

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,

Petitioner,

v.

CText IP LLC,

Patent Owner.

Case IPR2025-01112

Patent No. 9,246,857

PATENT OWNER'S PRELIMINARY RESPONSE

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	THE '857 PATENT AND THE ALLEGED PRIOR ART	1
A.	Overview of the '857 Patent.....	1
B.	Example Claim of the '857 Patent	3
III.	LEVEL OF ORDINARY SKILL	4
IV.	CLAIM CONSTRUCTION	4
V.	THE PETITION DOES NOT ESTABLISH A REASONABLE LIKELIHOOD OF SUCCESS.	5
VI.	GROUND 1 (CHANG).....	5
A.	Chang does not render claim 1 obvious.	5
B.	Chang does not render claim 15 obvious.	10
C.	Chang does not render obvious the challenged dependent claims.	12
VII.	GROUND 2 (CHANG IN VIEW OF OH AND STOCHOSKY).....	12
VIII.	GROUND 3 (OH)	13
A.	Oh does not disclose limitation 1[d].....	13
B.	Oh does not disclose limitation 15[e].....	18
C.	Oh does not render obvious the challenged dependent claims.....	18
IX.	CONCLUSION	19

TABLE OF AUTHORITIES

<u>Cases:</u>	<u>Page(s):</u>
<i>Arendi S.A.R.L. v. Apple Inc.</i> , 832 F.3d 1355 (Fed. Cir. 2016).....	11, 12
<i>iRobot Corp. v. SharkNinja Operating LLC</i> , Nos. 2023-1398, 2023-1416, 2024 WL 3687981 (Fed. Cir. Aug. 7, 2024)	11
 <u>Rules, Statutes and Regulations:</u>	
35 U.S.C. § 314(a).....	5

TABLE OF EXHIBITS

Exhibit No.	Description
2001	Civil Docket For CText IP LLC v. Apple Inc., No. 1:24-cv-08821-JMF (filed Nov. 20, 2024) (“District Court Litigation”)
2002	First Amended Complaint for Patent Infringement (Dkt. No. 24)
2003	CText Letter to Apple (Jan. 5, 2023)
2004	Apple Letter to CText (Jan. 11, 2023)
2005	Apple Letter to CText (Mar. 29, 2023)
2006	CText Letter to Apple (Jun. 2, 2023)
2007	Apple Letter to CText (Aug. 9, 2023)
2008	CText Letter to Apple (Apr. 4, 2024)
2009	Apple Letter to CText (May 17, 2024)
2010	Proposed Scheduling Order (Dkt. No. 42-2)
2011	Apple’s Redline Edits for Proposed Scheduling Order
2012	Teleconference Transcript (Jul. 28, 2025)
2013	Memorandum of July 31, 2025 from Acting Undersecretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office
2014	Kliphardt, Raymond A. "drafting". <i>Encyclopedia Britannica</i> , 11 Sep. 2025, https://www.britannica.com/topic/drafting
2015	The Authoritative Dictionary of IEEE Standards Terms, 7 th Ed. (2000)

I. INTRODUCTION

Patent Owner CText IP LLC (“Patent Owner” or “CText”) submits this Preliminary Response to the Petition for *Inter Partes* Review (“Petition,” Paper 2) filed by Petitioner Apple Inc. (collectively, “Petitioner” or “Apple”) challenging claims 1-18 of U.S. Patent No. 9,246,857 (the “’857 Patent”) (Ex. 1001).

As demonstrated below, Petitioner has not met its burden of showing a reasonable likelihood of prevailing on any of its proposed grounds of unpatentability. Thus, the Board should deny the Petition.

II. THE ’857 PATENT AND THE ALLEGED PRIOR ART

A. Overview of the ’857 Patent

The ’857 Patent “relates to methods and systems for correlating conversations in a messaging environment, such as in a chat application for a mobile phone.” Ex. 1001 at 1:15-27. The ’304 Patent further explains that “[t]hese forms of communications, such as instant messaging, often rely on a ‘chat’ interface, for transmitting short messages, referred to as ‘chats,’ rapidly between users.” *Id.* at 1:23-26. And the patent’s specification explains that “[t]hese chats often form an extended dialogue between multiple parties, stretching across multiple conversation topics and extended periods of time.” *Id.* at 1:26-28. The patent then introduces the following problem: “while a participant in such a dialogue may continue to submit chats responsive to earlier received chats, it is

often unclear what earlier question or prompt the participant is answering or responding to.” *Id.* at 1:29-32.

