

EXHIBIT E

United States Court of Appeals for the Federal Circuit

**ADVANCED GROUND INFORMATION SYSTEMS,
INC.,**
Plaintiff-Appellant

v.

LIFE360, INC.,
Defendant-Appellee

2015-1732

Appeal from the United States District Court for the Southern District of Florida in No. 9:14-cv-80651-DMM, Judge Donald M. Middlebrooks.

Decided: July 28, 2016

GEORGE BADENOCH, Kenyon & Kenyon LLP, New York, NY, argued for plaintiff-appellant. Also represented by MARK ALEXANDER CHAPMAN, ROSE CORDERO PREY, ALESSANDRA MESSING.

DANIEL H. BREAN, The Webb Law Firm, Pittsburgh, PA, argued for defendant-appellee. Also represented by KENT E. BALDAUF, JR., BRYAN P. CLARK, CHRISTIAN D. EHRET.

Before MOORE, MAYER, and WALLACH, *Circuit Judges*.

WALLACH, *Circuit Judge*.

Advanced Ground Information Systems, Inc. (“AGIS”) appeals the decision of the United States District Court for the Southern District of Florida in *Advanced Ground Information Systems, Inc. v. Life360, Inc.*, No. 14-cv-80651 (S.D. Fla. Nov. 21, 2014) (J.A. 2–37), which found that claims 3 and 10 of U.S. Patent No. 7,031,728 (“the ’728 patent”) and claims 5 and 9 of U.S. Patent No. 7,672,681 (“the ’681 patent”) (together, the “patents-in-suit”) invoke 35 U.S.C. § 112, ¶ 6, and that the claims are indefinite under 35 U.S.C. § 112, ¶ 2 (2006).¹ Although the district court found these claims indefinite, it did not address the issue of invalidity because Appellee, Life360, Inc., (“Life360”) did not request a finding of invalidity. The parties subsequently stipulated that these claims were invalid for indefiniteness, *see* J.A. 857, and the court entered its Final Judgment on May 12, 2015, *see* J.A. 1. For the reasons articulated below, we affirm the district court’s decision that the claims are indefinite, and accordingly conclude that the asserted claims are invalid.

BACKGROUND

AGIS is a technology company, software developer, and military contractor, as well as the owner of the patents-in-suit. While the specifications of the patents-in-suit differ from one another, the patents-in-suit relate to methods, devices, and systems for establishing a communication network for users (referred to as “participants” in

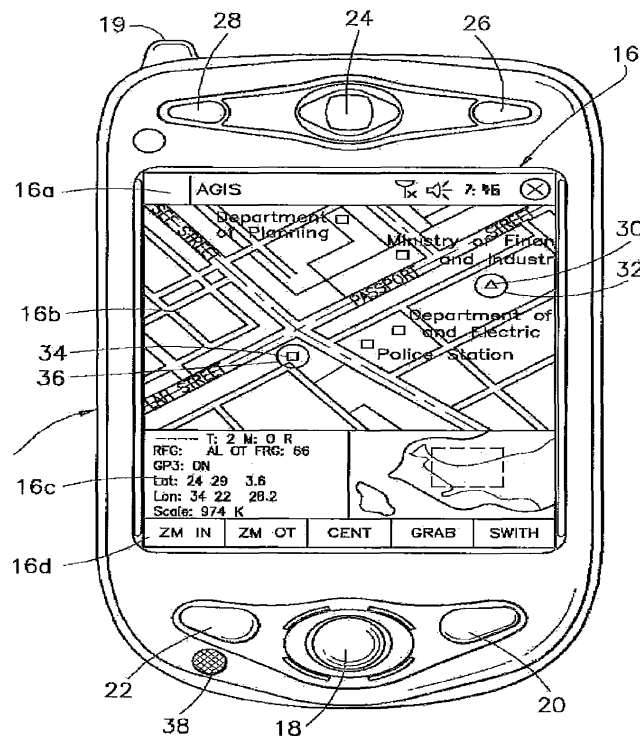
¹ Congress amended 35 U.S.C. § 112 when it passed the Leahy–Smith America Invents Act (“AIA”), and the amendments took effect on September 16, 2012. Pub. L. No. 112–29, § 4 125 Stat. 284, 296–97 (2011). Because the applications resulting in the patents-in-suit were filed before that date, we refer to the pre-AIA version of § 112.

the patents-in-suit) of mobile devices, such as cellular phones.

I. The Patents-in-Suit

A. The '728 Patent

The '728 patent describes a cellular communication system that allows multiple cellular phone users to monitor others' locations and statuses via visual display of such information on a map. '728 patent, Abstract. For example, as illustrated in Figure 1 of the '728 patent, users of a mobile device can see the locations of other users on the network (indicated by triangle 30 and square 34 symbols):



Id. fig.1. Symbols generated on the users' cellular phones represent the latitude and longitude of other users. *Id.* col. 3 ll. 35–40. Users in the communication network may initiate a phone call, send text messages, or send data or

pictures with other users on the network by touching a symbol representative of the other users on the screen. *Id.* col. 11 ll. 12–13, 38–42.

B. The '681 Patent

The '681 patent is a continuation-in-part of the '728 patent. It describes how “a designated administrator using a personal computer (PC) or other input device can reprogram all user and network participants’ cell phone devices to change, modify[,] or create new virtual switch names and new symbols for a different operating environment.” '681 patent col. 2 ll. 3–7.

C. The Asserted Claims

Claims 3 and 10 of the '728 patent and claims 5 and 9 of the '681 patent (collectively, the “asserted claims”) recite a “symbol generator” that generates symbols representing each user in the network on the display of a user’s cellular phone. Claim 3 of the '728 patent is a system claim that recites a “symbol generator in [a central processing unit (“CPU”)] that can generate symbols that represent each of the *participants’ cell phones* in the communication network on the display screen.” '728 patent col. 12 ll. 62–64 (emphasis added). Claim 5 of the '681 patent is a system claim similar to claim 3 of the '728 patent in all relevant respects, except that it recites a “symbol generator in [a] CPU that can generate symbols that represent each of the *participants in the communication network* on the display screen,” '681 patent col. 12 ll. 62–64 (emphasis added), as opposed to “each of the participants’ cell phones,” '728 patent col. 12 l. 63.

Claim 10 of the '728 patent and claim 9 of the '681 patent are apparatus claims that recite a “cellular phone for use in a communication network for a plurality of participants comprising . . . a *symbol generator connected to [a] CPU and [a] database for generating symbols on [a] touch screen display screen.*” '728 patent col. 14 ll. 28–47 (em-

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.