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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

FASTVDO LLC,  
  
Plaintiff,  
  
v.  
  
AT&T MOBILITY LLC, et al.,  
  
Defendants.

Case No.: 3:16-cv-00385-H-WVG  
**LEAD CASE**  
  
Member Cases:  
3:16-cv-00386-H-WVG  
3:16-cv-00390-H-WVG  
3:16-cv-00394-H-WVG  
3:16-cv-00395-H-WVG  
3:16-cv-00396-H-WVG

**CLAIM CONSTRUCTION ORDER**

In the present consolidated action, Plaintiff FastVDO LLC asserts claims of patent infringement against Defendants Apple Inc., Samsung Electronics America, Inc., Samsung Electronics Co., Ltd., Huawei Technologies Co., Ltd., Huawei Device Co., Ltd., Huawei Technologies USA, Inc., Huawei Device USA, Inc., Futurewei Technologies, Inc., LG Electronics, Inc., LG Electronics U.S.A., Inc., Microsoft Mobile Inc., and ZTE (USA), Inc. (collectively, "Defendants"), alleging infringement of U.S. Patent No. 5,850,482 ("the '482 patent").<sup>1</sup> (Doc. No. 32.) On July 1, 2016, the parties filed a joint claim construction and

<sup>1</sup> Defendants AT&T Mobility LLC and AT&T Services, Inc. participated in the claim construction briefing. However, at the beginning of the claim construction hearing, counsel for AT&T informed the Court that they were in the process of filing a joint motion to dismiss. Subsequently, Plaintiff and AT&T filed a joint motion to dismiss all the claims between those parties without prejudice. (Doc. No. 190.)

**Petitioners' Exhibit 1014  
Microsoft Corp., et al. v. FastVDO LLC  
IPR2016-01179**

1 prehearing statement identifying the disputed claim terms from the '482 patent. (Doc. No.  
2 148.) On August 5, 2016, the parties each filed an opening claim construction brief. (Doc.  
3 Nos. 157, 158.) On August 19, 2016, the parties each filed a responsive claim construction  
4 brief. (Doc. Nos. 160, 162.) On October 13, 2016, the Court issued a tentative claim  
5 construction order. (Doc. No. 189.)

6 The Court held a hearing on the matter on October 14, 2016. Marc A. Fenster and  
7 Christian W. Conkle appeared for Plaintiff. Brian E. Ferguson, Christopher T. Marando,  
8 and Anne M. Cappella appeared for Defendant Apple. John E. Nilsson, Nicholas H. Lee,  
9 and Patrick Reidy appeared for Defendant Samsung. Christopher J. Siebens and Alex V.  
10 Chachkes appeared for Defendant LG. Everett M. Upshaw, Erik Dykema, and Sara J.  
11 O'Connell appeared for Defendant ZTE. Peter Wied appeared for Defendant Huawei. Eric  
12 S. Walters appeared for Defendant Microsoft. After considering the parties' briefs, the  
13 parties' arguments at the hearing, and all relevant information, the Court construes the  
14 disputed terms from the patents-in-suit.

### 15 Background

16 On June 2, 2015, Plaintiff FastVDO LLC filed several complaints for patent  
17 infringement against Defendants in the United States District Court for the Eastern District  
18 of Texas, alleging infringement of the '482 patent. (Doc. No. 1, Compl; 15-cv-386-Doc.  
19 No. 1; 15-cv-390-Doc. No. 1; 15-cv-394-Doc. No. 1; 15-cv-395-Doc. No. 1; 15-cv-396-  
20 Doc. No. 1.) Specifically, Plaintiff alleges that Defendants' smartphones infringe and  
21 induce infringement of the '482 patent. (See, e.g., Doc. No. 1 ¶¶ 17–21.) On January 29,  
22 2016, the Texas district court consolidated the actions for all pretrial issues, except venue.  
23 (Doc. No. 58.)

