

23-2033, 23-2034, 23-2035, 23-2036, 23-2037, 23-2038, 23-2039

United States Court of Appeals for the Federal Circuit

RIDESHARE DISPLAYS, INC.,
Appellant,

JOHN A. SQUIRES, UNDER SECRETARY OF COMMERCE FOR
INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE,
Intervenor,

v.

LYFT, INC.,
Cross-Appellant.

*Appeals from the Patent Trial & Appeal Board at the United States Patent
and Trademark Office in IPR2021-01598, IPR2021-01599, IPR2021-01600,
IPR2021-01601, IPR2021-01602*

COMBINED PETITION FOR PANEL REHEARING AND PETITION FOR REHEARING EN BANC

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November 13, 2025

Counsel for Appellant

FORM 9. Certificate of Interest

Form 9 (p. 1)
March 2023

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF INTEREST

Case Number 23-2033

Short Case Caption Rideshare Displays, Inc. v. Lyft, Inc.

Filing Party/Entity Rideshare Displays, Inc.

Instructions:

1. Complete each section of the form and select none or N/A if appropriate.
2. Please enter only one item per box; attach additional pages as needed, and check the box to indicate such pages are attached.
3. In answering Sections 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance.
4. Please do not duplicate entries within Section 5.
5. Counsel must file an amended Certificate of Interest within seven days after any information on this form changes. Fed. Cir. R. 47.4(c).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 11/13/2025

Signature: /s/Devan V. Padmanabhan

Name: Devan V. Padmanabhan

FORM 9. Certificate of Interest

Form 9 (p. 2)
March 2023

1. Represented Entities. Fed. Cir. R. 47.4(a)(1).	2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2).	3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities. ☒ None/Not Applicable	Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities. ☒ None/Not Applicable
Rideshare Displays, Inc.		

☐ Additional pages attached

FORM 9. Certificate of Interest

Form 9 (p. 3)
March 2023

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

☐ None/Not Applicable ☐ Additional pages attached

Jeffrey Lewis	Peter A. Sullivan	

5. Related Cases. Other than the originating case(s) for this case, are there related or prior cases that meet the criteria under Fed. Cir. R. 47.5(a)?

☒ Yes (file separate notice; see below) ☐ No ☐ N/A (amicus/movant)

If yes, concurrently file a separate Notice of Related Case Information that complies with Fed. Cir. R. 47.5(b). **Please do not duplicate information.** This separate Notice must only be filed with the first Certificate of Interest or, subsequently, if information changes during the pendency of the appeal. Fed. Cir. R. 47.5(b).

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

☒ None/Not Applicable ☐ Additional pages attached

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**STATEMENT OF COUNSEL REQUIRED BY
FEDERAL CIRCUIT RULE 40(b)(1)-(2)**

Based on my professional judgment, I believe the panel decision is contrary to the following precedents of the Supreme Court: *Alice Corp. v. CLS Bank*, 573 U.S. 208 (2014); and of this Court: *TecSec, Inc. v. Adobe Inc.*, 978 F.3d 1278 (Fed. Cir. 2020) (including collected cases therein).

Further, based on my professional judgment, I believe this appeal requires an answer to the following precedent-setting questions of exceptional importance:

1. Whether the Court may disregard key functional limitations of the claims that implement the improvement to the claimed invention over the prior art in conducting a patent eligibility analysis.
2. Whether the Court may usurp the factfinder role and disregard the requirement to review the Board's factual findings on written description for substantial evidence, and instead *sua sponte* raise a new argument at the appellate hearing that was not raised below and overrule the Board based on that new argument, without the Patent Owner or Board ever having an opportunity to address it; and
3. Whether the Court may disregard claim language that makes a distinction between things associated with a vehicle and things associated with the driver of the vehicle.

BACKGROUND & ARGUMENT

I. BACKGROUND

Patent Owner requests rehearing *en banc* and panel rehearing of the Court’s holding overruling the Board’s finding of patentability of substitute claims 29, 31-32 of U.S. Pat. No. 9,892,637 (the ‘637 Patent), and substitute claims 3-4 of U.S. Pat. No. 10,559,199 (the ‘199 patent) (collectively the “substitute claims”); both as to the Court’s reversal of the Board’s determination that the substitute claims are patent eligible, and the Board’s determination that the written description of the patents supports the amendments made to the substitute claims, namely that the indicator is generated after receipt of the notification signal.

In its §101 analysis, the Court failed to consider each of the limitations of the substitute claims. Critically, the limitations the Court overlooked are the very limitations that imbue the claimed invention with what the specification states is the improvement over the prior art, namely increasing safety and security for both the rider and driver of the rideshare vehicle. Instead, the Court abstracted the claims at too high a level describing them as merely using technology as a tool to streamline the process of what was done in a pen and paper world by “creating hand-printed cards with names to help identify ride pickups at crowded locations.” Opinion, Dkt. 78 at 14 (“Op.”). The claims and specification are not directed to *mere identification*, but to improving the security and safety of both the rider and driver. Reading out

the focus of the claims, including specific technological limitations implementing that focus effectively nullifies the Supreme Court’s guidance in *Alice Corp. v. CLS Bank*, 573 U.S. 208 (2014), as well as the Federal Circuit’s controlling holdings in at least *TecSec, Inc. v. Adobe Inc.*, 978 F.3d 1278 (Fed. Cir. 2020) (including collected cases therein). To disregard these limitations and collapse the §101 inquiry into merely “identifying riders and drivers,” ignores the technological substance of the claims. Such an approach not only misapprehends the claims, it undermines the very framework the Supreme Court and this Court have constructed to distinguish eligible innovation from abstract ideas.

This area of law is notoriously murky and inconsistent, but to condone the disregard of limitations that are the focus of the invention, as has occurred in this case will certainly further muddy the already dark waters. As the USPTO Intervenor aptly stated in its brief, “[n]either the Supreme Court nor this Court have articulated readily administrable limits on the exclusions from patent eligibility recognized in recent case law. And absent proper guiderails, those exceptions threaten to imperil the patentability of the kinds of core technological innovations that have long been understood to be patent eligible.” USPTO Intervenor Br., Dkt. 35, at 2-3 (“USPTO Br.”). Rehearing is needed to determine whether technological limitations that implement the focus of the claims may be read out of the claims under § 101.

In its reversal of the Board’s finding that the substitute claims are supported by the specification, which was to be reviewed for substantial evidence, the *Court* provided a new argument for reversing the Board *at the hearing* and then ruled on that basis. Lyft never made that argument before the Board, so neither Patent Owner, nor the Board had an opportunity to address it. Rehearing is necessary to determine whether the Court may replace the factfinder and overrule the Board based on an argument made by the Court at the hearing, and not give the Board a chance to address it.

Patent Owner also requests rehearing *en banc* and panel rehearing of the Court’s affirmance of the Board’s finding that U.S. Pub. No. 2012/0137256 (“Lalancette”) discloses a mobile communication device associated with the driver of the vehicle, thereby rendering unpatentable claim 1 of U.S. Pat. No. 10,395,525 (the ‘525 patent), claim 2 of the ‘199 patent, and claims 1-5 of U.S. Pat. No. 10,748,417 (the ‘417 patent) (collectively the “original claims”), for which Lalancette was the only basis of rejection. In determining that Lalancette discloses a mobile communication device associated with the driver of the vehicle, the Court overlooked the distinction made in the original claims between things that are associated with the vehicle versus the driver, disregarding the claimed limitation that displays are disclosed as being associated with the vehicle, not the driver. Rehearing is requested to consider Lalancette in view of the language of the original claims.

II. ARGUMENT

A. The Court Should Grant Rehearing *En Banc* or Panel Rehearing to Determine Whether *Alice*, and *TecSec* Permit the Court to Disregard Technological Limitations that are Central to the Claims

Rehearing is warranted because the Court misapprehended both the governing legal framework under §101 and the factual substance of the substitute claims. Specifically, the Court erred by abstracting away the technological limitations that are the focus of the claims; limitations that are not only recited in the claim language, but expressly tied to the invention's stated improvement over the prior art. This error violates the Supreme Court's two-step framework in *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208 (2014), and this Court's controlling precedent in *TecSec, Inc. v. Adobe Inc.*, 978 F.3d 1278, 1292-94 (including collecting cases) (Fed. Cir. 2020).

