United States District Court, S.D. California.

HEWLETT-PACKARD DEVELOPMENT COMPANY, L.P.,

Plaintiff.

v.

GATEWAY, INC,

Defendant.

Gateway, Inc,

Counterclaim-Plaintiff.

v.

Hewlett-Packard Development Company, L.P., Hewlett-Packard Company and Compaq Information Technologies Group, L.P.,

Counterclaim-Defendants.

Civil No. 04CV0613-B(LSP)

Oct. 14, 2005.

John Allcock, DLA Piper US, San Diego, CA, for Plaintiff/Counterclaim-Defendants.

Darryl J. Adams, Dean M. Munyon, James D. Smith, Wayne Harding, Dewey Ballantine, Austin, TX, Jonathan D. Baker, Dechert LLP, Mountain View, CA, W. Bryan Farney, Dechert LLP, Austin, TX, for Defendant.

CLAIM CONSTRUCTION ORDER FOR UNITED STATES PATENT NUMBER 6,628,340

RUDI M. BREWSTER, District Judge.

Pursuant to Markman v. Westview Instruments, Inc., 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996), on September 22, 2005, the Court conducted a Markman hearing in the above-titled patent infringement action regarding construction of the disputed claim terms for U.S. Patent Number 6,628,340 ("the '340 patent"). Plaintiff Hewlett-Packard Development Company, L.P. ("HP") was represented by the law firm of DLA Piper Rudnick Gray Cary U.S. LLP, and Defendant Gateway, Inc. ("Gateway") was represented by the law firm Dewey Ballantine LLP.

At the Markman hearing, the Court, with the assistance of the parties, analyzed the claim terms in order to prepare jury instructions interpreting the pertinent claims at issue in the '340 patent. Additionally, the Court prepared a case glossary for terms found in the claims and the specification for the '340 patent considered to be technical in nature which a jury of laypersons might not understand clearly without specific definition.

After careful consideration of the parties' arguments and the applicable statutes and case law, the Court **HEREBY CONSTRUES** the claims in dispute in the '340 patent and **ISSUES** the relevant jury instructions

as written in Exhibit A, attached hereto. Further, the Court **HEREBY DEFINES** all pertinent technical terms as written in Exhibit B, attached hereto.

IT IS SO ORDERED.

