## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY CAMDEN VICINAGE

TVnGO LTD. (BVI),

Plaintiff,

v.

LG ELECTRONICS, INC. and LG ELECTRONICS U.S.A., INC.,

Defendants.

Civil No. 18-10238 (RMB/KMW)

OPINION

### APPEARANCES:

EYET LAW LLC

By: Matthew T. Eyet, Esq. 7 Livingston Avenue, Suite 1105 New Brunswick, New Jersey 08901

and

DUNLAP BENNETT & LUDWIG PPLC

By: Charles E. Cantine, Esq.

Joseph Diamante, Esq.

349 Fifth Avenue

New York, New York 10036

Counsel for Plaintiff

WALSH PIZZI O'REILLY FALANGA LLP
By: Liza M. Walsh, Esq.
Selina M. Ellis, Esq.
One Riverfront Plaza
1037 Raymond Boulevard, Suite 600
Newark, New Jersey 07102

and

MORGAN, LEWIS & BOCKIUS LLP By: Natalie Bennett, Esq. Collin W. Park, Esq. Eric Kraeutler, Esq.



Ghee J. Lee, Esq.
1111 Pennsylvania Avenue, NW
Washington, D.C. 20004-2541

Counsel for Defendants

### BUMB, UNITED STATES DISTRICT JUDGE:

In this patent infringement suit, Plaintiff TVnGO Ltd. (BVI) asserts that Defendants LG Electronics, Inc. and LG Electronics U.S.A., Inc. (collectively, "LG"), are infringing five of TVnGO's patents1 which claim methods and devices that make televisions "smart" -- i.e., able to display both television content and internet streaming content. Presently before the Court is the issue of indefiniteness, which LG raised in connection with the Court's claim construction inquiry. The Court has carefully considered the parties' pre-hearing submissions and post-hearing briefs, the parties' presentations made at the claim construction hearing held on January 8, 2020, as well as supplemental briefing which this Court ordered on March 6, 2020. For the reasons stated herein, the Court holds that '220 Patent claims 1, 9, 10, 13, 17, and 20; '945 Patent claims 1, 4, 8, 9, 12, 15, 19, 21; '696 Patent claims 1, 9, 10, 13, 17 and 20; '339 Patent claims 1, 4-7, 12-15 and 18; and '621

<sup>&</sup>lt;sup>1</sup> The Patents-in-Suit are U.S. Patent Nos. 8,132,220; 9,124,945; 9,392,339; 9,407,969; and 9,794,621, respectively, the '220 Patent, the '945 Patent, the '339 Patent, the '969 Patent and the '621 Patent. Each of the '945, '339, and '969 patents are continuations of the '220 Patent. The '621 Patent is a continuation of the '969 Patent.



Patent claims 1, 4, 9, 11 are indefinite, and therefore not amenable to construction.<sup>2</sup>

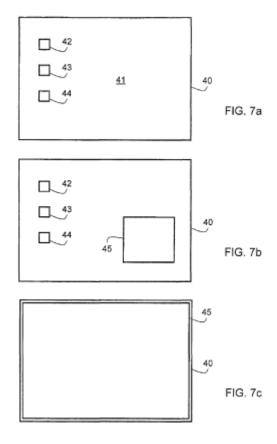
I.

According to TVnGO, the main inventive feature of its technology to which the Patents-in-Suit are addressed is the generation and display of "overlays" which appear on a user's (i.e., a person's) television screen, thereby creating a user-friendly mechanism through which a user can simultaneously view broadcast TV content and Internet content. [Transcript p. 53, 60] Thus, for example, in Figures 7a, 7b and 7c of the Patents-in-Suit, which depict a television set (item 40), items 42 through 45 are overlays, or icons<sup>3</sup>, containing Internet content, and item 41 is broadcast TV content:

<sup>&</sup>lt;sup>3</sup> At the claim construction hearing, TVnGO explained, by way of example, that the icon could take the form of a commonly recognized logo, such as the Netflix logo. [Transcript p. 60, 95, 100]



<sup>&</sup>lt;sup>2</sup> In light of this holding, the Court need not reach, and therefore does not reach, the issue of whether the terms "combiner unit" and "combiner circuit", as used in '220 Patent claims 1, 13, and 17; '945 Patent claims 1-10, 12, and 18; '339 Patent claims 1-17, 19, 20; and '969 Patent claims 1, 13, and 17 are indefinite. [See TVnGO's Post-Hearing Brief, Dkt No. 75, p. 3]



According to the specifications, if a user wishes to view the content represented by a particular overlay— for example, item 42— she may use a particular key on her remote control to select the desired overlay, which will result in the display of a secondary window, item 45. Engaging the same key for a second time will enlarge the secondary window to occupy substantially the whole area of the television screen, as shown in Figure 7c. Engaging the same key for a third time will cause the television screen display to revert to the situation shown in Figure 7a.

['220 Patent, 7:25-50; '945 Patent, 7:35-60; '339 Patent, 7:28-50; '969 Patent, 7:35-60; '621 Patent, 7:43-65]. The parties dispute whether the Patents—in—Suit "particularly . . . and



distinctly" disclose, 35 U.S.C. § 112(b), how the patented technology functions to produce items 42 through 45.

The claim terms primarily at issue are "overlay activation criterion" and "overlay activation signal."  $^4$  Copies of the Patents-in-Suit are attached to this Opinion as Exhibits A through E. $^5$ 

II.

Patent claims must "particularly point[] out and distinctly claim[] the subject matter" of the invention. 35 U.S.C. §

112(b). If a claim does not do so, it is invalid as indefinite.

Nautilus, Inc. v. Biosig Instruments, Inc., 572 U.S. 898, 902

(2014). "[A] patent claim is indefinite if, when 'read in light of the specification delineating the patent, and the prosecution history, the claim fails to inform, with reasonable certainty, those skilled in the art<sup>6</sup> about the scope of the invention.'"

<sup>&</sup>lt;sup>6</sup> The parties have stipulated on the record that, for the purposes of the issues addressed herein, the parties' differing formulations of a person skilled in the art ("POSA") have no material impact on claim construction. [Transcript, p. 16-17]



<sup>&</sup>lt;sup>4</sup> The term "special overlay activation signal" appears in the '954 and '621 Patents, however the parties make no separate, independent arguments with respect to the word "special." Thus, the parties' arguments, and the Court's analysis, applies equally to both "overlay activation signal" and "special overlay activation signal."

 $<sup>^5</sup>$  See also Docket Entries 1-1 ('220 Patent), 1-2 ('945 Patent), 1-3 ('339 Patent), 1-4 ('969 Patent), and 1-5 ('621 Patent).

# DOCKET

# 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.

