

The Honorable Ricardo Martinez

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNILOC 2017 LLC

Plaintiff,

v.

HTC AMERICA, INC.

Defendant.

Case No. 2:18-cv-01732-RSM

**PLAINTIFF'S RESPONSIVE BRIEF AND
EVIDENCE IN SUPPORT OF CLAIM
CONSTRUCTION**

Due Date: April 10, 2020

MICROSOFT - EXHIBIT 1017
MICROSOFT CORP. v.
UNILOC 2017 LLC
IPR2019-01471

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TABLE OF AUTHORITIES

Cases

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3	<i>01 Communique Lab., Inc. v. LogMeIn, Inc.</i> ,	
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1 Pursuant to Rule 134(c) of the Local Patent Rules, Uniloc submits its Responsive Claim
2 Construction Brief regarding U.S. Patent No. 6,836,654 (“the ’654 patent”).

3 I. INTRODUCTION

4 HTC’s Opening Claim Construction Brief, Dkt. No. 47 (“HTC Br.”), is most notable for
5 what it does not say. For example, HTC cites to and quotes from the *Samsung* court’s claim
6 construction order some half-dozen times, and to the *Google* court’s constructions another eight.
7 But, HTC’s Opening Brief fails to even mention that another court, *Motorola*, also construed the
8 terms. Neither did HTC include a copy of the *Motorola* court’s claim construction order among the
9 272 pages of exhibits attached to its Opening Brief. This is, presumably, because that court’s
10 constructions vitiate HTC’s proposed definitions.

11 HTC argues that the “computer readable code” terms of the ’654 patent are hidden means-
12 plus-function limitations. But, HTC’s Opening Brief fails to mention the key holding in *Williamson*
13 *v. Citrix Online, LLC*, 792 F.3d 1339 (Fed. Cir. 2015) (*en banc*)—a case it did cite—to wit: When a
14 term lacks the word “means,” the presumption is on the party asserting means-plus-function
15 treatment, *i.e.*, HTC, to prove that § 112, ¶ 6 should apply:

16 When a claim term lacks the word “means,” the presumption can be overcome and §
17 112, para. 6 will apply *if the challenger* demonstrates that the claim term fails to
18 “recite sufficiently definite structure” or else recites “function without reciting
sufficient structure for performing that function.” The converse presumption remains
unaffected: “use of the word ‘means’ creates a presumption that § 112, ¶ 6 applies.”

19 *Id.* at 1349 (emphasis added) (citations omitted). HTC’s failure to mention its own burden of proof
20 is, presumably, because it cannot bear that burden.

21 Finally, HTC chastises Uniloc for adapting its constructions between earlier cases and this
22 one. Indeed, HTC goes so far as to state:

23 That Uniloc’s proposed structure [for the § 112, ¶ 6 terms] has evolved during its
24 litigation campaign undermines its positions in this case because corresponding
25 structure is only that which the specification or prosecution clearly links to
performing the recited function, not what fits Uniloc’s evolving litigation needs.

26 HTC Br. at 1. This is an odd charge for two reasons. First, Uniloc “evolved” its constructions
27 *across cases* to accept two courts’ constructions of these terms. Uniloc originally proposed more
28 detailed—and frankly narrower—constructions for the § 112, ¶ 6 terms in those cases based upon

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