UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioner,

v.

SLYDE ANALYTICS, LLC,
Patent Owner.

IPR2024-00002
Patent 9,651,922 B2

Before JAMESON LEE, ST. JOHN COURTENAY III, and
JOHN F. HORVATH *Administrative Patent Judges.*

Opinion of the Board filed by Administrative Patent Judge Lee.

Opinion Dissenting filed by Administrative Patent Judge Horvath.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Samsung Electronics Co., Ltd and Samsung Electronics America, Inc. ("Petitioner") filed a Petition requesting an *inter partes* review of claims 1–24 ("challenged claims") of U.S. Patent 9,651,922 B2 (Ex. 1001, "the '922 patent") pursuant to 35 U.S.C. §§ 311–319. Paper 3. Slyde Analytics, LLC ("Patent Owner") filed a Preliminary Response. Paper 7 ("Prelim. Resp.").

With our authorization, Petitioner filed a Preliminary Reply (Paper 11, "Prelim. Reply") to address Patent Owner's arguments in the Preliminary Response regarding discretionary denial under 35 U.S.C. § 325(d) and 35 U.S.C. § 314(a), and Patent Owner filed a Preliminary Sur-reply (Paper 12, "Prelim. Sur-reply")

We have authority to determine whether to institute an *inter partes* review. *See* 35 U.S.C. § 314 (2018); 37 C.F.R. § 42.4(a) (2023). An *inter partes* review may not be instituted unless the information presented in the Petition "shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a). Upon consideration of the contentions and the evidence of record before us, we conclude Petitioner has not shown a reasonable likelihood that it would prevail in establishing unpatentability of any challenged claim of the '922 patent.

Accordingly, we decline to institute *inter partes* review.

II. BACKGROUND

A. *Real Parties in Interest*

Petitioner identifies itself as real party in interest. Pet. 1. Patent Owner identifies itself as real party in interest. Paper 5, 2.

B.   *Related Matters*

Both Petitioner and Patent Owner identify the following litigations involving the '922 patent as related matter: *Slyde Analytics LLC v. Samsung Electronics Co., Ltd., et al.*, Case No. 2-23-cv-00083 (E.D. Texas) and *Slyde Analytics LLC v. Zepp Health Corporation*, Case No. 2-23-cv-00172-RWS-RSP (E.D. Texas). Pet. 1; Paper 5, 2.[1]

C.   *The '922 Patent*

The '922 patent is directed to a wristwatch comprising a digital matrix display, a two-dimensional sheet of touch-sensitive glass provided with a plurality of electrodes for detecting the movements of at least one finger along two different directions, and a processing circuit which interprets signals from the electrodes and which scrolls cards on the display to replace the initially displayed card with another card, where the scrolling direction depends on the direction of the movements. Ex. 1001, code (57).

With respect to "card," the '922 patent states:

> In the present description, the term, "card" describes a control, or widget, displayed on the watch's graphical interface to represent on the entire screen a unit such as the current time, a phase of the moon, a chronograph display etc. A card comprises a screen background image designed to occupy the entire watch screen; this image can be fixed, for example for displaying a photograph, or periodically refreshed, for example for displaying the current time. The card can furthermore be associated to a function (computer program or module) determining the indications displayed on the screen background; for example, a card can be associated to a program computing and displaying, in a text or graphic form, the phase of the moon. A card can furthermore define the behavior of the haptic interface and the

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[1] Patent Owner incorrectly identified the case numbers as beginning with "3-23" rather than "2-23." Paper 5, 2.

functions or modules that are to be launched depending on the movements of the finger on the screen.

Ex. 1001, 4:17–32.

With regard to navigation or scrolling of cards on the display screen, the '922 patent describes:

> Thus, navigating in the watch's graphical interface is achieved by having virtually juxtaposed cards scroll past, so as to replace the entire image of one card by another image corresponding for example to a card and for displaying another function. It is thus possible to avoid the disadvantage of conventional graphical interfaces in which the launching of programs or functions is achieved by selecting a miniscule icon of the program on the screen background.

Ex. 1001, 4:33–40. It is described that the scrolling from one card to another can correspond to a mode switch of the wristwatch, for example, a switch from "display of the current time" mode to "display of another time zone" mode. *Id.* at 5:5–11.

The '922 patent explains that its wristwatch has the advantage "that it is very easy to switch from one card to another by simple horizontal or vertical movements of the finger on the glass in order to cause juxtaposed cards to scroll past." *Id.* at 5:1–4.

Claims 1, 9, 23, and 24 are independent and reproduced below:[2]

> 1. [1[pre]] A wristwatch having:

[1[a]] a digital matrix display;

[1[b]] a sheet of touch-sensitive glass;

[1[c]] a processing circuit specifically laid out so as to interpret the signals from the touch-sensitive glass, for selecting a

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[2] The bracketed labels correspond to those used by Petitioner to reference the claim elements. *See* Pet. 13–22, 32–34, 41–45. We use the same labels here for ease of reference, understanding, and consistency.

card from several available cards depending on these signals and for displaying said card on the entire digital matrix display;

[1[d]] wherein said touch-sensitive glass is a two-dimensional glass for detecting a movement of at least one finger at any place on the touch-sensitive glass along at least two different directions;

[1[e]] wherein said processing circuit is specifically laid out so as to cause said several available cards to scroll past in order to lastingly replace the initially displayed card with a replacement card selected between said several available cards, wherein each card of said several available cards has a distinct fixed or periodically refreshed image,

[1[f]] wherein the size of the image corresponds to the size of said digital matrix display so that the displayed card occupies the whole of said digital matrix display;

[1[g]] wherein one card of said several available cards and occupying the entire digital matrix display is immediately and without further user intervention replaced after the scrolling by a different card of said several available cards that occupies the entire digital matrix display;

[1[h]] wherein said processing circuit is further laid out so that the replacement card is dependent from the initially displayed card and from the direction of said movement and is independent from the starting point and end point of said movement on said digital matrix display.

Ex. 1001, 13:60–14:25.

9. [9[pre]] A method for replacing an initially displayed card displayed by a wristwatch by a replacement card, the method having the following steps:

[9[a]] detecting a direction of a movement of at least one finger at any place and along at least two different directions on a two-dimensional touch-sensitive glass;

[9[b]] [1] scrolling on a digital matrix display of several available cards so as for said scrolling to stop of itself so

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as to align an edge of the replacement card with an edge of the matrix display, [2] wherein one card of said several available cards and occupying the entire digital matrix display is replaced after the scrolling, immediately and without further user intervention, by a different card selected between said several available cards and occupying the entire digital matrix display; [3] and wherein the scrolling direction depends only on the direction of said movement so that said replacement card is dependent from the initially displayed card and from the direction of said movement and is independent from the starting point and end point of said movement on said digital matrix display;

[9[c]] [1] lastingly displaying the replacement card on the whole of said digital matrix display, wherein each card of said several available cards has a distinct fixed or periodically refreshed image, [2] the size of the images corresponding to the size of said digital matrix display.

Ex. 1001, 14:53–15:11.

23. [23[pre]] A wristwatch having:

[23[a]] a digital matrix display;

[23[b]] a sheet of touch-sensitive glass;

[23[c]] [1] a processing circuit specifically laid out so as to interpret the signals from the touch-sensitive glass, for selecting a card from several available cards depending on these signals and for displaying said card on the entire digital matrix display, [2] wherein each card has a distinct fixed or periodically refreshed image;

[23[d]] wherein said touch-sensitive glass is a two-dimensional glass for detecting a movement of at least one finger at any place on the touch-sensitive glass along at least two different directions;

[23[e]] [1] wherein said processing circuit is specifically laid out so as to cause said several available cards to scroll past by displaying the image of said cards one at a [time] on the digital matrix display in order to lastingly replace

the initially displayed card with a replacement card selected within said several available cards, [2] immediately after the scrolling and without further user intervention;

[23[f]] wherein the size of the image corresponds to the size of said digital matrix display so that the displayed card occupies the whole of said digital matrix display;

[23[g]] wherein said processing circuit is further laid out so that the replacement card is dependent from the initially displayed card and from the direction of said movement and is independent from the starting point and end point of said movement on said digital matrix display.

Ex. 1001, 16:1–28.

