

United States District Court,
D. Delaware.

TOSHIBA CORPORATION,
Plaintiff.

v.

JUNIPER NETWORKS,
INC. Defendant.

No. Civ. 03-1035-SLR

June 28, 2006.

Richard L. Horwitz, Arthur I. Neustadt, pro hac vice, David Ellis Moore, Potter Anderson & Corroon, LLP, Wilmington, DE, James J. Kulbaski, pro hac vice, Richard D. Kelly, pro hac vice, Thomas J. Fisher, pro hac vice, for Plaintiff.

William J. Marsden, Jr., John F. Horvath, Sean Paul Hayes, Fish & Richardson, P.C., Wilmington, DE, for Defendant.

MEMORANDUM ORDER

ROBINSON, J.

At Wilmington this 28th day of June, 2006, having heard oral argument and having reviewed the papers submitted in connection with the parties' proposed claim construction;

IT IS ORDERED that the disputed claim language in U.S. Patent Nos. 5,835,710 ("the '710 patent"), 6,341,127 ("the '127 patent"), 6,343,322 ("the '322 patent"), and 6,598,080 ("the '080 patent"), as identified by the above referenced parties, shall be construed consistent with the tenets of claim construction set forth by the United States Court of Appeals for the Federal Circuit in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed.Cir.2005), as follows:

1. "Virtual connection" FN1 and "virtual patent": FN2 A logical connection between two nodes of an ATM network. The patent specifications of the '710 and '322 patents describe the use of ATM virtual connections for transferring packets without the need to carry out any network layer processing on the packets.FN3 The parties agree that the term "virtual path" from the '080 patent should be construed in a manner consistent with the construction of "virtual connection" from the '710 and '322 patents.

FN1. Claims 11, 12, 14 and 17 of the '710 patent; claims 5, 7 and 8 of the '322 patent.

FN2. Claim 3 of the '080 patent.

FN3. '710 patent, col. 3, l. 64-col. 4, l. 14.

2. "Logical network": FN4 A subnetwork in a network. The specification of the '710 patent describes "logical network" as referring to "a network than can be handled logically as a single entity, regardless of a physical configuration." FN5 Consistent with both this description and its use in the '710 and '080 patents, the "logical network" limitation represents a network that is part of a larger network.

FN4. Claims 11, 12, 14 and 17 of the '710 patent; claim 3 of the '080 patent.

FN5. '710 patent, col. 8, ll. 25-27.

3. "Available for receiving [transmitting] a packet": FN6 Existing to receive [transmit] the packet. This construction is supported by the language of the claims themselves, which requires that a first virtual connection exists to a first node that is available to carry a packet to that first node and a second virtual connection exists to a second node that is available to carry a packet to that second node.FN7

FN6. Claims 11, 12, 14 and 17 of the '710 patent.

FN7. '710 patent, col. 50, ll. 50-55.

4. "Specification information": FN8 Information that is common to a group of packets. The claims and specification of the '322 patent demonstrate that the specification information relates to the path that the packets traverse and not to the packets themselves.FN9

FN8. Claims 1, 2, 4, 5, 7, 8, 11, 12, 13, 14, 17 and 22 of the '322 patent.

FN9. *See, e.g.*, '322 patent, col. 18, ll. 55-62; *see also* '322 patent, col. 45, ll. 35-38.

5. "Identification information for a desired virtual connection" FN10 and "identification information for identifying an [a] upstream [downstream] path": FN11 Information that identifies an existing upstream [downstream] connection. The specifications of the '322 and '710 patents establish that the "identification information" of these limitations identifies an existing connection.FN12

FN10. Claim 12 of the '710 patent.

FN11. Claims 1, 2, 4, 5, 7, 8, 11, 12, 13, 14, 17 and 22 of the '322 patent.

FN12. *See* '710 patent, col. 5, ll. 38-52; '710 patent, col. 5, l. 66-col. 6, l. 10.; '322 patent, col. 8, ll. 32-39.

