry, that's
25 for word replacement, but they haven't argued that classifying a voice is

1 obvious. They're not arguing that part is obvious at all. They're claiming
2 that part is disclosed in Shin and Shimomura. That is not their obviousness
3 argument. We'd need a *Graham*, factor 2, saying what's the difference
4 between the prior art and the claim. This has to be expressly set out. The
5 Federal Circuit is clear. You do *John Deere*, you could do *Graham* too, and
6 you say, hey, this is what's the difference in the prior art and the claim, and
7 then we go through the obviousness analysis.

8 They've not done that with distance. Their whole argument is that
9 distance is disclosed in Shin and Shimomura, so there's no basis for that.
10 But we know there's not an expressed disclosure, and we know there's not a
11 *Graham v. John Deere* argument. There's a Federal Circuit case that talks
12 about the fact that even a single reference obviousness, if that were what
13 they were going to do, requires a very detailed reasoned basis to fill in a gap
14 in the claim.

15 And the only time it's really appropriate to do so in that case -- I
16 think it's called *Arctic Cat* -- I can look it up in the -- on the break, is when
17 there's something that's very simple. I think in that case, it was whether you
18 just sent enough emails until a certain number was reached. And they said,
19 oh, the prior art didn't disclose comparing it to a number, but just sending the
20 number of emails. I'd have to pull it, but that would be a single reference
21 obviousness case. But that's not what we have here. It's not in the Petition.

22 JUDGE ZECHER: I think you're thinking about the *Arendi* case.

23 MR. REYNOLDS: I think you're right, Your Honor. Thank you.
24 I appreciate that. But again, that's not what we have here. They've never
25 made that argument. Their entire argument is that Shin and Shimomura

1 disclose voice classification. So, if it's not expressed, they have to rely on
2 something else, and then their expert has said not only looking at the prior
3 art, they're measuring distance. So, why are we doing two things now?
4 Their expert says this is what we're doing and now all of a sudden, it's
5 something else.

6 JUDGE ZECHER: Mr. Reynolds, let me put a pause on your oral
7 argument here, we lost Judge McKone. Apologies.

8 MR. REYNOLDS: I believe they're back. They switched sides,
9 though.

10 JUDGE ZECHER: All right. All right. Dave, can you hear us?

11 JUDGE MCKONE: I can. Can you hear me?

12 JUDGE ZECHER: Yes. Okay. All right. Judge Ahmed, are you
13 there? Just to make sure.

14 MR. HEIDEMAN: Yes, I'm here.

15 JUDGE ZECHER: Okay. All right. We're back. Sorry about
16 that. Go ahead. Please proceed.

17 MR. REYNOLDS: So, we argued in our Surreply that the way
18 Amazon's reading these claims -- we're on Petitioner demonstrative -- I'm
19 sorry, Patent Owner Demonstrative 6 -- could be used to argue that Shin and
20 Shimomura classify whether a user is doing a somersault or not. That seems
21 outlandish, but if you're measuring distance, and when someone does a
22 somersault toward a device, the distance is going to change. And then if the
23 output changes when that distance changes, you could -- sorry, I think I used
24 the word measuring. I mean classifying. You could argue that, well, it's
25 classifying whether a somersault's being done or not.

1 They haven't addressed this. I'm curious to hear how they would
2 draw the line here. Because when you're replacing the words for the claims
3 with an extrapolation, it really throws the door open. And there's a corollary
4 to invalidity, right? Infringement, right? We've got our century-old axiom
5 that -- which would literally infringe if later, if in time anticipates if earlier.
6 I think I paste that wrong. But still, if something infringes when it comes
7 later, then it anticipates when it comes earlier.

8 If you read claims like this, every plaintiff's case in this country
9 gets stronger tomorrow. If this is -- if these claims are found invalid and
10 they get affirmed by the Federal Circuit, now it doesn't matter what the
11 devices say and how they operate, because what we're doing is we're doing
12 an extrapolation based on inputs and outputs to say, well the device says that
13 it's measuring distance, but what it's really doing is classifying a voice. So,
14 where do you stop when it comes to doing that? And that's why it's
15 important here that we stick -- the claims are using very plain language.
16 They're very clear. Everybody knows what a voice is. Everybody knows
17 what classification is. This is what I said when I opened my remarks the
18 first time, is when a Patentee sits down and writes the patent, they're very
19 intentional about the words that they're using.

20 And so, to have arguments here that, well, when they said classify
21 a voice, oh, we can just really kind of wave our hands and say something
22 that measures the distance is the same thing. And then when we get to
23 Claim 5, oh, they just mentioned whisper. The Patentee wrote the word
24 whisper down, so it just meant that the device continues working even while
25 somebody is whispering. This is all trying to back away from making a sort

1 of effort to back away from the plain and ordinary meaning, and not to look
2 at what it really is, what the specification tells you what it's doing, what the
3 words of the claims tell you they're doing.

