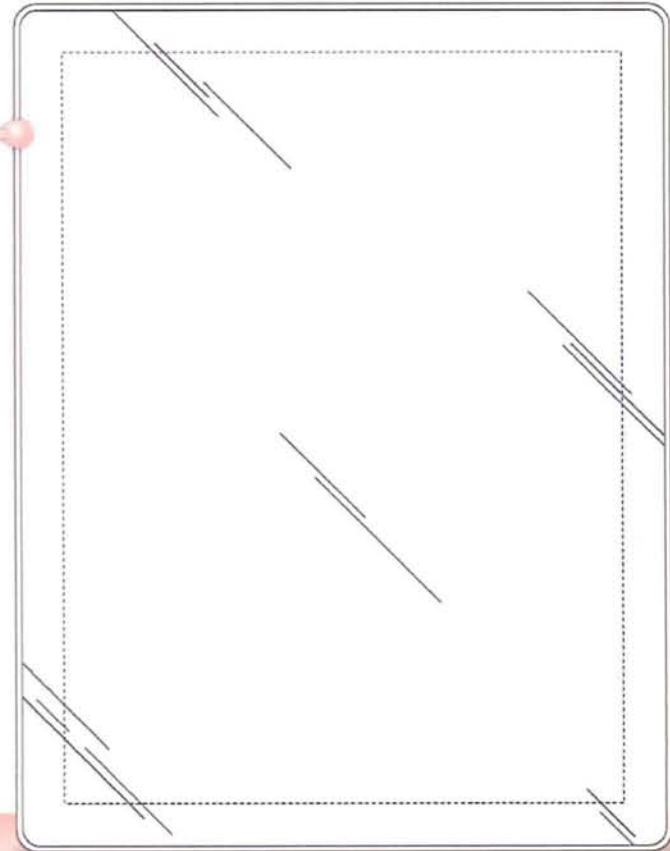


**EXHIBIT X-4**  
**(Public Redacted Version)**

# Apple's Design Features Are Functional

## Rim around the front surface

- Holds front surface in place
- Protects display and glass from side impacts



 D'889

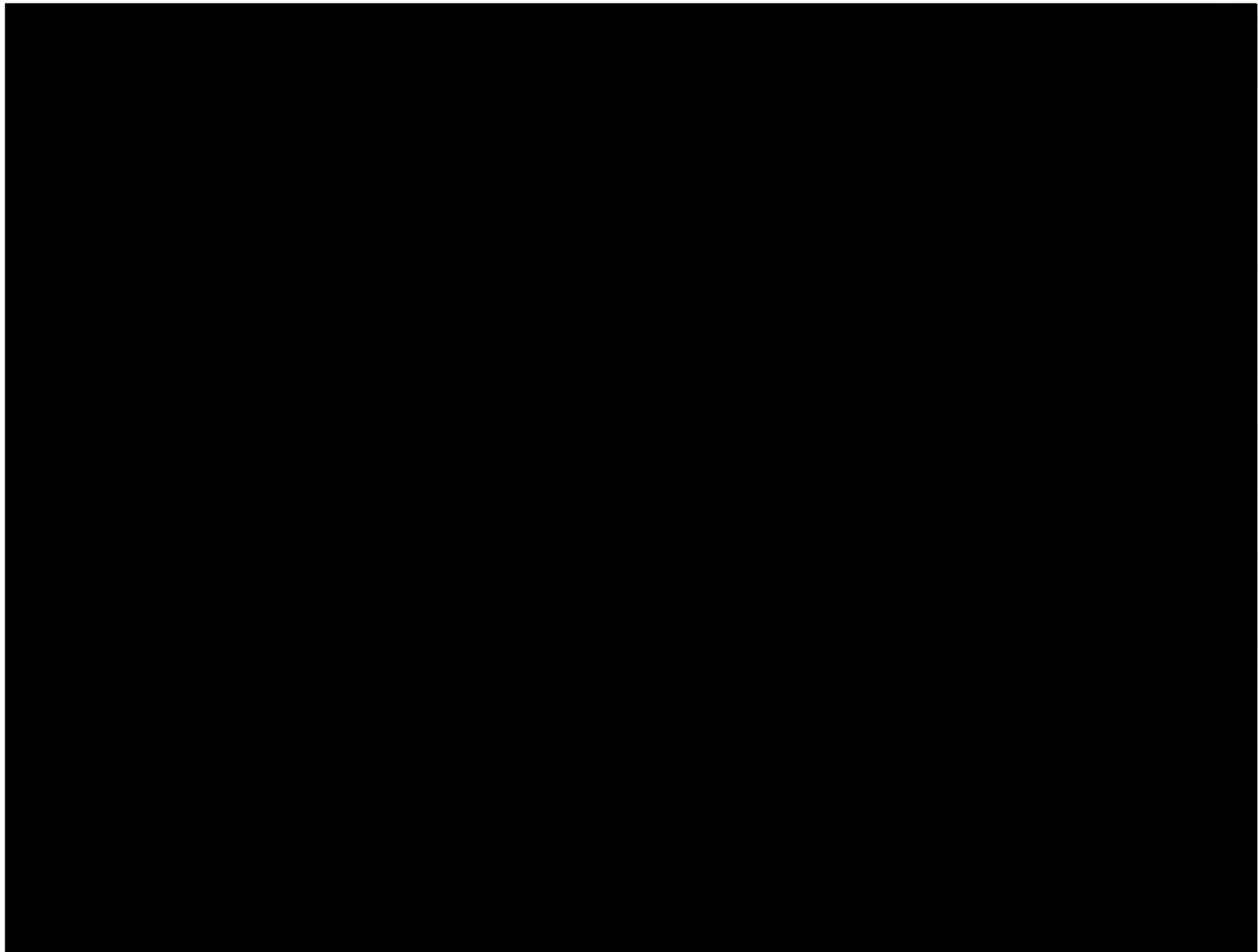
# Apple's Design Features Are Functional