24 On February 11, 2016, the consolidated action was transferred from the Eastern  
25 District of Texas to the Southern District of California. (Doc. Nos. 74, 75.) On February  
26 18, 2016, the cases were transferred to the calendar of the Honorable Marilyn L. Huff.  
27 (Doc. No. 77.) On April 5, 2016, the Court issued a scheduling order for the consolidated  
28 action. (Doc. No. 125.)

1 The patent-in-suit is entitled “Error Resilient Method and Apparatus for Entropy  
2 Coding.” (Doc. No. 1-1, Compl. Ex. A.) The invention disclosed in the patent-in-suit  
3 “relates generally to methods and apparatus for compressing and decompressing data by  
4 entropy encoding and decoding and, more particularly, to error resilient methods and  
5 apparatus for entropy encoding and decoding. The present invention further relates to the  
6 application of said error resilient entropy coding methods and apparatus to image  
7 compression.” ’482 patent at 1:5–11.

8 The specification of the ’482 patent details the problems that prior art digital data  
9 communication systems had with bit errors during data transmission resulting in loss of  
10 data synchronization and compromised data reconstruction, particularly when the error  
11 protection means is limited by transmission bandwidth and efficiency. See id. at 5:47–  
12 6:29. The specification provides the following summary of the invention:

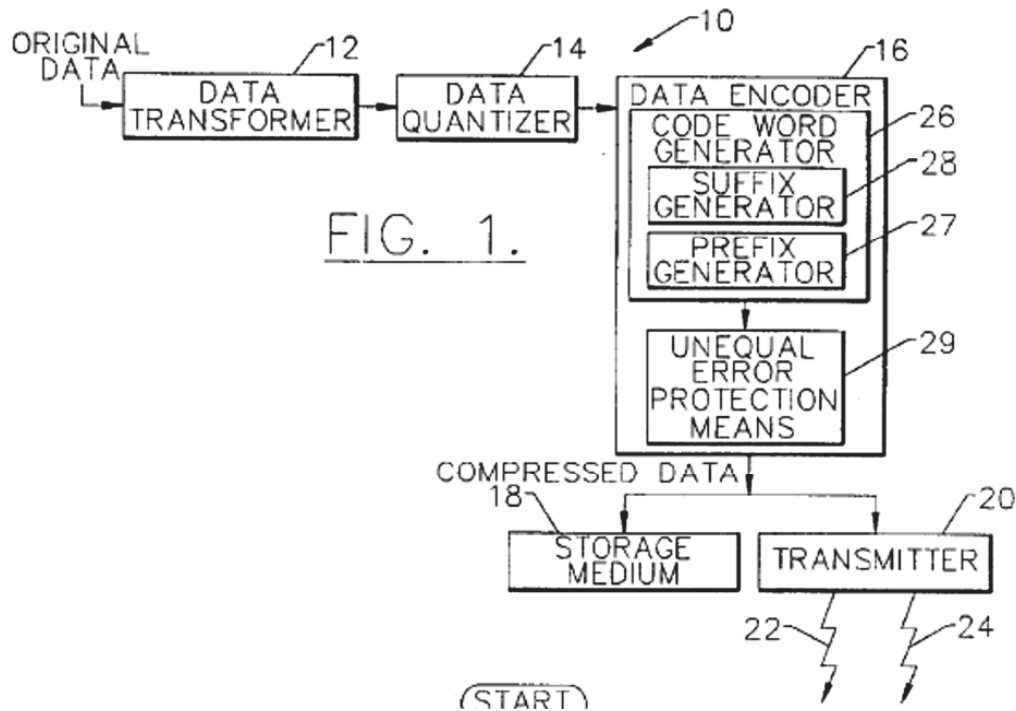
13 It is therefore an object of the present invention to provide an improved  
14 error resilient method and apparatus for entropy coding of data which can  
15 utilize unequal error protection techniques of channel coding.

16 . . .