4 Now, that's all a legal question. Misinterpreting the claims, the
5 fact that there's no legal basis on which they're looking at the prior art
6 because we don't have an express disclosure. Those are all legal issues. But
7 we also have a pretty severe fact issue in this case because there's no
8 evidence in support of what Shin and Shimomura are actually doing.

9 Dr. Stern -- this is Patent Owner Demonstrative 7 -- he says, what
10 is Table 3 doing? It's classifying the distance. Table 3 is the basis of their
11 Petition. Patent Owner Demonstrative 8, the table only talks about distance.
12 This is a disclosure. This is their expert telling you what the disclosure
13 shows. It doesn't refer to voice.

14 Now, we brought this up before, and I think that this is a very
15 important thing to remember how these devices operate. A voice comes in,
16 it's analog, the device digitizes it, the device determines what you're saying,
17 so it converts that audio into words, and then this -- the natural language
18 processor determines intent. In response to that intent, the device determines
19 an output.

20 So, in these tables -- let me see if I can find one here. This is
21 Patent Owners Demonstrative 27. Voice is gone. They're saying we're
22 classifying voice in these tables. It doesn't exist in the system anymore.
23 We've moved beyond the part where the device is analyzing the incoming
24 voice. What it's done is it's construed a number of outputs, and it's going to
25 choose those outputs based on one thing, a distance measurement.

1 So, when their expert says that this table measures distance, relates
2 to distance, and has nothing to do with voice, he's absolutely right. It has
3 nothing to do with voice. There is no record to say anything else. This is
4 Petitioner's demonstrative. I mean, they can't -- of course they describe the
5 table the same way. The left column of Table 3 includes several categories
6 or classifications into which what falls? The distance.

7 JUDGE ZECHER: This is Demonstrative 10 for Petitioner,
8 correct?

9 MR. REYNOLDS: Yes, correct.

10 JUDGE ZECHER: Okay.

11 MR. REYNOLDS: Thank you, Your Honor. There's more.
12 Patent Owner Demonstrative 9. This is Amazon's expert, Dr. Stern, again,
13 talking about Shimomura. We never talk about classifying a voice. We talk
14 about classifying based on distance. We talked about this in our last session,
15 but it's important -- very important -- to come back to this, too. So, these are
16 images from the Petition and Dr. Stern's declaration addressing Shin.

17 Now, this is the only paragraph in which they address whether
18 Shin and Shimura are actually classifying a voice. So, they open with an
19 opening sentence, which states their conclusion, and then they say Shin's
20 processor executes a speech recognition application process -- sorry,
21 application. This is Patent Owner Demonstrative 22. Speech recognition
22 application process -- I'm sorry, to process the speech input and generate
23 corresponding output content.

24 Okay. The processor determines the output scheme, including the
25 content, based on the distance between the user and the electronic device.

1 So, all we're talking about is inputting a voice, determining what it says,
2 figuring out an output scheme, and choosing an output scheme based on the
3 distance between the user and the device. And then we get to the last
4 sentence. To do so, Shin's processor classifies the voice based on the
5 distance.

6 That's it. That's their analysis, and it's just repeated in the expert
7 declaration. This panel has, or the director has, a precedential decision in
8 *Xerox Corp. v. ByteMark*, IPR2022-624, paper 9, which we've cited, that
9 says just mirroring expert testimony is not enough. But even without that,
10 this is just purely conclusory.

11 Now, if you open up the Petition, the next page is where they get to
12 the tables, they have this exact same statement. If we go to demonstrative
13 Patent Owner demonstrative 23, this is Shin and Shimomura declaration side
14 by side the Petition. They both have the same kind of approach. They say
15 this and then on the next page of the Petition they're into Table 3 or
16 whatever the table of Shimomura is. But remember, by the time we're into
17 the tables, this to do so has already been done, because the voice is gone at
18 those tables.

19 So, if you're going to invalidate this patent, that's where it's got to
20 be from, that sentence. And that's all you've got -- to do so. While
21 Shimomura is doing all this other stuff that doesn't match onto the claims,
22 just it was also classifying a voice. That's where the Petition is based. The
23 specification here, if we go to Patent Owner Demonstrative 12, the meat of
24 the specification is talking about classifying these voices. The examiner
25 addressed this too, and the examiner had no issue determining what the

1 predetermined voice was.

2 In fact, essentially asked for clarification during prosecution.

3 There was an amendment to the claims where they said, determine whether
4 the voice is a predetermined voice or act if it's not a predetermined voice.

5 And the examiner said, wait a minute, the predetermined voice is what you
6 compare the voices to, to determine whether it's V1. And so, the Patentee
7 amended the claims to say that you don't determine whether -- that you have
8 two voices, that you determine based on a predetermined voice.

9 But anyway, that's a bit of an aside. Reading the specification,
10 imagine if you interpret these claims to cover something that just measures
11 distance and responds. You're so far afield of what the specification
12 described. It's very specific. All the embodiments are very clear that the
13 intent is to determine if there's a voice that maps this predetermined voice.
14 The predetermined voice is some representation or some type of voice,
15 whether it's a whisper or whether it's something else. So, you're just casting
16 the claims open so broadly, so much further from where the specification
17 goes when you're just talking about measuring continuous variables like
18 distance.