24. [24[pre]] A wristwatch having:

[24[a]] a digital matrix display;

[24[b]] a sheet of touch-sensitive glass;

[24[c]] a processing circuit specifically laid out so as to interpret the signals from the touch-sensitive glass, for selecting a card from several available cards depending on these signals and for displaying said card on the entire digital matrix display;

[24[d]] wherein said touch-sensitive glass is a two-dimensional glass for detecting a movement of at least one finger at any place on the touch-sensitive glass along at least two different directions;

[24[e]] wherein said processing circuit is specifically laid out so as to cause cards to scroll past in order to lastingly replace the initially displayed card with a replacement card, wherein each card has a fixed or periodically refreshed image;

[24[f]] wherein the size of the image corresponds to the size of said digital matrix display so that the displayed card occupies the whole of said digital matrix display;

[24[g]] wherein said processing circuit is further laid out so that the replacement card is dependent from the initially

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displayed card and from the direction of said movement
and is independent from the starting point and end point
of said movement on said digital matrix display.

Ex. 1001, 16:29–56.

D.   *Evidence relied on by Petitioner*

Petitioner relies on the following reference:[3]

Name	Patent Document	Exhibit
Hepp[4]	US Patent 6,449,219 B1	1007
Biggs[5]	US Patent 6,714,486 B2	1012
Duarte[6]	US Patent 8,296,684 B2	1010
Hotelling[7]	US Pub. App. 2006/0097991 A1	1006
Park[8]	US Pub. App. 2008/0062207 A1	1011
Louch[9]	US Pub. App. 2008/0168368 A1	1005

Petitioner also relies on the Declaration of Benjamin B. Bederson,
Ph.D. Ex. 1002. Patent Owner's Preliminary Response and Preliminary
Sur-reply do not rely on the testimony of any expert witness.

E.   *Asserted Ground of Unpatentability*

Petitioner asserts that the challenged claims of the '922 patent are
unpatentable based on the following grounds (Pet. 13, 45, 47, 52, 82):

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[3] The '922 patent issued from Application No. 13/334,823, filed Dec. 22,
2011, which is a continuation of PCT/EP2010/059323, filed June 30, 2010.
Ex. 1001, codes (21), (22), (63). The '922 patent claims priority to CH
1036/09, filed July 3, 2009. *Id.* at code (30).
[4] Issued September 10, 2002. Ex. 1007, code (45).
[5] Issued Mar. 30, 2004. Ex. 1012, code (45).
[6] Issued October 23, 2012, based on Application 12/126,145, filed May 23,
2008. Ex. 1010, codes (21), (22), (45).
[7] Issued May 11, 2006. Ex. 1006, code (43).
[8] Published March 13, 2008. Ex. 1011, code (43).
[9] Published July 10, 2008. Ex. 1005, code (43).

Claims Challenged	35 U.S.C. §[10]	Reference(s)/Basis
1–4, 6–19, 21–24	103	Louch
5, 20	103	Louch, Hepp
8, 13–17, 21, 22, 24	103	Louch, Duarte
23	103	Louch, Park
1–13, 17–24	103	Duarte, Biggs, Hotelling
14–16	103	Duarte, Biggs, Hotelling, Louch

III.   ANALYSIS

A.   *Level of Ordinary Skill in the Art*

Petitioner asserts the following with respect to the level of ordinary skill in the art:

> A person of ordinary skill in the art at the relevant time ("POSITA") would have had a bachelor's degree in electrical engineering, computer science, computer engineering, or a related field, and 2-3 years of experience in the research, design, development, or testing of graphical user interfaces, touchscreens, and mobile devices, with additional education substituting for the experience and vice-versa.

Pet. 6 (citing Ex. 1002 ¶¶ 37–38).

Patent Owner states that for the purposes of the Preliminary Response, it "utilizes Petitioner's proposed level of skill in the art." Prelim. Resp. 7.

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[10] The Leahy-Smith America Invents Act, Pub. L. No. 112–29, 125 Stat. 284 (2011) ("AIA"), amended 35 U.S.C. §§ 102 and 103. Based on the record before us, we determine that the '922 patent has an effective filing date prior to the effective date of the applicable AIA amendments (March 16, 2013). We, therefore, refer to the pre-AIA version of 35 U.S.C. § 103.

On this record, we adopt Petitioner's statement of the level of ordinary skill in the art. It is supported by the cited testimony of Dr. Bederson and not disputed by Patent Owner. Further, it appears consistent with what is reflected by the content of the applied prior art references. *Cf. Okajima v. Bourdeau*, 261 F.3d 1350, 1354–55 (Fed. Cir. 2001) (the applied prior art may reflect an appropriate level of skill).

B.   *Claim Construction*

We use the same claim construction standard that would be used to construe a claim in a civil action under 35 U.S.C. § 282(b), including construing the claim in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent. 37 C.F.R. § 42.100(b) (2022). The claim construction standard set forth in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc) is applicable.

Claim terms are generally given their ordinary and customary meaning as would be understood by one with ordinary skill in the art in the context of the specification, the prosecution history, other claims, and extrinsic evidence including expert and inventor testimony, dictionaries, and learned treatises, although extrinsic evidence is less significant than the intrinsic record. *Phillips*, 415 F.3d at 1312–17. Usually, the specification is dispositive, and it is the single best guide to the meaning of a disputed term. *Id.* at 1315.

The specification may reveal a special definition given to a claim term by the patentee, or the specification or prosecution history may reveal an intentional disclaimer or disavowal of claim scope by the inventor. *Id.* at 1316. If an inventor acts as his or her own lexicographer, the definition

must be set forth in the specification with reasonable clarity, deliberateness, and precision. *Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1249 (Fed. Cir. 1998). The disavowal, if any, can be effectuated by language in the specification or the prosecution history. *Poly-Am., L.P. v. API Indus., Inc.*, 839 F.3d 1131, 1136 (Fed. Cir. 2016).

Only those claim terms that are in controversy need to be construed, and only to the extent necessary to resolve the controversy. *Realtime Data, LLC v. Iancu*, 912 F.3d 1368 (Fed. Cir. 2019) ("The Board is required to construe 'only those terms . . . that are in controversy, and only to the extent necessary to resolve the controversy.'" (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

Petitioner asserts that "Petitioner does not believe any term requires construction." Pet. 6. Patent Owner asserts that it "believes that claim construction is not required to resolve any issues." Prelim. Resp. 7. We agree that on this record it is not necessary to conduct express claim construction for any term.

C. *Alleged Obviousness of Claims 1–4, 6–19, 21–24 over Louch*

1. *Overview of Louch*

Louch generally relates to graphical user interfaces. Ex. 1005, ¶ 5. It describes that many deficiencies of conventional user interfaces can be reduced by using "widgets." *Id.* ¶ 8. "Generally, widgets are user interface elements that include information and one or more tools that let the user perform common tasks and provide fast access to information." *Id.* Louch describes that widgets can be displayed and accessed through a "dashboard." *Id.* Louch further describes that users of new consumer electronics devices

will benefit from dashboard and widget configurations that take into account device limitations and attributes. *Id.* ¶ 9. Specifically, Louch describes:

> A device includes a touch-sensitive display and a processor operatively coupled to the display. The processor is operable for presenting a widget on the display in response to touch input. The processor is configurable for generating a dashboard environment including a number of widgets, and for allowing the widgets to be scrolled in multiple directions in the display by a user touching the display and gesturing with one or more fingers.

Id. ¶ 18.

2. Independent Claim 1

Together, limitations 1[e], 1[f], and 1[g] present one issue and a corresponding deficiency in the manner Petitioner has applied the prior art. These limitations are as follows:

> 1[e] wherein said processing circuit is specifically laid out so as to cause said several available cards to scroll past in order to *lastingly replace the initially displayed card with a replacement card* selected between said several available cards, wherein each card of said several available cards has a distinct fixed or periodically refreshed image,
>
> 1[f] *wherein the size of the image corresponds to the size of said digital matrix display so that the displayed card occupies the whole of said digital matrix display*;
>
> 1[g] wherein one card of said several available cards and *occupying the entire digital matrix display is immediately and without further user intervention replaced after the scrolling by a different card of said several available cards that occupies the entire digital matrix display*;

Ex. 1001, 14:5–20 (emphasis added).

According to limitations 1[e], 1[f], and 1[g], a card which *occupies the entire digital matrix display* must, after the scrolling, be *immediately and*

without further user intervention, replaced by a different card that *occupies the entire digital matrix display*. For reasons discussed below, we are not sufficiently persuaded by Petitioner that this requirement is met by Louch, even for institution purposes.