EXHIBIT A UNITED STATES PATENT NUMBER 6,628,340-CLAIM CHART

Claim I I. A multimedia personal computer, comprising: a personal computer comprising a personal computer monitor; telecommunications circuitry comprising: a data/fax/voice modem associated with said personal computer and allowing communication of voice, fax and data information over a telephone line; a television circuit associated with said personal computer monitor to display; and control circuitry sasociated with said personal computer monitor for said personal computer monitor for said personal computer or another voice modem associated with said personal computer monitor for said personal computer or a telephone line; a television circuit associated with said personal computer or a telephone line; associated with said personal computer monitor for said personal computer for receiving a plurality of television signals and directing said signals to said personal computer monitor to display; and control circuity associated with said television circuit and said personal computer for controlling the operation of said television circuit through said personal computer; comprising: I. A multimedia personal computer designed for general purpose use by one individual at a time , said personal computer monitor; a personal computer monitor in display device; a personal computer monitor to display; and control circuity associated with said personal computer monitor to display; and control circuity associated with said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer; a computer of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer; and a personal computer for controlling the operation of said television circuit through said personal computer.		
1. A multimedia personal computer, comprising: a personal computer comprising: a personal computer comprising a personal computer comprising a personal computer comprising a personal computer monitor; a personal computer comprising a personal computer monitor; a person		COURT'S CONSTRUCTION
1. A multimedia personal computer, comprising: a personal computer, said a personal computer designed for general purpose use by one individual at a time [, said personal computer comprising a personal computer monitor; telecommunications circuitry integrated with said personal computer, said telecommunications circuitry telecommunications circuitry telecommunications circuitry comprising: a data/fax/voice modem associated with said personal computer and allowing communication of voice, fax and data information over a telephone line; a telephone line; a television circuit associated with said personal computer for receiving a plurality of television signals and directing said signals to said personal computer monitor to display; and control circuitry associated with said television circuit and said personal computer for controlling the operation of said television circuit the operation of said television circuit and said personal computer; 1. A multimedia personal computer [a computer designed for general purpose use by one individual at a time [, said personal computer monitor [a display device]; a personal computer monitor [a display device]; a telecommunications circuitry integrated with said personal computer, said telecommunications circuitry integrated with said personal computer, said telecommunications circuitry comprising: a data/fax/voice modem [a communications circuit that uses modulation and demodulation techniques to enable a computer to transmit and receive digital demodulation techniques to enable a computer to transmit and receive digital demodulation techniques to enable a computer to transmit and receive digital demodulation techniques to enable a computer to transmit and receive digital demodulation techniques to enable a computer to transmit and receive digital demodulation receiving data to and from another computer over a telephone line; at television circuit and said personal computer for receiving a plurality of television signals and directing said signals to said persona		
a personal computer, said personal computer designed for general purpose use by one individual at a time], said personal computer comprising a personal computer monitor; telecommunications circuitry integrated with said personal computer, said telecommunications circuitry integrated with said personal computer, said telecommunications circuitry comprising: a data/fax/voice modem associated with said personal computer and allowing computer and telephone line; a telephone line; a television circuit associated with said personal computer for receiving a plurality of television signals and directing said signals to said personal computer monitor to display; and control circuitry associated with said television circuit and said personal computer for receiving and personal computer monitor to display; and control circuitry associated with said television circuit and said personal computer for controlling the operation of said television circuit through said personal computer; by a personal computer for a computer for general purpose use by one individual at a time], said personal computer monitor [a display device]; computer said personal computer with said personal computer to transmit and receive digital ator over a telephone network, which has the capability of: (1) sending and receiving faxes to and from another computer over a telephone voice and to not a telephone entwork, which has the capability of: (1) sending and receiving faxes to and from another computer over a telephone voice and to a to a telephone entwork, which has the capability of: (1) sending and receiving and receiving and receiving and receiving a telephone computer over a telephone line; and		
a personal computer, said personal computer chassis and a personal computer monitor; telecommunications circuitry comprising: a data/fax/voice modem associated with said personal computer and allowing communication of voice, fax and data information over a telephone line; a telephone line; a television circuit associated with said personal computer for receiving a plurality of television signals and directing said signals to and formation over a telephone computer monitor for said personal computer monitor for controlling the operation of said television circuit associated with said television circuit and said personal computer monitor to display; and control circuitry associated with said television circuit through said personal computer monitor to display; and control circuitry associated with said television circuit through said television circuit	_	1. A multimedia personal computer, comprising:
personal computer comprising a personal computer comprising a personal computer chassis and a personal computer monitor; telecommunications circuitry integrated with said personal computer, said telecommunications circuitry comprising: a data/fax/voice modem associated with said personal computer and allowing communication of voice, fax and data information over a telephone line; a television circuit associated with said personal computer for receiving a plurality of television signals and directing said signals to said personal computer monitor to display; and control circuitry associated with said television circuit associated with said television circuit associated with said personal computer monitor for said television circuit associated with said personal computer for receiving a plurality of television signals and directing said signals to said personal computer monitor to display; and control circuitry associated with said television circuit and said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controllin		
comprising a personal computer chassis and a personal computer monitor [a display device]; chassis and a personal computer monitor; telecommunications circuitry integrated with said personal computer, said telecommunications circuitry comprising: a data/fax/voice modem associated with said personal computer and allowing communication of voice, fax and data information over a telephone line; and data information over a telephone line; a television circuit associated with said personal computer monitor for receiving a plurality of television signals and directing a plurality of television signals and directing said signals to said personal computer monitor to display; and control circuitry associated with said television circuit and said personal computer for controlling the operation of said television circuit through said apersonal computer for controlling the operation of said television circuit through said personal computer;	_	
