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)

Dec. 6, 2004.

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Ryan M. Nishimoto, Arnold & Porter LLP, Los Angeles, CA, Scott M. Border, Joseph A. Micallef, John L. Newby, Arnold & Porter LLP, Washington, DC, for Defendants.

ORDER CONSTRUING CLAIMS FOR U.S. PATENT NUMBER 4,383,272

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

In the above-identified cases, Plaintiff, Lucent Technologies, Inc. ("Lucent"), brought suit against Defendants, Gateway Inc. ("Gateway"); Microsoft Corp. ("Microsoft"); and Dell, Inc. ("Dell"), for infringement of United States Patent Number 4,383,272 (the "'272 Patent"). FN1

Pursuant to Markman v. Westview Instruments, 52 F.3d 967 (Fed.Cir.1995), the Court conducted a hearing on September 8 and 9, 2004 to construe the disputed claim terms of the '272 Patent. FN2 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 '272 Patent. Additionally, a "Glossary" was prepared for terms found in the '272 Patent, considered to be technical in nature and which a jury of laypersons might 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 '272 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-UNITED STATES PATENT NUMBER 4,383,272-CLAIM CHART

VERBATIM CLAIM LANGUAGE	**COURT'S CLAIM CONSTRUCTION**
Claim 13	**Claim 13**
A method of estimating the intensities of elements (pels) in a picture in accordance with information defining intensities of pels in preceding and succeeding versions of the picture including the step of	A method of **estimating [determining roughly the size extent or nature of]** the intensities of elements **(pels) [picture elements, also referred to as pixels]** in a **picture [an image that occupies a frame]** in accordance with **information defining intensities [values describing the different color components of a composite signal or combinations thereof]** of pels in preceding and succeeding versions of the picture including the step of
determining by interpolation intensities of pels in said picture in accordance with intensities of pels in related locations in said preceding and succeeding versions,	determining by interpolation intensities of pels in said picture in accordance with intensities of pels in **related locations [locations at which the same object is expected to be]** in said preceding and succeeding versions, *Construing the whole clause:* **[determining the intensity of pels in picture by averaging the intensities of pels in a non-transmitted frame in related locations (locations at which the same object is expected to be) in the preceding and succeeding versions of the picture],**
characterized in that said determining step includes selecting said related locations as a function of the displacement of objects in said picture.	characterized in that said determining step includes selecting said related locations as a function of the **displacement of objects in said picture [change of position of objects between said versions of the picture].**

Claim 22	**Claim 22**
A method of reducing the bandwidth needed to transmit a video signal representing a sequence of pictures by encoding the intensity values of pels in ones of said pictures in said sequence and reconstructing missing pictures using information from encoded pictures, including:	A method of reducing the **bandwidth [the amount of data that can be passed along a communications channel in a given period of time]** needed to transmit a video signal representing a sequence of **pictures [each picture is an image that occupies a frame]** by encoding the **intensity values [values describing the different color components of a composite signal of combinations thereof] of pels [picture elements, also referred to as pixels]** in ones of said pictures in said sequence and reconstructing **missing pictures [non-transmitted pictures]** using information from **encoded pictures [pictures that have been changed to another form of representation],** including: *Construing the whole clause:* **[A method of reducing bandwidth needed to transmit a video signal that represents a sequence of pictures (each picture is an image that occupies a frame) involving (1) encoding the intensity values of pels in ones of the pictures in the sequence; and (2) reconstructing missing pictures (nontransmitted pictures) using information from encoded pictures], including:**
Computing the	selecting said corresponding locations as a function of the displacement of objects in

intensity of pels in a missing picture by interpolating the intensity of pels in corresponding locations in the encoded ones of said pictures which precede and follow said missing picture, and said picture between said preceding and following pictures. Computing the intensity of pels in a missing picture by interpolating the intensity of pels in **corresponding locations [locations at which the same object is expected to be]** in the encoded ones of said pictures which selecting said corresponding locations as a function of the **displacement [change of position]** of objects in said picture between said preceding and following pictures.

EXHIBIT B-GLOSSARY RE: UNITED STATES PATENT NUMBER 4.383272

Term	Definition
Bandwidth	The amount of data that can be passed along a communications channel in a given period of time
Corresponding locations	Locations at which the same object is expected to be
Displacement	Change of position
Displacement of objects in said picture	Change of position of objects between said versions of the picture
Encoded pictures	Pictures that have been changed to another form of representation
Estimating	Determining roughly the size extent or nature of
Information defining intensities	Values describing the different color components of a composite signal or combinations thereof
Intensity values	Values describing the different color components of a composite signal of combinations thereof
Missing pictures	Non-transmitted pictures
Pels	Picture elements, also referred to as pixels
Picture	An image that occupies a frame
Related locations	Locations at which the same object is expected to be

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.

FN2. The disputed claims of the '272 patent are claims 13 and 22.

S.D.Cal.,2004.
Lucent Technologies, Inc. v. Gateway, Inc.