1	UNITED STATES PATENT AND TRADEMARK OFFICE
2	BEFORE THE PATENT TRIAL AND APPEAL BOARD
3	
4	APPLE INC.,)
5	Petitioner,) Case IPR2018-01250
6	v.)
7	QUALCOMM INCORPORATED,) U.S. Patent No.
8	Patent Owner.) 8,447,132
9	
10	ORAL DEPOSITION
11	
12	OF
13	ALAN C. BOVIK, Ph.D., P.E.
14	August 28, 2019
15	ORAL DEPOSITION OF ALAN C. BOVIK, Ph.D., P.E.,
16	produced as a witness at the instance of the Patent
17	Owner, and duly sworn, was taken in the above-styled
18	and numbered cause from 10:30 a.m. to 3:43 p.m. on
19	August 28, 2019, before Karen Tyler, CSR in and for
20	the State of Texas reported by machine shorthand
21	method, at the offices of Fish & Richardson, P.C.,
22	111 Congress Avenue, Suite 810, City of Austin, County
23	of Travis, State of Texas, pursuant to the Texas Rules
24	of Civil Procedure and the provisions stated on the
25	record or attached here

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4 ALAN C. BOVIK, PH.D., P.E. 1 having been called as a witness in the above matter, 2 and after having been first duly sworn, was examined 3 and testified as follows beginning at 10:30 a.m.: 4 5 **EXAMINATION** BY MR. JANITENS: 6 7 Morning, Dr. Bovik. 0. 8 Good morning, Counselor. Thanks for taking the time to be here today. 9 Before we get into anything substantive, I'd like to 10 go over some ground rules, if you don't mind. 11 12 Α. Sure. Do you understand that you're under oath? 13 Α. Yes. 14 15 Do you understand that you have to tell the truth, the whole truth, and nothing but the truth? 16 17 Yes. Α. 18 And you'll do that; right? 19 Α. I will. And if you don't understand a question that I 20 21 ask, please let me know. Okay? 22 Α. I will. 23 And if you ever want to change an answer, 24 please let me know. 25 Α. Okay. Sure.

- Q. And we'll take a break about every hour, but if you want a break sooner than that, let me know.

 Okay?
- A. (Nods head, yes.) Got it.
- Q. And all that I ask is that you answer the question before we take a break. Okay?
- 7 A. Okay.

- Q. And is there any reason, medical or
 otherwise, why you cannot give truthful, complete, and
 accurate testimony today?
- A. Not at all, but I do want to tell you, I had
 an ear infection last week, and that's over with, but
 I still have a little bit of closure in my ear canal.
 So usually I hear really keenly, and I -- but if I do,
 like, go, can you say that again, it's probably
 because of this. But it's not a problem in any way.
 I just may be asking you to repeat your question, if

19 And that includes you. Okay.

you happen to speak softly.

- Q. Yeah. That's fine. Yeah, just at any time, ask me to speak up.
- A. And aside from that, yeah, I'm not sick or anything.
- Q. Sounds great. We have a court reporter here today who will be preparing a written transcript, so

6 please remember to make verbal responses to all my 1 questions. Okay? 2 Yes. 3 Α. And we want to make sure the transcript is 4 5 clear as possible, so it's important that we take turns speaking. So please let me finish before 6 answering, and I'll let you finish your answers before 7 8 asking additional questions. Okay? 9 Α. Okay. Roughly, how many times have you been 10 Q. deposed? 11 12 Well, I happened to check that. This is my 13 42nd deposition. And you were previously deposed on 14 15 March 28th, 2019, for the proceedings that we're discussing today; right? 16 17 That is correct. Α. 18 And just for the record, the proceedings are 19 IPR2018-01250 and IPR2018-01251; right? 20 Α. Yes. 21 All right. And if I refer to them as 1250 or 1251, you'll understand? 22 23 Α. I will. 24 All right. I'd like to discuss what you did

to prepare for this deposition. Without revealing the

- substance of any privileged communication you had with your attorney, did you meet with anyone to prepare for today's deposition?
- A. I did. I met with counsel. That's one part
 of my preparation. That's not all my preparation, but
 I'm answering the specific question.
 - Q. And how many times did you meet?

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- A. Well, if you mean physically, I met just once, but I've met with Counsel multiple times -- I didn't count them -- over telephone and over email as well, and that's certainly valid communication.
- Q. All right. And at each of these meetings, who was present?
 - A. Oh, Kim is -- this is Counsel over here, is generally -- has always been present. And I'm only talking about for the recent proceeding, not all the previous stuff, the previous deposition and so on.
- Q. Right. And did you review any documents to prepare for this depo?
- 20 A. Yes. I reviewed quite a lot of documents.
- 21 Q. And what documents did you review?
- A. Oh, well, I reviewed, you know, my
 supplementary declaration and Villasenor's declaration
 and then deposition testimony and the patent owner
 responses, and, you know, the patents themselves, the

8 1 prior art patents, et cetera. I'm not going to try to remember everything off --2 Sure, yeah. 3 Q. -- off the top of my head. 4 That's fine. All right. Before we dive into 5 it, I'll just go ahead and hand you all your 6 7 declarations. I see that you have them in front of 8 you. Both of them? 9 Α. Well, yeah. We'll go through -- let's get 10 this all out of the way. So the first thing I hand 11 you is what's labeled as Exhibit 1003. 12 Is this my original declaration? 13 Α. Correct. 14 Ο. 15 Well, Counselor, with all -- with all respect, I've already been deposed on this document --16 17 Q. Right. 18 -- for seven hours, and so I'm -- you know, I prepared a new declaration. It's my supplementary, 19 and that's what this deposition is about. 20 21 So I'm not going to answer questions about my

previous declaration. I'll be asking you -- just as a preview, I'll be asking you to show me where in my supplementary declaration I recently signed -- more recently signed, is this question coming from.

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9 Sure. Just so you -- for -- if we need it 1 for reference or anything, just in case --2 Well, leave it there, but this --3 Α. -- we'll be addressing the supplemental; so. 4 0. Α. Okay. 5 And just for the record, so Exhibit 1003, 6 Q. 7 that's your first declaration for the 1250; correct? 8 A. Well, let's see now. I don't see the 1250 on there, but -- I have to take a look at -- yeah. 9 would be the 1250. 10 Q. All right. Next I'll hand you what's labeled 11 as Exhibit 1017. 12 Uh-huh. 13 Α. And that is your first declaration for the 14 15 1251. Yeah. And, here again, I don't mind these 16 being entered into the record or as evidence, but I've 17 18 already answered seven hours of questions on these. All right. Next we have Exhibit 1022, which 19 is your supplemental declaration, the subject of this 20 21 deposition --22 Α. Yeah. 23 -- for the 1250; correct? ο. 24 Thank you. You'd think they'd put the 1250 Α. 25 on there, but, yeah.

- 1 Q. I think the bottom right-hand corner.
- A. Oh, down there. Yeah. Okay. Sure.
- 3 Q. All right. And next, it's labeled as
- 4 Exhibit 1023, and this is your supplemental
- 5 declaration for 1251; correct?
- 6 A. Yes. That's correct.
- Q. All right. I'm going to hand you one more document. This is labeled as Exhibit 1009.
- And do you recognize that document?
- 10 A. This is the Konoplev '410. You're going to
- 11 hand me some more documents too; right?
- 12 Q. Not yet.
- A. Because I'm going to ask for them, because if
- 14 we're talking about a certain patent here, and I -- I
- 15 like to give the best and most accurate answers.
- 16 Q. While we're at it, I will also hand you
- 17 Exhibit 1001. And do you recognize that?
- 18 A. Yeah.
- 19 Q. And, for the record, that's U.S. Patent
- 20 8447132; correct?
- 21 A. Yes. Uh-huh.
- Q. And if we -- if I reference that as the '132
- 23 patent, you'd understand; correct?
- A. Sure. And, you know, I'm not going to insist
- 25 at this moment, but at some point it's very likely

- I'll be asking for several other prior art patent references and so on.
- Q. Right. Well, we'll get to those for sure.
- 4 All right. So let's turn to Konoplev, 1009. And if
- 5 you'd like to turn in your 1251 supplemental
- declaration, we'll be looking at page 5 for now with
- 7 respect to Konoplev.
- 8 A. Uh-huh.
- 9 Q. Sorry. Actually, if you could turn to
- 10 page 4, paragraph 8.
- 11 A. Okay.
- 12 Q. So can you tell me, in your opinion, what you
- think the novel aspect of Konoplev's invention is?
- 14 MR. RIFFE: Objection. Form.
- A. Well, you know, I talk about this in my
- 16 report, and as I state in paragraph 9, since applying
- a method to reduce wrinkles on images wouldn't be an
- 18 invention, I -- you know, this is an idea which
- 19 existed before Konoplev.
- Then going back to paragraph 8 of my 1251
- 21 declaration, supplemental, you know, Konoplev
- 22 describes the novel aspect of his invention himself in
- 23 the inset part of paragraph 8 where he states, "It's
- 24 apparent that improved automated techniques for
- 25 improving the portrait images are desired."

So, in addition, in the prosecution of the patent, the Examiner -- I'm back to my paragraph 9 again, inset portion, the Examiner even, you know, pointed out another reference that does things like removing or reducing wrinkles.

So it's his, you know, his automation of this process. I see -- you know, when you think of -- in my field, the Examiner says removing these, but in practice, that removing means, you know, reducing as much as possible.

- Q. (By Mr. Janitens) So removing is the same as reducing?
- A. In this context. You know, because there's no magical algorithm that, you know, knows what the face would look like without a blemish. Okay?

 Because the face actually has wrinkles. So it tries to, you know, make it look as though there's no wrinkles, but, you know, in truth, in an algorithm, if it's a smoothing algorithm of some type, it's -- you know, that removing is really reducing. You know, it's an attempt to remove, you know, but it's a reducing. And I -- so I would put those two words together in this context.
- Q. Okay. And during the prosecution of
 Konoplev, a number of references were listed here,

- including Simon -- Simon, et al., 2004/10170337. Did
 you review that reference?
- 3 A. Yes.

- Q. And is it your opinion that it discloses wrinkle-reducing parameters?
- 6 MR. RIFFE: Objection. Form.
 - A. So, if you look on the same -- it's a long paragraph, paragraph 9, of my 1251 supplemental. On the next page, page 6 -- you know, Konoplev and the Examiner recognized this through his amendment -- does discuss using an initial filtering radius and a final filtering radius. These radii may be, you know, regarded as, you know, wrinkle-reducing parameters, but, again, this was -- you know, this was part of the process of, you know, automating the correction process as it also states on line 7 of page 6 of my declaration that I'm currently talking about.

So as I go on, even though it discloses some parameters, line 1, 2, 3, 4 -- like 8, "Thus, 'processing the converted images in wrinkle-reducing parameters' -- and that part is in quotes -- "was not the novel aspect of Konoplev's invention, and a POSITA would clearly possess the knowledge to implement 'processing the converted images and wrinkle-reducing parameters,' given," you know, these references like

- 1 Simon and so on.
- Q. So it's your opinion that Simon does disclose
- 3 wrinkle-reducing parameters?
- 4 MR. RIFFE: Objection. Form. Asked and
- 5 answered.
- A. I state in my paragraph 10 -- I'm sorry. Did
- 7 you say Simon?
- 8 Q. (By Mr. Janitens) Simon, yes.
- 9 A. Oh, I'm sorry. I was -- I may have misheard
- 10 your question, because I was addressing Konoplev.
- 11 Q. Right.
- 12 A. Yeah.
- 13 Q. Yeah. So with respect to going back to
- 14 paragraph 9 --
- 15 A. So --
- 16 Q. -- that first reference that was cited by the
- 17 Examiner during prosecution of Konoplev?
- 18 A. So you're asking me about a reference that's
- 19 cited, and I always hesitate to, you know, answer a
- 20 specific question about a document without having the
- 21 document. So if you want to supply me with Simon,
- 22 that way I can point and so on.
- Q. Okay. Let's -- actually, let's move back to
- 24 paragraph 8. So it's your opinion that the novel
- 25 aspect of the invention is the automated

- 1 recognition --
- 2 MR. RIFFE: Object --
- Q. (By Mr. Janitens) -- and correction of undesirable feature of the portrait images; right?
- 5 MR. RIFFE: Objection. Form.
- A. Are you reading from somewhere?
- Q. (By Mr. Janitens) Yeah. Paragraph 8. Also we can look at Konoplev itself.
- 9 A. Uh-huh.
- Q. Column 1, lines 52 to 56. Konoplev.
- 11 A. So I'm in column 1. Yeah.
- 12 Q. Yeah. Column 1, line 52 to 56, start with,
- 13 "It is apparent."
- A. Yeah. That's what I cite to here in my
- 15 report; so.
- 16 Q. So because it says, "It is apparent that
- improved automated techniques for improving the
- 18 portrait images are desired," that language implies to
- 19 you that it's a novel feature?
- 20 MR. RIFFE: Objection. Form.
- 21 A. Well, the whole -- the whole '410 document
- 22 teaches me -- tells me that. Okay? I mean, this
- 23 is -- this is Konoplev merely, you know, describing
- 24 his invention, you know, as part of the background so
- 25 we understand where he's headed. But this is, in

- 1 fact, what he discloses throughout.
- Q. (By Mr. Janitens) All right. Let's turn to Figure 1 in Konoplev.
- A. So before we go there, is there a reference in my report to Figure 1 that we're going to be
- 6 talking about?
- Q. If you turn to page 12 of your supplemental report, it has Figure 1 in there.
- 9 MR. JANITENS: If we could go off the record 10 for one second.
- 11 (Off-the-record discussion.)
- Q. (By Mr. Janitens) So, Dr. Bovik, if you could look at Figure 1, what would you say is the automated recognition and correction of the undesirable features of the portrait images?
- 16 MR. RIFFE: Objection. Form.
- Q. (By Mr. Janitens) In Figure 1, could you point to the automated feature of Konopley?
- 19 MR. RIFFE: Objection. Form.
- 20 A. I think that Konoplev is simply automated.
- There's not a box that, you know, is like here's the automation. It's an automated system.
- Q. (By Mr. Janitens) Okay. And if we look at Claim 1 of Konoplev.
- 25 A. And is there some place in my report where I

- discuss Claim 1 of Konoplev you want to point me to?
- 2 Q. Page 6 of your supplemental declaration for
- 3 1251, you state that, "step 1 -- 1(e), wherein an
- 4 initial filtering radius and a final filtering
- 5 radius" --
- 6 A. I'm sorry. Page 6 of my report? And where
- 7 am I?

