

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

AGIS SOFTWARE DEVELOPMENT LLC,	§	Case No. 2:22-cv-00263-JRG-RSP
	§	
Plaintiff,	§	<b><u>JURY TRIAL DEMANDED</u></b>
	§	
v.	§	
	§	
SAMSUNG ELECTRONICS CO., LTD. and	§	
SAMSUNG ELECTRONICS AMERICA,	§	
INC.,	§	
	§	
Defendants.	§	
	§	

**AGIS SOFTWARE DEVELOPMENT LLC'S  
REPLY CLAIM CONSTRUCTION BRIEF**

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## I. “status data”<sup>1</sup>

Defendants disregard this term appears within the larger phrase “status data associated with the recipient PDA/cell phone,” which provides context for the construction of this term. As a preliminary matter, “status data” appears in the asserted claims as “obtaining location and *status data* associated with the recipient PDA/cell phone.” Dkt. 87 at 8. “In construing claims, the analytical focus must begin and remain centered on the language of the claims themselves, for it is that language that the patentee chose to use to ‘particularly point[] out and distinctly claim[] the subject matter which the patentee regards as his invention.’”<sup>2</sup>

The use of “status data associated with the recipient PDA/cell phone” itself within the asserted claims is not inherently ambiguous. The claim itself clarifies any ambiguity by requiring the status data to be associated with a device. Nonetheless, a POSITA would recognize examples of such device states, such as connectivity, activity, or battery. Dkt. 87 at 9-10. Defendants attempt to introduce ambiguity to this claim term by arguing it is unclear whether the “status data associated with the recipient PDA/cell phone” refers to the “user” or the “device” of the “recipient PDA/cell phone.” Dkt. 97 at 3. However, there is no indication based on the plain language of the claim term and its usage is ambiguous. The existence of the status of a response in the specification does not render ambiguous “status data associated with the recipient PDA/cell phone.” Defendants’ reliance on isolated disclosures of “status” to argue “status data” should be construed in the context of status of a manual response is divorced from the claim limitation.<sup>3</sup> Defendants

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<sup>1</sup> AGIS notes Defendants’ agreement to adopt AGIS’s proposal of plain and ordinary meaning or no construction for the “predetermined network of participants, wherein each participant has a similarly equipped PDA/cell phone” term.

<sup>2</sup> *Interactive Gift Express, Inc. v. Compuserve Inc.*, 256 F.3d 1323, 1331 (Fed. Cir. 2001); *see also Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005) (“Quite apart from the written description and the prosecution history, the claims themselves provide substantial guidance as to the meaning of particular claim terms.”) (internal citation omitted).

<sup>3</sup> *Id.*; *see Cioffi v. Google, Inc.*, 632 F. App’x 1013, 1023 (Fed. Cir. 2015) (“We, thus, reject Google’s argument, and find that the few ‘passing references’ to ‘user’ files or data are insufficient to alter the well-understood, objective

and its expert *admit* they rely on disclosures of “status.” *See* Dkt. 97 at 3. Defendants create a dispute by relying on these disclosures of “status” to argue “there are at least two reasonable interpretations of ‘status data.’” *Id.* at 4. But, to the extent the specification’s “status of a response” *can* be used to determine a “status data associated with the recipient PDA/cell phone,” is not an issue of indefiniteness but of breadth.<sup>4</sup> Defendants are unable to identify any type of “status data associated with the recipient PDA/cell phone” is unascertainable and renders this term indefinite. Defendants ignore explicit recitations of “status data” as found within the specification to focus on disclosures of “status.” *See, e.g.,* Dkt. 97 at 3-4.<sup>5</sup>

Defendants misrepresent the arguments made during reexamination of the ’970 Patent to argue uncertainty. Specifically, Defendants point to a portion of the examiner interview where the Examiner stated “[w]ith regard to proposed new claims 15 and 16, Patent Owner’s representatives indicated the corresponding disclosure is found in the ’728 Patent, incorporated by reference into the ’970 patent disclosure.” Dkt. 97-1 at 1767. Defendants only point to a single disclosure of “status” to argue this term is indefinite. Dkt. 97 at 4-5. However, a POSITA would recognize the ’970 Patent, or its ancestor, the ’728 Patent’s recitation of “other data” or “other status data” describe status data comprising of telephone status, GPS status, or other statuses. Dkt. 87 at 10-11. A POSITA would understand battery status and network connectivity status would also fall within the scope of “other status data.” *Id.* at 10-11.

Defendants’ citation to the examiner interview and reexamination history is misleading.<sup>6</sup>

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meaning of ‘critical file’ agreed upon by the experts. We therefore, reverse the district court’s holding that ‘critical file’ in claim 21 of the ’103 patent is indefinite.”).

<sup>4</sup> *See WAPP Tech. Ltd. P’ship v. Bank of Am., N.A.*, No. 4:21-CV-670, 2022 WL 2463569, at \*8 (E.D. Tex. July 6, 2022) (“The breadth of the word ‘interface,’ at least in the context of the patents-in-suit, does not demonstrate any lack of structure or otherwise give rise to any indefiniteness.”).

<sup>5</sup> For example, Figure 1b of the ’970 Patent specifically recites “provide ACS that causes the exchange of **identity, location and status data** between the participants. . . .” Dkt. 87-2, ’970 Patent at FIG. 1b.

<sup>6</sup> Dkt. 97 at 5 (“Further, when commenting on the ‘status data’ term added during reexamination, the examiners cited ‘the algorithm described in the ’970 Patent at col. 3, lines 52-67.’”).

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