

United States District Court,
E.D. Texas, Marshall Division.

QPSX DEVELOPMENTS 5 PTY LTD,
Plaintiff.

v.

JUNIPER NETWORKS, et al,
Defendants.

Civil Action No. 2:05-CV-268 (TJW)

April 17, 2007.

D. Dudley Oldham, Robert Stanford Harrell, Jon C. Rice, Fulbright & Jaworski, Houston, TX, Brett Christopher Govett, Robert Martin Chiaviello, Jr., Fulbright & Jaworski, Dallas, TX, Deborah J. Race, James Patrick Kelley, Otis W. Carroll, Jr., Ireland Carroll & Kelley, Tyler, TX, Franklin Jones, Jr., Jones & Jones, Marshall, TX, for Plaintiff.

J. Michael Jakes, Finnegan Henderson Farabow Garrett & Dunner, Washington, DC, Marvin S. Gittes, Richard M. Lehrer, Timur E. Slonim, Mintz Levin Cohn Ferris Glovsky & Popeo PC, New York, NY, Kay Lynn Brumbaugh, Tonya Michelle Gray, Andrews Kurth LLP, Dallas, TX, for Defendants.

ORDER

T. JOHN WARD, District Judge.

The Court issues this supplemental claim construction order in light of Defendant Nortel Networks, Inc.'s ("Nortel") argument during trial regarding the meaning of a term in the Court's January 10, 2007, claim construction order. The claim language at issue is "at all times not admit for storage in said buffer any cells on said virtual channel connections for which since the previous indication of said end of transmission on said virtual channel connection there has been any rejection of cells for storage." The Court previously construed this limitation to mean "at all times, if there has been any rejection of cells on a virtual channel connection since the receipt of a cell on that virtual channel connection that contains an end of transmission indication, not admit any cells arriving on the virtual channel connection for storage in said buffer."

Nortel has suggested that this construction requires that, after any rejection of a cell on a virtual channel connection, all future cells arriving on that virtual channel connection cannot be admitted for storage in the buffer. The Court did not intend this construction, and Nortel did not suggest this construction in its *Markman* briefing or at the *Markman* hearing.

Claim construction is an issue of law for the court to decide. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 970-71 (Fed. Cir.1995) (en banc), *aff'd*, 517 U.S. 370 (1996). The Court must construe claims in the context of the entire patent. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed.Cir.2005) (en banc). One

of ordinary skill in the art, after reading the entire patent, would understand that this claim limitation is focused on cells in a given frame. *See* 5,689,499 Patent, Fig. 9, 9:53-10:6. Accordingly, the Court construes this limitation to mean "at all times, if there has been any rejection of cells from a particular frame on a virtual channel connection since the receipt of a cell on that virtual channel connection that contains an end of transmission indication, not admit any other cells from that particular frame arriving on the virtual channel connection for storage in said buffer."

E.D.Tex.,2007.

QPSX Developments 5 Pty Ltd v. Juniper Networks

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