computer chassis and a personal computer monitor; telecommunications circuitry comprising: a data/fax/voice modem associated with said personal admodulation techniques to enable a computer to transmit and receive digital data over a standard telephone network, which has the capability of: (1) sending and receiving data to and from another computer over a telephone line; (2) sending and receiving faxes to and from a fax machine or another fax modem over a telephone line; and (3) sending and receiving telephone voice signals to and from a telephone, an answering machine, or another voice modem a ssociated with said personal computer and allowing communication of voice, fax and data information over a telephone line; a television circuit associated with said personal computer monitor for receiving a plurality of television signals and directing said signals to said personal computer monitor to display; and control circuitry associated with said television circuit and said personal computer monitor to display; and control circuitry associated with said television circuit and said personal computer for controlling the operation of said television circuit through said and said television circuit through said television c		
telecommunications circuitry comprising: a data/fax/voice modem associated with said personal demodulation techniques to enable a computer to transmit and receive digital data over a standard telephone network, which has the capability of: (1) sending and receiving data to and from another computer over a telephone line; and (3) sending and receiving telephone voice signals to and from a telephone, an answering machine, or another voice modem of voice, fax and data information over a telephone line; at television circuit associated with said personal computer for receiving a plurality of television signals and directing said signals to said personal computer monitor to display; and control circuitry associated with said television circuit and said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said personal computer for controlling the operation of said television circuit through said televisio		chassis and a personal computer <i>monitor</i> [a display device];
telecommunications circuitry integrated with said personal computer, said telecommunications circuitry comprising: a data/fax/voice modem associated with said personal demodulation techniques to enable a computer to transmit and receive digital deta over a standard telephone network, which has the capability of: (1) sending and receiving data to and from another computer over a telephone line; a television circuit associated with said personal computer ovice, fax and data information over a telephone line; a television circuit associated with said personal computer ovice, fax and data information over a telephone line; at television circuit associated with said personal computer ovice, fax and data information over a telephone line; at television circuit associated with said personal computer ovice, fax and data information over a telephone line; at television circuit and (3) sending and receiving telephone voice signals to and from a telephone, an answering machine, or another voice modem of voice, fax and data information over a telephone line; at television circuit and television circuit faction circuit faction circuit faction of voice, fax and data information over a telephone line; at television circuit faction circuit faction circuit faction circuit faction of voice, fax and data information over a telephone line; at television circuit faction		
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a data/fax/voice modem [a communications circuit that uses modulation and demodulation techniques to enable a computer to transmit and receive digital data over a standard telephone network, which has the capability of: (1) sending and receiving data to and from another computer over a telephone line; and data information over a telephone line; at television circuit associated with said personal computer for receiving a plurality of television signals and directing said signals to said personal computer monitor for said personal computer monitor to display; and control circuitty associated with said television circuit and said personal computer for controlling the operation of said television circuit computer for controlling the operation of said television circuit a television circuit a television circuit associated with said personal computer monitor to display; and control circuitty associated with said television circuit and said personal computer for controlling the operation of said television circuit through said personal computer;		
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data over a standard telephone network, which has the capability of: (1) sending and receiving data to and from another computer over a telephone line; and data information over a telephone line; (2) sending and receiving faxes to and from a fax machine or another fax modem over a telephone line; and (3) sending and receiving telephone voice signals to and from a telephone, an answering machine, or another voice modem] associated with said personal computer and allowing communication of voice, fax and data information over a telephone line; at television circuit [a circuit that includes the capability of receiving a television signals] associated with said personal computer for receiving a plurality of television signals and directing said signals to said personal computer monitor to display; and control circuitry associated with said television circuit and said personal computer for controlling the operation of said television circuit.		
sending and receiving data to and from another computer over a telephone line; and data information over a telephone line; (2) sending and receiving faxes to and from a fax machine or another fax modem over a telephone line; and (3) sending and receiving telephone voice signals to and from a telephone, an answering machine, or another voice modem and television circuit associated with said personal computer for receiving a plurality of television signals and directing said signals to said personal computer monitor for said personal computer monitor to display; and control circuitry associated with said television circuit and said personal computer for controlling the operation of said television circuit.	_	
line; (2) sending and receiving faxes to and from a fax machine or another fax modem over a telephone line; and (3) sending and receiving telephone voice signals to and from a telephone, an answering machine, or another voice modem] associated with said personal computer and allowing communication of voice, fax and data information over a telephone line; at television circuit [a circuit that includes the capability of receiving television signals and directing said signals to said personal computer monitor for said personal computer monitor to display; and control circuitry associated with said television circuit and said personal computer for controlling the operation of said television circuit through said personal computer;		
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with said personal computer for receiving a plurality of television signals and directing said signals to said personal computer monitor for said personal computer monitor to display; and control circuitry associated with said television circuit and said personal computer for controlling the operation of said television circuit **relevision signals**] associated with said personal computer for receiving a plurality of television signals and directing [sending, either directly or indirectly] said signals to said personal computer monitor to display; and **computer monitor** for controlling the operation of said television circuit** and said personal computer for controlling the operation of said television circuit* **computer monitor** for said personal computer monitor for said personal computer monitor to display; and **control circuitry associated with said television circuit** and said personal computer for controlling the operation of said television circuit** through said personal computer monitor to display; and **control circuitry associated with said television circuit** and said personal computer for controlling the operation of said television circuit** through said personal computer monitor to display; and **control circuitry associated with said television circuit** and said personal computer for controlling the operation of said television circuit**	a talavisian aimavit associated	
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monitor to display; and control circuitry associated with said television circuit and said personal computer for controlling the operation of said television circuit	*	
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with said television circuit and said personal computer for controlling the operation of said television circuit through said personal computer; for controlling the operation of said television circuit		control circuitry associated with said television circuit and said nersonal
and said personal computer personal computer; for controlling the operation of said television circuit	-	
for controlling the operation of said television circuit		
of said television circuit	_	F
	of said television circuit	

