United States District Court,
S.D. California.

LUCENT TECHNOLOGIES, INC,
Plaintiff.
v.
GATEWAY, INC and Gateway Country Stores LLC; Microsoft Corp.; and Dell, Inc,
Defendants.

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

March 2, 2004.

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AMENDED ORDER SUPERCEDING THE ORDER OF NOVEMBER 17, 2003, CONSTRUING CLAIMS FOR U.S. PATENT NUMBER 5,649,131

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

Pursuant to stipulation by the parties, this Order supercedes the Court's November 17, 2003 order construing claims regarding U.S. Patent Number 5,649,131 ("the '131 Patent").

In the above-identified cases, Plaintiff, Lucent Technologies ("Lucent"), brought suit against Defendants, Gateway Inc. ("Gateway"); Microsoft Corp. ("Microsoft"); and Dell, Inc. ("Dell"), for patent infringement of the '131 Patent. FN1, FN2

Pursuant to Markman v. Westview Instruments, 52 F.3d 967 (Fed.Cir.1995), the Court conducted a hearing

on September 24-25 and October 1-2, 2003 to construe the disputed claim terms of the '131 Patent. FN3 At the hearing, Lucent was represented by the Kirkland & Ellis law firm, the Dewey Ballantine law firm represented Gateway, the law firm of Fish and Richardson represented Microsoft, and Dell was represented by the Arnold and Porter law firm.

The Court, with the assistance of the parties, prepared jury instructions interpreting the pertinent claims for all claim terms at issue in the '131 Patent. Additionally, a "Glossary" was prepared for terms found in the '131 Patent, considered to be technical in nature and which a jury of laypersons would not understand without a specific definition. As the case advances, the parties may request additional terms to be added to the glossary as may seem helpful to the jury.

After careful consideration of the parties' arguments and the applicable law, the Court **HEREBY CONSTRUES** all disputed claim terms in the '131 Patent, attached as Exhibit A. Further, the Court **HEREBY DEFINES** all pertinent technical terms as written in exhibit B, attached hereto.

IT IS SO ORDERED

EXHIBIT A

CLAIM LANGUAGE [FN4]	***COURT'S INTERPRETATION***
CLAIM 1	
A method of operating a ***host processor*** communicating with a ***terminal device,*** said method comprising the steps of	"Host processor" refers to a computer that communicates with one or more users to provide services such as transaction processing or database access.
	"Terminal device" refers to a computing device such as a data terminal, workstation, portable computer, or smart phone that enables a user to communicate with a host processor. It manages its associated display itself and manages its internal memory with the assistance of the host processor.
assigning an ***identifier*** to a respective one of a plurality of ***input object types,*** and	"Identifier" refers to a unique label assigned to identify each one of a plurality of input object types and, if any, each one of a plurality of group identifier types.
	"Input object type(s)" refers to a kind of displayable graphical symbol that is suitable for display on a user's terminal device and that generates particular input when touched, or manipulated, by a user.
transmitting said identifier and its respective input object type ***to said device,*** wherein said plurality of object types includes at least two of the object types ***choice, entry, text,*** and ***image.***	"Transmitting ... to said device" means transmitting information directly to the device without first transmitting it to a site processor which then retransmits it.
	"Choice" refers to an input object type that may be selected by a user

	when displayed. "Entry" refers to an input object type that solicits information from a user when displayed. "Text" refers to an input object type that provides textual information to a user when displayed.
	"Image" refers to an input object type that displays a graphic image.
CLAIM 2	
A method of operating a ***host processor*** communicating with a ***terminal device,*** said method comprising the steps of	"Host processor" refers to a computer that communicates with one or more users to provide services such as transaction processing or database access.
	"Terminal device" refers to a computing device such as a data terminal, workstation, portable computer, or smart phone that enables a user to communicate with a host processor. It manages its associated display itself and manages its internal memory with the assistance of the host processor.
assigning an ***identifier*** to a respective one of a plurality of ***input object types,***	"Identifier" refers to a unique label assigned to identify each one of a plurality of input object types and, if any, each one of a plurality of group identifier types.
	"Input object type(s)" refers to a kind of displayable graphical symbol that is suitable for display on a user's terminal device and that generates particular input when touched, or manipulated, by a user.
transmitting said identifier and its respective input object type *to said device,* and	"Transmitting ... to said device" means transmitting information directly to the device without first transmitting it to a site processor which then retransmits it.
responding to a ***manipulation*** of the object at said terminal by transmitting to said processor a) said identifier and b) data representative of said manipulation, wherein said manipulation includes at least selection of said object; entry of data; or retrieval of display data.	"Manipulation" refers to the function of supplying information requested on an object transmitted to a terminal. Manipulation can be performed in a number of different ways, such as by touching the screen or "clicking" on an object or by operating one or more entry keys, such as typing. In this element of claim 2, the manipulation function includes at least one of the available system alternatives of: (a) Selection of an object; (b) Entry of data; and (c) Retrieval of display data.
CLAIM 3	
A method of operating a ***host processor*** communicating with a ***terminal device,*** said method comprising the steps of	"Host processor" refers to a computer that communicates with one or more users to provide services such as transaction processing or database access.

