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(LAB), 03CV0699-B(LAB), 03CV1108-B(LAB)

Oct. 29, 2003.

ORDER CONSTRUING CLAIMS FOR PATENT NUMBER 4,317,956

RUDI M. BREWSTER**, District Judge.**

Before the Court is the matter of claims construction for U.S. Patent Number 4,317,956 ("the Torok '956 Patent") in the above titled cases for patent infringement. FN1 Pursuant to Markman v. Westview Instruments. Inc., 517 U.S. 370 (1996), the Court conducted a Markman hearing regarding construction of the disputed claim terms for the Torok ' 956 Patent on September 24th, 2003. 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.

FN1. Lucent originally filed two separate action, one against Defendants Gateway and Microsoft (02CV2060), a second against Defendant Dell (03CV1108) for patent infringement on 15 different patents. Additionally, Defendant Microsoft filed a declaratory judgment action against Lucent on those patents asserted by Lucent against Microsoft (03CV0699). On July 7, 2003, the Court entered an order consolidating the three cases.

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 Torok '956 Patent. Additionally, the Court and the parties prepared a "case glossary" for terms found in the claims and the specification for the Torok '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 Torok '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

VERBATIM CLAIM ELEMENT [FN2]	***MEANING AS DECIDED IN MARKMAN HEARING***

FN2. A1I terms which are underlined and bold-faced in the verbatim column are clarified and/or defined in the corresponding "meaning" column.

CLAIM 1

A display system having	As is.
a sending unit and	As is.
a viewing unit for displaying images created at said sending unit, characterized by	As is.
means for displaying a selective distinctive graphic image at positions on said viewing unit corresponding to positions where said images are being changed on said sending unit.	*Function:* displaying a selective distinctive graphic image at positions on the viewing, unit corresponding to positions where the images are being changed on said sending unit. *Corresponding Structure:* (1) The electronic chalkboard 11. (*See* Fig. 1; Col. 3:50-Col. 5:15); (2) Graphics transceiver 10 at the sending unit. (*See* Figs. 1, 7 & 8; Col. 3:21-47; Col. 5:10-Col. 7:31); (3) Graphics transceiver 10 at the viewing unit. (*See* Figs. 1, 7 & 9; Col. 3: 21-47; Col. 5:10-Col. 7:31; (4) Memory Circuitry 12. (*See* Figs. 1 & 10; Col. 7:35-Col. 9:29); (5) Cursor generation circuitry 100. (*See* Figs. 1 & 10; Col 7:35-Col.9:29); (6) TV monitor 13. (*See* Fig. 1; Col. 3:11-12); and,
	(7) All inputs, outputs, and interconnections of those hardware elements.

CLAIM 3:

The invention set forth in claim 1 wherein a first one of said distinctive graphic images represents the addition of an image to	As is.

said viewing unit and a second one of said distinctive graphic images represents the removal of an image from said viewing unit.	

CLAIM 5:

The invention set forth in claim 1 wherein a first one of said selected distinctive graphic images represents the change of an image at a first one of said sending units and a second one of said selected distinctive graphics images represents the change of an image at a second one of said sending units.	As is.

CLAIM 15:

The method of providing images on a viewing screen, said images representative of information transmitted from a sending unit, said method comprising the steps ofAs is.

receiving transmitted data representative of the location on said viewing screen of changed data,	As is.
sequentially and repetitively providing said received data to said viewing screen,	As is.
generating an overlay image	As is. ***Overlay Image***-refers to a graphical image that is either superimposed on or next to another displayed image.
	Generating an overlay image-creating a graphical image that is either superimposed on or next to another displayed image.
mixing said generated overlay image with said provided data to said viewing screen so that said generated overlay image is positioned with respect to a determined location of said last changed data.	As is.

CLAIM 17:

The invention set forth in claim 15 further comprising the step of determining if said received data represents an addition or a subtraction of information from said sending unit, and	As is.
wherein said generating step includes the generation of the first and second overlay images controlled by whether said changed data is determined to represent said addition or subtraction, respectively.	As is.

CLAIM 18:

The method of providing cursor images in a ***telautograph system*** having a sending unit and a separate viewing unit for observing images created on said sending unit, characterized in that said method includes the steps of	As is.
	telautograph system-refers to a system in which images, drawings or other handwriting on a special surface created at a location are displayed at one or more remote

	locations.
generating separate from said drawn images distinctive graphic images, and	As is.
selectively enabling one of said generated graphic images so as to provide a selected one of said graphic images to said viewing unit at the position on said viewing unit corresponding to where images created on said sending unit are being changed.	As is.

CLAIM 21:

The invention set forth in claim 18 further comprising the step of determining as between two sending units the currently active sending unit, and selecting particular one of said generated graphic images depending upon the determined sending unit.	As is.

EXHIBIT B-GLOSSARY OF TERMS

Overlay Image-refers to a graphical image that is either superimposed on or next to another displayed image.

Generating an overlay image-creating a graphical image that is either superimposed on or next to another displayed image.

telautograph system-refers to a system in which images, drawings or other handwriting on a special surface created at a location are displayed at one or more remote locations.

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