

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALLIANCE LAUNDRY SYSTEMS, LLC,
Petitioner,

v.

PAYRANGE LLC,
Patent Owner.

PGR2025-00027 (Patent 11,966,920 B2)
PGR2025-00028 (Patent 11,972,423 B2)

Record of Oral Hearing
Held: June 2, 2026

Before MEREDITH C. PETRAVICK, JUSTIN T. ARBES, and
GEORGE R. HOSKINS, *Administrative Patent Judges*.

PGR2025-00027 (Patent 11,966,920 B2)

PGR2025-00028 (Patent 11,972,423 B2)

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P R O C E E D I N G S

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9:30 a.m.

JUDGE ARBES: Good morning everyone. This is the combined oral hearing in Cases PGR2025-00027 and PGR2025-00028 involving Patents 11,966,920 and 11,972,423. Can counsel please state your names for the record?

MS. WAIDELICH: Good morning, Your Honors. This is Sarah Waidelich, and with me is Scott Barnett. And we have a summer associate, Eileen Kelly with us from Honigman on behalf of Petitioner, Alliance Laundry.

MR. ARGENTI: Morning, Your Honor, Matt Argenti on behalf of Patent Owner, PayRange. With me at counsel table is Tasha Thomas, and also here today is PayRange's founder and CEO, Paresh Patel. Also the named inventor on these patents.

JUDGE ARBES: Thank you. Per the Trial Hearing Order, the parties each have 60 minutes of total time to present arguments for the two cases. The order of presentation will be first Petitioner will present its case regarding the challenged claims and may reserve time for rebuttal. Patent Owner then will respond to Petitioner's presentation and may reserve time for sur-rebuttal. Petitioner then may use any remaining time to respond to Patent Owner's presentation. And finally, Patent Owner may use any of its remaining time for a brief sur-rebuttal responding to Petitioner's rebuttal arguments only. A few reminders before we begin. We have the parties' demonstrative exhibits and we're able to view them on our screens. To ensure that the transcript is clear and everyone can follow along, please try

1 to refer to your demonstratives by slide number. Also, if either party
2 believes that the other party is presenting an improper argument, we would
3 ask you to please raise that during your own presentation, rather than
4 objecting at the time and interrupting the other side. Finally, based on the
5 briefing, the panel may have a lot of questions today so we may ask the
6 parties to go beyond their allotted 60 minutes if necessary. Any questions
7 from the parties?

8 MS. WAIDELICH: None from Petitioner. Thank you.

9 MR. ARGENTI: No, Your Honor.

10 JUDGE ARBES: Counsel for Petitioner, you may proceed. And
11 would you like to reserve time for rebuttal?

12 MS. WAIDELICH: Yes. Fifteen minutes, please. Ready? Good
13 morning, Your Honors. May it please the Board, Sarah Waidelich from
14 Honigman on behalf of Petitioner Alliance Laundry Systems, and I would
15 like to reserve 15 minutes of my time for rebuttal. We're here today on
16 Petitioner's two petitions for post-grant review. And for the reasons
17 presented in the papers, and as I'll explain further today, Petitioner
18 respectfully requests -- respectfully requests that the Board find all claims of
19 the '920 and '423 patents invalid. Excuse me, unpatentable.

20 Before turning to the merits, I would like to take a moment briefly to
21 introduce my client. Alliance Laundry System is an American
22 manufacturing company that's been headquartered in Ripon, Wisconsin for
23 over a hundred years. It's one of the leaders in manufacturing laundry
24 machines and in particular commercial laundry machines. And most
25 recently, last fall, it completed an IPO on the New York Stock Exchange.

1 Before we get into the specifics of the claims here and the prior art
2 that's asserted I want to give a little bit of background just on the state of the
3 art prior to the filing of the patents in suit here. These are two patents that
4 were mentioned in our petition Exhibits 1014 and 1016 on Slide 3. The
5 Rasanen reference and the Athwal reference. And as both of these
6 references show and give some background, the concept -- the general idea
7 of using a mobile phone to connect to a vending machine, an unmanned
8 retail machine was known well before these patents were filed. These date
9 back to the late nineties and early 2000s.

10 So both of the patents that are challenged here today claim priority to
11 a provisional that was filed back in December of 2013. These are figures
12 from the patent, and originally these patents in the claims in this family were
13 focused on a hardware dongle, a module to -- that could be connected into an
14 offline vending machine, and then provide connectivity to a mobile device
15 through that dongle. But this shows the patent family that is at issue here.
16 In the red boxes at the bottom are the two patents that are challenged, and
17 the original provisional is shown at the top in blue on Slide 5. And what
18 happened over time is all the hardware modules, the specific technology that
19 was originally the focus of the claims early in the patent family were
20 systematically stripped out. And what's remaining now are essentially just
21 GUI user interface claims.

22 So we believe all the claims are invalid under prior art grounds under
23 102, 103, and also patent eligibility under Section 101. There's three
24 grounds presented as against the '920 patent and four grounds presented as
25 against the '423 patent. And the majority of the claims of the '423 patent, we
26 believe are actually anticipated over Low for under ground one. So I'm

1 going to start with the prior art grounds. This is how we presented the
2 challenges in our petitions and our papers. I know in the institution decision
3 the panel focused on the Section 101 ground first. We don't believe that the
4 Section 102, 103 grounds are any stronger than the 101 ground. If anything,
5 we believe the 101 ground is probably our strongest ground, but we do
6 believe -- going through the prior art and focusing on the limitations and the
7 way that it is teed up by the prior art grounds is helpful for understanding,
8 you know, where the real disputes are for Section 101 and what is alleged to
9 be an inventive concept.

10 So the majority of the claims between these two patents are essentially
11 identical. This shows the two differences between the independent claims.
12 The '423 patent, Claim 1 is actually broader. It's omitting limitations 1.10,
13 1.11, and 1.12. And it, the only thing that it adds is this requirement that it
14 be -- the machine be in proximity to the mobile device. There's only two
15 disputed limitations for the prior art grounds. For the '920 patent, the one
16 limitation 1.6 and 1.12. And for the '423 patent only limitation 1.6. And as
17 I mentioned at the outset that's the only disputed limitation and we believe it
18 is present and therefore that the majority of the claims of the '423 patent are
19 in fact anticipated. So the primary reference we're going to be discussing
20 today is the Low reference. This was a patent prior patent that was assigned
21 to PayPal. And it is, you know, directed to the same technology that's at
22 issue here. Wireless electronic payments to, you know, non-internet
23 connected machines through user devices, mobile phones.

24 So starting with limitation 1.6 and this is the user interface of being
25 configured to display a visual indication of the one or more payment
26 accepting units. And I'm on Slide 12. The key disclosure, we believe in the

1 Low reference that teaches this limitation are, are shown here on the right.
2 The Low is expressed that the vending machine, the non-internet connected
3 machine is transmitting a machine identifier to the user device and then
4 teaches that multiple machines can send those identifiers such that the user is
5 able to select one or more machines to purchase from.

6 JUDGE HOSKINS: Ms. Waidelich, this is Judge Hoskins. So I think
7 you say this in your reply, but I just want to make sure. You're not
8 contending that the machine identifier itself is displayed to the user by the
9 mobile phone, correct?

10 MS. WAIDELICH: That's correct. But not necessarily that -- not
11 necessarily the machine identifier itself. The machine identifier is
12 transmitted and then Low teaches that, you know, something is displayed
13 some visual indication such that the user can select one of -- one or more
14 machines. It doesn't necessarily have to be the specific identifier. That's
15 correct, Your Honor.

16 JUDGE HOSKINS: So -- and thank you. And so then your core
17 contention, and you've said it a couple times and it's in your brief a couple of
18 times, is that Low "teaches" this display that's in limitation 1.6. And that's a
19 word that patent attorneys throw around an awful lot. And I don't know that
20 it really has a precise definition in the law. And so I'm wondering, when
21 you're contending that Low "teaches" that the user interface displays a visual
22 indication, what do you mean by "teaches"?

23 MS. WAIDELICH: Sure. I think what we mean -- and thank you for
24 that. I think what we mean there is that a person of ordinary skill in the art
25 in this case, you know, our expert Dr. Neuman opined that, you know,
26 looking at the Low reference, he would understand that the user device

1 taught by Low is configured to display the available machines such that the
2 user is able to interact with the display to select one of those machines. And
3 that, that is providing a visual indication of the machine as taught by the
4 claim or as claimed by this limitation.

5 JUDGE HOSKINS: So what's your best disclosure? The one or two
6 sentences in Low that tell us what is displayed to the user by the mobile
7 phone?

8 MS. WAIDELICH: I don't think -- Low is not specific as to what
9 exactly is displayed. But I think as the Board noted in its institution
10 decision, the claims here are also not specific. Doesn't say it has to be, you
11 know, a photograph of the machine. It doesn't say it has to be a number of
12 the machine, it's just any visual indication. And so I think --

13 JUDGE HOSKINS: It does have to be a visual indication of the
14 machine though, correct?

15 MS. WAIDELICH: Yes. That's correct. Of the one or more payment
16 accepting units. That's correct.

17 JUDGE HOSKINS: Which is a vending machine, right? And I mean,
18 just in Low it's a vending machine, right?

19 MS. WAIDELICH: Correct. Correct.

20 JUDGE HOSKINS: Okay. So what's your best -- even if it -- what's
21 your best? I don't -- I understand you're saying that it may not exactly teach
22 what is shown, but what's your best disclosure in Low for what it does
23 exactly say that relates to teaching this limitation?

24 MS. WAIDELICH: Sure. I think on Slide 12, the quotations that we
25 have here in the box on the right from Low Exhibit 1005 to Column 2, the
26 Line 16 to 28, this teaching that there's an identifier being sent and that the

1 user is able then to select one or more machines to purchase from. We
2 believe, you know, a person of ordinary skill in the art -- and we believe
3 that's what the Board was recognizing in its institution decision. It wasn't
4 identifying this or analyzing this under the inherency standard. It was
5 analyzing this as a person of ordinary skill in the art would understand it and
6 based on the testimony of Dr. Neuman.

7 JUDGE HOSKINS: And you're not contending it's an inherent
8 disclosure, I think that's another thing to say in your reply then?

9 MS. WAIDELICH: That's correct. That's correct.

10 JUDGE HOSKINS: Just one more question on this. One of the
11 things that Low does, I think expressly disclose is that it can -- the phone can
12 display a list of items to be selected for purchase. How does that then relate
13 to your contentions in this limitation 1.6?

14 MS. WAIDELICH: Sure. So, yeah -- so Dr. Neuman addressed this
15 as well in his report. I think there's two responses to that. One, I think the
16 visual indication of the one or more payment accepting units is broad
17 enough that if there's items being displayed that are available on one of those
18 vending machines, I believe that the visual indication language is broad
19 enough that that would meet the teaching of limitation 1.6. But in addition,
20 the -- that is an additional teaching of Low and that doesn't undercut what is,
21 you know, the primary teaching here, which is that there is some way to
22 select one or more machines to purchase from. And we don't -- a lot of the
23 Patent Owner's opposition, the Dr. Miller's expert report is focused on trying
24 to come up with other embodiments, other teachings in Low, and then say,
25 well, therefore the inherent standard isn't met. But we know there's plenty of
26 case law, you know, I'm on Slide 17 showing, you know, that that holds, that

1 anticipation is simply looking at whether the -- in the invention or the claim
2 limitation is taught, and whether alternatives are also disclosed is not
3 relevant.

4 JUDGE HOSKINS: So just as a hypothetical, the disclosure about
5 listing items I took to mean like, you can get a Snickers bar or you can get a
6 Reese's Cup. That's what the phone is displaying to the user. But that's a --
7 isn't that displaying a visual indication of items for a purchase as opposed to
8 a visual indication of the machine from which the items can be purchased?

9 MS. WAIDELICH: I think it could. I think there is -- and again, this
10 is an additional embodiment in Low that I don't think detracts from the other
11 teaching. I think it could -- I don't believe, and I mean, I don't think the
12 record supports that the understanding of a person of ordinary skill in the art
13 would display products to a user with no indication at the machine -- of the
14 machine at which they are purchasing it. If you think about it, you know,
15 you are in the US Patent Office headquarters and you want to order -- you
16 know, you want to buy a Snickers bar from somewhere. You probably want
17 to know from which vending machine you're purchasing that Snickers bar
18 because you don't want it to be in the basement when you're on the ninth
19 floor. So I do believe that a person of ordinary skill in the art would
20 understand that when you there is a display of the products that are for sale,
21 that there is also going to be some visual indication of the machine at which
22 they are available.

23 JUDGE HOSKINS: Thank you for that. And so I said one final
24 question before. There's a couple. I think this is my last one on this
25 limitation. And it has to do with between the two cases. So you have
26 anticipation by Low in the one case and an obviousness over Low in some --

1 I think it's Arora in the other case. But with respect to this limitation, it's just
2 Low, that's an issue, regardless of whether it's anticipation or obviousness.
3 And so is there a difference in how you approach this limitation in the two
4 cases? Because you know, the anticipation standard is somewhat stricter
5 than the obviousness standard in terms of your burden and what you have to
6 show. And I'm just wondering if there might be a way where if we find that
7 it falls short of anticipation for the one case, could it still be obvious over
8 Low in the other case? Is that something that you contend or do the cases
9 kind of rise and fall together in terms of how you treat limitation 1.6 in view
10 of Low?

11 MS. WAIDELICH: I mean, I certainly think that if the Board were to
12 conclude that it's -- you know, Low is not explicit enough into as what is
13 disclosed to anticipate that it certainly would be obvious. But I don't think
14 there is really much of a difference as far as the evidence that's presented or
15 the arguments in the briefing as to these -- the -- this limitation in the Low
16 reference teaching this limitation across the two petitions.