The specification concludes that “[t]here is a need for a messaging method that allows parties conversing to follow multiple conversations exactly, even where those multiple conversations are intertwined and include questions, prompts, and answers that cross each other chronologically.” *Id.* at 1:58-62.

To solve that problem, the specification describes many improvements that the Asserted Patents offer. These improvements include, for example, **(a)** allowing indications for active conversations (*see, e.g., id.* at 2:4-7), **(b)** associating new messages received at a message entry location with active conversations (*see, e.g., id.* at 2:11-18); **(c)** sharing visual cues by the messages in the active conversation (*see, e.g., id.* at 2:13-18); **(d)** allowing conversational affiliations to be applied after messages are entered (*see, e.g., id.* at 2:19-22); **(e)** indicating that different messages or conversations are active and applying different visual cues to them (*see, e.g., id.* at 2:23-33); **(f)** applying visual elements to the message entry location to highlight the identity of the active conversation, wherein the visual cue is reflected in the visual elements (*see, e.g., id.* at 2:37-42); **(g)** the visual cue may be a proximity from message to message (*see, e.g., id.* at 2:43-47); **(h)** and applying the solutions across multiple interface devices, e.g., changes made at the first

interface device, such as identification of active conversations and the affiliation of comments with different conversations, are reflected at a second interface device using visual cues (*see, e.g., id.* at 2:48-55).

B. Example Claim of the '857 Patent

Those improvements described in the specification are also reflected in the claims of the Asserted Patents. For example, claim 1 of the '857 Patent recites several of those improvements in combination as follows:

1[pre]. A computer based method for correlating conversations in a messaging environment, the method comprising:

1[a] providing a discussion interface at a first interface device, wherein the discussion interface displays a first message and a second message;

1[b] providing a message entry location for inputting new messages, the message entry location associated with the discussion interface,

1[c] **receiving, at the first interface device, a first indication that the first message is part of an active conversation**; (*see improvement (a) above*)

1[d] **changing a visual element of the message entry location upon receipt of the first indication to match a first visual cue shared by messages associated with the active conversation**; (*see improvement (f) above*)

1[e] receiving a first new message at the message entry location; and (*see improvement (f) above*)

1[f] displaying the first new message within the discussion interface at the first interface device,

1[g] **wherein the displaying of the first new message incorporates the first visual cue shared by messages associated with the active conversation.**
(*see improvements (b) and (c) above*).

III. LEVEL OF ORDINARY SKILL

For the sole purpose of this Preliminary Response, Patent Owner does not dispute Petitioner's definition of a person of ordinary skill in the art. If trial is instituted, Patent Owner reserves the right to provide its own definition of a person of ordinary skill.

IV. CLAIM CONSTRUCTION

Petitioner alleges that "no specific constructions are required". Petition at 7. Thus, for the sole purpose of this Preliminary Response, Patent Owner does not propose to construe any terms. Patent Owner may offer specific claim constructions if trial is instituted.

V. THE PETITION DOES NOT ESTABLISH A REASONABLE LIKELIHOOD OF SUCCESS.

Each ground in the Petition contains threshold flaws that prohibit it from demonstrating a “reasonable likelihood [of] prevail[ing] with respect to at least 1 of the claims challenged”. 35 U.S.C. § 314(a). For Ground 1, the Petitioner improperly relies on common sense and conclusory statements to supply missing limitations from Chang. For Ground 2, the Petition does not even attempt to explain how the independent claims are met. And for Ground 3, the Petition fails to disclose “changing a visual element of the message entry location upon receipt of the first indication to match a first visual cue shared with the first message.”

VI. GROUND 1 (CHANG)

Petitioner alleges that Ground 1 renders obvious claims 1-3, 5-9, and 13-17. Petition at 1. But to meet the challenged independent claims (1 and 15), Ground 1 improperly relies on common sense and conclusory statements to fill holes in Chang.

