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**

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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 patents[1] 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

[1] 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.[2]

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[3], containing Internet content, and item 41 is broadcast TV content:

[2] 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]

[3] 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]

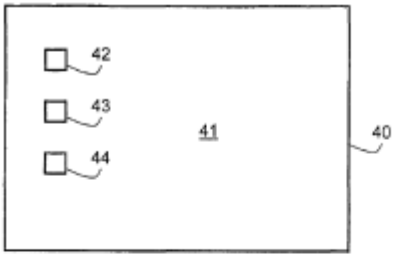

FIG. 7a

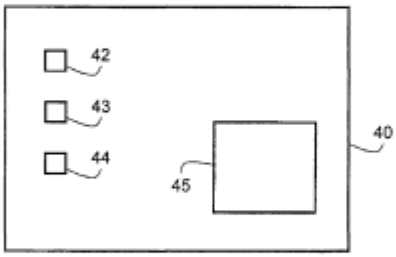

FIG. 7b

FIG. 7c

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[6] about the scope of the invention.'"

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[4] 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."

[5] 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).

[6] 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]

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