United States District Court,
D. Utah, Central Division.

VANTAGE CONTROLS, INC,
Plaintiff.
v.
LUTRON ELECTRONICS CO., INC,
Defendant.

No. 2:03 CV 488 TC

Dec. 16, 2005.

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MARKMAN ORDER

TENA CAMPBELL**, District Judge.**

Defendant Lutron Electronics Co., Inc.is the owner of three patents: (1) No. 5,905,442 (the "'442 Patent"); (2) No.5,982,103 (the "'103 Patent"); and (3)No.4,783,581 (the "'581 Patent"). Lutron contends that Plaintiff Vantage Controls, Inc. has infringed various claims of these patents. Vantage filed this action seeking, along with other relief, a declaration that it does not infringe the asserted claims.

The matter is now before the court for construction of the asserted claims of the patents pursuant to Markman v. Westview Instruments, Inc., 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996). FN1

The '442 Patent-Independent Claim 1

1.3 "the control device further having a manual actuator for adjusting the status of the electrical device,"

1.3	Vantage's Const.	Lutron's Const.
	The control device includes a manual actuator, which is a local control, such as a button, operative to change the amount of power flowing to the electrical device independent	The control device also has a manual actuator, such as a button or knob, for adjusting the status of the electrical

of the master control unit. device.

The parties agreed to a stipulated construction of Claim Term 1.2: "The control device has a controllably conductive device, which is a device whose ability to conduct electricity can be controlled, for adjusting the status of the electrical device (i.e., either the on/of state or the intensity level, or both, of the electrical device.)" (Stip. Claim Const. Stmt.) Accordingly, the court will use the stipulated construction in the construction of 1.3.

Vantage contends that during the prosecution of the patent, Lutron made clear that the manual control can change the status of the electrical device independently of the master control device. In support of this argument, Vantage relies on Lutron's July 2, 1998 Response to the Patent Office ("the 1998 Response" App. in Supp. of Vantage's Mem.)

Lutron argues that Vantage is pointing to certain selected portions of the 1998 Response taken out of context. The court agrees. When the entire response is considered, it is clear that the "independent" limitation urged by Vantage is not appropriate. *Id*. at 230.)

Accordingly, the court gives the following construction to 1.3: "The control device has a manual actuator, such as a button or a knob, for adjusting the status of the electrical device (i.e., either the on/off state or the intensity level, or both, of the electrical device.)

1.4 "the control device further having a radio frequency transmitter/receiver and antenna coupled thereto for adjusting the status of the electrical device in response to control information in a radio frequency signal,"

1.4	Vantage's Const.	Lutron's Const.
	The control device includes a transmitter/receiver and antenna operable to receive the control information, which is information that is used to control the electrical device. The control information is carried in the radio frequency signal. The term "radio frequency" meaning electromagnetic energy having a frequency of about 9 kHz to about 3,000,000 MHZ.	The control device also has a radio frequency transmitter/receiver and an antenna coupled to the transmitter/receiver for adjusting the status of the electrical device in response to control information contained in a radio frequency signal. ("Control information" means information that is used to control the electrical device.)

The disagreement here is whether the construction must make reference to the coupling of the antenna to the transmitter/receiver and whether "radio frequency" should be defined. The court concludes that because the claim language itself notes that the antenna is coupled to the transmitter/receiver, that concept must be included in a correct construction. Also, Vantage's proposed definition of "radio frequency" is not necessary and would confuse most jurors. If it appears that a definition of "radio frequency" is necessary during this case, the court will revisit the issue.

The court construes 1.4 as: "The control device also has a radio frequency transmitter/receiver and an antenna coupled to the transmitter/receiver for adjusting the status of the electrical device in response to control information contained in a radio frequency signal. ("Control information" means information that is used to control the electrical device.)