17 JUDGE HOSKINS: Okay. Thank you.

18 JUDGE ARBES: Counsel, can I ask you about the two terms. The
19 claims use the phrasing, "visual indication" of a payment accepting unit.
20 They also use "visual representation" of a payment accepting unit. What is
21 the difference between those two in your view?

22 MS. WAIDELICH: Our interpretation is that visual indication is
23 broader. And that's why we believe it is taught by Low because it is so
24 broad and there is such a lack of specificity as to what is required for that.
25 The visual representation, particularly for the -- in the 027 proceeding, you
26 know, we, we did in a petition -- the petition argued that it was taught by

1 Low -- a person of ordinary skill would understand that it was taught by
2 Low. But in the alternative you know, argue that it would be taught by
3 Arora for that the visual representation, because the visual representation in
4 Petitioner's view is requiring more specificity on showing an actual image of
5 any machine.

6 JUDGE ARBES: Oh, I'm sorry.

7 JUDGE PETRAVICK: Would you like to go?

8 JUDGE ARBES: Sure. So the -- as I -- the visual representation then
9 is an icon or a photograph of the actual device, right?

10 MS. WAIDELICH: I believe so.

11 JUDGE ARBES: Okay. And the indication is broader in your view.
12 Can you give me some examples of what could be an indication that's not a
13 visual representation?

14 MS. WAIDELICH: I think -- well, I think for example, I'm not sure
15 that displaying the number of a vending machine would be a visual
16 representation, but, you know, it's not an icon. It's maybe just a number of
17 vending machine Number 4. I also think the visual indication is broad
18 enough to encompass those scenarios where the products that are available
19 on a vending machine, that is a visual indication of the vending machine.
20 And I don't know that I believe, you know, a Snickers bar that's available
21 would be a visual representation of a vending machine.

22 JUDGE PETRAVICK: If I could just ask.

23 JUDGE ARBES: Sure.

24 JUDGE PETRAVICK: Let me ask a question. What we're talking
25 about is information displayed on the screen. So what's functional about
26 information as opposed to a floor in the -- in a picture of the vending

1 machine that changes the function of the computer or the mobile device?
2 How does that relate to the function of it? Because what we're talking about
3 is information. These are pixels on a screen, whether they form a four or
4 whether they form a five. That's something that's, you know, an indication
5 to the human mind as opposed to what the computer or the device is doing.
6 So why is this information functional as to the method or the device that is
7 actually being claimed? Because I'm looking at Claim 1 in the '920 patent,
8 and it just seems like the function of maybe selecting it has nothing to do
9 with the function of whether that information is characterized as a visual
10 representation or a visual indication. Like that's a characterization of the
11 information that's displayed on the screen as opposed to something
12 functional in the computer.

13 So why is that sort of something that this patent -- the scope of this
14 claim cares about or is given a lot of weight to? Because if I look at a four, I
15 know it's a four because that's what's going on in my brain as opposed to
16 what the computer says or the device structure happens. But as opposed to a
17 picture, that is something that's going on in the user's brain. So why is this
18 something that we need to worry about the difference between a visual
19 indication and a visual representation as the scope of how these claims and
20 this information works?

21 MS. WAIDELICH: Sure. So -- and I may -- I want to make sure I
22 understand the question. I mean --

23 JUDGE PETRAVICK: I'm asking about non-functional, whether we
24 should give weight then to something that may be non-functional descriptive
25 material.

1 MS. WAIDELICH: Right. So I mean, for purposes of our prior art
2 grounds, I mean, we try to -- you know, we believe Low teaches, you know -
3 -

4 JUDGE PETRAVICK: I understand.

5 MS. WAIDELICH: -- almost expressly everything that is claimed
6 here. I certainly don't think -- I mean, and obviously we'll talk about this in
7 the 101 grounds -- that any of this has to do with improving the functionality
8 of a computer. So yes. Okay. Sorry, were you going to keep going?

9 JUDGE PETRAVICK: No, no, that's it.

10 MS. WAIDELICH: Okay. Does -- is that -- does that answer your
11 question or not?

12 JUDGE PETRAVICK: Yes.

13 MS. WAIDELICH: Okay.

14 JUDGE PETRAVICK: Sorry, it was one question.

15 MS. WAIDELICH: Okay.

16 JUDGE ARBES: Can I ask one more question?

17 MS. WAIDELICH: Sure.

18 JUDGE ARBES: On Page 55 of your petition in the 28 PGR you say
19 that Low does not explicitly disclose that the user interface includes a visual
20 representation of the available payment accepting unit. If Low does not
21 disclose a visual representation of the payment accepting unit, how does it
22 disclose a visual indication of that unit, as you argue earlier in your petition?

23 MS. WAIDELICH: Sure. So that -- yeah, that I think is focused on
24 the -- first of all, there's the understanding of a person of ordinary skill in the
25 art. But I do believe, as we mentioned earlier, that the visual representation
26 that is found in later limitations or other limitations in the '920 patent is

1 narrower than the visual indication. And that's why we believe, you know,
2 Low would teach and would meet the standard for the visual indication and
3 the visual representation, not necessarily.

4 JUDGE ARBES: So what we're trying to figure out is how a person
5 of ordinary skill in the art reading the disclosure of Low, looking at the
6 figures, what they would understand Low to be talking about. And you're
7 saying that that person would not understand Low to disclose an icon or a
8 photograph or something like that of the payment accepting unit. But
9 something else. I'm trying to figure out what that something else is.

10 MS. WAIDELICH: Sure. And I think it could be a variety of things.
11 And I don't want to say I -- we don't believe that Low wouldn't necessarily
12 encompass an icon. We just don't think it's that specific. I do believe that a
13 person of ordinary skill in the art could read Low in that way. But I just --
14 not necessarily, that is why we relied on the Arora reference, because --
15 excuse me, that is express in showing the icon.

16 JUDGE ARBES: I think we have to hold you to the arguments made
17 in your petition --

18 MS. WAIDELICH: Sure.

19 JUDGE ARBES: -- when you say that Low does not disclose that.
20 So what -- our job is to figure out how a person of ordinary skill, reading
21 that disclosure, what would they think that Low is talking about there? And
22 if it is not an icon or photograph of a machine, what is it? I'm looking for
23 some specificity about how a person of ordinary skill in the art, looking at
24 some of these figures, Figure 4 for instance, shows the user device, but
25 nothing shown on the screen.

26 MS. WAIDELICH: Sure.

1 JUDGE ARBES: So how would a person of ordinary skill in the art
2 understand them? Understand that disclosure, what is shown on the screen?

3 MS. WAIDELICH: Sure. And I mean, I do believe, we said in the
4 petition that Low doesn't expressly teach it. I think we did argue in the
5 alternative that person of ordinary skill in the art would understand Low to
6 teach visual representation. It -- certainly in the '920 petition, we argued
7 that. I don't -- we don't have the specificity in Low as to what exactly is
8 displayed for a visual indication, but there isn't any specificity in this claim
9 as to what is required.

10 JUDGE ARBES: That may be, and it may be a broad term, but absent
11 any specificity, how do we know that a person of ordinary skill in the art
12 would read Low as giving a visual indication of a payment accepting unit?
13 Patent Owner has pointed to a number of other ways that a user can select a
14 particular machine. How do we know that those are wrong and that yours is
15 right?

16 MS. WAIDELICH: Sure. So a couple of responses to that. So I do
17 believe that the teaching of Low, that the machine -- the multiple identifiers
18 are sent and the user is able to select one meets that limitation. The other
19 thing that I think is important is Dr. Miller never responded to Dr. Neuman's
20 actual testimony as to what a person of ordinary skill in the art would
21 understand Low to teach. Dr. Miller's entire report is focused on rebutting
22 the inherency argument that was never advanced by Petitioner. And I have a
23 quote here on Slide 18, but if you look, my colleague spent, you know, five
24 pages of Dr. Miller's deposition transcript asking him. Well, setting aside
25 the inherency argument when you look at Low, would you understand it to
26 teach a visual indication? And he refused to answer, and he said, I did not

1 consider that. All I focused on was whether it would necessarily teach that.
2 And so the only evidence in this record as to whether a person of ordinary
3 skill in the art would understand this limitation to be taught is the evidence
4 from Dr. Neuman. Dr. Miller's testimony is focused exclusively on trying to
5 rebut this inherency argument that was not advanced.

6 JUDGE ARBES: So Dr. Miller had no opinion then as to how a
7 person of ordinary skill in the art would've understood it, putting aside the
8 inherency argument?

9 MS. WAIDELICH: Correct.

10 JUDGE ARBES: I believe there was an opinion in his declaration,
11 though.

12 MS. WAIDELICH: His opinion was that it wouldn't necessarily
13 disclose it. That's what he focused on. That is what his opinion was focused
14 on, is rebutting the inherency argument. And so he focused on, well, there's
15 other ways to do it, but when asked repeatedly, well, let's -- okay, let's
16 assume there's other ways to do it, but would you understand that this way of
17 doing it, of displaying a visual indication that that is taught by Low? He
18 said, Well, I didn't consider that. I just considered whether it would
19 necessarily teach that limitation. Does that answer your question, Your
20 Honor?

21 JUDGE ARBES: Yes. Thank you.

22 MS. WAIDELICH: Okay. I think --, unless there's any other
23 questions on this limitation 1.6, I think I may go ahead and jump ahead to
24 the next limitation here. So the next disputed limitation, which is only
25 present in the '920 patent in the 027 proceeding is Limitation 1.12, which is
26 the user interface includes a visual representation of an affordance that in

1 response to a user input indicates completion of the transaction. And I'm on
2 Slide 20 and the primary teaching from Low that we believe, you know,
3 teaches this limitation is shown here on the right on Slide 20 Exhibit 1005
4 that Low is teaching, displaying a message to a user after purchasing a drink,
5 such as, would you like chips with your drink? The chart on Slide 21 here
6 believe kind of encompasses the party's dispute over this limitation focused
7 on the affordance as used in the -- this claim limitation. Petitioner believes
8 that affordance encompasses a message type GUI element, and Patent
9 Owner's position is that it does not.

10 So setting a little bit of context here, Patent Owner does not dispute
11 that Low's message is -- of, would you like chips with a drink? Is a message
12 informing the user that a transaction has been completed. And so if
13 Petitioner's construction is correct, then Patent Owner admits that this
14 limitation is taught by Low. There's three primary reasons why Patent
15 Owner's construction is wrong. It ignores the remaining language of
16 limitation 1.12. It excludes the only embodiment in the '920 patent that
17 indicates completion of the transaction and it's applying, its proposed
18 construction differently for infringement and in validity. So here on Slide
19 24, this is an argument that Patent Owner admits in its sur-reply that
20 Petitioner is, you know, focusing too much on the meaning of the term in the
21 claims.

22 Petitioner would agree that we are focused on the meaning of the term
23 in the claims. We believe that is claim construction 101, as *Phillips* says.
24 To begin, you focus on the context in which a term is used in the claim
25 itself. So this is the only embodiment in the '920 patent that indicates a
26 completion of a transaction. I'm on Slide 25 and it's Figure 26a, Item 1306,

1 and the '920 patent is explicit that it's message 1306 that indicates the first
2 transaction is complete. And that is essentially identical to the teaching of
3 Low.

4 JUDGE ARBES: Counsel, can you address, why is that a disclosure
5 of an affordance when there are a number of instances in that paragraph and
6 a later paragraph that appear to distinguish between an affordance and a
7 message? So -- and the claim here uses the word affordance, so why is that
8 support for the claim language?

9 MS. WAIDELICH: So affordance is only present, I believe, twice in
10 the entire '920 patent. It's talking about an affordance, which is never
11 pictured. So I don't believe that the '920 patent is using affordance
12 consistently when discussing certain items that are displayed and using
13 message in a different way. It's never described that, you know, for
14 example, the sliding dollar bill that they point to, that's never described as an
15 affordance. So it isn't the case that interactive elements in the '920 patent are
16 described as affordances and static messages are not. They're used, you
17 know, if anything interchangeably as a not GUI term it's not consistent that
18 only affordances are described as being -- as requiring an interactive
19 element.

20 JUDGE ARBES: I guess the question I would have is why then use
21 the word affordance and then in the very next sentence use message? And
22 when writing the claim, they use affordance, they don't use message. So
23 there -- that would imply that there is a difference between the two, right?

24 MS. WAIDELICH: I think affordance would be broader affordance
25 would encompass a message. I don't think that it -- you know, as it certainly
26 as taught in this patent because that -- you know, you look at the, the patent

1 as a whole and the claims and the only embodiment that is showing, you
2 know, a transaction is complete, is shown here is this Figure 26a, which is a
3 message. So a person of skill in the art reading this is going to understand,
4 okay, well the affordance as claimed in this limitation includes this message.

5 JUDGE ARBES: Can I ask about the claim language as well? So the
6 claim language reads, an affordance that in response to a user input indicates
7 completion of the transaction. Does that not support Patent Owner's view
8 that there is interactivity in that because that affordance does something in
9 response to a user input -- that there is interaction with the user?

10 MS. WAIDELICH: I don't believe so because the claim does not
11 require the user input be done to the affordance. The patent is expressed
12 throughout that those inputs are happening on the vending machine. This --
13 the description of the embodiment that is disclosed and shown here on Slide
14 25 where the message is displayed, that is in response to a user input on the
15 vending machine. And the Patent Owner, you know, has throughout in the
16 prior proceeding over this patent family, the '614 patent, the Patent Owner
17 argued extensively that that functionality of selecting on the vending
18 machine was the, you know, a big part of the inventive concept. So the
19 claim is not specific that that user input has to be done to the affordance? It
20 can be, but it's not required.