Under *Alice* step 1, it is not enough to determine that the claims recite an abstract idea, instead the trier of fact must determine what the claims are "directed to." The inquiry must consider what the claims themselves are focused on and what the specification discloses to be the improvement over the prior art. *Id.* The Court did neither because it did not do a step 1 analysis at all, stating that the Board determined the substitute claims were directed to an abstract idea, namely a method of organizing human activity. *Op.* at 14. The Court erred in this statement. In fact, the "Board determined that the claims, as a whole, integrate the abstract idea into a

practical application and thus, are not directed to an abstract idea.” USPTO Br. at 11-12. Thus, a step 1 analysis should have been conducted.

Under the step 2 analysis that the Court conducted, the Court mischaracterized the claims as merely “streamlining the process of what is normally accomplished by creating hand-printed cards with names to help identify ride pickups at crowded locations.” Op. at 14. This trivialization ignores the actual claim language and the specification’s stated goal of improving safety and security for both riders and drivers in the rideshare environment. It also contradicts the Court’s own recognition—outside of its §101 analysis—that the invention’s stated goal is “to address safety concerns for both drivers and riders.” Op. at 3, citing JA 245. The specification is unequivocal:

“Public transportation use, for example, is often limited by perceptions of personal security in public transportation travel. Rider safety is fundamental to the continued success of transportation services, but driver safety has also become an issue. A continuing need exists for systems and methods adapted for use by transportation services, to ensure rider and driver security.” JA 245 at 1:50–58.

The claims implement this goal through a specific sequence of technological steps, as the Court acknowledges, though again, not in its §101 analysis. The steps include transmitting a notification signal to the driver’s device when the driver’s vehicle reaches a predetermined distance from the user’s device; in response to the receipt

of the notification signal, the driver's device generates an indicator that is then displayed on the vehicle display and the user's mobile device. See Op. at 3.

Despite recognizing that the claims and the disclosure specify that the invention's improvement over the prior art is specifically directed to improving safety and security for both riders and drivers, the Court failed to even mention this key aspect of the claims in its §101 analysis. Doing so runs afoul of this Court's precedence. This Court chastised Adobe for doing this very thing in Adobe's characterization of the claims. *TecSec*, 978 F.3d at 1294-95. ("Adobe had to disregard elements of the claims at issue that the specification makes clear are important parts of the claimed advance in the combination of elements," which this Court held was impermissible.).

By misapprehending the focus of the claims in its analysis, the Court stated that "the claims are directed to improving a user's experience in using a rideshare app and identifying a driver . . . the technological improvement more easily enables and facilitates human interactions." Op. at 14, citing *Simio, LLC v. FlexSim Software Prods., Inc.*, 983 F.3d 1353, 1361 (Fed. Cir. 2020). The Court then stated that "the claims use technology as a tool to streamline the process of what is normally accomplished by creating hand-printed cards with names to help identify ride pickups at crowded locations, such as an airport." Op. at 14.

This is not what the substitute claims recite. The claims recite a specific sequence of steps to improve the likelihood that the driver and rider only engage in a ride where they are a correct and intended match. The claims do this by reciting a method that first determines when the driver is at a predetermined distance of the rider's device. Only once that distance has been reached is a notification signal sent to the driver's phone. In response to the notification signal being received, only then is an indicator created. The indicator is then sent to the vehicle display and the rider's phone, allowing the rider to compare the indicator the rider received with the indicator displayed on the vehicle. These limitations improve security for rideshare by only creating the indicator specific to a rider/driver match once it is determined that the driver is a predetermined distance from the rider. Safety is significantly improving by the invention by only creating a specific indicator once the driver is close to the rider, thereby reducing the time that any tampering, hacking, or other malicious activity could occur by a would-be bad actor intercepting the indicator to either dupe the rider or driver into sharing an unintended ride.

The Court stated that the substitute claims "use technology as a tool to streamline the process of what is normally accomplished by creating hand-printed cards with names to help identify ride pickups at crowded locations, such as airports." Op. at 14. This example fails to capture the substitute claims. The claim elements, when read individually and as an ordered combination amount to more

than organizing human activity, primarily because the Court's example does not address the key focus of the claims: improving safety for both rider and driver. There is no corollary in the Court's example for the receipt of a notification signal only when the driver is at a predetermined distance from the rider.

In the pre-internet world of the Court's example, the dispatcher has no way to know where a taxi is in real time. At the hearing, the Court provided an example where the taxi service "[d]ispatcher looks on his big board map and sees that there is a cab driver within a mile of the airport. . . ." Addendum, Hearing Trial Transcript ("Tr.") at 27:16-18. In the pre-internet world, the only way the dispatcher knows where the taxis are is by the taxi driver using a two-way radio to *tell the dispatcher* where it is. But the driver cannot be the one to generate the notification signal when the driver is close to the rider because the notification signal is claimed to be generated "to a mobile communication device associated with the driver of the vehicle." Thus, the notification signal must be *received by* the driver's mobile communication device, not *generated by* the driver.

Under this Court's precedence, the substitute claims, properly considered, provide a technological improvement to rideshare technology. The claimed networked system improves authentication, proximity signaling, and secure matching in rideshare environments. *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016); *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257-58

(Fed. Cir. 2014); *Visual Memory LLC v. NVIDIA Corp.*, 867 F.3d 1253, 1259-60 (Fed. Cir. 2017). The claims recite a specific sequence of steps that improve the functioning of the system itself—not merely the user’s experience.

The substitute claims are patent-eligible under step 1 or 2. They are not “directed to” an abstract idea, and they recite a specific, ordered combination of technological elements that improve safety in a networked rideshare environment.

B. The Court Should Grant Rehearing *En Banc* or Panel Rehearing to Determine if the Court Itself May Raise a New Argument, Not Raised by Lyft Below and Not Addressed by the Board, and Then Reverse the Board Based on that New Argument

The Court should grant rehearing *en banc* or panel rehearing to determine whether the Court may supplant the role of fact-finder. The Court failed to review the Board’s factual findings on written description for substantial evidence, and instead itself provided a new argument at the hearing that was never raised by Petitioner before the Board and thus was never addressed by the Board; and then overruled the Board’s factual findings based on the *Court’s* newly raised argument.

The Court’s *sua sponte* theory that the use of the word “alternatively” in paragraph 30 of the specification precludes the generation of a notification signal in the second embodiment was never advanced by Lyft before the Board. It was never briefed. RSDI never had an opportunity to address it below. And most importantly, the Board – the factfinder – never had an opportunity to address it. Nonetheless, the

Court unveiled this theory for the first time at oral argument, pressed it on counsel, and reversed the Board's findings based on this newly unveiled theory.

This Court has repeatedly held that the appellate court role does not include raising new arguments *sua sponte* or deciding cases on grounds not passed upon below. *See, e.g., In re Watts*, 354 F.3d 1362, 1367 (Fed. Cir. 2004) (“Our review of the Board’s decision is confined to the ‘four corners’ of that record.”); *Dell Inc. v. Acceleron, LLC*, 818 F.3d 1293, 1301 (Fed. Cir. 2016) (holding the Board cannot raise new arguments at the hearing and rule based thereon); *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016) (holding the Board improperly shifted the burden to the patentee to prove patentability). The Court’s conduct here violates each of these principles.

The Court’s Opinion at footnote 3 confirms that the “alternative” argument is the Court’s, not the Board’s. The Court states that “we do not find support for the scenario described in the substitute claims . . .” Op. at 15 n. 3. The required substantial evidence standard was not applied; instead, the Court did its own analysis and decided the issue itself on an argument that was never before the Board.

The Court seemed to recognize that Lyft never raised this argument before the Board and so seemed to try to spoon feed it to Lyft at the hearing. Lyft explained its position is that there is not support for generating a new indicator, and if there is, the limitation is obvious. Tr. at 10:16-11:6. The Court responded by saying:

“That -- that way of making the point suggests in my mind a remand.· I assume you want more than a remand.· And, so you really ought to plunk down one way or the other on what you think that paragraph means.” *Id.* at 11:7-11.

