

**IN THE 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

MOBILE TELECOMMUNICATIONS  
TECHNOLOGIES, LLC,

v.

APPLE INC.

CASE NO. 2:13-CV-258-JRG-RSP

MOBILE TELECOMMUNICATIONS  
TECHNOLOGIES, LLC,

v.

SAMSUNG TELECOMMUNICATIONS  
AMERICA, LLC.

CASE NO. 2:13-CV-259-JRG-RSP

**CLAIM CONSTRUCTION**  
**MEMORANDUM AND ORDER**

On March 7, 2014, the Court held a hearing to determine the proper construction of the disputed claim terms in United States Patents No. 5,590,403, 5,659,891, 5,754,946, 5,786,748, 5,809,428, 5,894,506, and 5,915,210. After considering the arguments made by the parties at the hearing and in the parties' claim construction briefing (Dkt. Nos. 107-2, 110, and 115),<sup>1</sup> the Court issues this Claim Construction Memorandum and Order.

---

<sup>1</sup> Citations to documents (such as the parties' briefs and exhibits) in this Claim Construction Memorandum and Order shall refer to the page numbers of the original documents rather than the page numbers assigned by the Court's electronic docket. Also, citations are to Civil Action No. 2:12-CV-832 unless otherwise indicated.

**Table of Contents**

**BACKGROUND** ..... 4

**LEGAL PRINCIPLES** ..... 4

**THE PARTIES’ STIPULATED TERMS**..... 6

**CONSTRUCTION OF DISPUTED TERMS**..... 7

**CONSTRUCTION OF DISPUTED TERMS IN U.S. PATENT NO. 5,590,403** ..... 8

    A. “transmitter[s]” and “base transmitter[s]” ..... 9

    B. “set[s] of transmitters” and “set of base transmitters” ..... 10

    C. “transmit . . . in simulcast,” “transmitted . . . in simulcast,” and “transmitting . . . in simulcast” ..... 15

**CONSTRUCTION OF DISPUTED TERMS IN U.S. PATENT NO. 5,659,891** ..... 16

    A. “paging carrier” and “paging system” ..... 16

**CONSTRUCTION OF DISPUTED TERMS IN U.S. PATENT NO. 5,754,946** ..... 19

    A. “switch actuatable,” “only upon actuation of the switch,” and “only upon receipt of the indication” ..... 20

    B. “a portion of the displayed message,” “a portion of a displayed message,” and “a portion of the message” ..... 21

    C. “means for retransmitting . . .” and “means for transmitting . . .” ..... 25

**CONSTRUCTION OF DISPUTED TERMS IN U.S. PATENT NO. 5,786,748** ..... 32

    A. “wireless page message,” “page number,” and “paging operations center” ..... 33

    B. “notifying recipient that the express mailing has not been delivered by the appointed time” ..... 36

**CONSTRUCTION OF DISPUTED TERMS IN U.S. PATENT NO. 5,809,428** ..... 38

    A. “network operation(s) center” ..... 38

    B. “probe message” ..... 43

    C. “means for determining whether an acknowledgment message is an acknowledgment to a data message or an acknowledgment to a probe message” ..... 48

    D. “means for generating, upon power restoration to the transmitter, a registration message if a probe message has been received while the transmitter was powered off, said registration message being transmitted by said transmitter” ..... 56

    E. “means for powering the transmitter on and off” ..... 61

    F. Additional Means-Plus-Function Terms ..... 61

**CONSTRUCTION OF DISPUTED TERMS IN U.S. PATENT NO. 5,894,506** ..... 64

    A. “canned message” and “canned multiple response options” ..... 65

B. "message code" and "response code" ..... 71  
**CONSTRUCTION OF DISPUTED TERMS IN U.S. PATENT NO. 5,915,210** ..... **74**  
**CONCLUSION** ..... **74**  
**APPENDIX A** ..... **76**

## BACKGROUND

Plaintiff brings suit alleging infringement of United States Patents No. 5,590,403 (“the ‘403 Patent”), 5,659,891 (“the ‘891 Patent”), 5,754,946 (the ‘946 Patent”), 5,786,748 (“the ‘748 Patent”), 5,809,428 (“the ‘428 Patent”), 5,894,506 (“the ‘506 Patent”), and 5,915,210 (“the ‘210 Patent”) (collectively, the “patents-in-suit”). In general, the patents-in-suit relate to wireless messaging systems. The Court addresses each patent-in-suit separately herein.

Plaintiff asserts all of the patents-in-suit against Defendant Apple Inc. Plaintiff asserts only the ‘946 Patent, the ‘428 Patent, and the ‘506 Patent against Defendant Samsung Telecommunications America, LLC. For convenience, even as to patents that are asserted only against Defendant Apple Inc., the Court refers to the positions and arguments of “Defendants.”

## LEGAL PRINCIPLES

“It is a ‘bedrock principle’ of patent law that ‘the claims of a patent define the invention to which the patentee is entitled the right to exclude.’” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (quoting *Innova/Pure Water Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111, 1115 (Fed. Cir. 2004)). To determine the meaning of the claims, courts start by considering the intrinsic evidence. *See id.* at 1313; *see also C.R. Bard, Inc. v. U.S. Surgical Corp.*, 388 F.3d 858, 861 (Fed. Cir. 2004); *Bell Atl. Network Servs., Inc. v. Covad Commc’ns Group, Inc.*, 262 F.3d 1258, 1267 (Fed. Cir. 2001). The intrinsic evidence includes the claims themselves, the specification, and the prosecution history. *See Phillips*, 415 F.3d at 1314; *C.R. Bard*, 388 F.3d at 861. Courts give claim terms their ordinary and accustomed meaning as understood by one of ordinary skill in the art at the time of the invention in the context of the entire patent. *Phillips*, 415 F.3d at 1312-13; *accord Alloc, Inc. v. Int’l Trade Comm’n*, 342 F.3d 1361, 1368 (Fed. Cir. 2003).

The claims themselves provide substantial guidance in determining the meaning of particular claim terms. *Phillips*, 415 F.3d at 1314. First, a term's context in the asserted claim can be very instructive. *Id.* Other asserted or unasserted claims can aid in determining the claim's meaning because claim terms are typically used consistently throughout the patent. *Id.* Differences among the claim terms can also assist in understanding a term's meaning. *Id.* For example, when a dependent claim adds a limitation to an independent claim, it is presumed that the independent claim does not include the limitation. *Id.* at 1314-15.

"[C]laims 'must be read in view of the specification, of which they are a part.'" *Id.* at 1315 (quoting *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979 (Fed. Cir. 1995) (en banc)). "[T]he specification 'is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.'" *Phillips*, 415 F.3d at 1315 (quoting *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)); accord *Teleflex, Inc. v. Ficosa N. Am. Corp.*, 299 F.3d 1313, 1325 (Fed. Cir. 2002). This is true because a patentee may define his own terms, give a claim term a different meaning than the term would otherwise possess, or disclaim or disavow the claim scope. *Phillips*, 415 F.3d at 1316. In these situations, the inventor's lexicography governs. *Id.* The specification may also resolve the meaning of ambiguous claim terms "where the ordinary and accustomed meaning of the words used in the claims lack sufficient clarity to permit the scope of the claim to be ascertained from the words alone." *Teleflex*, 299 F.3d at 1325. But, "[a]lthough the specification may aid the court in interpreting the meaning of disputed claim language, particular embodiments and examples appearing in the specification will not generally be read into the claims." *Comark Commc'ns, Inc. v. Harris Corp.*, 156 F.3d 1182, 1187 (Fed. Cir. 1998)

# 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.