- 8 Q. Line 4.
- 9 A. Uh-huh.
- 10 Q. So starting with "wherein"?
- 11 A. Yes.
- 12 O. So that's in Claim 1; correct?
- A. Yes. But, I mean, we're actually referring
- 14 to -- I'm happy to talk about that part of Claim 1.
- 15 O. Sure. Yeah. So that's column 10. All
- 16 right. So column 10, line 29, step (e); right?
- 17 A. Well, I mean, I see Claim 1, and I see this
- 18 part of my report. Is there a question?
- Q. So is it your opinion that Claim 1, step (e),
- 20 the "wherein" clause, is it your opinion that that is
- 21 the novel aspect of Konoplev?
- 22 MR. RIFFE: Objection. Form.
- 23 A. What I would say is that it -- you know, as I
- 24 state in my report, it reflects that -- you know, this
- 25 is on page 6 of my report, lines like 3, 6, 7 -- 6 and

- 7, I think -- this reflects the novel aspect of automating the recognition and the correction process.
- You know, I look at, you know, Konoplev, and
 I see a system that is, you know, an automated system,
 but this is the novel aspect of automating the
 recognition and correction process. And I don't want
 to just say nothing else in Konoplev is automatic.
 - Q. (By Mr. Janitens) So in step 1(e), the repeating steps (c) through (e), that's indicative of an automated process? That iterative processing of those steps?
- 12 MR. RIFFE: Objection. Form.

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- A. I mean, this is part of the, you know, amended claim language; right? So this is part of, you know, the novel aspect of automating the recognition and correction process, yeah. I mean, I've stated this already, and I agree with what I stated.
- Q. (By Mr. Janitens) So since the Examiner made this -- Examiner amendment adding the language with the -- including the quotations on line 4, page 6, the starting with "wherein," since they made that amendment, that is indicative of the novel aspect?
- 24 MR. RIFFE: Objection. Form.
- 25 A. You know, I wasn't in the Examiner's shoes at

the time when he was conducting his job. It's his job. But -- and I don't think that, you know, our purpose here is to, you know, really study the validity of -- you know, Konoplev as much as to just understand the process that occurred.

- But, you know, the Examiner felt that the claims needed some amendment, and this was the amendment that was included, and, you know, as I've stated, this -- I am not stating that automation is exclusively in this part of the claim language of Claim 1. I'm merely stating that the Examiner found that -- and that's what really matters, but I don't disagree with him -- that this reflects the novel aspect of automating the recognition and correction process.
- Q. (By Mr. Janitens) And did the Examiner state that it was a novel aspect by making that amendment?
- 19 MR. RIFFE: Objection. Form.
 - A. Well, you know, I can't -- I don't remember the whole -- I mean, I've certainly looked at the prosecution history. I don't have it memorized. But, you know, by allowing the claim, because of this amendment, I think the Examiner has shown that he believes that this is, you know, novel. You know, you

allow a claim because it's novel. And other things too, of course. But that's an aspect of it.

And, further, it's because I also know that, you know, things like, you know, simply processing -- as I state actually here, yeah -- 1, 2, 3, 4 -- it's around line 8 of page 6 -- "Processing the converted images using wrinkle-reducing parameters was not the novel aspect of Konoplev's invention." That, I certainly agree with, because there were many methods already in existence that, you know, could process the images using wrinkle-reducing parameters.

- Q. (By Mr. Janitens) So you're stating that on line 8, that was -- the statement was made by the Examiner or is this your opinion?
- A. Oh, no, this is my opinion.

- Q. Okay. And you're saying you agree with that?
- A. I realize I've stated more than -- I already answered the part about the Examiner and, you know, I'm pointing out the Examiner granted the claim based on this change, and he there blessed the claim as novel with this change.

And I just went on to point out what I've already written, that, you know, I and a person of ordinary skill in the art would understand that, you know, well, just processing to, you know, wrinkle

reduce wouldn't be enough.

- Q. All right. If we look at Figure 1 in conjunction with Claim 1. If we look at step 1(c), which is processing the converted image through a skin-recognition filter.
- A. What page was -- 12; right? Remember, you know, the figures in the spec are not necessarily a direct mapping of the claim. Okay? So, I mean, this is a teaching of the general method so that to help the person of ordinary skill in the art understand and interpret and implement the claims. You know, it's -- you know, the spec and the figures don't have to exactly match, you know, the claim language; so.
 - Q. Okay.
- A. And I'm stating that because you want to do a one-to-one, you know, matching, and I hesitate to do that, you know, any time, you know, just picking a figure.
- Q. Right. And I'm not trying to be tricky or anything. Just with that in mind, as an example, Figure 1 being an exemplary embodiment, not saying that it's a direct mapping of 1(c), would you agree that block 130 is an example of step 1(c)?
- 24 MR. RIFFE: Objection. Form.
 - A. I'm going to disagree with that because I

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don't think of -- again, this is a teaching, you know, so that a -- a person of ordinary skill in the art gets the gist of what the patent is doing.
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The claim explains itself well enough. Okay? In how to proceed, you know. And the spec, you know, gives an idea. So I, you know, there's, you know -- there's 13 claims here, and I'm not going to try to say, oh, this figure belongs with this claim, and this block or this Figure 130 belongs with this limitation of this claim.

You know, the language is different in the two, and so, you know, I think that a person of ordinary skill in the art will interpret, you know, their attempt to implement the claim and, you know, look at the specification, including the figure, to try to learn the general gist of how to go about it.

Q. (By Mr. Janitens) All right. And Figure -I'm sorry. Claim 1, step (e), includes repeating
steps (c) through (e). So if any of the steps (c) or
(d) or (e), if they were removed, would it still be a
novel claim?

MR. RIFFE: Objection. Incomplete hypothetical.

A. Well, I would just point out that's for, you know, the Examiner to decide at the outset. I have

- not, you know, performed a validity exercise in the
 '410 by casting it against further prior art. I have
 no reason to believe that, you know, as it is, it's
 invalid.
- If you start removing limitations then that
 always, you know, I mean, then I start wondering,
 okay, does the claim have even meaning if you start -and I'm speaking generally at a high level -- does the
 claim even have meaning if you're removing
 limitations. Can it even be function. Okay?
 - So I -- you know, it's a hypothetical question that I don't really know how to answer.
 - Q. And at the time of the invention, Konoplev, what would a POSITA, a person of ordinary skill in the art, understand wrinkle-reducing parameters in step 1(e) to be?
- 17 MR. RIFFE: Objection. Form.

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- A. Well, you know, that -- I'm assuming that
 you're talking a person of ordinary skill in the art
 who's reading Konopley.
 - Q. (By Mr. Janitens) Sure.
- A. Okay. And reading this one claim, and reading 1(e), which I cite to, you know, here, he would, you know, read the specification, and he would think about the ideas in there, but he may have his

- own way of, you know, going about it.
- But, you know, I -- it's hard for me to put
- 3 myself in the POSITA position because I don't know
- 4 what application he's, you know, using this for, what
- 5 his resources are. You know, it's -- it's a bit too
- 6 open-ended and vague of a question.
- Q. So looking at Figure 1, block 160, would that
- 8 inform a POSITA of what wrinkle-reducing parameters
- 9 would be?

- 10 MR. RIFFE: Objection. Form
- 11 A. Well, I think -- and, again, this is at a
- 12 high level -- I think a person of ordinary skill in
- 13 the art would pick a -- would decide to apply a
- 14 smoothing filter. Okay? And then would, you know,
- 15 try to optimize it for his application by selecting
- 16 parameters of that smoothing filter.
- 17 Q. (By Mr. Janitens) And would the --
- 18 A. You know, I mean, even the claim talks about
- 19 an initial filtering radius and a final filtering
- 20 radius.
- Q. And a smoothing filter, that would use
- 22 wrinkle-reducing parameters?
- 23 A. I don't have a list of the exhibits by
- 24 number. I forget what 1017 is.
- 25 Q. That's your -- the first declaration --

1 A. I see.

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Sure.

- 2 0. -- for 1251.
- A. Uh-huh. All right. Could I hear that question again? Sorry.
- 5 (Requested portion read.)
- A. So, I mean, the, you know, claim language

 itself states that there are parameters that are set:

 this initial filtering radius and final filtering

 radius, which are parameters for correcting the image.
- Q. (By Mr. Janitens) So changing the filtering radius and final filtering radius, those are wrinkle-reducing parameters?
- 14 MR. RIFFE: Objection. Form.
- A. You know, the initial radius and the final radius, I'm fine with calling those wrinkle-reducing parameters, but, you know, these are -- having a -- having these radii, or these wrinkle-reducing parameters, this is, you know, not the innovation.

 The innovation is the automation.
 - Q. (By Mr. Janitens) And the automation includes repeating steps (c), (d), and (e)?
- A. Not just repeating, but you know, as the

 claim states -- well, increasing this radius until you

 meet this final radius.

- Q. All right. I'm handing you Exhibit 1012, and that is the Konoplev provisional; is that correct?
- A. Yeah. Looks like it, at least from the face pages. Looks like Konoplev.
- Q. Let's turn to paragraph 27 of the Konoplev provision.
- 7 A. And is this part of it referenced in my 8 report?
- 9 Q. If you look at Exhibit -- yeah, 1023 at 10 paragraph --
- 11 A. I'm sorry. It's my --
- Q. So the -- your supplemental declaration for 13 1251 at paragraph 10.
- A. Paragraph 10.
- 15 Q. So is it your opinion that paragraph 27 --
- A. Let me get there first. Okay. I'm at
- 17 paragraph 10. Okay.
- Q. Is it your opinion that paragraph 27 of the
 Konoplev provisional teaches processing the converted
 image using wrinkle-reducing parameters?
- 21 MR. RIFFE: Object to the form.
- A. I state that, but I go on to state that by
 disclosing processing an image through a smoothing
 filter using a different set of filtering parameters
 for wrinkle removal.

- (By Mr. Janitens) And are the wrinkle-reducing parameters defined in the Konoplev provisional?
- MR. RIFFE: Objection. 4 Form.

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- You know, I don't know what you mean by, you know, defined. I mean, if you read 27 in Konoplev, paragraph 27, he states parts of the image containing human faces are processed through the smoothing filter using a different set of filtering parameters for wrinkle removal.
- So he's, you know, disclosing that there are, you know, filtering parameters.
- (By Mr. Janitens) So paragraph 7 states that Q. parts of the image containing human faces are 14 processed through the smoothing filter using a different set of filtering parameters for wrinkle 16 removal; correct?
 - I mean, this is just a quote from Konoplev.
 - So are the filtering parameters -- are any examples of the filtering parameters disclosed?
- 21 MR. RIFFE: Objection. Form.
 - I think a person of ordinary skill of the art Α. would understand that, you know, the smoothing filter has filtering parameters that need to be chosen. That person of ordinary skill in the art may understand

that in his application, his own personal application he's doing for whatever company he's working for might need, you know, a -- he may find that he needs a certain set of filtering parameters.

Another POSITA working for another company might find a different set of filtering parameters are needed, such as a different -- you know, for example, a different inner and outer radii, which, you know, is from the '132, but I'm just giving you an example.

- Q. (By Mr. Janitens) Can you provide any other examples of potential wrinkle-reducing parameters or filtering parameters?
- 13 MR. RIFFE: Objection. Form.

A. Well, I think it's Dr. Villasenor's job to provide the examples and for me to rebut. Because I didn't try to list them in my declaration. I mean, I do point to the reference in Gonzalez. It's a -- probably the most widely cited and used image processing book in the world. Been around, you know, many editions through many years.

And, you know, as I state in my paragraph 10 in the report, "Gonzalez" -- at the bottom, "Gonzalez 'provides an introduction to basic concepts and methodologies,'" et cetera, et cetera. Second line, "Gonzalez includes a discussion on smoothing filters,

which are 'used for blurring... such as removal of small details from an image... and bridging of small gaps.'"

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And I go on to state -- I'm going to paraphrase now -- and provides examples of equations and parameters for implementing these smoothing filters. You know, this -- and examples a result.

So this is, you know, one place a POSITA would immediately think of going to to learn about parameters more intimately.

Q. Would a POSITA have had the knowledge of the contents of the book, or would just know that it was a reference that could be used for digital image processing?

MR. RIFFE: Objection. Form.

- A. I think a person of ordinary skill in the art would have a general knowledge of the contents, and, you know, I mean, I am an expert with 35 years, and I still refer to my books despite having a profound knowledge.
- Q. (By Mr. Janitens) I'm handing you what is labeled as Exhibit 1010. And that's the Gonzalez reference; correct?
- A. Yeah. It's the 3rd edition of Gonzalez, just for accuracy.

- Q. Sure. All right. And on page 7, in paragraph 10 of your supplemental declaration --
 - A. Of my page 7, paragraph 10. Yeah. Uh-huh.
 - Q. -- you mention that Gonzalez provides
 examples of equations and parameters for implementing
 smoothing filters. So does Gonzalez disclose
 wrinkle-reducing parameters?
- 8 MR. RIFFE: Objection. Form.

