

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

SPEIR TECHNOLOGIES LTD.,

Plaintiff,

v.

APPLE INC.

Defendant.

Case No. 6:22-cv-00077-ADA

**JURY TRIAL DEMANDED**

**DEFENDANT'S OPENING CLAIM CONSTRUCTION BRIEF**

**TABLE OF CONTENTS**

I. INTRODUCTION ..... 1

II. U.S. PATENT NOS. 7,110,779 AND 7,321,777 (THE RANGING PATENTS)..... 1

A. Overview..... 1

B. Disputed terms for construction..... 3

1. “known device latency” (’779 patent, claim 18; ’777 patent, claim 1, 12, 20)..... 3

III. U.S. PATENT NO. 7,765,399 (THE ’399 PATENT) ..... 6

A. Overview..... 6

B. Disputed term for construction ..... 6

1. “human/machine interface” (claim 1, 2, 3, 4, 5, 9)..... 6

2. “distinct” (claim 1, 7, 9)..... 10

3. “classified” / “unclassified” (claim 1, 7, 9)..... 15

4. “The mobile PDA computer system according to claim 1” (claim 7) ..... 20

5. “physically secure enclosure” (claim 9) ..... 23

IV. U.S. PATENT NO. 8,345,780 (THE ’780 PATENT) ..... 24

A. Overview..... 24

B. Disputed term for construction ..... 25

1. “short term” / “long term” (claim 1, 9, 12)..... 25

2. “self interference” (claim 1, 9, 12)..... 28

V. CONCLUSION..... 30

**TABLE OF EXHIBITS**

<b>Ex.</b>	<b>Description</b>	<b>Abbreviation</b>
A	U.S. Patent No. 7,110,779	'779 patent
B	U.S. Patent No. 7,321,777	'777 patent
C	U.S. Patent No. 7,765,399	'399 patent
D	September 1, 2009 Office Action ('399 Patent) (excerpt) (highlighting added)	
E	April 28, 2010 Office Action Response and Terminal Disclaimer ( '399 Patent) (highlighting added)	
F	U.S. Patent No. 7,779,252	'252 patent
G	November 10, 2009 Office Action Response ('399 Patent) (highlighting added)	
H	Declaration of Dr. John Black	Black Decl.
I	Webster's II New College Dictionary definition of "classified" (highlighting added) (APL SPEIR-EXTRINSIC 00000467-70)	Webster's
J	The Oxford American College Dictionary definition of "classified" (highlighting added) (APL SPEIR-EXTRINSIC 00000230-34)	Oxford
K	Speir's Preliminary Infringement Contentions for '399 Patent (excerpt) (highlighting added)	
L	U.S. Patent No. 8,345,780	'780 patent
M	Declaration of Dr. Robert Akl	Akl Decl.
N	July 25, 2012 Office Action Response ('780 patent) (highlighting added)	
O	Merriam-Webster Online Dictionary definition of "short term" (highlighting added) (SPEIR-APPLE-00006742-43)	
P	Dictionary.com definition of "short term" (highlighting added) (SPEIR-APPLE-00006750)	
Q	TheFreeDictionary.com definition of "long term" (highlighting added) (SPEIR-APPLE-00006764-65)	
R	Merriam-Webster Online Dictionary definition of "long term" (highlighting added) (SPEIR-APPLE-00006767-68)	
S	January 11, 2012 Office Action Response ('780 patent) (highlighting added)	

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Cases</b>	
<i>In re Abbott Diabetes Care Inc.</i> , 696 F.3d 1142 (Fed. Cir. 2012).....	5
<i>Aptalis Pharmatech, Inc. v. Apotex Inc.</i> , 718 F. App'x 965 (Fed. Cir. 2018) .....	14
<i>AstraZeneca AB v. Mylan Pharms. Inc.</i> , 19 F.4th 1325 (Fed. Cir. 2021) .....	30
<i>Baldwin Graphic Sys., Inc. v. Siebert, Inc.</i> , 512 F.3d 1338 (Fed. Cir. 2008).....	22
<i>Berkheimer v. HP Inc.</i> , 881 F.3d 1360 (Fed. Cir. 2018).....	19
<i>Chef Am., Inc. v. Lamb-Weston, Inc.</i> , 358 F.3d 1371 (Fed. Cir. 2004).....	22
<i>Comput. Docking Station Corp. v. Dell, Inc.</i> , 519 F.3d 1366 (Fed. Cir. 2008).....	29
<i>Datamize, LLC v. Plumtree Software, Inc.</i> , 417 F.3d 1342 (Fed. Cir. 2005).....	17, 20
<i>DeMarini Sports, Inc. v. Worth, Inc.</i> , 239 F.3d 1314 (Fed. Cir. 2001).....	14
<i>Eon-Net LP v. Flagstar Bancorp.</i> , 653 F.3d 1314 (Fed. Cir. 2011).....	5
<i>GE Lighting Sols., LLC v. Lights of Am., Inc.</i> , 663 F. App'x 938 (Fed. Cir. 2016) .....	20
<i>Halliburton Energy Servs., Inc. v. M-I LLC</i> , 514 F.3d 1244 (Fed. Cir. 2008).....	16, 20
<i>Homeland Housewares, LLC v. Whirlpool Corp.</i> , 865 F.3d 1372 (Fed. Cir. 2017), <i>cert. denied</i> , 138 S. Ct. 2602 (2018).....	3
<i>Image Processing Techs., LLC v. Samsung Elecs. Co.</i> , No. 2:16-CV-505, 2017 WL 2672616 (E.D. Tex. June 21, 2017) .....	22

*Interval Licensing LLC v. AOL, Inc.*,  
766 F.3d 1364 (Fed. Cir. 2014)..... *passim*

*KEYnetik, Inc. v. Samsung Elecs. Co.*,  
837 F. App'x 786 (Fed. Cir. 2020) .....24

*KLA-Tencor Corp. v. Xitronix Corp.*,  
No. A-08-CA-723, 2011 WL 318123 (W.D. Tex. 2011) .....27

*Liberty Ammunition, Inc. v. United States*,  
835 F.3d 1388 (Fed. Cir. 2016).....28

*LizardTech, Inc. v. Earth Res. Mapping, Inc.*,  
424 F.3d 1336 (Fed. Cir. 2005).....23

*Nautilus, Inc. v. Biosig Instruments, Inc.*,  
572 U.S. 898 (2014)..... *passim*

*Nite Glow Indus. v. Cent. Garden & Pet Co.*,  
No. 2020-1897, 2021 WL 2945556 (Fed. Cir. July 14, 2021).....29

*O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co.*,  
521 F.3d 1351 (Fed. Cir. 2008).....3, 7

*Personalized Media Commc'ns, LLC v. Apple Inc.*,  
952 F.3d 1336 (Fed. Cir. 2020).....15, 29

*Phillips v. AWH Corp.*,  
415 F.3d 1303 (Fed. Cir. 2005).....7

*In re Power Integrations, Inc.*,  
884 F.3d 1370 (Fed. Cir. 2018).....23

*Rsch. Plastics, Inc. v. Fed. Packaging Corp.*,  
421 F.3d 1290 (Fed. Cir. 2005).....29

*Sol IP, LLC v. AT&T Mobility LLC*,  
No. 2:18-CV-00526-RWS(RSP), 2020 WL 60141 (E.D. Tex. Jan. 6, 2020).....22

**Statutes**

35 U.S.C. § 112 ¶ 2.....15

# 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.