

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

PAPST LICENSING GMBH & CO., K.G.

Plaintiff,

v.

APPLE INC.,

Defendant.

CIVIL ACTION NO. 6:15-CV-01095-RWS

(LEAD CASE)

JURY TRIAL DEMANDED

DEFENDANTS' RESPONSIVE CLAIM CONSTRUCTION BRIEF

Papst Licensing GmbH & Co., KG.
Petitioner - Huawei, LG and ZTE
Patent Owner - Papst Licensing GmbH & Co., KG.
IPB2017-00440

TABLE OF CONTENTS

I. ARGUMENT 1

 A. The Means-Plus-Function Claims’ 1

 1. Relevant Law 1

 2. The Connecting Device Terms 2

 a. The Connecting Device Terms Have No Structural
 Meaning 5

 b. The Connecting Device Terms Are Limited To The
 Structure Disclosed In The Specification 6

 3. The Command Interpreter Terms 9

 a. Both the Intrinsic and the Extrinsic Evidence Shows the
 Command Interpreter Terms Have No Structural Meaning. 10

 b. The Command Interpreter Terms Are Indefinite Because
 There Is No Corresponding Structure Disclosed 12

 B. Multi-Purpose Interface 15

 C. The Send a Parameter/Signal Terms 19

 D. The Automatic Terms 26

 1. Lenovo & Motorola Proposal: The Court Can Solve the Dispute
 and Preserve the Meaning of The Claims by Construing Only the
 Terms “Automatic” and “Automatically” 26

 2. Defendants Samsung, LG, Apple, ZTE, and Huawei 30

 E. Data Transmit/Receive Device 32

 F. Simulating a Virtual File System to the Host 33

 G. The Customary Terms 36

 H. The User-Loaded Terms 38

 I. The Input/Output Port 39

 J. The Analog Acquisition Channel Terms 40

TABLE OF AUTHORITIES

Cases

Alfred E. Mann Found. for Sci. Research v. Cochlear Corp.,
 No. 2015-1580, 2016 WL 6803052 (Fed. Cir. Nov. 17, 2016)..... 13, 14

Blackboard, Inc. v. Desire2Learn, Inc.,
 574 F.3d 1371 (Fed. Cir. 2009) 14

CCS Fitness, Inc. v. Brunswick Corp.,
 288 F.3d 1359 (Fed. Cir. 2002) 16

Cellular Comm ’ns Equip. LLC v. Samsung Elect. Co.,
 2016 WL 1237429 (E.D. Tex. Mar. 29, 2016) 6

Chrimar Sys. Inc. v. Alcatel-Lucent USA Inc.,
 2016 WL 1228767 (E.D. Tex. Mar. 28, 2016) 37

Core Wireless Licensing v. LG Elec., Inc., et al.,
 2015 WL 6746910 (E.D. Tex., Nov. 04, 2015) 2

Fenner Investments, Ltd. v. Cellco Partnership,
 778 F.3d 1320 (Fed. Cir. 2015) 32

In re Papst Licensing Digital Camera Patent Litigation,
 778 F.3d 1255 (Fed. Cir. 2015) (No. 2014-1110) 24, 34, 37

Intellectual Ventures II, LLC v. Bitco,
 6:15-cv-60, 2016 WL 125594 (E.D. Tex., Jan. 11, 2016) 6

Media Rights Techs., Inc. v. Capital One Finan. Corp.,
 800 F.3d 1366 (Fed. Cir. 2015) 2

Microsoft Corp. v. Multi-Tech Systems,
 357 F.3d 1340 (Fed. Cir. 2004) 23, 32

Muniauction, Inc. v. Thomson Corp.,
 532 F.3d 1318 (Fed. Cir. 2008) 37

Omega Engineering, Inc. v. Raytek Corp.,
 334 F.3d 1314 (Fed. Cir. 2003) 20, 23

PC Connector Solutions LLC v. SmartDisk Corp.,
 406 F.3d 1359 (Fed. Cir. 2005) 37

SmartPhone Techs. LLC v. ZTE Corp.,
 No. 6:12-CV-350-LED-JDL Mem. Opin. & Order of April 22, 2014 31

Thorner v. Sony Computer Entm’t Am. LLC,
 669 F.3d 1362, 1365 (Fed. Cir. 2012) 16

Triton Tech of Tex., LLC v. Nintendo of Am., Inc.,
 753 F.3d 1375 (Fed. Cir. 2014) 13, 15