21 JUDGE ARBES: Well, I guess maybe I'm a bit confused then.
22 Because the claim language does say that the user interface includes three
23 things, a visual representation, an indication of a balance, and the
24 affordance. So that's -- that's on the user -- the affordance is on the user
25 interface, right?

1 MS. WAIDELICH: Correct. But the user input does not have to be
2 on the user interface or to the affordance. As the example in the patent the --
3 that's shown through Figure 26a, the selection -- the input is done on the
4 vending machine, and then Message 1306 appears on the user device.

5 JUDGE ARBES: Well, at least for the abort affordance then that
6 takes place on the user interface, that's shown on your phone, right?

7 MS. WAIDELICH: I believe that's the case. I believe that's the case.
8 I don't know if that's exclusively on the phone or if it can also be done on the
9 user device. And certainly the user input could be done on the user device.
10 It just the patent is clear, it isn't -- doesn't necessarily have to, it can be done
11 on the vending machine.

12 JUDGE ARBES: Well, I guess it -- isn't that the most natural reading
13 of the claim that an affordance -- that in response to a user input indicates
14 completion of the transaction? I guess, why is that a natural reading that the
15 affordance can be on the user interface of the device, but the user input take
16 place on the vending machine?

17 MS. WAIDELICH: I think reading it in, again, the context of the
18 entire patent and the specification and the focus being on I believe -- sorry, I
19 was trying to see if -- excuse me -- I had an example on this. The
20 embodiments that are taught in the patent, and the only embodiment for
21 showing a message that is indicating first transaction is complete is a user
22 input being on the vending machine. So it doesn't specify in the claim itself.
23 And there are other claim limitations that do specify where the input is
24 happening, whether on the mobile device or on the vending machine. So
25 when the Patent Owner wanted to, specify where that user input had to
26 happen, the Patent Owner did so.

1 JUDGE HOSKINS: So, Ms. Waidelich, the -- this -- I have to admit
2 that this term “affordance” is a strange term, to me anyway. I don't have
3 experience designing GUIs. And it seems to me that the Patent Owner has
4 some, some pretty good extrinsic evidence in these three books, I guess they
5 are. About -- that had to do with, you know, user interface design. And
6 they're pretty good in terms of saying that an affordance is something that
7 has to be -- or that is normally considered to be something that the user
8 interacts with on the GUI. And so I'm wondering -- I understand your point
9 about the intrinsic evidence, and I understand that intrinsic evidence counts
10 more than extrinsic evidence typically, but what would you say about this
11 particular extrinsic evidence that we have?

12 MS. WAIDELICH: Yeah, I think the primary response is that it's
13 secondary to the intrinsic record here. And you know, the *Vitronics* case and
14 the, you know, decades of case law that we have following *Phillips*, you
15 know, make very clear that the intrinsic evidence is the kind of the strongest
16 evidence as the meaning -- as to the meaning of a claim term in the context
17 of a specific patent. And the -- you know, because the Patent Owner's
18 proposed construction would exclude that, the only embodiment for showing
19 completion of the transaction. We don't believe that even with that extrinsic
20 evidence that that meets the very high standard required. The other thing I
21 would like to point out is, you know, we've -- and this is partly a response to
22 the *Revvo* argument. I mean, Petitioner has, has taken a position, we have
23 made very clear what our claim construction position is. But we do believe
24 that even if Patent Owner's construction is adopted, and it would exclude the
25 proposed -- excuse me, exclude the only preferred embodiment that that is
26 taught by Low as well. The payment button that they're pointing to as

1 completing the transaction is the sliding the dollar bill. And Low is also
2 clear that there is a similar payment button for triggering an authorization
3 and machine dispensing the product.

4 JUDGE ARBES: But how would that indicate completion of the
5 transaction as opposed, for example, to initiation of the transaction?

6 MS. WAIDELICH: Sure. So this was -- and I know -- I think a
7 couple of you were on the panel for our challenged claims '772 patent, and
8 there were some discussion about initiating the -- what is initiating a
9 transaction? And in the '772 institution decision, you know, you concluded
10 that initiating a transaction, selecting a product. So completion of a
11 transaction, I believe then is completing the transaction and making the
12 payment.

13 JUDGE ARBES: So how would the payment button satisfy that?
14 Clicking the payment button, how would that satisfy that?

15 MS. WAIDELICH: Because that is an interactive element on the user
16 interface that is you press it and it is completing the -- you know, indicating
17 completion of the transaction. I think particularly if we go to this is Patent
18 Owner's sur-reply on Slide 28. And again, this is -- we don't believe this is
19 correct. We don't believe that an element that informs a user that the
20 transaction will be performed that is future tense, that can simultaneously
21 indicate completion of a transaction. But if Patent Owner is correct, then the
22 same is true of the payment button in Low. Low, you press the payment that
23 that's informing the user the transaction will be performed and according to
24 Patent Owner then indicating completion of the transaction.

1 JUDGE HOSKINS: And in that world then the sliding dollar bill in
2 the challenged patent would provide written description support for the
3 claimed affordance, right?

4 MS. WAIDELICH: If sliding the dollar bill, which the patent is clear,
5 is initiating a transaction as shown on Slide 30 -- if you're saying if sliding a
6 dollar bill, which the Patent Owner says -- the patent says it's initiating a
7 transaction also indicates completion of the transaction, I think that's correct
8 then. There would be written description support. You know, we don't --
9 again, we believe kind of this conflation of completion and initiation that
10 Patent Owner is attempting to do here is improper. The fact that the Patent
11 Owner is trying to point to the dollar bill, which the patent has express is for
12 initiating a transaction, is because there is no other embodiment taught in the
13 patent that indicates completion of the transaction.

14 JUDGE HOSKINS: Thank you.

15 MS. WAIDELICH: The other point I want to touch on briefly is
16 Patent Owner made a lot of arguments arguing that Petitioner is improperly
17 conflating different teachings of Low and multiple, you know, alleged
18 embodiments. We don't believe those embodiments are mutually exclusive
19 or mutually distinct. This is one example on Slide 34 the focus that -- the
20 two different elements that the Patent Owners focus on here is where the
21 items are selected. Are they selected on the user device or are they selected
22 on the vending machine? That is not what the focus of Low is about. It's
23 about a mobile payment from the device. And Low says in the context of
24 one embodiment, you can make that purchase request from the user device
25 or from the vending machine.

1 That is not totally distinct embodiments that can't be combined. It's
2 all within the teaching of Low. So this is one example on Slide 34 and you
3 know, we've cited case law as well on Slide 35 that that -- the disclosures,
4 and again, we don't agree that they even are disparate disclosures but they
5 can be combined when they reference explicitly contemplates combining
6 them. And Low certainly does that. I'm going to -- unless you're -- the
7 board has any questions about the *Revvo* argument, I'd like to skip to that
8 and just -- I know I'm running a little bit short on time here. Okay. I'm
9 going to jump to --

10 JUDGE HOSKINS: I have one question about -- so I apologize.

11 MS. WAIDELICH: Sure.

12 JUDGE HOSKINS: I do have one question.

13 MS. WAIDELICH: Sure.

14 JUDGE HOSKINS: Have you -- has the Petitioner taken a position in
15 the district court case on claim construction?

16 MS. WAIDELICH: No. The case has been stayed.

17 JUDGE HOSKINS: Thank you.

18 MS. WAIDELICH: We haven't even answered. The case has been
19 stayed since the fall. No, thank you. I'll touch briefly on a couple of the
20 dependent claims. Actually -- I'm actually, if it's okay with the Board,
21 unless you have any questions, I'm just going to jump into the 101 issue in
22 the interest of time. All right. So there's two main grounds that we believe
23 support the 101 ground challenge. The first is the collateral estoppel
24 argument, and then the second is even on the merits, if the Board decides to
25 revisit. We believe all of the claims are invalid under -- unpatentable under
26 Section 101. On the collateral estoppel argument, the only real issue is

1 whether -- the identity of issues and whether the claims are materially
2 identical for purposes of eligibility. Here I believe they are.

3 We've shown -- we have provided redline claim comparisons between
4 the invalidated claims of the '614 patent and the two patents that are at issue
5 here. For the '920 patent, these are the two differences that are focused on
6 by Patent Owner. The first is this identifying step and being done based in
7 part on an identifier or location as compared to the predefined radio
8 messages. And then the limitations 10, 11, and 12 in independent Claim 1.
9 A big part of Patent Owner's opposition to the collateral estoppel argument
10 is based on the Board's decision in the '614 Patent PGR, not to invalidate
11 Claim 11. But the Board, I think in this case correctly recognized the
12 institution decision, that that decision was focused on the sliding
13 functionality that is in Claim 11 of the '614 patent, which is not present in
14 the independent claims of the patents here. And the claims of the patents
15 here that do have that sliding functionality, we did not advance the collateral
16 estoppel argument out of respect and acknowledging that decision in the
17 '614 patent.

18 So we believe looking at this limitation, which is the -- again, the only
19 limitation that's contested for the '423 patent, that identifying step whether
20 it's done with a predefined radio message or any generic identifier or
21 location that that is not a material distinction for purposes of the collateral
22 estoppel analysis here under Section 101. And rereading the '614 final
23 written -- patent final written decision, you know, the Board's focus there
24 was on how this is just similar to identifying a merchant. And in the '614
25 patent that was done with these pre-defined radio messages. Here it's -- we
26 believe it is even broader. It's any location. It's walking down the street and

1 identifying a merchant based on their location being close to you or based on
2 any other identifier. We don't believe that those slight changes, we don't
3 think there needs to be, you know, a final decision as to whether these are
4 narrower, broader. We believe fundamentally those are -- the identifying
5 step is the same across these two patents, and that's why we believe it's not a
6 material difference and collateral estoppel can apply.

7 I'll note that the patent examiner here found that the claims were not
8 patently distinct. There was an obviousness type double patenting rejection
9 and the Patent Owner never responded to that and said, just file a terminal
10 disclaimer. Turning to the merits analysis, if the Board decides not to apply
11 collateral estoppel, we'll walk through the framework and the MPEP and the
12 guidance and as set forth by the Supreme Court. So this is a process falls
13 within the Step 1. I -- rereading the materials in preparation for this, I was
14 struck that the number of cases that the Board cited in the institution
15 decision in these cases comparing the claims here to a dozen or so other
16 claims that have already been found invalid and the Patent Owner never
17 responded to any of those in its Patent Owner's response.

18 We believe the *cxLoyalty* case is one where the Federal Circuit has
19 found, you know, applying an abstract idea on a computer with generic GUI
20 items, GUI components is not patentable under Section 101. So we believe
21 the claims here are directed to the same abstract idea as the Board previously
22 found for the highly similar '614 patent. Identifying a merchant and
23 enabling completion of a purchase from the merchant. That's similar to
24 other cases we've cited in our petition that the Patent Owner did not respond
25 to, and numerous cases that the Board considered in its initial institution
26 decision that Patent Owner never responded to.

1 This was another issue that the Board correctly identified in its
2 institution decision, and that was at issue in the '614 patent PGR, which was
3 much of Patent Owner's arguments are focused on examples in the
4 specification that are not in the claims. And as the Board found in institution
5 decision here, and in the final written decision in the '614 patent PGR, that is
6 not the analysis for purposes of Section 101. We focus on the claims. For
7 the second prong, whether an incorporate does integrate -- excuse me,
8 whether the elements are used to integrate the judicial exception into a
9 practical application.

10 Again, the Board already made this decision with nearly identical
11 claims in the '614 patent and found that it did not at Step 2A, Prong Two,
12 Dr. Miller Patent Owner's expert admitted that all of the hardware
13 components that are claimed were well known at the time of -- in 2013 at the
14 time of filing. And that each recited step is just a function that's being
15 performed by generic mobile device such as the iPhone 5, which the patent
16 itself says, you know, can be used to practice this invention. The
17 independent claims are essentially all similar. There's no real distinction for
18 purposes of Section 101. And then I would like to reserve most of my time
19 for rebuttal. I know I've -- I believe I'm right at my -- what I had intended to
20 reserve, so if you have any questions on any of the Section 101 arguments,
21 I'm happy to answer them. But if not, I'd to like reserve the remaining time
22 for rebuttal.

23 JUDGE ARBES: Just a few questions about Claim 7.

24 MS. WAIDELICH: Sure.

25 JUDGE ARBES: On Page 90 of your petition in the 28 PGR, when
26 we're talking about Claim 7 and use of the accelerometer to determine the

1 user is walking away. You say that that step is no different than ending a
2 transaction when a customer walks out of the store. Can you explain that a
3 bit? I mean, what we're talking about is not ending a transaction, but the
4 claim is reciting canceling the wireless connection. So why is that an
5 accurate understanding of that claim language?

6 MS. WAIDELICH: Sure. I think it's because it's -- canceling the
7 wireless communication path is the way that just taking the abstract idea and
8 doing it on a mobile device is implemented. And so that's why, you know,
9 the comparison to someone walking out of the store and canceling the
10 transaction is that is how a transaction is canceled on the mobile device is
11 just canceling the wireless communication path.

12 JUDGE ARBES: So this is analogous, if we're talking about a real-
13 world customer in a real-world store, that customer begins the transaction
14 process for whatever they want to buy and then just walks out of the store
15 that -- that's what you're analogizing to?

