

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

PAPST LICENSING GMBH & CO. KG,

Plaintiffs,

v.

APPLE, INC., et al.

Defendants.

§
§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 6:15-cv-1095
(LEAD CASE)

JURY TRIAL DEMANDED

PLAINTIFF'S OPENING CLAIM CONSTRUCTION BRIEF

TABLE OF CONTENTS

BACKGROUND 1

LEGAL PRINCIPLES OF CLAIM CONSTRUCTION 3

ARGUMENT 4

I. TERM DISPUTE 2: THE “CONNECTING DEVICE” TERMS..... 4

 A. This Court Should Adopt Papst’s Proposed Construction of the “Connecting Device” Terms. 5

 B. The “Connecting Device” Terms Are Not Subject to § 112 ¶6..... 7

 1. The “Connecting Device” Terms Are Presumptively Not Means-Plus-Function Terms. 7

 2. The “Connecting Device” Terms Have Sufficient Structure Such That §112 ¶6 Does Not Apply. 8

 C. If the Court Determines that § 112 ¶6 Does Apply, It Should Adopt Papst’s Alternative Construction. 11

 1. Papst’s Proposed Structure of the “First Connecting Device” Is Limited to Only What Is Necessary to Perform the Function. 12

 2. Papst’s Proposed Structure of the “Second Connecting Device” Is Limited to Only What Is Necessary to Perform the Function. 13

II. TERM DISPUTE 3: THE “COMMAND INTERPRETER” TERMS 15

 A. This Court Should Adopt Papst’s Proposed Construction of the “Command Interpreter” Terms..... 15

 B. “First Command Interpreter” and “Second Command Interpreter” Are Not Subject to § 112, ¶6..... 17

 1. The “Command Interpreter” Terms Are Presumptively Not Means-Plus-Function Terms. 17

 2. If the Court Determines that §112, ¶6 Does Apply, It Should Adopt Papst’s Alternative Construction. 17

III. TERM DISPUTE 1: THE “MULTI-PURPOSE INTERFACE” TERM..... 18

IV. TERM DISPUTE 9: “SPECIFIC DRIVER FOR THE MULTI-PURPOSE INTERFACE” 20

V. TERM DISPUTE 4: THE “SEND A PARAMETER/SIGNAL” TERMS 20

VI. TERM DISPUTE 5: THE “CUSTOMARY” TERMS 23

VII. TERM DISPUTE 6: THE “AUTOMATIC” TERMS 25

 A. The automatic terms (except “automatic recognition process”) 27

 B. “automatic recognition process” 28

VIII. TERM DISPUTE 7: “DATA TRANSMIT/RECEIVE DEVICE” 30

IX. TERM DISPUTE 8: “SIMULATING A VIRTUAL FILE SYSTEM TO THE HOST” . 31

X. TERM DISPUTE 10: THE “USER-LOADED” TERMS 32

XI. TERM DISPUTE 11: “INPUT/OUTPUT [I/O] PORT” 35

XII. TERM DISPUTE 12: THE “ANALOG ACQUISITION” TERMS..... 36

TABLE OF AUTHORITIES

Cases

Acromed Corp. v. Sofamor Danek Grp., Inc.,
253 F.3d 1371 (Fed. Cir. 2001)..... 13, 14

Adams Respiratory Therapeutics, Inc. v. Perrigo Co.,
616 F.3d 1283 (Fed. Cir. 2010)..... 25

Apex Inc. v. Raritan Comput., Inc.,
325 F.3d 1364 (Fed. Cir. 2003)..... 8

Applied Med. Res. Corp. v. U.S. Surgical Corp.,
448 F.3d 1324 (Fed. Cir. 2006)..... 11

B. Braun Med. Inc. v. Abbott Labs.,
124 F.3d 1419 (Fed. Cir. 1997)..... 11

Bell Howell Document Mgmt. Prods. Co. v. Altek Sys.,
132 F.3d 701 (Fed. Cir. 1998)..... 3