## Thinness of design

- Facilitates mobility and portability

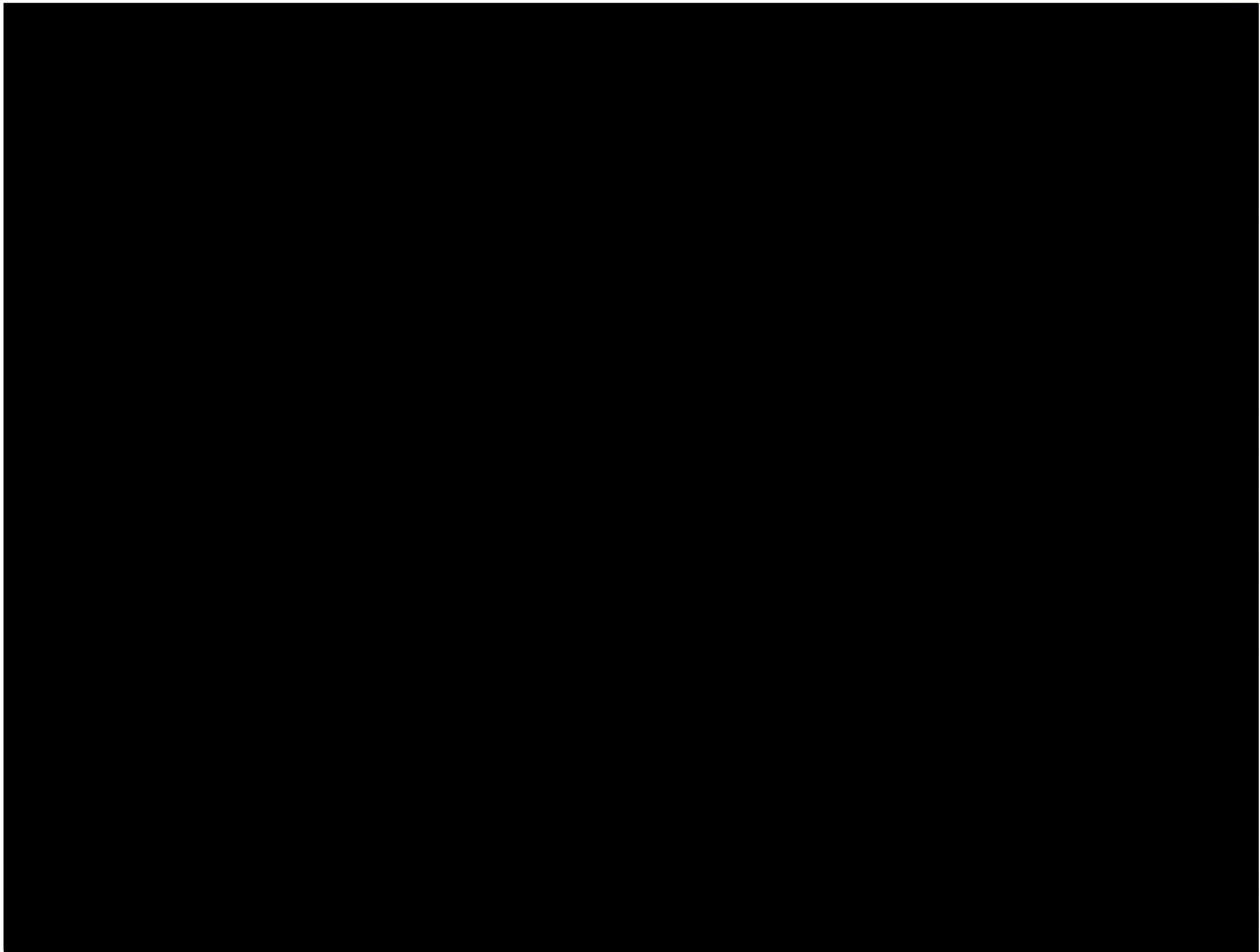


 D'889

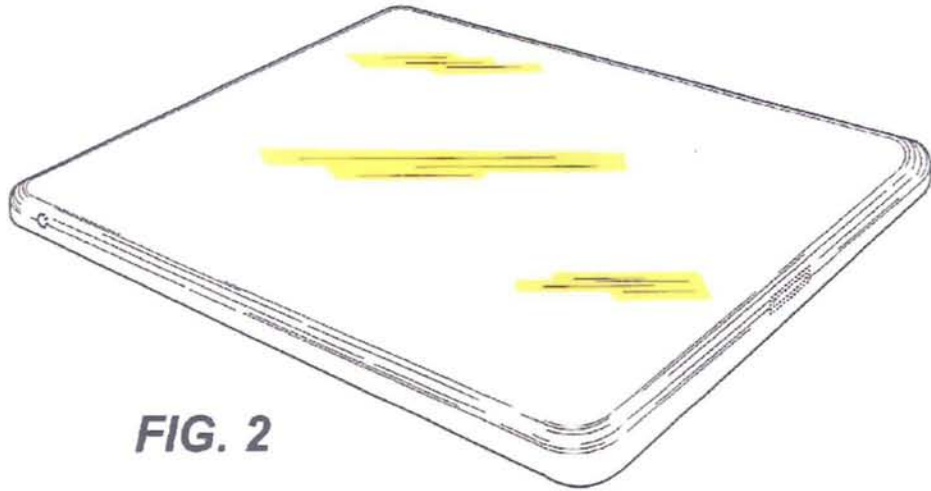


Video to be played here: **NBC\_Video\_001.mpg**

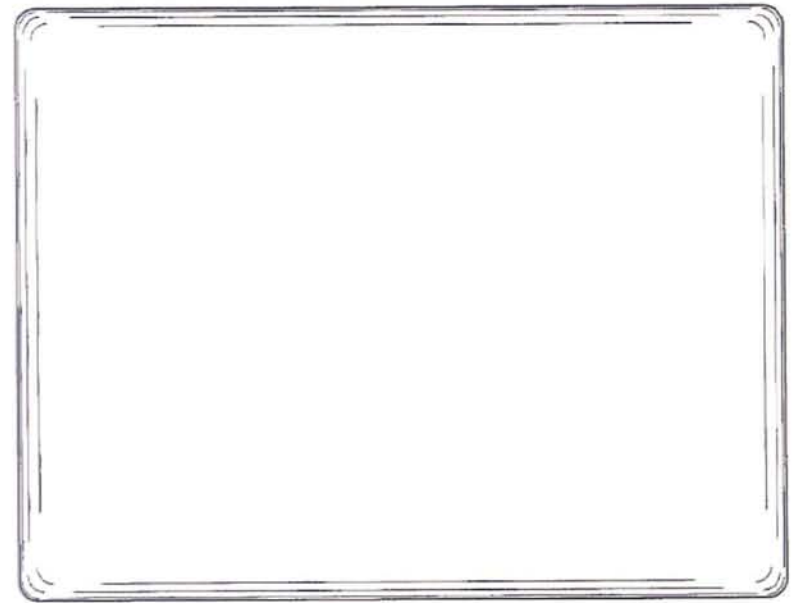




# The D'889 Patent Is Fatally Indefinite and Non-Enabling



**FIG. 2**



**FIG. 4**

# The D'889 Patent Is Fatally Indefinite and Non-Enabling

**Named inventor and