16 MS. WAIDELICH: I think it's -- I mean, somewhat. That is
17 somewhat we're what we're analogizing to. You know, determining -- if
18 you're a shop owner and you see -- you're determining that the user is
19 walking away from you and, you know, canceling the transaction that the
20 user had potentially started with you. Correct.

21 JUDGE ARBES: And one more question about the arguments there.
22 You argue on Page 90 that using a standard accelerometer inherent to a
23 mobile device to detect movement was already well known. The claim
24 though, does recite a particular type of movement “walking away” and a
25 particular point of reference for that “from the payment acceptance unit.” So
26 why is the argument that using an accelerometer to detect movement was

1 well known -- why does that show that what is actually claimed was known,
2 well understood routine and conventional?

3 MS. WAIDELICH: So --

4 JUDGE ARBES: We're not just claiming detecting movement with
5 an accelerometer, we're making a specific determination based on that.

6 MS. WAIDELICH: Sure. And I think -- I do think Dr. Neuman
7 offered some opinion on this which is yes, detecting direction and detecting
8 movement, and Dr. Miller also admitted this, I believe at Page 136 of his
9 deposition transcript that Arora does teach this. But Dr. Neuman explained
10 that a person of skill in the art would know that if someone is walking away
11 and you're -- you want to conserve those resources for that vending machine,
12 that you want to cancel the communication path once the movement is, you
13 know, once they're walking away and the accelerometer is detecting that.

14 JUDGE ARBES: Are you talking just about Arora then, or is -- why
15 does that show by itself that this was well understood, routine, and
16 conventional?

17 MS. WAIDELICH: Why does Arora itself -- sorry, Arora -- sorry.

18 JUDGE ARBES: It seemed that you were making the argument based
19 on what Arora discloses whereas we're talking about 101.

20 MS. WAIDELICH: Sure. Sure. So that's -- sure. So that's one
21 example. So -- and their other examples and other testimony offered by Dr.
22 Neuman, and I know Patent Owner makes this argument that we have
23 improperly conflated, you know, 103 with the 101 analysis. We don't
24 believe that that's true. You know, there's plenty of case law saying there is
25 overlap between the 103 analysis and the Step 2 to be an analysis of whether
26 something is well understood, routine, and conventional. So those were

1 additional examples that Dr. Neuman provided, but he didn't rely exclusively
2 on the specific prior art that was discussed. Okay. If there are no other
3 questions, I will reserve the rest of my time. Thank you.

4 JUDGE ARBES: Counsel, you may proceed. Would you like to
5 reserve time for rebuttal?

6 MR. ARGENTI: Ten minutes, please, Your Honor. Thank you,
7 again, my name is Matt Argenti on behalf of the Patent Owner PayRange
8 here. Today I'll be referring to our demonstrative exhibits that have been
9 submitted as Paper 28 in both of the PGRs that we're discussing. And before
10 I discuss the issues in those PGRs, a little bit about PayRange. PayRange
11 was founded in 2013 and is an American success story. Its founder Paresh
12 Patel, who's sitting here today, started the company to provide innovative
13 mobile payment solutions for unattended retail machines like vending
14 machines and laundromat machines. He came up with a number of different
15 inventions that allow customers to buy goods and services from unattended
16 machines using their smartphones. And his innovations have been embraced
17 by customers, the industry and PayRange's competitors.

18 PayRange's patents have been licensed by numerous other companies,
19 some of whom have issued public statements, recognizing their appreciation
20 for PayRange's innovations. At the same time, others have chosen to attack
21 PayRange's inventions at the PTAB. And so here we are again to defend
22 PayRange's technology. Now I'm going to skip to Slide 4, and we see the
23 grounds of challenge for the '920 patent. And just briefly note that we see
24 that their prior art grounds are based on Low and Arora. And if we go to the
25 next slide, Slide 5, we see very similar grounds for the '423 patent.

1 Petitioner's grounds in both cases are riddled with deficiencies, both
2 their prior art grounds and their eligibility challenges are at odds with
3 current guidance from the patent office. Beyond that, the prior art
4 challenges suffer from missing limitations, which only gets worse as we
5 move from the independent claims to the dependents. And the eligibility
6 challenges are legally misplaced. Not to mention also suffering from the
7 same mischaracterizations of the prior art. My plan today is to address '920
8 patent first and then turn to the '423. So unless I'm specifically referring to
9 the '423, if I'm citing an expert declaration or something like that, it's in the
10 '920 record.

11 Turning to Slide 6 in claim construction. The petition says they are
12 applying the plain in ordinary meaning of all terms, and that no terms need
13 construction. Neither of those assertions is true. The '920 claims require
14 that the claimed user interface includes an affordance. As I'll explain
15 Petitioner's challenge effectively reads that requirement out of the claim.
16 Turning to Slide 7 in his declaration, Petitioner's expert said the same thing
17 as in the petition, no claim terms require explicit construction. Everything
18 should be given its plain and ordinary meaning. But when we asked him at
19 his deposition what the plain and ordinary meaning of affordance was, he
20 said he didn't actually know before his involvement in this case. He said
21 that wasn't a term that he was familiar with, so he had to look it up. And
22 according to him, he discovered that it's an element of the user interface in
23 some sense. That's what he said. But he couldn't tell us where he found that
24 definition. He remembered that he had to look it up somewhere, but he
25 couldn't recall where, and he certainly didn't provide any corroboration for
26 his understanding of the term.

1 So right off the bat, Petitioner's case is deficient. They failed to show
2 that they're applying the plain and ordinary meaning as they assert in the
3 petition. When we pointed this out, turning to the next slide, we pointed this
4 out in our Patent Owner response, they came back in reply and said, no
5 construction is necessary because the surrounding claim language
6 sufficiently defines the term. The claim language does say that the
7 affordance is included in the user interface, and it does say that the
8 affordance indicates completion of the transaction in response to user input.
9 But that argument reads the term affordance out of the claim. It's the same
10 as replacing the word affordance with the word thing. A thing that is
11 included in the user interface. And in response to user input indicates
12 completion of the transaction. It completely ignores what an affordance is in
13 this field.

14 Turning to Slide 9, and that interpretation is how Dr. Neuman was
15 able to reach his conclusion that the term affordance is so broad that it
16 encompasses something like a pop-up message that just conveys output only
17 information. Or a mere table or something hidden from a user. But again,
18 that ignores what the word affordance means. If we turn to Slide 10, as we
19 see here, our expert, Dr. Miller, explains that an affordance is something
20 more specific. It's an interactive user interface element that informs a user
21 how to interact with the element and its intended use. That interactive
22 aspect is key here. And the appearance of the affordance tells the user
23 something about the interactive aspect.

24 If we turn to Slide 11, this is consistent with the claim language and
25 the specification. Depending Claim 11 recites an additional requirement that
26 the user input causes the affordance to be slid. It's interactive. And again --

1 JUDGE ARBES: Counsel, is the dollar bill that slides on the screen,
2 is that an affordance?

3 MR. ARGENTI: Yes.

4 JUDGE ARBES: Why does the specification not refer to that as an
5 affordance then?

6 MR. ARGENTI: It doesn't need to because it's an understood term in
7 the field. It's -- this is not something where the patent is defining what an
8 affordance is. It's using the term according to its plain and ordinary meaning
9 in the claim. So when we look at the dollar bill, we see that it's an
10 affordance.

11 JUDGE ARBES: Because it's interactive?

12 MR. ARGENTI: It goes beyond simply interactivity. Like, as I've
13 explained with our construction and in the preceding slides, it needs to
14 visually indicate it's something about its use. Right? That's what we see
15 from both the intrinsic and extrinsic evidence, which I'll get to on the next
16 slide. So, interactivity is one requirement. It's -- it's not the definition of
17 what an affordance is.

18 JUDGE ARBES: How does the dollar bill do that? For instance, a
19 slide bar that everyone's familiar with, it shows you, you put your finger on
20 it and slide, it gives you some indication of what you should do with that
21 button. How does the dollar bill do that? I see how it's interactive that you
22 can slide it along the screen, but how does it indicate to the user how you
23 should use it?

24 MR. ARGENTI: It's not just that it indicates the sliding aspect, it
25 indicates a payment aspect or sending payment. So that's what it's indicating
26 about its use. This is money that you can send by sliding it up the screen,

1 you are sending it to that vending machine that's at the top of the screen in a
2 representation.

3 JUDGE ARBES: I see. Thank you.

4 JUDGE HOSKINS: Mr. Argenti.

5 MR. ARGENTI: Yes.

6 JUDGE HOSKINS: Before we move on. I'm -- I'm still looking at
7 your Slide 11, which looks like you still have a -- and so this -- I have what
8 may be an esoteric question. So let me do my best to articulate it. It's not so
9 much about affordance per se, but it's an affordance that indicates
10 completion of the transaction. And I'm wondering, like, why is that part of
11 the claim? How is that useful? It seems like it's doing it in reverse. So a
12 more typical interaction between the user and a computer is the user tells the
13 computer what the user wants the computer to do, the computer does it, and
14 then the computer informs the user that it's done. It's completed. So I'm
15 trying to -- I'm struggling with the notion of, of a user interface element and
16 affordance being the claim term. Why is the user telling the computer that
17 the transaction is completed? I'm struggling with that notion.

18 MR. ARGENTI: So I can answer that question with reference to the
19 sliding dollar bill example with the understanding that -- we are not reading
20 that example into the claim, but I think it's an example that's instructive in
21 response to your question. So if we look at the sliding dollar bill example,
22 you can slide it vertically up toward the vending machine. That's an
23 indication of what its purpose is. What its use is. When it achieves at the
24 top, once you get it up to the top and it slides and it disappears, it's now -- it's
25 indicated -- the action has indicated completion of the transaction. It's
26 indicated payment. So it's --

1 JUDGE HOSKINS: No, I'm sorry, but it hasn't; I mean, payment, it
2 has to go to the server. It goes to the server, and then the server says, okay,
3 we can pay and the server can actually stop that.

4 MR. ARGENTI: Well, now we're falling for the trap that Petitioner
5 has set of conflating our inventions that are described in the specification
6 and claimed in our patents with what Low is doing. This dollar bill does not
7 trigger something --

8 JUDGE HOSKINS: Doesn't the challenged patent say that the
9 transaction can be aborted after the dollar bill is slid?

10 MR. ARGENTI: In some examples, but the abortion is happening
11 based on what the user is doing with the vending machine. What's going on
12 in our specification is that there has been a payment approval received from
13 the server already. That's at least one thing that's described. So it's certainly
14 not limited. I'm not sure it's described that this is sending something out like
15 Low is for approval at the payment server. Sliding this dollar bill up is
16 sending payment to -- excuse me -- to the vending machine, which is one
17 example. There are other examples of types of transactions as well with
18 things like toll booths, right? Things like a toll booth, you pay the money to
19 the toll booth, that is the transaction. You drive on. So I think we have to
20 look at the full scope of what's described in our specification, which
21 Petitioner has refused to do.

22 JUDGE HOSKINS: What's your best kind of -- your best paragraph
23 or two in the specification that tells us that what's going on with the sliding
24 dollar bill is a completion of a transaction.

25 MR. ARGENTI: So I would direct your attention to Column 36. Let
26 me see if I can have the lines. It's the paragraph between Lines 34 and 45 of

1 Column 36, we cited that in our paper. It discusses the swipe to pay
2 example as an example of something that performs the electronic
3 transaction. It's not limited to initiation of the electronic transaction. It says
4 it performs the electronic transaction. And then I would --

5 JUDGE HOSKINS: What it says is -- at Line 39, it says, The user of
6 the mobile device initiates a transaction.

7 MR. ARGENTI: Yep. It does, Your Honor. And that goes to our
8 point that the same action can initiate and complete the transaction.
9 Petitioner has argued that that's incoherent. It's by no means is it because
10 there are examples in the specification that one swipe action both initiates
11 and performs the transaction. And that makes sense again --

12 JUDGE HOSKINS: What is it about this paragraph that says
13 completion?

14 MR. ARGENTI: It says performs the transaction. That's what we're
15 relying on there. And then I would again make --

16 JUDGE HOSKINS: It says performing a swipe gesture.

17 MR. ARGENTI: Did I give you the wrong cite here, Your Honor?

18 JUDGE HOSKINS: Maybe I'm looking at the wrong column.

19 MR. ARGENTI: Column 36, Line 37, so as to perform an electronic
20 transaction. So you are performing a swipe gesture, or are initiating a
21 transaction, and you are also performing a transactions all at the same time
22 with that embodiment.

23 And, again, I would go back to the toll booth is just one example.
24 There are many other examples of types of payment-accepting units, for
25 example, in the background I think at the top of Column 2. But the toll
26 booth is one example that I think is helpful where there is no product

1 selection after that. There's no other activity for the transaction. You send
2 the money, and that is your transaction.

3 JUDGE PETRAVICK: Counsel, in the toll booth example, isn't the
4 transaction not complete until the car drives off?

5 MR. ARGENTI: I don't think so.

6 JUDGE PETRAVICK: Or the gate opens to let the car go, otherwise
7 you exchanged your money for nothing.

8 MR. ARGENTI: Well, you're assuming that there is a gate. I don't
9 know. I live in the Bay area, and I drive over the Golden Gate Bridge, and
10 you just keep driving. So I think there are a lot of ways that it could happen.

11 JUDGE PETRAVICK: Yes. So you go through the Golden Gate
12 Bridge, you would assume that the transponder people are going to
13 accurately debit your account. That doesn't happen until after you go
14 through there. But I think the problem, as opposed to hypotheticals, is what
15 we look at in your specification to see where it is the completion of the
16 transaction, but it's also sort of troubling then other patents based on the
17 same technology and the same spec. You call it the initiation of the
18 transaction. So, what you're saying is something's the same as the initiation
19 of the transaction and the completion of the transaction. That doesn't seem
20 to make reasonable sense.

