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 No. 02CV2060-B(WMc)

July 14, 2005.

David A. Hahn, David A Hahn, Attorney At Law, San Diego, CA, Edward Charles Donovan, Elizabeth T. Bernard, Gregory F. Corbett, Karen Michelle Robinson, Kirkland & Ellis LLP, Washington, DC, Eric D. Hayes, Kirkland And Ellis, Chicago, IL, James E. Marina, Jeanne M. Heffernan, John M. Desmarais, Jonas Reale McDavit, Jordan N. Malz, Michael P. Stadnick, Paul A. Bondor, Robert A. Appleby, Tamir Packin, Kirkland And Ellis, New York, NY, Kenneth H. Bridges, Kirkland And Ellis, San Francisco, CA, for Plaintiffs.

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

ORDER CONSTRUING CLAIMS FOR UNITED STATES PATENT NUMBER 4,958,226

BREWSTER**, Senior District Judge.**

Before the Court is the matter of claims construction for U.S. Patent Number 4,958,226 ("the 726 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 ' 226 Patent on September 9, 2004 and July 5, 2005. 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 '226 Patent. Additionally, the Court and the parties prepared a "case glossary" for terms found in the claims and the specification for the '226 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 '226 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

UNITED STATES PATENT NUMBER 4,958,226

VERBATIM CLAIM LANGUAGE	**COURT'S CLAIM CONSTRUCTION**
CLAIM 12	
A circuit responsive to coded video signals where the video signals comprise successive frames and each frame includes a plurality of blocks and where the coded video signals comprise codes that describe deviations from approximated blocks and codes that describe deviations from interpolated blocks, comprising:	**A circuit [any path that can carry electrical current]** responsive to coded video signals where the video signals comprise **successive frames [one frame following another; consecutive frames]** and each frame includes **a** plurality of **blocks [sets of pixels (picture elements also called pels) that constitute a portion of a frame]** and where the **coded [change from one form of representation to another]** video signals comprise codes that describe deviations from **approximated blocks [predicted blocks]** and codes that describe **deviations [differences]** from interpolated blocks, comprising:
means for developing block approximations from said codes that describe deviations from approximated blocks; and	means for developing **block approximations [the combinations of predicted blocks with differences between the actual blocks and the predicted blocks]** from said codes that describe deviations from approximated blocks; and *Function:* The function is developing **block approximations [the combinations of predicted blocks with differences between the actual blocks and the predicted blocks]** from said codes that describe deviations from approximated blocks. *Corresponding structure:*
	Decoder 22, DCT [1] 24, Adder 27, and Shift Circuit 26, including all inputs and outputs of these elements related to the claimed function (*See* Fig. 2; Col. 4, lines 3-10, 26-32, Col. 4, line 63 to Col. 5, line 7).
means responsive to said block approximations and to said codes that describe deviations from	means responsive to said **block approximations [the combinations of predicted blocks with differences between the actual blocks and the predicted blocks]** and to said codes that describe deviations from

interpolated blocks to develop said interpolated blocks.	interpolated blocks to develop said interpolated blocks. Function: The function is to develop said interpolated blocks responsive to said **block approximations [the combinations of predicted blocks with differences between the actual blocks and the predicted blocks]** and to said codes that describe deviations from interpolated blocks. *Structure* : Decoder 25, DCT [1] 34, Adder 35, and Shift Circuits 31 and 39, and Averager 32, including all inputs and outputs of these elements related to the claimed function *(See* Fig. 2; Col. 4, lines 63-65; Col. 5, lines 7-23 [description of the structure and inputs that correspond to these elements is at Col. 4, lines 38-50]).

EXHIBIT B

CASE GLOSSARY FOR UNITED STATES PATENT NO.4,958,226

TERM	DEFINITION
approximated blocks	**predicted blocks**
block approximations	**the combinations of predicted blocks with differences between the actual blocks and the predicted blocks**
blocks	**sets of pixels (picture elements also called pels) that constitute a portion of a frame**
circuit	**any path that can carry electrical current**
coded	**change from one form of representation to another**
deviations	**differences**
pixels	**picture elements also called pels**
successive frames	**one frame following another; consecutive frames**

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