Petitioner asserts:

> Louch discloses processing circuitry specifically laid out [to] enable scrolling through cards/widgets. *See* Element 1[c] (Section XII.A.1.d).
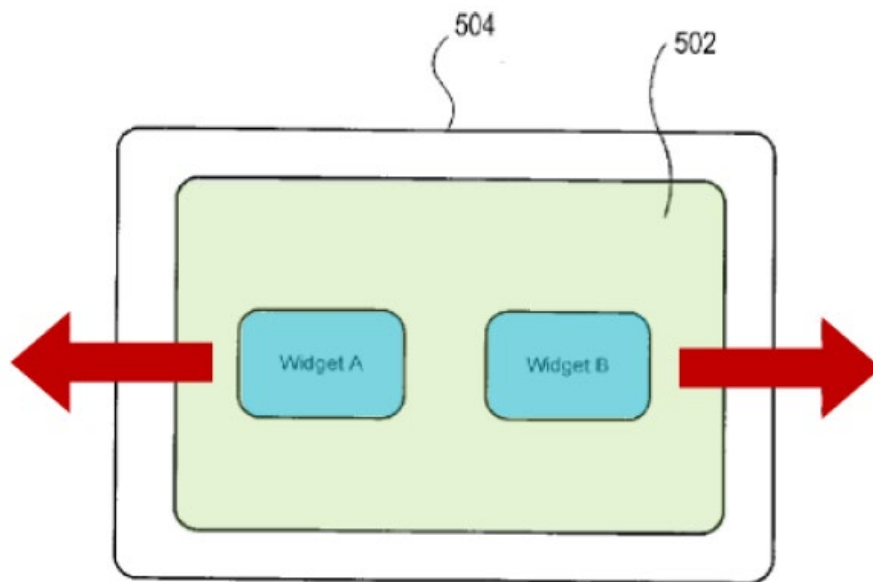

FIG. 5B

[Figure 5B of Louch illustrates Louch's process of organizing dashboards and widgets. Petitioner has color annotated this version of Figure 5B to show the widgets, the direction arrows for scrolling, and the display surface]

"In some implementations, the user can scroll (horizontally or vertically) through dashboards or widgets across the display area 502 by touching the widgets and making the appropriate finger gestures in horizontal or vertical directions." Ex-1005 ¶80. This causes "widgets [to] be continuously scrolled by the display 514 in a Rolodex® manner and slowly decelerate to a stop." *Id*. ¶87. When the scrolling stops, the replacement card/widget thus lastingly replaces the initially displayed card/widget. Ex-1002 ¶109.

Pet. 19–20. The above contentions do not account for the 1[g] requirement that the replaced card and the replacement "different card" must occupy the entire digital matrix display.[11]

Petitioner further explains:

Louch's widgets may "consume the entire display area" (Ex-1005 ¶67), and may be "scrolled across the display area 502 of the device 504 using a finger or stylus" (*Id*. ¶¶79–80). Louch allows a user "to scroll through open or closed widgets" (*id*. ¶87) wherein a widget that is "opened" has been "expanded to consume substantially all of the multi-touch-sensitive display area." *Id*. ¶81. And "the user can make a single touch and gesture and widgets will be continuously scrolled by the display 514 in a Rolodex® manner and slowly de-accelerate to a stop." *Id*. ¶87. *Thus, Louch teaches scrolling through widgets that occupy the entire display* and that the scrolling can slow to a stop without further user intervention. During such scrolling, one card/widget would "immediately and without further user intervention" replace another card/widget and "occupy[] the entire digital matrix display." Ex-1002 ¶¶116–17.

Pet. 21–22 (footnote omitted) (emphasis added).

The assertion that Louch teaches scrolling through widgets that occupy the entire display is not sufficiently persuasive. Paragraph 67 of

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[11] We express no view on whether claim 1 requires all cards passing by the display area during scrolling must occupy the entire digital matrix display. It is not necessary to make that determination to arrive at our decision here.

Louch does not discuss scrolling of widgets. It is unsupported assertion that this sentence in paragraph 67 refers to the appearance of a widget during scrolling: "The widget 402 can consume the entire display area or a portion thereof." Ex. 1005 ¶ 67. Rather, paragraph 87 specifically discusses scrolling and states that the user can touch the display of a device with one or more fingers and make a gesture in any direction "to scroll through open or closed widgets." *Id*. ¶ 87. An open widget, however, does not occupy the entirety of the display. Louch describes: "a widget can be opened in a user interface (e.g., in response to multi-touch input) and expanded to consume substantially all of the multi-touch-sensitive display area." *Id*. ¶ 81. Simply put, "substantially all" of a digital matrix display is not the same as "the entire digital matrix display."

Further, Louch describes, in the context of scrolling: "When a desired dashboard/widget is found, the user can click or touch the dashboard/widget to invoke the widget. In some implementations, when the dashboard/widget is invoked the dashboard/widget is displayed to cover the entire display area 502 (full screen)." Ex. 1005 ¶ 80. Accordingly, in Louch, after the scrolling of widgets it is *not* "without further user intervention" (1[g]) to cause a widget to expand to cover the entire digital matrix display, i.e., the full screen, from either an open widget or a closed widget which had been involved in the scrolling process. Therefore, the negative limitation of 1[g] ("without further user intervention") does not appear to be taught or suggested by Louch. We note also that this expansion to full screen subsequent to scrolling is alone sufficient context for the statement in paragraph 67 that "[t]he widget 402 can consume the entire display area."

In a footnote within Petitioner's discussion on page 21 of the Petition, Petitioner adds: "It would have been obvious to apply the same teaching to Figure 5B and to a wearable device such as a watch," referring to Louch's description in paragraph 67 that widget 402 "can consume the entire display area 406 or a portion thereof." Pet. 21 (citing Ex. 1002 ¶¶ 51–59, 116). No reasoning or rationale, however, is provided in the Petition for sizing the scrolling widgets to fill the whole or entirety of the display. Only a conclusory statement of obviousness is provided in the footnote. We have reviewed each of the cited paragraphs in Dr. Bederson's Declaration and could find nothing supportive in that regard in any of cited paragraphs 51–59 for Petitioner's conclusory statement about sizing the scrolling widgets to the whole or entirety of the display.

There is one sentence in the last cited paragraph, paragraph 116 of Dr. Bederson's Declaration, which provides a reasoning for sizing the scrolling widgets to be the whole or entirety of the display. However, we decline to consider it, because "[a]rguments must not be incorporated by reference from one document into another document." 37 C.F.R. § 42.6(a)(3). Also, embedding reasoning in the expert's Declaration and not expressly stating the same in the Petition fail to give Patent Owner adequate notice to respond. Patent Owner did not respond to this extraneous argument, improperly incorporated by reference from Dr. Bederson's Declaration into the Petition.

For the foregoing reasons, Petitioner has not adequately shown that Louch discloses limitation 1[g].

We determine, on this record, that Petitioner has not shown a reasonable likelihood that it would prevail in establishing that claim 1 would have been obvious over Louch.

3. Independent Claim 9

Limitation 9[b][2] is essentially the same as limitation 1[g]. Petitioner relies on the same arguments it presents for limitations 1[f] and 1[g] to account for limitation 9[b][2]. Pet. 33. Those arguments have already been addressed above in the discussion of claim 1 and are deemed insufficiently persuasive. Petitioner has not adequately accounted for limitation 9[b][2]. Thus, Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of claim 9 over Louch.

4. Dependent Claims 2–4, 6–8, 10–19, 21, and 22

Claims 2–4 and 6–8 each depend, directly or indirectly, from claim 1. The deficiency of Petitioner's accounting for claim 1, as discussed above, equally apply to claims 2–4 and 6–8.

Claims 10–19 and 21 each depend, directly or indirectly, from claim 9. The deficiency of Petitioner's accounting for claim 9, as discussed above, equally apply to claims 10–19, 21, and 22.

Accordingly, Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of claims 2–4, 6–8, 10–19, 21, and 22 over Louch.

5. Independent Claim 23

Limitation 23[e] and 23[f] are substantively similar to limitation 1[e], 1[f], and 1[g]. Petitioner relies on the same arguments it presents for limitations 1[e], 1[f] and 1[g] to account for limitation 23[e] and 23[f]. Pet. 43–44. Those arguments have already been addressed above in the

discussion of claim 1 and are deemed insufficiently persuasive. For similar reasons discussed above on why Petitioner failed to make an adequate showing for limitation 1[g], Petitioner has failed to make an adequate showing for limitations 23[e] and 23[f].

Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of claim 23 over Louch.