1.6 "and for transmitting a status radio frequency signal having status information therein regarding the

status of the electrical device as affected by the control information and the manual actuator;"

1.6	Vantage's Const.	Lutron's Const.
	The adjustment of the status of the electrical device to a new status due to either the control information from the master unit or the manual actuator on the control device causes the control device to transmit a status radio frequency signal after the change to the new status in both cases. The status information contained in a status radio frequency signal is whether the electrical device is actually ON, OFF or the intensity level of the electrical device.	and in order to transmit a radio frequency signal containing status information regarding the status of the electrical device, whether the electrical device is being controlled based on the control information or based on adjustment of the manual actuator on the control device. ("Status information" means information that is used to determine the status of the electrical device.)

Lutron contends that Vantage's proposed construction adds an improper limitation. Specifically, Lutron argues that Vantage is attempting to add a timing requirement to the term through the use of the word "after." Vantage's position is that the timing requirement is necessary to reflect the "true status" of the electrical device. Vantage reasons that there is no way to verify that the status has actually changed until after the change has actually occurred. Lutron responds that the term only requires that the master control unit be correctly updated, whether the electrical device is being controlled from the control device or the master control unit. The court agrees with Lutron. There is nothing in the claim term or the intrinsic record to support Vantage's construction.

Accordingly, the court defines this element as: "and in order to transmit a radio frequency signal containing status information about the status of the electrical device, whether the electrical device is being controlled based on the control information or based on adjustment of the manual actuator on the control device,"

1.7 "a master control unit having at least one actuator and status indicator thereon"

1.7	Vantage's Const.	Lutron's Const.
	The master control unit is a single device having physically located on it at least one actuator, operative to change the status of the electrical device by remote control, and at least one status indicator for indicating the status of the electrical device.	The apparatus also includes a master control unit that has on it at least one actuator, such as a button or a knob, and status indicator.

The dispute here is whether the master control unit is limited to "a single device" as Vantage argues, or whether, as Lutron contends, this limitation is not appropriate. Both parties rely on definitions taken from standard dictionaries to support their positions. Vantage also makes the argument that a single unit is required so that various structures can be placed on it. But The court agrees with Lutron: there is nothing in the intrinsic record that requires the limitation urged by Vantage.

The court gives this construction of the element: "The apparatus also includes a master control unit that has on it at least one actuator, such as a button or a knob, and a status indicator."

1.10 "a repeater transmitter/receiver for receiving the radio frequency signal from the master unit and transmitting the control information to the control device and for receiving the status information from the control device and transmitting the status information to the master unit."

1.10	Vantage's Const.	Lutron's Const.
	A repeater is a device that receives information in a signal and retransmits the same information in another amplified signal. Thus, the repeater transmitter/receiver receives the control information contained in the radio frequency signal from the master control unit and retransmits the same control information to the control device. The repeater transmitter/receiver receives the status information from the control device and retransmits the same status information to the master control unit.	The apparatus also includes a repeater transmitter/receiver for receiving the radio frequency signal from the master unit and transmitting the control information to the control device, and for receiving the status information from the control device and transmitting the status information to the master unit.

The parties dispute the words "retransmit," "same" and "amplified." Again the parties point to definitions found in standard dictionaries. The court concludes that the limitations sought by Vantage are not found in the claim language itself nor are they required by the intrinsic record. Further, Vantage's proposed construction would appear to exclude the preferred embodiment shown in the written description.

The court gives this construction of the term: "The apparatus also includes a repeater transmitter/receiver for receiving the radio frequency signal from the master unit and transmitting the control information to the control device, and for receiving the status information from the control device and transmitting the status information to the master unit,"

Independent Claim 32

32.2 "providing a manual actuator at the control device for adjusting the status of the electrical device;"

32.2	Vantage's Const.	Lutron's Const.
	The control device is provided with a manual actuator, which is a local control associated [with] the control device, such as a button, operative to change the amount of power flowing to the electrical device independent of the master control unit.	Providing a manual actuator, such as a button or a knob, at the control device for adjusting the status of the electrical device.

The construction of this term raises the issue of whether the control device must operate independently of the master control unit. The court finds, for the same reasons as it did before, that this limitation is not proper.

Accordingly, the court construes this terms as follows: "The control device is provided with a manual actuator, such as a button or a knob, for adjusting the status of the electrical device."