A. Chang does not render claim 1 obvious.

Petitioner does not cite to Chang as disclosing a method for “correlating conversations in a messaging environment.” Instead, for this purported single-reference obviousness ground, the Petition looks outside of Chang and cites the Oh reference (Ex. 1007). *Id.* Specifically, Petitioner alleges that a “POSITA would

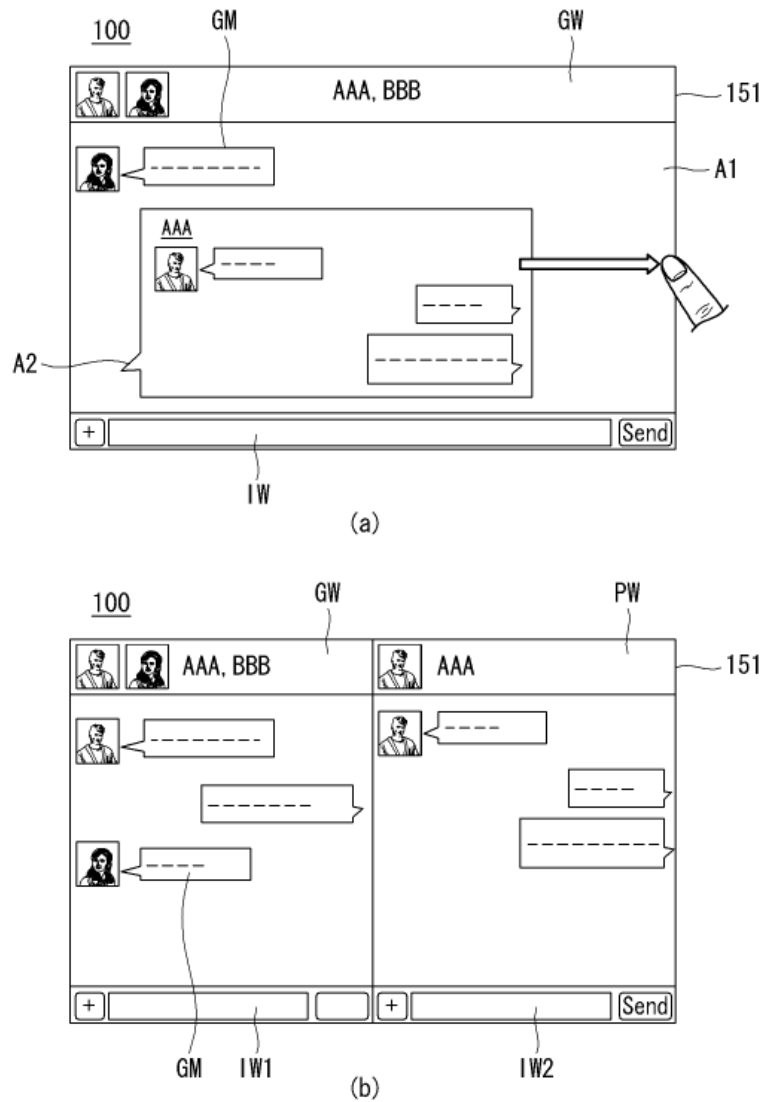
have understood that the collective chat messages in each of the group and private chats is a ‘*conversation*’ because in a messaging environment like Chang’s, ‘users create an instant conversation through dialog windows displaying sent and received messages’ between particular users.’ EX1007, [0008].” Petition at 10 (citing to Oh (Ex. 1007) instead of Chang) (italics in original; bold and underlining added).

Petitioner looks outside of Chang because Chang focuses on generating and arranging private chat areas versus group chat areas, instead of correlating conversations. *See, e.g.*, Ex. 1005 at 13:40-42 (“FIGS. 6 to 12 illustrate examples of receiving the control input of requesting generation of a private chat area.”); *id.* at 17:9-12 (“FIG. 13 illustrates an example of a screen for displaying an indicator indicating that a private chat area was included within a group chat window.”); *id.* at 17:32-34 (“FIG. 14 illustrates examples of providing two or more private chat areas within a group chat window.”); *id.* at 18:9-10 (“FIG. 15 illustrates an example of providing another private chat area within a private chat area.”); *id.* at 27:56-62 (“According to the foregoing exemplary embodiment, the mobile terminal 100 provides a group chat area for group chat with a plurality of another parties and a private chat area for private chat with a specific another party within one chat window, and thus can perform together group chat and private chat using

one chat window, whereby user convenience is improved.”); *see also id.* at Figs. 16-43.

