

UNITED STATES DISTRICT COURT
for the
Eastern District of Texas
Tyler Division

STRAIGHT PATH IP GROUP, INC.,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	C.A. No. 6:13-cv-604
)	
BLACKBERRY LTD., et al.)	
)	
<i>Defendants.</i>)	

PATENT RULE 4-3 JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

Pursuant to Local Patent Rule 4-3 and the Docket Control Order entered in these cases, Plaintiff Straight Path IP Group, Inc. (“Straight Path”) and Defendants Huawei Investment & Holding Co., Ltd., Huawei Technologies Co., Ltd., Huawei Technologies USA Inc., and Huawei Device USA, Inc. (together, “Huawei”); Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (together, “Samsung”); and ZTE Corporation and ZTE USA, Inc. (together, “ZTE”) (collectively, “Defendants”), hereafter, “the Parties,” hereby submit this Joint Claim Construction and Prehearing Statement.

This Statement addresses the parties’ claim construction positions regarding the asserted claims of the Patents-in-Suit, U.S. Patent Nos. 6,009,469; 6,108,704; and 6,131,121. The Parties have met and conferred for the purposes of narrowing the issues and finalizing preparation of the Statement. The Parties agree that the Court need not construe terms that do not appear in this Statement.

A. Construction of those claim terms, phrases, or clauses on which the Parties agree

The Parties stipulate to constructions of the claim terms, phrases, and/or clauses attached hereto as Exhibit A.

B. Proposed constructions of disputed claim terms, phrases, and clauses, with extrinsic evidence

Straight Path's proposed construction for each disputed claim term and identification of supporting evidence is set forth in Exhibit B. The Defendants' proposed construction for each disputed claim term and identification of supporting evidence is set forth in Exhibit C.

C. Anticipated length of time necessary for the Claim Construction Hearing

The Parties believe that three (3) hours will suffice for the Claim Construction Hearing, with time being split evenly between Straight Path and Defendants.

D. Identity of witnesses the Parties intend to call at the Claim Construction Hearing

Straight Path may rely upon the expert opinion of Dr. Stuart Stubblebine to support its proposed claim constructions in the form of declarations filed with the Court and live testimony at the claim construction hearing, should the Court so desire. Dr. Stubblebine will testify, if permitted, that one of ordinary skill in the art during the relevant time periods would have construed the claim terms identified by the parties for construction in the manner Straight Path has proposed, and that Straight Path's proposed constructions are derived from the intrinsic extrinsic evidence. Dr. Stubblebine's testimony may also relate to the technology of the Asserted Patents, including any topics Defendants' experts may opine upon. Dr. Stubblebine may also rebut any testimony or allegations concerning prior art or other documents identified by any party regarding the general field or background of the inventions produced by the parties and/or any third parties in the case, including but not limited to the documents identified in the parties' P.R. 4-2 and 4-3 disclosures. Additionally, Straight Path may offer Dr. Stubblebine for the purposes of any tutorial that the Court may choose to conduct.

Straight Path reserves the right to offer expert testimony in rebuttal to any expert testimony Defendants may offer. Straight Path also reserves its right to identify additional extrinsic evidence, not limited to the areas of expert testimony, in response to or to rebut proposed claim constructions from Defendants. To the extent Defendants propose a construction for any term not identified in Exhibit B, Straight Path reserves the right to propose additional constructions within a reasonable time after receiving Defendants' proposed construction.

Defendants' may rely upon the expert opinion of Dr. Bruce Maggs to rebut expert testimony that Straight Path may offer, including but not limited to:

- testimony to support Straight Path's proposed claim constructions that one of ordinary skill in the art during the relevant time periods would have construed the claim terms identified by the parties for construction in the manner Straight Path has proposed,
- that Straight Path's proposed constructions are derived from the intrinsic and extrinsic evidence, and
- the technology of the Asserted Patents.

Defendants may rely upon Dr. Maggs' expert opinion in the form of declarations filed with the Court and live testimony at the claim construction hearing, should the Court so desire.

Additionally, Defendants may offer Dr. Maggs for the purpose of any tutorial that the Court may choose to conduct. Defendants may also offer Dr. Maggs' expert opinions for supporting its proposed claim constructions, including support for Defendants' proposed claim constructions that one of ordinary skill in the art during the relevant time periods would have construed the claim terms identified by the parties for construction in the manner Defendants have proposed, and that Defendants' proposed constructions are derived from the intrinsic and extrinsic evidence.

To the extent Straight Path proposes a construction for any term not identified in Exhibit C, Defendants reserve the right to propose additional constructions within a reasonable time after receiving Straight Path's proposed construction(s).

E. Other issues that might appropriately be taken up at a prehearing conference prior to the Claim Construction Hearing

The following motion is pending before the Court. To the extent this motion is pending at the time of the scheduled claim construction hearing, Straight Path requests that the Court allow the parties to address them at the scheduled claim construction hearing:

- Straight Path's Motion to for Leave to Amend Its Infringement Contentions, *Straight Path IP Group, Inc. v. Samsung Electronics Co., Ltd., et al.*, C.A. No. 13-cv-606, Docket No. 85 (July 11, 2014).

DATED: September 12, 2014

Respectfully submitted,

By: /s/ Michael C. Newman
Michael T. Renaud (admitted *pro hac vice*)
James M. Wodarski
Michael J. McNamara
Michael C. Newman (admitted *pro hac vice*)
Robert J. L. Moore (admitted *pro hac vice*)
Kristina R. Cary
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY & POPEO P.C.
One Financial Center
Boston, MA 02111
(617) 542-6000
mtrenaud@mintz.com
jwodarski@mintz.com
mmcnamara@mintz.com
mcnewman@mintz.com
rjmoore@mintz.com
krcary@mintz.com

WARD & SMITH LAW FIRM
T. John Ward, Jr.
Texas State Bar No. 00794818
T. John Ward
Texas State Bar No. 2084800
J. Wesley Hill
Texas State Bar No. 24032294
Claire Abernathy Henry
Texas State Bar No. 24053063
WARD & SMITH LAW FIRM
1127 Judson Road, Suite 220
Longview, TX 75606
Tel: (903)-757-6400
jw@wsfirm.com
tjw@wsfirm.com
wh@wsfirm.com
claire@wsfirm.com

Counsel for Plaintiff
Straight Path IP Group, Inc.

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.