32.3 "transmitting a radio frequency signal having control information therein from a master control unit having at least one actuator and status indicator thereon, the radio frequency signal being adapted to control the status of said at least one electrical device;"

32.3	Vantage's Const.	Lutron's Const.
	The control information, which is information that is used to control the electrical device, is transmitted from the master control unit to the control device using radio frequency signals. Where the master control unit is a single device	Transmitting a radio frequency signal containing control information from a master control unit that has on it at least one actuator and status

	having physically located on it at least one actuator, operative to change the status of the electrical device by remote control, and at least one status indicator for indicating the status of th electrical device. The term "radio frequency" meaning electromagnetic energy having a frequency of about 9 kHz to about 3,000,000MHz.	indicator. The radio frequency signal can be used to control the status of the electrical device. ("Control information" means information that is used to control the electrical device.)

The court has covered the issues presented here in its discussions of 1.7 and 1.4. The court construes this term as follows: "Transmitting a radio frequency signal containing control information from a master control unit that has on it at least one actuator and status indicator. The radio frequency signal can be used to control the status of the electrical device."

32.4 "receiving the control information in the radio frequency signal from the master unit a repeater and transmitting the control information to the control device;"

32.4	Vantage's Const.	Lutron's Const.
	A repeater is a device that receives information in a signal and retransmits the same information in another amplified signal. Thus, the control information in the radio frequency signal from the master unit is received at the repeater and retransmitted in another signal to the control device.	Receiving the control information, which is in the radio frequency signal from the master unit, at a repeater, and transmitting the control information to the control device.

For the same reasons discussed in connection with Claim Term 1.10, the court construes this term as follows: "Receiving the control information, which is in the radio frequency signal from the master unit, at a repeater, and transmitting the control information to the control device.:

32. 8 "transmitting status information in a radio frequency signal from the control device regarding the status of the electrical device as affected by the control information and the manual actuator;"

32.86	Vantage's Const.	Lutron's Const.
	The adjustment of the status of the electrical device to a new status due to either the control information from the master unit or the manual actuator on the control device causes the control device to transmit a status radio frequency signal after the change to the new status in both cases. The status information contained in the status radio frequency is whether the electrical device is actually ON, OFF, or the intensity level of the electrical device.	Transmitting from the control device a radio frequency signal containing status information regarding the status of the electrical device, whether the electrical device is being controlled based on the control information or based on adjustment of the manual actuator on the control device. ("Status information" means information that is used to determine the status of the electrical device.)

Construction of this element raises the same issue raised in the construction of 1.6. For the same reasons given there, the court does not add a timing limitation to the construction.

Accordingly, the court construes this term as: "Transmitting from the control device a radio frequency signal containing status information regarding the status of the electrical device, whether the electrical device is being controlled based on the control information or based on adjustment of the manual actuator on the

control device."

32.9 "receiving the status information in the radio frequency signal from the control device at the repeater and transmitting the status information to the master unit;"

32.9	Vantage's Const.	Lutron's Const.
	The status information in the radio frequency signal is received at the repeater and retransmitted in another signal to the master unit.	Receiving the status information in the radio frequency signal from the control device at the repeater, and transmitting the status information to the master unit.

Construction of this claim term raises the same issue presented in the construction of 1.10. Therefore, the court construes this claim term as follows: "Receiving the status information in the radio frequency signal from the control device at the repeater, and transmitting the status information to the master unit."

INDEPENDENT CLAIM 62

62.3 "the control device further having a manual actuator for adjusting the status of the electrical device,"

62.3	Vantage's Const.	Lutron's Const.
	The control device includes a manual actuator, which is a local control, such as a button, operative to change the amount of power flowing to the electrical device independent of the master control unit.	The control device also has a manual actuator, such as a button or knob, for adjusting the status of the electrical device.

Construction of this term raises the issue of whether the "independent" limitation is proper. The court has previously decided that it is not.

Accordingly, the court construes this claim term as follows: "The control device also has a manual actuator, such as a button or knob, for adjusting the status of the electrical device."

