

1 RUSS, AUGUST & KABAT
2 Marc A. Fenster, SBN 181067
3 mfenster@raklaw.com
4 Ben Wang, SBN 228712
5 bwang@raklaw.com
6 Andrew D. Weiss, SBN 232974
7 aweiss@raklaw.com
8 12424 Wilshire Boulevard, Twelfth Floor
9 Los Angeles, California 90025
10 Telephone: (310) 826-7474
11 Facsimile: (310) 826-6991

12 Attorneys for Plaintiff
13 SPEX TECHNOLOGIES, INC.

14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**
16 **SOUTHERN DIVISION**

17 SPEX TECHNOLOGIES, INC.,

18 Plaintiff,

19 v.

20 KINGSTON TECHNOLOGY
21 CORPORATION, KINGSTON
22 DIGITAL, INC., KINGSTON
23 TECHNOLOGY COMPANY, INC.,
24 IMATION CORPORATION,
25 DATA LOCKER INC., DATA
26 LOCKER INTERNATIONAL, LLC,

27 Defendants.

Case No. 8:16-CV-01790-JVS-AGR

**PLAINTIFF SPEX TECHNOLOGIES,
INC.'S OPENING CLAIM
CONSTRUCTION BRIEF**

RUSS, AUGUST & KABAT

RUSS, AUGUST & KABAT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SPEX TECHNOLOGIES, INC.,

Plaintiff,

v.

WESTERN DIGITAL
CORPORATION, WESTERN
DIGITAL TECHNOLOGIES, INC.,
HGST, INC.,

Defendants.

Case No. 8:16-CV-01799-JVS-AGR

SPEX TECHNOLOGIES, INC.,

Plaintiff,

v.

TOSHIBA AMERICA
ELECTRONICS COMPONENTS
INC., TOSHIBA AMERICA
INFORMATION SYSTEMS, INC.,
TOSHIBA AMERICA, INC., AND
TOSHIBA CORPORATION,

Defendants.

Case No. 8:16-CV-01800-JVS-AGR

SPEX TECHNOLOGIES, INC.,

Plaintiff,

v.

APRICORN, INC.,

Defendant.

Case No. 2:16-CV-07349-JVS-AGR

TABLE OF CONTENTS

1 I. INTRODUCTION..... 1

2 II. BACKGROUND..... 1

3 III. CLAIM CONSTRUCTION PRINCIPLES..... 2

4 IV. ARGUMENT: SPEX'S PROPOSED CONSTRUCTIONS ARE

5 CONSISTENT WITH APPLICABLE PRINCIPALS AND LAW. 3

6 A. "Defined Interaction" And "Interaction With A Host Computing

7 Device In A Defined Way." 3

8 B. "Peripheral Device." 6

9 C. "Security Means For Enabling One Or More Security

10 Operations To Be Performed On Data"/"Means For

11 Performing The One Or More Security Operations" 8

12 D. "Security Module That Is Adapted To Enable One Or More Security

13 Operations To Be Performed On Data." 10

14 E. "Target Module That Is Adapted To Enable A Defined Interaction

15 With The Host Computing Device." 12

16 F. "Target Module Is Adapted To Enable Communication With The

17 Security Module And Prevent Direct Communication

18 With The Host Computing Device." 13

19 G. "Means For Enabling Communication With A Host Computing

20 Device" 15

21 H. "Operably Connecting The Security Module And/Or The Target

22 Module To The Host Computing Device In Response To

23 [An / The] Instruction From The Host Computing Device." 17

24 I. "Means For Operably Connecting The Security Means

25 And/Or The Target Means To The Host Computing Device In

26 Response To An Instruction From The Host Computing Device." 18

27 J. "Means For Mediating Communication Of Data Between The Host

28 Computing Device And The Target Means So That The

Communicated Data Must First Pass Through

The Security Means." 19

RUSS, AUGUST & KABAT



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

K. "Means For Providing To A Host Computing Device, In Response To A Request From The Host Computing Device For Information Regarding The Type Of The Peripheral Device, Information Regarding The Function Of The Target Means" 22

L. "Providing To The Host Computing Device, In Response To The Request, Information Regarding The Type Of The Defined Interaction" 23

M. "Providing The Type Of The Target Module To The Host Computing Device In Response To The Request" 24

N. "Modular Device" 25

V. CONCLUSION. 25

RUSS, AUGUST & KABAT



TABLE OF AUTHORITIES

Cases

1
2 *Aristocrat Techs. Australia PTY Ltd. V. Int'l Game Tech.*,
21 F.3d 1328 (Fed. Cir. 2008) 21

3 *Biomedino, LLC v. Waters Techs. Corp.*,
490 F.3d 946 (Fed. Cir. 2007) 3

4 *Dow Chem. Corp. v. NOVA Chems. Corp. (Can.)*,
5 809 F.3d 1223 (Fed. Cir. 2015) 5

6 *Epistar Corp. v. ITC*,
566 F.3d 1321 (Fed. Cir. 2009) 2, 17, 19, 24

7 *Harari v. Lee*,
8 656 F.3d 1331 (Fed. Cir. 2011) 2

9 *Linear Tech. Corp. v. Impala Linear Corp.*,
10 379 F.3d 1311 (Fed. Cir. 2004) 12, 13

11 *Markman v. Westview Instruments, Inc.*,
52 F.3d 967 (Fed. Cir. 1995) 2

12 *Med. Instrumentation & Diagnostics Corp. v. Elekta AB*,
13 344 F.3d 1205 (Fed. Cir. 2003) 3

14 *Mentor H/S, Inc. v. Medical Device Alliance, Inc.*,
244 F.3d 1365 (Fed. Cir. 2001) 2

15 *Nautilus, Inc. v. Biosig Instruments, Inc.*,
16 134 S.Ct. 2120 (2014)..... 5

17 *One-E-Way, Inc. v. ITC*,
No. 2016-2105, 2017 WL 2509382 (Fed. Cir. Jun. 12, 2017) 6

18 *Phillips v. AWH Corp.*,
19 415 F.3d 1303 (Fed. Cir. 2005) 2

20 *Teleflex, Inc. v. Ficosa N. Am. Corp.*,
299 F.3d 1313 (Fed. Cir. 2002) 7, 17

21 *Williamson v. Citrix Online, LLC*,
22 792 F.3d 1339 (Fed. Cir. 2015) 3, 11

Statutes

23 35 U.S.C. § 112(6) passim

24
25
26
27
28

RUSS, AUGUST & KABAT

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.