

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC,  v.  SPRINT NEXTEL CORP.	§ § § § § §	Case No. 2:12-cv-832-JRG-RSP
SAMSUNG TELECOMMUNICATIONS AMERICA, LLC	§ §	Case No. 2:13-cv-259-JRG-RSP
APPLE, INC.	§	Case No. 2:13-cv-258-JRG-RSP

**MTEL'S OPENING CLAIM CONSTRUCTION BRIEF**

**TABLE OF CONTENTS**

I. INTRODUCTION ..... 1

II. STANDARDS OF CLAIM CONSTRUCTION..... 1

III. OVERVIEW OF THE PATENTS-IN-SUIT ..... 2

    A. The Inventions Described and Claimed in the '428 Patent..... 3

    B. The Inventions Described and Claimed in the '946 Patent..... 3

    C. The Inventions Described and Claimed in the '891 Patent..... 4

    D. The Inventions Described and Claimed in the '506 Patent..... 5

    E. The Inventions Described and Claimed in the '403 Patent..... 6

    F. The Inventions Described and Claimed in the '210 Patent..... 7

IV. THE CLAIM TERMS AT ISSUE ..... 8

    A. Most of the Claim Terms Use their Plain and Ordinary Meanings. .... 8

    B. Terms Requiring Construction..... 16

    C. Terms that Defendants Claim are Indefinite. .... 20

V. CONSTRUCTIONS OF MEANS-PLUS-FUNCTION TERMS SHOULD INCLUDE  
"AND EQUIVALENTS." ..... 27

VI. CONCLUSION..... 27

**TABLE OF AUTHORITIES**

<b>FEDERAL CASE</b>	<b>PAGE(S)</b>
<i>ACS Hosp. Sys., Inc. v. Montefiore Hosp.</i> , 732 F.2d 1572 (Fed. Cir. 1984).....	20
<i>Brown v. 3M</i> , 265 F.3d 1349, 1352 (Fed. Cir. 2001).....	13
<i>Cent. Admixture Pharmacy Servs., Inc. v. Advanced Cardiac Solutions, P.C.</i> , 482 F.3d 1347 (Fed. Cir. 2007).....	19
<i>CVI/Beta Ventures, Inc. v. Tura LP</i> , 112 F.3d 1146 (Fed. Cir. 1997).....	21, 22
<i>EON Corp. IP Holdings, LLC v. T-Mobile USA, Inc.</i> , Nos. 6:10-cv-0379 .....	26
<i>Elan Microelectronics Corp. v. Pixcir Microelectronics Co. Ltd.</i> , 2013 U.S. Dist. LEXIS 76983 (D. Nev. May 30, 2013).....	23
<i>Home Diagnostics, Inc. v. LifeScan, Inc.</i> , 381 F.3d 1352 (Fed. Cir. 2004).....	16
<i>Honeywell Int’l, Inc. v. Acer America Corp.</i> , No. 6:07-cv-125, 2009 WL 68896 (E.D. Tex. Jan. 7, 2009) .....	15
<i>i2 Techs., Inc. v. Oracle Corp.</i> , 2011 WL 209692 (E.D. Tex. Jan. 21, 2011).....	2
<i>In re Aoyama</i> , 656 F.3d 1293 (Fed. Cir. 2011).....	21
<i>Intellectual Property Dev., Inc. v. UA-Columbia Cablevision of Westchester, Inc.</i> , 336 F.3d 1308 (Fed. Cir. 2003).....	19
<i>Johnson Worldwide Assocs. v. Zebco Corp.</i> , 175 F.3d 985, 990 (Fed. Cir. 1999) .....	13
<i>Key Pharms. v. Hercon Labs. Corp.</i> , 161 F.3d 709 (Fed. Cir. 1998).....	19
<i>Lisle Corp. v. A.J. Mfg. Co.</i> , 398 F.3d 1306 (Fed. Cir. 2005).....	19
<i>McCarty v. Lehigh Valley R.R. Co.</i> , 160 U.S. 110, 116 (U.S. 1895).....	13
<i>Micro Chem, Inc. v. Great Plains Chem. Co., Inc.</i> , 194 F.3d 1250 (Fed. Cir. 1999).....	20