6. *Independent Claim 24*

Limitation 24[e] and 24[f] are substantially similar to limitation 1[e] and 1[f]. Petitioner relies on the same arguments it presents for limitation 1[e] and 1[f] to account for limitation 24[e] and 24[f]. Pet. 43, 44, 80–81. Petitioner relies on each widget allegedly occupying the whole of the digital matrix display. Pet. 20 ("When the scrolling stops, the replacement card/widget thus lastingly replaces the initially displayed card/widget."); *id.* at 21 ("a widget 'can consume the entire display area 406.'").

In discussing claims limitations 1[e], 1[f], and 1[g] in the context of claim 1, however, we already explained why the record does not support Petitioner's position that in Louch the scrolling widgets moving across the display area would each occupy the whole or entirety of the digital matrix display. Accordingly, Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of claim 24 over Louch.

D. *Alleged Obviousness of Claims 5 and 20 over Louch and Hepp*

Claim 5 depends from claim 1 and claim 20 depends from claim 9. Ex. 1001, 14:37–41, 15:49–51. The deficiency of Petitioner's accounting for claim 1 as obvious over Louch equally applies to claim 5 and the deficiency of Petitioner's accounting for claim 9 as obvious over Louch equally applies to claim 20. Petitioner's application of Hepp does not relate

to or cure the noted deficiencies. Accordingly, Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of claims 5 and 20 over Louch and Hepp.

E.   *Alleged Obviousness of Claims 8, 13–17, 21, 22, and 24 over Louch and Duarte*

Claim 8 depends from claim 1. Ex. 1001, 14:51–52. Claims 13–17, 21, and 22 each depend, directly or indirectly, from claim 9. *Id*. at 15:22–40, 15:52–57. The deficiency of Petitioner's accounting for claim 1 as obvious over Louch equally applies to claim 8 and the deficiency of Petitioner's accounting for claim 9 as obvious over Louch equally applies to claims 13–17, 21, and 22. Petitioner's application of Duarte does not relate to or cure the noted deficiencies. Petitioner's application of Duarte also does not relate to or cure the deficiency of Petitioner's accounting of claim 24 as obvious over Louch discussed above.

Accordingly, Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of claims 8, 13–17, 21, 22, and 24 over Louch and Duarte.

F.   *Alleged Obviousness of Claim 23 over Louch and Park*

Petitioner's application of Duarte does not relate to or cure the deficiency of Petitioner's accounting of claim 23 as obvious over Louch discussed above. Accordingly, Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of claim 23 over Louch and Park.

G. *Alleged Obviousness of Claims 1–13 and 17–24 over*
   Duarte, Biggs, and Hotelling

 1. *Overview of Duarte*

Duarte relates to navigation of applications in computing devices. Ex. 1010, 1:18–21. A computing device runs two or more activities concurrently and provides at least two modes for interacting with the activities. *Id.* at 2:56–59. A user can toggle between the two modes as desired. *Id.* at 2:59. There is a "full screen mode," in which one activity "occupies substantially an entire display screen." *Id.* at 2:62–63. There is a "windowed mode," in which an activity having focus is within a window that is visible in full and in which at least one other window is only partially visible. *Id.* at 2:64–3:1. Duarte describes that in the windowed mode, the user can cause the windows to move on the screen, so as to change focus from one activity to another. *Id.* at 3:1–4. Regarding moving windows, Duarte describes:

> For example, the window having focus can be moved off the screen, to be replaced by a new window that is then given focus. In one respect, the activities are ordered in a sequence and the windows appear in a corresponding sequence. In one respect, the window moves in concert with one another; pushing one window off one edge of the screen causes a new window to appear at the opposite edge. A persistent positional relationship can be established among window.
>
> In one embodiment, in response to a user command, the windows shift position on the screen, so that the window that currently has focus becomes only partially visible and one of the other windows becomes fully visible and has focus. The windows move in concert with each other, in response to user commands.

Id. at 3:4–19. A user may indicate window movement by direct manipulation of the displayed windows on a touch screen, such as "by

"dragging the central window to the left or to the right on the screen or by tapping on a window that is partially displayed." *Id*. at 3:31–35.

Duarte further describes that after moving the windows to have the desired window in focus, a user "can indicate that the display should return to full-screen mode, so that the activity having focus occupies substantially the entire screen." *Id*. at 3:49–53. "Alternatively, the device can return to full-screen mode automatically after a period of time elapses where no window movement takes place, or if the user starts to interact with the activity that has focus." *Id*. at 3:53–56. Duarte states: "Thus, the full-screen display mode may be used for interacting with the activity, and the windowed mode may be used for switching from one activity to another." *Id*. at 3:57–59.

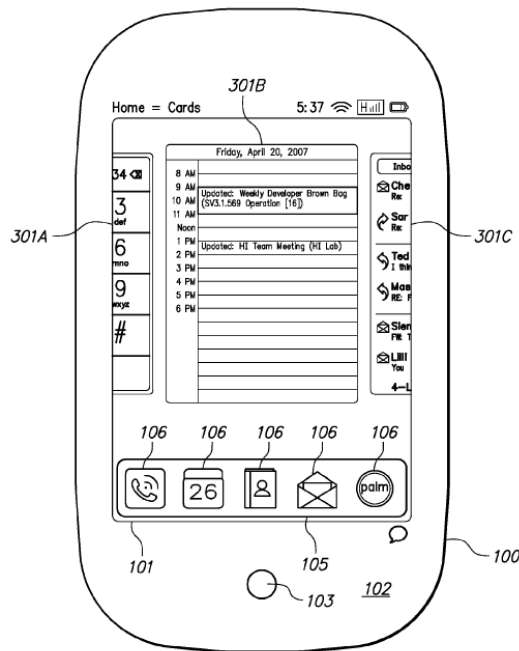Figure 3 of Duarte is reproduced below:

FIG. 3

Figure 3 depicts the display screen in windowed mode, including a window having focus and two partially displayed windows. Ex. 1001, 4:21–24.

In Figure 3, window 301B having focus is fully visible; other windows 301A and 301C do not have focus and are only partially visible . Ex. 1010, 6:30–33. Any number of partially displayed windows can be presented. *Id*. at 6:35–37. A user can designate a window 301 and 301C to have focus by touching any area within the window, which causes the designated window to move to the central portion of display screen 101 and causes other windows to move as well so that the same positional sequence is maintained. *Id*. at 6:48–54. A user can designate a new window to have focus by dragging any displayed window to cause the desired window to move to the central portion of display screen 101, because as one window moves other windows move as well to maintain the positional sequence. *Id*. at 6:54–59. Duarte further describes:

> In one embodiment, the user can move windows 301 left and right by dragging a finger along gesture area 102. In one embodiment, such a gesture can be performed even in full-screen mode, causing windows 301 to move left and right in the same manner as described above for windowed mode.

Id. at 6:59–63. Duarte explains that if the user drags a window 301 to place it sufficiently close to the central position to make clear that the intention is to give that window focus, then that window would snap into the central position upon completion of the drag operation and other windows 301 also would snap into place accordingly to maintain the same positional sequence. *Id*. at 7:6–12.

2. Overview of Biggs

Biggs is a patent titled "System and Method for Customized Time Display." Ex. 1012, code (54). It discloses a system and method for producing and displaying chronological data according to user specified parameters. *Id*. at code (57). The system includes a translation engine for

combining the parameters and a plurality of supplemental display data, to provide a translation template. *Id.* "The template helps to control the presentation of chronological data in a synchronized fashion by reformatting the chronological data into a translated display format, thereby providing to the user a personalized tome display." *Id.* The parameters and the supplemental display data are alterable by the user to present a unique and personalized time display sequence. *Id.* Biggs describes that its device can include "an alarm clock, cellular phones, mobile computers, home computers, pagers, wristwatches, and other PDAs with an appropriate resolution display 22 for obtaining and coordinating the display of the data 20." *Id.* at 3:43–48.