62.4 "the control device further having a radio frequency transmitter/receiver and antenna coupled thereto for changing the status of the electrical device in response to a radio frequency command signal,"

62.4	Vantage's Const.	Lutron's Const.
	The control device includes a transmitter/receiver and antenna operable to receive the command signal, which is a signal carrying an order to adjust the status of the electrical device. The command is carried in the radio frequency signal. The term "radio frequency" meaning electromagnetic energy having a frequency of about 9kHZ to about 3,000,000 MHZ.	The control device also has a radio frequency transmitter/receiver and an antenna coupled to the transmitter/receiver for adjusting the status of the electrical device in response to a radio frequency command signal. ("A command signal" is a signal containing control information, which is information that is used to control the electrical device.)

The parties dispute the construction of the term "command signal ." Although the differences in the proposed constructions are slight, it appears that Vantage's proposed construction requires that the signal itself be an order. The court concludes that this limitation is not required.

Accordingly, the court construes this claim term as follows: 'The control device also has a radio frequency transmitter/receiver and an antenna coupled to the transmitter/receiver for adjusting the status of the electrical device in response to a radio frequency command signal. (A 'command signal' is a signal containing control information, which is information that is used to control the electrical device.)"

62.6 "and for transmitting a radio frequency status signal regarding the status of the electrical device as affected by the control information and the manual actuator;"

62.6	Vantage's Const.	Lutron's Const.
	The phrase "as affected by the control information" is indefinite under 35 U.S.C. s. 1121 para. 2. The term "the control information" has no antecedent basis and has no point of origin in the claim.	And in order to transmit a radio frequency status signal regarding the status of the electrical device, whether the electrical device is being controlled based on the control information in the command signal or based on adjustment of the manual actuator on the control device. ("A status signal" is a signal containing status information, which is information that is used to determine the status of the electrical device.)

Vantage has the burden of establishing that this claim is indefinite. The test is whether one skilled in the art "would understand the scope of the subject matter that is patented when the claim is read in conjunction with the rest of the specification." S3 Inc. v. Nvidia Corp., 259 F.3d 1364, 1367 (Fed.Cir.2001). (citations omitted) Here, the term "control information" is used throughout the '442 Patent specification and in other terms of the patent. The specification explicitly links "command signal" and "control information. For example, the specification describes a "command signal having control information therein to control the status of the electrical device." ('442 Patent, 7:23-7:26) Accordingly, the court concludes that Vantage has not shown that the claim is invalid because of indefiniteness.

The court construes this term as follows: "And in order to transmit a radio frequency status signal regarding the status of the electrical device, whether the electrical device is being controlled based on the control information in the command signal or based on adjustment of the manual actuator on the control device."

62.7 "a master control unit having at least one actuator and status indicator thereon,"

62.7	Vantage's Const.	Lutron's Const.
	The master control unit is a single device having physically located on it at least one actuator, operative to change the status of the electrical device by remote control, and at least one status indicator for indicating the status of the electrical device.	A master control unit that has on it at least one actuator, such as a button or knob, and status indicator.

This claim term presents the same issue raised in 1.7 and for the same reasons as before the court rejects Vantage's argument that the master control unit must be a single device.

The court construes this claim term as follows: "A master control unit that has on it at least one actuator, such as a button or knob, and a status indicator,"

Independent Claim 84

84.2 "providing a manual actuator at the control device for adjusting the status of the electrical device;"

84.2	Vantage's Const.	Lutron's Const.
	The control device is provided with a manual actuator, which is a local control associated [with] the control device, such as a button, operative to change the amount of power flowing to the electrical device independent of the master control unit.	Providing a manual actuator, such as a button or a knob, at the control device for adjusting the status of the electrical device. ("The status of the electrical device" means either the on/off state or the intensity level, or both, of the electrical device.

For the same reasons previously discussed, the court concludes that the "independent" limitation is not appropriate.

The court construes this claim term as follows: "Providing a manual actuator, such as a button or a knob, at the control device for adjusting the status of the electrical device."