19 And then when we get to Claim 5 -- this is Patent Owner 14 -- I
20 mean, Amazon was basically forced into its argument that this Claim 5
21 doesn't require actually determining a whisper, because otherwise it would
22 make no sense to interpret Claim 1 to cover any sort of measuring or
23 determination of distance and then have Claim 5 say, well, you're
24 determining whether the predetermined voice is a whisper or not. If you
25 weren't actually classifying a voice, then there'd be no reasonable relation

1 between the dependent claim and the independent claim.

2 JUDGE ZECHER: Mr. Reynolds, do you agree with Petitioner's
3 position that the predetermined voice here doesn't have any antecedent basis
4 in Claim 1, and it could be the first voice or the second voice; is that a fair
5 reading?

6 MR. REYNOLDS: I agree there's an antecedent basis --

7 JUDGE ZECHER: Issue.

8 MR. REYNOLDS: -- issue here that --

9 JUDGE ZECHER: Yeah.

10 MR. REYNOLDS: -- would be -- that could be corrected, but I
11 think that based on the specification in the prosecution history, the
12 predetermined voice is some internal representation of a voice, to which the
13 incoming voice is compared, to determine whether it is a predetermined
14 voice.

15 JUDGE ZECHER: Well, that may be how it's described in the
16 specification, but where is that in the claim? I mean, we don't have any
17 reference for the predetermined voice in Claim 5. We can't look back in
18 Claim 1 and say, what is that voice? The only voice that's present in Claim
19 1 is a first voice or a second voice, right?

20 MR. REYNOLDS: Correct. And so, I think what -- it would be a
21 minor correction here to say that this should be a predetermined voice
22 instead of the predetermined voice. So --

23 JUDGE ZECHER: Well, let's say we made that correction. How
24 would that change the scope of the claim?

25 MR. REYNOLDS: Well, I think it would clarify that what you are

1 -- you're determining whether the incoming voice is a predetermined voice
2 that is a whisper. So, you're determining whether the incoming voice is a
3 whisper.

4 JUDGE ZECHER: You'd have to compare it to something else to
5 make that determination.

6 MR. REYNOLDS: Yeah, and that would be the concept of the
7 predetermined voice. The concept of the predetermined voice is the
8 representation that's stored in memory of this device, and then a voice comes
9 in and it makes a determination. So, the specification describes what would
10 characterize a whisper, peak frequency being below a certain level or a slope
11 of the peak frequencies. There's something inside the device that includes
12 characteristics of a whisper is what a whisper is, and then when a voice
13 comes in, you compare it to that. Yes, and make a determination as to
14 whether the voice coming in is a predetermination, predetermined voice that
15 is a whisper. And I think that it's especially clear when you look at the
16 specification, because it describes exactly that example.

17 So, you make the correction that we're not reciting back to some
18 predetermined voice, but we're citing a predetermined voice, which is used
19 to determine whether a voice is a whisper and it becomes clear. The patent
20 says, I think in column 10, 49 to 53, this is in our briefing too, the voice
21 classifying unit 42 classifies the voice V1 to be the first voice, V1A, when
22 the voice V1 is a whisper. And to the second voice, V1B, when the voice
23 V1 is not a whisper, when the meaning of voice V1 is the same.

24 So, that's the example the claim was written to cover, and the
25 specification is clear what we're doing here. And again, Amazon's position

1 is essentially that the device continues operating while someone's
2 whispering, and that's just a strained reading of the claim that also has
3 absolutely no basis in the specification. And we know certainly -- so this
4 question of whether you can determine a voice based on distance alone, it's
5 again kind of a subsidiary question because we're looking at the prior art and
6 saying, are they classifying a voice.

7 Well, one reason we know they're not is because the prior art
8 doesn't say that they're doing that at all. They say they're measuring a
9 distance. But another reason we know that is because a POSITA would've
10 understood that it's impossible to categorize voice -- so to classify a voice
11 based on distance alone.

12 So, it's a subsidiary issue because it's just a reason -- it's yet
13 another reason that a POSITA would not have read the prior art the way that
14 Amazon is proposing. It's also a subsidiary issue because you don't need to
15 reach that, because as we've discussed before, they're not relying on
16 expressed disclosure, and they've got no other support for extrapolating or
17 interpreting the prior art.

18 So, all this back and forth and whether it's possible or not, whether
19 someone could dream up a system where you try to measure a voice based
20 on distance alone, again, is not determinative here. But I think it's pretty
21 clear that you probably can't determine whether a voice is a whisper or not,
22 based on distance alone.

23 So, again, when you're reading these claims together and we're
24 applying these canons of interpretation or construction, which are not fixed,
25 but you're saying you've got an independent claim and you've got a

1 dependent claim that's a bit narrower and you compare it to the spec, it's
2 pretty clear what's going on here. And it's pretty clear that you can't
3 determine a whisper based on distance alone.