Vitronics Corp. v. Conceptronic, Inc.,
 90 F.3d 1576 (Fed. Cir. 1996) 20

Williamson v. Citrix Online, LLC,
 792 F.3d 1339 (Fed. Cir. 2015) passim

Statutes

35 U.S.C. §112(2)..... 2

In accordance with the Court’s Second Amended Docket Control Order (Dkt. No. 154), Defendants Apple Inc., Lenovo (United States) Inc. (“Lenovo”); Motorola Mobility LLC (“Motorola”); LG Electronics, Inc. LG Electronics U.S.A., Inc., and LG Electronics MobileComm U.S.A., Inc., (“LG”); Huawei Technologies Co., Ltd. and Huawei Technologies USA, Inc. (“Huawei”); Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (“Samsung”); and ZTE (USA) Inc. (“ZTE”) (collectively “Defendants”) file this Responsive Claim Construction Brief. Defendants’ proposals, as set forth below, are consistent with the claim language and intrinsic evidence, and the Federal Circuit’s decision relating to two of the five asserted patents. Defendants’ proposals account for the numerous representations that the patentee made to the Patent Office during the prosecution of the asserted patents.

I. ARGUMENT

A. The Means-Plus-Function Claims^{1,2}

1. *Relevant Law*

Although a presumption exists that § 112(6) does not apply to terms lacking the word “means,” that “presumption can be overcome and § 112, para. 6 will apply if the challenger demonstrates that the claim term fails to recite sufficiently definite structure or else recites function without reciting sufficient structure for performing that function.” *Williamson v. Citrix Online, LLC*, 792 F.3d 1339, 1349 (internal quotes and citations omitted). Therefore, the first step in analyzing a claim term lacking the word “means,” is whether the term “fails to recite sufficiently definite structure” or recites function in the absence of structure for performing that function. *Id.* The *Williamson* court explained that certain “[g]eneric terms such as ‘mechanism,’

¹ The five asserted patents share a common specification (hereinafter, the “specification”).

² For purposes of this section, none of the Defendants agree that Papst’s proposed construction is correct. Only Defendants Samsung, Lenovo, and Motorola affirmatively argue that § 112(6) is applicable. The other Defendants abstain from the § 112(6) argument but, contrary to Papst’s assertions, do not agree that Papst’s proposal is “unopposed.”

‘element,’ ‘device,’ and other nonce words that reflect nothing more than verbal constructs may be used in a claim in a manner that is tantamount to using the word ‘means’ because they ‘typically do not connote sufficiently definite structure’ and therefore may invoke § 112, para. 6.” *Id.* at 1350. Furthermore, adding a modifier to one of these nonce words, without more, does not connote identifiable structure. *See Media Rights Techs., Inc. v. Capital One Finan. Corp.*, 800 F.3d 1366, 1373 (Fed. Cir. 2015); *see also Tracbeam, LLC v. T-Mobile US, Inc.*, 6:14-CV-678-RWS, 2016 WL 3751624, at *6 (E.D. Tex. July 14, 2016) (finding § 112(6) applicable where the plaintiff’s proposed construction “implicitly admits the[] terms are purely functional”).

The Court may also consider “whether the intrinsic record redefined or disclaimed the plain meaning of [the term] in a way that impart[s] sufficient structure.” *See Core Wireless Licensing v. LG Elec., Inc., et al.*, 2015 WL 6746910 at *8 (E.D. Tex., Nov. 04, 2015).

However, a patentee may not avoid § 112(6) treatment “by arguing that the specification recites sufficient structure” or describes how the claimed feature “is connected to and interacts with the other components of the system, what processes the [feature in issue] performs, and what structural subcomponents might comprise [feature in issue].” *Media Rights*, 800 F.3d at 1373 (2015). If the term at issue, read in light of the intrinsic record, fails to connote sufficient structure, §112(6) applies; the inquiry then turns to “whether the specification discloses sufficient structure that corresponds to the claimed function.” *Williamson*, 792 F.3d at 1351. In the event that the patent fails to disclose structure corresponding to the claimed function, then the claim is invalid for indefiniteness under 35 U.S.C. §112(2). *See id.* at 1354.

2. The Connecting Device Terms

Term Dispute	Plaintiff’s Construction	Defendants Samsung, Lenovo, and Motorola Construction
“a first connecting device for interfacing the host device with the interface device via the multi-	“a component or group of components for interfacing the interface device with the host	Subject to §112(6) Function: [Agreed] interfacing the host device with the interface device via the

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