

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

SUMMIT 6 LLC,

Plaintiff,

v.

HTC CORPORATION, HTC AMERICA,
INC., LG ELECTRONICS INC., LG
ELECTRONICS USA, INC., LG
ELECTRONICS MOBILECOMM USA,
INC., MOTOROLA MOBILITY LLC, and
TWITTER, INC.,

Defendants.

Case Action No. 7:14-cv-00014-O

JURY TRIAL DEMANDED

SUMMIT 6 LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case Action No. 7:14-cv-00106-O

JURY TRIAL DEMANDED

DEFENDANTS' OPENING CLAIM CONSTRUCTION BRIEF

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. FACTUAL BACKGROUND.....	2
III. THE LAW OF CLAIM CONSTRUCTION.....	6
IV. ARGUMENT.....	8
A. Terms 3–7: “server device,” “remote device,” “remote server,” “a device separate from said client device,” and “host server”	8
1. The Defendants’ Proposed Constructions Are Supported By The Patentee’s Statements Describing The Invention As A Whole.....	9
2. The Defendants’ Proposed Constructions Comply With The Written Description Requirement.....	12
3. The Defendants’ Proposed Constructions Are Supported By The Claim Language..	14
4. The Written Description Does Not Support a Plain Meaning Construction of the Terms	15
B. Term 1: “pre-processing”	16
1. Defendants’ Proposed Construction Reflects The Plain Meaning Of The Term.....	17
2. Summit 6’s Proposed Inclusion Of “In Preparation For Transmission” Risks Confusing The Jury With An Unnecessary Limitation In The Construction.	17
C. Term 8: “distributing party”	19
D. Terms 9–17: Terms relating to the receipt, provision, or transmission of pre-processing parameters	20
E. Term 18: Preambles to asserted claims.....	22
F. Term 20: “distributing” / “distribution”	24
G. Terms 22: “said identification”	25
H. Term 23: “said client device”	26
I. Term 28: “code means . . . for enabling a receipt of an identification of one or more image files, video files or audio files to associate with said account”	27
J. Term 25: “media object identifier”	32
V. CONCLUSION.....	40

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>01 Communique Lab., Inc. v. LogMeIn, Inc.</i> , 687 F.3d 1292 (Fed. Cir. 2012).....	7, 18
<i>ACTV, Inc. v. Walt Disney Co.</i> , 346 F.3d 1082 (Fed. Cir. 2003).....	19
<i>Alloc, Inc. v. ITC</i> , 342 F.3d 1361 (Fed. Cir. 2003).....	9
<i>Ariad Pharm., Inc. v. Eli Lilly & Co.</i> , 598 F.3d 1336 (Fed. Cir. 2010).....	12, 14
<i>Aristocrat Techs. Austral. Pty Ltd. v. Int’l Game Tech.</i> , 521 F.3d 1328 (Fed. Cir. 2008).....	27, 32, 38, 39
<i>AstraZeneca AB v. Hanmi USA, Inc.</i> , 554 F. App’x 912 (Fed. Cir. 2013)	7, 9, 10
<i>Asyst Techs., Inc. v. Empak, Inc.</i> , 268 F.3d 1364 (Fed. Cir. 2001).....	27
<i>Augme Techs., Inc. v. Yahoo! Inc.</i> , 755 F.3d 1326 (Fed. Cir. 2014).....	27, 29, 38
<i>Baldwin Graphic Sys., Inc. v. Siebert, Inc.</i> , 512 F.3d 1338 (Fed. Cir. 2008).....	25, 26
<i>Bell Atl. Network Servs., Inc. v. Covad Commc’ns Group, Inc.</i> , 262 F.3d 1258 (Fed. Cir. 2001).....	9
<i>Bicon, Inc. v. Staumann Co.</i> , 441 F.3d 945 (Fed. Cir. 2006).....	22
<i>Biomedino, LLC v. Waters Techs. Corp.</i> , 490 F.3d 946 (Fed. Cir. 2007).....	27
<i>C.R. Bard, Inc. v. M3 Sys. Inc.</i> , 157 F.3d 1340 (Fed. Cir. 1998).....	23
<i>C.R. Bard, Inc. v. U.S. Surgical Corp.</i> , 388 F.3d 858 (Fed. Cir. 2004).....	9, 10, 11
<i>Chiuminatta Concrete Concepts, Inc. v. Cardinal Indus., Inc.</i> , 145 F.3d 1303 (Fed. Cir. 1998).....	30