A portion of Biggs's Figure 2b is reproduced below:
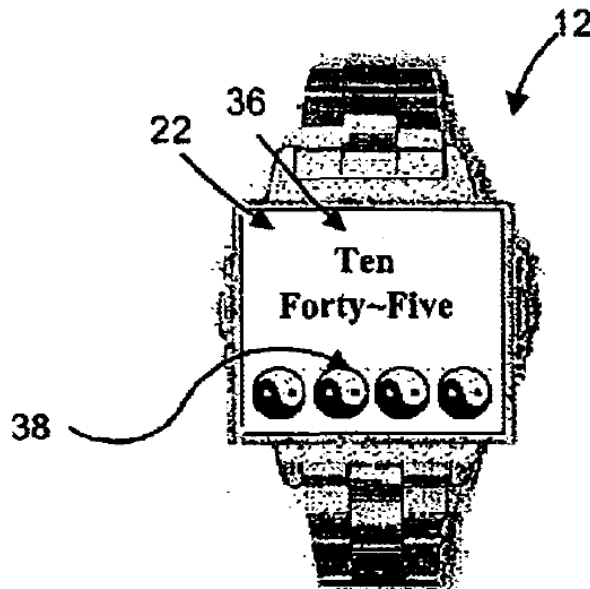
[Figure 2 of Biggs, including Figures 2a, 2b, and
2c, illustrates sample displays on Biggs's display
device. Ex. 1012, 3:2–3.]

Biggs' time display 22, as shown, contains language component 36 and graphic minute indicator component 38, where the minute indicator can

be used to indicate the passage of minutes or other time units as specified by the user. Ex. 1012, 4:44–48.

3.   *Overview of Hotelling*

Hotelling is a published patent application titled "Multipoint Touchscreen." Ex. 1006, code (54). It states:

> A touch panel having a transparent capacitive sensing medium configured to detect multiple touches or ear touches that occur at the same time and at distinct locations in the plane of the touch panel and to produce distinct signals representative of the location of the touches on the plane of the touch panel for each of the multiple touches is disclosed.

Id. at code (57). Figures 8A and 8B of Hotelling are reproduced below:
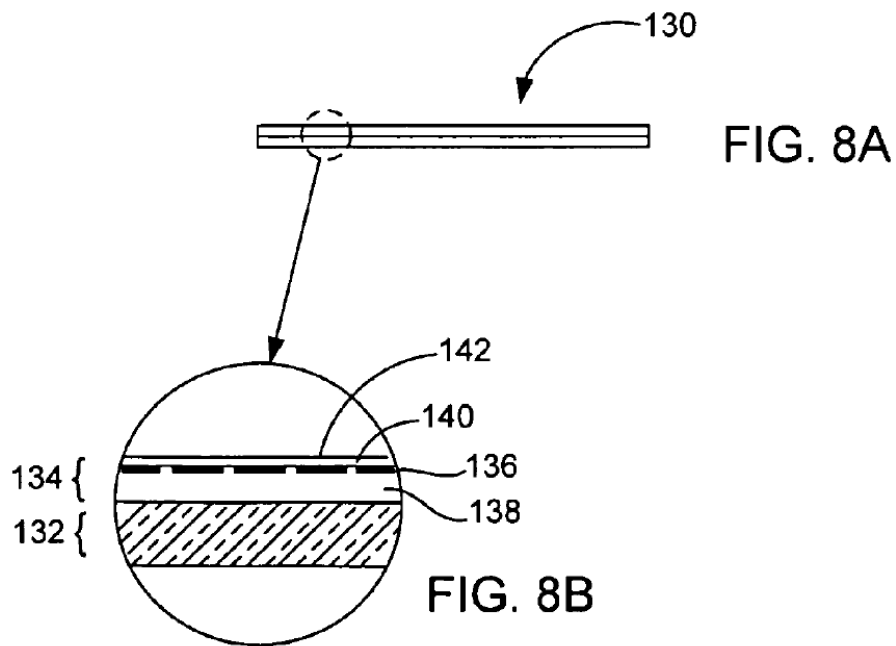
[Figures 8A and 8B are elevation views of a cross section of Hotelling's display. Ex. 1006, ¶ 24]

Hotelling describes that touchscreen 134 includes transparent electrode layer 136 and that glass member 138 may be a portion of touch screen 134. Ex. 1006 ¶ 71. Electrode layer 136 is disposed on glass

member 138. *Id.* Touchscreen 134 also includes protective cover sheet 140 which is disposed over electrode layer 136. *Id.* ¶ 72.

4. Independent Claim 1

Petitioner relies on Biggs's disclosure of a wristwatch including a display driver and device interfaces controlled by a processor, an LCD display which is touch-sensitive, and a processing circuit which interprets signals from the touch-sensitive display. Pet. 53–56. Petitioner relies on Hotelling for its description that an LCD is a "matrix" display and that its touchscreen can be made of glass. *Id.* at 54–55.

Petitioner relies on Duarte for its disclosure of a processing circuit which interprets signals from a touch-sensitive display. Pet. 56. Specifically, Petitioner relies on Duarte's disclosure of interactions between a user and various "windows" displayed on the touchscreen. *Id.* at 56–57. Petitioner contends that it would have been obvious to one of ordinary skill in the art to implement such teachings of Duarte designed for small screens "into the watch form factor of Biggs." *Id.* at 58.

Together, limitations 1[e], 1[f], and 1[g] present one issue and a corresponding deficiency in the manner Petitioner has applied the prior art. These limitations are as follows:

> 1[e] wherein said processing circuit is specifically laid out so as to cause said several available cards to scroll past in order to *lastingly replace the initially displayed card with a replacement card* selected between said several available cards, wherein each card of said several available cards has a distinct fixed or periodically refreshed image,
>
> 1[f] *wherein the size of the image corresponds to the size of said digital matrix display so that the displayed card occupies the whole of said digital matrix display*;

1[g] wherein one card of said several available cards and
> *occupying the entire digital matrix display is immediately and without further user intervention replaced after the scrolling by a different card of said several available cards that occupies the entire digital matrix display*;

Ex. 1001, 14:5–20 (emphasis added).

Petitioner asserts that the claimed cards correspond to Duarte's windows. Pet. 56. Petitioner explains:

> A user may drag windows left or right on the touch screen to select one window 301 from several available application windows 301, as shown in Figure 3 [color annotated by Petitioner to show windows in green]. Ex-1010, 6:54–59, 6:64–7:17.
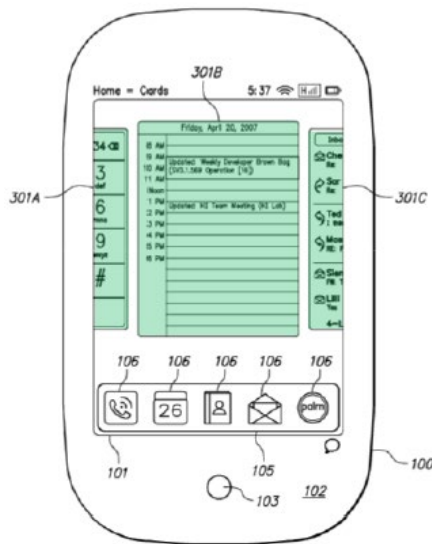

FIG. 3

> [Figure 3 depicts Duarte's display screen in windowed mode, including a window having focus and partially displayed windows. Ex. 1010, 4:21–24]

Id. at 56–57. Petitioner also color annotates Duarte's Figure 7 (focused window framed in purple and all windows colored in green) to illustrate the switching from one focused window to another:
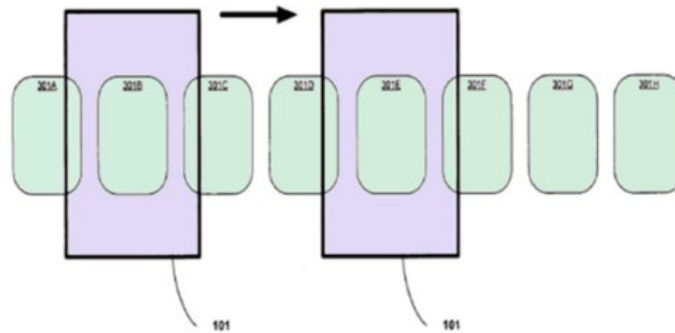
FIG. 7

[Figure 7 depicts sequence switching from one activity to another. Ex. 1010, 4:34–36]

Pet. at 60. Petitioner states: "When a user stops scrolling, new window 301E lastingly replaces the initial window 301B. Ex-1002 ¶ 275." *Id.*

Petitioner asserts: "Moreover, 'a gesture can be performed even in full-screen mode, causing windows 301 to move left and right in the same manner as described above for windowed mode.' Ex-1010, 6:60–63." Pet. 58. Petitioner explains: "Duarte teaches that 'in a full-screen mode, one activity occupies *substantially an entire display screen*.' Ex-1010, 2:62–63; *see also id.*, 6:3–19. Duarte also teaches that windows 301 can be scrolled in full-screen mode. *Id.*, 6:59–63." Pet. 61 (emphasis added).