Figure 35(a) below provides an example in which a private chat area A2 is initially displayed within the group chat window GW, but in Fig. 35(b) after the user’s gesture, the display chat windows GW and PW are displayed separately, with the group chat with users AAA and BBB on the left, and the private chat with user AAA on the right. *Id.* at 24:57-67.

FIG. 35



While Chang discusses organizing the recipients of messages (e.g., those recipients in the group chat versus the private chat), the Petition has not demonstrated that Chang renders obvious “correlating conversations in a messaging environment.”

Then for limitation 1[c], Petitioner generally relies on what a “POSITA would understand.” Specifically, Petitioner alleges that a “POSITA would understand that the private conversation is an “*active conversation*” because it is a previously existing conversation in which the user has been engaged. EX1001, 2:6-7; **EX1003**,¹ ¶68.” That conclusory expert statement violates C.F.R. § 42.104(b)(4), which requires that “[t]he petition must specify where each element of the claim is found in the prior art patents or printed publications relied upon.” Ex. 2013, Memorandum of July 31, 2025 from Acting Undersecretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office, at 1 (emphasis added). Director Stewart explained that “enforcement of Rule 104(b)(4) means that applicant admitted prior art (AAPA), expert testimony, common sense, and other evidence that is not ‘prior art consisting of patents or printed publications’ (collectively, ‘general knowledge’) may not be used to supply a missing claim limitation.” *Id.* (emphasis added).

Instead of relying on Chang, the Petition relies on conclusory expert statements and citations to a different reference (Oh), which it chose to omit from this Ground. Accordingly, Ground 1 fails with respect to claim 1.

¹ Ex. 1003 is Petitioner’s expert’s (Trevor Darrell’s) declaration.

B. Chang does not render claim 15 obvious.

Limitation 15[d] recites “recording an indication that one of several conversations, each comprising one or more of the messages stored in memory, is an active conversation.” For limitation 15[d], Petitioner relies on its arguments from limitation 1[c]. Petition at 48. Thus, Ground 1 fails for claim 15 for the same reasons discussed immediately above for limitation 1[c].

In addition, for limitation 15[d], the Petitioner states that “[i]t would have been obvious to a POSITA that such touch input would be ‘*record[ed]*’ in memory 160 in order to correlate any new message entered by the user for the active conversation so that the new message could be displayed with the same visual element (e.g., background color) as the rest of the messages in the conversation” Petition at 48. In other words, Petitioner takes its already insufficient reasoning from limitation 1[c] and adds additional conclusory statements, making its arguments for limitation 15[d] rely even more heavily on conclusory expert statements.

As an additional example of the Petition’s over-reliance on conclusory statements, limitation 15[g] recites “transmitting, using the transmission unit, the at least one new message to the computerized network incorporating an indication of which of the several conversations was the active conversation at the time of entry

of the new messages” and for this limitation, Petitioner argues that in “Chang, any new ‘message input through the input window IW may be transmitted’ to the one or more parties belonging to that chat ‘based on the user’s selection input.’”

Petition at 50. Petitioner then makes the leap that “[b]ased on this disclosure, the knowledge of a POSITA, and common sense, a POSITA would have been motivated and found it obvious to ‘*incorporat[e]*’ information about the user’s touch input (‘*indication of...the active conversation*’ into the new message transmission so that the device of the party receiving the new message can correlate that message to the corresponding conversation, including, e.g., via adding the new message to the list or chat area that corresponds to the particular conversation. EX1003, ¶126”. Petition at 50 (italics in original). But Petitioner cannot use common sense to supply a missing limitation in that fashion. As the Federal Circuit explained (in a previous Apple case), “our cases repeatedly warn that references to ‘common sense’—whether to supply a motivation to combine or a missing limitation—cannot be used as a wholesale substitute for reasoned analysis and evidentiary support, especially when dealing with a limitation missing from the prior art references specified.” *Arendi S.A.R.L. v. Apple Inc.*, 832 F.3d 1355, 1362 (Fed. Cir. 2016); *iRobot Corp. v. SharkNinja Operating LLC*, Nos. 2023-1398, 2023-1416, 2024 WL 3687981, at *10 (Fed. Cir. Aug. 7, 2024)

