United States District Court, S.D. California.

Lucent TECHNOLOGIES, INC,

Plaintiff.

v.

GATEWAY, INC and Gateway Country Stores LLC; and, Microsoft Corporation; and, Dell, Inc, Defendants.

Civil Nos. 02CV2060-B(WMc), 03CV0699-B(WMc), 03CV1108-B(WMc)

Oct. 14, 2005.

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ORDER CONSTRUING CLAIMS FOR UNITED STATES PATENT NUMBER 4,582,956

RUDI M. BREWSTER, District Judge.

Before the Court is the matter of claims construction for U.S. Patent Number 4,582,956 ("the '956 Patent") in the above titled cases for patent infringement. FN1 Pursuant to Markman v. Westview Instruments, Inc., 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996), the Court conducted a Markman hearing regarding construction of the disputed claim terms for the '956 Patent on July 12 and 13, and September 14, 2005. Plaintiff Lucent Technologies, Inc. ("Lucent") was represented by the Kirkland & Ellis law firm, Defendant Gateway Inc. ("Gateway") was represented by the Dewey Ballantine law firm, Defendant Microsoft Corporation ("Microsoft") was represented by the law firm of Fish and Richardson and Defendant Dell, Inc. ("Dell") was represented by the Arnold and Porter law firm.

The purpose of the Markman hearing was for the Court, with the assistance of the parties, to prepare jury instructions interpreting the pertinent claims for all claim terms at issue in the '956 Patent. Additionally, the Court and the parties prepared a "case glossary" for terms found in the claims and the specification for the '956 Patent, considered to be technical in nature and which a jury of laypersons would not understand clearly without specific definition. As the case advances, the parties may request additional terms to be added to the glossary as to further facilitate the jury's understanding of the disputed claims.

After careful consideration of the parties' arguments and the applicable statues and case law, the Court **HEREBY CONSTRUES** all claim terms in dispute in the '956 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 4,582,956-CLAIM CHART

VERBATIM CLAIM LANGUAGE	COURT'S CLAIM CONSTRUCTION
CLAIM 1	CLAIM 1
A method for displaying at a selected	A method for displaying at a selected station special service
station special service information during a	information [data representing, for example, the digits of the
silent interval between ringing signals	calling station directory number, an alpha-numeric message,
from a telephone switching system, said	or any other indication which is intended to be displayed]
system being capable of sending to said	during a silent interval between ringing signals from a telephone
selected station a modulated and an	switching system, said system being capable of sending to said
unmodulated signal during said silent	selected station a modulated (signal) [a signal carrying
interval, said modulated signal	information (intelligence expressed digitally as countable
representing said special service	zeros and ones)] and an unmodulated signal [a signal
information; said method comprising the	containing no information (intelligence expressed digitally as
steps of:	countable zeros and ones)] during said silent interval, said
	modulated signal representing said special service
	information; said method comprising the steps of:
detecting said unmodulated signal during	detecting said unmodulated signal during said silent interval
said silent interval between said ringing	between said ringing signals;
signals;	
responsive to the detection of said	responsive to [responding or reacting to] the detection of said
unmodulated signal, receiving said	unmodulated signal, receiving said modulated signal
modulated signal representative of said	representative of said special service information during said
special service information during said	silent interval;
silent interval;	
storing said special service information	storing said special service information during said silent
during said silent interval; and	interval; and
displaying said stored special service	displaying said stored special service information at said
information at said selected station during	selected station during said silent interval.
said silent interval.	
CLAIM 4	CLAIM 4