Petitioner further explains:

> Duarte teaches dragging windows in full-screen mode. Ex-1010, 6:60–63. Once a user drags a window "sufficiently close to the central position to make it clear that the intention is to give the window 301 focus, the window 301 snaps into the central position upon completion of the dragging operation." Ex-1010, 7:6–10. With full-screen scrolling, this snap-into-central-position feature means one window replaces another on the entire display without further user intervention. Ex-1002 ¶ 282.

Pet. 61–62.

But "substantially an entire display screen" does not satisfy the claimed "whole of said digital matrix display" of limitation 1[e] or the claimed "entire digital matrix display" of limitation 1[f]. Even in "full screen" mode, Duarte's windows do not occupy the whole or the entire display screen. Petitioner presents no reasoning why or even an assertion that "substantially an entire" is the same as the "whole" or the "entire." Petitioner also presents no argument that "substantially an entire" display would have suggested to one of ordinary skill in the art the "whole" or the "entire" display.

Petitioner has not sufficiently shown that limitations 1[f] and 1[g] are met by the combined teachings of Duarte, Biggs, and Hotelling.

Accordingly, Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of claim 1 over Duarte, Biggs, and Hotelling.

5. *Independent Claim 9*

Limitation 9[b][2] is essentially the same as limitation 1[g]. Petitioner relies on the same arguments it presents for limitations 1[f] and 1[g] to account for limitation 9[b][2]. Pet. 72. Those arguments have already been addressed above in the discussion of claim 1 and are deemed insufficiently persuasive. Petitioner has not adequately accounted for limitation 9[b][2]. Thus, Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of claim 9 over Duarte, Biggs, and Hotelling.

6. *Dependent Claims 2–8, 10–13, and 17–22*

Claims 2–8 each depend, directly or indirectly, from claim 1. Ex. 1001, 14:26–52. Claims 10–13 and 17–22 each depend, directly or indirectly, from claim 9. *Id.* at 15:12–25, 15:36–57. The deficiency of

Petitioner's accounting of claim 1, as discussed above, equally apply to claims 2–8. The deficiency of Petitioner's accounting of claim 9, as discussed above, equally apply to claims 10–13 and 17–22.

Accordingly, Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of any of claims 2–8, 10–13, and 17–22 over Duarte, Biggs, and Hotelling.

7. *Independent Claim 23*

Limitation 23[e] and 23[f] are substantively similar to limitation 1[e], 1[f], and 1[g]. Petitioner relies on the same arguments it presents for limitations 1[e], 1[f] and 1[g] to account for limitation 23[e] and 23[f]. Pet. 80–81. Those arguments have already been addressed above in the discussion of claim 1 and are deemed insufficiently persuasive. For similar reasons discussed above on why Petitioner failed to make an adequate showing for limitations 1[f] and 1[g], Petitioner has failed to make an adequate showing for limitations 23[e] and 23[f].

Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of claim 23 over Duarte, Biggs, and Hotelling.

8. *Independent Claim 24*

Limitation 24[e] and 24[f] are substantially similar to limitation 1[e] and 1[f]. Petitioner relies on the same arguments it presents for limitation 1[e] and 1[f] to account for limitation 24[e] and 24[f]. Pet. 80–81. Petitioner relies on its treating Duarte's full-screen mode as having each scrolling window occupy the whole or the entire display. Pet, 58, 61–62.

In discussing claims limitations 1[e], 1[f], and 1[g] in the context of claim 1, however, we already explained why in Duarte's full-screen mode each window still does not occupy the whole or the entire display. For the

same reasons why Petitioner has not sufficiently shown limitation 1[f] is met by Duarte, Petitioner has not sufficiently shown that limitations 24[e] and 24[f] are met by Duarte.

Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of claim 24 over Duarte, Biggs, and Hotelling.

H.   *Alleged Obviousness of Claims 14–16
     over Duarte, Biggs, Hotelling, and Louch*

Claims 14–16 each depend, directly or indirectly, from claim 9. Ex. 1001, 15:26–35. The deficiency of Petitioner's accounting of claim 9 as obvious over Duarte, Biggs, and Hotelling, as discussed above, equally applies to claims 14–16. Petitioner's application of Louch in this alleged ground of obviousness does not relate to or cure the deficiency of Petitioner's accounting of claim 9 as obvious over Duarte, Biggs, and Hotelling. Accordingly, Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of claims 14–16 over Duarte, Biggs, Hotelling, and Louch.

I.   *Discretionary Denial Under 35 U.S.C. § 325(d)*

Patent Owner contends that we should exercise discretion to deny institution under 35 U.S.C. § 325(d). Prelim. Resp. 25–29. We need not reach the issue of discretionary denial under 35 U.S.C. § 325(d), because we determine Petitioner has not shown a reasonable likelihood that it would prevail in establishing that any challenged claim of the '922 patent is unpatentable.

J.   *Discretionary Denial Under 35 U.S.C. § 314(a)*

Citing *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11, at 6 (PTAB March 20, 2020) (precedential), Patent Owner urges that the "circumstances of the parallel District Court Litigation necessitate denial of the Petition under the Board's precedent, as every [*Fintiv*] factor considered in relation to efficiency, fairness, and the merits supports denial." Prelim. Resp. 18–19. We need not reach the issue of discretionary denial under 35 U.S.C. § 314(a) and *Fintiv*, because we determine Petitioner has not shown a reasonable likelihood that it would prevail in establishing that any challenged claim of the '922 patent is unpatentable.

IV.   CONCLUSION

For the foregoing reasons, we determine that Petitioner has not shown a reasonable likelihood that Petitioner would prevail in showing that at least one of claims 1–24 of the '922 patent is unpatentable.

V.   ORDER

It is ORDERED that no *inter partes* review is instituted in this proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

———————————

BEFORE THE PATENT TRIAL AND APPEAL BOARD

———————————

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioner,

v.

SLYDE ANALYTICS, LLC,
Patent Owner.

———————————

IPR2024-00002
Patent 9,651,922 B2

———————————

HORVATH, *Administrative Patent Judge, dissenting.*

I. DISSENTING OPINION

I respectfully dissent from the majority's reasoning to deny institution of *inter partes* review.[12] I find independent claim 1 does not require scrolled cards to be displayed full screen, and even if it did, both Loach and Duarte disclose scrolling cards full screen. I further find both Louch and Duarte replace a full-screen card with a full-screen replacement card "immediately and without further user intervention" after scrolling.

———————————

[12] This dissent should not be construed as a finding that Petitioner has or has not met its burden of showing a reasonable likelihood that the claims are unpatentable over the asserted grounds because it does not include a complete analysis of Petitioner's contentions or Patent Owner's counter-contentions.

A. Claim 1 does not require Scrolled Cards to be Displayed Full-Screen

Claim 9 recites "[a] method for replacing an initially displayed card . . . [with] a replacement card." Ex. 1001, 14:53–55. The method involves scrolling among several available cards such that "one card of said several available cards and occupying the entire digital matrix display is replaced . . . by a different card selected between said several available cards and occupying the entire digital matrix display." *Id.* at 14:60–67. The claim further states that "each card of said several available cards has a distinct fixed or periodically refreshed image, the size of the images corresponding to the size of said digital matrix display." *Id.* at 15:8–11.

Although claim 9 requires the available cards to have images corresponding to the size of the digital matrix display, it does not require the available cards to occupy the entire display when scrolled. This is evident from claim 18, which depends from claim 9 and states that "the size of the displayed cards is *reduced* during scrolling, so as to display several cards simultaneously." *Id.* at 15:41–43 (emphasis added). If claim 9 required available cards to be displayed full-screen when scrolled, claim 18 would be invalid for lack of enablement because it would require an impossibility— displaying scrolled cards full-screen (based on the incorporated limitations of claim 9) *and* displaying scrolled cards with a reduced size (based on the express limitation of claim 18). *See* 35 U.S.C. § 112 ¶ 4 ("A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers."); *EMI Group North America, Inc. v. Cypress Semiconductor Corp.*, 268 F.3d 1342, 1348 (Fed. Cir. 2001) ("A claimed invention having an inoperable or impossible claim limitation . . . certainly lacks an enabling disclosure under 35 U.S.C. § 112.").

Claims are construed, where appropriate, to preserve their validity. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1327–28 (Fed. Cir. 2005) (en banc) (Acknowledging "the maxim that claims should be construed to preserve their validity" but limiting the doctrine to cases where "the PTO would have recognized that one claim interpretation would render the claim invalid, and . . . would not have issued the patent assuming that to be the proper construction of the term."). Such is the case here, because as explained above, construing claim 9 to require displaying scrolled cards full-screen would require finding claim 18 invalid for lack of enablement. By contrast, construing claim 9 to allow scrolled cards to be displayed either full-screen or reduced-screen, preserves the validity of claim 18.