4 And unless the Board here is going to interpret Claim 5 that way,
5 Grounds 1 and 3 are based on that, in terms of Claim 5. So, Claim 5
6 survives until you get to the question of whether you add Schuster in or not
7 unless the Board interprets that Claim 5 literally requires that you just
8 continue operating, despite the fact that somebody's whispering.

9 JUDGE ZECHER: Can you explain potentially why Schuster
10 wouldn't account for detecting a whisper, based on how Amazon's mapped it
11 in the Petition here?

12 MR. REYNOLDS: Yeah, and I would like to just step back and
13 address a broader point, and I will get there. The broader point is this. The
14 Federal Circuit says precedent is clear that a general motivation does not
15 suffice for any compound. General motivation does not suffice for
16 obviousness because, "any compound may look obvious once someone has
17 made it and found it to be useful, but working backwards from that
18 compound with the benefit of hindsight, once one is aware of it, does not
19 render it obvious." So, that's *Adapt Pharma Operations v. Teva*, 254 F.4th
20 1354, et 1382.

21 The Supreme Court has recognized that most inventions are based
22 on building blocks that already exist. So, when you go hunting and pecking
23 through the prior art and find -- to add all these things together, it is
24 incumbent on the party with the burden to establish that they did not do so
25 solely based on hindsight reconstruction of the claim. There needs to be a

1 record because they have a burden. And I think one of Your Honors asked
2 whether Amazon needs to -- or I'm sorry, whether Patent Owner has to
3 defeat all of the allegations of obviousness. Absolutely not. It's their
4 burden. It's their burden to show why.

5 Well, we found a reference that mentions whisper, and we found a
6 reference that mentions this, and we found a reference that mentions that.
7 And then we just go through and restate 2143. And I'm not going to say I
8 agree. I don't think you were saying this, but I will state if you've got seven
9 motivations to combine, you've got none. I mean, what we've What we've
10 gotten to is this point where it's just a checkbox procedure, where we just
11 write these 2143 down.

12 And basically, what they all say is reference A discloses X, and X
13 is good in reference A, and reference B discloses Y, and Y is good in
14 reference B. So, if we put them together, we're going to have two goods.
15 Like that is not -- those statements could be made whether they're based on
16 hindsight or not. And when you're operating at that level of generality, that
17 general motivation I just quoted, you're losing the context of these
18 references. And now I'll get to your question in Schuster.

19 Yes, Schuster discloses some sort of whisper detection, but it's for
20 a state machine, and it uses the -- to convert the device from one state into
21 another, but they're combining it with a reference that makes a continuous
22 measurement of distance. And so, we're not asking for bodily incorporation.
23 We're not asking for a challenger to put references together and they show
24 how they actually worked, but what they have to do is describe why. And if
25 you're operating at this level of generality where you just say, this thing

1 mentions whispering, this thing, Aoyama and Iwase mentioned replacing
2 words, and just trust us, when they all go together, it's going to work better.

3 That is not an obviousness rationale. And so, in Schuster, yes,
4 there are some semblance of detecting a whisper, but it is not done for any
5 reason related to what the rest of the prior references show. There's no
6 demonstration that it would have improved the device. And even if it would
7 have, there's another step. There's the why. There's the why that POSITA
8 would have done that.

9 If we have time, I will address this case that they cite, *Stryker v.*
10 *Osteomed*, because I think it actually helps us out. It shows the Court
11 actually went through -- no, I will address it because The Court went
12 through and showed why a POSITA would have combined these two
13 devices. So, these were a surgical implanted plate that connects joints
14 together. And the question, one of the devices, Zahiri used pins to keep the
15 plate in place, while the surgeon kind of finally adjusted where the plate
16 would go, and then the surgeon put the permanent screws in.

17 And the Arnold reference had two types of holes: one for the
18 permanent screws, and one guide holes where you could use it to guide the
19 plate. And so, the Board went through and said, well, Arnold's already got
20 these plates for guide holes. It's already meant to temporarily fix the plate
21 while the surgeon finally addresses it. It's ready to receive the pins that
22 Zahiri put in.

23 And they went through and explained that. But when you read the
24 Court's order, you're not going to see, first, it was obvious because it's a
25 known device attached to a known method, pins, blah, blah, blah. No, I

1 mean, it works in that framework. It operates within the framework *KSR* set
2 out, but it's not just this incantation of it. It's an explanation. This makes
3 sense. I can understand it. I'm not a surgeon. Yeah, there's holes. They're
4 for guide holes. Another one uses pins to put it in place temporarily. Those
5 pins could go right in the guide holes. There's a benefit. We go through
6 -- that's the type of analysis we want. I would love to respond to IPR
7 Petitions where instead of having seven motivations to combine, we could
8 dive in and figure out whether there's actually a basis.

9 JUDGE ZECHER: Don't you think the analysis would vary
10 depending on the technology? It sounds like you're referring to some sort of
11 mechanical or surgical device, whereas, here, we're talking about kind of
12 more data processing.