When Lyft did not focus on paragraph 30, the Court directs counsel to it. Lyft stated:

“So paragraph 30, there's one sentence in paragraph 30 which is alternatively, the vehicle identification system may be adapted to allow the driver to enter a command on the driver's mobile communication device so that another code or indicator or other indicator can be generated for the next rider who's going to share the same vehicle.· That's the entire sentence, I think, that would support purportedly the board's conclusion here, but it's useful to note, nothing in that sentence describes this indicator being generated by the central controller as the claim requires . . .” *Id.* at 11:20-12:6.

The issue for Lyft was not about whether “alternatively” in paragraph 30 means that a notification signal is not generated in the second scenario, as the Court argues, but that that sentence does not describe “this indicator being generated by the central controller as the claim requires.”

After clarifying that the claim language does not require the central controller to generate the indicator, the Court tries again to prompt Lyft into making the Court’s argument, stating:

“I thought your principal point was not the one you are now making, but rather, that -- this one sentence which is the one thing that talks about creating an indicator --” (*Id.* at 13:4-7) “does not say, as the claims do require, that the indicator be created in the substitute claim after a notification symbol, when you're close to the second rider.· That's what we're talking about.” (*Id.* at 13:9-13.) “And I guess I was taking this sentence with the sentence that came before it as presenting -- well, as indicating that as the sentence begins alternatively --” (*Id.* at 13:17-20.) “-- this isn't an alternative to sending a notification signal at all.” (*Id.* at 13:22-23.)

After more discussion, where Lyft's counsel attempts to focus on the arguments Lyft actually made below, the Court stated its own argument plainly:

“And what the board's analysis arguably looks like is it removed the word alternatively from this paragraph. So you have a notification signal, sent from a controller to the car, when the car is close to the pick-up, and then after that continuing on, removing the word alternatively, the -- the system can be adapted so that the driver's phone can generate a code.” *Id.* at 15:3-10.

But Lyft declined to adopt the Court's argument as its own. Lyft said, “I mean, that was certainly a -- a plausible explanation for what the board did. I'm not going to speculate as they just ignored the word alternatively or. . .” *Id.* at 15:11-14.

The record confirms that this “alternative” argument originated with the Court at the hearing and that Lyft's counsel never claimed to have made this argument below – because it didn't. But even had Lyft adopted the Court's argument at the hearing, the only relevant fact remains that Lyft never raised the argument **below**.

Further, even though the “alternatively” argument was newly raised at the hearing, RSDI provided an explanation based on the Board's findings for how the use of the word “alternatively” in paragraph 30 allows for the generation of a new indicator in response to receiving the notification signal. The Court understood this argument and put it to Lyft's counsel. The Court said:

“Yes. So at least one way that I think I heard the argument being made is that on what is in this context a factual question, even though we're interpreting the patent at issue, the board reasonably interpreted the paragraph to give a meaning to the term alternative that starts after the notification signal, not before the notification signal, so that the alternative is not to skip a notification signal, it is rather that the indicatory signal is

created at the behest of the driver's action as opposed to automatically electronically by the device upon receiving the notification signal. Why is that an unreasonable reading of that paragraph?" *Id.* at 38:18-39:6. The Court never addressed this rebuttal. At a minimum, the Court should have remanded this issue to the Board to decide.

Finally, the Court's decision to rule on a new argument that the Court itself put forth at the hearing is incongruous with its denial of RSDI's motion to take judicial notice of the provisional application (Dkt. 29) to which the patents of the substitute claims claim priority, and in which the provisional application plainly discloses that the Vehicle Identification System "generates a code once the vehicle approaches the pickup location" (*Id.* at 16). Dkt. 77.

The Court should grant rehearing *en banc* or panel rehearing to restore procedural integrity, reaffirm the limits of appellate review, and ensure that the burden of proof remains where Congress placed it: on the petitioner, before the Board, by a preponderance of the evidence—not on the patent owner, before the Court, in response to a theory raised for the first time by the Court at oral argument.

C. The Board Should Grant Rehearing En Banc or Panel Rehearing to Determine Whether The Court Overlooked the Distinction in the Original Claims Between Things Associated with the Vehicle Versus the Driver

The Court misapprehended the original claims, their disclosure, and Lalancette in upholding the Board's finding that Lalancette discloses a mobile communication device associated with the driver. This conclusion collapses the

critical distinction in the claims and specification that certain components are associated with the vehicle, while others are associated with the driver. The Board misapprehended the claims and specification by reading this distinction out of the claims and finding Lalancette discloses that everything in the vehicle is associated with the driver. Under this reading, nothing in or on the vehicle is associated with the vehicle rather than the driver; a reading the claims do not permit.

The claims recite the display that shows the indicator is “associated with the vehicle,” not the driver or rider who **looks at** the display. The Court also misread Lalancette in stating that “the mobile computer connects to a dashboard, which in turn provides the driver with helpful information.” Op. at 11. Lalancette does not say the mobile computer “connects to a dashboard.” Lalancette discloses that the user’s icon is transmitted to “a mobile computer in taxi car 118 and the mobile computer manages the taxi roof-top electronic display 122 and to the driver’s dashboard display 124.” JA 343 para 32. A correct read of Lalancette that accounts for the original claims and specification is that the mobile computer “in taxi car” that manages the display is associated with the vehicle, not the driver.

The Board has simply misapprehended the original claims, specification and Lalancette. Rehearing *en banc* or panel rehearing is respectfully requested.

Respectfully submitted,

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ADDENDUM

United States Court of Appeals for the Federal Circuit

RIDESHARE DISPLAYS, INC.,
Appellant

**JOHN A. SQUIRES, UNDER SECRETARY OF
COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND
TRADEMARK OFFICE,**
Intervenor

v.

LYFT, INC.,
Cross-Appellant

2023-2033, 2023-2034, 2023-2035, 2023-2036, 2023-2037, 2023-
2038, 2023-2039

Appeals from the United States Patent and Trademark
Office, Patent Trial and Appeal Board in Nos. IPR2021-01598,
IPR2021-01599, IPR2021-01600, IPR2021-01601, IPR2021-
01602.

JUDGMENT

THIS CAUSE having been considered, it is

ORDERED AND ADJUDGED:

AFFIRMED-IN-PART AND REVERSED-IN-PART

FOR THE COURT

September 29, 2025
Date


Jarrett B. Perlow
Clerk of Court

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AUDIO RECORDING
IN RE: RIDESHARE DISPLAYS VS. LYFT
CASE NO. 23-2033
APRIL 11, 2025

(Due to the quality of the recorded media, portions were unable to be transcribed and include inaudible portions. The transcript may also include misinterpreted words and/or unidentified speakers. The transcriber was not present at the time of the recording; therefore, this transcript should not be considered verbatim.)

TRANSCRIBED BY: MELISSA EICKEN

1 JUDGE TARANTO: The first is number 23-2033
2 Rideshare Displays against Lyft.

3 MS. DAWSON: May it please the Courts.
4 RSDI's appeal of the original claims that the PTAB
5 have erroneously held unpatentable. I want to begin
6 with the PTAB's finding that the Landsat discloses the
7 mobile communication device associated with the driver
8 of the vehicle, which is not supported by substantial
9 evidence.

10 Now, if this Court agrees, then, it should
11 reverse the PTAB's holding on patentability as to
12 claims 1 of the 525 patent, claim 2 of the 199 patent,
13 and claims 1 through 5 of the 417 patent. Each of
14 these claims only had by the PTAB a basis of
15 unpatentability based on either the Landsat alone or
16 the Landsat with Kelmar, and nobody is alleging that
17 Kelmar discloses this limitation because Kelmar's a
18 driverless system.

19 So all of the claims require that there's a
20 specific device that is associated with a specific
21 entity, and these associations remain constant
22 throughout the system or method that's claimed. One
23 requirement is that there's a mobile communication
24 device associated with the driver of the vehicle.