Claim 1 recites the same or substantially the same limitations as claim 9. *Compare* Ex. 1001, 14:15–20 (claim 1 reciting "wherein one card of said several available cards and occupying the entire digital matrix display is immediately and without further user intervention replaced after the scrolling by a different card of said several available cards that occupies the entire digital matrix display"), *with id.* at 14:62–67 (claim 9 reciting substantially the same limitation); *compare id.* at 14:7–14 (claim 1 reciting "lastingly replace the initially displayed card with a replacement card selected between said several available cards, wherein each card of said several available cards has a distinct fixed or periodically refreshed image, wherein the size of the image corresponds to the size of said digital display matrix so that the displayed card occupies the whole of said digital matrix display"), *with id.* at 15:7–11 (claim 9 reciting "lastingly displaying the replacement card on the whole of said digital matrix display, wherein each card of said several available cards has a distinct fixed or periodically

refreshed image, the size of the images corresponding to the size of said digital display matrix").

Like claim 9, claim 1 requires an initial card ("one card of said available cards") and its replacement ("replaced after the scrolling by a different card") to be displayed full screen ("occupying the entire digital matrix display"). *Id.* at 14:15–20. It also requires the cards available for scrolling to *have* full-screen images. *Id.* at 14:9–13 ("each card of said several available cards has a distinct . . . image, wherein the size of the image corresponds to the size of said digital display matrix"). But claim 1 does not require the available cards to be displayed full-screen during scrolling; it only requires them to have full-screen images so that when a replacement card is selected the replacement card is displayed full-screen. *Id.* at 14:6–14 ("cause said several available cards to scroll past in order to *lastingly replace the initially displayed card with a replacement card* selected between said several available cards, wherein each card of said several available cards has a distinct . . . image, wherein the size of the image corresponds to the size of said digital display matrix *so that the displayed card* occupies the whole of said digital matrix display") (emphases added). This last limitation requires the available cards to have full-screen images *so that* the displayed card can be "lastingly replaced" with a replacement card that is displayed full-screen. It says nothing about how the available cards are displayed during scrolling. Had the applicant intended to require the available cards to be displayed full-screen during scrolling it could have easily done so (e.g., by reciting "wherein each card of several available cards has a distinct . . . image, wherein the size of the image corresponds to the size of said digital matrix display <u>and</u> ~~so that the~~

~~displayed card~~ occupies the whole of said digital matrix display <u>during scrolling</u>"). Instead, the applicant chose language for claim 1 that is substantial similar to the language in claim 9, which does not require displaying scrolled images full-screen for the reasons explained above. Thus, claim 1 does not require displaying scrolled images full-screen. *See Acromed Corp. v. Sofamar Danek Group, Inc.,* 253 F.3d 1371, 1382 (Fed. Cir. 2001) (finding that when the same term appears in the same or different claims it should be construed to have "a meaning broad enough to apply to each of these" claims) (citing *Digital Biometrics, Inc. v. Identix, Inc.*, 149 F.3d 1335, 1345 (Fed. Cir. 1998) (finding the same term repeated in the same claim should have the same meaning), *Fonar Corp. v. Johnson & Johnson*, 821 F.2d 627, 632 (Fed. Cir. 1987) (rev'd on other grounds) (finding the same term repeated in different claims should have the same meaning).

The Specification supports my construction of claims 1 and 9. The only Figures that illustrate scrolling between an initial card and its replacement are Figures 3a–3d. Ex. 1001, 5:22–35 (describing Figures 3a–3d as an illustration of "the watch display after a vertical scroll command has been entered to replace the initially displayed card with another card"). Figures 3a–3d are reproduced below.

Fig. 3a   Fig. 3b   Fig. 3c   Fig. 3d
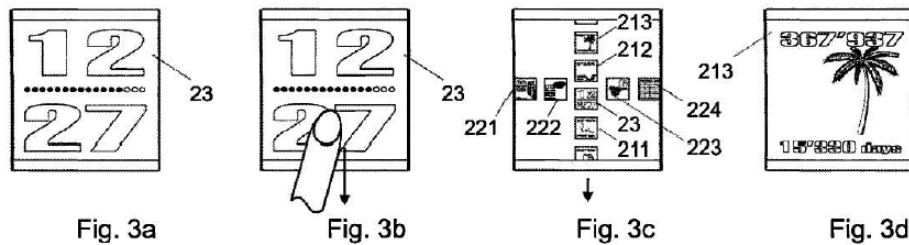
Figures 3a-3d illustrate "a horizontal [sic, vertical] scrolling sequence that allows the starting card 23 displayed in Fig. 3a to be replaced by card 213 of Fig. 3d." *Id.* at 8:43–45. When a user wishes to replace card 23 "he enters . . . a vertical scroll command by moving his finger from top to bottom anywhere on the watch glass." *Id.* at 8:47–51, Fig. 3b. In response, "successive cards of column 21 scroll past automatically and continuously in the scrolling direction" and are displayed "in reduced size during scrolling." *Id.* at 8:52–57, Fig. 3c. My constructions of claims 1 and 9 include this embodiment, which the Specification describes as an "advantageous embodiment [where] the processor displays simultaneously several cards in reduced size during scrolling." *Id.* at 8:55–57. Consequently, it is likely to be the correct construction. *See Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1583 (Fed. Cir. 1996) (construing a claim term such that a preferred embodiment would not fall within its scope is "rarely, if ever, correct").

B. *Louch Displays Scrolling Full-Screen Cards*

Louch discloses displaying dashboards and widgets on electronic devices, including a clock "widget 402 [that] can consume the entire display area 406" of a device "or a portion thereof." Ex. 1005 ¶ 67, Fig. 4A.[13] For location-aware devices, "[w]hen a widget is invoked or opened, the widget displays default information that is related to the user's current geographic location." *Id.* ¶ 70. Thus, Louch teaches that invoking a widget opens the widget and displays its information. Indeed, Louch teaches that when a "dashboard/widget is invoked the dashboard/widget is displayed to cover the

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[13] Patent Owner does not dispute Petitioner's mapping of Louch's "widgets" to the '922 patent's "cards," a mapping with which I agree.

entire display area . . . (full screen)" and when "a user taps on a widget icon, an active widget corresponding to the icon can be displayed full screen." *Id.* ¶¶ 80, 84, Fig. 5B. Louch also teaches scrolling through open (i.e., previously "invoked or opened") widgets. *Id.* ¶ 87 ("a user uses one or more fingers to scroll between open widgets by making the appropriate gestures").

The majority finds Louch does not teach scrolling through full-screen widgets because Louch discloses implementations in which "a widget can be opened in a user interface . . . and expanded to consume substantially all of the . . . display area" and the majority finds that "substantially all" of a digital matrix display is not the same as "the entire digital matrix display." Maj. Op. at 15; Ex. 1005 ¶ 81. I disagree with this finding for the following reasons.

First, "substantially" is a term of art, and "substantially all of the . . . display area" is a hedge that means all of the display area or essentially all of the display area. *See Ecolab, Inc. v. Envirochem, Inc.*, 264 F.3d 1358, 1367 (Fed. Cir. 2001) ("[L]ike the term 'about,' the term 'substantially' is a descriptive term commonly used in patent claims to 'avoid a strict numerical boundary to the specified parameter.'"); *see also Amhil Enters., Ltd. v. Wawa, Inc.*, 81 F.3d 1554, 1562 (Fed. Cir. 1996) (construing "substantially vertical" faces to mean "well-defined faces that deviate only slightly, *if at all*, from the vertical") (emphasis added). Thus, Louch's disclosure of open widgets that occupy *substantially all* of the display area teaches or at the very least suggests open widgets that occupy the *entire* display area.

Second, paragraph 81 of Louch is but one of many relevant disclosures. Louch also teaches that "[w]hen a widget is invoked or opened"

it displays information (*id.* ¶ 70), that when "invoked the dashboard/widget is displayed to cover the entire display area" (*id.* ¶ 80), that a widget "can consume the entire display area" (*id.* ¶ 67), and that when "a user taps on a widget icon, an active widget . . . can be displayed full screen" (*id.* ¶ 84). "It is well settled that a prior art reference is relevant for all that it teaches to those of ordinary skill in the art." *In re Fritch*, 972 F.2d 1260, 1262 (Fed. Cir. 1992). Moreover, a reference "'must be considered not only for what it expressly teaches, but also for what it fairly suggests.'" *In re Baird*, 16 F.3d 380, 383 (Fed. Cir. 1994) (internal citation omitted). Considered as a whole, Louch teaches displaying open widgets full-screen. *See Belden v. Berk-Tek LLC*, 805 F.3d 1064, 1079 (Fed. Cir. 2015) ("Board members, because of expertise, may more often find it easier to understand and soundly explain the teachings and suggestions of prior art without expert assistance.").