84.3 "transmitting a radio frequency signal having control information therein from a master control unit having at least one actuator and status indicator thereon;"

84.3	Vantage's Const.6Lutron's Const.	
	The control information, which is information that is used to control the electrical device, is transmitted from the master control unit to the control device using radio frequency signals. Where the master control unit is a single device having physically located on it at least one actuator, operative to change the status of the electrical device by remote control, and at least one status indicator for indicating the status of the electrical device. The term "radio frequency" meaning electromagnetic energy having a frequency of about 9 kHz to about 3,000,000 MHZ.	Transmitting a radio frequency signal containing control information from a master control unit that has on it at least one actuator and status indicator. ("Control information" means information that is used to control the electrical device.)

This claim term raises issues previously discussed in 1.7 and 1.4. For the same reasons discussed there, the court concludes that the appropriate construction is: "Transmitting a radio frequency signal containing control information from a master control unit that has on it at least one actuator and status indicator."

84.8 "transmitting from the control device a status radio frequency signal having status information therein regarding the status of the electrical device after adjustment of the status in response to the control information as affected by the control information and the manual actuator;"

84.8	Vantage's Const.	Lutron's Const.

The phrase "after adjustment of the status in response to the control information as affected by the control information and the manual actuator" is indefinite under 35 U.S.C. s. 112 para. 2 because it is nonsensical.	Transmitting from the control device a status radio frequency signal containing status information regarding the status of the electrical device, whether the electrical device is being controlled based on the control information or based on adjustment of the manual actuator on the control device. ("Status information" means information that is used to determine the status of the electrical device

Vantage challenges the validity of this claim term on the ground of indefiniteness. Lutron admits that the phrase "in response to the control information" is "superfluous" because, during the prosecution history, the independent claims were amended to add the language "as affected by the control information and the manual actuator." (Ex. 1-4 to Lutron's Prop. Claim Const. Statement at 22-23.) But Lutron argues that even though the phrase is now unnecessary, it is not "hopelessly confusing as Vantage suggests...." (*Id*.) According to Lutron, a person skilled in the art would recognize that the phrase was redundant but would understand the meaning of the claim term. The court agrees with Lutron, particularly in light of the heavy burden Vantage must meet to show that a claim is invalid.

The court construes this claim term as follows: "Transmitting from the control device a status radio frequency signal containing status information regarding the status of the electrical device, whether the electrical device is being controlled based on the control information or based on adjustment of the manual actuator on the control device."

Independent Claim 151

151.0 "A remotely controllable lighting control device for controlling an electric lamp,"

151.0	Vantage's Const.	Lutron's Const.
	The lighting control device is a device operable to control the amount of power flowing to an electrical lamp and may be controlled from a distance by remote control to change the amount of power flowing to the electric lamp. The lighting control device includes, but is not necessarily limited to, the following elements:	A remotely controllable lighting control device, such as a dimmer, for controlling an electric lamp.

The court accepts Lutron's proposed construction which is clearer and more understandable than Vantages's.

The court construes this claim term as follows: "A remotely controllable lighting control device, such as a dimmer, for controlling an electric lamp."

151.1 "the control device receiving command signals to control at least one of the light intensity level and on/off status of the electric lamp,"

151.1	Vantage's Const.	Lutron's Const.
The lighting control device receives command signals, which are signals carrying an order to adjust the status of the electrical device, by	The lighting control device receives command signals to control either the light intensity level or the on/off status, or both	

remote control. of the electric lamp.

(A "command signal" is a signal containing control information, which is information that is used to control the electric lamp.)

For the same reasons discussed in 62.4, the court construes this claim term as follows: "The lighting control device receives command signals to control either the light intensity level or the on/off status, or both of the electric lamp."

151.2 "and transmitting status signals via radio frequency transmission,"

151.2	Vantage's Const.	Lutron's Const.
	The lighting control device transmits "true status" signals regarding the status of the electric lamp, meaning that whenever the status of the electric lamp is adjusted to a new status, the lighting control device transmits a status signal via radio frequency transmission with information regarding the actual ON, OFF or intensity level of the electric lamp after the change to the new status. The term "radio frequency" meaning electromagnetic energy having a frequency of about 9 kHz to 3,000,000 MHZ.	The lighting control device transmits status signals via radio frequency transmission. (A "status signal" is a signal containing status information, which is information that is used to determine the status of the electric lamp.)