21 MR. ARGENTI: I would agree, Your Honor, that there are many
22 types of transactions and that there is no particular definition set forth for a
23 particular type of transaction that our specification is limited to or a
24 particular point of completion for a transaction.

25 JUDGE PETRAVICK: What do you think a transaction requires?

1 MR. ARGENTI: I can't answer that in the abstract. There are many
2 different examples. I think we have to look at what we disclose, and there is
3 disclosure that the swipe to pay performs a transaction.

4 JUDGE PETRAVICK: So the transaction in your disclosure is an
5 exchange of money for an item, right?

6 MR. ARGENTI: In some examples. Correct.

7 JUDGE PETRAVICK: So you have to have both of those things?

8 MR. ARGENTI: It depends on the transaction. It depends on the
9 example, and our specification describes both.

10 JUDGE PETRAVICK: So basically what you're saying is that we
11 should construe this to encompass everything as a transaction?

12 MR. ARGENTI: I don't think so.

13 JUDGE PETRAVICK: What are the limits of what a transaction is?

14 MR. ARGENTI: The construction of transaction is not something
15 that's being teed up or raised by the Petitioner in the briefing.

16 JUDGE PETRAVICK: I'm asking you right now.

17 MR. ARGENTI: I'm not prepared to construe the term --

18 JUDGE PETRAVICK: Because your arguments are bringing that up.

19 MR. ARGENTI: I'm not prepared to construe the term transaction.
20 That's not something that's in dispute. What I'm pointing out is that we have
21 plenty --

22 JUDGE PETRAVICK: You seem to --

23 MR. ARGENTI: -- of examples in our specifications.

24 JUDGE PETRAVICK: -- because we don't know what the initiation
25 of the transaction is as opposed to the completion of the transaction. There

1 are those two different terms, and you're telling us that we should construe
2 those to be the same thing.

3 MR. ARGENTI: The only reason this is in dispute --

4 JUDGE PETRAVICK: But that doesn't seem to be consistent with
5 English.

6 MR. ARGENTI: To the extent that it's in dispute. The only reason
7 it's being discussed at all is because Petitioner has raised essentially a quasi-
8 written description argument, which isn't appropriate for this forum --

9 JUDGE PETRAVICK: Counsel --

10 MR. ARGENTI: -- in rebuttal to a construction that we had to raise --

11 JUDGE PETRAVICK: Counsel.

12 MR. ARGENTI: -- because they ignored the plain and ordinary
13 meaning of the term.

14 JUDGE PETRAVICK: Counsel, I'm asking you a question. We're
15 not looking at written description. We are performing a patentability
16 analysis, the first step of which is to determine the scope of the claim. The
17 scope of the claim, of course, is we have to go and look what the
18 specifications states. That is why we're interested in this question.
19 Apparently, you do not want to help us with this question --

20 MR. ARGENTI: I don't have --

21 JUDGE PETRAVICK: -- in order for us to continue on to our --

22 MR. ARGENTI: I don't have a definition of transaction because the
23 specification doesn't have a definition of transaction. It provides multiple
24 different examples of transaction types and transaction endpoints. So we
25 can't limit it to a particular endpoint. That is my answer, Your Honor.

1 JUDGE PETRAVICK: You can't limit it to a particular start point or
2 a particular endpoint despite the fact that there is distinction in these patents
3 between an initiation and completion.

4 MR. ARGENTI: It certainly uses both the term initiate and complete.
5 And it's clear that, in some examples, there is a subsequent completion based
6 on further activity. And in some examples, like I'm pointing to you, there is
7 no subsequent completion. It's at the same time as the initiation.

8 JUDGE PETRAVICK: So, does the scope of your claims only limit it
9 to those examples for the initiation, the completion of the same things? Is
10 that only what your patent covers or is the scope of these claims cover more
11 than just those examples? Or the transaction includes things that are --
12 there's space between the initiation and completion?

13 MR. ARGENTI: Well, I'll point out that there is no recitation of
14 initiation in the claims.

15 JUDGE PETRAVICK: You're asking us to construe this --

16 MR. ARGENTI: I'm certainly not.

17 JUDGE PETRAVICK: -- despite what spec says to be the same
18 thing.

19 MR. ARGENTI: I'm not asking you to construe this, Your Honor, if
20 anything, again, this is a belated argument that was brought up by Petitioner
21 after they failed to appreciate the plain and ordinary meaning of the term
22 affordance. So, I think we're getting pretty far afield from what the actual
23 dispute is here.

24 JUDGE ARBES: Counsel, can I ask about the end of that paragraph
25 that you pointed to --

26 MR. ARGENTI: Yes.

1 JUDGE ARBES: -- in Column 36, Line 55 describes a message 1306
2 indicating that the transaction with the machine 120 is complete. Can you
3 respond to Petitioner's argument that that is the support for what we're
4 claiming here? Because it says, indicating that the transaction is complete.

5 MR. ARGENTI: I guess I don't deny that that is description of
6 something that indicates when the transaction is complete. I also would not
7 deny that that's the only place where that particular phrase is found in the
8 specification. But as we all know, disclosure doesn't require *ipsis verbis*
9 disclosure. It's not about using the explicit words. So that is not tied to the
10 claims because it's not an affordance. That's what we've laid out pretty
11 clearly in our papers and they don't have a real response. They've never
12 denied what the plain and ordinary meaning of affordance is after we
13 introduced it here.

14 JUDGE ARBES: Okay. So, a message can indicate completion of a
15 transaction, but an affordance can as well, and you claimed affordance?

16 MR. ARGENTI: Yes.

17 JUDGE ARBES: Okay.

18 MR. ARGENTI: So, I'll move on briefly to Slide 12. Just to close the
19 loop on this issue. We know that extrinsic evidence is secondary to intrinsic,
20 but, as was recognized when Petitioner was speaking, we've submitted
21 many, many exhibits that support our position on what the plain and
22 ordinary meaning of affordances they're presented here on Slide 12. Turning
23 to Slide 13. Why does this matter? Because Petitioner maps the claim to
24 affordance to a message in Low that invites the user to make another
25 purchase after they complete a first one. But they don't argue that there's
26 anything interactive that that message, let alone that its appearance informs a

1 user how to interact with it, which is a key requirement of what an
2 affordance is.

3 I will turn to Slide 14. Petitioner has a second theory on this claim
4 limitation that can be rejected as well as an alternative to the message
5 mapping, they point to Low's payment button. As we see here on Slide 14,
6 Petitioner argues that this is not based on plain and ordinary meaning, but
7 rather applies an interpretation they say is consistent with PayRange's
8 infringement contentions. They say that it rewrites the claim terms so that
9 the affordance indicates initiation of the transaction rather than completion.
10 Turning to slide 15, Petitioner's alternative mapping flies in the face of
11 recent Director decisions saying this type of approach is unacceptable. The
12 precedential *Revvo* decision --

13 JUDGE HOSKINS: I'm sorry. Mr. Argenti?

14 MR. ARGENTI: Yes.

15 JUDGE HOSKINS: So, I asked this question to Petitioner's counsel.
16 I'm going to ask you too. Has Petitioner taken a claim construction position
17 in the district court litigation?

18 MR. ARGENTI: Your Honor, my firm does represent PayRange in
19 the district court litigation. I personally do not, so I'm not sure. I have no
20 reason to dispute.

21 JUDGE HOSKINS: Okay. So, let me ask you about this IPR then.
22 What do we have in this IPR record that tells us what the Petitioner has said
23 in the district court litigation regarding the petition?

24 MR. ARGENTI: We have their arguments in the petition. I was
25 going to say I have no reason to dispute what counsel said. So I'm willing to
26 accept that. But what we have is their assertion in the petition, like clearly

1 they're hedging, clearly they're saying that they don't think that's the right
2 interpretation. Clearly they're saying that this interpretation rewrites the
3 claim, and we don't endorse it as the proper construction. So that's --

4 JUDGE HOSKINS: Where did they say that? Where did they say
5 that?

6 MR. ARGENTI: Let's see. If we look at the portions, it's Pages 46
7 and 47 of the petition, which are cited on the previous slide. And then, if we
8 look at the expert testimony that they cite as well, I think it's also pretty clear
9 there that they are explicitly rewriting the claim term to cover initiation
10 rather than completion. That's not an acceptable approach now.

11 JUDGE HOSKINS: I've looked at Page 46 and I don't see any
12 disagreement. But that's something we don't, you know, we don't need to go
13 back and forth on. Let me just kind of -- how I understand the petition to be
14 structured is they present two alternative claim instructions. One of them is
15 their view of what Patent Owner's arguing in the district court litigation for
16 infringement. That is, I think, an accurate reading of Page 46 of the petition.
17 But it's captioned as insofar as the Board interprets this limitation in that
18 way. That's kind of how that paragraph begins. I don't think there's
19 anything in there that says it's a bad way as I interpreted it, it's just kind of a
20 possible way. And then, the next page is they offer, you know, an
21 alternative construction which focuses on the completion. And so, if we just
22 read the petition as kind of saying, well, you could interpret it this way or
23 you could interpret it this other way, and either way Low is sufficient to
24 disclose it. Is there anything really wrong with that under the *Revvo*?

25 MR. ARGENTI: Your Honor, I don't think it's anything quite so
26 innocent or naive as, as you're presenting it. I think they're clearly saying

1 that this insofar as the Board interprets this claim to require initiation of a
2 transaction or indication of initiation of a transaction as opposed to
3 completion, then here we go, here's how it's satisfied. They never actually
4 endorsed that. I guess if we want to separate it from the *Revvo* and their
5 district court positions, they're offering a hypothetical that says, insofar as
6 the Board interprets this claim as X, but they never proposed that the claim
7 term should be proposed as X. So, why would the Board reach that and
8 rewrite the claim?

9 JUDGE HOSKINS: Okay. So I just want to thank you for that. And
10 just one more question on this issue before we move on. So the *Revvo*
11 decision and then the *Infineon* decision that you cite. Those are Director
12 decisions for sure. But they're about institution, whether the case should be
13 instituted and, you know, I guess this is just the one of the two cases here,
14 but it's been instituted. And there are some, I think other decisions that say
15 that the *Revvo* decision is kind of limited to the Director's institution context.
16 And then, once there's institution, then the record is the record and we reach
17 the best decision we can. So do you have a response to that notion that the
18 *Revvo* doesn't apply here because it's about what the Director does at
19 institution rather than what we need to be doing here post-institution?

20 MR. ARGENTI: So, I would disagree with that assertion. I don't
21 think there's anything in the decisions that are limiting it to the institution
22 consideration. I think it also applies if it's an inappropriate claim
23 construction position to take at institution, why would that change during the
24 trial stage? So, I think it is applicable to the trial stage. I would also point
25 out, I'm not sure if it was *Revvo* or *Infineon*, either one of those specifically,
26 but certainly there's been at least one case in that line of cases where it was

1 revisited after institution and then institution was revoked in view of that
2 concern. Which is not to say it's only an institution decision, I think it's a
3 principle that's a concern during the trial stage as well. But I don't think it's
4 a meaningful distinction.

5 JUDGE HOSKINS: I thank you for that response. I understand. The
6 case you were thinking of I think was *Revvo*. But that later revisiting was a
7 denial of institution. It was the Director coming in *sua sponte* saying, well,
8 I'm going to deny institution. I think it still was at the institution stage rather
9 than the post institution stage. But I take your point.

10 MR. ARGENTI: And point taken, Your Honor. So, I'll turn to Slide
11 16 and point out some other problems with the payment button mapping
12 once we get past that inconsistent claim construction argument. For one, the
13 payment button description in Low relates to a different embodiment for
14 most of their claim mapping. They rely on an embodiment where the user in
15 Low selects the product to purchase using the user's mobile device. But the
16 payment button description relates to an embodiment where the product is
17 selected on the vending machine itself. This was completely unaddressed in
18 the petition or Dr. Neuman's declaration. They've argued in reply that the
19 teachings of one embodiment are applicable to the other and that a POSA
20 would understand that the payment button utilized both. But Low doesn't
21 say that, and the petition doesn't say that. And Dr. Neuman didn't say that
22 either. It's attorney argument.

23 So, if we turn to Slide 17, one other problem with the payment button
24 mapping is that Petitioner has not shown that the payment button in Low
25 indicates completion of a transaction. This goes back to their assertion that,
26 at best, it indicates initiation of a transaction. Now, I'll turn on Slide 18 to

1 the next missing claim element. The claims require that the user interface is
2 configured to display a visual indication of the one or more payment
3 accepting units. Here's what they say about this in the petition, A POSA
4 would understand that the user device is configured to display the available
5 machines. They don't say that Low describes this. They don't say that it
6 would've been obvious to do it this way. They say that a POSA would
7 understand that Low is configured to do that.

8 At institution, the Board described this as an inherency theory that the
9 claim element is necessarily present based on what Low describes. But if
10 we turn to Slide 19 and, we heard earlier today confirmed, Petitioner has
11 disavowed any reliance on an inherency theory. They say that they did not
12 advance that theory. Instead they say that Dr. Neuman's theory that a POSA
13 would understand Lowe's device is configured as claimed, is the most
14 practical interpretation and the most common sense and straightforward
15 understanding. Dr. Neuman, however, never said any of that, but trying to
16 justify Dr. Neuman's conclusory single sentence assertion that a POSA
17 would understand Low is configured as claimed. But attorney argument
18 about the most practical and common-sense understanding doesn't fix the
19 problem.