A. Well, since, you know, smoothing filters are a type of correction, and you can correct different types of situations, smooth different situations. So he presents -- you know, smoothing filters can certainly be used for wrinkle reduction.

So when he, you know, describes filters which have parameters like in equation 3.5-1, this is a weighted averaging filter, this is one smoothing filter, has parameters, you know. If you apply it to the wrinkle-reducing problem, then these are wrinkle-reducing parameters. Just for an example. It's not exclusive in any way.

If you -- let's see. Oh, here in section 3.5.2, order-statistic filters. These are also smoothing filters. They have parameters. These are, you know -- I know a lot about these because I invented them way back when. I was in graduate

- 1 school. If you apply --
- Q. (By Mr. Janitens) So you're talking about -- sorry.
- A. If you apply order-statistic filters to the

 wrinkle-reduction problem, then I think the parameters

 of that filter may be viewed in that context as

 wrinkle-reducing parameters.
- Q. Can you explain a little bit how
 order-statistic filters work?
- 10 A. Sure.
- 11 MR. RIFFE: Objection. Form.
- 12 A. They're actually pretty simple.
- Order-statistic filters are, you know, one of many
- 14 smoothing filters in that type of correction. In this
- 15 type of filter, you know, before you weighted --
- 16 perform a weighted average of the values of the
- 17 picture within a small region, you put them in an
- 18 algebraic order from smallest to largest. Then you
- 19 weight them. So it adds an additional step to, you
- 20 know, the smoothing linear filters of section 3.5.1.
- Q. (By Mr. Janitens) Okay. And the filters in
- 22 3.5.1, the smoothing filters --
- 23 A. Those are linear.
- Q. Linear filters.
- 25 A. Yeah.

- Q. On page 174, the third -- third paragraph
- 2 down.
- 3 (Ms. Leung exits the room.)
- A. Page 174 of Gonzalez.
- Q. (By Mr. Janitens) Yeah.
- A. Third paragraph, it starts, "As mentioned earlier."
- 8 Q. Yeah.
- 9 A. Uh-huh.
- Q. Mentions that density of smaller objects
 blends with the background, and larger objects become
 blob-like and easy to detect.
- 13 A. Why am I not seeing that? How far down?
- Q. Oh, that's the third sentence, third line.
- 15 A. Okay. Oh, comma, "such that."
- 16 Q. And so this is referring to Figure 3.33?
- A. You know, Counselor, I'm giving you some
- 18 latitude by delving into Gonzalez here. I don't think
- 19 we talked about this in my report. I'll just point
- 20 out that, you know, a smoothing filter -- spatial
- 21 averaging can be used for a variety of applications
- 22 other than wrinkle reducing, and I don't think this
- 23 has anything to do really with wrinkle reducing
- 24 necessarily other than, you know, the spatial
- 25 averaging filters used.

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So, you know, I'll agree that, you know,
1
    these -- this whole section here on smoothing filters
2
    talks about the type of correction that does
3
    smoothing. But, you know, I don't want to dissect
4
    everything in Gonzalez here since we haven't talked
5
    about it before, in my report or elsewhere.
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7
        Q. Okay. And so when you -- so the pages that
8
    you do cite in your report, 172 through 177?
            Yeah. I point out that these -- I mean, my
9
        Α.
10
    purpose is to point out these are smoothing filters,
    but you know, I -- I'll tell you what. Ask your
11
    question.
12
13
            So in these pages 172 to 177, the term
    "wrinkle-reduction parameters used."
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15
            MR. RIFFE: Objection to the form.
            No. But certainly smoothing filters can be
16
    used for wrinkle reduction. And if those filters have
17
18
    parameters, then in that application, those are
    wrinkle-reducing parameters.
19
            (By Mr. Janitens) All right. Let's put
20
21
    Gonzalez aside for a second.
            (Ms. Leung enters the room.)
22
23
            (By Mr. Janitens) Okay. If we turn back to
        Q.
24
    the Konoplev provisional, to the 1012.
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I'm there. And where now?

25

Α.

- 1 Q. Yeah. Let's look at paragraph 49.
- A. And just for efficacy, where am I talking about this in my report?
- 4 Q. Paragraph 11.
- 5 A. Okay.

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- Q. Okay. So we look at paragraph 49, does this
 paragraph teach processing converted image using
 wrinkle-reducing parameters?
- 9 MR. RIFFE: Objection. Form.
- A. I mean, paragraph 49 states that, you know, there's an imperfection reduction mode and, in parentheses, related to that, it mentions wrinkle reductions.
- Q. (By Mr. Janitens) So an imperfection reduction mode, that includes wrinkle reductions?
- A. It does. It says wrinkle reductions in the parenthetical.
- Q. And filtering parameters are initial radius, final radius, and imperfection reduction mode; correct?
 - A. Well, I think that the parameters are the initial and final radius that are in the -- in paragraph 49 -- the way I read that is that the filtering parameters are an initial radius and a final radius. I don't think that it's intended to say that,

- 1 you know -- let me pause that.
- Yeah. I think the mode also could be viewed as a filtering parameter. So, I think, yeah, those are the filtering parameters that are stated here.
 - Q. Imperfection reduction mode, is there any further discussion or detail about the imperfection reduction mode in the Konoplev provisional?
- 8 MR. RIFFE: Objection. Form.
- A. Well, at the end of 49, it's mentioned again.
- 10 In 50, it's mentioned. I mean, probably have to do a
- 11 word search, you know. But I cited to 49 in my
- 12 report.

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- Q. (By Mr. Janitens) All right. Let's turn
- 14 back to Konoplev.
- 15 A. The '410?
- 16 O. Yeah. The '410. And if we could turn to
- 17 Figure 1. So block 130, "Enhance body skin by
- 18 applying skin-recognizing filter to whole image."
- 19 Would you agree that the skin-recognizing filter is
- 20 applied to the whole image as it's stated?
- 21 MR. RIFFE: Objection. Form.
- 22 A. I mean, block 130 says that there's a
- 23 skin-recognizing filter, you know, applied to the
- 24 whole image. I won't dispute that, I mean, if that's
- 25 the question. I mean, 130 -- let me just say this:

- 1 130 says applying skin-recognizing filter to the whole image.
- Q. (By Mr. Janitens) Fair enough. So let's look at step 160 then.
- 5 A. Which is distinct from 130. Yeah.
- Q. Now, does it use the same skin-recognizing filter as 130?
- 8 MR. RIFFE: Objection. Form.

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- 9 A. So, again, I'm going to draw you to my report
 10 and ask where in my report you're drawing this
 11 question from.
- Q. (By Mr. Janitens) If you'll look at paragraph 15 of your report.
- 14 (Document(s) reviewed by the witness.)
 - A. So, you know, in my report as I cite to, you know, in paragraph -- I'm sorry -- column 6 of the Konoplev '410, starting at line 20, it states, "A skin-recognition filter is used on the whole image for enhancing body skin appearance on the image in step 130." You asked me about that already.
 - "The filter uses skin-imperfection reducing parameters. Face coordinates are acquired from the face-detection module (or from the user) in step 140. If, in step 150, faces are found in the image, the facial skin is enhanced by the skin-recognition

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filter."
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So given that in the spec, you know, the same language is used, one could say this is the same filter. It doesn't mean that the same parameters, you know, are necessarily used. It says at the end of the -- that paragraph, line 27, "The filter uses wrinkle-reducing parameters." It's -- that's all it says there.

Q. Okay. So in step 130, you have the skin-recognizing filter which is applied to the whole image, could that also include the face?

A. So as part of my answer, you know, if you read down in column 6 of Konoplev '410 around 40, remember that, you know, the -- it's talking about the skin-recognition filter here in line 37.

It says, "The filtering parameters are: an initial radius, a final radius, an imperfection reduction mode," which includes, you know, body-imperfection reductions, wrinkle reductions, and so on. Okay? So you notice that in block 130 it says, "enhance body skin," and in 160 it says, "enhance facial skin."

So, you know, the filter has already had different parameters supplied to it. So back to your question at 130 -- well, let's have the question at

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130 again so I can answer it most accurately.
1
            (Requested portion read.)
2
            So here I'm, you know, referring to the
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    skin-recognizing filter in the block. I think if
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    there's a face in the image, the face would be
    processed. But if you read the -- if you read the
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7
    spec, you know, it's applying skin-recognizing filter
    to the whole image. Okay? It doesn't really -- it's
8
    not really clear on what it does to a face in 130.
9
    I'd have to speculate a little bit. But what is clear
10
    is that it then, you know, specifically looks for
11
    faces and applies the skin-recognizing filter in the
12
    wrinkle-reduction mode with that parameter to faces.
13
            (By Mr. Janitens) So block 160 we have
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15
    wrinkle reduction, and in block 170 we have blemish
    reduction. Would the parameters be the same for both
16
    wrinkles and blemishes?
17
18
            MR. RIFFE: Objection.
                                     Form.
            I don't see why they would have to be the
19
        Α.
20
    same.
21
            MR. JANITENS: Looks like we've been going
22
    about an hour. Do you want to take a break?
23
            THE WITNESS:
                           Sure.
24
            MR. JANITENS: All right. Let's do that.
25
            (Recess taken from 11:39 a.m. to 11:46 a.m.)
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- Q. (By Mr. Janitens) All right, Dr. Bovik.
- 2 Let's turn to the '132 patent, Exhibit 1001 --
- 3 A. Uh-huh. Okay.
- 4 Q. -- and corresponding pages in the
- 5 supplemental declaration.
- 6 A. 1251?
- 7 Q. 1251, paragraph 18, for starters. So let's
- 8 look at Figures 8A, 8B, 8C in the '132 patent.
- 9 A. Okay.
- 10 Q. Okay. So Figure 8A, that's an example of no
- 11 dynamic range correction being applied; correct?
- 12 A. You said 800A?
- Q. 8A. Sorry. Figure 8A.
- 14 A. Oh, 8A.
- 15 O. Yeah.
- 16 A. Yeah, which is also 800A here.
- 17 Q. Oh, yeah. Okay. So --
- 18 A. Yeah. There hasn't been any dynamic range
- 19 correction applied here.
- Q. Okay. And then turning the page, Figure 8B,
- 21 looking at image 800B, that's an example of dynamic
- 22 range correction applied without knowledge of content
- 23 of the image; correct?
- 24 A. Yeah. It states that as pretty much exactly
- 25 in the specifications.

- Q. Okay. And so dynamic range correction would be applied uniformly?
- A. I would say, yes, it was, you know, applied uniformly there.
- Q. And then at 8C, Figure 8C, and the image 800C, that's an example of the image with dynamic range correction selectively applied based on the presence and location of the face area, 801C; correct?
- A. Yes.

- Q. And so can you explain to me the difference between 8B and 8C, the luminance histogram there?

 MR. RIFFE: Objection. Form.
 - A. Well, before I answer, I just want to point something out. That a luminance histogram of an image is a significant reduction of information about that image. An image is two-dimensional, and that information, in creating a one-dimensional image, a lot of information is lost. For example, you don't know which luminances come from where. You can't.
 - Q. (By Mr. Janitens) Okay.
 - A. You just know how many of each luminance. So the general thing I'll say is if you compare 8B and 8C is you'll see that, you know, the histogram has changed. I will just say broadly that, you know, there's more weight, you know, has moved towards --

weight of the graph that has moved a little bit towards the right. You can't -- it's impossible to point in here and say, oh, here's the face in the histogram.

- Histograms, by their nature, are just one-dimensional, meaning you can see the face in the image but you don't know which of these, you know, peaks in 8B or in 8C at the bottom in the histogram plots corresponds to the face.
- Q. But it's fair to say that it's a graph of luminance of the face region itself, though; right?

 MR. RIFFE: Object to the form.
- A. Oh, yeah. I'm sorry. Yeah, this is face region. Which, I should amend what I said to which part of the face is brightened rather than the face. Because this is all for the face region. Yeah.
- Q. (By Mr. Janitens) Okay. So, generally, we can say -- we agree that it's the face region but we need a different 2-D representation of it to determine individual pixels?
- A. Yeah. So, I mean, just to, you know, slightly correct what I said before, I said the image; but when I said the image, you know, that little 801B is not all face, for example. It's part of it in corners that aren't face, and you know, we don't --

- you can't point at this and say, what part is the -you can't look at the histogram and say, okay, this,
 you know, peak here is from the nose, and this is from
 the eye, or anything like that.
- Q. All right. And does the '132 patent disclose what is happening to regions other than the face region in Figure 8C of image 800C?

MR. RIFFE: Objection. Form.

- A. So, you know, the histogram is limited to just area around the face. So the graph in the bottom doesn't really reveal anything. But if you -- if you compare 8B with 8C, you can see that the image has been lightened even outside the face, just not as much.
- Q. (By Mr. Janitens) Does the specification state what is happening outside of the face region?

 MR. RIFFE: Objection. Form.
- A. Well, if you, you know, read in column 10, it says, "Fig. 8C shows an example of the same image after dynamic range correction is selectively applied based on knowledge of the content of the image." I mean, in here, again, the specification is, you know, trying to inform the person of ordinary skill in the art how to apply the claims.

And it doesn't say in 8C that dynamic range

- correction is only applied to the face. Okay? It's applied based on knowledge of the overall content of the image, including the presence and location of the facial area, meaning also knowledge of where the face isn't, by logical deduction. Okay?
 - Q. (By Mr. Janitens) Does the specification --
- 7 A. Well, I wasn't finished.
- Q. Sorry.

