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)

Feb. 1, 2006.

John Allcock, DLA Piper US, San Diego, CA, for Plaintiff.

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

CLAIM CONSTRUCTION ORDER FOR UNITED STATES PATENT NUMBER 6,609,211

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

Pursuant to Markman v. Westview Instruments, Inc., 517 U.S. 370 (1996), on January 11-12, 2006, 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 6,609,211 ("the '211 patent"). Plaintiff Hewlett-Packard Development Company, L.P. ("HP") was represented by the law firm of DLA Piper Rudnick Gray Cary U.S. LLP, Defendant Gateway, Inc. ("Gateway") was represented by the law firm of 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 '211 patent. Additionally, the Court prepared a case glossary for terms found in the claims and the specification for the '211 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 '211 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 FN1

FN1. All terms appearing in bold face type and underlined have been construed by the court and appear with their definitions in the glossary in Exhibit B. The definition for each construed term appears in italics after its first use in the patent.

UNITED STATES PATENT NUMBER 6.609,211 B2-CLAIM CHART

VERBATIM CLAIM LANGUAGE	***COURT'S CONSTRUCTION***
Claim 1	
1. A method of power management, comprising the steps of:	1. A method of power management, comprising the steps of:
measuring hardware activity of a clocked device; and	***measuring*** [*determining the quantity of*] ***hardware activity*** [*electrical events*] of a ***clocked device*** [*a device that operates under the control of a timing signal*]; and
determining utilization of the clocked device based on the hardware activity of the clocked device over a period of time; and	determining utilization of the ***clocked device*** based on the ***hardware activity*** of the ***clocked device*** over a period of time; and
adjusting the clocked device from a first power consumption mode to a second power consumption mode based on the utilization of the clocked device.	adjusting the ***clocked device*** from a first power consumption mode to a second power consumption mode based on the utilization of the ***clocked device.***
Claim 2	
2. The method of claim 1, the adjusting step comprising the step of:	2. The method of claim 1, the adjusting step comprising the step of:
reducing the clocked device from the first power consumption mode to the second clocked consumption mode.	***reducing*** [*lowering*] the ***clocked device*** from the first power consumption mode to the second clocked consumption mode.
Claim 3	
3. The method of claim 1, the adjusting step comprising the step of:	3. The method of claim 1, the adjusting step comprising the step of:
increasing the clocked device from the first power consumption mode to the second power consumption mode.	***increasing*** [*raisins*] the ***clocked device*** from the first power consumption mode to the second power consumption mode.
Claim 4	
4. The method of claim 1, wherein the first power consumption mode and the second power consumption mode are two of a plurality of selectable power consumption modes.	4. The method of claim 1, wherein the first power consumption mode and the second power consumption mode are two of a ***plurality*** [*two or more*] of selectable power consumption modes.
Claim 5	
5. The method of claim 1, wherein the adjusting step is performed during active times of the clocked device.	5. The method of claim 1, wherein the adjusting step is performed during active times of the ***clocked device.***
Claim 6	
6. The method of claim 1, wherein the hardware activity indicates inactive times of the clocked device.	6. The method of claim 1, wherein the ***hardware activity*** indicates inactive times of the ***clocked device.***
Claim 7	
7. The method of claim 1, the measuring step comprising the step of:	7. The method of claim 1, the measuring step comprising the step of:
monitoring the hardware activity of the clocked device using an activity counter.	monitoring the **hardware activity** of the **clocked device** using an activity **counter** [*hardware used to count electrical events*].
Claim 8	

8. The method of claim 7, the determining step comprising the steps of:	8. The method of claim 7, the determining step comprising the steps of:
reading an activity count of the activity counter; and comparing the activity count to a value.	reading an activity count of the activity ***counter;*** and comparing the activity count to a value.
Claim 9	
9. The method of claim 8, further comprising the step of: selectively adjusting the clocked device from a first power consumption mode to a second power consumption mode based on the comparing step.	9. The method of claim 8, further comprising the step of: selectively adjusting the ***clocked device*** from a first power consumption mode to a second power consumption mode based on the comparing step.

EXHIBIT B

UNITED STATES PATENT NUMBER 6,609,211 ***B2-GLOSSARY OF TERMS***

TERM	*DEFINITION*
Clocked device	a device that operates under the control of a timing signal
Counter	hardware used to count electrical events
Hardware activity	electrical events
Increasing	raising
Measuring	determining the quantity of
Plurality	two or more
Reducing	lowering

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