(nonprecedential) (“The Board was correct to reject such an argument. Although such ‘common sense’ [arguments] can be invoked, even potentially to supply a limitation missing from the prior art, [they] must still be supported by evidence and a reasoned explanation.”) (quoting *Apple*). Here, Petitioner supplies no reasoning beyond the circular allegation that adding this limitation to Chang would have been common sense because doing so would allow “correlate[ing] that message to the corresponding conversation.” Petition at 43. This is insufficient to show obviousness. *See Arendi*, 832 F.3d at 1362 (“conclusory statements and unspecific expert testimony regarding searches in general are precisely what the Board relied upon in drawing its conclusion that it would have been ‘common sense’ to search a database for a telephone number to be added.”).

C. Chang does not render obvious the challenged dependent claims.

Because Chang does not render obvious claims 1 and 15, the dependent claims challenged in Ground 1 (claims 2-3, 5-9, 13-14, and 16-17) are also not rendered obvious by Chang.

VII. GROUND 2 (CHANG IN VIEW OF OH AND STOCHOSKY)

Ground 2 only addresses dependent claims 10-12 and 18. But the Petition does not identify how Ground 2 meets the limitations of the independent claims from which claims 10-12 and 17 depend. *See* Petition at 60 (stating “*See* [1]” for the preamble of claim 10); *id.* at 66 (not referring to any specific part of the

Petition to meet the dependency of claim 11 on claim 10 or claim 1); *id.* at 66-67 (same issue for claim 12); *id.* at 68-69 (not referring to any specific part of the Petition to meet the dependency of claim 18 on claim 15). Accordingly, Ground 2 fails because it does not articulate how Ground 2 renders obvious the independent claims from which claims 10-12 and 18 depend. If Ground 2 is found to rely on Ground 1 to meet independent claims 1 and 15, Ground 2 fails for the same reasons as Ground 1.

VIII. GROUND 3 (OH)

Petitioner alleges that Ground 3 renders obvious claims 1, 2, 4-5, and 15-16. Petition at 1. But Oh does not disclose at least limitations 1[d] and 14[e].