	"Terminal device" refers to a computing device such as a data terminal, workstation, portable computer, or smart phone that enables a user to communicate with a host processor. It manages its associated display itself and manages its internal memory with the assistance of the host processor.
assigning an ***identifier*** to a respective one of a plurality of predefined ***presentation data types,*** said host being the originator of said identifier and said presentation data types,	"Identifier" refers to a unique label assigned to identify each one of a plurality of input object types and, if any, each one of a plurality of group identifier types.
	"Presentation data type" means data of the type that represents a particular item to be displayed by the terminal device and that is used by the end-user in a manner that is completely independent of the terminal device. In addition, presentation data types: (I) do not contain methods or executable code; (ii) do not link to, are not embedded in, and do not embed in themselves other presentation data types; and (iii) have parameters that specify input capability, including at least an item identifier to distinguish various data items that will be displayed on a display.
transmitting said identifier and its respective presentation data type ***to said device,*** and	"Transmitting ... to said device" means transmitting information directly to the device without first transmitting it to a site processor which then retransmits it.
responsive to a ***manipulation*** of said respective presentation data type at said terminal device, transmitting to said processor said identifier and data representative of said manipulation, and further comprising the step of	"Manipulation" refers to the function of supplying information requested on an object transmitted to a terminal. Manipulation can be performed in a number of different ways, such as by touching the screen or "clicking" on an object or by operating one or more entry keys, such as typing.
further ***transmitting to said device*** at least a first **datum,** and	"Transmitting to said device" means transmitting information directly to the device without first transmitting it to a site processor which then retransmits it.
	"Datum" is the singular of data.
wherein said data representative of said manipulation includes said first ***datum.***	No Construction Needed.

CLAIM 4

A method of operating a ***host processor*** communicating with a ***terminal device,*** said method comprising the steps of	"Host processor" refers to a computer that communicates with one or more users to provide services such as transaction processing or database access.
	"Terminal device" refers to a computing device such as a data terminal, workstation, portable computer, or smart phone that enables

	a user to communicate with a host processor. It manages its associated display itself and manages its internal memory with the assistance of the host processor.
assigning an ***identifier*** to a respective one of a plurality of predefined ***presentation data types,*** said host being the originator of said identifier and said presentation data types,	"Identifier" refers to a unique label assigned to identify each one of a plurality of input object types and, if any, each one of a plurality of group identifier types.
	"Presentation data type" means data of the type that represents a particular item to be displayed by the terminal device and that is used by the end-user in a manner that is completely independent of the terminal device. In addition, presentation data types: (I) do not contain methods or executable code; (ii) do not link to, are not embedded in, and do not embed in themselves other presentation data types; and (iii) have parameters that specify input capability, including at least an item identifier to distinguish various data items that will be displayed on a display.
transmitting said identifier and its respective presentation data type ***to said device,*** and	"Transmitting ... to said device" means transmitting information directly to the device without first transmitting it to a site processor which then retransmits it.
responsive to a ***manipulation*** of said respective presentation data type at said terminal device, transmitting to said processor said identifier and data representative of said manipulation,	"Manipulation" refers to the function of supplying information requested on an object transmitted to a terminal. Manipulation can be performed in a number of different ways, such as by touching the screen or "clicking" on an object or by operating one or more entry keys, such as typing.
further transmitting to said device at least a first ***datum***[FN5],	"Datum" is the singular of data.
wherein said data representative of said manipulation includes said first datum and wherein said respective presentation data type is representative of one or a plurality of different ***object types,*** and	"Object types" refers to an item defined by a set of predefined properties and associated attributes.
presenting said first datum as a ***default data entry value*** for said one object type.	"Default data entry value" means data value entered into an object unless the user changes it.