computer;	1
computer, said multimedia	multimedia circuitry integrated with said <i>personal computer</i> , said multimedia circuitry allowing playing of audio on a speaker and displaying digital multimedia including text, image and video on said personal computer <i>monitor</i> : said multimedia circuitry comprising:
a compact disc read-only memory device associated with said personal computer; and	a compact disc read-only memory device associated with said personal computer; and
an audio multimedia circuit associated with said personal computer and said television circuit for receiving and processing audio multimedia data from said television circuit and communicating said audio multimedia data to said personal computer,	an audio multimedia circuit associated with said <i>personal computer</i> and said <i>television circuit</i> for receiving and processing audio multimedia data from said television circuit and communicating said audio multimedia data to said <i>personal computer</i> ,
said audio multimedia circuit comprising an analog mixing	said audio multimedia circuit comprising an <i>analog mixing circuit</i> [a circuit that combines two or more analog audio signals] for mixing a plurality of analog audio signals,
and an analog-to- digital/digital-to-analog converter in association with	and an analog-to-digital/digital-to-analog converter [circuitry within a single device capable of converting an analog input signal to a digital output signal and a digital input signal to an analog output signal] in association with said analog mixing circuit for generating a plurality of analog output signals and directing said analog output signals to said analog mixing circuit,
said analog-to-digital/digital-to-analog converter further associated with said analog mixing circuit for receiving a plurality of analog audio signals to generate a plurality of digital output signals; and	
software applications integrated with said personal	software applications integrated with said <i>personal computer</i> , said software applications providing interfaces to said telecommunications circuitry and said