A. Oh does not disclose limitation 1[d].

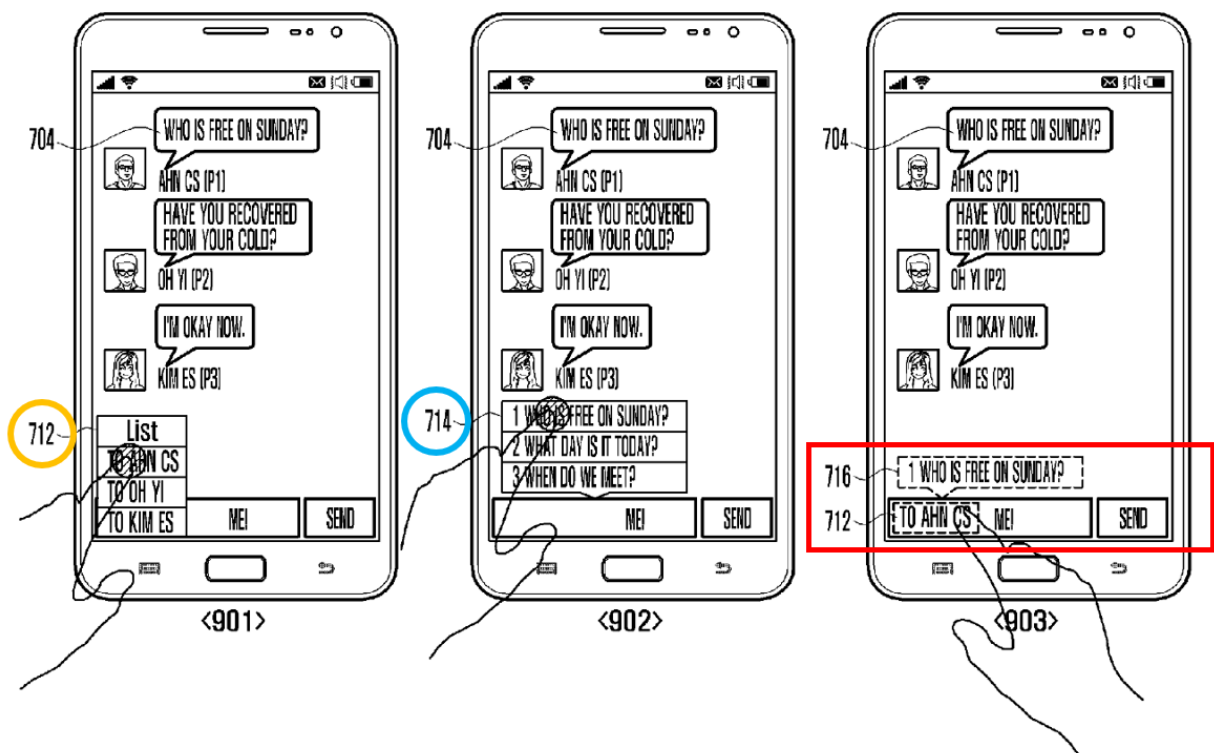
Limitation 1[d] recites “changing a visual element of the message entry location upon receipt of the first indication to match a first visual cue shared by messages associated with the active conversation.” The Petition does not show that this limitation is met by Oh. The Petition does not discuss any purported changes in the message entry location itself until the third paragraph of its discussion. Petition at 68. When it finally does address the message entry location itself, the Petition does so by confusingly stating two caveats without a conclusion about what Oh purportedly discloses. *Id.* (“To the extent Patent Owner asserts that ‘*changing a visual element of the message entry location upon receipt of the first*

indication to match a first visual cue’ covers changing the text appearing in an input message box, and insofar as Patent Owner further asserts that a visual element of the message entry location may ‘*match a first visual cue*’ without being the same as this visual cue, Oh discloses.”) (italics in Petition).

Petitioner’s only argument for changing the message entry location is that the name of the recipient (“TO AHN CS”) is purportedly displayed in the message entry location. Petition at 76 (“the name of the counterpart participant ‘AHN CS’ (*‘visual element’*) to whom the new message is directed is displayed at the input field in the dialog window”) (italics in Petition). But Oh never describes that the name of the intended recipient, e.g., “TO AHN CS,” is displayed in its input field. Instead, Petitioner attempts to stretch the depictions in Figure 9, element <903> as showing “TO AHN CS” in the input field. But element <903> shows hidden images to indicate that selections that have occurred, i.e., the recipient selected at step <901> (“TO AHN CS”) and the message selected at <902> (“WHO IS FREE ON SUNDAY?”). When Oh discusses step <903>, it only states that a responsive message is sent after the selection at step <902>, it does not mention displaying information related to those selections in the input field. Ex. 1007 at [0211].

In contrast, when Oh intends to disclose that input field 708 displays something, it explicitly states so, and it displays that output as solid lines in the

figure. *See, e.g., id.* at Fig. 9 (elements 712 (yellow) and 714 (blue) annotated below); *id.* at [209] (“to respond to a word balloon 704 of counterpart P1, the user selects counterpart P1 from the counterpart selection list 712 that is **output** on the input field 708”) (emphasis added); *id.* at [210] (“Upon selection of counterpart P1, a list of recent messages 714 sent by counterpart P1 is **output** as a preview, as indicated by reference numeral 902.”) (emphasis added); *see also id.* at [0058] (providing a detailed description of what display panel 141 displays, which does not include the selection from the “counterpart selection list”).



Conversely, the description of element <903> only describes that once the selection of the message is made, the message is sent; it does not describe

displaying selections in the input field. *Id.* at [0211] (“When the user selects the most recent message 716 from the list of messages 712 sent by counterpart P1, the message entered in the input field is sent to counterpart P1 as a response to the most recent message 716, as indicated by reference numeral 903.”).

