

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)

March 2, 2004.

Alan S. Kellman, Anne Hassett, James T. Bailey, Jeanne M. Heffernan, John M. Desmarais, Maxine Y. Graham, Robert A. Appleby, Steven Lever, Todd M. Friedman, Kirkland and Ellis, New York, NY, David A. Hahn, David A. Hahn, Attorney at Law, San Diego, CA, for Plaintiff.

Ali R. Sharifahmadian, Joseph A. Micallef, Arnold and Porter, Joel M. Freed, McDermott Will and Emery, Washington, DC, James S. Blackburn, Arnold and Porter, Los Angeles, CA, for Dell, Inc.

**AMENDED ORDER SUPERCEDING THE ORDER OF OCTOBER 29, 2003, CONSTRUING
CLAIMS FOR PATENT NUMBER 4,763,356**

RUDI M. BREWSTER, District Judge.

Pursuant to stipulation by the parties, this Order supercedes the Court's October 29, 2003 order construing claims regarding U.S. Patent Number 4,763,356 ("the Day '356 Patent").

Before the Court is the matter of claims construction for the Day '356 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 Day '356 Patent on September 22nd and 23rd, 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 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.

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 Day '356 Patent. Additionally, the Court and the parties prepared a "case glossary" for terms found in the claims and the specification for the Day '356 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 statutes and case law, the Court **HEREBY CONSTRUES** all claim terms in dispute in the Day '356 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. All terms which are underlined and bold-faced in the verbatim column are clarified and/or defined in the corresponding "meaning" column.

CLAIM 1

An arrangement for use in a computer having a display associated therewith comprising	As is.
<i>means</i> for displaying on said display a pattern including a plurality of information fields and for identifying for each field a kind of information to be inserted therein,	<i>Function:</i> The means for performing the function of displaying on the display a pattern including a plurality of information fields and identifying for each field a kind of information to be inserted therein.
	<i>Corresponding Structure:</i> To perform the above stated function, the corresponding structure is a microprocessor 211 programmed with the algorithm that displays a form 1501-1502, an associated controller-220 and/or 219-and a display-21 and/or (16 and 18). (<i>see</i> Fig. 13, Col. 11:57-58; Fig. 15, Col. 13:24-31; Col. 11:62-64; Col. 12:8-11).
VERBATIM CLAIM ELEMENT	MEANING AS DECIDED IN MARKMAN HEARING

means for indicating a particular one of said information fields into which information is to be inserted and for ***concurrently displaying a predefined tool associated with said one of said fields***, said predefined tool being operable to supply information of the kind identified for said one

Function: The function is indicating a particular one of the information fields into which information is to be inserted and concurrently displaying a predefined tool associated with that particular field.

field, said tool being selected from a group of predefined tools including at least a *tool adapted to supply an individual entry from a menu of alternatives and at least a tool adapted to allow said user to compose said information*, and

Corresponding Structure: The corresponding structure is a microprocessor 211 (*see* Fig. 13) programmed with the algorithm that indicates the currently active information field and displays a tool 1503-1515 (*see* Fig. 15) an associated "controller"-220 and/or 219 (*see* Fig. 1 & 13), and a "display"-21 and/or (16 and 18)). (*See* Fig. 13; Col. 13:31-51; 57-58; 64-68; Col. 14: 1-20; 25-29).

Concurrently displaying-displaying at the same time, as by a window overlaying the form.

Predefined tools associated with said one of said fields-refers to a tool specified by the system as an appropriate tool for filling in the information called for by that field.

	<i>A tool adapted to allow said user to compose said information</i> -means a graphical keyboard tool or a graphical number keypad tool, which allows the user to compose information by pointing to the display keys of that tool.
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means for inserting in said one field information that is derived as a result of said user operating said displayed tool.

Function: The function is inserting in a particular field information that is derived as a result of the user operating the displayed tool.

	<i>Corresponding Structure:</i> The corresponding structure is a microprocessor 211 (<i>see</i> Fig. 13) with the algorithm that inserts information derived from a tool into an information field 1512, 1523-24, 1526, 1530 (<i>see</i> Fig. 15) and an associated "controller"-220 and/or 219. (<i>See</i> Figs. 13; Col. 11: 57-58; Col. 13:68-Col. 14:4; Col. 14: 50-Col. 15:19).
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VERBATIM CLAIM ELEMENT

MEANING AS DECIDED IN MARKMAN HEARING

CLAIM 2:

The arrangement set forth in claim 1 wherein said group of predefined tools further includes a tool which displays <i>transitory information</i> , said transitory information being changed periodically.	As is. <i>Transitory information</i> -Information that is changed from time to time.
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CLAIM 4:

The arrangement set forth in claim 1 wherein said tool adapted to allow said user to compose said information includes at least a number pad, a keyboard, and a calculator.	As is.
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CLAIM 6:

The arrangement set forth in claim 1 wherein said display includes a touch-sensitive screen overlaying said display.	As is.
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CLAIM 7:

The arrangement set forth in claim 1 wherein at least one of said fields is a bitmapped-graphics field adapter to allow said user to compose said information by writing on said bit-mapped-graphics field.	As is. Bit-mapped-graphics field -refers to a field into which a user is to enter information by writing on a touch-sensitive screen using a stylus.
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CLAIM 10:

