

EXHIBIT 3

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

JAWBONE INNOVATIONS, LLC,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

Case No. 6:21-CV-00985-ADA

PATENT CASE

JURY TRIAL DEMANDED



PUBLIC VERSION

GOOGLE LLC'S OPENING CLAIM CONSTRUCTION BRIEF

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Geodynamics, 2016 WL 6217181, at *15 (noting that specification’s discussion of “equal” relationship between tunnel depth and the depth of penetration provided no standard for determining scope of claims reciting “substantially equal” tunnel depth and depth of penetration.)

In sum, because nothing in the intrinsic or extrinsic record provides an objective standard for measuring the terms “substantially similar” and “substantially dissimilar” the claims in which those terms appear should be found indefinite.

J. “apply a varying linear transfer function between the first and second microphone signals” (’357 patent, claims 1, 15) (proposed by Google)

JAWBONE	GOOGLE
Plain and ordinary meaning; no construction necessary	“calculate a linear transfer function using the first and the second microphone signals to apply the transfer function to a microphone signal”

The meaning of this term is not facially clear, because the claim language does not elucidate what is meant by a varying linear transfer function that is “appl[ied] . . . between” two microphone signals. It is unknown, for example, whether the transfer function is applied to either (i) one of the microphone signals selected from (i.e., in between) the two microphone signals, or (ii) both the microphone signals, or whether the transfer function is derived from the first and second microphone signals or whether it calculates a relationship between the two signals. Ex. 18 (Reader Decl.) ¶ 65. Thus, a person of ordinary skill in the art “would naturally look to the written description for a full understanding of the claims.” *Howmedica Osteonics Corp. v. Zimmer, Inc.*, 822 F.3d 1312, 1322 (Fed. Cir. 2016). “Claims ‘must be read in view of the specification, of which they are a part.’” *Phillips*, 415 F.3d at 1315.

In a series of equations, the ’357 written description confirms the meaning of this otherwise ambiguous claim term. Equations 1-4 of the ’357 written description set forth the process by which the varying linear transfer function, designated $H_1(z)$, is calculated and applied to a microphone

signal. In the digital frequency domain, the total acoustic information entering Microphone 1 is denoted as $M_1(z)$ and the total acoustic information entering Microphone 2 is denoted as $M_2(z)$. '357 patent at Eq. 1. The adaptive transfer functions $H_1(z)$ and $H_2(z)$ are then calculated each as ratios between the first and the second microphone signals, where the subscripts indicate that either noise (N) or speech (S) is being received:

$$H_1(z) = \frac{M_{1N}(z)}{M_{2N}(z)}, \quad H_2(z) = \frac{M_{2S}(z)}{M_{1S}(z)},$$

Id. at Eq. 2; 6:55-56; 6:65-7:2; 7:15-20.

After the transfer functions are each calculated by a ratio of the first and second microphone signals, the specification explains, they are used to remove the noise from the signal. *Id.* at 7:29-30. Equation 4 sets forth the isolation of the speech signal, wherein the transfer function is applied to the second microphone signal, and that product is subtracted from the first microphone signal:

$$S(z) \approx M_1(z) - M_2(z)H_1(z).$$

Id. at Eq. 4. Accordingly, while the linear transfer function is calculated using both the first and the second microphone signals, it is ultimately only applied to one microphone signal.

Here, where the claim term is facially ambiguous about what it means to “apply” a varying linear transfer function “between” two signals, Google’s proposed construction reflects the claim language as it is read in view of the specification. *See Hologic*, 639 F.3d at 1335 (where claim did not specify a reference for asymmetry of radiation source’s placement, court examined specification’s description of invention to limit claim term).

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