Dealertrack, Inc. v. Huber,
674 F.3d 1315 (Fed. Cir. 2012).....38

Default Proof Credit Card Sys., Inc. v. Home Depot U.S.A., Inc.,
412 F.3d 1291 (Fed. Cir. 2005).....31

EnOcean GmbH v. Face Int'l Corp.,
742 F.3d 955 (Fed. Cir. 2014).....37

ePlus, Inc. v. Lawson Software, Inc.,
700 F. 3d 509 (Fed. Cir. 2012).....38

Ergo Licensing, LLC v. CareFusion 303, Inc.,
673 F.3d 1361 (Fed. Cir. 2012).....27, 38

Finisar Corp. v. DirectTV Grp., Inc.,
523 F.3d 1323 (Fed. Cir. 2008).....38

Function Media, L.L.C. v. Google, Inc.,
708 F.3d 1310 (Fed. Cir. 2013)..... passim

Gen. Am. Transp. Corp. v. Cryo-Trans, Inc.,
93 F.3d 766 (Fed. Cir. 1996)..... 11

Goldenberg v. Cytogen, Inc.,
373 F.3d 1158 (Fed. Cir. 2004).....23

Griffin v. Bertina,
285 F.3d 1029 (Fed. Cir. 2002).....23

Group One Ltd. v. Hallmark Cards, Inc.,
407 F.3d 1297 (Fed. Cir. 2005).....26

Halliburton Energy Servs. v. M-I LLC,
514 F.3d 1244 (Fed. Cir. 2008).....25, 32, 33, 37

Halliburton Oil Well Cementing Co. v. Walker,
329 U.S. 1 (1943).....32, 37

Hill-Rom Servs., Inc. v. Stryker Corp.,
755 F.3d 1367 (Fed. Cir. 2014).....9

Honeywell Int'l, Inc. v. ITT Indus., Inc.,
452 F.3d 1312 (Fed. Cir. 2006).....9

Interval Licensing LLC v. AOL, Inc.,
766 F.3d 1364 (Fed. Cir. 2014).....25

Lockwood v. Am. Airlines, Inc.,
107 F.3d 1565 (Fed. Cir. 1997).....12, 13

Med. Instr. & Diag. Corp. v. Elekta AB,
344 F.3d 1205 (Fed. Cir. 2003).....33

Microsoft Corp. v. Multi-Tech Sys., Inc.,
357 F.3d 1340 (Fed. Cir. 2004).....9

Nautilus, Inc. v. Biosig Instruments, Inc.,
134 S. Ct. 2120 (2014).....25, 26

Net MoneyIN, Inc. v. VeriSign, Inc.,
545 F.3d 1359 (Fed. Cir. 2008).....27

Netcraft Corp. v. eBay, Inc.,
549 F.3d 1394 (Fed. Cir. 2008).....9

Netword, LLC v. Centraal Corp.,
242 F.3d 1347 (Fed. Cir. 2001).....6

Noah Sys., Inc. v. Intuit Inc.,
675 F.3d 1302 (Fed. Cir. 2012)..... passim

Nystrom v. Trex Co.,
424 F.3d 1136 (Fed. Cir. 2005).....24

On Demand Mach. Corp. v. Ingram Indus.,
442 F.3d 1331 (Fed. Cir. 2006).....6

Phillips v. AWH Corp.,
415 F.3d 1303 (Fed. Cir. 2005) (*en banc*)7, 19

Regents of Univ. of Minn. v. AGA Med. Corp.,
717 F.3d 929 (Fed. Cir. 2013).....7, 9, 11

Scimed Life Sys., Inc. v. Advanced Cardiovascular Sys., Inc.,
242 F.3d 1337 (Fed. Cir. 2001).....9

Senmed, Inc. v. Richard-Allan Med. Indus., Inc.,
888 F.2d 815 (Fed. Cir. 1989).....18

Southwall Techs., Inc. v. Cardinal IG Co.,
54 F.3d 1570 (Fed. Cir. 1995).....18

Tate Access Floors, Inc. v. Maxcess Tech., Inc.,
222 F.3d 958 (Fed. Cir. 2000).....24

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.