20 I want to at this point respond to something that we heard earlier. We
21 heard Petitioner assert that it would be obvious in view of Low's disclosure.
22 That is a new argument that you will not find. All you will find in the
23 petition is an assertion that a POSA would understand that Low is
24 configured that way. But I don't read that as an obviousness argument.
25 They also argued that displaying a list of items, a menu of available items,

1 would satisfy the claimed visual indication. That is also a new argument.

2 Dr. Neuman didn't say that.

3 In fact, Dr. Neuman contrasted that when you look at his testimony in
4 Paragraph 125 regarding Element 1.7, that's where he cites displaying as
5 another way that the user could select the visual, sorry, vending machine.
6 But he didn't say in the preceding element for 1.6 in Paragraphs 123, 124.
7 He didn't cite the display of a menu item as satisfying the visual indication
8 requirements. So that's another new argument that's improper at this stage.

9 JUDGE ARBES: So Counsel, you don't dispute that Low discloses
10 the selecting step that takes place after whatever may or may not be shown
11 to the user.

12 MR. ARGENTI: That is not a dispute that we've raised. We haven't
13 raised a dispute regarding Element 1.7.

14 JUDGE ARBES: Okay. But you believe presumably that the user
15 selects it in some other way than seeing a picture of the different machines?

16 MR. ARGENTI: Right. That's what Dr. Miller explained is that there
17 are alternatives. And so, if they are relying on a disclosure theory, they can
18 argue it as express disclosure. They can argue it as inherent disclosure.
19 They've now narrowed that down. And the fact is it's not described, we
20 heard them concede today that Low doesn't exactly say what's displayed.
21 So, it's a missing aspect of the disclosure.

22 JUDGE ARBES: Can you respond to Petitioner's argument as well
23 that Dr. Miller did not testify as to how a person of ordinary skill in the art
24 would've read the reference, just addressed the inherency theory?

25 MR. ARGENTI: So yes, I can and I would direct the panel to
26 Paragraph 55 of Dr. Miller's declaration. Dr. Miller says that Low doesn't

1 describe this. He says it doesn't disclose this. And he says it doesn't
2 necessarily display the visual indication that's claimed. So, he responded to
3 the case that was presented in the petition and in Dr. Neuman's testimony.
4 And that is a good chance to turn to Slide 20, which is where we see the way
5 that they're trying to rehabilitate their conclusory case here. Petitioner cites
6 to the Federal Circuit's *Acoustic Technology* decision, but that only
7 highlights their dilemma. This is now the basis of their case when you read
8 the reply. In *Acoustic Technology*, the claim at issue required the use of
9 CDMA wireless communication technology, but the prior art reference
10 didn't use that term.

11 The Federal Circuit said the expert witness provided adequate detailed
12 analysis explaining why one of skill in the art would understand that the
13 radio wave communication, the reference described, was the same as
14 CDMA, even without the reference explicitly saying so. That is not what we
15 have here. Compare *Acoustic Technology* on the left to Dr. Neuman's
16 testimony on the right, and this is all he said about it. There's no explanation
17 of why a POSA might understand what is described in Low is a
18 configuration to display a visual indication as claim. It's not an *Acoustic*
19 *Technology* scenario. And then beyond that, our expert, Dr. Miller,
20 explained numerous alternatives that would be consistent with Low's
21 description and yet not fall within the scope of the claims. It's not our
22 burden to disprove obviousness, but the record shows that what Low
23 describes is not the same as what is claimed.

24 JUDGE ARBES: Counsel, I guess going back to the Petitioner's
25 presentation. My question is that -- I understand that there may be other
26 ways conceivably to do that, and Dr. Miller has pointed those out. But for

1 our task of determining how a person of ordinary skill in the art reading
2 what Low says in its disclosure, how would a person of ordinary skill in the
3 art understand that? Why would such a person read it as those other
4 examples instead of the way that Petitioner reads it?

5 MR. ARGENTI: It's not an either or. It doesn't have to be read as
6 those other examples, right? This is not a case of, well, if this is the better
7 way to do it than that, because they don't have that testimony. They don't
8 have any explanation to support their attorney argument that this is the most
9 straightforward way of doing it, or this would be a commonsense way of
10 doing it. So it doesn't need to be a choice between one or the other because
11 they haven't tied that up in their briefing.

12 JUDGE ARBES: And Dr. Neuman did not testify in his declaration
13 that it was the most straightforward way of reading that, that came in in the
14 reply --

15 MR. ARGENTI: Correct.

16 JUDGE ARBES: -- in your opinion. Okay. One more question. Can
17 I ask you the same thing that I asked Petitioner? What is the difference
18 between a visual indication of a payment accepting unit and a visual
19 representation of such a unit?

20 MR. ARGENTI: At the risk of making the case too easy. I think I
21 agree with what Petitioner said. I think I agree that a visual indication is
22 broader than a visual representation, and that an example of a visual
23 representation could be something like a graphical icon of a vending
24 machine, whereas a visual indication could be something like a number
25 corresponding to that machine. I mean, those are specific examples that I
26 wouldn't read into the claims, but I think, as a general principle, I don't take

1 issue with that. But the fact is it still needs to indicate the machine, right?

2 The vending machine, the payment accepting unit.

3 JUDGE PETRAVICK: Why does that matter whether you
4 characterize the information on the screen as a visual indication or a physical
5 representation? Isn't that just a characterization of whatever information is
6 displayed?

7 MR. ARGENTI: I think it sounds like we're getting into 101 issues,
8 which I'll be happy to address, but it's certain --

9 JUDGE PETRAVICK: I'm sorry, could you just answer my question?

10 MR. ARGENTI: It matters in the context --

11 JUDGE PETRAVICK: Like why does it matter to the computer and
12 what it does?

13 MR. ARGENTI: It matters in the context of a 102 or a 103
14 assessment. Because it is a claim requirement, we can't ignore requirements
15 in the claim.

16 JUDGE PETRAVICK: I don't believe we're ignoring the claim. I'm
17 trying to interpret the claim limitation. And we're talking about information
18 and the information as it's displayed on the screen. You know, if I see an
19 eight, the only reason I know that that's an eight is because the human is
20 processing those pixels as opposed to what computer is doing. So why does
21 it make a difference here to the functions of the computer in the method or in
22 the device -- or how the device is structured?

23 MR. ARGENTI: It makes the device because -- sorry, it makes a
24 difference because it's all about the information that is displayed and used
25 and it has functional aspects --

1 JUDGE PETRAVICK: Functional aspects as to the computer or the
2 device as opposed to what a human would interpret that information that's
3 being displayed at?

4 MR. ARGENTI: I think -- and now we are certainly into the 101 --

5 JUDGE PETRAVICK: I'm sorry --

6 MR. ARGENTI: -- as opposed to the 102.

7 JUDGE PETRAVICK: --could you please answer my question as
8 opposed --

9 MR. ARGENTI: I'm trying to, Your Honor.

10 JUDGE PETRAVICK: -- to telling me that my question is bad. I
11 would like to have you just answer the question.

12 MR. ARGENTI: So could you repeat the question, Your Honor?

13 JUDGE PETRAVICK: I'm asking what is the difference between a
14 visual representation and a visual indication as to the function of the
15 computer that's going on in these claims. Why a computer is just putting
16 pixels or information on a screen that's being told to by its algorithm. Why
17 is that different? What is the difference between a visual representation and
18 a visual indication?

19 MR. ARGENTI: It's --

20 JUDGE PETRAVICK: How does the computer know the difference?

21 MR. ARGENTI: Our claims are not limited to a single computer.
22 Our claims are an interface on a system that involves communication
23 between, at minimum, a payment accepting machine and a user device and
24 in some claims a server. So I think we're getting off on the wrong foot if
25 we're talking about how does this improve the function of a computer.

1 JUDGE PETRAVICK: If I have a one on a computer screen, what is
2 the difference in the computer as to whether that is a visual indication or a
3 representation? The only difference seems to be that the human thinks that
4 that is a representation or an indication. It's a characterization of the
5 information that's slight, right? The computer doesn't know one or the other.
6 The computer's algorithm just tells it, put a one on the screen.

7 MR. ARGENTI: This is not something that has been raised.

8 JUDGE PETRAVICK: I'm sorry, this is the question I have because
9 this is how I'm trying to analyze the case. So, either you could help me, or
10 you could try to dismiss my question.

11 MR. ARGENTI: I'm not trying to dismiss your question.

12 JUDGE PETRAVICK: Tell me one or the other.

13 MR. ARGENTI: I'm not trying to dismiss your question, Your
14 Honor, but I don't think that Petitioner has argued that this is not an
15 improvement to the computer. I don't think the law requires that this
16 element be an improvement to the computer.

17 JUDGE PETRAVICK: I am not asking about that. I am asking about
18 like, differences to how the computer looks. So if I go and look in the art as
19 to what the computers are doing or what is being displayed, then looking at
20 the scope of the claim, I'm trying to see, find something different that the
21 computer is doing to put up a visual representation as close to a visual
22 indication.

23 MR. ARGENTI: I believe I've answered that, Your Honor. That an
24 indication is broader than a representation.

1 JUDGE PETRAVICK: Yes. But that is not telling me what the
2 computer is doing. You're just telling me the same thing about the scope of
3 the claim.

4 MR. ARGENTI: Truly, Your Honor, I'm trying to answer your
5 question, but I think at this point I don't understand it because it is doing
6 something different. So I'm not sure when the question says, you're not
7 telling me what the computer is doing, the claim recites displaying different
8 types of information.

9 JUDGE PETRAVICK: What does the computer do or the structure of
10 the function of the computer do which display the different types of
11 information? Given the broad scope of the visual indication versus a visual
12 representation, the computer is just putting pixels on the screen or not on the
13 screen. My question goes to whether the characterization of the information
14 on the GUI is non-functionally related to what the computer's doing.

15 MR. ARGENTI: Certainly the GUI has structure and function, and
16 this information that is presented to the user and interacted with by the user
17 is part of that structure and function.

18 JUDGE PETRAVICK: So is the structure and function of the
19 computer and the GUI, that's the same thing that the computer is doing,
20 right? You are not claiming that the computer has some sort of special way
21 of putting a visual representation on the GUI screen as opposed to a visual
22 indication. You're just using generic parts of a GUI or the way a computer
23 puts information on the screen. There's nothing different about the way the
24 computer works to put a representation or an indication on the screen.

25 MR. ARGENTI: I certainly disagree that this is generic information
26 that's being presented. It's specific information.

1 JUDGE PETRAVICK: It's information, yes. And the specific --
2 you're calling it a characterization as it is specific type of information as
3 opposed to how the computer is working. Are you saying --

4 MR. ARGENTI: The 101 analysis, which is where we are, does not
5 require an improvement to computer functionality. That is one relevant
6 consideration.

7 JUDGE PETRAVICK: But let me ask you a question. If I had a
8 computer screen and it had A, B, and C on it, and I claim that A, B, and C
9 represents credit card number or A, B, and C makes a whole word, is there
10 anything different about how that computer is putting it out there?

11 MR. ARGENTI: That's a very, no pun intended. That's a very
12 abstract question. So I think we're getting pretty far away from the
13 invention, the challenges and the problems with Petitioner's case.

14 JUDGE PETRAVICK: Okay. Thank you for your --

15 JUDGE HOSKINS: So Mr. Argenti, so I think perhaps an easier
16 question before you move on to 101, which I think is what you're about to
17 do. So, it is the interaction in between Grounds in the 27 PGR about the
18 '920 patent. So, the difference between Ground 1 and Ground 2. So,
19 Ground 2 is directed to Claim 11. So, just to orient you a little bit.
20 Dependent Claim 11, depends on Claim 1, it says the user input is a swipe
21 that causes the affordance to be slid. And so then, you know, Petitioner adds
22 Casey for that in Ground 2. Do you have any separate arguments in Ground
23 2 versus Ground 1, or just, as you've argued the case, does Ground 2 stand or
24 fall with Ground 1?

25 MR. ARGENTI: We do have separate arguments. If I remember
26 correctly, where they're relying on the slider, they're relying on a

1 combination with the payment button. So there, the problem is the same,
2 like the payment button doesn't satisfy it. Adding a slider function doesn't
3 change anything. And then, they don't have arguments.

4 JUDGE HOSKINS: So, but adding the slider would make it an, I'm
5 sorry, but adding the slider would make it an affordance under your
6 construction, correct?

7 MR. ARGENTI: Adding a slider could potentially make it an
8 affordance. The slider, I wouldn't say that all sliders are affordances, but
9 certainly if it is something that indicates its use, right? If the user is working
10 with the interface and gets an understanding from the slider of what its
11 function is and how to interact with it, then yes, that would make it an
12 affordance. But we still have the problem with indicating completion of the
13 transaction when their starting point is the Low payment button. And we've
14 explained why they haven't shown that that satisfies that part of the claim.

15 JUDGE HOSKINS: I see. Thank you very much.

16 MR. ARGENTI: And as we mentioned the 101, I do plan on getting
17 there. I'll go through the dependent claims just very quickly, just to point
18 out that we've identified many, many problems with their dependent claims
19 as well. One in particular, we turn to Slide 22 where the claim requires that
20 the information exchange between the user device and the payment accepted
21 unit indicates completion of the transaction. The big problem here is that
22 they're pointing to transaction history information in Low, but as we've
23 explained in our briefing, the transaction history information in Low starts
24 and ends at the payment server. It's not something that's ever described as
25 being exchanged between the user device and the vending machine.