13 MR. REYNOLDS: Yeah, I absolutely do. And I think it would be
14 more complicated because the field is more crowded in this area when we're
15 doing an electronic device. So, there are a lot of these specific permutations.
16 Shin and Shimomura were very intentional about designing a simple system
17 and how it operated. Aoyama was very intentional about not using -- it had
18 two different things. It wanted to characterize the emotion, as I believe
19 Judge McKone mentioned, and then they wanted to characterize the situation
20 of a user, and there, it might have mentioned distance, but it was very
21 intentional about where it's using distance and when, what it's doing.

22 So, in this crowded field, when there are so many ways to do
23 something, just claiming that because something worked for one, it's
24 automatically going to work for the other gets more difficult. Whereas in
25 that surgical plate, yes, it's difficult to do surgery, but It's a lot simpler to

1 determine. You've got a hole that's ready to receive the pin of the other
2 piece of prior art. So, I would submit that that requires a simpler analysis
3 than in a more crowded and more nuanced field.

4 JUDGE ZECHER: Doesn't that kind of cut against you a little bit,
5 though? I mean, if we're talking about a crowded field with a lot of art in
6 this specific area, I mean, the explanations there are going to be frequent,
7 duplicative. What more is required than to just point to the art that teaches
8 the element and then give a rational explanation as to why you would
9 combine them?

10 MR. REYNOLDS: Sure. I think *KSR* is very helpful in this
11 regard. I can't find where my notes are, so I'll try to do this from memory.
12 But what *KSR* did is it addressed a motivation that didn't just exist in one of
13 the pieces of prior art. It found that the field was moving away from throttle
14 sensors on the engine itself, that there were now benefits of putting the
15 throttle sensors inside the cabin, and that they found that there's a general
16 motivation in the field to use an electronic sensor instead of a mechanic
17 sensor.

18 The Court did not just go to one reference and say, the Smith
19 reference or the -- I can't remember the names of the reference -- oh, this one
20 reference did it this certain way because that'd be tautological. Every
21 reference discloses things for a benefit of its own. Every reference is going
22 to have its own benefit, but when it comes to a POSITA, there has to be
23 some more. I would call it an inertia and a momentum and that is what the
24 *KSR* did, is it went through and explained the industry is moving in this
25 direction. So, a POSITA would have looked at that.

1 And industry was also recognized that you could move the sensor
2 onto a fixed portion. And the argument in response only was that the patent,
3 the challenged patent, sought to solve a different problem, a problem of
4 making a less complex pedal, a simpler and more complex pedal. But that
5 didn't distinguish from the fact that the problems the other prior art was
6 solving, there was momentum in the industry, there was an understanding in
7 the industry.

8 And so, I guess it's a long-winded way of saying there was more
9 than just a citation to the individual patents and why they thought those
10 patents might be a benefit. And that's what I think we need for obviousness.
11 I mean, look at the -- this is Patent Owner's Demonstrative 39. Such a
12 configuration applies a known technique, Aoyama's word replacement, to
13 improve a similar device and method, Shin's content tailoring system, in the
14 same way. I mean, can we at least get rid of that one? I mean, come on.
15 Like, that is as conclusory and tautological as possible.

16 And the rest of them do more. There's no evidence supporting it.
17 *KSR* and the other -- the Courts are very clear you need evidence. They
18 include some citations to the prior art, but there's no explanation of why or
19 how it hangs together or what a POSITA would've really done with this
20 stuff. As I mentioned earlier, Iwase -- the only distance in Iwase was to
21 determine whether somebody's face is within centimeters of the screen.

22 And then as Judge McKone mentioned, Aoyama is determined -- is
23 trying to make someone comfortable. If you start replacing words just based
24 on distance and completely unrelated to comfort, that's going to make
25 somebody less comfortable. I think one of the examples was military time.

1 They don't like military time, so it replaces with standard time. Well, now
2 as I'm walking away from the device, it changes from military time to
3 standard time. I mean, when we start digging into this, it just starts falling
4 apart. It only makes sense if you just operate at this conclusory level.

5 I want to quickly, before I reserve my time for rebuttal, the stuff
6 about us taking inconsistent positions -- this is a credibility issue because we
7 talked about this last time. And so, they keep pointing to the complaint, and
8 then I talked about the fact that at our motion to dismiss hearing, I explained
9 to the Judge that you could not -- this was defending our own against their
10 motion to dismiss. I explained to the Judge that you absolutely cannot
11 decide the accused product just by seeing whether if you change distance,
12 the output changed. That was a 2024 argument, maybe November. These
13 Petitions were filed in 2025. Okay? So, when they're saying we're changing
14 our positions based on their filing of their Petitions, that's false.

15 You don't need to look at this District Court stuff, but there is a
16 level of desperation, I think, when we just keep returning to these things that
17 are just patently untrue. Okay, one thing to clean up. I can't remember who
18 was asking about the only two options -- replace words or omit words. Their
19 expert didn't say -- their Petition says Shin's device presents only two
20 design options. That's page 27 of their Petition.