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- So when it says "selectively applied," that, 9 Α. in my mind, means it's applied in different regions or 10 portions of the image, based on that knowledge. Okay? 11 That's what "selectively applied" means. 12 It doesn't 13 say only applied to face or something. selectively applied. And when I look at the figure, 14 15 that's what I see.
 - Q. So you agree that the specification doesn't specifically say what type of processing applies outside of the face?
- 19 MR. RIFFE: Objection. Form.
- A. Well, first, I'll say that my prior answer in no way was in agreement with what you just said. My prior answer was my prior answer.
- 23 So your question you just asked me is a
 24 separate question. You know, I -- it says -- I mean,
 25 it says dynamic range correction is selectively

- applied. So I -- I think it states that dynamic range correction is applied to the image in a selective way.
- Q. (By Mr. Janitens) And on line 16 -- well,
- 4 let's see. 15, lines 15 to 18, so, "8C shows an
- 5 example of the same image after dynamic range
- 6 correction is selectively applied based on knowledge
- of the content of the image, i.e., based on the
- 8 presence and location of the face area"; correct?
- 9 A. Yes. It says just that.
- 10 Q. Okay. Let's turn back to Konoplev '410.
- 11 A. Uh-huh.
- 12 Q. I'd like to ask you about Figure 1, block
- 13 | 120, "Convert image to CIELAB color model."
- 14 A. Sure.
- 15 Q. First, what would a POSITA understand CIELAB
- 16 to be?
- 17 A. I'm actually happy to answer this, but maybe
- 18 you could point to me in where in my declaration I
- 19 talked about 120. So just so I can -- I like to be
- able to point at things to be more accurate.
- Q. All right. Let's look at -- starting at
- 22 paragraph 21.
- A. Paragraph 21? Sure.
- Q. Yeah.
- 25 A. Of my 1251?

- Q. 1251 supplemental, yeah.
- 2 A. Uh-huh.

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- Q. And the question of whether Konoplev is directed to both image capturer in post processing?
- A. Since, you know, the context here includes

 Zhang, you might as well hand me Zhang, if you don't

 mind.
- Q. All right. I'm handing you Exhibit 1008,Zhang.
- 10 A. Uh-huh. Okay. But I'm generally there. Was
 11 there a question outstanding?

12 (Requested portion read.)

A. So, I mean, I address -- so -- I mean, let me just state two things. You know, I talk about this aspect of the motivation to combine these two references on the following pages. You know, in paragraph 23, I -- of my report, for 1251, I say -- I state, "Like Zhang, Konoplev expressly teaches that its techniques are applications doing both image capture in post-processing." You know, if you look at the facing page of the '410, Figure 1, I mean, the first block 110, is "Receive image from a user or digital capturing device." Okay? I mean, you can imagine a digital camera that has a lens and a CCD array capturing it and then sending it internal to the

- camera where it does these other kind of processing.

 Same thing with a cell phone. You take a picture with a cell phone, you know, it is -- there's capture inside the cell phone. That -- that capturing process is implemented by the processor in part.
 - You know, I see these two references, Zhang and Konoplev, as -- you know, as both Dr. Villasenor and I state and agree, we're dealing with digital images which can be captured with solid state. And Zhang also discloses image capture, and I thought reading through it all in my paragraph 22, I state, you know, "Zhang describes devices for capture." Now, I won't read all the following.

And back to 23, in the inset, my paragraph 23 of my declaration, Konoplev expressly teaches -- as in the inset -- not the exemplary -- at the bottom, it could implemented on a processor of a digital camera or a cell phone. These -- Zhang and Konoplev are operating in, you know, the same space of application here.

- Q. (By Mr. Janitens) So in Konoplev 110, so receiving an image from the user or digital capturing device, is that received as RGB signal?
- 24 A. Where?

25 Q. In Konoplev Figure 110.

So, again, with regards to the foment of 1 that, received signal, where have I opined upon that 2 in my report? 3 You were just talking about it in paragraph 4 5 23 of your report. Well, I don't --6 7 At the bottom of page 20. You quote 0. column 6, lines 13 through 14. 8 9 Yeah. I mean, all that Konoplev says there, "An image is received from a user or from an 10 image-capturing device in step 110." 11 Just in general, I mean, when you receive --12 Q. Which could be in the digital -- let me 13 finish. Could be, you know, as part of a digital --14 15 the whole thing, the whole, you know, Konoplev concept inside a digital camera inside a cell phone. And he 16 doesn't say anything about whether it's RGB or not. 17 18 Could be RGB but doesn't say. 19 So in Figure 1 at block 185, it says, "Convert image back to RGB." 20 21 MR. RIFFE: Objection. Form. (By Mr. Janitens) And not to be tricky 22 Q. 23 or anything, it's just column 3. 24 Yeah. I see. Oh, column 3. Α.

25

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Yeah.

- 1 A. Column 3 of the '410?
- Q. Yeah. It says, "An image is converted from
- 3 RGB to another color model"?
- 4 A. Which line?
- Q. Line 4. Sorry.
- A. Yeah. I just don't see the connection to
- 7 Figure 1 there. I mean, yeah, I agree that's what it
- 8 says. Uh-huh.
- 9 Q. And so why would the image need to be
- 10 converted from RGB to another color model such as
- 11 CIELAB?
- 12 A. I don't think it would need to be. It's just
- 13 a design choice.
- 14 Q. So what is the difference between RGB and
- 15 CIELAB?
- 16 A. They're just different color spaces.
- 17 Q. So why would one of ordinary skill in the art
- 18 want to convert RGB to CIELAB?
- 19 MR. RIFFE: Objection. Form.
- 20 Q. (By Mr. Janitens) What are the benefits?
- 21 MR. RIFFE: Objection. Form. And outside
- 22 the scope.
- A. So, again, if you look at -- let me answer it
- 24 this way. I already answered, you know, why would
- 25 they do it? Well, they would be making a design

- - And you could certainly, you know, apply algorithms for, you know, skin recognizing in different modes on RGB as well.

Q. (By Mr. Janitens) And would a POSITA understand by the invention that there could be any advantages to using CIELAB versus any of the other potential device-independent color models?

MR. RIFFE: Objection. Form.

- A. Well, advantages and disadvantages. I mean, CIELAB, that's -- you know, it's a -- we use it a lot. I mean, it's in my work. It's what's -- a perceptual color space. And what that means is it's designed so that the distances between two colors in that space, while they may -- so that the distance between them is perceptually maintained as well as numerically. Okay? In some other color spaces, a -- you know, a numerical distance may not correspond to a perceptual distance. I could talk about that all day, but I don't think it would make for good use of our time.
- So, you know, somebody, you know, again, in their design choice, could decide whether they want to

do that and use the extra computation to make that conversion or leave it as RGB with reduced computation without that conversion and just execute it on RGB. I think that in the context of the '132 -- let me look at Claim 1, it's image data, and that image data can represent, you know, objects in the image, whether -- regardless of the color space. And you could apply correction operations on it in that color space too.

- Q. (By Mr. Janitens) Okay. So with Konoplev, all the enhancement, skin enhancement and blemish reduction, whatnot, it doesn't matter if it was RGB or CIELAB, you could still perform the same processing?

 MR. RIFFE: Objection. Form.
- A. I didn't say it doesn't matter. Okay? I mean, obviously, when you make a conversion to another color space, I mean, you have, you know, the same information but in a different form, and, you know, the person of ordinary skill in the art would recognize that, and they would, you know, realize that if they're going to apply some kind of filters, then they may need to modify the parameters and the type of correction they're using. You still apply the same type of correction. You might have to modify the parameters.

And, again, you know, if you look at

paragraph 6 of Konoplev, it's just talking about
Figure 1, and here I'm not talking about our
Patent '132, but I can still state that the
specification is, you know, teaching the '410.

- And in the figure, the image is converted to CIELAB, but I don't think that Konoplev teaches away, necessarily, from using RGB. It's just giving design choices.
- Q. (By Mr. Janitens) Would a CIELAB color model be able to be displayed on a rendering device, or does it need to be RGB or --
- A. Well, this I'll -- even though we're getting a little bit further -- I'm just going to give you a gentle warning, we're getting a little far afield from my declaration, but this is a gimme for you. CIELAB is in a color space that can't be displayed. You need to reconvert back to RGB for display, because displays -- display RGB, because that's what we humans sense. We can't sense in CIELAB.

It may interest you, however, that once the visual signal strikes the retina in the post-retinal ganglion cells, your own eyes convert that information into something kind of like CIELAB, but it's for other reasons than skin detection. It's because you can achieve certain efficiencies in representation. In

1 other words, a better code.

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- Q. A perception and whatnot?
- A. Yeah. It's irrelevant here, but it's just a little nugget of information for the Court.
- Q. All right. Appreciate it. All right. Let's look at Zhang again.

Along the lines of what we've been talking about comparing Zhang and Konoplev, is it your opinion that Zhang also discloses an automated process like Konopley?

- A. And do you want -- perhaps you want to show
 me where I opined upon this in my current
 supplementary declaration.
 - Q. So back in the beginning, near the beginning, on paragraph 8 where you discuss the automated technique that Konoplev discloses, would a person of ordinary skill in the art at the time believe that Zhang is similar to that?
- 19 MR. RIFFE: Objection. Form.
 - A. With respect, Counselor, my question is, where do I opine on what Zhang, automation or not, is opined upon in my declaration?
- Q. (By Mr. Janitens) So you do not opine about Zhang being directed to an automated process?
- 25 MR. RIFFE: Objection. Form.

A. I didn't formulate an opinion and lay it on paper here, so that's -- you know, that's something -- I'd have to look at Zhang in depth and, you know, formulate an opinion by, you know, what -- what I'd want to say about automation with respect to Zhang.

Let's just say it that way.

- Q. (By Mr. Janitens) So in your declaration on page 22, at the bottom, "Zhang and Konoplev are not so materially different in their complexity that a POSITA would have found them to not be readily combinable"?
 - A. I agree with that statement, yes.
- Q. I was wondering if you could expand on why it's your opinion that Zhang is -- Zhang and Konoplev are -- are not so materially different in their complexity.
- A. Well, complexity is, you know, how much computation is involved. That's what I mean by "complexity." It's a standard way of referring to how much computation.
- And, you know, if you look at -- just looking at the facing page of, you know, Zhang, and you'll see operations that are in the various blocks, the facing pages corresponds to Figure 2, I think, just for clarity of Zhang. Without getting into, you know, specifics of any of those, since I'm not really

- opining on those in my declaration, I believe that,
 you know, on blocks -- the blocks contained within 22,
 for example, involve computations that are of similar
 complexity as what are discussed in Konopley.
- Also, in block 20, you know, you'll see 5 similar language even, you know, face detection, skin 6 7 detection; so these are the same space and they're doing a lot of the same stuff, and so it's natural 8 9 that, you know, they're using techniques which are 10 equatable complexity, which makes them, you know, pretty easy to combine. There's no imbalance between 11 them. 12
- Q. All right. Next I'd like to talk about
 maintaining local contrast, which is claim 8 of the
 '132 patent.
- 16 A. Yes.
- Q. And your supplemental declaration is at
 paragraph 26. And my question is, how would a POSITA
 have defined local contrast?
- 20 MR. RIFFE: Objection. Form.
- 21 A. I'll be right with you. Okay. 26. Where 22 are we looking at here in 26?
- Q. (By Mr. Janitens) So claim 8 claim,

 "determining the amount of gain to apply to the first

 portion of the digital image data so as to maintain

- 1 local contrast of the first portion of the digital
 2 image data."
 - So I'm wondering what a POSITA -- how a POSITA would have defined "maintain local contrast"?
- 5 MR. RIFFE: Objection. Form.

quantitative like that.

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A. Well, contrast, including local contrast, which is -- well, contrast, generally, is a well-defined term in the art. So are local contrast. But the thing is, there are multiple versions of contrast, local or otherwise. So a POSITA would, you know, have it in his or her -- in his or her tool kit, you know, a number of ways, such as what's called Michaelson contrast, and another method called RMS

But they could also, you know, visually inspect based on experimentation and observe whether local contrast being maintained in their judgment. So, in their application, I don't think that, you know, Konoplev insists on any specific definition of local contrast.

contrast. Okay? So if they wanted to make it

- Q. (By Mr. Janitens) So in Konoplev, does it provide any examples of preserving fine details?
- A. Well, I mean, Konoplev refers to, you know, the preservation of image details in a couple of

- places. I cite to them on page 25 in my report near
 the bottom, referring to column 6 at the bottom of
 Konoplev and also abstract Konoplev.
- So he refers to, you know, details and fine details in a couple of places.
 - Q. Okay. So is it your opinion that the preservation of fine details is akin to maintaining local contrast?
 - A. I don't know what akin means, but, you know, this discussion here where I talked about image details in my report, you know, here I'm being responsive to Dr. Villasenor, who talks about, you know, contrast between two pixels. And you can't get more local than just two pixels that are together. I mean, you can talk about one pixel, but a single pixel doesn't have a contrast. You have to have at least two pixels to start talking about a contrast.
 - Q. Right.

A. So we agree -- as I state, we agree that's an extremely local thing. That's a very, very local contrast if you define it there, and, you know, if you are preserving, you know, contrast at that very, very small scale, just a couple of pixels then, you know, I would say that that is related. I don't know what akin means, but, you know, that -- and we don't have

any images in front of us, and we aren't talking about, you know, any specific -- the filter isn't in front of us, and we aren't running the algorithm, but I would say generally that if you're preserving that kind of local contrast, you know, it would indeed likely mean that you're preserving fine details.