CLAIM 5

A method of operating a ***host processor*** communicating with a ***terminal device,*** said method comprising the steps of	"Host processor" refers to a computer that communicates with one or more users to provide services such as transaction processing or database access.
	"Terminal device" refers to a computing device such as a data terminal, workstation, portable computer, or smart phone that enables

	a user to communicate with a host processor. It manages its associated display itself and manages its internal memory with the assistance of the host processor.
assigning an ***identifier*** to a respective one of a plurality of predefined ***presentation data types,*** said host being the originator of said identifier and said presentation data types,	"Identifier" refers to a unique label assigned to identify each one of a plurality of input object types and, if any, each one of a plurality of group identifier types.
	"Presentation data type" means data of the type that represents a particular item to be displayed by the terminal device and that is used by the end-user in a manner that is completely independent of the terminal device. In addition, presentation data types: (I) do not contain methods or executable code; (ii) do not link to, are not embedded in, and do not embed in themselves other presentation data types; and (iii) have parameters that specify input capability, including at least an item identifier to distinguish various data items that will be displayed on a display.
transmitting said identifier and its respective presentation data type ***to said device,*** and	"Transmitting ... to said device" means transmitting information directly to the device without first transmitting it to a site processor which then retransmits it.
further transmitting to said device at least a first ***datum,*** and	"Datum" is the singular of data
providing at said device a second datum that is a function of said first datum.	No Construction Needed.

CLAIM 6

The invention of claim 5 wherein said second datum comprises data available at said device but not available at said host processor.	No Construction Needed.

CLAIM 7

The invention of claim 6 wherein said first datum is a ***function call.***	"Function call" means the initiation of a software routine.

CLAIM 9

The invention of claim 5 wherein said respective presentation data type is representative of one of a plurality of different ***object types*** and wherein said method further comprises the step of presenting said second datum at said device as a ***default data entry value*** for said one object type.	"Default data entry value" means data value entered into an object unless the user changes it.

	"Object types" refers to an item defined by a set of predefined properties and associated attributes.

CLAIM 10

The invention of claim 5 further comprising the step of responsive to a ***manipulation*** of said respective presentation data type at said terminal device, transmitting to said processor said ***identifier*** and data representative of said manipulation, wherein said data representative of said manipulation includes said second datum."Manipulation" refers to the function of supplying information requested on an object transmitted to a terminal. Manipulation can be performed in a number of different ways, such as by touching the screen or "clicking" on an object or by operating one or more entry keys, such as typing.

"Identifier" refers to a unique label assigned to identify each one of a plurality of input object types and, if any, each one of a plurality of group identifier types.

EXHIBIT B

GLOSSARY OF TERMS FOR U.S. PATENT NO. 5,649,131

Choice refers to an input object type that may be selected by a user when displayed.

Datum is the singular of data.

Default data entry value means data value entered into an object unless the user changes it.

Entry refers to an input object type that solicits information from a user when displayed.

Function call means the initiation of a software routine.

Host processor refers to a computer that communicates with one or more users to provide services such as transaction processing or database access.

Identifier refers to a unique label assigned to identify each one of a plurality of input object types and, if any, each one of a plurality of group identifier types.

Image refers to an input object type that displays a graphic image.

Input object type(s) refers to a kind of displayable graphical symbol that is suitable for display on a user's terminal device and that generates particular input when touched, or manipulated, by a user.

Manipulation refers to the function of supplying information requested on an object transmitted to a terminal. Manipulation can be performed in a number of different ways, such as by touching the screen or "clicking" on an object or by operating one or more entry keys, such as typing. In this element of claim 2, the manipulation function includes at least one of the available system alternatives of: (a) Selection of an object; (b) Entry of data; and (c) Retrieval of display data.

Presentation data type means data of the type that represents a particular item to be displayed by the

terminal device and that is used by the end-user in a manner that is completely independent of the terminal device. In addition, presentation data types: (I) do not contain methods or executable code; (ii) do not link to, are not embedded in, and do not embed in themselves other presentation data types; and (iii) have parameters that specify input capability, including at least an item identifier to distinguish various data items that will be displayed on a display.

Terminal device refers to a computing device such as a data terminal, workstation, portable computer, or smart phone that enables a user to communicate with a host processor. It manages its associated display itself and manages its internal memory with the assistance of the host processor.

Text refers to an input object type that provides textual information to a user when displayed.

Transmitting ... to said device means transmitting information directly to the device without first transmitting it to a site processor which then retransmits it.

FN1. The '131 Patent, which issued on July 15, 1997 with ten claims, is assigned to Lucent.

FN2. 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.

FN3. The disputed claims of the '131 patent are claims 1-7 and claims 9-10.

FN4. All terms underlined and bold-faced in the "Claim Language" column are clarified and/or defined in the corresponding column labeled "Court's Construction."

FN5. The parties propose that "datum" as used in claim 4 should be defined as "a single item of information." The Court rejects this proposal and adopts the definition of "datum" as defined in claim used in claim 3. *See,* Dayco Prods., Inc. v. Total Containment, Inc.., 329 F.3d 1358, 1371 (Fed.Cir.2003) (stating "if a claim term appears in more than one claim it should be construed the same in each.")

S.D.Cal.,2004.
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