1 Turning to, sorry, Slide 25. Actually, sorry, 24. These dependents
2 Claims 5 and 6 and 18 and 19 require that the information exchange between
3 the user device and the payment accepting unit indicates abortion of the
4 transaction. Again, they say this is contemplated in Low without pointing to
5 any disclosure. And as we see on Slide 25, we've explained and our expert
6 corroborates this, that it doesn't make sense to do it. Their theory is that if
7 the payment server decides that the transaction isn't going to go through, that
8 necessarily results in a message being sent to the user device and then also to
9 the vending machine. But Low doesn't say that. And why wouldn't the user
10 just walk away from the vending machine?

11 Dependent Claim 7 on Slide 26 recites the accelerometer claims, this
12 is very similar to what survived in the earlier PGR, and we discussed it. The
13 short version is the prior art, whether it's Arora or any other reference,
14 doesn't disclose this, and they haven't identified it. Low does not disclose
15 tracking that a user is walking away from the machine. I believe we
16 might've heard that earlier today. That's not the case. Low is talking about
17 tracking whether a user is approaching in different zone thresholds, and then
18 it has steps that it takes as the user approaches into a particular distance
19 threshold. It's not talking about tracking whether the user is walking away,
20 and it certainly isn't talking about avoiding a transaction if that occurs.

21 JUDGE ARBES: I'm sorry, Counsel. Low, or Arora?

22 MR. ARGENTI: Sorry, Arora. So, with that I'm going to move on to
23 Slide 30 and get into the collateral estoppel issue for the eligibility ground.
24 Petitioner argues that the Board should find the Challenged Claims ineligible
25 as a matter of collateral estoppel based on the '614 patent PGR. But the law
26 tells us the collateral estoppel only applies when the issue decided in the

1 earlier proceeding is identical to the one at issue here. And it says that
2 Petitioner has the burden of showing that. Turning to Slide 31, how did
3 Petitioner try to make their showing that the issues are identical in the
4 petition? The closest they got to arguing any identical issue is here on this
5 slide. They argued that the '920 Challenged Claims are materially identical
6 to the claims of the '614 patent that were found ineligible. The claims are
7 materially identical. That was their argument.

8 They said that the claims of the '920 patent are broader than the '614
9 patent, and they cited cases saying that the Board can apply collateral
10 estoppel against broader claims than ones previously found unpatentable. If
11 we look at Slide 32, the Challenged Claims are not broader, nor are they
12 materially identical. The '920, for example, '920 Claim 1 has many
13 limitations that are not found in the '614 patent, including the limitations that
14 they're also unable to show in the prior art. So if we turn to Slide 33, after
15 we pointed this difference out, they backed away from their materially
16 identical claims argument. They went from relying on the claims here being
17 allegedly broader to saying Patent Owner's focus on the alleged narrowing
18 of the '920 patent claims is not the proper inquiry. But that was their theory.
19 Their theory was that the claims are materially identical, so collateral
20 estoppel applies. They've gone from arguing that the claims are materially
21 identical to the arguing that the issues of patentability are identical.

22 But if we take a look at the text from Page 19 of their reply that's here
23 on this slide, it doesn't make sense. I'm not sure what they're trying to say
24 here, particularly in the highlighted portion, but no one is arguing the
25 novelty of the abstract idea of an identifier or a location. That is not even
26 the abstract idea that they presented in the petition or that the Board granted

1 institution on it. So what we do know is that the claims are different. Slide
2 34, faced with the distinctions between these claims, they argue that the new
3 elements are nothing more than conventional representations of data on a
4 well-known user interface. But that effectively asks the Board to perform a
5 101 analysis in order to determine that a 101 analysis is unnecessary. It's
6 circular. Nor has Petitioner been able to show that these new claim elements
7 can be excluded from a collateral estoppel analysis by assessing the claims
8 on a limitation-by-limitation basis. They haven't cited any case laws
9 supporting that position, and it contravenes the basic principle that a 101
10 analysis must consider the claims as an ordered combination of elements.

11 So turning to Slide 35, if we move past the collateral estoppel
12 assertion to assess the substantive 101 challenge, as we see on this slide,
13 Slide 35, their 101 ground is premised on the argument that the claims are
14 directed to the abstract idea of identifying a merchant and enabling
15 completion of a purchase from the merchant. You will not find that
16 language in the claims, which is a problem because less than a year ago, the
17 patent office provided guidance that it's important to distinguish between
18 claims that recite a judicial exception, like an abstract idea, and claims that
19 merely involve one. If the claims don't recite the alleged abstract idea, the
20 analysis can stop there. And here, this alleged abstract idea is not recited.
21 The Petitioner never even alleges that it is

22 JUDGE ARBES: But, Counsel, the Petitioner has pointed to certain
23 limitations of Claim 1 that allegedly constitute that abstract idea.

24 MR. ARGENTI: Well, that goes to the consideration of is it involved
25 or is it recited. So, they characterized the abstract idea in the petition in a
26 way that is not recited in the claims. The guidance says that's inappropriate.

1 JUDGE ARBES: Well, I guess then, if you can address why
2 Petitioner's argument is incorrect, that those limitations constitute this
3 abstract idea.

4 MR. ARGENTI: Sure. So turning to the next slide, Slide 36. We see
5 the problem with them straining to say that the claims are broadly directed to
6 the alleged abstract idea. They argue that nothing in Claim 1 integrates the
7 abstract idea into a practical application that imposes a meaningful limit.

8 JUDGE ARBES: But that's the next step. I'm talking about the first
9 step of the analysis, the Petitioner has pointed to specific limitations of
10 Claim 1 and has made the argument that those constitute this abstract idea.
11 So, why is that incorrect? Looking at those limitations, why do they not
12 constitute what they say the abstract idea is?

13 MR. ARGENTI: So I guess if we're to read the reminders that the
14 patent office issued last year as that recitation can encompass paraphrasing,
15 it sounds like it's kind of where we're going with that question. If
16 paraphrasing is allowed or a re-characterization of what the claims are, then
17 we run the real risk that we're characterizing things too broadly, which is
18 what we get to. So I guess even if we're going to give them credit for
19 identifying language that recites the alleged abstract idea without actually
20 reciting it, then we get to this problem of, well, that paraphrasing
21 characterizes things too broadly.

22 JUDGE ARBES: Well, that is true, and I understand the concern
23 about characterizing the claim too broadly. But every 101 analysis is in
24 some sense distilling or paraphrasing something into an alleged abstract
25 idea. It's not word for word the same as what's claimed. That seems to be
26 what you're holding Petitioner to.

1 MR. ARGENTI: That's certainly our reading of the reminders last
2 summer that the patent office issued. But if we have a differing view on
3 that, then that just gets us to this next step in this next problem. So turning
4 to Slide 36, they're straining to have a broad view. They're reading the claim
5 so broadly as to provide no meaningful limit beyond the abstract idea of
6 identifying a merchant and enabling completion of a purchase from that
7 merchant. That is an indefensible position when you look at the actual claim
8 language. It ignores the context of wireless communication between a
9 mobile device and a payment accepting unit. It ignores the recitation of an
10 interactive user interface with presentation of specific information and
11 receipt of user input. It ignores the elements that they've been unable to
12 show in the prior art. It's simply not plausible for Petitioner to argue our
13 claims have no limits beyond the abstract idea, which shows how
14 fundamentally flawed their 101 challenge is.

15 Now, I'll turn to Slide 38. They failed to show that they can -- they
16 failed to show *Alice* Step 1 and satisfied in terms of a ineligibility
17 conclusion. They also have problems with Step 2. They contend that the
18 claims fail *Alice* Step 2 because each of the claim elements apply the
19 abstract idea using well understood, routine, and conventional elements, they
20 cite their expert for this proposition. But when you look at his testimony as
21 we see here on this slide, he says that the claim elements are well-known,
22 routine, and conventional for the same reasons. The claims are obvious.

23 He confirmed during his deposition that he relied on his obviousness
24 analysis for his 101 opinions, but as we've explained, he never showed that
25 the claims were obvious. There are missing limitations that they can't point
26 to in the prior art. And one of those, the affordance, Dr. Neuman didn't even

1 understand what it meant. So their *Alice* Step 2 analysis collapses along
2 with their obviousness grounds for the same reasons. As the Federal Circuit
3 *Berkheimer* decision tells us, showing that a claim element was disclosed in
4 a reference is not enough to establish that it was well known routine and
5 conventional. But here they haven't even proven that the claim elements
6 were shown in the art.

7 JUDGE ARBES: Counsel, how do you distinguish the *cxLoyalty* case
8 that had to do with an intermediary between two things and that perhaps the
9 claims here do in some sense involve an intermediary of a mobile device
10 between a vending machine and the payment processing systems on the
11 backend? How do you distinguish that?

12 MR. ARGENTI: I think I understand that Petitioner would like to
13 make a case on analogizing to Federal Circuit decisions where claims were
14 found ineligible. I think that's not even the right approach here because of
15 the deficiencies in their case. I don't know whether there's a similarly
16 analogous case, which I'm not conceding on the case you mentioned, but
17 how can that overcome their flawed showing regarding routine and
18 conventional or their mischaracterization of the abstract idea? So, I think
19 that's a problem. beyond that, many, many of the cases that they cite relate
20 to what the courts found to be improvements to the financial transaction.
21 And we've shown here that ours is about the interface. It's about improving
22 not only the user's interaction with the provided user interface, but also the
23 communication between the vending machine and the user's mobile device.

24 In fact, even in the '614 final written decision, there was an
25 acknowledgement that there are technical problems and solutions described
26 in the specification, one of which is using the user's device as a

1 communication bridge between a vending machine and a server. And we
2 have that in some of our dependent claims. I had to move through those
3 pretty quickly. But we do have dependent claims that recite a server. So --

4 JUDGE ARBES: But that's not acting as an intermediary between the
5 vending machine and the payment processing on the backend?

6 MR. ARGENTI: It is acting, which is exactly what the -- so the
7 Board in the '614 decision said that that is a technical problem and solution,
8 but we don't see it recited in, for example, Claim 1 of the '614. My point
9 here is that it is recited in certain of our dependent claims. And even as to
10 the independent claims here, I'm not contending that there's a server recited
11 in the independent claims or that that is the solution being solved. Even as
12 to the independent claims, there is no dispute. Dr. Neuman agreed they
13 haven't contested this in the papers. There's no dispute that our claims, all of
14 them, the independent claims are directed to the manual mode in our
15 specification. And our specification lays out a hands-free mode. It
16 describes a manual mode. It explains the circumstances where each of those
17 might be appropriate and the solutions that each of those could describe our
18 claims are directed to the manual mode.

19 JUDGE ARBES: Can you point to a specific dependent claim that
20 you're talking about that had to do with a technical solution to facilitate that
21 communication?

22 MR. ARGENTI: Well, they all have to do with the technical solution,
23 but if you're asking about the ones that I was referring to for the server?

24 JUDGE ARBES: Sure.

25 MR. ARGENTI: Did you have that cite real quick? I can get you that
26 in just one second. Claims 4 and 17, Your Honor, are the ones that recite the

1 server where the user device is acting as the intermediary or what was
2 referred to as the communication bridge in the final written decision of the
3 '614 case.

4 JUDGE ARBES: Well, just looking at Claim 4 of the '423 patent.

5 MR. ARGENTI: That was Claim 4 and the 17 of the '920, but I didn't
6 mean to cut you off.

7 JUDGE ARBES: I think they might be the same actually. So Claim 4
8 recites sending the amount of the completed transaction. I guess, what
9 would you point to in that claim as the technical detail of that
10 communication?

11 MR. ARGENTI: It recites a long-range transceiver used for
12 communication with the server. And I think in both the '614 as well as the
13 833 earlier PGRs, those were found to be significant requirements,

14 JUDGE ARBES: The long-range transceiver.

15 MR. ARGENTI: So, and I know I'm running very short on time, I
16 will quickly turn to Slide 39. Petitioner's expert told us more in his
17 deposition. He said that he was instructed that the claims are directed to an
18 abstract idea. That's not his opinion. His opinion is that these claims are
19 obvious, but as I've discussed, they haven't proven that. And his opinion is
20 that the claims are directed to using any generic software and a generic
21 interface, but that's also not true. It ignores the specific details of the claims
22 as well as the interplay between elements. How can he conclude that it's a
23 generic interface when he doesn't even appreciate what an affordance is?
24 When you get past that? There's nothing left of their 101 analysis.

25 Petitioner bears the burden, but they haven't shown that the claims
26 recite the alleged abstract idea. They haven't shown that the claims are not

1 directed to a practical application, and they haven't shown that the claim
2 interface was routine and conventional. Simply repeating the word generic
3 over and over again is not a meaningful eligibility analysis. And then on
4 Slide 40, we've identified the overlapping issues. As I mentioned, most of
5 my discussion here has been directed to the '920. Slide 40 identifies
6 overlapping issues with the '423, and I think that's also laid out in our
7 briefing. So given that my time's just about up, unless you have any
8 questions, I'll take my seat.

9 JUDGE ARBES: Thank you, counsel.

10 MR. ARGENTI: Thank you.

11 JUDGE ARBES: That was all of your 60 minutes. So what we'll do
12 is add three minutes to Petitioner's presentation and give you three minutes
13 for sur-rebuttal.

14 MR. ARGENTI: Thank you.

15 MS. WAIDELICH: All right. Thank you very much. I will try to
16 respond to a few points there. First, I think responding to this argument
17 about dependent Claim 4 on the Section 101 arguments. The Board did look
18 at that Claim 4 in the '614 PGR and found that it was not patent eligible.
19 And I just pulled up the final written decision there. And this is the final
20 written decision in the '614 PGR, Page 45. We agree with Petitioner that
21 Claims 4, 6, 8, and 23 to 25 do not add meaningful limitations to the judicial
22 exception. And that the claim to subject matter, each of those claims is
23 patent ineligible.