The method as set forth in claim 1 in	The method as set forth in claim 1 in which said special service	
which said special service information	information includes a message type [category of message]	
includes a message type and wherein said	and wherein said receiving step includes the step of receiving	
receiving step includes the step of	said modulated signal representative of said message type	
receiving said modulated signal	during said silent interval after detecting said unmodulated	
representative of said message type during	signal.	
said silent interval after detecting said	5	
unmodulated signal.		
CLAIM 5	CLAIM 5	
The method as set forth in a claim 4 in	The method as set forth in a claim 4 in which special services	
which special services information further	information further includes a message length and wherein said	
includes a message length and wherein	step of receiving said modulated signal representative of said	
said step of receiving said modulated	special services information further includes the step of	
signal representative of said special	receiving said modulated signal representative of said message	
services information further includes the	length to store said special service information during said	
step of receiving said modulated signal	silent interval.	
representative of said message length to		
store said special service information		
during said silent interval.		
CLAIM 6	CLAIM 6	
The method as set forth in claim 5 in	The method as set forth in claim 5 in which said special services	
which said special services information	information further includes a check sum [information used	
further includes a check sum and wherein	for the detection of errors in the transmitted information]	
said step of receiving said modulated	and wherein said step of receiving said modulated signal	
signal representative of said special	representative of said special services information further	
services information further includes the	includes the step of receiving said modulated signal	
step of receiving said modulated signal	representative of said check sum to ascertain errors introduced	
representative of said check sum to	in sending said special service information during said silent	
ascertain errors introduced in sending said	interval.	
special service information during said		
silent interval.		
CLAIM 9	CLAIM 9	
Apparatus for displaying at a selected	Apparatus for displaying at a selected station special service	
station special service information during a	information during a silent interval between ringing signals	
silent interval between ringing signals	from a telephone switching system, said system being capable of	
from a telephone switching system, said	sending to said selected station a modulated and an	
system being capable of sending to said	unmodulated signal during said silent interval, said modulated	
selected station a modulated and an	signal representing said special service information; said	
unmodulated signal during said silent	apparatus comprising	
interval, said modulated signal		
representing said special service		
information; said apparatus comprising		
detector means for detecting said	detector means for detecting said unmodulated signal during	
unmodulated signal during said silent	said silent interval between said ringing signals;	
• , • • • • • • • • • • • • • • • • • •		
interval between said ringing signals;		

	Function:
	The function of this element is detecting said unmodulated
	signal during said silent interval between said ringing signals.
	Structure:
	Fig. 1, Box 102, Col. 2, Ln. 4-10, Col. 3, Lns. 67-Col. 4, Ln. 4.
receiver means responsive to the detection of said unmodulated signal for receiving said modulated signal representative of said special service information during said silent interval:	receiver means responsive to the detection of said unmodulated signal for receiving said modulated signal representative of said special service information during said silent interval;
	"Receiver means"
	Function:
	The function of this element is receiving said modulated signal representative of said special service information during said silent interval.
	Structure:
manage manage for staring sold and sight	Fig. 1, Box 102, Col. 2, Ln. 4-10, Col. 3, Lns. 6/-Col. 4, Ln. 4.
memory means for storing said special service information during said silent interval; and	during said silent interval; and
	"Memory means"
	Function:
	The function of this element is storing said special service information during said silent interval
	Data memory Fig. 1, box 123 (<i>See</i> , <i>e.g.</i> , Col.4, Lns.58-61, Col.4, Ln.61-Col.5, Ln.10), or, in the event the special service information is eight bits or less, then the structure is box 123 and the receive buffer register of the UART Fig. 1, box 125.
display means for displaying said stored special service information at said selected station during said silent interval.	display means for displaying said stored special service information at said selected station during said silent interval.
	"Display means"
	Function:
	The function of this element is displaying said stored special service information at said selected station during said silent interval.
	Structure:
	Display unit 126 (See Col. 5, Lns. 35-38).
CLAIM 15	CLAIM 15
A method for displaying at a selected station special service information during silent interval between ringing signals	A method for displaying at a selected station special service a information during a silent interval between ringing signals from a telephone switching system, said system being capable of