25 Now, what the PTAB is relying on for this

1 disclosure in the Landsat is just a minor embodiment
2 that's given a total of five lines of disclosure. And
3 what it says is, as part of the dispatch procedure,
4 the service provider transmits the dispatch
5 information to a mobile computer in taxi car 118, and
6 all of the mobile computer then does is, quote, manage
7 the two displays of the Landsat by popping that icon
8 up on those two displays.

9 And I want to quickly just say that for
10 claim 2 of the 199 patent, the PTAB actually provides
11 no basis for finding this limitation met in the
12 Landsat. All they do is say, we don't agree with
13 patent owner's arguments. They run through what they
14 are, say they don't agree, and then they say, we,
15 therefore, find that this limitation is disclosed. So
16 not only is that not substantial evidence, that's no
17 evidence.

18 But with regard to claim 1 of the 525
19 patent and claims 1 through 5 of the 417 patent, what
20 they say in their analysis for these claims is, not
21 that the Landsat actually discloses mobile computer
22 being associated with the driver of the vehicle, what
23 they say is, the mobile computer's in the taxi. So
24 it's associated with the taxi. That's -- that's
25 right. But then they go on to say, the driver's in

1 the vehicle, so the driver's associated with the
2 vehicle.

3 JUDGE TARANTO: Isn't -- isn't the term
4 associated fairly capacious without little bit of a
5 transit of property?

6 MS. DAWSON: Yeah. That's what they're
7 doing. They end up doing a transit of property
8 saying --

9 JUDGE TARANTO: Why -- why is that wrong,
10 with a word like associated?

11 MS. DAWSON: Right. So it's wrong because
12 the -- first of all, if we -- if we put this in the
13 context of what the Landsat system is, if you look at
14 the figure of the Landsat, and that's Appendix 338,
15 this is a taxi system; right? So what's important in
16 this system is the central server of the taxi that's
17 shown in Figure 1, and then the -- the rider, and the
18 rider's device, that's shown in Figure 1. They're
19 sitting -- they're standing there holding their cell
20 phone because that's how they order the taxi. And
21 then what's important is, the vehicle with its two
22 displays, and that's what's shown in the Landsat.

23 What is not shown anywhere on the Landsat
24 is the driver. Because the driver isn't important to
25 how this system actually operates. And the mobile

1 computer isn't shown at all in figure one because
2 it's, again, this blip, but it's disclosed like the
3 displays which are part of the taxi. And, so it's not
4 a fair reading of the Landsat to say, just because we
5 can say the word associate will allow us to take this
6 out several, you know, it -- several iterations that
7 the Landsat fairly is disclosing a mobile computer
8 being associated with the driver.

9 JUDGE CHEN: Landsat says a mobile computer
10 is -- is connected to a dashboard display; right?

11 MS. DAWSON: It -- it --

12 JUDGE CHEN: The information that comes
13 into the mobile computer gets displayed on the
14 dashboard, and then the taxi driver, obviously, can
15 see and interact with the dashboard display in that
16 way. And, so I guess, in that sense, there is
17 arguably some level of connectedness between the taxi
18 driver and -- and those components as opposed to -- I
19 don't know -- the axle of the taxicab.

20 MS. DAWSON: Okay. I understand --

21 JUDGE CHEN: That's associated with the
22 driver. You know, that's a further stretch, but
23 there's something else going on here that might bring
24 the taxi driver closer to that mobile computer through
25 the dashboard display in such a manner that maybe it's

1 not unreasonable to say that, in fact, the mobile
2 computer's associated with the taxi driver.

3 MS. DAWSON: So in response to that, Judge
4 Chen, I want to just say the -- the PTAB, nor Lyft
5 has -- has argued -- the PTAB hasn't found that it's
6 the combination of the display in mobile computer that
7 satisfies this limitation. They've only said it's the
8 mobile computer. But also, neither of these things
9 are associated with the driver. The -- the -- the
10 display is -- is -- disclosed as being a dash mounted
11 display. It's part of the vehicle. And we know that
12 the -- the -- the specification -- the specification
13 of the patents at issue define mobile communication
14 device as being any portable wireless device. That
15 dash monitored display is not disclosed as being
16 portable, neither is the mobile computer. And so...

17 JUDGE CHEN: Why does (inaudible) sets in
18 mobile.

19 MS. DAWSON: I'm sorry?

20 JUDGE CHEN: Why does (inaudible) sets in
21 mobile for a mobile computer?

22 MS. DAWSON: So I think there's a
23 difference between mobile and portable; right? Like,
24 mobile, it's -- it's moving because the vehicle's
25 moving. Portable denotes that it can be carried.

1 JUDGE CHEN: Maybe. Okay.

2 MS. DAWSON: Yes. Okay. So for at least
3 these reasons -- I'm running out of time here -- I
4 would say that the PTAB has not shown by a substantial
5 evidence that there's this limitation.

6 JUDGE TARANTO: You have the six minutes
7 for -- the (inaudible) will do during that. Yes.
8 You're next.

9 MR. WILLIAMS: Thank you, Your Honor. May
10 it please the Court. I'll begin with the Landsat
11 issue, but then I want to move to the cross appeal as
12 well. With respect to this Landsat disclosure --

13 JUDGE TARANTO: Can you speak up a little,
14 please?

15 MR. WILLIAMS: Sure. Louder?

16 JUDGE TARANTO: Thank you.

17 MR. WILLIAMS: Yes. Happy to do that.
18 With respect to this Landsat issue, I think it's
19 important to note that, you know, here, the -- the
20 patent owner's just challenging the unsubstantial
21 evidence review. The evidence that the board was
22 relying on to make its factual findings. If you read
23 the board's opinion, it'll be clear that the board
24 explicitly discredited patent owner's expert
25 testimony. They also criticized patent owner for

1 misrepresenting our expert's testimony. And they
2 found that while Landsat, as is taught in the actual
3 disclosure of Landsat itself, has a, quote, driver
4 dashboard display connected to this mobile device
5 that's in the car. So it's clear that what the car
6 has is a driver computer. The board was perfectly
7 entitled to make that factual finding, which it did,
8 for instance, on page 182 of the final written
9 decision and --

10 JUDGE TARANTO: Was there a request for a
11 further construction of associated or some other term
12 that --

13 MR. WILLIAMS: Neither party explicitly
14 asked for any such explicit construction, Your Honor.
15 And the board appeared to be applying the plain
16 meaning correctly because associate is a broad term.

17 JUDGE CHEN: Would you say that the taxi
18 car's muffler's associated with the taxi driver?

19 MR. WILLIAMS: Yes. I mean, it wouldn't be
20 necessary here.

21 JUDGE CHEN: Wow.

22 MR. WILLIAMS: But, yes. I mean, it's
23 associated with the driver because the driver's in
24 control of the car. Yes. I would. But this is,
25 obviously, much more direct because here, there's --

1 it's literally --

2 JUDGE CHEN: Is the gasoline and the gas
3 tank is associated with the taxi driver?

4 MR. WILLIAMS: When it's in the gas tank,
5 yes. I mean, I don't see any reason why -- why it
6 wouldn't be associated with the driver at that point.

7 But again, here, we have -- literally, the
8 reference calls it a driver dashboard display; right?
9 It's clear that the driver's interacting with this
10 computer directly just as he would be interacting
11 directly with the gasoline, if he were to pump it into
12 the car, though, so. I think the answer is yes.

13 But just to get back to your question,
14 Judge Taranto, about the plain construction issue,
15 it's also useful to note at page 142 of the record,
16 the board also criticized patent owner's argument as
17 being inconsistent with the specification itself which
18 describes mobile communication devices broadly. So to
19 the extent there was any sort of claim interpretation
20 happening there, it would have been with respect to
21 this mobile communication device, which they thought
22 was a broad -- broad term and couldn't cover the
23 driver's display.

24 Unless there's any questions about that, I
25 want to turn to the cross appeal on the amended

1 claims. I'm also happy to address any other appeal
2 points the Court has questions with, but let's turn to
3 the cross appeal. And let me start with the subject
4 matter eligibility issue under section 101.