24 I want to go back to the discussion of Low and the lengthy discussion
25 about initiation versus completion of the transaction. And, I think, I mean, I
26 think you have picked up on some of the problems here is that there isn't a

1 lot of clarity. And it has been used inconsistently by Patent Owner in
2 various multiple proceedings between here and the district court. That's a
3 big part of the problem. Patent Owner's counsel here talked about the dollar
4 bill being an affordance because it's indicating payment because it's a dollar
5 bill, but that is not what they've required for their infringement contentions
6 against my client. They just say any payment button whatsoever would
7 constitute an affordance that would infringe this limitation. And they've also
8 been inconsistent in what they've claimed to be the initiation versus the
9 completion of the transaction.

10 In the challenge that we filed to a related patent '772 patent, they
11 argued that Low did not teach initiation of a transaction because initiation
12 has to be selecting a product. And that's what the Board relied on in denying
13 institution in that proceeding. And now they're here arguing that Low does
14 not teach completion because it's teaching initiation of a transaction. So
15 there can't be any dispute that Low is teaching an initiation and a completion
16 of the transaction across the entire teaching of Low. That cannot be
17 disputed.

18 And so, to the extent there is any dispute about what the payment
19 button -- and there can't be any dispute that Low is teaching a payment
20 button as well. And so, as Patent Owner's counsel conceded, you know,
21 initiation and completion can at times be the same thing, then that is taught
22 by Low. There can't be any dispute about that.

23 JUDGE ARBES: Counsel, can you respond to Patent Owner's
24 argument? Let's talk about the dollar bill example. That the beginning of
25 the slide is indicating the initiation of a transaction, and then when you get to
26 the top of the screen where it shows the payment accepting unit, that is

1 indicating completion of the transaction. Why is that an incorrect reading of
2 what the Spec is talking about?

3 MS. WAIDELICH: Well, for one, I mean, first of all, the Patent
4 Owner says that. And I think you picked up on this, and were asking Patent
5 Owner's counsel about this. This is Slide 30 in Petitioner's slides. And in
6 the Column 36 that you were pointing to, it is talking about completing, you
7 know, performing a transaction, but the patent is explicit that swiping is
8 initiating the transaction. And the indication of the completion is the
9 Message 1306. So there's no specification support for Patent Owner's
10 interpretation of the sliding dollar bill along those lines.

11 JUDGE ARBES: But the applicant did claim affordance and not
12 message. And I understand your point about that portion of the specification
13 that says the message indicates completion of the transaction, but isn't it the
14 case that a message can indicate that, so can an affordance, and they chose
15 the latter?

16 MS. WAIDELICH: I think I would agree with that. I just don't think
17 there's any, you know, specification support for that interpretation. I think
18 it's contrary to the teachings and the internal intrinsic reference of this
19 patent.

20 The *Revvo* issue briefly, we are simply responding to the Patent
21 Owner's arguments here. And I'll be very clear, we have not taken a claim
22 construction position in the district court as I mentioned earlier. There's
23 nothing improper with us simply responding to. And for the most part,
24 Patent Owner does not dispute that Low teaches a payment button that
25 would indicate completion of the transaction. They simply take the position.
26 We should not be permitted to make that argument in response to their claim

1 construction argument. And we don't believe anything in the recent *Revvo*
2 decision or the subsequent decisions goes that far to prohibit a Petitioner
3 from responding to a claim construction in that way.

4 On the *Acoustic Technology* case, I think it's important to keep in
5 mind, and Patent Owner's counsel mentioned this, that was a complex
6 CDMA protocol technology case. And so yes, the expert there had more
7 detail as to mapping the prior reference to the CDMA standard. There's no
8 level of complexity similar here. This is simply would a person of skill in
9 the art, understand that this, you know, some pixels providing a visual
10 indication or some pixels providing an affordance, would that be taught by
11 Low? Those are very general high-level generic terms. And so, we look at
12 each patent and piece of prior art, you know, individually and a level of
13 expert analysis that may be required for a CDMA case or a life sciences case
14 is not required here, where the claim is simply requiring any visual
15 indication or any affordance.

16 And then finally on the suggestion that Dr. Neuman's analysis was
17 insufficient or inadequate because he did not consider every other alternative
18 embodiment taught by Low. Again, we don't believe that is required. He
19 offered the opinion that it is taught by Low. That a person of ordinary skill
20 in the art would understand that it was taught by Low. There's no
21 requirement that he go through and consider all the other embodiments that
22 are taught by Low that would not provide a visual indication.

23 JUDGE HOSKINS: Ms. Waidelich?

24 MS. WAIDELICH: Yes.

25 JUDGE HOSKINS: Can you confirm for me, you didn't submit a
26 reply declaration from your expert in this case, right? So in terms of the

1 testimony from your expert, we've got his original declaration and then
2 whatever he said on cross-examination during the deposition, right?

3 MS. WAIDELICH: Yes. That is correct.

4 JUDGE HOSKINS: Thank you.

5 MS. WAIDELICH: Okay. Unless there's any other questions I have
6 nothing further, and thank you very much. We would respectfully request
7 that the Board find all 20 claims of each of the patents unpatentable.

8 JUDGE HOSKINS: So, I do have a question for you.

9 MS. WAIDELICH: Sure.

10 JUDGE HOSKINS: I'm hoping since there's time if you could
11 address the dependent claims for a moment. So, I'm looking at your Slide
12 47, if you could pull that up.

13 MS. WAIDELICH: Yes.

14 JUDGE HOSKINS: So, the basic issue as I understand it, as argued
15 by Patent Owner, is that the problem with Claim 3 is that there's no
16 disclosure that there's an exchange of information between in Low between
17 the vending machine and the phone to indicate completion of the transaction.
18 So, can you help me understand better what is the Low disclosure that tells
19 us that there is information exchanged between, I guess, user device 110 and
20 vending machine 120 to indicate completion of the transaction?

21 MS. WAIDELICH: Sure. I think their argument is actually a little bit
22 different. I think their argument is that all of the transaction history
23 processing and all that information is located exclusively on the server. And
24 that their argument is that that information therefore is not exchanged
25 between the mobile device and the vending machine. And I think Dr.
26 Miller's deposition testimony on this is quite helpful. He looked at Low and

1 at -- this is Slide 47 Figure 1 of Low, all of the information that ever makes
2 it to the server is being exchanged through the user device. That's kind of
3 the whole purpose of Low. This is an offline, you know, vending machine
4 that has no sort of wireless or wired connectivity. And the mobile device is
5 essentially acting as that communication path.

6 So there may be information that ends up on the server that is not
7 transmitted back to the user device and through the vending machine, but all
8 of the information that is received, you know, from the vending machine to
9 the user device that is then provided to the server is coming through the path
10 between the mobile device and the available payment accepting unit. And
11 so, some authorization -- sorry, go ahead.

12 JUDGE HOSKINS: I apologize for interrupting. Then, would you
13 agree that the Claim 3 here on your slide does require an exchange of
14 information between the vending machine and the user device that indicates
15 completion of the transaction? Just from a matter of claim scope.

16 MS. WAIDELICH: Yes. I believe so.

17 JUDGE HOSKINS: Okay. So, how does Low do that?

18 MS. WAIDELICH: So, Low does that because there has to be
19 information exchanged between the mobile device and the available
20 payment accepting unit in order for the payment accepting unit to vend the
21 item that is purchased.

22 JUDGE HOSKINS: Well, yes, there's information exchanged. How
23 does that information indicate completion of the transaction?

24 MS. WAIDELICH: So, I don't think this is requiring that that
25 information that is indicating completion of the transaction as to the

1 additional limitation that that actually be displayed. And so if the vending
2 machine --

3 JUDGE HOSKINS: I don't think it has to be displayed.

4 MS. WAIDELICH: Right.

5 JUDGE HOSKINS: I'm just asking how is it exchanged?

6 MS. WAIDELICH: Sure. It's exchanged through, and you can see
7 this arrow, you know, between the vending machine 120 and the user device
8 110 in Figure 1 in order to complete the transaction, the user device has to
9 send information to the vending machine.

10 JUDGE HOSKINS: Once again, yes, there's information exchanged.
11 My question is how does that exchanged information indicate completion of
12 the transaction?

13 MS. WAIDELICH: And I think, I guess, if I understand your
14 question, and I apologize if I'm misunderstanding your question, I think that
15 is understood by a person of skill in the art because the mobile device has to
16 provide authorization or, you know, indicate that there's not a restriction or
17 limitation, you know, per the server in order to complete the transaction.
18 And that is information that is indicating completion of the transaction back
19 to the vending machine.

20 JUDGE HOSKINS: Thank you.

21 MS. WAIDELICH: Does that answer your question?

22 JUDGE HOSKINS: I appreciate the response.

23 MS. WAIDELICH: Okay. If there's no further questions, thank you
24 for your time this morning.

25 JUDGE ARBES: Thank you, Counsel.

1 MR. ARGENTI: All right. We heard counsel contend that Patent
2 Owner says that any payment button will satisfy the claim. That is not the
3 case. In our Patent Owner response, we pointed out distinctions between the
4 swipe-to-pay feature in our specification and Low's payment button, and
5 they had no response. I think we heard them say that there's no requirement
6 for their expert to consider all the other embodiments taught by Low. That
7 sounded to me like willful disregard for the full scope and content of the
8 prior art. So a failed *Graham* analysis. As to the earlier questions about the
9 importance, what is the importance of the visual indication in the claims?
10 How does it improve anything? How does it improve the operation of a
11 computer? I would point to the *Trading Technologies* case as one example
12 that we cited in our papers. In that case GUI the structure and function of a
13 graphic user interface, including the information presented, was deemed to
14 convey patent eligibility.

15 JUDGE PETRAVICK: I believe there's quite a few *Trading*
16 *Technology* cases.

17 MR. ARGENTI: The case that is --

18 JUDGE PETRAVICK: Last one, there is a case where -- the first
19 *Trading Technology* case was not a precedential case at the CFC. There
20 have been subsequent *Trading Technology* cases where they said the
21 information in a spreadsheet is just -- the information characterized does not
22 improve the GUI. So, in *Trading Technologies* under the precedential case
23 of the CFC, just simply having information and characterizing that
24 information in the spreadsheet does not improve the patent eligibility
25 because the information was only such that it was indicated a certain type of
26 information in the human mind.

1 MR. ARGENTI: Right. Which is --

2 JUDGE PETRAVICK: Not the functionality. Here, we have
3 something very similar. We have a GUI; we have information on the GUI.
4 What form that information takes, whether it's a visual indication or visual
5 representation, it's just something that a human recognizes in the mind.

6 MR. ARGENTI: I would assert --

7 JUDGE PETRAVICK: For example, if your visual -- I know, I have
8 long questions. Your visual representation is a washing machine or a
9 parking meter, the computer doesn't recognize that as a washing machine or
10 a parking meter. It just says, I'm going to put these pixels on this GUI in this
11 order. Only the human recognizes that the order of those pixels on that GUI
12 is a washing machine or that order of pixels on the GUI is a meter. I don't
13 believe that you can put a distinction as to the characterization of the
14 information if it doesn't change how the computer is operating in some
15 respect. For example, a computer that sends a message, the content of the
16 message doesn't change how the computer operates. The computer just sees
17 it as a bunch of zeros and ones.

18 So, just sending a message, you can't have patentability distinctions
19 based on the fact that a human would recognize that message as being
20 something when it -- nothing to change the underlying computer. That is
21 what I'm trying to grapple with in these claims as to at what point does these
22 messages or representations that are characterized at some point import
23 patentability as opposed to not import patentability. And you're telling me
24 that the visual representation has to be a picture as opposed to an indication.
25 And that's what I'm looking for is some distinction in the algorithm
26 (phonetic) itself.

1 MR. ARGENTI: Should I go ahead, Your Honor?

2 JUDGE PETRAVICK: Go ahead now. Thank you.

3 MR. ARGENTI: Okay. I think it's important to look at the claim as a
4 whole. It's not simply about the information or particular type of
5 information that's being presented. It's about the structure and function of
6 the GUI. And so *Trading Technologies* and other cases say that the structure
7 and function of a user interface can be relevant. And it's relevant here.

8 JUDGE PETRAVICK: Yes. But they're only relevant in some
9 situations. I'm telling you, I'm very familiar with the *Trading Technologies*
10 cases and the apparatus that function there. And that is not how that cases
11 go throughout all of the cases -- they do not stand for all GUIs are patent
12 eligible. It looks at what the GUI is doing and how it affects the function of
13 the computer. And that's what I'm asking you to tell me. I've been trying to
14 pull that out of you.

15 MR. ARGENTI: Understood, Your Honor, and I don't have any
16 better answer for you now than I did earlier in terms of a specific
17 improvement to computer functionality. I don't think that the burden should
18 be shifted or can be shifted to us to prove an improvement to computer
19 functionality. Petitioner's case is deficient. It's been deficient from the
20 beginning and it remains so today. Any other questions?

21 JUDGE ARBES: Thank you, Counsel.

22 MR. ARGENTI: Thank you.

23 JUDGE ARBES: We thank both parties for your presentations today.
24 A final written decision in each case will be issued in due course. And that
25 concludes the hearing for today.

PGR2025-00027 (Patent 11,966,920 B2)

PGR2025-00028 (Patent 11,972,423 B2)

1 (Whereupon, the above-entitled matter went off the record at 11:42
2 a.m.)

PGR2025-00027 (Patent 11,966,920 B2)

PGR2025-00028 (Patent 11,972,423 B2)

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