- Q. And so in Konoplev, would a blemish have local contrast?
- A. Well, a blemish is not as local as what Dr. Villasenor is talking about here, generally. Usually it involves multiple pixels, might be dozens of pixels. Okay? Dozens of pixels in a picture is still tiny, you know, in the broad scheme of, you know, billions of pixels.
- So, you know, yeah, local, but it would be less local, but still local. Local can include, you know, hundreds of pixels in the language of my field.
- Q. Back to preserving fine details. Other than what you've cited in paragraph 26, are there any examples in Konoplev what preserving fine details may be?
- A. Well, I think, you know, Konoplev is making it clear that fine details are things that are very local and smaller than, you know, blemishes and that sort of thing, so that when the blemishes are removed

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    by the smoothing process, it's not -- you know, as I
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    state in, you know, my part of paragraph 26, that
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    processing does reduce contrast among the adjacent
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    pixels, meaning very, very local. It doesn't reduce,
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    you know, local contrast at larger scales. Okay?
    by that, I mean in other places and over larger
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    localities, shall we say.
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            So everything here is very consistent.
    Konoplev has a smoothing process that can reduce, you
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    know, these imperfections, yet preserve details, which
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    are, you know, in the sense of contrast as your
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    expert, Dr. Villasenor, is talking about.
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            So just to be clear, Konoplev is teaching
    details are preserved and then the locality of those,
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    you know, the local contrast is maintained.
    the details are maintained.
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            So with regards to Qualcomm's argument about,
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    you know, reducing local contrast, it doesn't reduce
    the local contrast to the details. So I'm referring
19
    to the inset part of 26.
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            And would blurring decrease local contrast?
        Q.
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            Which blurring? Where?
        Α.
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            Just blurring in general.
        Q.
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Well, I, again -- with apologies, I need

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MR. RIFFE: Objection.

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А.

- to -- blurring is specific -- you know, specifically discussed in my declaration and have a context and that sort of thing. 3
 - (By Mr. Janitens) I'll rephrase that. So Konoplev's facial smoothing, would that reduce local contrast?
- 7 MR. RIFFE: Objection. Form.

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- In the context of the fine details which are Α. preserved, okay, the local contrast is maintained. if the object detail remains visible and the detail remains, then the local contrast has not been reduced by Konoplev. And Konoplev teaches that image details are preserved so the local contrast is not reduced.
- (By Mr. Janitens) Let's look at paragraph 29 ο. of your declaration. It's on the next page, actually, still in paragraph 29, but the two images, castle images, you've got there. Can you explain the difference between those?
- 19 MR. RIFFE: Objection to form.
- 20 The difference between these two images? Α.
- 21 (By Mr. Janitens) Q. Yeah.
- Well, I mean, it's explained. So the top one 22 Α. 23 is an original image of Castle Neuschwanstein. Okay? 24 In southern Germany. In the bottom one, you can see 25 that a blurring process has been applied to selected

- 1 portions, so the castle itself is largely not blurred
- 2 by that blurring process. The rest of the image, you
- 3 know, as you proceed outward from the castle becomes
- 4 blurred. And, in addition, the whole image, the whole
- 5 bottom image had a contrast enhancement applied. And
- 6 you can see it's -- has a heightened contrast.
 - Q. And the source of these images is movavi.com?
- 8 A. Yeah. There's a link there. You can also
- 9 find the original image here on Wikipedia.
- 10 Q. What is MOVAVI?
- A. It's just a Web site. It's one of many Web
- sites devoted to picture processing.
- Q. Was that available to POSITA in 2009?
- A. Well, I'm using this example here not as an
- 15 example of what a POSITA would refer to necessarily,
- 16 but just merely to explain what I'm trying to explain
- 17 with regards to combining contrast enhancement with
- 18 blurring.

- 19 Q. So is it your opinion that in 2009, at the
- 20 time of the invention, would a POSITA have understood
- 21 that blurring and contrast enhancement be combined?
- 22 A. Oh, sure.
- Q. Used together? And so why would a POSITA be
- 24 motivated to apply both blurring and contrast
- 25 emphasis?

- Well, I mean, I state in paragraph 29 that, you know, if you apply, you know, blurring to an image in a digital way, okay, then as I state, "Indeed, 3 because blurring reduces contrast between the adjacent 4 pixels, a POSITA would have found it desirable to 5 apply contrast enhancement to the blurred portions to 6
 - And so you said blurred in a digital way as 0. opposed to an analog?

restore contrast to the blurred portions."

- Well, with a lens. I mean, this picture 10 below here was blurred with using -- in a digital way. 11 I mean, even if it was blurred in an analog way, you 12 13 could contemplate this. But, you know, here I referred to blurring in a specific way in 14 15 paragraph 28.
- And so is it your opinion that the blurring 16 does not decrease visibility background? 17
 - Where are you referring to what I've opined? Α.
- 19 0. Paragraph 27.

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- By the way, you should probably give me 20 21 Nonaka at this point.
- 22 Yeah. We'll get to that. 0. Sure.
- 23 There's not a question, is there? I thought Α. 24 you were looking at me expecting something.
- 25 Q. Yeah. So just -- so is it your opinion that

- the blurring does not decrease visibility in the
 background?
- A. Okay. So all that silent space was waiting for me?
- Q. I thought you were reading.
- 6 A. My apologies.
- 7 Q. No problem.

you didn't.

- A. I honestly thought we'd moved on. You said something like, you know, not just now or something.

 So what's the question?
- 11 Q. So is it your opinion that the blurring does
 12 not decrease visibility of the background?
- 13 MR. RIFFE: Objection. Form.
- A. So, I mean, you didn't -- see, I asked you to
 direct me to it. And that's -- I remember what
 happened. I asked you to direct me to someplace, and
- So in the context of blurring the background,

 I mean, you're talking about what Zhang is teaching.
- 20 Is this the context we're looking at?
- Q. (By Mr. Janitens) Yeah.
- A. Okay. So, you know, as I state in
 paragraph 30, Zhang teaches enhancing focus of the
 foreground by blurring background. And as I state,
 that blurring is not intended to decrease visibility

- but just decreases the amount of focus. You can still
 see the background. It's still just as there as it
 was before; it's just been blurred.
 - Q. So is visibility affected at all?

- A. Well, I mean, the background is still visible. Okay? It's still there. It's just been modified to give this, you know, depth-of-field effect. So I would disagree with the statement that the goal is to decrease visibility of the background by that.
- Q. Can blurring of the background increase visibility of the background?
- 13 MR. RIFFE: Objection. Form.
 - A. So, you know, again, I think what I've tried to explain is what the inventor of Zhang is attempting to do, is seeking to do. So he applies this blurring with the intention of decreasing focus which gives a certain effect. His goal is neither to increase nor decrease visibility of the background.
 - And I would say that when you apply his method, that's what you're doing; you're blurring the background. You're not -- he's not trying to decrease visibility.
- Now, so if you're asking me a specific question that's really broad and open-ended, I don't

- 1 know how to answer that.
- 2 MR. JANITENS: All right. Looks like it's
- 3 been about an hour. So we can break for lunch?
- THE WITNESS: Sure. Sure. Sure.
- 5 MR. JANITENS: All right. Sounds good.
- 6 (Recess taken from 12:56 p.m. to 1:34 p.m.)
- 7 Q. (By Mr. Janitens) All right, Dr. Bovik.
- 8 Let's turn to -- let's look at your supplemental
- 9 declaration for 1251.
- 10 A. Okay. Back to 1251.
- 11 Q. Paragraph 28.
- 12 A. 28.
- Q. Just to kind of continue our discussion about
- 14 contrast emphasis versus blurring.
- 15 A. Uh-huh.
- 16 Q. You cite Gonzalez there at pages 126 to 127.
- 17 A. Uh-huh.
- 18 Q. If you would go ahead and turn to that real
- 19 quick. So on page --
- 20 A. On Gonzalez? Okay.
- Q. Yeah. So the bottom of 127, 3.2 Some Basic
- 22 Intensity Transformation Functions.
- A. Yeah.
- Q. I was wondering if you could tell me about
- 25 some of the basic transformation functions that would

- have been available to a POSITA at the time of the invention of the '132 patent.
- MR. RIFFE: Objection. 3 Form.

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- I realize I'm citing these pages, but do I, 4 you know, cite to specifically 3.2 in these intensity transformations that you want to point me to?
 - (By Mr. Janitens) So just in general, as you Q. mentioned, "Contrast emphasis, which operates on individual pixels (called "point processing"), increases the difference between the highest and lowest intensity levels in an image and adjusts pixel values accordingly, resulting in the higher intensity levels becoming brighter or the lower intensity levels becoming darker."
- 15 So to answer -- I mean, I'm sorry. I didn't 16 mean to interrupt.
 - Oh, no problem. So I just wondered what kind of transformations would be used for contrast emphasis?
 - Again, I mean, I don't see the word -- I mean, you're reading from 29 here, and I don't see anything about transformations. You know, if you look at Gonzalez here, he talks about a number of transformations for enhancement. If you look at page 128 of Gonzalez at the top, he's talking about,

you know, logarithmic operations. I mean, this is
where you apply a logarithm to every pixel value.

Okay? What does that do? It's a way of, you know,
changing the histogram of an image. Okay? But it may
not -- it may be directed to something different than,
you know, contrast, you know, processing.

Although, you know, anything you do to an image may affect contrast, you know, a little bit, okay, even if it's, you know, negligible. Just because you're changing pixels; right? Every time you process an image, you're changing pixels; right? Just like Dr. Villasenor said somewhere in his testimony, you're changing pixels; so.

So these power log, logarithmic kind of things, they're not really -- you know, I wouldn't generally associate them with, you know, contrast enhancement.

Let me give you a good example of when you'd use a logarithmic transfer. Okay? Astronomers do this a lot. So if you take a photograph of the night sky with a telescope, okay, and if you don't do any processing to it, you'll -- all you'll see is black, except for a few bright dots which are stars. All right? There might be a lot of structure in that picture.

So then if you take a logarithm, okay, of every pixel, suddenly fainter structures may emerge like nebulae and galaxies and so on, which actually might be big in the picture but, you know, hard to see. Okay? This -- that's why they use it.

Now, is that a kind of contrast processing?

It's not the goal, I think. I think the goal is to change the histogram so that these -- these faint structures which are sort of hidden by these very bright, dominant stars. Okay? So I would call that something different than the goal of contrast enhancement.

- Q. Okay. So like looking at 3.3, just generally, input intensity versus output intensity, are you just trying to change --
- A. Yeah. I mean, these are -- these are different -- this is a subset of the possible transformations, you know. And when I teach these in my class, I call them point operations. Okay? He's calling them intensity transformations. I think those could be used interchangeably. They operate on a single pixel at a time. Okay? So it's not a filter like we've been talking about.
 - Q. Uh-huh.

25 A. Is it -- could you call it a type of

- 1 correction? Sure. But maybe not using the term
- 2 correction as we're using it in the context of, you
- 3 know, the '132, which has specific goals for
- 4 correction. You know, I don't think you'd use any of
- 5 these things to reduce wrinkles, for example.
- 6 Q. Then, I guess --
- 7 A. And I don't mean to limit people's
- 8 creativity. Somebody could say, well, if I did this
- 9 fancy thing with this log, maybe I could jump through
- 10 a hoop and reduce wrinkles. But I can't think of it
- 11 on the spot.
- 12 Q. And so the rest of it is just other
- transformations that would generally be available?
- 14 A. What page are we on again here?
- 15 Q. Just leafing through page 130, power log
- 16 gamma transformations.
- 17 A. Well, you see 126 also talks about spatial
- 18 filtering, you see.
- 19 0. Okay.
- 20 A. So, remember, this is drawn from, you know,
- 21 page 78, 126, 127. In fact, you know, further down I
- 22 include 124 through 127; right? So, there's no
- 23 failure of Gonzalez to talk about things like
- 24 blurring -- right? -- in this part, and talk about
- 25 | spatial filtering and so on. It's just that the --

- you know, this one little part of that longer set of pages I gave isn't really directed towards that. I'm not saying they couldn't affect contrast. It's just that's not what you'd first think of to use.
 - Q. Can you tell me what contrast stretching is?
- 6 A. Yeah.

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- 7 MR. RIFFE: Objection. Form.
- A. You know, contrast stretching is actually
 related to something we're talking about in this case,
 which is, you know, dynamic range correction. All
 right?
 - So -- and, you know, I want to point out that it touches upon arguments that are being made and opinions given by myself and Dr. Villasenor. So I would broadly say that, you know, contrast stretching is a -- you know, it's -- it's in the type of correction on his dynamic range correction.
- 18 Q. (By Mr. Janitens) Okay.
- 19 A. Okay? I would say that.
- Q. All right. Let's turn to your supplemental declaration for 1250, the 1022 exhibit.
- 22 A. Okay.
- Q. Okay. So in paragraphs 7 through 10, you discuss claim construction for terms gain and gain map.

- 1 A. Yes.
- Q. Turn to that.
- 3 A. Uh-huh.

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- Q. Okay. And you state that, in your opinion,

 "Qualcomm's construction is not 'the broadest

 reasonable interpretation'" for gain and gain map;

 correct?
 - A. I would say that, and I would go beyond, you know. And, I mean, as I state, I don't think that a POSITA would understand the '132 Patent's use of gain to be only limited to brightening or darkening a region of an image. I have no reason to believe that.
 - Q. And why is that?
 - A. Well, the '132 doesn't teach that. It's limited in that way. It doesn't -- it teaches otherwise, I think. And, also, in ordinary meaning, you know, gain doesn't -- an image processing field doesn't just mean brightening or darkening. It can be, you know, applied to amplification or attenuation.