An arrangement for use in a computer having a display comprising	As is.
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VERBATIM CLAIM ELEMENT	MEANING AS DECIDED IN MARKMAN HEARING
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means for displaying a plurality of information fields and for identifying for each field a kind of information to be inserted therein,	<i>Function:</i> The function is displaying on the display a pattern including a plurality of information fields and identifying for each field a kind of information to be inserted therein.
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	<i>Corresponding Structure:</i> To perform the above stated function, the corresponding structure is a microprocessor 211 programmed with the algorithm that displays a form 1501-1502, an associated controller-220 and/or 219-and a display-21 and/or (16 and 18).(see Fig. 13, Col. 11:57-58; Fig. 15, Col. 13:24-31; Col. 11:62-64; Col. 12:8-11).
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means for storing a plurality of predefined tools associated with respective ones of said fields , each of said tools being adapted to supply information of the kind identified for its associated field, and	<i>Function:</i> storing a plurality of predefined tools associated with respective ones of said fields.
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Corresponding Structure: Microprocessor 211, hard disk 214, memory management circuitry 212, and interrupt controller 218. (See Col. 11:57-61; Col. 15:39-45).

	Predefined tools associated with said one of said fields -refers to a tool specified by the system as an appropriate tool for filling in the information called for by that field.
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VERBATIM CLAIM ELEMENT	MEANING AS DECIDED IN MARKMAN HEARING
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means responsive to information being inserted in at least one of said fields for indicating another of said fields to be filled in and for concurrently displaying the respective one of said tools to be used by the user to supply the kind of information identified for said other field.	<i>Function:</i> in response to information being inserted in one of the fields, indicating another of the fields to be filled in and concurrently displaying the respective one of said tools to be used by the user to supply the information identified for the other field.
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Corresponding Structure: microprocessor 211 programmed with the algorithm that indicates the currently active information field and displays a tool 1528-29, 1504-1515, an associated controller-220 and/or

219-and a "display"-21 and/or (16 and 18). (See Figs. 15 & 16; Col. 15:3-13; Col. 13:31-68; Col. 14:1-20).

Concurrently displaying-displaying at the same time, as by a window overlaying the form.

CLAIM 11:

The arrangement set forth in claim 10 wherein said one tool is selected from a group of tools including (a) a menu tool which displays a plurality of predefined items in which said user selects one of said items to be inserted in the associated field by pointing to that item, and (b) a tool adapted to allow said user to compose the information to be inserted in the associated field.	As is.
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CLAIM 12:

The arrangement set forth in claim 11 wherein said group of tools further includes a tool which displays information which is changed periodically so that the information that is to be inserted in the associated field is current.	As is.
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CLAIM 13:

The arrangement set forth in claim 10 wherein said plurality of predefined tools includes at least a number pad, a keyboard, and a calculator.	As is.
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VERBATIM CLAIM ELEMENT	MEANING AS DECIDED IN MARKMAN HEARING
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CLAIM 15:

The arrangement set forth in claim 10 wherein said display involves a touch-sensitive screen overlaying said display	As is.
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CLAIM 16:

The arrangement set forth in claim 10 wherein at least one of said fields is a bit-mapped-graphics field adapted to allow said user to compose said information by writing in said bit-mapped-graphics field.	As is. Bit-mapped-graphics field -refers to a field into which a user is to enter information by writing on a touch sensitive screen using a stylus.
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CLAIM 19:

A method for use in a computer having a display comprising the steps of	As is.
displaying on said display a plurality of information fields,	As is.
identifying for each field a kind of information to be inserted therein,	As is.
indicating a particular one of said information fields into which information is to be inserted and for concurrently displaying a predefined tool associated with said one of said fields , said predefined tool being operable to supply information of the kind identified for said one field, said tool being selected from a group of predefined tools including a tool adapted to supply an individual entry from a menu of alternatives and at least a tool adapted to allow said user to compose said information , and	As is. Concurrently displaying -displaying at the same time, as by a window overlaying the form. Predefined tools associated with said one of said fields -refers to a tool specified by the system as an appropriate tool for filling in the information called for by that field. A tool adapted to allow said user to compose said information -means a graphical keyboard tool or a graphical number keypad tool, which allows the user to compose information by pointing to the display keys of that tool.

VERBATIM CLAIM ELEMENT	MEANING AS DECIDED IN MARKMAN HEARING
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inserting in said one field information that is derived as a result of said user operating said displayed tool.	As is.
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CLAIM 21:

The method set for claim 19 wherein the step of displaying said pattern includes the step of displaying one or more of said information fields as a ***bit-mapped-graphics field***.

As is. ***Bit-mapped-graphics field***-refers to a field into which a user is to enter information by writing on a touch sensitive screen using a stylus.

EXHIBIT B-GLOSSARY OF TERMS

Predefined tools associated with said one of said fields-refers to a tool specified by the system as an appropriate tool for filling in the information called for by that field.

Concurrently displaying-displaying at the same time, as by a window overlaying the form.

Transitory information-Information that is changed from time to time

Bit-mapped-graphics field-refers to a field into which a user is to enter information by writing on a touch sensitive screen using a stylus.

A tool adapted to allow said user to compose said information-means a graphical keyboard tool or a graphical number keypad tool, which allows the user to compose information by pointing to the display keys of that tool.

S.D.Cal.,2004.

Lucent Technologies, Inc. v. Gateway, Inc.

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