6. "Plurality of networks": FN13 Two or more ATM networks. The invention of the '322 patent is consistently described in terms of the use of signaling to select virtual connections in order to connect ATM networks. FN14 The parties agree that "plurality" means "two or more."

FN13. Claims 1, 2, 4, 5, 7, 8, 11, 12, 13, 14, 17 and 22 of the '322 patent.

FN14. '322 patent, col. 1, l. 1-col. 44, l. 22.

7. "Layer": FN15 A layer in the Open System Interconnection (OSI) protocol layer stack. The specifications of the '322 and '710 patents describe a layer in terms of the OSI protocol layer stack.FN16

FN15. Claims 11, 12, 14 and 17 of the '710 patent; claims 1, 2, 4, 5, 7, 8, 11, 12, 13, 14, 17 and 22 of the '322 patent.

FN16. '322 patent, col. 1, ll. 38-42, 49-50; '322 patent, col. 2, ll. 51-52; '710 patent, col. 1, ll. 36-43; '710 patent, col. 2, ll. 50-55.

8. "Packet[s]": FN17 Unit[s] of data having a generally accepted format for transmission from one device to another. The construction is agreed on by both parties.

FN17. Claims 11, 12, 14 and 17 of the '710 patent; claims 1, 2, 4, 5, 7, 8, 11, 12, 13, 14, 17 and 22 of the '322 patent; claim 3 of the '080 patent; claims 14, 15, 17, 18 and 29 of the '127 patent.

9. "Information for specifying a destination address of a packet": FN18 Information that specifies a destination address of a packet. The construction is agreed on by both parties.

FN18. Claims 11, 12, 14 and 17 of the '710 patent.

10. "Router device": FN19 A device capable of transmitting and receiving packets, including ATM cells, frame relay frames, or frames to which label headers of some other format are attached. The parties agree that the term "router device" does not have a commonly understood meaning in the art. The specification of the '127 patent defines "router device" in a manner consistent with the above construction.FN20

Furthermore, the asserted claims of the '127 patent provide further guidance in reaching the construction for "router device." FN21

FN19. Claims 14, 15, 17, 18 and 29 of the '127 patent.

FN20. '127 patent, col. 7, ll. 44-51.

FN21. '127 patent, col. 30, ll. 1-35, 45-56; '127 patent, col. 33, ll. 7-29.

11. "Label": FN22 An identifier. The construction is agreed on by both parties.

FN22. Claims 14, 15, 17, 18 and 29 of the '127 patent.

12. "Neighboring node/network": FN23 A node or network that is connected by a logical link or by a direct physical link. The construction is agreed on by both parties.

FN23. Claims 14, 15, 17, 18 and 29 of the '127 patent.

13. "Policy information indicating a permitted neighboring node/network from which a packet transfer by the label switching is to be permitted": FN24 Information indicating an upstream neighboring node/network from which packet transfer by label switching is to be permitted. The specification of the '127 patent, in describing a permitted neighboring node/network, is consistent with this construction.FN25

FN24. Claims 14, 15, 17, 18 and 29 of the '127 patent.

FN25. '127 patent, col. 12, ll. 17-65.

14. "Request message for requesting a set up of a requested label switching path": FN26 A message requesting the set up of a label switching path. The construction is agreed on by both parties.

FN26. Claims 14, 15, 17, 18 and 29 of the '127 patent.

15. "Stream information": FN27 Information that is common to a stream of packets. The limitation is used in the specification of the '127 patent in a manner consistent with this construction.FN28

FN27. Claims 14, 15, 17, 18 and 29 of the '127 patent.

FN28. *See, e.g.*, '127 patent, col. 2, l. 54-col. 3, l. 12; '127, col. 18, ll. 22-29, 54-59; '127 patent, col. 19, ll. 31-35.

16. "When the set up of the requested label switching path is judged as [not] permitted": FN29 Upon judging whether to permit the set up of the requested label switching path. The construction is agreed on by

both parties.

FN29. Claims 14, 15, 17, 18 and 29 of the '127 patent.

D.Del.,2006.

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