

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

ANCORA TECHNOLOGIES, INC.,

Plaintiff,

v.

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

Defendants.

CIVIL ACTION NO. 1:20-cv-0034

JURY TRIAL DEMANDED

---

ANCORA TECHNOLOGIES, INC.,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD. and  
SAMSUNG ELECTRONICS AMERICA,  
INC.,

Defendants.

CIVIL ACTION NO. 1:20-cv-0034

JURY TRIAL DEMANDED

**DEFENDANTS' OPENING CLAIM CONSTRUCTION BRIEF**

**Table of Contents**

I. INTRODUCTION ..... 1

II. LITIGATION HISTORY ..... 4

III. ARGUMENT ..... 5

    A. “using an agent to set up a verification structure in the erasable, non-volatile memory of the BIOS” ..... 5

        1. The term “agent” is a “nonce” word. .... 6

        2. The specification and the prosecution history confirm that “agent” does not connote structure. .... 8

        3. The associated algorithm is disclosed at 6:18-28 in the patent..... 10

    B. “set up a verification structure” ..... 11

    C. “memory of the BIOS” ..... 14

        1. The applicants disclaimed a “memory of the BIOS” that is recognized by an operating system as a storage device or that contains a file system. .... 15

        2. The “memory of the BIOS” is the memory that stores the BIOS. .... 18

    D. “verifying the program using at least the verification structure” ..... 18

    E. “acting on the program according to the verification” ..... 20

    F. “license”/“license record” ..... 21

        1. The preamble of the claim is limiting. .... 21

        2. License ..... 23

        3. License Record..... 24

    G. Order of Steps ..... 24

    H. “BIOS” ..... 26

        1. “BIOS” is stored in ROM. .... 26

        2. “BIOS” runs automatically when a computer is powered on. .... 27

    I. “selecting a program residing in the volatile memory” ..... 28

J. “program” ..... 28

K. “volatile memory”..... 29

L. “first non-volatile memory area of the computer” ..... 30

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Cases</b>	
<i>Altiris, Inc. v. Symantec Corp.</i> , 318 F.3d 1363 (Fed. Cir. 2003).....	25
<i>Ancora Techs., Inc. v. Apple, Inc.</i> , 744 F.3d 732 (Fed. Cir. 2014).....	<i>passim</i>
<i>Arendi S.A.R.L. v. Google LLC</i> , 882 F.3d 1132 (Fed. Cir. 2018).....	18
<i>Bell Atlantic Network Servs., Inc. v. Covad Commc'ns Group, Inc.</i> , 262 F.3d 1258 (Fed. Cir. 2001).....	14
<i>Biedermann Motech GmbH v. Acme Spine, LLC</i> , No. CV 06-3619 SJO, 2007 WL 6210841 (C.D. Cal. Aug. 31, 2007).....	26
<i>C.R. Bard, Inc. v. U.S. Surgical Corp.</i> , 388 F.3d 858 (Fed. Cir. 2004).....	11
<i>C.W. Zumbiel Co. v. Kappos</i> , 702 F.3d 1371 (Fed. Cir. 2012).....	22
<i>Cypress Lake Software, Inc. v. Samsung Elecs. Am., Inc.</i> , 382 F. Supp. 3d 586, 614-17 (E.D. Tex. 2019).....	8
<i>Digital Retail Apps Inc. v. H-E-B, LP</i> , No. 6-19-cv-00167-ADA, 2020 WL 376664 (W.D. Tex. Jan. 23, 2020).....	8, 10
<i>Fenner Investments, Ltd. v. Cellco P'ship</i> , 778 F.3d 1320 (Fed. Cir. 2015).....	14
<i>Genband USA v. Metaswitch Networks</i> , No. 2:14-cv-33-RG-RSP, 2015 WL 4722185 (E.D. Tex. Aug. 7, 2015).....	8
<i>Global Equity Mgmt. (SA) Pty. Ltd. v. Expedia, Inc.</i> , No. 2:16-cv-00095-RWSRSP, 2016 WL 7416132 (E.D. Tex. Dec. 22, 2016).....	8
<i>Honeywell Int'l, Inc. v. ITT Indus., Inc.</i> , 452 F.3d 1312 (Fed. Cir. 2006).....	14, 20
<i>Joao Control &amp; Monitoring Systems LLC v. Protect America, Inc.</i> , No. 1-14-cv-134, 2015 WL 4937464, at *7 (W.D. Tex. Aug. 18, 2015).....	7, 8

*Kaken Pharm. Co. v. Iancu*,  
 No. 2018-2232, 2020 WL 1222728 (Fed. Cir. Mar. 13, 2020).....15, 18

*Mantech Envtl. Corp. v. Hudson Envtl. Servs., Inc.*,  
 152 F.3d 1368 (Fed. Cir. 1998).....25

*Phillips v. AWH Corp.*,  
 415 F.3d 1303 (Fed. Cir. 2005).....12, 23

*Pitney Bowes, Inc. v. Hewlett-Packard Co.*,  
 182 F.3d 1298 (Fed. Cir. 1999).....22

*Poly-Am., L.P. v. API Indus., Inc.*,  
 839 F.3d 1131 (Fed. Cir. 2016).....12, 20

*Synchronoss Techs., Inc. v. Dropbox Inc.*,  
 No. 16-cv-00119, 2017 WL 6059302 (N.D. Cal. Dec. 7, 2017).....7

*Techno View IP, Inc. v. Facebook Techs., LLC*,  
 No. 17-386-CFC-CJB, 2018 WL 6427874 (D. Del. Dec. 7, 2018) .....10

*Verint Sys. Inc. v. Red Box Recorders Ltd.*,  
 166 F. Supp. 3d 364, 379-381 (S.D.N.Y. 2016) .....8

*ViaSat, Inc. v. Space Sys./Loral, Inc.*,  
 No. 3:12-CV-00260-H, 2013 WL 3927729 (S.D. Cal. May 29, 2013) .....18

*Williamson v. Citrix Online*,  
 792 F.3d 1339, 1349 (Fed. Cir. 2015).....6, 10

**Statutes**

35 U.S.C. § 112 ¶ 6.....5, 6, 7, 8

# 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.