Apple 30(b)(6) Christopher Stringer could not explain the discrepancy between Figures 2 and 4:**

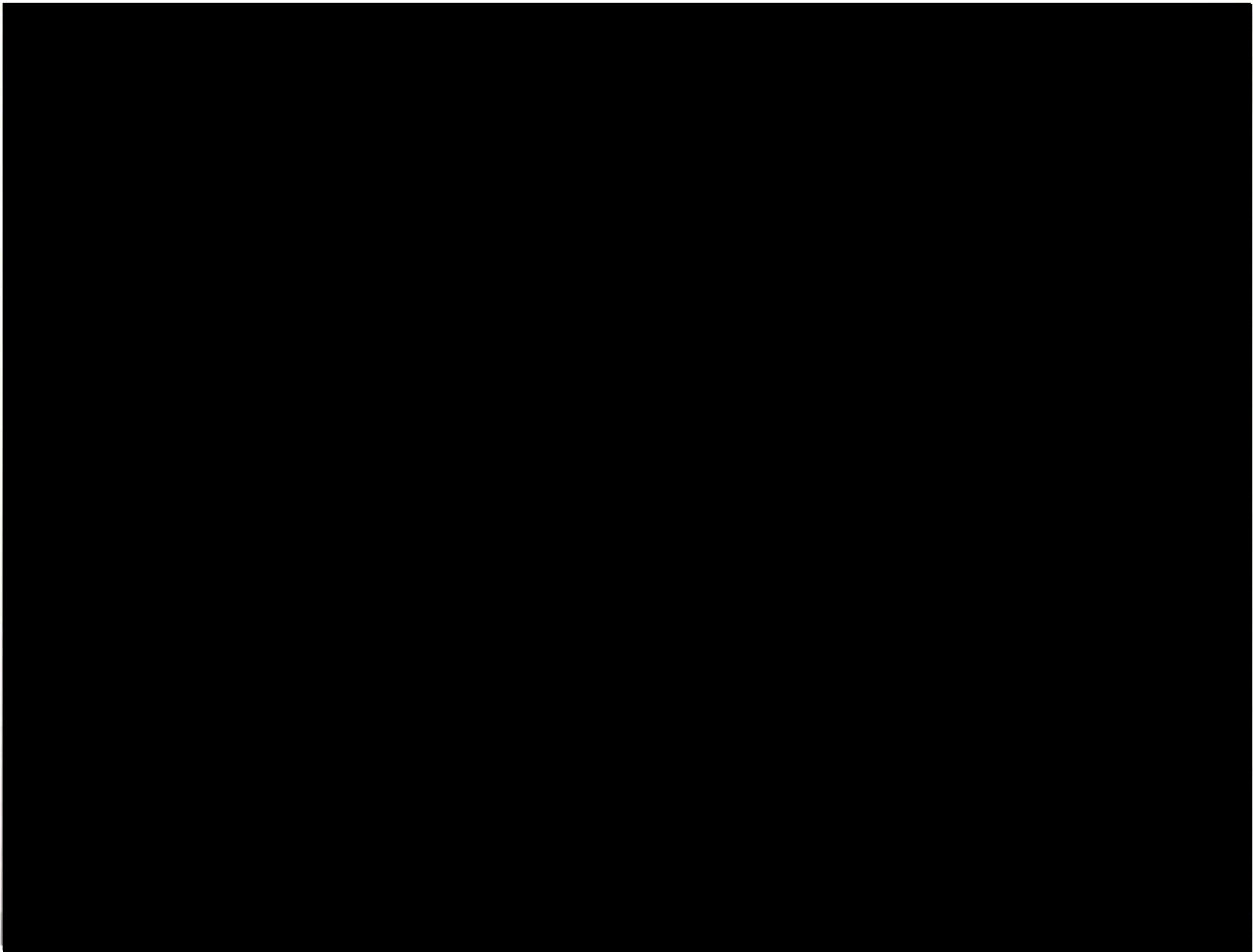
**Q. Why is it that Figure 2 has those cross lines showing the bottom unit of the device but Figure 4 doesn't?**

**MR. JACOBS: Objection. Lacks foundation.**

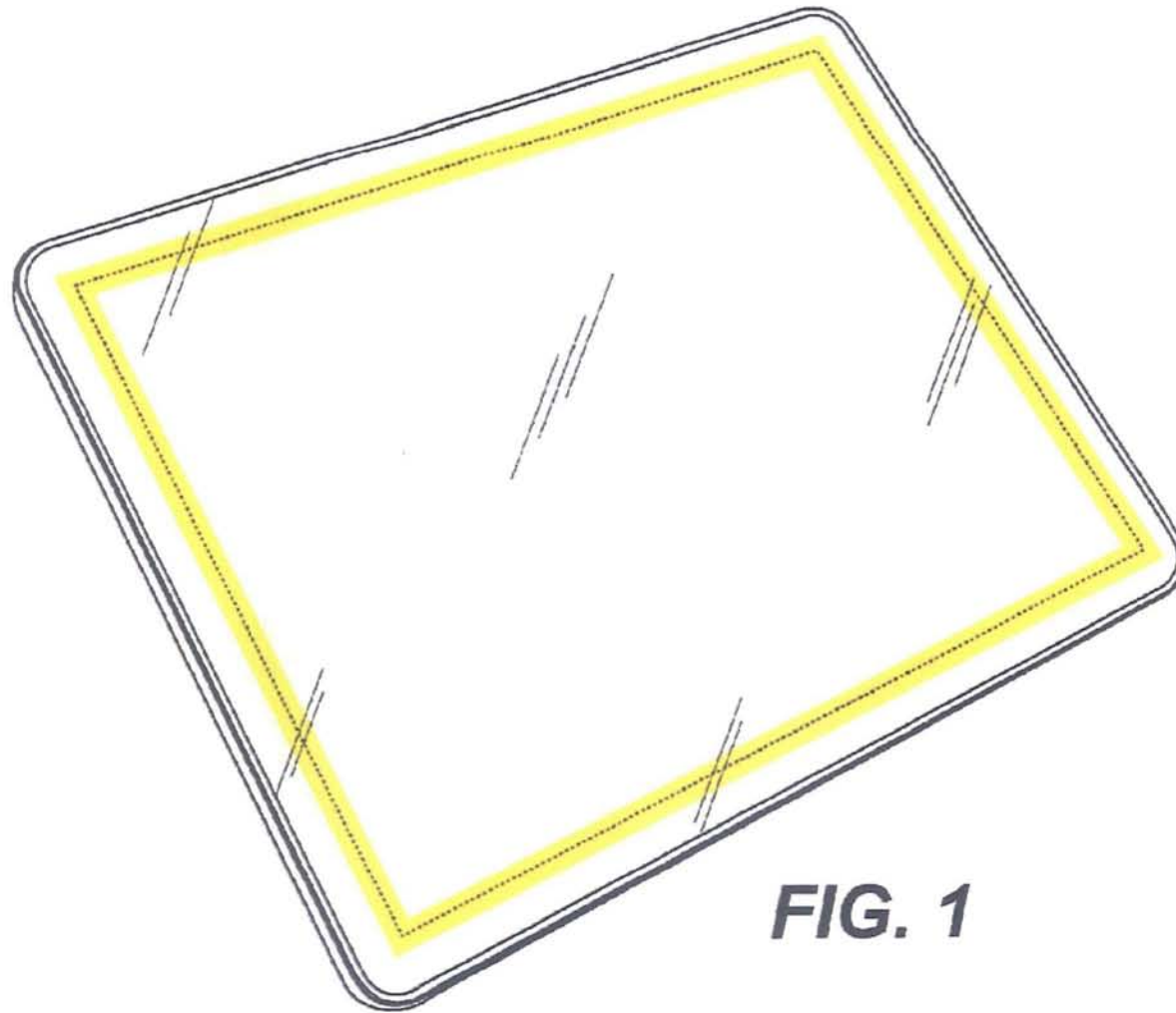
**A. I cannot answer that question. I do not know the answer to that question.**