5 JUDGE TARANTO: Can you -- I -- I would
6 prefer, please, if you started with (inaudible).

7 MR. WILLIAMS: Sure. That's fine.

8 JUDGE TARANTO: Which is not quite, but
9 something like a one-paragraph issue.

10 MR. WILLIAMS: A one-paragraph issue --

11 JUDGE TARANTO: Paragraph 30.

12 MR. WILLIAMS: Paragraph -- paragraph 30,
13 yes. In the -- in the specification.

14 JUDGE TARANTO: That's at the bottom
15 of column 5, top of column 6.

16 MR. WILLIAMS: Correct. Correct. So with
17 respect to the 112 issue, I mean, our argument is
18 essentially that the board made a mistake, either
19 because it found support in paragraph 30 for this
20 claim element that really wasn't there or to the
21 extent that they were correct, and what's in
22 paragraph 30 is sufficient to teach this claim
23 element, that that same disclosure is in Kelmar, the
24 prior order that we were asserting renders this claim
25 invalid. So the board's reasoning is just incoherent

1 in our view, either if -- it's either the case -- if
2 they're right that there's enough support there, then
3 the prior order invalidates the claims, and if, as we
4 think they're wrong, that that description is not
5 sufficient, then the claims, obviously, are not
6 supported and should not have been allowed, but.

7 JUDGE TARANTO: That -- that way of making
8 the point suggests in my mind a remand. I assume you
9 want more than a remand. And, so you really ought to
10 plunk down one way or the other on what you think that
11 paragraph means.

12 MR. WILLIAMS: What, paragraph 30 means?
13 Yes. So in our -- well, and I think we are explicit
14 in the brief. We don't think paragraph 30 has
15 sufficient support for what's required here because,
16 again, we think in -- you know, the board, obviously,
17 cited to several other paragraphs, all of which have
18 to do with the signal itself, and not the actual --

19 JUDGE CHEN: Just get to paragraph 30.

20 MR. WILLIAMS: Yeah. So paragraph 30,
21 there's one sentence in paragraph 30 which is
22 alternatively, the vehicle identification system may
23 be adapted to allow the driver to enter a command on
24 the driver's mobile communication device so that
25 another code or indicator or other indicator can be

1 generated for the next rider who's going to share the
2 same vehicle. That's the entire sentence, I think,
3 that would support purportedly the board's conclusion
4 here, but it's useful to note, nothing in that
5 sentence describes this indicator being generated by
6 the central controller as the claim requires, and in
7 the yellow brief, RSDI admits that these claims
8 require that this indicator be generated, not by the
9 driver's device, but by the controller up in the
10 central controller --

11 JUDGE HUGHES: Substitute claim 29 requires
12 the indicator to be generated by the controller?

13 MR. WILLIAMS: Well, that's what they say
14 in their yellow brief.

15 JUDGE HUGHES: No. I mean, let's just look
16 at the claim together.

17 MR. WILLIAMS: Yeah. Yeah.

18 JUDGE HUGHES: What's it say? It says -- I
19 thought substitute claim 29 said --

20 MR. WILLIAMS: I mean, 29-B is the
21 generating by creating an indicator indicatory
22 signal --

23 JUDGE HUGHES: That --

24 MR. WILLIAMS: -- in response to receiving
25 the notification signal, and that notification signal

1 itself is received.

2 JUDGE TARANTO: By the driver.

3 MR. WILLIAMS: Yeah. So that is --

4 JUDGE TARANTO: I thought your principal
5 point was not the one you are now making, but rather,
6 that -- this one sentence which is the one thing that
7 talks about creating an indicator --

8 MR. WILLIAMS: Uh-huh.

9 JUDGE TARANTO: -- does not say, as the
10 claims do require, that the indicator be created in
11 the substitute claim after a notification symbol, when
12 you're close to the second rider. That's what we're
13 talking about.

14 MR. WILLIAMS: Correct. Correct. The
15 pick-up location which in this case would be the
16 second driver.

17 JUDGE TARANTO: And I guess I was taking
18 this sentence with the sentence that came before it as
19 presenting -- well, as indicating that as the sentence
20 begins alternatively --

21 MR. WILLIAMS: Uh-huh.

22 JUDGE TARANTO: -- this isn't an
23 alternative to sending a notification signal at all.

24 MR. WILLIAMS: No. I -- I agree, and I
25 think he -- I think two things. I think that's true,

1 but also, that sentence itself has nothing to do with
2 the presence of the second rider near the vehicle. It
3 just says, now I'm going to pick up a second rider, so
4 I'm going to press a button that generates an
5 indicator.

6 JUDGE HUGHES: And that's to Judge
7 Taranto's point.

8 MR. WILLIAMS: Yeah.

9 JUDGE HUGHES: The alternatively word in
10 there, it sets off two different embodiment.
11 Embodiment one, when the driver is close to the
12 passenger, send a notification signal to the car, and
13 then the car will generate an indicatory signal just
14 like in all the other embodiments. Alternatively,
15 instead of doing all of that, just have the taxi car
16 generate a code --

17 MR. WILLIAMS: Correct.

18 JUDGE HUGHES: -- and send that out.

19 MR. WILLIAMS: Yeah. I think we're --

20 JUDGE HUGHES: And, so in either
21 alternative, one component of the claim's missing,
22 either the notification signal or the generation of an
23 indicator at the taxi car.

24 MR. WILLIAMS: Yes. I mean, I think we're
25 in complete agreement, and that's the argument we made

1 repeatedly to the board, that it -- none of these
2 disclosures that the board relies --

3 JUDGE HUGHES: And what the board's
4 analysis arguably looks like is it removed the word
5 alternatively from this paragraph. So you have a
6 notification signal, sent from a controller to the
7 car, when the car is close to the pick-up, and then
8 after that continuing on, removing the word
9 alternatively, the -- the system can be adapted so
10 that the driver's phone can generate a code.

11 MR. WILLIAMS: I mean, that was certainly
12 a -- a plausible explanation for what the board did.
13 I'm not going to speculate as they just ignored the
14 word alternatively or --

15 JUDGE CHEN: It's either that or they
16 forgot how they had interpreted indicatory signal
17 earlier to not necessarily require the generation of a
18 code at the same time.

19 MR. WILLIAMS: Perhaps. Yes. I mean --
20 and I don't know which it is, but either way, as we
21 say, we think the board erred, and there was no one to
22 support these claims.

23 JUDGE HUGHES: Why don't you talk about
24 101.

25 MR. WILLIAMS: I'm happy to talk about 101,

1 unless the Court has any other questions.

2 So with respect to 101, you know, this, to
3 us, is -- these amended claims, to us, I think, are
4 just sort of prototypical invalid claims under 101.
5 They explicitly recite a mental step performed by a
6 user which is what the claims are directed to, the
7 mental step of identifying your taxi by matching some
8 indicator on the taxi to some indicator that's
9 associated with the ride on your phone. What the
10 board did to overcome -- I mean, and it seems that the
11 board was agreeing with us because they did find that
12 there was a judicial exception under the PTO's
13 guidelines, but the problem is that the board went on
14 to apply this three-step subject matter eligibility
15 test that the PTO applies.

16 JUDGE TARANTO: Why -- why don't you just
17 ignore the guidelines structure --

18 MR. WILLIAMS: Yeah. Sure.

19 JUDGE TARANTO: -- which is confusing and
20 is not governing and just talk about how you think --

21 MR. WILLIAMS: Yeah.

22 JUDGE TARANTO: -- it should be analyzed --

23 MR. WILLIAMS: Sure.

24 JUDGE TARANTO: -- in terms of our case
25 law --

1 MR. WILLIAMS: Absolutely.

2 JUDGE TARANTO: -- so it's identifying
3 after a series of communications, a carefully
4 structured series of communications, to solve a
5 problem of trust when somebody's about to get into a
6 stranger's car.