from a telephone switching system, said	sending to a said selected station a modulated and an	
system being capable of sending to a said	unmodulated signal during said silent interval, said modulated	
selected station a modulated and an	signal representing said special service information; said	
unmodulated signal during said silent	method comprising the steps of:	
interval, said modulated signal		
representing said special service		
information; said method comprising the		
steps of:		
detecting said unmodulated signal after the	detecting said unmodulated signal after the beginning of said	
beginning of said silent interval between	silent interval between said ringing signals;	
said ringing signals;		
responsive to the detection of said	responsive to the detection of said unmodulated signal.	
unmodulated signal, receiving said,	receiving said modulated signal representive [sic] of special	
modulated signal representive [sic] of	service information during said silent interval:	
special service information during said		
silent interval:		
storing said special service information	storing said special service information during said silent	
during said silent interval and	interval. and	
displaying said stored special service	displaying said stored special service information at said	
information at said selected station during	selected station during said silent interval	
said silent interval	selected station during said shelt mervar.	
CLAIM 16	CLAIM 16	
A method for dignlaving at a selected	CLAIM 10	
A method for displaying at a selected	A method for displaying at a selected station special service	
station special service information	information received during a silent interval between ringing	
received during a shent interval between	signals from a telephone switching system, said system being	
ringing signals from a telephone switching	capable of sending to said selected station an input signal during	
system, said system being capable of	said sheni interval, said input signal comprising a single	
sending to said selected station an input	irequency umodulated [Sic] irequency shift keyed (FSK)	
signal during said silent interval, said input	signal [an FSK signal containing no information (intelligence	
signal comprising a single frequency	expressed digitally as countable zeros and ones) j followed by	
(ESK) singl fillers d have us delated	a modulated FSK signal [an FSK signal carrying information	
(FSK) signal followed by a modulated	(intelligence expressed digitally as countable zeros and ones)	
FSK signal, said modulated FSK signal	j, said modulated FSK signal representing said special service	
representing said special service	information; said method comprising the steps of:	
information; said method comprising the		
steps of:	· · · · · · · · · · · · · · · · · · ·	
at said selected station, within said silent	at said selected station, within said silent interval between	
interval between ringing signals, following	ringing signals, following a first period of time during which	
a first period of time during which neither	neither said unmodulated nor said modulated signal is	
said unmodulated nor said modulated	received, detecting said single frequency unmodulated FSK	
signal is received, detecting said single	signal for a second period of time within said silent interval	
trequency unmodulated FSK signal for a	between ringing signals, said detecting being independent of a	
second period of time within said silent	length of said second period, said single frequency unmodulated	
interval between ringing signals, said	FSK signal representing no detectable information;	
detecting being independent of a length of		
said second period, said single frequency		
unmodulated FSK signal representing no		

detectable information;	
following said detecting of said single	following said detecting of said single frequency unmodulated
frequency unmodulated FSK signal,	FSK signal, detecting and demodulating [recovering a data
detecting and demodulating said	message from a modulated signal] said modulated FSK signal
modulated FSK signal to produce an	to produce an indication of characters of said special service
indication of characters of said special	information;
service information;	
storing said indication of said special	storing said indication of said special service information
service information during said silent	during said silent interval; and
interval; and	
displaying said stored special service	displaying said stored special service information at said
information at said selected station during	selected station during said silent interval.
said silent interval.	
CLAIM 17	CLAIM 17
The method of claim 16 wherein said first	The method of claim 16 wherein said first period of time is at
period of time is at least 300 milliseconds	least 300 milliseconds long.
long.	
CLAIM 18	CLAIM 18
Apparatus for displaying at a selected	Apparatus for displaying at a selected station special service
station special service information	information received during a silent interval between ringing
received during a silent interval between	signals from a telephone switching system, said system being
ringing signals from a telephone switching	capable of sending to said selected station an input signal during
system, said system being capable of	said silent interval, said input signal comprising a single
sending to said selected station an input	frequency unmodulated frequency shift keyed (FSK) signal
signal during said silent interval, said input	and a modulated FSK signal, said modulated FSK signal
signal comprising a single frequency	representing said special service information; said apparatus
unmodulated frequency shift keyed (FSK)	comprising:
signal and a modulated FSK signal, said	
modulated FSK signal representing said	
special service information; said apparatus	
comprising:	
means for detecting, within said silent	means for detecting, within said silent interval between ringing
interval between ringing signals,	signals, following a first period of time during which neither
following a first period of time during	said unmodulated nor said modulated signal is received, said
which neither said unmodulated nor	single frequency unmodulated FSK signal for a second period
said modulated signal is received, said	of time within said silent interval between ringing signals, said
single frequency unmodulated FSK	detecting being independent of a length of said second period,
signal for a second period of time	said single frequency unmodulated FSK signal representing no
within said silent interval between	detectable information;
ringing signals, said detecting being	
independent of a length of said second	
period, said single frequency	
unmodulated FSK signal representing	
no detectable information;	
	"Means for detecting"