I kind of see gain as amplification or attenuation of something. Okay? Think of turning a knob. All right? So, and that could affect, you know, global contrast. It could be on the local contrast. It could be on -- dynamic range is controlled by one or more parameters. It could be --

- it could be something that affects sensitivity of an algorithm to an object, like a face or to a texture.
- So, in all those -- in all those instances,

 gain could certainly be used without any -- you know,

 in a very natural way.
- Q. Okay. When you cite the '132 patent at column 3, lines 59 to 64, that's in paragraph 8.
- A. Yeah. I see that. I'm sorry. Column -
 9 I've lost mine.
- Q. Column 3, lines 59 and 64. It's actually on the next page, the citation.
 - A. Oh, there we go. Yeah. Is there a question?
 - Q. Yeah. So in -- in that portion, so it starts off with, "Note that the content-based technique introduced here is not necessarily limited to determining a gain adjustment or to DRC. For example, other types of corrections or adjustments can be made
- based on image content as described herein, such as
- 19 contrast enhancement, color manipulation, sharpness,
- 20 adjustment, noise reduction, and skin smoothing."
- 21 So isn't the '132 patent treating those as 22 other types, separate from gain?
- 23 MR. RIFFE: Objection. Form.

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- A. I think it's not limiting it. I think
- 25 it's -- you know, it could be other kinds of

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corrections, but those could definitely involve gain.
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    Okay? You know, it could involve other adjustments
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    that don't include gain. I think it's very broad,
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    but, you know, if gain is included, you certainly can
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    have a gain on contrast, unquestionably. You can have
    a gain on, you know, color in various dimensions and
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    directions. You can, you know, put a gain on degree
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    of sharpness. Absolutely.
            You can -- it's -- the word "gain" is not a
    term of the art that is limited to any particular type
10
    of correction as a POSITA would understand it, as an
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    expert like myself would understand it and, in my
12
    opinion, as the '132 patent teaches it.
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            So looking, for example, at line 49,
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    column 3, "Multiplying each color component of the
15
    input image by one or more pixel dependent gain or
16
    attenuation factors, using a nonlinear mapping
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    function, that may either lighten shadow regions or
19
    darken" ones. Okay? So it can do that.
                                               I'm not
    denying. It could be used to lighten or darken
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    things. "Or change the chromaticity of pixels."
    Changing chromaticity has nothing to do with
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23
    brightening or darkening. Nothing.
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        0.
            (By Mr. Janitens) And in that portion it
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says, "may either lighten shadow regions or darken

highlights or change chromaticity of pixels."

A. Yes. This is different kinds of -- you know, it says using pixel-dependent gain, it can do this, this, or this, for example. And just as examples. So it's clearly using gain to change chromaticity, which that is not brightening or darkening.

So a person of ordinary skill in the art would understand gain isn't limited in any way to just -- I want to make sure that I'm looking at addressing -- yeah.

So, you know, Qualcomm wants to limit it to brightening or darkening a region of an image, but it is not limited in that way either to a person of ordinary skill in the art reading this, or a person of ordinary skill in the art just working in the field, or myself, as an expert reading this or working in the field. And specifically the '132 teaches away from this being limited in that way.

If you look at column 4, line 19 through 25,
"Although the following discussion is given terms of a
single gain factor for each pixel, more generally this
can be one or more pixel-dependent gain or attenuation
factors or other factors, such as changing the
chromaticity of pixels in either shadow regions or
highlights that can enhance the perception of image

details."

So, again, when you're changing chromaticity, whether or not it's in a shadow region or not, or in a highlight region or not, changing the chromaticity is not brightening or darkening.

Q. So if you look at column 3, line 54, 54 to 58 states, "Altering input image pixel chromaticity (color balance) can be done separately, or in combination with, overall pixel gain adjustments." So isn't that treating chromaticity and gain separately?

MR. RIFFE: Objection. Form.

A. Well, you'll notice that the word "gain" here is modified by the word "pixel." So I think that, you know, I do not believe that pixel gain is limiting.

Okay? It's just that the author here in this one sentence is trying to explain that you could modify chromaticity as well as, you know, maybe brightness or contrast. Okay? To enhance the image. So, no, I don't think it's excluding it. I think it's just trying to say that there could be a, you know, chromaticity modification, just as altering chromaticity. Okay? So it might be that it's altered in a way that it doesn't involve the gain on the chromaticity.

No, I don't agree. I think that it doesn't

- 1 cause such a distinction.
- There's not a question; right? Okay.
- Q. (By Mr. Janitens) Okay. Next question.
- 4 A. Okay.
- Q. Let's turn to the '132 patent, Figure 7.
- 6 A. Figure 7 of the '132.
- 7 O. Yeah.

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16

- A. And if we're going to talk about it, you
 might want to show me where I talk about it in my
 declaration.
- Q. So we're looking at paragraph 12. While
 we're at it, I'll hand you Exhibit 1004, which is
 Needham. Also, since we'll be getting to this soon
 enough, 1005, Nonaka.
 - So with the '132 patent, Figure 7, can you describe generally what's happening in this figure?

 MR. RIFFE: Objection. Form.
- A. So, you know, again, this is a figure from
 the '132. It's part of the specification. It's not
 part of the claim language. Okay?
- Q. (By Mr. Janitens) Sure.
- A. So, again, it's, you know, a teaching
 concept, so that somebody might practice what's
 actually in the claims. So in Figure 7 --
- 25 Q. The corresponding column is 5.

- A. 5? I just zipped past it. There we go.

 Thank you. So Figure 7 is intended to show, you know,
 a way of encompassing dynamic range correction. It's
 a visualization. In this particular answer, you'll
 notice that at brighter image intensities, the curve
 is, you know, straight line, what we call linear. And
 that really means it's kind of a do-nothing happening
 here.
- 9 Q. Line 701?

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- 10 A. Yeah. It coincides with 701, whereas some
 11 darker intensities, they get amplified. They get
 12 brighter. So this is --
- Q. Is that with respect to 702? The curve?
- A. Yeah. This is line 702. Yeah. So this is just an example of an idea of how a POSITA might go about, you know, dynamic range correction.
 - And, you know, the end of that paragraph says, of course, other shaped curves could alternatively be used, and, you know, I would go beyond that and say, well, not every dynamic range correction algorithm will be describable by a curve like this.
 - Q. So -- okay. So not -- we could have other shaped curves or other, like other transformations like we were talking about with the contrast

stretching or --

MR. RIFFE: Objection. Form.

- A. I didn't use the term "other transformations." I would just say, you know, you could process an image in a way where in that dynamic range correction process, you know, you -- the way a pixel's brightness was mapped might depend on some neighboring pixels and stuff, and you couldn't map that; so.
- Q. (By Mr. Janitens) Could you explain what you meant with the --
 - A. Oh, sure. I'll just do it this way. So you couldn't use this curve to describe how a dynamic range correction was used on 800C. Figure 8C. Okay? Because on the face, there was more brightening applied because, you know, the processing of the surrounding pixels, you would determine if there was a face there.

And in the other regions of the picture, call it second portion, as opposed to the first portion, the face, using the claim language, you would have, you know, less brightening. Okay? So you couldn't use a single curve here to describe the dynamic range correction of -- in 800C, or Figure 8, however it's -- yeah. Figure 8C, top picture.

- Again, you know, I mean, the inventor is just trying to explain concept. And it's not a mapping to the claim language, to or from.
- Q. And from the spec, column 5, line 56, the "Curved line 702 represents an example of the effect of selectively modifying the gain G(s) to increase the intensity of darker portions of an image, such as face of person standing in the shadow."
- A. Yes. It says that.

- Q. And so if there was -- if the curve was shaped differently, the intensity of the face could be changed accordingly?
- 13 MR. RIFFE: Objection. Form.
- Q. (By Mr. Janitens) In accordance with that curve.
 - A. If you're following this particular line of teaching using a single curve for a standard way of dynamic range correction, you know, it may not -- you may not probably match the claims where you're doing, you know -- it's determining process on physical objects of a predetermined type and all that kind of stuff.
 - So setting outside the claim language and just looking at this, yeah. I mean, if you modify the gain, you will -- you will change how much any pixel,

potentially, is modified.

- Q. Could you explain how this Figure 7 translates to a gain map or how, in conjunction, it works with a gain map?
- A. Could you show me where I stated that Figure 7 is being used to create a gain map?
- Q. Or just like following the portion that we just read regarding Figure 7, talks about contact -- content map, 119, after that.

10 MR. RIFFE: Objection. Form

A. Well, pretty easy. If you look, you know, around -- well, 60 through 67 explains that pretty well. And I'm not sure how well the spec explains it here, but they say, for example, "one embodiment, shown in Figure 2A," all right? Figure 2A. There it is. Where they have a lookup table that is embodied by the graph or vice versa, I should say. "The gain lookup table 207 contains one or more gain values, G(s) for use with pixels that are part of a detected object," such as a face. In my mind, that reads for one gain curve.

So it's a part of the table or a gain lookup table for face. Okay? And then it says, "and one or more other gain values for use with pixels that are not part of a detected object." So I would view that

as, you know, either a different table or a different

part of the same table and will correspond to a

different -- potentially a different curve like the

one in Figure 7. So, you know, you'd have at least

two different curves here.

- And if you had other objects of a

 predetermined type of interest, you might have three

 curves or five or seven, you know. So you can see

 that you can't have one curve here that describes

 dynamic range correction when you're practicing the

 patent in this way.
- Q. (By Mr. Janitens) All right. Let's turn to
 Needham.
- 14 A. Yes.

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- Q. And in your declaration, we start at paragraph 11.
- 17 A. Okay.

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- Q. So does Needham define the term "match" or "matched"?
 - A. Well, so, you know, to start with, the term "match," which appears in the claim language of the '132, does not appear in the specification. And so we don't have the '132 inventor defined. I know your question was about Needham. Okay? So I just wanted to start with that, that the '132 spec doesn't define

match.

But I think, you know, a correction -- a type of correction being, you know, matched to an object or image feature, you know, Needham uses feature like, you know, like objects. Okay? And I think that's something that I made clear previously when being deposed in the previous deposition. And I don't think there's really any argument with that by anybody.

So as I state in my paragraph 17, I point to many places where Needham, in my opinion, is disclosing the matching of a type of correction to an image feature. Okay?

So, in particular, paragraph 32 in Needham -well, I'll just -- let's go back to my report. I'm
still in paragraph 17. As I state on page 13, near
the middle, "Needham clearly discloses a type of
correction being defined for, i.e., 'matched' to an
image feature," and my own parenthetical here is,
again, that corresponds to a predetermined object,
"e.g., a human face image feature." That part being
back to reading.

"Needham's example describes different types of corrections being applied to different types of image features." Again, parenthetical, you know, objects of interest or pre-determined types, end of

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parenthetical. "The operation of maximizing dynamic range is applied to human faces, and the operation of increasing brightness is applied to the sky which indicates that different corrections are matched to the different image features." So I'm just reading straight up from my report, and I'll just refer to the rest of it and just paraphrase a little bit.
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In 32, which -- let me just find that point.

That's paragraph 32 in Needham, just for clarity.

Around -- we don't have line numbers, so three quarters into paragraph 32 -- well, let me first read the first sentence.

"For each defined correction, operation, one or more operational parameters may be specified." So Needham is very clear that, you know, you have a type of correction, meaning a defined correction, and for each type you may have parameters that can be varied which will change the way that correction acts upon an image.

"The operational parameters may also specify that different occurrences of a same feature type" -- I won't give the parenthetical this time,

"(e.g., different human faces) in an image receive a differing correction operation."

Now, let me explain that. By "differing correction operation," it does not mean a different type of correction. It means clearly in this context throughout this, he means a differing amount of correction. Okay?

Even given a type of correction, such as smoothing or dynamic range correction, or noise removal, you know, when you adjust the parameters, you adjust the outcome. You're going to -- you know, differing result. A differing correction. But it's not a different type of correction that's being referred to. And I realize I'm rebutting another point from Dr. Villasenor in pointing this out.

So I think Needham makes clear matching examples, and I think I gave a long answer to a question that was pretty simple, didn't I.

Q. Okay. So in 32, the second-to-last sentence, "For example, the intensity of dynamic range used for correcting a human face may be determined according to the size of the face detected." So the intensity dynamic range used depends on the characteristic of the face? In this case, the size of the face?

