United States District Court,
S.D. California.

**HEWLETT-PACKARD DEVELOPMENT COMPANY, L.P,**
Plaintiff.
v.
**GATEWAY, INC,**
Defendant.
**Gateway, Inc,**
Counterclaim-Plaintiff.
v.
**Hewlett-Packard Development Company, L.P., Hewlett-Packard Company and Compaq Information Technologies Group, L.P,**
Counterclaim-Defendants.

Civil No. 04CV0613-B(LSP)

**Oct. 14, 2005.**

John Allcock, DLA Piper US, San Diego, CA, for Plaintiff/Counterclaim-Defendants.

Darryl J. Adams, Dean M. Munyon, James D. Smith, Wayne Harding, Dewey Ballantine, Austin, TX, Jonathan D. Baker, Dechert LLP, Mountain View, CA, W. Bryan Farney, Dechert LLP, Austin, TX, for Defendant.

**CLAIM CONSTRUCTION ORDER FOR** UNITED STATES PATENT NUMBER 6,628,340

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

Pursuant to Markman v. Westview Instruments, Inc., 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996), on September 22, 2005, the Court conducted a Markman hearing in the above-titled patent infringement action regarding construction of the disputed claim terms for U.S. Patent Number 6,628,340 ("the '340 patent"). Plaintiff Hewlett-Packard Development Company, L.P. ("HP") was represented by the law firm of DLA Piper Rudnick Gray Cary U.S. LLP, and Defendant Gateway, Inc. ("Gateway") was represented by the law firm Dewey Ballantine LLP.

At the Markman hearing, the Court, with the assistance of the parties, analyzed the claim terms in order to prepare jury instructions interpreting the pertinent claims at issue in the '340 patent. Additionally, the Court prepared a case glossary for terms found in the claims and the specification for the '340 patent considered to be technical in nature which a jury of laypersons might not understand clearly without specific definition.

After careful consideration of the parties' arguments and the applicable statutes and case law, the Court **HEREBY CONSTRUES** the claims in dispute in the '340 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 6,628,340-CLAIM CHART***

| ***VERBATIM CLAIM LANGUAGE*** | ***COURT'S CONSTRUCTION*** |
|---|---|
| ***Claim 1*** | |
| 1. A multimedia personal computer, comprising: | 1. A multimedia personal computer, comprising: |
| a personal computer, said personal computer comprising a personal computer chassis and a personal computer monitor; | a ***personal computer*** [ *a computer designed for general purpose use by one individual at a time* ], said personal computer comprising a personal computer chassis and a personal computer ***monitor*** [ *a display device* ]; |
| telecommunications circuitry integrated with said personal computer, said telecommunications circuitry comprising: | telecommunications circuitry integrated with said ***personal computer,*** said telecommunications circuitry comprising: |
| a data/fax/voice modem associated with said personal computer and allowing communication of voice, fax and data information over a telephone line; | a ***data/fax/voice modem*** [ *a communications circuit that uses modulation and demodulation techniques to enable a computer to transmit and receive digital data over a standard telephone network, which has the capability of: (1) sending and receiving data to and from another computer over a telephone line; (2) sending and receiving faxes to and from a fax machine or another fax modem over a telephone line; and (3) sending and receiving telephone voice signals to and from a telephone, an answering machine, or another voice modem* ] associated with said ***personal computer*** and allowing communication of voice, fax and data information over a telephone line; |
| a television circuit associated with said personal computer for receiving a plurality of television signals and directing said signals to said personal computer monitor for said personal computer monitor to display; and | a ***television circuit*** [ *a circuit that includes the capability of receiving television signals* ] associated with said personal computer for receiving a plurality of television signals and ***directing*** [ *sending, either directly or indirectly* ] said signals to said personal computer monitor for said *personal computer* ***monitor*** to display; and |
| control circuitry associated with said television circuit and said personal computer for controlling the operation of said television circuit through said personal | control circuitry associated with said ***television circuit*** and said ***personal computer*** for controlling the operation of said ***television circuit*** through said ***personal computer;*** |

| | |
|---|---|
| computer; | |
| multimedia circuitry integrated with said personal computer, said multimedia circuitry allowing playing of audio on a speaker and displaying digital multimedia including text, image and video on said personal computer monitor; said multimedia circuitry comprising: | multimedia circuitry integrated with said ***personal computer,*** said multimedia circuitry allowing playing of audio on a speaker and displaying digital multimedia including text, image and video on said personal computer ***monitor*** **:** said multimedia circuitry comprising: |
| a compact disc read-only memory device associated with said personal computer; and | a compact disc read-only memory device associated with said personal computer; and |
| an audio multimedia circuit associated with said personal computer and said television circuit for receiving and processing audio multimedia data from said television circuit and communicating said audio multimedia data to said personal computer, | an audio multimedia circuit associated with said ***personal computer*** and said ***television circuit*** for receiving and processing audio multimedia data from said television circuit and communicating said audio multimedia data to said ***personal computer,*** |
| said audio multimedia circuit comprising an analog mixing circuit for mixing a plurality of analog audio signals, | said audio multimedia circuit comprising an ***analog mixing circuit*** [ *a circuit that combines two or more analog audio signals* ] for mixing a plurality of analog audio signals, |
| and an analog-to-digital/digital-to-analog converter in association with said analog mixing circuit for generating a plurality of analog output signals and directing said analog output signals to said analog mixing circuit, | and an ***analog-to-digital/digital-to-analog converter*** [ *circuitry within a single device capable of converting an analog input signal to a digital output signal and a digital input signal to an analog output signal* ] in association with said ***analog mixing circuit*** for generating a plurality of analog output signals and ***directing*** said analog output signals to said analog mixing circuit, |
| said analog-to-digital/digital-to-analog converter further associated with said analog mixing circuit for receiving a plurality of analog audio signals to generate a plurality of digital output signals; and | said ***analog-to-digital/digital-to-analog converter*** further associated with said ***analog mixing circuit*** for receiving a plurality of analog audio signals to generate a plurality of digital output signals; and |
| software applications integrated with said personal | software applications integrated with said ***personal computer,*** said software applications providing interfaces to said telecommunications circuitry and said |