*–Stringer Depo. 269:24–270:6*





# The D'889 Patent Is Fatally Indefinite and Non-Enabling



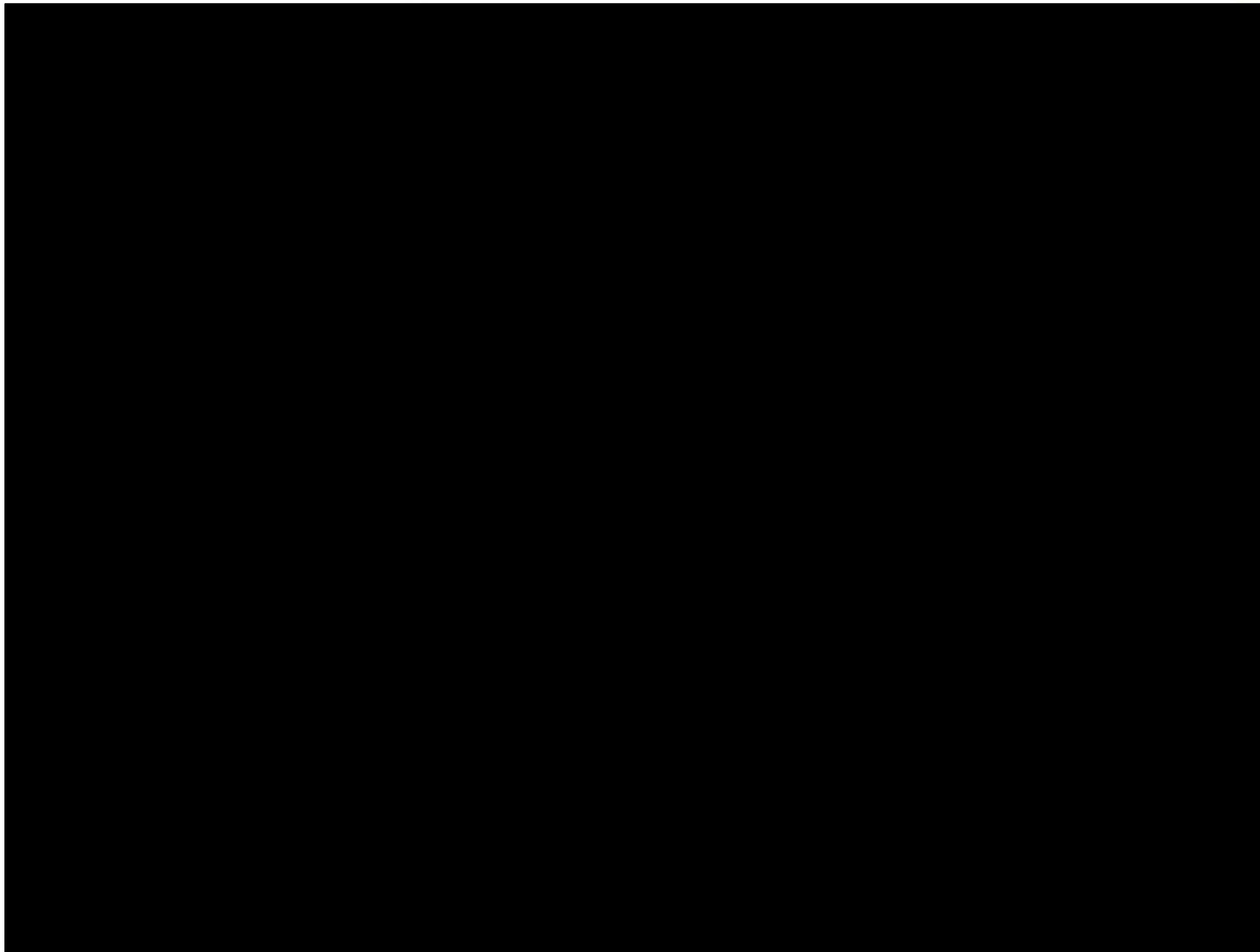
**FIG. 1**

# The D'889 Patent Is Fatally Indefinite and Non-Enabling

## Named inventor and Apple 30(b)(6) Christopher Stringer could not tell whether the "border" is claimed or not

- Q. My question is: Part of the design that is claimed here in U.S. design patent 504889, does it claim this line that's here depicting a border or the margin, yes or no?
- MR. JACOBS: Objection form.
- A. I believe the dotted line represents the area outside of the active area of the LCD. That what I'm not on is whether the patent claims—I cannot answer yes or no. I'm not—
- Q. You're not certain whether the patent claims that – what you're calling that line representing the border between the active area of the LCD and the area outside of it, right?
- A. As I understand it, broken lines are not part of the claimed design.
- Q. I know and you've said that. My question is about this particular patent. Does this particular patent, the 889 design patent, claim that dotted line as part of its patent claim?
- A. I would have to research this and look into the nature of how this is dotted. It is not dotted in the fashion that I see in the other patent drawings, so I cannot attest to whether or not there is a printing issue or if it's truly a dotted line.
- Q. In other words, you can't tell from the face of Exhibit 8 as you have it; is that true?
- A. Based on comparison with other patent drawings, which aren't very clear on what a dotted line looks like, I have to say there is in my mind a small amount of ambiguity, and I'm not prepared to go beyond this.
- Q. Whether it's a small amount or not, it's ambiguous to you, correct?
- A. Yes.

–Stringer Depo. 274:17–276:5



# D'889 Is Indefinite

## Apple's Litigation Counsel Does Not Understand the Patent

### INTERROGATORY NO. 7:

For each of the DESIGN PATENTS and the '381 PATENT, IDENTIFY (by product name, product manufacturer, telecommunications carrier (if applicable), date of product announcement, date of product release, and appearance of product – including front, back, and side images) every Apple product that embodies any patented design or invention of the DESIGN PATENTS or the '381 PATENT and provide a chart identifying specifically where each limitation of each asserted claim is found within each Apple product.