computer, said software	nultimedia circuitry,			
applications providing	iditificata effectity,			
interfaces to said				
telecommunications circuitry				
and said, multimedia				
circuitry.				
Claim 2				
2. The television of claim 1, fur	rther 2 The tele	vision of claim 1, further comprising <i>digital sound</i>		
comprising digital sound mixing		cuitry [digital circuitry that combines two or more		
and digital synthesizing sound of		lio signals] and digital synthesizing sound circuitry [
for directing digital signals into		nat generates audio from digital instructions] for		
analog-to-digital/digital-to-ana		igital signals into said analog-to-digital/digital-to-		
converter and from said analog		onverter and from said analog-to-digital/digital-to-		
digital/digital-to-analog circuit	_	cuit to said analog mixing circuit.		
analog mixing circuit.	to said unutog cir	cui to said unatog mixing circui.		
Claim 3				
3. The television of claim 1, wh	nerein said audio	3. The television of claim 1, wherein said audio		
multimedia circuit further comp		multimedia circuit further comprises a compact disk		
read only memory device in ass		read only memory device in association with said		
analog mixing circuit for transn		analog mixing circuit for transmitting to said analog		
mixing circuit a plurality of pre		mixing circuit a plurality of prerecorded audio signals.		
signals.		8 1 3 1		
Claim 4				
4. The television of claim 1, wh	nerein said audio	4. The television of claim 1, wherein said audio		
multimedia circuit further comprises a speaker circuit multimedia circuit further comprises a speaker circuit				
		for <i>directing</i> analog signals to a speaker, said speaker		
circuit comprising selectable in		circuit comprising selectable input circuitry for		
		controllably selecting between analog microphone and		
		analog mixer output to digital recorder.		
Claim 6				
6. The television of claim 1, wh	nerein said audio	6. The television of claim 1, wherein said audio		
multimedia circuit further comp	orises a musical	multimedia circuit further comprises a musical		
instrument device interface for interfacing a plurality		instrument device interface for interfacing a plurality		
of musical devices with said and	alog mixing circuit.	of musical devices with said <i>analog mixing circuit</i> .		
Claim 7				
7. The television ot claim 1, wh	nerein said audio	7. The television of claim 1, wherein said audio		
multimedia circuit further comp	prises a sound	multimedia circuit further comprises a sound generator		
generator for interfacing said analog mixing circuitry		for interfacing said <i>analog mixing circuitry</i> and		
and generating a plurality of pro-	edetermined types of	generating a plurality of predetermined types of		
sounds.		sounds.		
Claim 8				
8. The television of claim 1, wherein said audio		8. The television of claim 1, wherein said audio		
multimedia circuit further comp	prises a serial line	multimedia circuit further comprises a serial line		
level output for generating a pl	urality of stereo	level output for generating a plurality of stereo		
signals to an external stereo sig	gnal connection.	signals to an external stereo signal connection.		

EXHIBIT B

UNITED STATES PATENT NUMBER 6.628.340-GLOSSARY OF TERMS

TERM DEFINITION

Analog Mixing

Circuit

A circuit that combines two or more analog audio signals

Analog-to-Digital/DigitalCircuitry within a single device capable of converting an analog input signal to a digital output signal and a digital input signal to an analog output signal

to-Analog Converter

to-Analog

Data/Fax/Voice

Modem

A communications circuit that uses modulation and demodulation techniques to enable a computer to transmit and receive digital data over a standard telephone network, which has the capability of: (1) sending and receiving data to and from another computer over a telephone line; (2) sending and receiving faxes to and from a fax machine or another fax modem over a telephone line; and (3) sending and receiving telephone voice signals

to and from a telephone, an answering machine, or another voice modem

Digital circuitry that combines two or more digital audio signals

Digital Sound

Mixing Circuitry

Digital Circuitry that generates audio from digital instructions

Synthesizing

Sound Circuitry

Directing Sending, either directly or indirectly

Monitor A display device

Personal A computer designed for general purpose use by one individual at a time

Computer

Television A circuit that includes the capability of receiving television signals

Circuit

S.D.Cal.,2005.

Hewlett-Packard Development Co., L.P. v. Gateway, Inc.

Produced by Sans Paper, LLC.