For the reasons discussed in 1.6 and 1.4, the court construes this claim term as follows:

"The lighting control device transmits status signals via radio frequency transmission."

Independent Claim 156

156.0 "A remotely controllable lighting control device for controlling an electric lamp,"

156.0	Vantage's Const.	Lutron's Const.
	The lighting control device is a device operable to control the amount of power flowing to an electric lamp and may be controlled from a distance by remote control to change the amount of power flowing to the electric lamp. The lighting control device includes, but is not necessarily limited to, the following elements:	A remotely controllable lighting control device, such as a dimmer, for controlling an electric lamp.

For the same reasons discussed in 151.0, the court construes this claim term as follows: "A remotely controllable lighting control device, such as a dimmer, for controlling an electric lamp." 156.1 "the control device receiving command signals to control at least one of the light intensity level and on/off status of the electric lamp"

156.1	Vantage's Const.	Lutron's Const.
	The lighting control device receives command signals, which are signals carrying an order to	The lighting control device receives command signals to control either the light intensity level

	adjust the status of the electrical device, by remote control.	or the on/off status, or both, of the electric lamp. (A "command signal" is a signal containing control information, which is information that is used to control the electric lamp.)

For the same reasons as discussed in 62.4, the court construes the claim term as follows: "The lighting control device receives command signals to control either the light intensity level or the on/off status, or both, of the electric lamp."

156.2 "and transmitting status signals via radio frequency transmission,"

156.2	Vantage's Const.	Lutron's Const.
	The lighting control device transmits "true status" signals regarding the status of the electric lamp, meaning that whenever the status of the electric lamp is adjusted to a new status, the lighting control device transmits a status signal via radio frequency transmission with information regarding the actual ON, OFF or intensity level of the electrical lamp after the change to the new status. The term "radio frequency" meaning electromagnetic energy having a frequency of about 9 kHz to about 3,000,000 MHZ.	The lighting control device transmits status signals via radio frequency transmission. (A "Status signal" is a signal containing status information, which is information that is used to determine the status of the electric lamp.)

For the same reasons discussed for 1.6 and 1.4, the court construes this term as follows:

"The lighting control device transmits status signals via radio frequency transmission."

160.0 "The lighting control device of claim 156, further including a manual actuator for controlling the light intensity at the lighting control device.,"

160.0	Vantage's Const.	Lutron's Const.
	In addition to the limitations of 156, the lighting control device includes a manual actuator, which is a local control, such as a button, operative to change the amount of power flowing through the electric lamp independent of the master control unit.	The lighting control device of claim 156, further including a manual actuator, such as a button or a knob, for controlling the light intensity at the lighting control device.

For the reason previously discussed, the court does not add the "independent" limitation proposed by Vantage. The court construes the term as follows: "The lighting control device of claim 156, further including a manual actuator, such as a button or a knob, for controlling the light intensity at the lighting control device."

160.1 "operation of said manual actuator causing the light intensity of the electric lamp to be adjusted and a status signal to [be] transmitted by radio frequency containing information of the new status of the lamp."

160.1	Vantage's Const.	Lutron's Const.

If a person changes the status of the electric lamp from the lighting control device using the manual actuator, the lighting control device changes the status of the electric lamp. Once the status of the electric lamp is controlled to its new status, a radio frequency status signal is transmitted by the lighting control device to thereby provide information relating to the new status of the electric lamp.	Operation of the manual actuator causes the electric lamp to turn on or off or otherwise to change intensity levels and causes status information regarding the new status of the lamp to be transmitted by a radio frequency status signal.

For basically the same reasons discussed regarding 155.1, the court declines to add the timing requirement urged by Vantage and construes this term as follows: "Operation of the manual actuator causes the electric lamp to turn on or off or otherwise to change intensity levels and causes status information regarding the new status of the lamp to be transmitted by a radio frequency status signal."

IT IS SO ORDERED.

FN1. In this order, the court will construe only the independent claims of the '442 Patent. The court will construe the independent claims of the other two patents in a later order. And unless the parties object, the court will not construe the dependent claims of the patents.

D.Utah,2005.
Vantage Controls, Inc. v. Lutron Electronics Co., Inc.