## Apple's Interrogatory Responses:

*Served: July 25, 2011*

*Verified: Aug. 18, 2011*

*Amended: Sept. 28, 2011*

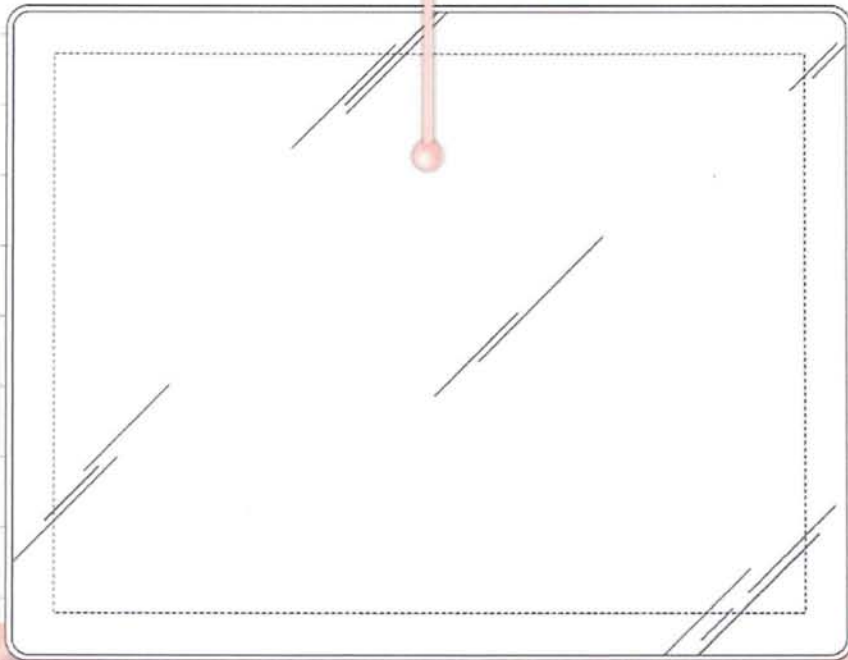
(No embodiments for  
'D889 listed)

“The patented design of the  
'D889 patent is embodied in at  
least the iPad 2.”