| | |
|---|---|
| computer, said software applications providing interfaces to said telecommunications circuitry and said, multimedia circuitry. | multimedia circuitry, |
| ***Claim 2*** | |
| 2. The television of claim 1, further comprising digital sound mixing circuitry and digital synthesizing sound circuitry for directing digital signals into said analog-to-digital/digital-to-analog converter and from said analog-to-digital/digital-to-analog circuit to said analog mixing circuit. | 2. The television of claim 1, further comprising ***digital sound mixing circuitry*** [ *digital circuitry that combines two or more digital audio signals* ] and ***digital synthesizing sound circuitry*** [ *circuitry that generates audio from digital instructions* ] for directing digital signals into said ***analog-to-digital/digital-to-analog converter*** and from said ***analog-to-digital/digital-to-analog circuit*** to said ***analog mixing circuit.*** |
| ***Claim 3*** | |
| 3. The television of claim 1, wherein said audio multimedia circuit further comprises a compact disk read only memory device in association with said analog mixing circuit for transmitting to said analog mixing circuit a plurality of prerecorded audio signals. | 3. The television of claim 1, wherein said audio multimedia circuit further comprises a compact disk read only memory device in association with said ***analog mixing circuit*** for transmitting to said ***analog mixing circuit*** a plurality of prerecorded audio signals. |
| ***Claim 4*** | |
| 4. The television of claim 1, wherein said audio multimedia circuit further comprises a speaker circuit for directing analog signals to a speaker, said speaker circuit comprising selectable input circuitry for controllably selecting between analog microphone and analog mixer output to digital recorder. | 4. The television of claim 1, wherein said audio multimedia circuit further comprises a speaker circuit for ***directing*** analog signals to a speaker, said speaker circuit comprising selectable input circuitry for controllably selecting between analog microphone and analog mixer output to digital recorder. |
| ***Claim 6*** | |
| 6. The television of claim 1, wherein said audio multimedia circuit further comprises a musical instrument device interface for interfacing a plurality of musical devices with said analog mixing circuit. | 6. The television of claim 1, wherein said audio multimedia circuit further comprises a musical instrument device interface for interfacing a plurality of musical devices with said ***analog mixing circuit.*** |
| ***Claim 7*** | |
| 7. The television ot claim 1, wherein said audio multimedia circuit further comprises a sound generator for interfacing said analog mixing circuitry and generating a plurality of predetermined types of sounds. | 7. The television of claim 1, wherein said audio multimedia circuit further comprises a sound generator for interfacing said ***analog mixing circuitry*** and generating a plurality of predetermined types of sounds. |
| ***Claim 8*** | |
| 8. The television of claim 1, wherein said audio multimedia circuit further comprises a serial line level output for generating a plurality of stereo signals to an external stereo signal connection. | 8. The television of claim 1, wherein said audio multimedia circuit further comprises a serial line level output for generating a plurality of stereo signals to an external stereo signal connection. |

## *EXHIBIT B*

## *UNITED STATES PATENT NUMBER 6.628.340-GLOSSARY OF TERMS*

| *TERM* | *DEFINITION* |
|---|---|
| **Analog Mixing Circuit** | A circuit that combines two or more analog audio signals |
| **Analog-to-Digital/Digital-to-Analog Converter** | Circuitry within a single device capable of converting an analog input signal to a digital output signal and a digital input signal to an analog output signal |
| **Data/Fax/Voice Modem** | A communications circuit that uses modulation and demodulation techniques to enable a computer to transmit and receive digital data over a standard telephone network, which has the capability of: (1) sending and receiving data to and from another computer over a telephone line; (2) sending and receiving faxes to and from a fax machine or another fax modem over a telephone line; and (3) sending and receiving telephone voice signals to and from a telephone, an answering machine, or another voice modem |
| **Digital Sound Mixing Circuitry** | Digital circuitry that combines two or more digital audio signals |
| **Digital Synthesizing Sound Circuitry** | Circuitry that generates audio from digital instructions |
| **Directing** | Sending, either directly or indirectly |
| **Monitor** | A display device |
| **Personal Computer** | A computer designed for general purpose use by one individual at a time |
| **Television Circuit** | A circuit that includes the capability of receiving television signals |

S.D.Cal.,2005.
Hewlett-Packard Development Co., L.P. v. Gateway, Inc.