A. Well, it could. Okay? So the intensity dynamic range, I would call that an operational parameter of a -- of a dynamic range correction. And

```
I think -- let me see. So, in fact, in the middle
1
    of 32, Needham refers to -- it's 1, 2, 3, 4, 5, 6, 7,
2
    8, 9 -- line 10 of paragraph 32 of Needham, it says an
3
    intensity dynamic range 760 -- let me say that
4
5
    clearly. I fumbled my words.
            "An intensity dynamic range 760 may be
6
7
    specified as an operational parameter. "Okay? So
    back down to five lines from the bottom of 32, in
8
    response to your question, "the intensity dynamic
9
10
    range, " which is an operational parameter of dynamic
    range correction, which is the type of correction used
11
    for correcting a particular human face, "may be
12
    determined according to the size of the face
13
    detected."
14
15
            So it's the same type of correction.
    dynamic range correction. It's just that we're
16
    varying this parameter according to the size of the
17
18
    face. And, you know, that certainly is not a
    different type of correction applied. It's a
19
    different amount of correction applied, according to
20
21
    the size of the face.
22
            Now, I'm being very specific in my answer,
23
    and citing to the entire paragraph 32, and on this
24
    topic, Dr. Villasenor cited only, you know, a passage
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or so out of context.

- Q. So in 32, does paragraph 32 disclose that intensity dynamic range is applied to the face because it's a face?
- A. It doesn't say that, no. It just -- it's stating that you have this parameter, and when you're applying it to the face, which you've detected ostensibly, then you can modify this operational parameter, which is the intensity dynamic range, in this instance, according to the size of the face.
- It doesn't -- it doesn't say that you don't -- you can't -- you know, that you don't apply dynamic range correction to, you know, other portion of the image.
- You know, go back to Figure 8C and image 800C. There you have different amounts of dynamic range correction applied to different portions of the image. Not just the face.
- Q. And so the intensity dynamic range, how would one adjust that?
 - A. Where?

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- Q. Just, in general, when we're talking about intensity of dynamic range, whether it be in 32 or 22.
- 23 MR. RIFFE: Objection. Form.
- A. Well, I'll field it that way. I would say that there isn't a single way. You know, dynamic

```
range correction involves a number of parameters.
1
    know, there's -- I'm going to take a second --
2
            (By Mr. Janitens) Sure.
3
        0.
            -- to find something where I can answer your
4
5
    question best.
            Changing the parameter of the dynamic range
6
7
    correction, it's still dynamic range correction.
                                                        Same
    type of correction. Okay? I'll say that first.
8
            So I'll take advantage, in my page 19, which
9
    is also my paragraph 19, of what Dr. Villasenor talked
10
            Now, these were all same type of correction.
11
12
    You know, we're just varying some parameters.
13
            So somebody asked him a question that was
    just like the one you asked me pretty much.
14
15
             "Are there different ways to adjust
16
    dynamic range of an image or a part of an image, like
    a face."
17
18
             He said, "Yes, there are."
19
             "Can you give me some examples?"
            "So one example would be to" -- he says, in
20
21
    his answer, "to perform an adjustment such that after
    the adjustment, the region of interest used the full
22
23
    range of possible values from using the convention
24
    agreed on before from zero to 255."
```

And I agree. That is one way. And I'll just

point out two parameters there. Zero and 255, which are the maximum allowed, you know, brightness and the minimum allotted brightness, may be for an entire image.

But for a region in an image, you may have a different maximum allowed and minimum allowed, according to your method of doing dynamic range correction. Or I should say, when I say "method," your selection of parameter for dynamic range correction. Okay?

So he goes on to say that you could leave the darkest value in the image. And I would just modify that and say maybe the darkest value in the face, and not change that, or maybe the darkest value in the building. Okay? And not change that. And then only increasing, you know, the other values that are brighter than that. Okay?

So that's, you know, changing the lower-bound parameter; right? And then you could also change -- like he says, you could reverse the process and keep brighter values unchanged and then darken darker pixels. So that's sort of keeping another parameter fixed and varying another one. Okay.

So he's describing ways, and you could keep them both fixed but neither one zero or 255. And, you

- 1 know, I could go on and on.
- 2 So there's a lot of ways, and I agree with
- 3 Dr. Villasenor that these are different ways of
- 4 varying parameters of the type of correction called
- 5 dynamic range correction.
- 6 Q. And so you're saying dynamic range could be
- 7 maximized on a global level, as well as region --
- 8 regions within the image?
- A. Well, that wasn't the point of what I was
- 10 saying.
- 11 Q. Right. Right. Just --
- 12 A. Everything I said just now could apply at a
- 13 global level or at a regional level. For example, it
- 14 could be applied on a -- you know, a predetermined
- 15 object --
- 16 Q. So if we look at --
- 17 A. Just to finish my answer, I'd just like to be
- 18 precise.
- 19 O. Sure.
- 20 A. -- could be applied to a physical object of a
- 21 predetermined type, or several such, or to other
- 22 portions that aren't those.
- 23 Q. All right. In paragraph 22, Needham --
- A. And, by the way, you could mix them up in the
- 25 same algorithm, the same application. You could

- maximize brightness over here, minimize it over there, you know, different portions, but it's all same type of correction being applied, just changing the 3 parameters according to content. 4
- I'm done now. 5 Sorry.

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- Okay. So on 22, looking about halfway down, 0. it says, "For instance, the correction operation of maximizing intensity dynamic range is applied to both human faces and buildings and the human face feature has a higher weight than a building feature, the intensity dynamic range used for that correcting" --
- I'm just not seeing where you're reading 12 13 from. I'm sorry. Page 22?
 - Paragraph. Sorry. Of Needham. 0.
- 15 I saw 22, and that's where I stopped. So for the -- okay. Sure. Where I'm talking 16 about paragraph 22 is about Nonaka. 17
- 18 Sorry. In Needham. Q. No.
- Oh, in Needham. 19 Α. Sure.
 - Just generally it talks about maximizing intensity and dynamic range for a human face and maximizing intensity and dynamic range for a building. Just wondering if full range of intensity levels are used for both?
- 25 Let me find it first. Okay. No, there's no

reason why they would have the same parameters. In fact, I think the '13 -- I mean, I think Needham is teaching, like the '132, that you can vary parameters of your different types of corrections.

So, there was no reason, no limitation given here where you couldn't, you know, change the upper bound to which you could maximize intensities or change the lower bound.

And, in fact, if you read 22 carefully, at the very bottom, you know, it says, the last sentence, "For instance, if the correction operation of maximizing intensity dynamic range is applied to both human faces and buildings, and human face feature has a higher weight than the building feature" -- well, that weight does something; right? -- "the intensity dynamic range used for correcting faces in an image may be larger."

So already we can see that the -- to change the intensity of the dynamic range to a larger one that's allowable, you need to modify the parameters of your dynamic range correction algorithm to make a bigger range of possible intensities that could be mapped to by the correction. And it says correspond to a higher contrast, which could be the case.

"And with good reason," it goes on to say

- that you know, "In this way, the human faces may be corrected so they become more visible than buildings."
- How would this maximizing the intensity dynamic range impact the gain?

- 5 MR. RIFFE: Objection to form. Leading.
 - A. Well, the word "gain" isn't used here. I could gain in various ways here. So I think that, you know, the gain on dynamic range would increase on faces. The gain on dynamic range would be an attenuation, perhaps, on buildings. Expanding or contracting the allowable dynamic range, well, that's a gain, of course. But that's not the actual processing of the pixels.
 - So then when you apply, well, the amount of change applied to the pixels, well, a given pixel may go up or down according to your dynamic-range correction algorithm.
 - It's not -- I wouldn't always call -- you know, an algorithm makes a pixel go up or down. I would call it a change. I wouldn't say that it's, you know, has to be a gain, but it could be. Certainly, it could be. But in this instance, I wouldn't be unhappy with saying, well, if it did that, then the gain would be increasing the brightness and -- or decreasing the brightness. You know what I mean?

If you go back to what I was reading here from Dr. Villasenor, on my page 23 of my 1250 declaration, his whole Q&A passage there from 22 over to 23, he's talking about, you know, saying, you know, the darkest pixels would stay unchanged and brightest pixels would get adjusted the most. Okay.

Well, I think in that instance, you know, you would be adjusting, you know -- or let's look at it over here. I think above is a better example. So this is line 3 of page 23 of my 1250 report.

"You could adjust it by -- by, for example, leaving the darkest value in the image, not changing that, but only making -- you know, doing -- doing an increase in brightness in proportion to how much brighter a pixel was relative to the darker pixel."

I think that is a gain there in the context of dynamic range correction. In fact, I think that's a gain under even Qualcomm's proposed construction of gain.

And I don't agree with Qualcomm's proposed construction, but, you know, Needham could certainly practice this. Okay? And so Needham could, you know, be applying a gain in this kind of dynamic range correction that would -- that would satisfy Qualcomm's construction of gain. So under my understanding -- I

- mean, they have a specific construction of gain. I

 don't agree with that. But in either case, Needham

 satisfies.
- Q. (By Mr. Janitens) In light of Needham, how would you construe the term "gain"?

6 MR. RIFFE: Objection. Form.

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- A. Very broadly. Very broadly. And, in fact, earlier I gave a long discourse on how gain -- you know, I talked about a person of ordinary skill in the art both reading the patent, not reading it, myself as an expert, both reading the patent, not reading it, well, now I'm being a POSITA, hypothetical POSITA, reading Needham or not reading it, I think I would -- you could just cut and paste that and put it right here to keep my answer, you know, short here.
- Just look at 20, paragraph 20, of Needham.

 He says, "One or more types of correction operations may be applied,' you know.
- As I said before, all of these can have gains. I don't know. I'm done.
- Q. (By Mr. Janitens) All right. Let's check out paragraph 30.
- 23 A. Uh-huh. Paragraph 30 of my declaration?
- Q. Of Needham.
- 25 A. Of Needham.

- 1 Q. Needham. Yes.
- 2 A. Sure. Also point to me where I discuss this
- 3 paragraph.
- Q. On page 15 of the declaration.
- 5 A. Page 15?
- Q. Yeah.
- 7 A. Sure. You seem to be able to find these a
- 8 lot faster than I can.
- 9 Q. So what would you say -- or how would you
- 10 define feature descriptions?
- 11 MR. RIFFE: Objection. Form.
- 12 A. Well, again, this is Needham, okay, and so
- the term "feature," you know, you look at Figure 2
- 14 above, it's detecting features and correcting.
- 15 Feature, in my mind, means object. Okay? It's just
- 16 the way he's using the term "feature." So a face is a
- 17 feature, for example. And, you know, he states, you
- 18 know, a feature description. That was your question;
- 19 right? Feature description?
- Q. (By Mr. Janitens) Yeah.
- 21 A. 260. Which you can see in the middle of
- 22 Figure 2 above includes a feature type. Okay? So
- 23 that might be face; right? It could be building or
- 24 something. A location descriptor. Well, that tells
- 25 you something about where it is since it's been

- 1 detected. A shape descriptor. Well, that's, you
- 2 know, some -- could be a lot of different things
- describing shape. Round face, elongated -- whatever.
- 4 And statistical properties. That could be an awful
- 5 lot of things. Average brightness, local histogram,
- 6 standard deviation of brightness, color features,
- 7 whatever. Okay?
- 8 So, I mean -- and I'm not limiting it in any
- 9 way. I'm just giving examples. So that's what he
- 10 means by feature description, what he says.
- 11 Q. And then at the end of paragraph 30, it says,
- 12 "Such descriptions may be used to determine where and
- 13 how to apply one or more specified correction
- 14 operations"; right?
- 15 A. Yes. Indeed.
- 16 O. So does Needham describe that a specific
- 17 correction operation is performed based on a specific
- 18 feature type?
- 19 A. So, I think I understand your question. Does
- 20 Needham teach -- better ask it again, just so I'm
- 21 clear.
- 22 (Requested portion read.)
- A. Okay. So, back to paragraph 20, and I'll
- 24 just read from my report, page 17, paragraph 17 also,
- 25 middle of the page, "Paragraph 20" of Needham

"discloses, 'one or more types of correction 1 operations may also be defined for each image 2 feature.'" And, "'different types of correction 3 operations may be applied to different image 4 features.'" 5 So he's directly teaching that you can match 6 7 the type of correction to the -- and, again, feature 8 is the object, like face, as I state above and have 9 stated many times. So Needham is teaching just that. 10 (By Mr. Janitens) Your declaration, at the 11 Q. bottom of page 16 --12 Uh-huh. 13 Α. -- you state that "feature type, e.g., human 14 15 faces, is matched to a specific correction type" --"correction operation"? 16 17 Α. I see that, yeah. 18 So the specified correction operation is not 19 matched to the feature type? 20 MR. RIFFE: Objection. Form. 21 In the context of what's being taught in Α. Needham and in '132, for that matter, I see no 22 23 difference between those, because you're given an 24 You know, if the faces are there, they're image.

So you don't do something to the faces

25

faces.

Okay?

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to somehow match them to a correction operation.
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    Instead, you, you know, you match -- you know, in
2
    retrospect, I would -- should probably reverse that
3
    order just for clarity, but I think it's just the same
4
5
    thing. You match the correction, really, to the
    object.
6
7
            And, you know, in 20, again, it says, you
    know, 20 from Needham, paragraph 20, it says, "One or
8
    more type of correction options may also be defined
9
    for each image feature." Again, image feature is an
10
11
    object.
            That is very strongly pointing out matching.
12
           So, for example, both contrast and brightness
13
    Okay?
    may be corrected for a specific image feature, such as
14
15
    a human face.
            This is associating contrast correction --
16
    this is matching contrast correction and brightness
17
    correction to faces. That type of, you know,
18
    predetermined object.
19
            MR. JANITENS: All right. Let's take a quick
20
21
    break and then get back to it.
            THE WITNESS: Okay.
22
23
            (Recess taken from 2:44 p.m. to 2:56 p.m.)
24
            (By Mr. Janitens) All right, Dr. Bovik,
        0.
25
    let's go ahead and look at Nonaka now.
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- 1 A. Sure.
- Q. That's Exhibit 1005.
- 3 A. Great.
- Q. And your declaration, let's look at, starting
- 5 at paragraph 23.
- 6 A. I'll arrange a little bit here. Okay.
- 7 Nonaka, paragraph 23 of my declaration.
- Q. Okay. So we're looking at a Figure 8 there;
- 9 right?
- 10 A. Yes.
- 11 Q. What types of processing do we have in
- 12 Figure 8?
- 13 A. A lot of things.
- Q. Let me rephrase that. What kind of
- 15 correction processing do we have in Figure 8?
- 16 A. So, you know, as I state, there's three types
- 17 of optimization processing. Okay? And amongst those
- 18 there is S15 -- I think you said correction?
- 19 Correction? Yeah.
- Q. Right.
- 21 A. So amongst those, you know, S15 is identified
- 22 as, you know, doing correction/emphasis processing.
- 23 And just -- just for clarity, I mean, I said there's
- 24 an optimization processing here. There's a correction
- 25 emphasis process, S15, whereas the optimization

processing was, you know, S17.

So I'm not quite done. But all of this is done in Figure 1 in 5B, the optimization processing section. So, yeah, I just want to be clear about optimization processing being this little block S15. Okay? Versus, you know, the optimization processing section, which is, you know, doing all this stuff.

- Q. So S17, Optimization Processing, S20,
 Optimization Processing (Intense), are those the same kind of processing?
- A. Okay. I've lost my place here. Okay. S20; S17. This is a longer -- so in paragraph 64, it describes the optimization processing section, 5b, subjects the face part and the person to the optimization processing -- this is referring to S17 -- of correcting the brightness of the part emphasizing the contrast.

So a step past 17. Notice that's also being done by the optimization processing, 5b. And I know you asked about the intense one. I'm getting there. You notice in paragraph 68, here it's referring to S15. I'm just addressing all three of these, you know, different aspects. S15, which is the correction you asked me.

About a minute ago, in paragraph 68, it says,

```
"the optimization processing section 5b performs
1
    emphasizing correction processing," like it says in
2
    the block of S15 in Figure 8, and it says, "amplifying
3
    correction, contrast emphasis, or the like." So it's
4
5
    not limiting, but it's giving some examples for this
    face-detection process. So that's S15.
                                              And I am
6
7
    still hunting down, with my apologies, S20. Okay.
8
    Here we go.
            At the end of 65, "Moreover, the optimization
9
10
    processing section 5b performs processing to further
    increase the correction amount of the dark part or
11
    further emphasize the contrast value, "S20. "This is
12
    also referred to as the intense optimization
13
    processing."
14
15
            Okay. So that covers the three. And they,
    obviously, are not limiting. They're allowing for
16
    different kinds of processing.
17
18
            Okay. So would you agree that all of S15,
        Q.
    S17, and S20 may emphasize contrast?
19
20
            I would say instead that, you know, contrast
21
    is something that S15 could emphasize, you know,
    because it says it in paragraph 68. Okay?
22
23
            And at the end of 65, it does say that the
24
    optimization processing could include emphasizing
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But that may be the same, you know, type of

25

contrast.

correction, yes. But it may be a different amount of correction. I think it's teaching a different amount of correction. No reason they should be the same. I think it's teaching away from that.