# Samsung Differences

No design elements

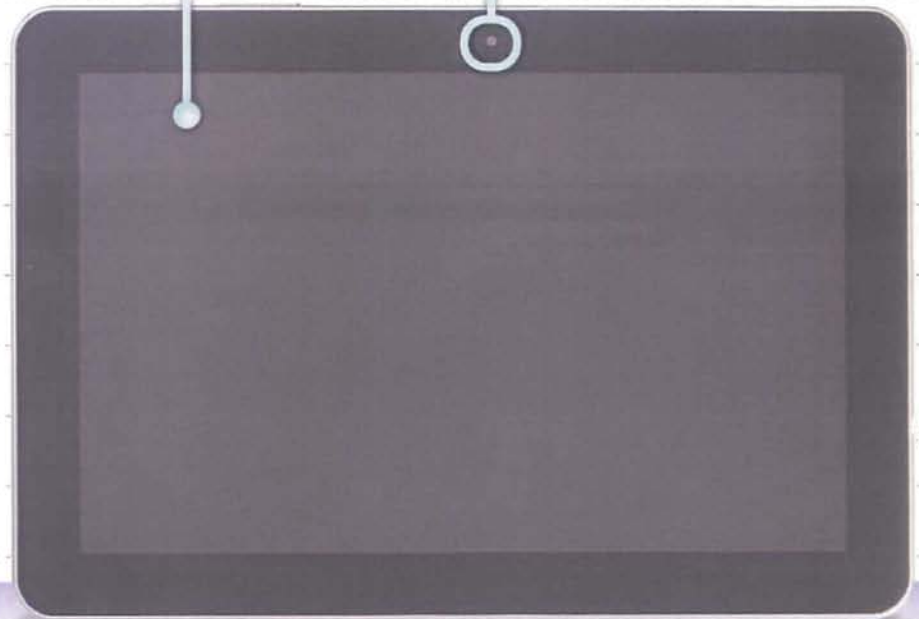
Rectangular aspect ratio 4:3



 D'889

Rectangular aspect ratio 5:3

Design element

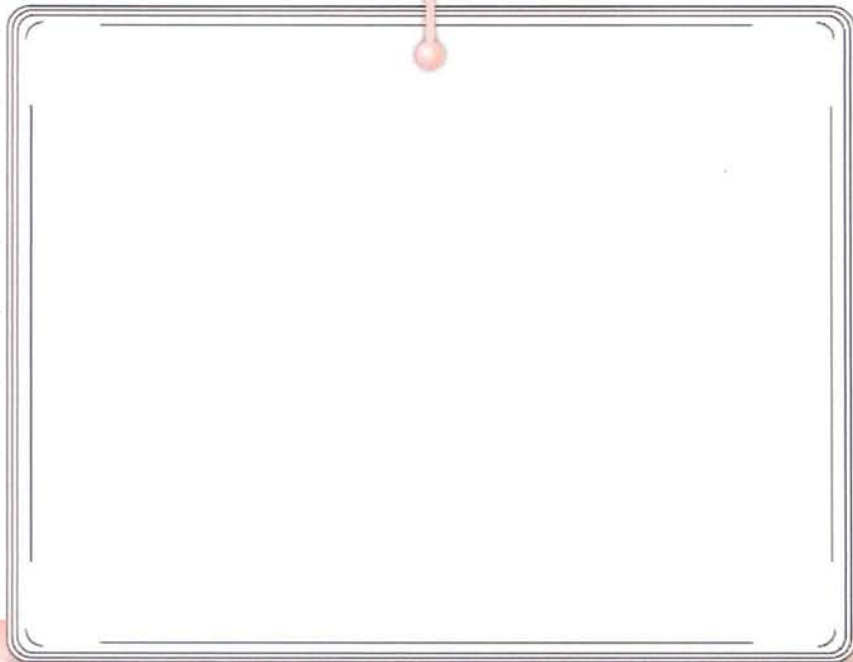


 GALAXY Tab<sub>10.1</sub>

# Samsung Differences

No separate bezel piece

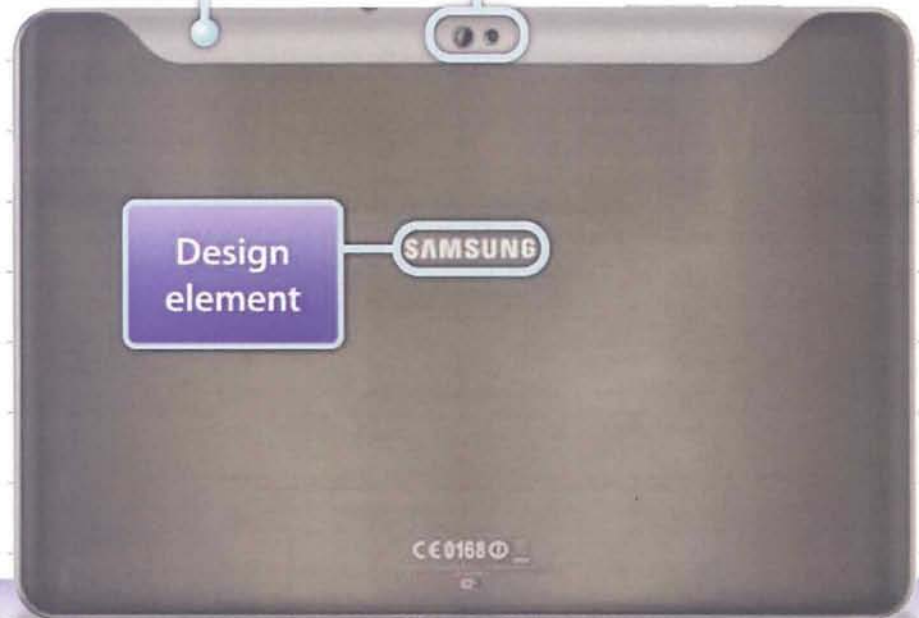
Uniform back surface



 D'889

Bezel

Design element



Design element

SAMSUNG

 GALAXY Tab  
10.1

# Samsung Differences

No separate  
bezel piece

Perpendicular  
edge profile



 D'889

Separate  
bezel piece

Curved edge  
profile









 GALAXY Tab  
10.1



# Samsung Differences

**D'889**

**Galaxy Tab 10.1**

|                     | <b>D'889</b>  | <b>Galaxy Tab 10.1</b>  |
|---------------------|---|---|
| Screen border width | 1/20 length   | 1/14 length   |
| Screen aspect ratio | 4:3   | 5:3   |
| Edge profile        |   |    |
| Depth of device     | 1/15 length   | 1/30 length   |
| Bezel               | No bezel  | Bezel   |
| Front panel         |  |  |
| Back panel          |  |  |

# Apple's PI Motion Should Be Denied

- **Apple cannot prove likelihood of success on the merits**
  - Apple is not likely to prevail on the D'677 and D'087 patents
  - Apple is not likely to prevail on the D'889 patent
  - **Apple is not likely to prevail on the '381 patent**
- Apple has not demonstrated irreparable harm
- The balance of equities tips against Apple
- The public interest favors denial of Apple's motion

# Samsung's Opposition to PI – '381 Patent

## No Likelihood of Success

- '381 Patent is Invalid
  - LaunchTile
  - Lira
  - DiamondTouch
- Samsung Does Not Infringe the '381 Patent
  - “Displaying an area beyond the edge”
  - “First direction”
- Apple's Inequitable Conduct
  - Van Den Hoven

# Samsung's Opposition to PI – '381 Patent

## No Likelihood of Success

- '381 Patent is Invalid
  - LaunchTile
  - ITC
  - Samsung Touch
- Samsung Does Not Infringe the '381 Patent
  - “Displaying an area beyond the edge”
  - “Fast direction”
- App's Inequitable Conduct
  - Van Den Hoven

# Samsung's New Prior Art Is Stronger Than Any Previously Known Art



'381 Patent

(54) LIST SCROLLING AND DOCUMENT TRANSLATION, SCALING, AND ROTATION ON A TOUCH-SCREEN DISPLAY

(75) Inventor: **Bus Ording**, San Francisco, CA (US)

(73) Assignee: **Apple Inc.**, Cupertino, CA (US)

(22) Filed: **Dec. 14, 2007**

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## Reviewed by PTO?

LaunchTile (not a publication)



Lira reference



DiamondTouch (not a publication)



Van Den Hoven reference



# Claim Construction is Necessary

- The '381 claims have never been construed
- Apple asserts “no formal claim construction is necessary because the claims of the '381 patent employ simple terms that should be accorded their ordinary meaning”

*-Apple's Motion for PI at 18:8-9*

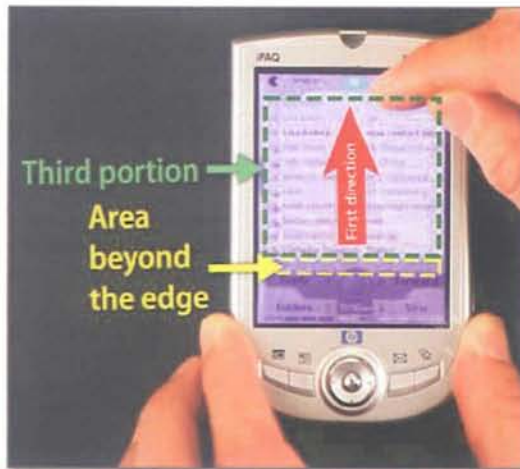
- But the new prior art is so strong that Apple's expert, Dr. Balakrishnan, completely changed his construction of “electronic document” between his deposition and his reply declaration
  - Even under Dr. Balakrishnan's new construction, the '381 patent is invalid

# '381 Patent, Claim 1

What is claimed is:

1. A computer-implemented method, comprising:  
at a device with a touch screen display:  
displaying a first portion of an electronic document;  
detecting a movement of an object on or near the touch screen display;  
in response to detecting the movement, translating the electronic document displayed on the touch screen display in a first direction to display a second portion of the electronic document, wherein the second portion is different from the first portion;  
in response to an edge of the electronic document being reached while translating the electronic document in the first direction while the object is still detected on or near the touch screen display:  
displaying an area beyond the edge of the document,  
and  
displaying a third portion of the electronic document, wherein the third portion is smaller than the first portion; and  
in response to detecting that the object is no longer on or near the touch screen display, translating the electronic document in a second direction until the area beyond the edge of the electronic document is no longer displayed to display a fourth portion of the electronic document, wherein the fourth portion is different from the first portion.

# LaunchTile Anticipates the '381 Patent



- LaunchTile is a user interface for a handheld, touch-screen device
- Developed by Dr. Ben Bederson and others in 2004
- Publically displayed at CHI and HCIL conferences in April and May 2005
- Attendees used LaunchTile at conferences  
*-Dr. Bederson Decl. at ¶¶ 6,25 and Dep. at 159:11-160:23*
- As explained in Dr. van Dam's declaration, LaunchTile anticipates in three different ways:
  - 1) Email list
  - 2) 8-tile grid
  - 3) 4-tile grid



# LaunchTile Anticipates the '381 Patent

- “At the CHI Conference in April 2005, in Portland Oregon, which was open to the public, I freely discussed my work with conference attendees without any confidentiality or nondisclosure agreements. This work included LaunchTile, as well as its “snap” and panning features.”

