

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE PAPST LICENSING GMBH & CO.

KG PATENT LITIGATION

The Document Relates To:

FIRST WAVE CASES: Nos. 07-CV-1118,
07-CV-1222, 07-CV-2086, 07-CV-2087,
07-CV-2088, 08-CV-985

Misc. Action No. 07-493 (RMC)

MDL No. 1880

PAPST'S OPENING CLAIM CONSTRUCTION BRIEF

TABLE OF CONTENTS

INTRODUCTION	1
TECHNOLOGICAL BACKGROUND.....	1
LEGAL STANDARD.....	3
I. Intrinsic Evidence	4
II. Extrinsic Evidence	5
III. Construction of Means-Plus-Function Terms	6
ARGUMENT	7
I. Proper Construction of Terms From the Old Patents Affected by the Federal Circuit Opinion	8
A. Term 1: “second connecting device”	9
B. Term 2: “input/output device customary in a host device” and “storage device customary in a host device”	17
C. Term 3: “driver[s] for the [input/output][storage] device customary in a host device”; Term 4: “usual driver for the [input/output][storage] device”	21
D. Term 11: “simulating a virtual file system”	24
II. Old Patent Terms That Need No Further Construction	26
A. Term 5: “first connecting device”	26
B. Term 6: “first command interpreter”; Term 7: “second command interpreter”	31
C. Term 8: “the digital data”	34
D. Term 9: “sends a signal...which signals to the host device that it is [an input/output][a storage device] customary in a host device” and Term 10: “responding to the inquiry from the host device by the interface device in such a way that it is [an input/output device][a storage device] customary in a host device”	35
III. New Patent Terms.....	36
A. Term 12: “without requiring any end user action” terms.....	36
B. Term 13: “automatic recognition process”.....	38
C. Term 14: “customary driver”	40

D. Term 15: "processor"	41
E. Term 16: "automatic [] transfer"; "automatically transfer"; and "automatically transferring data form the analog source to the host device in response to a digital read command from the host device"	44
F. Term 17: "at least one parameter" terms.....	45
CONCLUSION.....	45

TABLE OF AUTHORITIES

Cases

<i>Acromed Corp. v. Sofamor Danek Grp., Inc.</i> , 253 F.3d 1371 (Fed. Cir. 2001)	16
<i>Adams Respiratory Therapeutics, Inc. v. Perrigo Co.</i> , 616 F.3d 1283 (Fed. Cir. 2010)	41
<i>AllVoice Computing PLC v. Nuance Commc'ns, Inc.</i> , 504 F.3d 1236,(Fed. Cir. 2007)	43
<i>Apple Inc. v. Motorola, Inc.</i> , 757 F.3d 1286 (Fed. Cir. 2014)	27, 33
<i>B. Braun Med. Inc. v. Abbott Labs.</i> , 124 F.3d 1419 (Fed. Cir. 1997)	7
<i>Baran v. Med. Device Techs., Inc.</i> , 616 F.3d 1309 (Fed. Cir. 2010)	7
<i>Bd. of Trs. of Leland Stanford Junior Univ. v. Roche Molecular Sys., Inc.</i> , 528 F. Supp. 2d 967 (N.D. Cal. 2007)	20
<i>Bonutti v. Lantz Med., Inc.</i> , No. 1:14-cv-00909-SEB-MJD, 2016 WL 247752 (S.D. Ind. Jan. 21, 2016)	13, 27
<i>Chicago Bd. Options Exch., Inc. v. Int'l Secs. Exch., LLC</i> , 748 F.3d 1134 (Fed. Cir. 2014)	44
<i>CollegeNet, Inc. v. ApplyYourself, Inc.</i> , 418 F.3d 1225 (Fed. Cir. 2005)	39, 44
<i>Comark Commc'ns, Inc. v. Harris Corp.</i> , 156 F.3d 1182 (Fed. Cir. 1998)	5
<i>Cordis Corp. v. Boston Sci. Corp.</i> , 561 F.3d 1319(Fed. Cir. 2009)	5
<i>Finjan, Inc., v. Proofpoint, Inc.</i> , No. 13-CV-05808-HSG, 2015 WL 7770208 (N.D. Cal. Dec. 3, 2015)	13
<i>Greenberg v. Ethicon Endo-Surgery, Inc.</i> , 91 F.3d 1580 (Fed. Cir. 1996)	13

...

<i>HTC Corp. v. IPCom GmbH & Co., KG,</i> 667 F.3d 1270 (Fed. Cir. 2012)	22
<i>In re Papst Licensing Digital Camera Patent Litig.,</i> 778 F.3d 1255 (Fed. Cir. 2015)	1
<i>Innogenetics, N.V. v. Abbot Labs.,</i> 512 F.3d 1363 (Fed. Cir. 2008)	18, 20
<i>Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc.,</i> 381 F.3d 1111 (Fed. Cir. 2004)	4
<i>Intellectual Ventures II LLC v. BITCO Gen'l Ins.,</i> No. 6:15-cv-59, 2016 WL 125594 10 (E.D. Tex. Jan. 11, 2016)	14, 28
<i>Johnson Worldwide Assocs., Inc. v. Zebco Corp.,</i> 175 F.3d 985 (Fed. Cir. 1999)	10
<i>K-2 Corp. v. Salomon S.A.,</i> 191 F.3d 1356 (Fed. Cir. 1999)	36
<i>M2M Solutions LLC v. Sierra Wireless Am. Inc.,</i> No. 12-30-RGA, 2015 WL 5826816 (D. Del. Oct. 2, 2015)	12
<i>Markman v. Westview Instruments, Inc.,</i> 52 F.3d 967 (Fed. Cir. 1995), <i>aff'd</i> , 517 U.S. 370 (1996)	3, 4, 5
<i>Masco Corp. v. United States</i> , 303 F.3d 1316	7
<i>Mass Engineered Design, Inc. v. Spaceco Bus. Solutions, Inc.,</i> No. 6:14-CV-411, 2016 WL 826048 (E.D. Tex. Mar. 3, 2016)	14
<i>Micro Chem., Inc. v. Great Plains Chem Co.,</i> 194 F.3d 1250 (Fed. Cir. 1999)	7
<i>Northrop Grumman Corp. v. Intel Corp.,</i> 325 F.3d 1346 (Fed. Cir. 2003)	6, 7, 15, 30
<i>O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co.,</i> 521 F.3d 1351 (Fed. Cir. 2008)	8
<i>Operating Sys. Solutions, LLC v. Apple, Inc.,</i> No. 8:11-cv-1754-T-30TGW, 2013 WL 3801467, at *12 (M.D. Fla. Apr. 15, 2013)	20
<i>OPTIS Wireless Tech. LLC v. ZTE Corp.,</i> No. 2:15-cv-300-JRG-RSP, 2016 WL 1599478 (E.D. Tex. Apr. 20, 2016)	14, 27, 29
<i>Pfizer, Inc. v. Teva Pharm., USA, Inc.</i> , 429 F.3d 1364, 1377 (Fed. Cir. 2005)	8

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.