7 MR. WILLIAMS: Okay. But that -- even if
8 assuming that --

9 JUDGE TARANTO: Is that eligible or not?

10 MR. WILLIAMS: I would say no, but I don't
11 even think that's what's going on here.

12 JUDGE TARANTO: Okay.

13 MR. WILLIAMS: I think these are just very
14 common sense recitations of sending signals so that
15 the user can identify their dispatch taxi, and those
16 are the prototypical examples of things that are not
17 subject matter eligible under Alice and this Court's
18 case law. This is not a case like the DDR Holdings or
19 the other cases where there is arguably some
20 technological solution to a technological problem.
21 And you know, I know the patent office yesterday --

22 JUDGE CHEN: This -- this claim has phones.

23 MR. WILLIAMS: Well, exactly.

24 JUDGE CHEN: And a display. Not
25 controller.

1 MR. WILLIAMS: It's got --

2 JUDGE CHEN: And signals.

3 MR. WILLIAMS: It is using mobile computing
4 technology that's existed for a very long time to
5 solve a human problem of allowing you to match a taxi.
6 Judge Andrews, in the district court case, and we cite
7 this in the appendix, noted in his short opinion on
8 this point that it looked --

9 JUDGE CHEN: But you're saying all of those
10 things that I just itemized are just merely
11 conventional tools that carry out in that (inaudible)
12 idea, and there's nothing going on in this claim that
13 even hints at improving a computer or networks or
14 anything like that.

15 MR. WILLIAMS: That's right. There's --
16 there's no improvement to computing, there's no
17 improvement to mobile computing, they're using mobile
18 computing devices exactly as mobile computing devices
19 are known to be used, that they're described that way
20 in the specification. There's nothing unconventional
21 to describe the specification. It's nothing --

22 JUDGE HUGHES: If a passenger pre-arranges
23 a car service by calling in, saying, I need a car at
24 the airport at 3:00 p.m. on this day, and says my name
25 is passenger X, and the car drives up and holds a sign

1 that says, I'm here for passenger X, that's what this
2 is doing, but doing what -- it with phones over --

3 MR. WILLIAMS: Right.

4 JUDGE HUGHES: -- a network.

5 MR. WILLIAMS: That's exactly right, Your
6 Honor. And that's exactly my point of what Judge
7 Andrews was saying when he made analogy to the
8 Seinfeld episode where George steals someone's car at
9 the airport by saying he's the person whose name was
10 on the sign, so it's exactly right.

11 JUDGE TARANTO: This is O'Brian?

12 MR. WILLIAMS: What? Yes. Exactly. The
13 O'Brian episode. So in the event -- yeah. So step
14 one, I think it's clear there's nothing new there, and
15 in step two, there's really nothing in the claims that
16 they're even pointing to arguably as meeting
17 the subject --

18 JUDGE CHEN: I mean, it's just using the
19 phones and the capacity of the phones they have to
20 talk to each other, but isn't -- it doesn't even
21 really tell us how the phones do it, are they using
22 GPS, are they using some other ways that the phone's
23 an identifier? It's the idea using --

24 MR. WILLIAMS: Uh-huh.

25 JUDGE CHEN: -- the phones through some

1 kind of, you know, networking or, you know, electronic
2 signals to show some kind of matching signal.

3 MR. WILLIAMS: Correct. Correct. Yep.
4 That's right. Unless the Court has any further
5 questions, I'm happy to reserve the time.

6 JUDGE TARANTO: Okay. You'll have rebuttal
7 time.

8 Ms. Dawson, you're next; right?

9 MS. DAWSON: I'm sorry?

10 JUDGE TARANTO: You're next; yes?

11 MS. DAWSON: I'm last?

12 JUDGE TARANTO: You're next.

13 MS. DAWSON: I'm next, yes.

14 JUDGE TARANTO: Yes. Okay.

15 JUDGE CHEN: You're splitting time with
16 PT0?

17 MS. DAWSON: Yes. Three minutes.

18 JUDGE CHEN: All right.

19 MS. DAWSON: On 101. So I guess, I'll jump
20 to written description and address what you were
21 talking about with Lyft's counsel.

22 In that paragraph 30, what is disclosed,
23 the patent office did read to be all one potential
24 embodiment, and I understand you're focusing in on the
25 word alternatively, but I think what the patent office

1 is doing, and it's supported by substantial evidence
2 within this disclosure at paragraph 30 -- and first of
3 all, paragraph 30 is still referencing system 10 which
4 is the main system for just having one rider. And, so
5 all of those elements would apply here as well, but
6 what paragraph 30 says and what -- what the PTAB kept
7 saying to Lyft throughout the briefing is, you're only
8 focusing on this one sentence within paragraph 30, but
9 it's the entirety of paragraph 30. And -- and the
10 PTAB was reading that as one potential embodiment, and
11 what it says is, when the first rider gets into the
12 vehicle, it deletes the indicator associated with that
13 rider, and then it generates a notification signal or
14 can generate a notification signal for the second
15 driver when they're close to the second driver. And
16 then, yes, it says alternatively.

17 JUDGE TARANTO: Alternatively, but
18 that's -- I mean --

19 MS. DAWSON: Uh-huh. Yeah.

20 JUDGE TARANTO: Right. That's kind of the
21 big deal.

22 MS. DAWSON: Right. Right. That they can
23 generate another -- the driver can generate another
24 code, but what's happening here, and I think that the
25 PTAB is reading fairly in, is the notification signal

1 is still sent, but normally, that notification signal
2 automatically sends the driver's device the -- the new
3 indicator and the signal for the indicator, but
4 instead, because we have multiple different riders, it
5 allows for a different embodiment where they get the
6 notification signal, and they can just enter a command
7 to get the new --

8 JUDGE CHEN: I kind of got lost there in
9 your explanation. My understanding of this patent
10 is -- is that what the controller is sending to the
11 taxi car is a notification signal; right? And then
12 it's -- and then the taxi car generates an indicatory
13 signal; right? That's -- that's what the claim calls
14 for.

15 MS. DAWSON: The mobile computer -- mobile
16 computer, yeah.

17 JUDGE CHEN: Okay.

18 MS. DAWSON: Of the driver.

19 JUDGE CHEN: And I thought I just heard you
20 say that normally what happens is, the controller
21 sends not only a notification signal, but also an
22 indicatory signal.

23 MS. DAWSON: Oh, I'm sorry.

24 JUDGE CHEN: That's -- that's not right.

25 MS. DAWSON: No. The -- what the PTAB is

1 saying and what the disclosure is, is that -- and
2 they're relying on these other paragraphs to -- to say
3 this, but it's the notification signal that activates
4 the driver's phone to put up the indicatory signal.
5 So it -- it -- the notification signal comes, that
6 activates their phone to create the indicatory signal
7 and indicator.

8 JUDGE CHEN: Right.

9 MS. DAWSON: And, so instead, in this
10 embodiment, because we have multiple riders, the --
11 the -- the driver can just enter a command to get that
12 new indicator for the second driver or second rider,
13 excuse me.

14 JUDGE CHEN: So I -- I don't under -- what
15 is your view of what work is the word alternatively
16 doing in the middle of the paragraph?

17 MS. DAWSON: So the alternatively is in --
18 it's in -- normally, the -- the notification signal
19 activates the driver's phone to create the indicatory
20 signal. The alternatively is instead of that just
21 popping up, they can -- they can enter a command to
22 say, give me that new indicator now for the second
23 rider.

24 JUDGE CHEN: So therefore, in this
25 alternative, there -- there's no requirement for a

1 notification signal to be sent to the taxi driver's
2 mobile device.

3 MS. DAWSON: No. So the notification
4 signal is still sent because that says, you're within
5 a predetermined location of now the second driver.
6 But the alternatively is instead of, because of
7 receipt of the notification generating automatically,
8 because it's activated the driver's phone, the
9 indicator, they can enter a command, once they receive
10 the notification to get that second signal for the new
11 passenger.

12 JUDGE CHEN: How is that different from how
13 the system ordinarily works?

14 MS. DAWSON: I'm sorry, how is that
15 different from --

16 JUDGE CHEN: How -- what you just described
17 different from how the system ordinarily works?

18 MS. DAWSON: Well, so the system -- the --
19 normally, the phone is activated with the -- with the
20 receipt of the first notification signal, so it's
21 already activated. Now we have a second passenger, so
22 it doesn't need to be activated again. They get the
23 notification signal, so they hit the -- enter a
24 command to get that new indicator.

25 JUDGE CHEN: It sounds like the -- the

1 taxicab driver's phone is going to be generating an
2 indicator -- indicator indicatory signal, in response
3 to receiving a notification signal, in your view. And
4 if that's true, then I -- that's really no different
5 than how the system ordinarily works because the
6 system ordinarily has the taxicab driver's phone
7 generate an indicatory signal in response to receiving
8 a notification signal.

