

United States District Court,
E.D. Texas, Beaumont Division.

FINISAR CORP,

Plaintiff.

v.

The DIRECTV GROUP, INC., et al,

Defendant.

Civil Action No. 1:05-CV-264

Feb. 21, 2006.

Lawrence Louis Germer, Charles W Goehringer, Jr, Germer Gertz, L.L.P., Beaumont, TX, C J Veverka, Charles L. Roberts, David R. Todd, David R. Wright, Eric L. Maschoff, H. Craig Hall, Kirk R. Harris, Larry R. Laycock, Mark W. Ford, Robert Parrish Freeman, Workman Nydegger, Salt Lake City, UT, for Plaintiff.

J Thad Heartfield, The Heartfield Law Firm, Patrick Connell McGinnis, Pat McGinnis, Attorney at Law, Beaumont, TX, Maria K. Nelson, Charles A. Kertell, Giam M. Nguyen, Kevin G. McBride, Louis Touton, Marsha E. Mullin, Steven J. Corr, Victor George Savikas, Yolanda Orozco, Jones Day, Los Angeles, CA, Gregory A. Castanias, Jones Day Reavis & Pogue, Washington, DC, Michael J. Newton, Alston & Bird, LLP, Dallas, TX, for Defendant.

SECOND ORDER ON CLAIM TERMS OF UNITED STATES PATENT NO. 5,404,505

RON CLARK, District Judge.

Plaintiff Finisar Corporation ("Finisar") filed suit against Defendants The DirecTV Group, Inc., DirecTV Holdings, LLC, DirecTV Enterprises, LLC, DirecTV Operations, LLC, DirecTV, Inc., and Hughes Network Systems, Inc. (collectively "DirecTV or Defendants") claiming infringement of United States Patent No. 5,404,505 ("the '505 patent"). The following claim terms involved little controversy.

I. Background and Standard of Review

For background of the patent, a description of the technology involved, and the standard of review, see Memorandum Opinion and Order Construing Claim Terms of United States Patent No. 5,404,505 [Doc. # 57], filed February 17, 2006.

II. Claim Terms

"Including distinct indices for referencing distinct portions thereof" used in claims 1, 16, 37, 39, and 44.

The parties proposed almost identical definitions, with the only dispute being over the meaning of "distinct." DirecTV argues that it must mean "different," while Finisar urges the use of "distinguishable." The

specification states that more than one data packet may be assigned a single identification value. ' 505 patent, col. 13, ll. 27-29. An index may also be embedded in various portions of the data for the purpose of cross-referencing data. '505 patent, col. 13, ll. 32-36. If an index value is used twice, the first time it is used can be distinguished from the second time it is used, even though they are not "different." This term will be defined as follows:

"Including distinct indices for referencing distinct portions thereof" means "there are portions of the database that are distinguishable from other portions of the database, and there are indices that are distinguishable from other indices that refer to those portions of the database."

"Data packets" claims 1, 9, 10, 11, 16, 24, 25, 26, 37, 39, and 44.

At the hearing the parties agreed upon the following definition for this term:

"data packets" are "units of computerized information of determinable length."

"Requested data packets" claims 1, 16, 37, 39, and 44

The parties agree on the following construction:

"requested data packets" means "data packets that are requested by subscribers or subscriber stations."

"Embedding said indices in said information database"

The parties agree on the following construction:

"embedding said indices in said information database" means "inserting the data comprising the indices into the database."

"Said set of indices include timestamps therein indicating when each said portion of the information database referenced by an index is scheduled to be transmitted"

The parties agree on the following construction:

"said set of indices include timestamps therein indicating when each said portion of the information database referenced by an index is scheduled to be transmitted" means "the set of indices include data that can be used to determine the approximate time when the portion of information referenced by an index is scheduled for transmission."

"Buffer"

The parties agree on the following construction:

"buffer" means "a temporary holding place for data."

III. Conclusion

The jury shall be instructed in accordance with the above claim terms in the ' 505 patent.

So **ORDERED**.

E.D.Tex.,2006.

Finisar Corp. v. DirecTV Group, Inc.

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