

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

ANCORA TECHNOLOGIES, INC.,

Plaintiff,

v.

LG ELECTRONICS INC. and LG
ELECTRONICS U.S.A., INC.,

Defendants.

CIVIL ACTION NO. 1:20-CV-0034

JURY TRIAL DEMANDED

ANCORA TECHNOLOGIES, INC.,

Plaintiff,

v.

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

Defendants.

CIVIL ACTION NO. 1:20-CV-0034

JURY TRIAL DEMANDED

PLAINTIFF'S OPENING CLAIM CONSTRUCTION BRIEF

TABLE OF CONTENTS

I.	Introduction.....	1
II.	Background.....	1
III.	Agreed Terms.....	3
IV.	Disputed Terms.....	3
1.	“license” / “license record”.....	4
i.	The Court Does Not Need to Construe the Term "License".....	4
ii.	The Court Should Adopt Plaintiff’s “License Record” Construction.....	7
2.	“volatile memory”.....	8
3.	“BIOS”.....	9
i.	Defendants’ “Stored in ROM” Limitation Conflicts with the Patent.....	10
ii.	There Is No Support in the Patent for an “Automatically” Limitation.....	11
4.	“non-volatile memory of the BIOS”.....	11
5.	“program”.....	15
6.	“selecting a program residing in the volatile memory”.....	15
7.	“using an agent to set up a verification structure in the erasable, non-volatile memory of the BIOS”.....	17
i.	“Agent” Means “a Software Program or Routine.....	18
ii.	“It Is Understood That “Software” Is Structure.....	19
8.	“set up a verification structure”.....	21
9.	“verifying the program using at least the verification structure”.....	22
i.	The Patentee Added the Term “Agent” to the Claims to Identify When an OS-Level Program or Application Was Required.....	23
ii.	At Most, the Patentee Contemplated the Combined Use of BIOS and an OS-Level Program or Application (and Other Utilities).....	25
10.	“acting on the program according to the verification”.....	26
11.	The Order of the Claim 1 Steps.....	27
12.	“first non-volatile memory area of the computer”.....	29

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Aloft Media, LLC v. Adobe Sys., Inc.</i> , 570 F. Supp. 2d 887 (E.D. Tex. 2008).....	20
<i>Altiris, Inc. v. Symantec Corp.</i> , 318 F.3d 1363 (Fed. Cir. 2003).....	28
<i>Ancora Techs., Inc. v. Apple Inc.</i> , 2012 WL 6738761 (N.D. Cal. Dec. 31, 2012).....	<i>passim</i>
<i>Ancora Techs., Inc. v. Apple, Inc.</i> , 744 F.3d 732 (Fed. Cir. 2014).....	<i>passim</i>
<i>Ancora Techs., Inc. v. HTC Am., Inc.</i> , 908 F.3d 1343 (Fed. Cir. 2018).....	1, 2, 6
<i>Apex Inc. v. Raritan Computer, Inc.</i> , 325 F.3d 1364 (Fed. Cir. 2003).....	20
<i>Broadcom Corp. v. Emulex Corp.</i> , 732 F.3d 1325 (Fed. Cir. 2013).....	10, 21, 30
<i>Chef Am., Inc. v. Lamb Weston, Inc.</i> , 358 F.3d 1371 (Fed. Cir. 2004).....	15
<i>Collaborative Agreements, LLC v. Adobe Sys. Inc.</i> , 2015 WL 2250391 (W.D. Tex. May 12, 2015)	19
<i>Creo Prod., Inc. v. Presstek, Inc.</i> , 305 F.3d 1337 (Fed. Cir. 2002).....	21
<i>DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.</i> , 469 F.3d 1005 (Fed. Cir. 2006).....	18
<i>E-Pass Techs., Inc. v. 3Com Corp.</i> , 343 F.3d 1364 (Fed. Cir. 2003).....	5
<i>Elbex Video, Ltd. v. Sensormatic Elecs. Corp.</i> , 508 F.3d 1366 (Fed. Cir. 2007).....	23
<i>Eolas Techs., Inc. v. Adobe Sys. Inc.</i> , 810 F. Supp. 2d 795, 810 (E.D. Tex. 2011).....	20