9 MS. DAWSON: Right. But the --

10 JUDGE CHEN: So it's the same thing. I
11 don't -- so again, the alternative --

12 MS. DAWSON: The alter --

13 JUDGE CHEN: The alternatively word isn't
14 doing anything.

15 MS. DAWSON: Yeah. The alternative is --
16 so normally, the notification signal is -- is
17 activating the phone. The -- that -- they don't have
18 the -- the driver doesn't have to do anything with the
19 first time that that happens. It just -- it just
20 happens that the now indicatory signal representing an
21 indicator happens. This -- this -- this embodiment
22 is, because now we have another rider. And, so the
23 alternative is, now they can enter a command because
24 it's already been activated.

25 JUDGE CHEN: So if we can just get to 101

1 really quickly.

2 MS. DAWSON: Yeah.

3 JUDGE CHEN: This -- why isn't this just
4 the abstract idea of helping two strangers find each
5 other and just using phones and display in order to do
6 that?

7 MS. DAWSON: Yeah. The whole key to this
8 patent is trying to provide security in this -- within
9 this network system, so that everybody knows that the
10 right person is getting in the right vehicle. And
11 that's done in this technological --

12 JUDGE HUGHES: I -- I don't understand that
13 at all. What do you mean? How does it provide
14 security by the network system?

15 MS. DAWSON: Right.

16 JUDGE HUGHES: All this is doing is letting
17 the phones talk to each other, and then it sends up a
18 signal so the passenger knows they're getting into the
19 right car.

20 MS. DAWSON: So the way that it does it is
21 by, first, sending that notification signal only at a
22 specific time when the -- the car's close to the --
23 the rider. And only in response to that, at that
24 time, creating the indicator, and then displaying it,
25 so the -- the indicator is only existing for a very

1 short period of time.

2 JUDGE CHEN: This is no different than
3 holding up a sign with somebody's name on it or if
4 they didn't want to give their name, a code, that they
5 can look at.

6 MS. DAWSON: Well, it is different because
7 how would -- I mean, it has to be a unique indicator.
8 It can't just be their name.

9 JUDGE CHEN: Okay. What about this
10 hypothetical? What if the claim were a little
11 different? And it was more about a system, again,
12 of -- would be passenger trying to order a car, and
13 the system -- there's a passenger. She's at the
14 airport. Her name's Jenny, and she calls the
15 dispatcher, and says, I'm at the airport, I need a
16 car. Dispatcher looks on his big board map and sees
17 that there is a cab driver within a mile of the
18 airport, calls the cab driver, and says, need to pick
19 up Jenny at the airport. And here's her number. And
20 then the cab driver drives to the airport, and he's
21 got a whiteboard, and it's attached to his window, and
22 he writes down Jenny's number on the whiteboard, and
23 then calls Jenny, and says, hey, I'm coming to get
24 you, Jenny. I've got your number on my whiteboard,
25 and your number is 867-5309. What I just described,

1 is that patent eligible?

2 MS. DAWSON: I don't know if that is,
3 but --

4 JUDGE CHEN: It's got phones. It's got a
5 whiteboard. Is that -- or is that just a method of
6 organizing human activity, just using, you know,
7 available technology for their normal conventional
8 purposes.

9 MS. DAWSON: I don't know if that is, but I
10 know that that the present substitute claims are
11 patent eligible, but because of the fact that the
12 indicator is created at the time that it's close to
13 the rider, and that's when it's created, so it's
14 not --

15 JUDGE CHEN: That's my example.

16 MS. DAWSON: Well --

17 JUDGE CHEN: The taxicab driver wrote on
18 the whiteboard her phone number.

19 MS. DAWSON: But it's a unique indicator.
20 It's disclosed as being a --

21 JUDGE HUGHES: So what?

22 JUDGE CHEN: It's 867-5309.

23 JUDGE HUGHES: It's using the basic
24 capacities of these phones to do what the phones do.
25 But the idea for this is so that the passenger can

1 identify that they're getting into the right car.

2 MS. DAWSON: Uh-huh.

3 JUDGE HUGHES: That's not an eligible idea,
4 and using conventional computer equipment and
5 conventional telephones to accomplish that is not
6 eligible.

7 MS. DAWSON: Except for this Court's
8 holdings in DDR and VASCOM that says that you -- even
9 if it's just --

10 JUDGE HUGHES: Those cases involved
11 improvements to -- in something that's specific to the
12 computer environment. Everything we're talking about
13 here, this is not to make the phones work better with
14 each other. This is to use that technology to enable
15 human interactions. So they're different cases.

16 MS. DAWSON: So I just --

17 JUDGE HUGHES: The end point of this is to
18 generate a signal for human consumption; right?

19 MS. DAWSON: The end point of this is to --

20 JUDGE HUGHES: Can you just answer? That's
21 a yes or no question. The end point is to generate a
22 signal for the passenger to realize that they're
23 getting in the correct cab; yes?

24 MS. DAWSON: Yes.

25 JUDGE HUGHES: That's not a technological

1 problem.

2 MS. DAWSON: But it's a technological
3 solution to it to ensure that the -- there's this two
4 notification or this two signal --

5 JUDGE HUGHES: There's lots of
6 technological improvements to -- with the way things
7 were done before phones and computers that we found
8 ineligible. In fact, even things that were physically
9 impossible before computing power that were still just
10 general abstract ideas that were somehow became
11 possible due to computing power aren't eligible. That
12 sounds a lot like that, to me, that you're using
13 some -- but this one was possible before using
14 hand-printed cards and phones and calling people.

15 MS. DAWSON: Well, I'm not sure that any of
16 these -- you know, in the prior argument example, that
17 a driver, and even Lyft's example of this in their
18 briefs, is that a driver's going to wait to -- to
19 write down a user's name when they get to -- close to
20 the -- to the rider, but that's -- I mean, that's
21 super unsafe and not actually ever happened; right?
22 But it's only saying that because it can't meet this
23 human method of doing it, can't meet the limitations
24 that say, we're only generating the first signal when
25 you're at a close proximity to the rider, and then the

1 indicator is created only then to make sure that we
2 don't have an indicator existing for a long time that
3 can be tampered with so that people could
4 intentionally have somebody get into the wrong
5 vehicle.

6 JUDGE TARANTO: Thank you. We'll hear from
7 the government. Thank you.

8 MS. CAPRIHAN: Good morning, Your Honors,
9 and may it please the Court. I want to address this
10 section 101 issue. The reason that these claims are
11 eligible under step one of Alice is because they do
12 provide a --

13 JUDGE CHEN: Under step one? I thought the
14 board --

15 MS. CAPRIHAN: Under step one.

16 JUDGE CHEN: -- found that they weren't
17 eligible under step one and had to get to step two.

18 MS. CAPRIHAN: No. So the board --

19 JUDGE CHEN: Oh, is this your nonsensical
20 subzero, step 2A stuff?

21 JUDGE HUGHES: So the board found that
22 they're eligible under step one.

23 MS. CAPRIHAN: So much like --

24 JUDGE CHEN: But they refer to it as step
25 two.

1 MS. CAPRIHAN: Much like this Court's
2 precedence and this Court's decisions in section 101,
3 what the board did was first look at the claims and
4 determine if any of the limitations recite a judicial
5 exception. And here, one of the limitations did. One
6 of the limitations were cited a method of organizing
7 human activity as Judge Chen recognized.

8 JUDGE HUGHES: These claims -- so the --
9 but let me step back.

10 MS. CAPRIHAN: One of the limitations.

11 JUDGE HUGHES: You think that these claims
12 are not directed to an abstract --

13 MS. CAPRIHAN: That's correct. Not as a
14 whole. Because the supreme court's precedent --

15 JUDGE HUGHES: So what are they directed
16 to?

17 MS. CAPRIHAN: -- require that --

18 JUDGE HUGHES: What are they directed to?

19 MS. CAPRIHAN: What are they directed to?
20 They are directed to a technological --

21 JUDGE HUGHES: No. You can't -- now -- the
22 just generic things that keep them out of the
23 eligibility problem. What specifically are they
24 directed to that's not an abstract idea?