For the reasons discussed above, I disagree with the majority's reasoning to reject the Petition because Louch fails to disclose scrolling widgets full-screen. *See* Maj. Op. at 14–16.

C. Louch Displays a Replacement Card Full-Screen Immediately and Without Further User Intervention.

Louch teaches scrolling open widgets and allowing the scrolling to automatically stop, resulting in an initial widget being replaced with a different widget "without further user intervention." In particular, Louch teaches that a user can use "one or more fingers to scroll between open widgets by making the appropriate gestures," where "[t]he speed of the scrolling is controlled by the speed of the finger gestures" and gradually decreases because the scrolling is "animated to give the impression of friction" so that "the user can make a single touch and gesture and widgets

will be continuously scrolled by the display. . . and slowly de-accelerate to a stop." *Id.* ¶ 87. That is, Louch teaches that a user can "invoke[] or open[]" a widget (*id.* ¶ 70) by "tap[ping] on a widget icon [so that] an active widget corresponding to the icon can be displayed full screen" (*id.* ¶ 84) and can "scroll between open widgets" (*id.* ¶ 87) by "making a *single* touch and gesture [so that] widgets will be continuously scrolled . . . and *slowly de-accelerate to a stop*" (*id.*) (emphases added). This teaches the claim 1 limitation requiring one card to be "immediately and without user intervention replaced *after the scrolling* by a different card." Ex. 1001, 14:15–18 (emphasis added).[14]

I disagree with the majority's finding that Louch does not teach this limitation because it discloses "[w]hen a desired dashboard/widget is found" during scrolling "the user can click or touch the dashboard/widget to invoke the widget." Maj. Op. at 15 (citing Ex. 1005 ¶ 81). Petitioner doesn't rely on this embodiment[15] of Louch to teach replacing one widget with another without user intervention. Instead, Petitioner relies on Louch's open widget

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[14] The '922 patent teaches a similar scrolling method that causes an initial card to be replaced with a replacement card "without further user intervention." The scroll is initiated with a finger gesture, "[t]he cards' scrolling speed . . . depend[s] on the speed and/or amplitude of the finger's movement" and "diminishes progressively, as if friction were slowing [it] down," and the scroll "stops of its own accord after a determined instant or when the scrolling speed falls below a threshold." Ex. 1001, 8:60–9:18.

[15] The '922 patent also teaches an embodiment where user intervention is required to replace one card with another. Specifically, it teaches that during scrolling a user "can himself stop the scrolling when the correct card is displayed—for example by giving a brief tap of the finger on the center of the screen." Ex. 1001, 9:19–21.

scrolling embodiment where the scrolling, once started, automatically stops so that an initial open widget is replaced with a different open widget "immediately and without further user intervention." *See* Pet. 21–22 (citing Ex. 1005 ¶ 87).

For the reasons discussed above, I disagree with the majority's reasoning to reject the Petition because Louch fails to disclose replacing one card with another "without further user intervention." *See* Maj. Op. at 15.

D. Duarte Displays Scrolled Cards Full-Screen

Like Louch, Duarte also teaches scrolling through cards that are displayed full-screen.[16] Duarte principally teaches two distinct modes, a "full-screen mode" in which "one activity occupies substantially an entire display screen" and a "windowed mode" in which "the activity is visible within a window, and a portion of at least one other window is also available." Ex. 1010 2:62–66. Duarte teaches a windowed mode scrolling embodiment that allows a user to "cause windows to move on the screen, so as to change focus from one activity to another." *Id.* at 3:2–4. However, Duarte also teaches a full-screen scrolling embodiment—a "gesture can be performed even in full-screen mode, causing windows 301 to move left and right in the same manner as described above for windowed mode." *Id.* at 6:61–63.

The majority finds these disclosures fail to teach limitations 1[e] or 1[f] because Duarte teaches full-screen activities occupy "substantially an entire display screen" and that does not satisfy the claim 1 limitations requiring scrolled cards to occupy the "whole of said digital matrix display"

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[16] Patent Owner does not dispute Petitioner's mapping of Duarte's "activities" with the '922 patent's "cards," a mapping with which I agree.

or the "entire digital matrix display." Maj. Op. at 28. I disagree for two
reasons.

First, as explained above, claim 1 does not require scrolled cards
(activities) to occupy the entire digital matrix display. Second, even if it did,
Duarte teaches scrolled cards occupy the entire digital matrix display
because Duarte's disclosure of activities that occupy "substantially an entire
display screen" teaches or suggests activities that occupy the entire display
screen. As discussed above, "substantially" is a term of art and an activity
that occupies "substantially an entire display screen" occupies either the
entire display screen or somewhat less than the entire display screen. This is
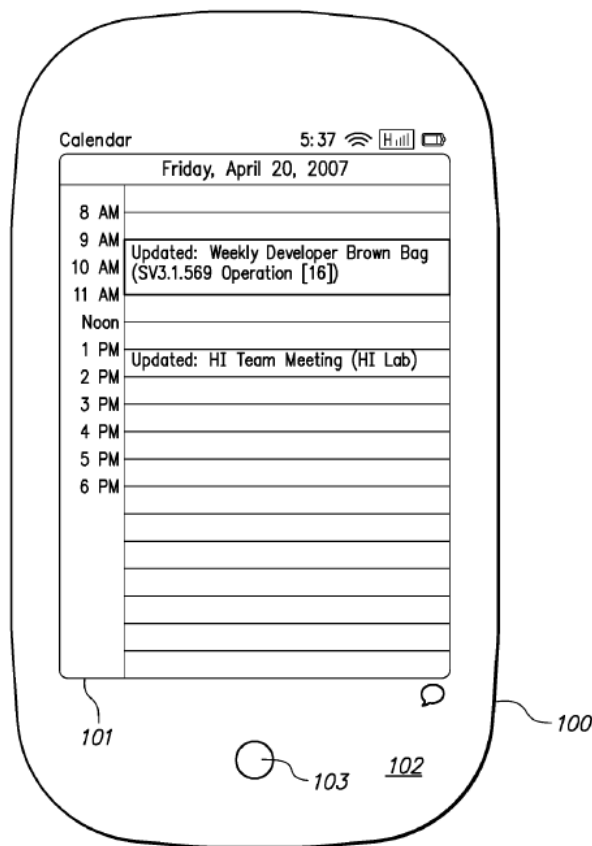evident from Figure 2 of Duarte, which is reproduced below.

FIG. 2

Figure 2 of Duarte illustrates a calendar "activity," in which the calendar occupies the entirety of screen 101. *Id.*, Fig. 2. Nonetheless, Duarte describes Figure 2 as illustrating "a display screen in full-screen mode, wherein an activity occupies *substantially* the entire display screen" or "a calendar application [that] occupies *substantially* the entire display screen 101." *Id.* at 4:17–19, 6:3–6 (emphases added).

Admittedly, in describing Figure 2, Duarte further states that "even in full-screen mode, certain portions of display screen 101 may be reserved for a title bar, battery indicator, clock, signal strength indicator, and the like." *Id.* at 6:7–10. I note that these indicators are shown in Figure 2 as part of gesture area 102 rather than display screen 101. *Id.* Fig. 2. Nonetheless, Duarte explains that "full-screen mode" means "any arrangement wherein the primary focus of the screen 101 is a single activity, even if other, smaller areas of screen 101 are reserved for other functions." *Id.* at 6:11–14. Due to Duarte's use of conditional language ("*even if* other, smaller areas of screen 101 are reserved for other functions"), a "full-screen" activity occupies "substantially an entire display screen" when it occupies the entire display screen or nearly the entire display screen. This is so because the conditional language does not require other functions to be displayed on the display screen. Therefore, it does not prohibit the "full-screen" activity from occupying the entire display screen.

Accordingly, for the reasons discussed above, I disagree with the majority's reasoning to reject the Petition because Duarte fails to teach or suggest scrolling a card or activity that occupies the entire digital matrix display. *See* Maj. Op. at 28.

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