*Motorola Mobility, Inc. v. Tivo, Inc.*,  
 No. 5:11-cv-53-JRG, 2012 WL 6087792 (E.D. Tex. 2012) .....26

*MTel, LLC v. Clearwire Corp.*,  
 No. 2:12-cv-308-JRG-RSP, 2013 WL 3339050 (E.D. Tex. July 1, 2013) (the  
 “Clearwire Order”) .....13, 14, 15

*Nikon Corp. v. ASM Lithography B.V.*,  
 308 F.Supp.2d 1039 (N.D. Cal. 2004) .....8

*Omega Eng’g, Inc. v. Raytek Corp.*,  
 334 F.3d 1314 (Fed. Cir. 2003).....14

*Phillips v. AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005) .....8

*Software Tree, LLC v. Redhat, Inc.*, No. 6:09-cv-097, 2010 WL 2232809, at \*8 (E.D.  
 Tex. June 1, 2010).....14

*Software Tree, LLC v. Redhat, Inc.*, No. 6:09-cv-097, 2010 WL 2232809, at \*8 (E.D.  
 Tex. June 1, 2010).....9

*TecSec, Inc. v. IBM*,  
 731 F.3d 1336 (Fed. Cir. 2013).....24

*Telcordia Techs., Inc. v. Cisco Sys., Inc.*,  
 612 F.3d 1365 (Fed. Cir. 2010).....23

*Teleflex, Inc. v. Ficosa North America Corp.*,  
 299 F.3d 1313 (Fed. Cir. 2002).....12

*Thorner v. Sony Computer Entertainment America LLC*,  
 2012 WL 280657 (Fed. Cir. 2012).....13

*U.S. Surgical Corp. v. Ethicon, Inc.*, 103 F.3d 1554, 1568 (Fed. Cir. 1997).....12

*United Video Props. v. Amazon.com, Inc.*,  
 2012 U.S. Dist. LEXIS 86914 (D. Del. June 22, 2012).....23

*Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1583 (Fed. Cir. 1996) .....14, 19

**FEDERAL STATUTES**

35 U.S.C. § 112 .....20, 24, 26

## I. INTRODUCTION

Plaintiff Mobile Telecommunications Technologies, LLC's ("MTel's") proposed constructions for the claim terms of U.S. Patent Nos. 5,809,428 (the "'428 Patent"), 5,754,946 (the "'946 Patent"), 5,894,506 (the "'506 Patent"), 5,590,403 (the "'403 Patent"), 5,659,891 (the "'891 Patent"), 5,915,210 (the "'210 Patent") and 5,786,748 (the "'748 Patent") (collectively, the "Patents-in-Suit") follow the canons prescribed by the Federal Circuit. MTel's constructions are consistent with the intrinsic and extrinsic evidence and provide meanings that the jury will understand. A person having ordinary skill in the art (PHOSITA) at the time each invention was made would have understood MTel's constructions as correct. On the other hand, Defendants' proposed constructions inject structural limitations into the claims, read preferred embodiments out of the claims, and contradict the claim language. Defendants' proposals are contrived to avoid infringement and are otherwise unsupported by black letter law.

## II. STANDARDS OF CLAIM CONSTRUCTION

"Claim construction is a matter of resolution of disputed meanings and technical scope, to clarify and when necessary to explain what the patentee covered by the claims, for use in determination of infringement." *U.S. Surgical Corp. v. Ethicon, Inc.*, 103 F.3d 1554, 1568 (Fed. Cir. 1997). The words of a claim are presumed to use their ordinary and customary meaning, which "provides an objective baseline from which to begin claim interpretation." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312-1313 (Fed. Cir. 2005) ("[a] fundamental maxim is that the words in a claim should be given their ordinary meaning"). The ordinary and customary meaning "is the meaning that the term would have to a PHOSITA at the time of the invention." *Id.* at 1303.

There are only two exceptions to the general rule that claim terms are given their plain and ordinary meanings: "1) when a patentee sets out a definition and acts as his own

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.