17 These and other objects are provided, according to the present  
18 invention, by an error resilient method and apparatus for entropy coding of  
19 data which includes code word generating means for generating a plurality of  
20 code words representative of respective items in the data set. Each code word  
21 has two portions which we shall hereafter refer to as “fields,” namely, a first  
22 or prefix field which is susceptible to bit errors, and an associated second or  
23 suffix field which is resilient to bit errors. As explained hereinafter, the code  
24 words can be generated such that a bit error in the prefix field of a code word  
25 could result in a potential loss of code word synchronization, while a bit error  
26 in the suffix field of a code word shall only effect that particular code word.  
27 In particular, the code words can be generated such that a bit error in the suffix  
28 field of a code word will not result in a loss of code word synchronization, but  
the resulting misdecoded value shall, instead, fall within a predetermined  
interval about the correct value. Thus, according to the present invention, the  
error resilient method and apparatus for entropy coding of data shall be  
suitable for use with unequal error protection means such that the prefix fields  
are channel encoded with a relatively higher level of error protection and the  
suffix fields are channel encoded with a relatively lower level of error

1 protection, if any at all.

2 Id. at 6:33–7:4. Figure 1 of the '482 patent displays an embodiment of the claimed  
3 method/apparatus:



17 As an example of the claimed invention, claim 1 of the '482 patent provides:

18 An error resilient method of encoding data comprising the steps of:  
19 generating a plurality of code words representative of respective portions of  
20 the data, wherein each code word comprises a first portion and an associated  
21 second portion, and wherein said code word generating step comprises the  
22 steps of:

23 generating the first portion of each code word, wherein said first portion  
24 generating step comprises the step of including information within the  
25 first portion that is representative of a predetermined characteristic of  
26 the associated second portion; and

27 generating the second portion of each code word, wherein said second  
28 portion generating step comprises the step of including information  
within the second portion that is representative of the respective portion  
of the data; and

providing error protection to at least one of the first portions of the plurality

1 of code words while maintaining any error protection provided to the  
2 respective second portion associated with the at least one first portion at a  
3 lower level than the error protection provided to the respective first portion.

4 Id. at 18:8–29.

### 5 **Discussion**

#### 6 **I. Legal Standards for Claim Construction**

7 Claim construction is an issue of law for the court to decide. Teva Pharm. USA, Inc.  
8 v. Sandoz, Inc., 135 S. Ct. 831, 838 (2015); Markman v. Westview Instr., Inc., 517 U.S.  
9 370, 372 (1996). Although claim construction is ultimately a question of law, “subsidiary  
10 factfinding is sometimes necessary.” Teva, 135 S. Ct. at 838.

11 “The purpose of claim construction is to ‘determin[e] the meaning and scope of the  
12 patent claims asserted to be infringed.’” O2 Micro Int’l Ltd. v. Beyond Innovation Tech.  
13 Co., 521 F.3d 1351, 1360 (Fed. Cir. 2008). “It is a ‘bedrock principle’ of patent law that  
14 the ‘claims of a patent define the invention to which the patentee is entitled the right to  
15 exclude.’” Phillips v. AWH Corp., 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc).

16 Claim terms “‘are generally given their ordinary and customary meaning[,]’” which  
17 “‘is the meaning that the term would have to a person of ordinary skill in the art in question  
18 at the time of the invention.’” Id. at 1312–13. “In some cases, the ordinary meaning of  
19 claim language as understood by a [PHOSITA] may be readily apparent even to lay judges,  
20 and claim construction in such cases involves little more than the application of the widely  
21 accepted meaning of commonly understood words.” Id. at 1314. “However, in many  
22 cases, the meaning of a claim term as understood by persons of skill in the art is not readily  
23 apparent.” O2 Micro, 521 F.3d at 1360. If the meaning of the term is not readily apparent,  
24 the court must look to “those sources available to the public that show what a person of  
25 skill in the art would have understood disputed claim language to mean,” including intrinsic  
26 and extrinsic evidence. See Phillips, 415 F.3d at 1314. A court should begin with the  
27 intrinsic record, which consists of the language of the claims, the patent specification, and,  
28 if in evidence, the prosecution history of the asserted patent. Id.; see also Vederi, LLC v.

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