21 So, I agree. Again, I can't remember if it was Judge Ahmed or
22 Judge McKone, but absolutely Shin does not disclose that. So, their
23 argument based on their expert is already diverging a bit from the Petition.
24 There's nothing so simple here as only two options. There's no record for
25 that. There's no other way to make these devices simple.

1 JUDGE ZECHER: Well, if we take Shin's teaching that you can
2 abbreviate or simplify content as the user moves farther away from the
3 device, what are the other options that would be available, other than
4 omission and replacement of words?

5 MR. REYNOLDS: Well, Shin gives other options itself. It can
6 increase the volume or rate of speech. Those are two other options that Shin
7 gives.

8 JUDGE ZECHER: Isn't that how the content's projected out back
9 to the user?

10 MR. REYNOLDS: Yeah.

11 JUDGE ZECHER: More so than --

12 MR. REYNOLDS: -- but those are ways that they -- there are
13 other ways to make it so that a user -- or are you asking just like in terms of
14 simple --

15 JUDGE ZECHER: I'm just talking in context of abbreviating and
16 simplifying content. What are the other options?

17 MR. REYNOLDS: Okay. Replacing a word --

18 JUDGE ZECHER: Or omitting a word.

19 MR. REYNOLDS: -- or omitting a word. I mean, you could
20 recharacterize the content. So, Shin is very intentional about modulating. It
21 comes with those numbers 1 through 5. And so, there's this linear ability to
22 just start removing. If you read Shin, you're this far, you have all five, and
23 you move it. And that's one reason --

24 JUDGE ZECHER: That's the omission, correct?

25 MR. REYNOLDS: Yeah, right. So, that's one reason it doesn't fit

1 with the other references, because Shin's -- it relies on that linear ability to,
2 to subtract off information and not just replace it, so they operate differently.
3 But to answer your question, I think you could go even further, and you
4 could completely reformulate the response as opposed to looking at parts of
5 a response. That would be a third option that comes to mind. I'm not an
6 inventor, so I don't have a fourth. But again, I just wanted to clarify that it
7 certainly does not come from Shin. And to the extent there is a record, it's
8 just that one statement from their inventor. And I would think you need a
9 little more than just -- I'm sorry, their expert. And I think you just need a
10 little bit more than an expert just saying, trust me, there are only two.

11 I just want to close by reasserting that it is their burden to
12 demonstrate obviousness. And when you see patents all day, differences can
13 seem obvious. But I mean, imagine we had an inventor here and you're
14 explaining to someone why putting two things together or three things
15 together would have been obvious. I feel like there'd be a natural inclination
16 to do more than just recite the one, two, three, four, five, six, seven MPEP
17 rationales.

18 I think you would feel it incumbent upon yourself to give some
19 detail, some explanation, something, and they just haven't done that in the
20 Petition. And it's just invalidating a patent based on something that's that
21 level of cursory that gives a lack of satisfaction or analysis is just wrong.
22 Thank you.

23 JUDGE ZECHER: Thank you, Mr. Reynolds. I have you at
24 roughly 5 minutes and 30 seconds left for your rebuttal. Mr. Heideman, I
25 have you at 6 minutes and 30 seconds on your rebuttal, so you can begin

1 when you're ready.

2 MR. HEIDEMAN: Thank you, Your Honor. I'll just go back
3 briefly to Shin. They argued that classifying the voice is not the same as
4 measuring distance and that the prior art here only describes measuring
5 distance. To be sure, Shin's device does measure the distance, but it doesn't
6 stop there. And that's why Table 3 is so important.

7 Table 3 and the analysis that Shin's device performs is after it's
8 calculated the distance. It has different classifications based on the distance
9 that dictate what the device is going to output. So, it's not just a measuring
10 device. It does the step of measuring and then it classifies. And what
11 they're really arguing is that it doesn't use the word classify. Well, it doesn't,
12 it doesn't need to use the word classification.

13 Each row is a classification based on a distance threshold, exactly
14 like the specification of the '675 teaches. If it had one, two, three, four, five
15 down the left-hand side, those would be the classes. It could have labeled
16 them first voice, second, third, fourth, fifth. It doesn't matter what the label
17 is. It's disclosing voice classifications.

18 JUDGE ZECHER: Would you just call them categories?

19 MR. HEIDEMAN: Same thing. Same thing. Five categories, five
20 classifications. In the spec, it's two categories, above or below a threshold
21 distance. This is disclosing the same thing; it's just five categories or classes
22 instead of two. They relied on portions of Dr. Stern's testimony. We
23 addressed that in our Reply, so I won't go into that in detail. They also relied
24 on the one sentence in our Petition where we said, to do so, Shin's processor
25 classifies a voice based on Distance. Last time, we talked about that, as

1 well. They're ignoring the paragraphs that come after, which give the
2 examples of how it's done.

3 So, the Board's not relying on one sentence in the Petition. The
4 voice classification is thoroughly explained in the Petition, including with
5 reference to these tables. On motivation to combine, this is a *KSR* case.
6 What we're talking about in terms of modifications, whether it's word
7 replacement or detecting a whisper, was well known in the art, described in
8 other references, and at best, all this patent does is take different things that
9 were known in the art and combine them.