Oh’s use of dashed lines surrounding “TO AHN CS” further demonstrates that “TO AHN CS” is not displayed in the input field. The typical convention for engineering drawings is that dashed lines are hidden lines. *See, e.g.*, Ex. 2014 (“It is standard practice to use dashes to represent any line of an object that is hidden from view.”); Ex. 2015 (defining “hidden line” and stating, “Such a line may be left invisible or may be displayed as a dashed or dotted line to enhance the realism of the image.”). By contrast, the “counterpart selection list 712” and the “list of recent messages 714,” which are both described as “output” in Oh, are depicted in elements <901> and <902> as surrounded by solid lines. *Id.* at Fig. 9; [0210-0211]. Oh’s use of dashed lines surrounding “TO AHN CS” further shows that “TO AHN CS” is not displayed in the input field.

Moreover, Oh does not describe that the text “TO AHN CS” is displayed in the input field “upon receipt of the first indication” as recited by limitation 1[d]. Petitioner identifies the “first indication” as the selecting the message “Who is free on Sunday?” in step <902>. Petition at 73. But Oh does not disclose that a user

selecting that message results in the input field displaying “TO AHN CS”. Instead, Oh states, “When the user selects the most recent message 716 from the list of messages 712 sent by counterpart P1, the message entered in the input field is sent to counterpart P1 as a response to the most recent message 716, as indicated by reference numeral 903.”) (emphasis added). Thus, the selection of “Who is free on Sunday,” results only in sending the message “Me.” The Petition identifies nothing in the written description of Oh that refutes this point. Petition at 69 (citing only Fig. 9 and [0134]-[0140], which do not discuss the input field). Specifically, that message is sent to AHN CS, but that recipient’s name is not actually displayed in the input field.

Ultimately, at least the following facts show that Petitioner’s interpretation of Oh is incorrect: **(1)** Oh provides a lengthy list of what is displayed by its display panel, and that list does not include displaying the selected counterparty in the input field. *Id.* at [0058]; **(2)** in its description of Fig. 9, Oh explicitly describes what is output on the display, including the “counterpart selection list”; but Oh does not describe that the selection from that list is output as part of the input field. *Id.* at [0206]-[0215]; **(3)** the description of element <903> only explains that the message is sent “[w]hen the user selects the most recent message 716”; it does not discuss that the display shows any of the hidden images depicted in Fig. 9; **(4)** the

“TO AHN CS” image is shown in Fig. 9 are surrounded by a dotted line, whereas the output lists are surrounded by solid lines, which indicates that it “TO AHN CS” not actually displayed; and (5) Oh does not disclose that the text “TO AHN CS” is displayed in the input field when the user selects the message “Who is free on Sunday?”

For at least these reasons, Oh does not disclose limitation 1[d], “changing a visual element of the message entry location upon receipt of the first indication to match a first visual cue shared with the first message.”

B. Oh does not disclose limitation 15[e].

For the same reasons as discussed above for limitation 1[d], Oh does not disclose limitation 15[e] (“modifying a visual element of the message entry location based on which of the conversations is the active conversation;”).

Petitioner relies on the same support for limitation 15[e] as it does for 1[d]. *See* Petition at 92.

C. Oh does not render obvious the challenged dependent claims.

Because Oh does not disclose independent claim limitations 1[d] and 15[e], the dependent claims challenged in Ground 3 (claims 2, 4-5, and 16) are also not rendered obvious by Oh.

IX. CONCLUSION

For the preceding reasons, the Board should deny institution of this *inter partes* review.

Dated: October 20, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Request for Discretionary Denial of Institution was served via email on October 20, 2025, to Lead and Back-up Counsel for Petitioner at the service email address provided in Petitioner's Mandatory Notices:

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The undersigned certifies that this document complies with the type-volume limitation in 37 C.F.R. §42.24(b)(1). According to the word-processing system's word count, the brief contains 3,582 words, excluding the parts of the brief exempted by 37 C.F.R. 42.24(a).

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