-Bederson Decl. ¶ 23

- “In May 2005, HCIL hosted a symposium (“HCIL Symposium”) where members of my team again presented our work, which included LaunchTile and its user interface features, including the “snap” and panning features discussed above. This HCIL Symposium was open to the public and I freely discussed my work with symposium attendees without any confidentiality or nondisclosure agreements.”

-Bederson Decl. ¶ 25

- “In addition, I spent the afternoon session of the HCIL Symposium performing live demonstrations of a mobile touch-screen device running LaunchTile.”

-Bederson Decl. ¶ 26 119

# LaunchTile Anticipates the '381 Patent

Q. And what do you recall specifically of demonstrations or discussions of the snap and panning features discussed above in your declaration?

THE WITNESS: So I recall in the presentation we showed the video, and the video included the panning features and at least some of the snap features, and I recall generally demonstrating the software -- I recall both me and Amy generally demonstrating the software -- at least me and Amy. There may have been others as well. Aaron Clamage probably was there as well demonstrating it. So that's what I recall.

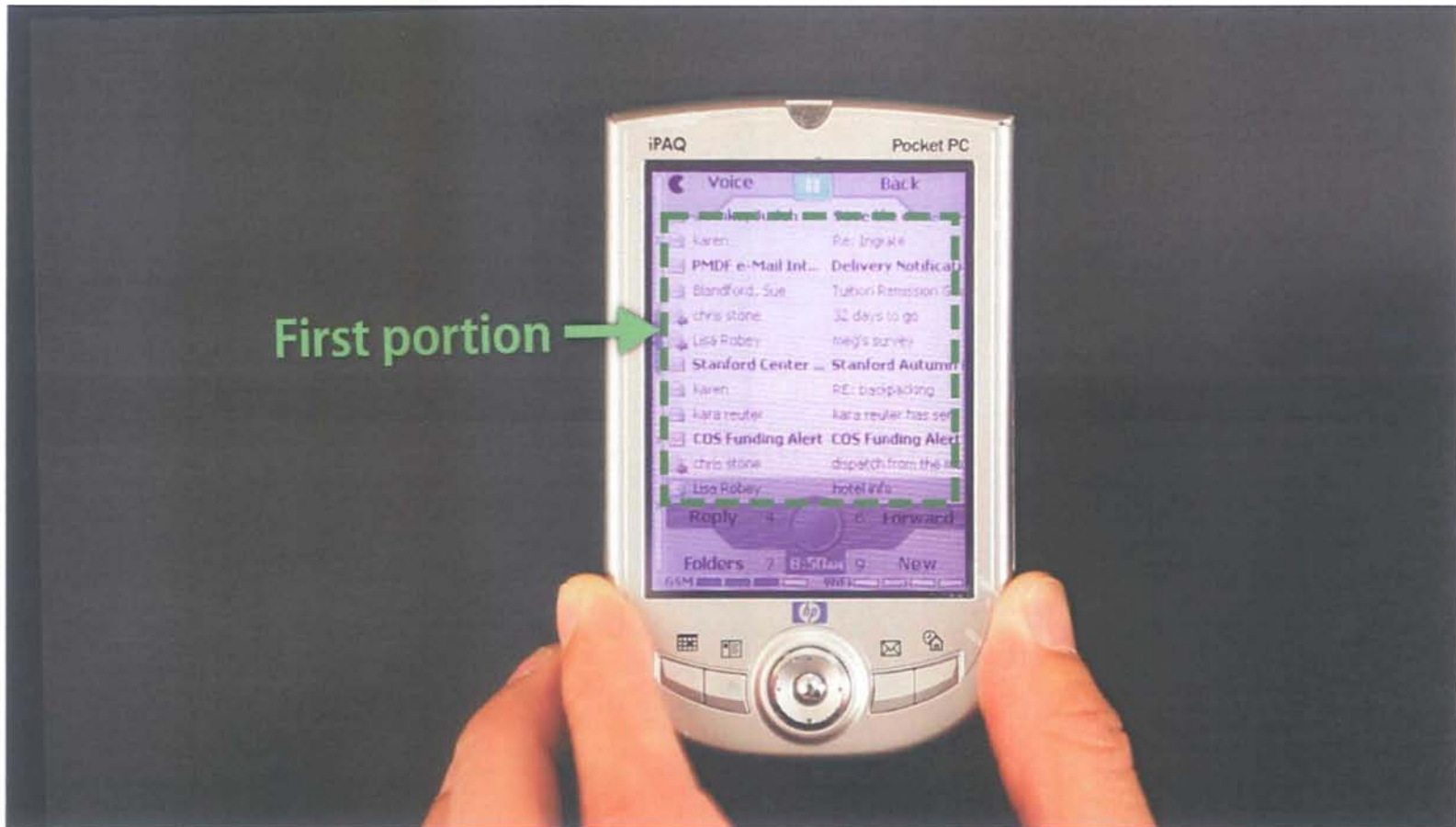
Q. Were you demonstrating the software in a live basis in conformance with what was demonstrated on the video? Were you trying to map what was on the video to your live demonstration?

THE WITNESS: No. The video was a short, you know, narrow summary, and when we gave live demos it was much more casual. We would typically hand the device over to whoever we were showing it to, let them do whatever they want, ask us any questions. They had already seen the video, so they typically would want to go beyond that.