10 JUDGE ZECHER: When you have motivation to combine or
11 rationale to combine, do you actually need to modify something to get a
12 benefit?

13 MR. HEIDEMAN: Sorry, can you repeat that?

14 JUDGE ZECHER: In other words, if you have motivation to
15 combine in your cases and you have reference A and B, do you need to
16 modify reference A with B to get a benefit? Is a benefit required, as kind of
17 an underlying, kind of not explicit requirement for rationale to combine
18 motivation and combine.

19 MR. HEIDEMAN: In some instances, the benefit provides the
20 motivation, right? And so, in each of these other references --

21 JUDGE ZECHER: Well, couldn't you technically modify
22 something to make it not as quick or not as efficient or something?

23 MR. HEIDEMAN: You can make it worse, and that modification
24 would still be obvious.

25 JUDGE ZECHER: That's what I'm getting at.

1 MR. HEIDEMAN: There's case law that says that. Even if the
2 modification would make it work not as well, it still would have been
3 obvious. There are many variations to things that are obvious to people.

4 JUDGE ZECHER: So, a benefit in and of itself is not required?

5 MR. HEIDEMAN: Not required, but if there is a stated benefit
6 that can provide the motivation for a person of skill in the art, and in each of
7 these references, Aoyama and Schuster, they describe the benefit of doing
8 so, and the primary references, Shin and Shimomura, describe the goal and
9 what they're trying to accomplish. And it would have been obvious to a
10 person of skill in the art that implementing those features would have
11 furthered that goal.

12 And that's what the Supreme Court said in *KSR* when you're
13 combining known technologies. I know they don't like the rationales but
14 that's the Supreme Court's law. When you're merely combining known
15 features and all they do is provide a predictable result or the same benefit,
16 it's obvious. There's no getting around that. That's the Supreme Court's case
17 law. And you might not like seeing third, four, and fifth, or fifth, sixth, and
18 seventh. That's the law.

19 I want to talk, with the time I have left, about Claim 5. Claim 5 is
20 indefinite, and they are offering one clarification. So, he said you could
21 replace the predetermined voice with a predetermined voice. That would
22 introduce an entirely new limitation of the claim, because we don't know
23 what a predetermined voice is.

24 JUDGE ZECHER: You're very aware that we can't reach
25 indefiniteness.

1 MR. HEIDEMAN: I am, I am.

2 JUDGE ZECHER: And in context --

3 MR. HEIDEMAN: And I want to make it clear that we're not
4 conceding that it should be construed in a certain way. He's offering one
5 potential correction that he's saying is a simple correction. There's another
6 correction, which is you change predetermined voice to refer to the first
7 voice or the second voice, which is, I think, what Your Honor referred to
8 earlier.

9 JUDGE ZECHER: And that's the position you guys took in your
10 Petition?

11 MR. HEIDEMAN: That's what we assumed.

12 JUDGE ZECHER: Okay.

13 MR. HEIDEMAN: Yep. And if it's the first voice or the second
14 voice, then it's disclosed by the prior art, and that's why the Board can still
15 reach that. The claim, on its face, requires determining the voice to be the
16 predetermined voice, whatever that is, the first voice or the second voice,
17 when the voice spoken by the user is whispered. And so, we maintain the
18 way this claim is written does not require whisper detection.

19 There's two readings of this claim. One is that it determines the
20 voice to be the first voice or the second voice when it receives a whisper.
21 That just means it's capable of processing whispered speech. That's one
22 reading of the claim. We think that's the right reading, and the prior art
23 discloses it under that interpretation. If it's construed to require detecting a
24 whisper, then Schuster clearly discloses that, and it was well known, and
25 there would have been a reason to do that. And our expert says it would

1 improve the system in the same way it improved Schuster.

2 Schuster detects whispered speech and basically says if the user is
3 within a threshold distance or is whispering, then output the response at the
4 lowest volume for privacy reasons. And a person of skill and art would have
5 been motivated to do the same thing here. It's already using distance
6 thresholds, and it would have been obvious to also detect a whisper. And if
7 the user is whispering, classified as the second voice in this instance, output
8 the information at the lowest volume. That's all I have, unless Your Honors
9 have any other questions?

10 JUDGE ZECHER: No, we don't. Thank you.

11 MR. HEIDEMAN: Thank you.

12 JUDGE ZECHER: Mr. Reynolds, you've got 5 minutes -- roughly
13 5 minutes and 30 seconds left for your surrebuttal.

14 MR. REYNOLDS: Thank you, Your Honor. I don't dislike 2143.
15 A lot of it came from *KSR*, which is a case that I discussed.

