

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

GESTURE TECHNOLOGY
PARTNERS, LLC,

Plaintiff

v.

HUAWEI DEVICE CO., LTD.,
HUAWEI DEVICE USA, INC.,

Defendants.

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CASE NO. 2:21-cv-00040-JRG
(Lead Case)

JURY TRIAL DEMANDED

GESTURE TECHNOLOGY
PARTNERS, LLC,

Plaintiff

v.

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

Defendants.

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CASE NO. 2:21-cv-00041-JRG
(Member Case)

JURY TRIAL DEMANDED

**SAMSUNG DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT OF INVALIDITY UNDER § 101**

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I. INTRODUCTION

Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (“Defendants”) move for summary judgment of invalidity under 35 U.S.C. § 101 of the asserted claims of U.S. Patent Nos. 8,553,079 (“’079 Patent”), 8,878,949 (“’949 Patent”), 7,933,431 (“’431 Patent”), and 8,194,924 (“’924 Patent”) (collectively, “Patents-in-Suit”). The claims of all four patents reflect attempts to capture the abstract concepts of analyzing images to determine information such as a gesture performed, which is then used by three of the four patents to perform some function of the device—the ’079 Patent claims do nothing with the result of the image analysis. The claims recite generic computer components, such as a camera and processor, that merely perform basic routine functions for implementing these abstract concepts, the type of results-oriented, “apply it”-on-a-computer claims the Supreme Court held in *Alice* are patent ineligible.

None of the Patents-in-Suit purport to improve any technology and their claims do not recite any specific technological solutions, but instead use functionally recited, generic computer technology as a tool to implement the abstract concepts. The claims thus recite well-understood, routine, conventional activities previously known to the industry and do not recite an inventive concept. Accordingly, the claims should be held invalid as patent ineligible under § 101.

II. STATEMENT OF ISSUES TO BE DECIDED BY THE COURT

Whether the asserted claims of the Patents-in-Suit are invalid under 35 U.S.C § 101.

III. STATEMENT OF UNDISPUTED MATERIAL FACTS

1. Controlling a device using gestures was known by November 1998. Ex. 3 at 87:21-88:17.
2. The ’079 Patent discloses that the claimed “computer apparatus” can be a laptop. ’079 Patent at FIGS. 1-3, 1:63-2:2, 2:39-5:21.
3. Using LEDs as a light source was conventional by November 1998. Ex. 5, ¶ 338.



4. It was well-known that cameras and light sources could be fixed relative to a keypad, including in conventional laptops. Ex. 5, ¶ 338.

5. The '949 Patent discloses that its goal is to replace the conventional role of a photographer with a system that can take a picture when the subject is in a particular pose or performing a particular gesture. '949 Patent at 7:57-8:9.

6. The '949 Patent discloses there were already known cases “where the camera taking the picture actually determines some variable in the picture and uses it for the process of obtaining the picture.” '949 Patent at 1:24-30.

7. The '949 Patent discloses that “point and shoot capability also based on the age classification of the individuals whose picture is desired” was known. '949 Patent at 1:36-43.

8. The '949 Patent alleges that there was no known picture taking reference based on object position and orientation with respect to the camera. '949 Patent at 1:44-46.

9. The '949 Patent discloses using known photogrammetric techniques to obtain features of objects such as edges of arms. '949 Patent at 3:20-23.

10. The '949 Patent discloses using known or conventional machine vision techniques to determine a gesture. '949 Patent at 6:29-33, 10:40-44.

11. The '949 Patent discloses that its invention utilizes “commonplace” cameras. '949 Patent at 1:50-62.

12. The '431 and '924 Patents disclose that a handheld device can be controlled to transmit an image of a recognized object of interest over a mobile phone link. '431 Patent at 12:65-13:7; '924 Patent at 13:1-19.

13. The '431 and '924 Patents disclose that “the invention” is about analyzing the output of one or more cameras “to typically provide data concerning the location of parts of, or

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