

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CYWEE GROUP LTD.,

Plaintiff

v.

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

Defendants.

§
§
§
§
§
§
§
§
§
§
§

NO. 2:17-CV-00140-RWS-RSP

DEFENDANTS' RESPONSIVE CLAIM CONSTRUCTION BRIEF

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. LAW OF CLAIM CONSTRUCTION AND INDEFINITENESS	1
III. BACKGROUND OF THE TECHNOLOGY	3
IV. DISPUTED CLAIM TERMS	4
A. “utilizing a comparison to compare the first signal set with the second signal set” (‘438 Patent, Claim 1).....	4
B. “comparing the second quaternion in relation to the measured angular velocities ω_x , ω_y , ω_z of the current state at current time T with the measured axial accelerations A_x , A_y , A_z and the predicted axial accelerations A_x' , A_y' , A_z' also at current time T” (‘438 Patent, Claims 14 and 19)	12
C. “generating the orientation output based on the first signal set, the second signal set and the rotation output or based on the first signal set and the second signal set” (‘978 Patent, Claim 10)	14
D. “three-dimensional (3D) pointing device”/ “3D pointing device” (‘438 Patent, Claims 1, 3, 4, 5, 14, 15, 16, 17, 19) (‘978 Patent, Claim 1)	17
E. “six-axis motion sensor” (‘438 Patent, Claims 1, 5, 14, 15, 16, 17, 19)	23
F. “using the orientation output and the rotation output to generate a transformed output associated with a fixed reference frame associated with a display device” (‘978 Patent, Claim 10)	24
G. “global reference frame associated with Earth” (‘978 Patent, Claim 10)	26
V. CONCLUSION	28

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>CyWee Grp. Ltd. v. Apple Inc.</i> , No. 14-cv-01853-HSG, 2015 U.S. Dist. LEXIS 120133 (N.D. Cal. Sep. 9, 2015).....	12
<i>Edwards Lifescis. LLC v. Cook Inc.</i> , 582 F.3d 1322 (Fed. Cir. 2009).....	19
<i>Eon-Net LP v. Flagstar Bancorp</i> , 653 F.3d 1314 (Fed Cir. 2011).....	2
<i>Fundamental Innovation Sys. Int’l LLC v. Samsung Elecs. Co.</i> , No. 2:17-cv-145-JRG-RSP, 2018 U.S. Dist. LEXIS 15541 (E.D. Tex. Jan. 31, 2018).....	20
<i>Gen. Elec. Co. v. Nintendo Co.</i> , 179 F.3d 1350 (Fed. Cir. 1999).....	21
<i>Harcot Research, LLC v. Europea Sports Prods.</i> , No. 2:13-CV-228-JRG-RSP, 2014 U.S. Dist. LEXIS 155307 (E.D. Tex. Nov. 3, 2014)	3, 6, 13, 15
<i>Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc.</i> , 381 F.3d 1111 (Fed. Cir. 2004).....	2
<i>Innovative Display Techs. LLC v. Hyundai Motor Co.</i> , No. 2:14-CV-201-JRG, 2015 U.S. Dist. LEXIS 57810 (E.D. Tex. May 4, 2015).....	<i>passim</i>
<i>Intellectual Ventures II LLC v. FedEx Corp.</i> , No. 2:16-CV-00980-JRG, 2017 U.S. Dist. LEXIS 196453 (E.D. Tex. Nov. 29, 2017)	21
<i>Invensys Sys., Inc. v. Emerson Elec. Co.</i> , No. 6:12-cv-799, 2014 U.S. Dist. LEXIS 108401 (E.D. Tex. Aug. 6, 2014).....	7, 8
<i>K-2 Corp. v. Salomon S.A.</i> , 191 F.3d 1356 (Fed. Cir. 1999).....	28
<i>Linex Techs., Inc. v. Belkin Int’l, Inc.</i> , No. 2:07-cv-222, 2009 U.S. Dist. LEXIS 10905 (E.D. Tex. Feb. 12, 2009)	27
<i>Nautilus, Inc. v. Biosig Instruments, Inc.</i> , 134 S. Ct. 2120 (2014)	2, 5
<i>O2 Micro Int’l Ltd. v. Beyond Innovation Tech. Co.</i> , 521 F.3d 1351 (Fed. Cir. 2008).....	2, 20, 26

TABLE OF AUTHORITIES
(Continued)

	Page(s)
<i>Omega Eng'g, Inc. v. Raytek Corp.</i> , 334 F.3d 1314 (Fed. Cir. 2003).....	23
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005)	1, 2, 18, 23
<i>Profectus Tech. LLC v. Huawei Techs. Co.</i> , No. 6:11-cv-474, 2014 U.S. Dist. LEXIS 53157 (E.D. Tex. Apr. 16, 2014)	23
<i>SyncPoint Imaging, LLC v. Nintendo of Am. Inc.</i> , No. 2:15-cv-00247-JRG-RSP, 2016 U.S. Dist. LEXIS 677 (E.D. Tex. Jan. 5, 2016).....	22
<i>UltimatePointer, LLC v. Nintendo Co.</i> , 816 F.3d 816 (Fed. Cir. 2016).....	18
<i>Vitronics Corp. v. Conceptronic, Inc.</i> , 90 F.3d 1576 (Fed. Cir. 1996).....	1
 Statutes	
35 U.S.C. § 112.....	2, 5

I. INTRODUCTION

At their core, the parties' claim construction disputes present two key issues. First, a claim is invalid as indefinite if it fails to inform persons skilled in the art, with reasonable certainty, of the scope of the invention. This is so when a claim limitation is subject to multiple interpretations, but the patent provides no way to identify which interpretation is appropriate, and also when a claim limitation is mathematically impossible. Here, the claims of the patents-in-suit require comparing angular velocities with "axial accelerations," which could be any one of three types of acceleration. The patents-in-suit provide no guidance as to the type of axial acceleration to be used, and each possibility results in a mathematically impossible comparison. These claim limitations are therefore indefinite, rendering each asserted claim invalid.

Second, the remaining claim terms have plain meanings consistent with the guidance of the specification and prosecution history. For example, a "3D pointing device" is described throughout the patents-in-suit and extrinsic evidence, and even by CyWee's own expert as something that moves a cursor or pointer on a display, not merely a device that calculates its own orientation. As another example, when prosecuting the patents-in-suit, the patentee distinguished a nine-axis motion sensor from a six-axis motion sensor by stating that the six-axis motion sensor would not include a magnetometer. Yet, CyWee seeks now to interpret "six-axis motion sensor" to cover structures with magnetometers. These claim limitations should be construed consistent with the intrinsic evidence.

II. LAW OF CLAIM CONSTRUCTION AND INDEFINITENESS

The Court is well-versed in the relevant law. Terms are construed from the perspective of a person of ordinary skill in the art ("POSA") at the time of the invention. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (*en banc*). Terms "are generally given their ordinary and customary meaning." *Phillips*, 415 F.3d at 1312 (quoting *Vitronics Corp. v. Conceptor, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)). The claims themselves provide significant guidance. *Phillips*, 415 F.3d at 1314.

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.