<i>Facebook, Inc. v. Pragmatus AV, LLC</i> , 582 F. App'x 864 (Fed. Cir. 2014)	12
<i>Harris Corp. v. IXYS Corp.</i> , 114 F.3d 1149 (Fed. Cir. 1997).....	22
<i>HTC Corp. v. Ancora Techs. Inc.</i> , 2017 WL 6032605 (Patent Tr. & App. Bd. Dec. 1, 2017).....	6, 19
<i>i4i Ltd. P'ship v. Microsoft Corp.</i> , 598 F.3d 831 (Fed. Cir. 2010).....	23
<i>K-2 Corp. v. Salomon S.A.</i> , 191 F.3d 1356 (Fed. Cir. 1999).....	15
<i>Kaneka Corp. v. Xiamen Kingdomway Grp. Co.</i> , 790 F.3d 1298 (Fed. Cir. 2015).....	28, 29
<i>Kinetic Concepts, Inc. v. Wake Forest Univ. Health Scis.</i> , 2013 WL 6164592 (W.D. Tex. Nov. 25, 2013).....	9, 10, 15, 22
<i>Linear Tech. Corp. v. ITC</i> , 566 F.3d 1049 (Fed. Cir. 2009).....	13
<i>Nokia Sols. & Networks US LLC v. Huawei Techs. Co.</i> , 2017 WL 2226413 (E.D. Tex. May 19, 2017).....	15, 16
<i>Omega Eng'g, Inc. v. Raytek Corp.</i> , 334 F.3d 1314 (Fed. Cir. 2003).....	13
<i>Prowess, Inc. v. RaySearch Labs., AB</i> , 953 F. Supp. 2d 638 (D. Md. 2013).....	16
<i>Purdue Pharma L.P. v. Endo Pharmaceuticals Inc.</i> , 438 F.3d 1123 (Fed. Cir. 2006).....	14
<i>RLIS, Inc. v. Allscripts Healthcare Solutions, Inc.</i> , 2013 WL 3772472 (S.D. Tex. July 16, 2013).....	20
<i>Salazar v. Procter & Gamble Co.</i> , 414 F.3d 1342 (Fed. Cir. 2005).....	11, 24
<i>SecurityProfiling, LLC v. Trend Micro Am., Inc.</i> , 2018 WL 4585279 (N.D. Tex. Sept. 25, 2018).....	18, 20
<i>Solvay S.A. v. Honeywell Int'l Inc.</i> , 742 F.3d 998 (Fed. Cir. 2014).....	28

<i>TecSec, Inc. v. Int’l Bus. Machs. Corp.</i> , 731 F.3d 1336 (Fed. Cir. 2013).....	23
<i>TomTom, Inc. v. Adolph</i> , 790 F.3d 1315 (Fed. Cir. 2015).....	4, 5
<i>In re Varma</i> , 816 F.3d 1352 (Fed. Cir. 2016).....	29
<i>Verizon Calif. Inc. v. Ronald A. Katz Tech. Licensing, P.A.</i> , 326 F. Supp. 2d 1060 (C.D. Cal. 2003)	20
<i>WhitServe LLC v. GoDaddy.com, Inc.</i> , 2014 WL 5668335 (D. Conn. Nov. 4, 2014)	20
<i>Williamson v. Citrix Online, LLC</i> , 792 F.3d 1339 (Fed. Cir. 2015) (<i>en banc</i>)	18
<i>Zeroclick, LLC v. Apple Inc.</i> , 891 F.3d 1003 (Fed. Cir. 2018).....	18, 20
Statutes	
35 U.S.C. § 101.....	1
35 U.S.C. § 112 ¶ 6.....	17, 18, 19, 20

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.