And at the top of 64, with reference to S17, it, again, states, emphasizing the contrast. So could be same type of correction. It does say the same type. It is the same type, but, you know, different amounts of that.

- Q. And so contrast emphasis, might it be performed regardless of whether or not a face is detected?
- A. Well, I mean, as you can see in Figure 8, you follow this path. So in one instance, you know, you do this face detection at S10. S11 is a decision. If the answer is no, then you do S14 and -15, and then you do correction emphasis. That correction emphasis, for the purpose of enhancing another try at face detection, does, you know, contrast emphasis as a -- I mean, it says, you know, "amplifying correction contrast emphasis or the like." Okay? Which, you know, all these sound to me like -- you know, like they could be dynamic, you know, range correction.

 You know, it can do it, and then, you know,

it may still determine the face is not detectible,

even if it's there. Sometimes a face is there but not detectible. Okay? So if the face isn't detected, then it doesn't apply any further processing. You see the no, it exits the whole figure. All right? So, I mean, there was -- you know, or the face -- there may not be the face and exit the figure yet.

So there was some kind of correction, but it was for the purpose of augmenting face detection. It wasn't for the purpose of people looking at it in that instance; right?

And this is all supported by, you know, my language and the excerpts I'm taking from, you know, paragraphs 42 and 63 of the Nonaka reference and -- but as I point out in step 26, I state, "The emphasis processing of step S15 is a different correction."

What I mean by that in the context of what I just said is, it generally is different, because in none of these three paragraphs I read from -- 64, 65, and 68 -- is the correction specified to be one thing. Okay? So one of them, you know, could be correcting brightness. Correcting brightness may not be done by the other parts. Okay?

- Q. So in paragraph 67 it --
- A. And just to finish, it could be that they

 both apply the same type of correction, and this is --

- refers to other places where the language is -- you
 know, has to be understood. I don't say a different
 type of correction here. It could be different
 amounts, which makes a different correction but not a
 different type of correction.
 - So even if contrast emphasis is done in all of S -- you know, -15 and S17, say. Okay? It's -- it could be the same type, although it's not necessarily. Generally, it's not required to be, but even if it is both the same type, it's not the same correction, because there would be generally different amounts.
 - Q. And so what happens if a face is not detected in the process tree here?

Otherwise, why have this decision process.

MR. RIFFE: Objection to form.

A. Well, as it states at the end of 42 -- pardon me. Just let me check what I -- okay. So I want to hear the question again, because it's a fine point.

(Requested portion read.)

A. I'm not sure what's meant by "process tree."

But going back here, you can see the face detected,

S11. So when you say no, then we follow the path that

leads to S14. As I, you know, read further on in my

report, I explain all this on page 32, which is the

latter parts of paragraph 27.

You apply increased exposure amount, that -when you increase exposure, that brightens things. So
as I state on page 32 in the middle, "So it's
perfectly acceptable to have a variation where you
detect something that is so dark you can't decide
whether it is a face, then you brighten it, then you
try face detection again." I don't see any
contradiction at all.

But, you know, in-between there there's, you know, correction emphasis. So, I mean, this is performed by the optimization processing section to try to make a face more visible. And that could include, you know, as I state in the second paragraph of my answer on page 32, and certainly, you know, it goes on to say that, quote, "The optimization processing section and the exposure control section perform processing control so as to brighten the dark part that is described later in detail." And that's actually just, you know -- let's see. 12A. That's the end of paragraph 42 of Nonaka.

Then -- so I spent some time on pages 32 and 33 in reciting the Q&A. Your question was really, you know, is there this kind of processing that occurs if a face isn't detected. And it's important to understand that, you know, there are different

scenarios that occur where faces aren't detected. One
of which is, you know, paragraph 42, which I just
addressed, where, as I state on page 32 in my answer,
with regards to paragraph 42, it may be determined,

you know -- I'll just read it.

And I'm referring -- for instance, when I say different reasons, I'm referring to paragraphs 42 and 58 being different reasons.

"The conditions of the image are different.

So just because they can't detect the face doesn't

mean that the camera can't, you know, determine that,

'Well, it's really dark there. Maybe that's why I

didn't detect a face.'" Okay?

Whereas in paragraph 58, there's just -- and there may or may not be a face in that dark part.

Okay? And it may or may not be detected at all.

Whereas in 58, it describes a scenario where there isn't a person at all. Okay?

And so in this instance -- well, first of all, that is a different instance, because it may not even be dark there. And so there wouldn't be any reason to brighten something that isn't possibly too dark to find the face. So you can't really mix these paragraphs, as I state. Done.

Q. All right. I'm going to hand you

- 1 Exhibit 1007, Dvir, however you pronounce that.
- 2 A. Sure.
- Q. And in your declaration, we're looking at paragraph 34.
- 5 A. 34.

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- Q. So you state that the '132 patent and Dvir are substantially the same with respect to local contrast; right?
- 9 A. I'm sorry. State that again?
- Q. You state that the '132 specification, as well as Dvir, are substantially the same with respect to local contrast?
- 13 MR. RIFFE: Objection. Form.
 - A. Well, now, my statement that I made in my declaration was with regards to particular sections of the '132 and Dvir. So as I state in paragraph 34 of my declaration, 1250, as I pointed out in my original declaration and words reemphasizing here, the '132 patent at column 3, lines 29 through 32, and column 9, 29 through 53, are substantially the same as Dvir in paragraphs 12 and paragraphs 33 through 36, respectively. So that would be more accurate.
- There's more. There's, you know, a figure -
 I've forgotten the figures as part of the

 specification, and I point out it's a high similarity

- 1 between the figures bordering on identicalness.
 - Q. (By Mr. Janitens) And that's on page 44?
- A. By the way, exactly identical. Yeah. So you
- 4 look on page 44, you see Figure 2B coming from '132,
- 5 and Figure 2 of Dvir. And these are identical except
- 6 for the upper portion.

- 7 Q. And each of those figures, they're just
- 8 example embodiments from each specification; right?
- A. Well, I mean, as I state in 35, with regards
- 10 to both the figures and the supporting part of
- 11 the language of the specification, these portions of
- 12 the '132 in Dvir describe general embodiments of
- 13 Figures 3 and 4. Okay? Which is an embodiment of
- 14 block 205 shown in, and then I refer to these two
- 15 figures on page 44.
- 16 Q. If we could look at the '132 patent.
- 17 A. Okay.
- 18 Q. Lines -- sorry. Column 9.
- 19 A. I'm there.
- Q. Sorry. Let's go to column 3.
- 21 A. Column 3?
- Q. Yeah.
- 23 A. Okay.
- 24 Q. Lines 28 -- yeah. 28 to 32. So a cascade of
- 25 nonlinear edge-preserving filters are used?

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- 1 A. Sure.
- Q. And Dvir, at paragraph 12, discloses the cascade of nonlinear edge-preserving filters?
- A. I'm trying to look at the process here.
- 5 Okay.
- Q. So, then, in column 9, though, on '132, line
 36, "In addition, to detecting predetermined types of
 objects, various spatial measurements" --
- 9 A. So I'm in column 9 of '132 also. Is that 10 what you said?
- 11 Q. Line 36.
- 12 A. Okay.

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- Q. So that paragraph, in addition to cascade of nonlinear edge-preserving filters, there's also the use of predetermined object types; right?
 - A. Well, I mean, we're talking -- we're talking about different parts of the spec. You know, I'm in column 3, and now I'm told to jump to column 9. You know, column 3 says, well, embodiments described below employ these, but when I come here, unless you show me, I'm not sure if right here we're talking about, at 36, we're using cascades of filters. I'd have to...
 - Q. It's right above that, actually, in -- it's starting on line 33.
- 25 A. There we go. Okay. Uh-huh. Actually above

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- 1 that. Yeah.
- Q. 32. Thank you.
- A. Yeah. Well, I see that, you know. I see
- 4 here, you know, the local contrast may be controlled
- 5 by selectively using various sections in cascade. You
- 6 know, when I read the '132, I try to find, you know,
- 7 what does the specifications say about maintaining
- 8 local contrast, and this is all I can find really.
- 9 Somewhere else it says to create a -- I
- 10 forget the exact language -- something like to make it
- 11 pleasurable to view or whatever. But here it says,
- 12 you know, the local contrast may be controlled. And I
- think that's the only place that, you know, acting on
- 14 the local contrast is mentioned in the '132. There
- 15 could be -- you know, it explains what maintaining the
- 16 local contrast is.
- 17 Q. If you look at column 9, line 38 --
- 18 A. Yes.
- 19 O. -- to 42.
- 20 A. Uh-huh. So there. That's the user
- 21 preference. Yeah.
- MR. RIFFE: Is there a question pending?
- THE WITNESS: Yeah.
- Q. (By Mr. Janitens) Yeah. So locations of
- 25 predetermined type of object and are the spatial

measurements which can be taken together, the user preference for the amount of local contrast needed can be used to adapt or determine which and how many sections will be used.

So in Dvir, are any predetermined types of objects utilized for local contrast?

MR. RIFFE: Objection. Form.

A. Well, you know, I mean, Dvir, in Figure 2, shows a gain lookup table exactly like the one in the '132, Figure 2B, and talked about. You know, that gain lookup table is associated with, you know, predetermined objects.

And so as I stated on page 44 of my report,
"Dvir discloses determining a gain amount 'to maintain
local contrast to the first portion of the digital
image data.'" The same manner as the '132 patent.
And here I'm referring to my understanding of, you
know, the maintaining of local contrast in the '132.

And so I'd say, at the very least, Dvir is -would mesh seamlessly, entirely seamlessly, with -I've just kind of lost my place, that's why I'm
hesitating -- with the other, you know, references to,
you know, to disclose in an obvious way maintaining of
local contrast to the extent that, you know, it isn't
otherwise revealed.

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- Q. (By Mr. Janitens) All right. I'll go ahead
 and hand you Exhibit 1006, Gallagher. Page 46 of your
 declaration.
- 4 A. That's where I am.
- Q. All right. So Gallagher is directed to a method for sharpening a digital image without amplifying noise; correct?
 - A. What was the last part?
- 9 Q. Oh, just the title of Gallagher. Method For 10 Sharpening the Digital Image Without Amplifying Noise?
- 11 A. Yes, that's correct.
- Q. All right. And Gallagher teaches using gain maps?
- 14 A. Yes.

image, of course.

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- Q. All right. Does Gallagher discuss using gain maps for anything other than sharpening?
- 17 MR. RIFFE: Objection. Form.
- A. Well, you know, I -- I don't recall

 whether -- you know, I don't want to exclude that it's

 in there, but I don't remember anything. I do know

 that he's not directing it to control brightening or

 darkening, and certainly, you know, his main emphasis

 is for sharpening, which you can view as correcting an
- 25 Sharpening is a type of correction which

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    might very well, you know, fall under the auspices of
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    the '132 patent, and it's a correction. You might
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    want to sharpen faces, for example.
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             (By Mr. Janitens) All right. Just one more
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    thing I have to ask. During any of the breaks, did
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    you discuss any of the deposition with your counsel?
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        Α.
            No.
                  IRP rules. Nothing at all.
            MR. JANITENS: All right. And I'll pass the
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    witness.
                         Take a little break.
            MR. RIFFE:
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             (Recess taken from 3:38 p.m. to 3:43 p.m.)
            MR. RIFFE: No further questions.
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             (Whereupon, the witness was excused and the
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        deposition concluded at 3:43 p.m.)
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1	That pursuant to information given to the
2	deposition officer at the time said testimony was
3	taken, the following includes counsel for all parties
4	of record:
5	Mr. Timothy W. Riffe - Attorney for Plaintiff
6	Ms. Kim Leung - Attorney for Plaintiff
7	Mr. Erik Janitens - Attorney for Patent Owner
8	I further certify that I am neither counsel for,
9	related to, nor employed by any of the parties or
LO	attorneys in the action in which this proceedings was
L1	taken, and further that I am not financially or
L2	otherwise interested in the outcome of this action.
L3	Subscribed and sworn to on this the 29th day of
L4	August, 2019.
L5	K CLYPYO I VLPY
L6	Karen Tyler, CSR(TX), CCR(LA), TCRR, CRR, CRC
L7	Registered Diplomate Reporter Texas CSR 5182
L8	Expiration 12/31/19
L9	
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