16 JUDGE ZECHER: When you say 2143, you're talking about the
17 MPEP?

18 MR. REYNOLDS: Yes.

19 JUDGE ZECHER: Okay.

20 MR. REYNOLDS: I'm sorry.

21 JUDGE ZECHER: All right.

22 MR. REYNOLDS: I keep doing it quickly. So, what I have here
23 is, Patent Owner's Demonstrative 40 next to Petitioner's Demonstrative 32.
24 This is all we want. You don't need to read it, it's so small, but that is where
25 *KSR* addresses obviousness. Okay? We are okay with the rationales

1 because they are well-founded in *KSR*, but they have to be applied, not just
2 recited. And that's what an application looks like. It's a lot more words.
3 And if you read through that part in *KSR*, you are left with a lot more
4 satisfaction that these things were actually obvious than when you just read
5 through these five things.

6 Now, you asked Mr. Heideman about a benefit. He said this is a
7 *KSR* case. *KSR* says, quote, the proper question to have asked was whether a
8 pedal designer of ordinary skill facing the wide range of needs created by
9 developments in the field of endeavor would have seen a benefit to
10 upgrading a sono with a sensor, period. That's at page 1399. 550 U.S. 398
11 at 720 --

12 JUDGE ZECHER: Do you think that's the holding of *KSR* --

13 MR. REYNOLDS: -- 428 --

14 JUDGE ZECHER: -- or is just kind of an explanation, basically?

15 MR. REYNOLDS: No, it's, it's an explanation. And again, we're
16 not -- the point of *KSR* is to not box anyone in. And so, we're not
17 characterizing any rigid part of what has to be shown.

18 JUDGE ZECHER: Yeah.

19 MR. REYNOLDS: But you do have to exit. I think what the
20 Court is saying here is that you have to exit with some sort of wow.

21 JUDGE ZECHER: The --

22 MR. REYNOLDS: The POSITA would have done it.

23 JUDGE ZECHER: The Supreme Court's point in *KSR* was that the
24 Federal Circuit was applying a TSM. And that --

25 MR. REYNOLDS: Right.

1 JUDGE ZECHER: -- by itself wasn't the only requirement for a
2 rationale to combine, that it needed to be more flexible and expansive,
3 correct?

4 MR. REYNOLDS: Absolutely.

5 JUDGE ZECHER: Okay.

6 MR. REYNOLDS: Yeah, absolutely. And I do think it's helpful to
7 remember how rigid TSM was because the Federal Circuit required you to
8 go into the prior art references and find something explicit. And the biggest
9 problem with that, *KSR* recognized, is sometimes, the reasons for combining
10 things were different than what the Patentee went for. And so, that was just
11 too rigid, but it never said that a TSM is not a good way. One way in which
12 you can show it.

13 I do think that with the burden of invalidating a patent, that you
14 have to leave with some sort of abiding sense that there was a motivation,
15 whether you characterize it as a benefit, whether you characterize it as a
16 market force, but you have to know that it was true. You can't just have a
17 Petitioner tell you it was true. So, what *KSR* never changed is the fact that
18 we have a body that makes legal decisions based on evidence, and there has
19 to be evidence among that satisfies a burden to show that there was this
20 motivation.

21 JUDGE ZECHER: Can't the expert provide that evidence through
22 testimony? I mean, we're not all -- the Judges up here aren't experts in every
23 field, so we can't assess that for ourselves.

24 MR. REYNOLDS: Yes, but it can't be conclusory. So, it's either
25 got to be rooted, in fact, and then a reasoned expert opinion that's explained

1 on top of that. So, some level of analysis. I don't know how you'd do that
2 without any sort of evidentiary proof. It's difficult to imagine a situation
3 where an expert would just be able to provide that evidentiary record all on
4 their own. Maybe they have enough experience, but again, that has to be set
5 out, more so than just saying these two sentence recitations of 2143. And I
6 think that the part I quoted in *KSR* is at least a very good directional
7 description of what we need. Seeing no more questions, I'll cede the
8 remainder of my time. Thank you very much.

9 JUDGE ZECHER: Thank you, Mr. Reynolds. Okay, so we
10 appreciate the parties coming today to present your arguments to us. We
11 have a one-year statutory deadline for this case. I don't know it off the top
12 of my head, but I want to say it's October 2nd, but we'll have a final written
13 decision issued by that date, and the case has been submitted. Thank you.
14 (Whereupon the above-entitled matter went off the record at 2:33
15 p.m.)

IPR2025-00673
Patent 11,244,675 B2

PETITIONER

Colin B. Heideman
Joseph Re
Nathan D. Reeves
Logan P. Young
MORGAN, LEWIS & BOCKIUS LLP
colin.heideman@morganlewis.com
2jrr@knobbe.com
nathan.reeves@morganlewis.com
logan.young@morganlewis.com

PATENT OWNER

Steven J. Reynolds
Kevin H. Sprenger
Chandran B. Iyer
Erin Hadi
Louay Meroueh
Stephen McBride
Donald Jackson
DAIGNAULT IYER LLP
sreynolds@daignaultiyer.com
ksprenger@daignaultiyer.com
cbiyer@daignaultiyer.com
ehadi@daignaultiyer.com
lmeroueh@daignaultiyer.com
smcbride@daignaultiyer.com
djackson@daignaultiyer.com