- Dr. Bederson Dep. at 159:11-160:16

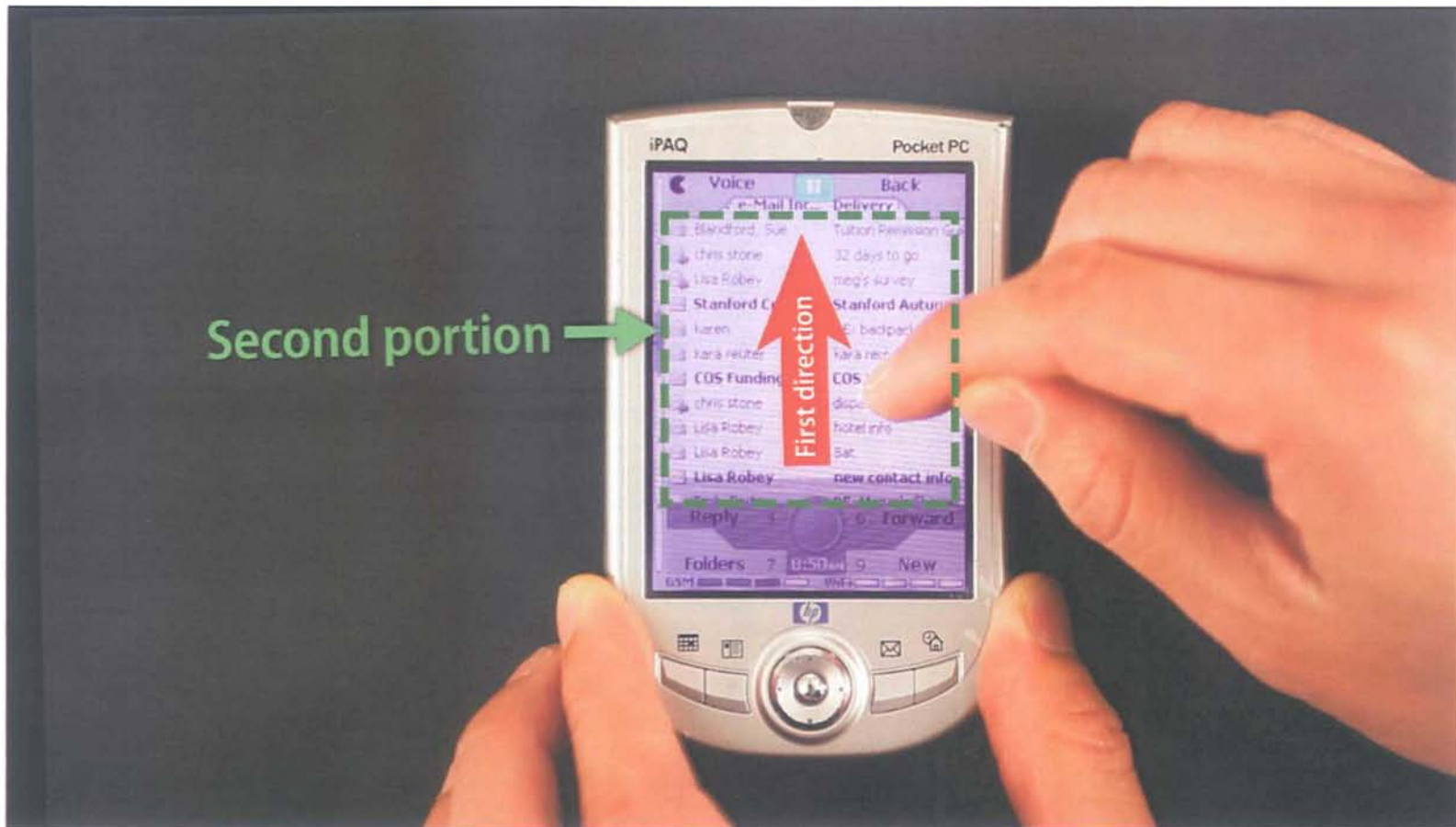
# LaunchTile Anticipates the '381 Patent

## 1) Email list



# LaunchTile Anticipates the '381 Patent

## 1) Email list



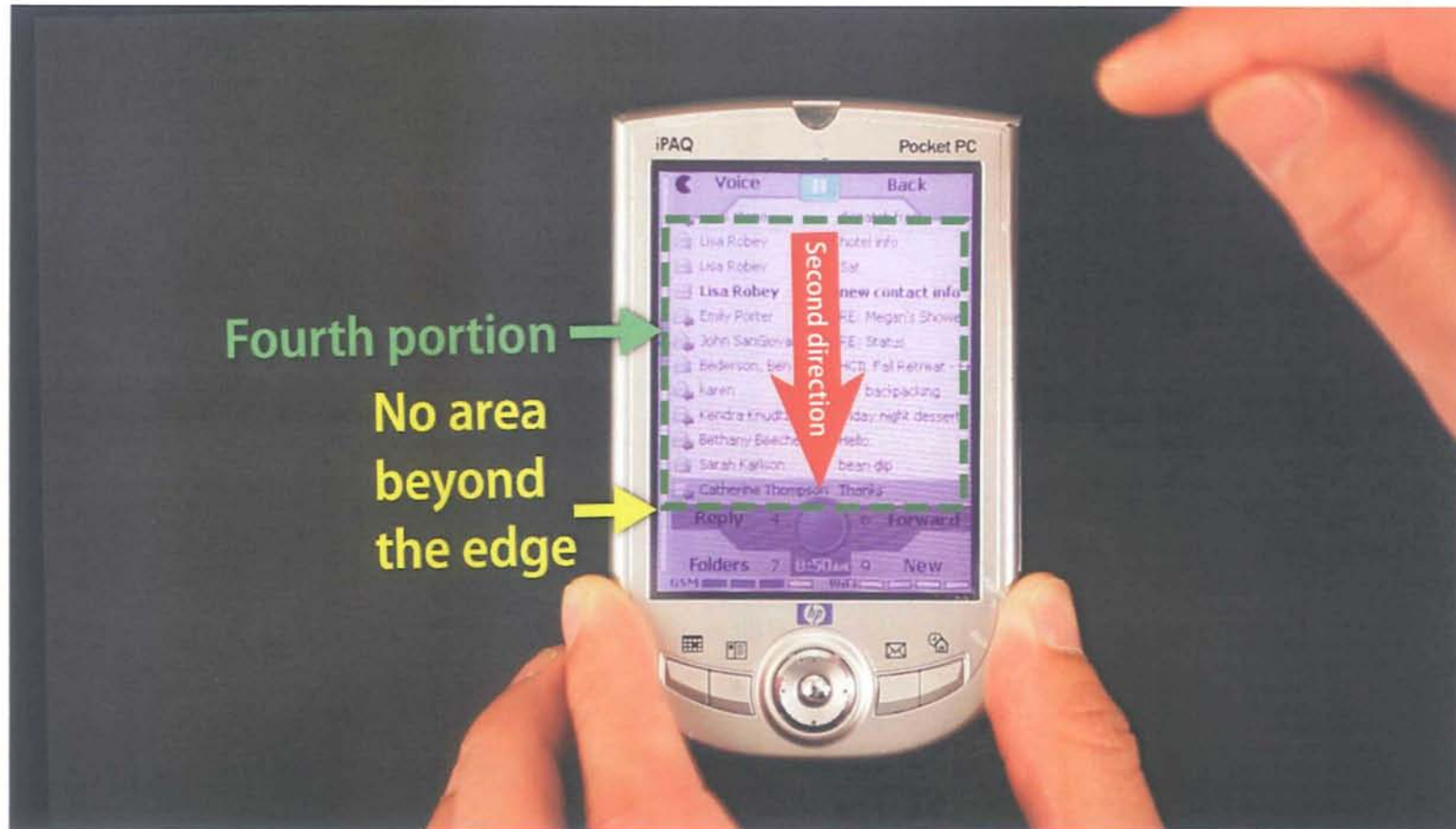
# LaunchTile Anticipates the '381 Patent

## 1) Email list



# LaunchTile Anticipates the '381 Patent

## 1) Email list



# LaunchTile Anticipates the '381 Patent

## 2) 8-tile grid



# LaunchTile Anticipates the '381 Patent

## 2) 8-tile grid





# LaunchTile Anticipates the '381 Patent

## 2) 8-tile grid