25 MS. CAPRIHAN: Improvement to Internet

1 based Rideshare technology. That is what they are
2 directed to.

3 JUDGE HUGHES: How?

4 MS. CAPRIHAN: How? By providing, as my
5 friend indicated, by providing the specific --

6 JUDGE TARANTO: I'm sorry. Is the Internet
7 required here?

8 MS. CAPRIHAN: Well, the phones --

9 JUDGE TARANTO: Just mobile communication
10 devices.

11 MS. CAPRIHAN: It's a mobile communication.

12 JUDGE TARANTO: The Internet is not
13 actually required; right?

14 MS. CAPRIHAN: Well, the -- the way that
15 you are accessing the device is through the Internet;
16 right? Like, it's kind of like an Uber app. You have
17 the --

18 JUDGE CHEN: Where is that in the claims?

19 JUDGE HUGHES: That's not in the claim.

20 JUDGE CHEN: That's not in the claim.

21 JUDGE HUGHES: You can do all this by text
22 message?

23 JUDGE TARANTO: It's not in the claim.

24 MS. CAPRIHAN: You can do it all by the
25 phone. But the signals are being sent through a

1 controller; right? And through a network. The
2 network is required. Some kind of -- some kind of --

3 JUDGE HUGHES: Okay. Well, that's a --

4 MS. CAPRIHAN: Some -- some capability for
5 the -- the controller and the phones to be sending
6 these -- generating these notification signals at a
7 predetermined time.

8 JUDGE CHEN: What's the improvement in the
9 network or the computer or anything that could
10 remotely be regarded as technology?

11 MS. CAPRIHAN: So the improvement is not in
12 the individual components.

13 JUDGE CHEN: No, no. I -- don't tell me
14 what it's not. Tell me what it is because I've been
15 waiting and waiting and waiting for somebody to tell
16 it to me. So now's your chance.

17 MS. CAPRIHAN: The improvement is in
18 providing a more secure Rideshare's technology
19 service.

20 JUDGE CHEN: That's the result. How do --
21 what's the means? What is the technological improved
22 means of accomplishing the result?

23 MS. CAPRIHAN: The means of accomplishing
24 the result are these sequence of steps. They're very
25 specific steps.

1 JUDGE CHEN: Which sequence of steps, just
2 reciting the entire claim, and then automatically
3 voila --

4 MS. CAPRIHAN: Well, the generation --

5 JUDGE CHEN: -- to be an improved
6 technological means?

7 MS. CAPRIHAN: The generation of a
8 notification signal when the driver and the rider are
9 a predetermined distance from each other, the
10 generation of the indicator and the generation of that
11 code on all of the devices. It's generated --

12 JUDGE TARANTO: The airport -- airport
13 pick-up example --

14 MS. CAPRIHAN: So the airport pick-up --

15 JUDGE TARANTO: Why is that different?

16 MS. CAPRIHAN: Thank you for reminding me
17 about that hypothetical, because the airport pick-up
18 hypothetical is that scenario while the rider may have
19 information regarding which car to get into, the
20 driver has no way to assess that that rider is the
21 rider that they're picking up. They're fully trusting
22 the rider to be an honest person.

23 JUDGE HUGHES: You don't need these --
24 these claims to do that. When you call the
25 Rideshare -- or the -- the car service in advance and

1 arrange it, they can also say, in order to make sure
2 our driver knows who you are, you need to print out a
3 sign that has this code on it, so the driver can match
4 it.

5 MS. CAPRIHAN: But this process --

6 JUDGE HUGHES: That's the same --

7 this --

8 MS. CAPRIHAN: -- provides all of that --

9 JUDGE HUGHES: This --

10 MS. CAPRIHAN: -- within your mobile
11 devices.

12 JUDGE HUGHES: -- process automates it;
13 right? We have never found automating something that
14 can be done with, basically, pen and paper to be
15 eligible.

16 MS. CAPRIHAN: But this is a process that
17 provides a unique code. In your scenario, the --

18 JUDGE HUGHES: That's a unique code, too.
19 I call up the car service. The car service says, our
20 driver is going to be there in this kind of car. He
21 will hold up a sign with a code on it. You need to
22 hold up a sign with another unique code on it. Here's
23 the code.

24 MS. CAPRIHAN: But this two-way
25 identification system is generated through the

1 technology that is through these devices that are
2 generating these notification signals and indicator
3 signals, which are then displayed on multiple displays
4 on the mobile devices.

5 JUDGE CHEN: What -- what federal circuit
6 case is most similar to the facts of this case that
7 found the claims be patent eligible? And don't say
8 DDR or VASCOM or Koninklijke KPN. I am all too
9 familiar with those three cases. And they don't help.

10 MS. CAPRIHAN: So other cases that have
11 held that --

12 JUDGE CHEN: Which ones?

13 MS. CAPRIHAN: Contour IP Holdings, McCrow
14 (phonetic), those type of cases have held that even
15 though the individual components themselves are
16 conventional, overall, the specific steps that are
17 followed provide an improvement to the underlying
18 technology. In Contour IP Holdings, there was an
19 improvement to a particular point of (inaudible) that
20 provided specific -- it also involved the generation
21 of signals, the generation of video, and then
22 displaying that video on a display.

23 Those claims are very similar to the claims
24 at issue here. There was an improvement to the
25 underlying technology because of the specific steps

1 that were followed. If there are no further
2 questions --

3 JUDGE TARANTO: Okay. Thank you.

4 MR. WILLIAMS: So Your Honors, just to
5 address Contour, Contour solved the problem that was
6 created by the technology in that case which was a
7 point-of-view camera that you couldn't see the view
8 finder, so there was a technological solution that was
9 recited in the claims there.

10 Here, there's no technological solution.
11 This is just using mobile computing to solve a human
12 problem that has, you know, been put in practice for
13 many, many years. So unless the board has any further
14 questions --

15 JUDGE TARANTO: Can you -- can you return
16 for a minute to the written description --

17 MR. WILLIAMS: 112?

18 JUDGE TARANTO: -- question. Yes. So at
19 least one way that I think I heard the argument being
20 made is that on what is in this context a factual
21 question, even though we're interpreting the patent at
22 issue, the board reasonably interpreted the paragraph
23 to give a meaning to the term alternative that starts
24 after the notification signal, not before the
25 notification signal, so that the alternative is not to

1 skip a notification signal, it is rather that the
2 indicatory signal is created at the behest of the
3 driver's action as opposed to automatically
4 electronically by the device upon receiving the
5 notification signal. Why is that an unreasonable
6 reading of that paragraph?

7 MR. WILLIAMS: So the -- the reason that I
8 think that would not be -- I mean, first of all, just
9 doesn't parse logically when you read the actual
10 paragraph as a whole paragraph 30, so I think if that
11 was the reading, it is not supported by the actual
12 language of paragraph 30.

13 But looking at the text of the actual
14 amended claim, the requirement is that you generate by
15 creating an indicator an indicatory signal
16 representing an indicator in response to receiving the
17 notification signal. So what is the notification
18 signal that's still present that this indicator's
19 generated in response to, there would be no room for
20 that any more in this embodiment because it's the
21 driver pressing a button.

22 So that's why I don't -- I don't -- I don't
23 see how you can get to that interpretation of what's
24 in paragraph 30 and say that matches up with what
25 claim 20 -- element 20-B now requires in the

1 amendment.

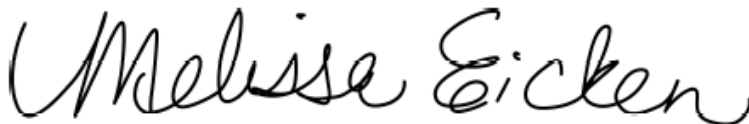
2 JUDGE TARANTO: Okay. Okay. Thanks to
3 all, counsel. Case is submitted.

4 (Audio ended.)
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FORM 19. Certificate of Compliance with Type-Volume Limitations

Form 19
July 2020

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS

Case Number: 23-2033

Short Case Caption: Rideshare Displays, Inc. v. Lyft, Inc.

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