Function:

	The function of this element is detecting said single frequency unmodulated FSK signal. <i>Structure:</i>
	Fig. 1, box 112, col. 2, Lns. 4-7
means, responsive to said means for detecting said single frequency unmodulated FSK signal, for detecting and demodulating, following said detection of said single frequency unmodulated FSK signal, said modulated FSK signal to produce an indication of characters of said special service information:	means, responsive to said means for detecting said single frequency unmodulated FSK signal , for detecting and demodulating , following said detection of said single frequency unmodulated FSK signal , said modulated FSK signal to produce an indication of characters of said special service information ;
	"Means for detecting and demodulating"
	Function:
	The function of this element is detecting and demodulating said modulated FSK signal to produce an indication of characters of said special service information . <i>Structure</i> :
	Fig. 1 box 102 Col. 2 Lps 4-10 Col. 3 Lp 67-Col.4 Lp.4
means for storing said indication of said special service information during said silent interval: and	means for storing said indication of said special service information during said silent interval; and
	"Means for storing"
	Function:
	The function of this element is storing said indication of said special service information during said silent interval. <i>Structure:</i>
	Data memory Fig. 1, box 123 (<i>See, e.g.</i> , Col.4, Lns.58-61, Col.4, Ln.67-Col.5, Ln.10), or, in the event the special service information is eight bits or less, then the structure is box 123 and the receive buffer register of the UART Fig. 1, box 125.
means for displaying said stored special service information at said selected station station during said silent interval.	means for displaying said stored special service information at said selected station station during said silent interval.
	"Means for displaying"
	Function:
	The function of this element is displaying said stored special service information at said selected station during said silent interval.
	Structure:
	Display unit 126 (<i>See e.g.</i> Col. 2, Lns. 14-16, Col. 5, Lns. 35- 38)

CLAIM 19

CLAIM 19

The apparatus of claim 18 wherein said first period of time is at least 300 milliseconds long.

The apparatus of claim 18 wherein said first period of time is at least 300 milliseconds long.

EXHIBIT B

GLOSSARY FOR UNITED STATES PATENT NUMBER 4,582,956

TERM	DEFINITION
check sum	information used for the detection of errors in the transmitted information
demodulating	recovering a data message from a modulated signal
frequency shift keyed	a signal that may comprise two carrier frequencies, one of which represents a 'zero'
(FSK) signal	and the other of which represents a 'one'
message data	intelligence of the message without any of the protocols that surround it
message type	category of message
modulated signal	a signal carrying information (intelligence expressed digitally as countable zeros and
	ones)
modulated FSK	an FSK signal carrying information (intelligence expressed digitally as countable
signal	zeros and ones)
responsive to	responding or reacting to
special service	data representing, for example, the digits of the calling station directory number, an
information	alpha-numeric message, or any other indication which is intended to be displayed
unmodulated signal	a signal containing no information (intelligence expressed digitally as countable zeros
	and ones)
unmodulated FSK	an FSK signal containing no information (intelligence expressed digitally as
signal	countable zeros and ones)

FN1. Lucent originally filed two separate patent infringement actions, one against Defendant Gateway (02CV2060), and a second against Defendant Dell (03CV1108). Microsoft intervened in the action filed by Lucent against Gateway. Microsoft also filed a declaratory judgment action against Lucent (03CV0699) and Lucent filed counterclaims for patent infringement against Microsoft in that action. On July 7, 2003, the Court entered an order consolidating these three cases. There are a total of 15 different patents involved in these three cases collectively.

S.D.Cal.,2005. Technologies, Inc. v. Gateway, Inc.

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