Bonutti v. Lantz Med., Inc.,
No. 1:14-cv-00909-SEB-MJD, 2016 WL 247752 (S.D. Ind. Jan. 21, 2016) 9

CollegeNet, Inc. v. ApplyYourself, Inc.,
418 F.3d 1225 (Fed. Cir. 2005)..... 27, 30

Finjan, Inc., v. Proofpoint, Inc.,
No. 13-CV-05808-HSG, 2015 WL 7770208 (N.D. Cal. Dec. 3, 2015) 9

Good Technology Corp. v. Little Red Wagon Technologies, Inc.,
2013 WL 4052408 (N.D.Tex. Aug., 11 2013)..... 19, 27

Greenberg v. Ethicon Endo-Surgery, Inc.,
91 F.3d 1580 (Fed. Cir. 1996)..... 9

In re Papst Licensing Digital Camera Patent Litig.,
778 F.3d 1255 (Fed. Cir. 2015)..... 2

Innogenetics, N.V. v. Abbott Labs.,
512 F.3d 1363 (Fed. Cir. 2008)..... 3, 31

Intellectual Ventures II LLC v. BITCO Gen’l Ins.,
No. 6:15-cv-59, 2016 WL 125594 (E.D. Tex. Jan. 11, 2016) 9

Johnson Worldwide Assocs., Inc. v. Zebco Corp.,
175 F.3d 985 (Fed. Cir. 1999)..... 6

JVW Enterprises, Inc. v. Interact Accessories, Inc.,
424 F.3d 1324 (Fed. Cir. 2005)..... 12

Lemelson v. Gen. Mills, Inc.,
968 F.2d 1202 (Fed. Cir. 1992)..... 3

M2M Solutions LLC v. Sierra Wireless Am. Inc.,
No. 12-30-RGA, 2015 WL 5826816 (D. Del. Oct. 2, 2015) 8

Markman v. Westview Instruments, Inc.,
52 F.3d 967 (Fed. Cir. 1995)..... 3

Masco Corp. v. United States,
303 F.3d 1316 (Fed. Cir. 2002)..... 8

Mass Engineered Design, Inc. v. Spaceco Bus. Solutions, Inc.,
No. 6:14-CV-411, 2016 WL 826048 (E.D. Tex. Mar. 3, 2016) 11

Micro Chem., Inc. v. Great Plains Chem. Co.,
194 F.3d 1250 (Fed. Cir. 1999)..... 11, 12

Multiform Desiccants, Inc. v. Medzam, Ltd.,
133 F.3d 1473 (Fed. Cir. 1998)..... 3

Northrop Grumman Corp. v. Intel Corp.,
325 F.3d 1346 (Fed. Cir. 2003)..... 7

NTP, Inc. v. Research in Motion, Ltd.,
418 F.3d 1282 (Fed. Cir. 2005)..... 3

OPTIS Wireless Technology LLC, et al. v. ZTE Corporation, et al.,
No. 2:15-cv-300-JRG-RSP, 2016 WL 1599478 (E.D. Tex. Apr. 19, 2016)..... 9

Phillips v. AWH Corp.,
415 F.3d 1303 (Fed. Cir. 2005)..... passim

Renishaw PLC v. MarpossSocieta' Per Azioni,
158 F.3d 1243 (Fed. Cir. 1998)..... 22, 35

Rodime PLC v. Seagate Tech., Inc.,
174 F.3d 1294 (Fed. Cir. 1999)..... 12

Source Vagabond Sys. Ltd. v. Hydrapak, Inc.,
753 F.3d 1291 (Fed. Cir. 2014)..... 20, 23

Syncpoint Imaging, LLC v. Nintendo of Am., Inc.,
No. 2:15-cv-00247-JRG-RSP, 2016 WL 55118 (E.D. Tex. Jan. 5, 2016) 11

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.