United States District Court,
D. Oregon.

COLLEGENET, INC., a Delaware Corporation,
Plaintiff.
v.
XAP CORPORATION, a Delaware Corporation,
Defendant.

No. 03-CV-1229-BR

Aug. 18, 2006.

Debra Rae Bernard, Michael O. Warnecke, Perkins Coie LLP, Chicago, IL, Elana Matt, Shylah R. Alfonso, Susan E. Foster, Perkins Coie, LLP, Michael N. Zachary, Klarquist Sparkman, LLP, Seattle, WA, John D. Vandenberg, Scott E. Davis, Stephen J. Joncus, Klarquist Sparkman, LLP, Portland, OR, for Plaintiff.

David W. Axelrod, Johnathan E. Mansfield, Connie C. Kong, Michael T. Garone, Schwabe Williamson & Wyatt, PC, John W. Stephens, Esler Stephens & Buckley, Portland, OR, for Defendant.

Scott D. Eads, Perkins Coie, LLP, Portland, OR.

ORDER

BROWN**, Judge.**

This matter is before the Court for consideration of Defendant XAP System's request for construction of certain additional terms in the '278 and ' 042 Patents as follows:

1. Patent '278*, Claims 1 and 12: " Entering the information in the form data fields.*"

Defendant construes this phrase to mean that "an applicant types information into two or more data fields displayed on a form." According to Plaintiff, however, the phrase does not require a construction, and, moreover, information can be entered "automatically" into form data fields within the meaning of this phrase.

The Court concludes Defendant's construction requires a limitation that is not present in the plain language of this phrase. Although Claim 1 provides for "entering applicant information in the first and second data form fields," it does so without specifying that the applicant must enter the information. The fact that Claim 12 (which is dependent on Claim 11 and, in turn, on Claim 1) explicitly provides for "automatically inserting applicant information ... into a single one of the second form data fields" makes clear that "automatically inserting" applicant information is but one way to accomplish "entering applicant information."

Accordingly, the Court rejects Defendant's construction and agrees with Plaintiff that the phrase does not require construction by the Court.

2. Patent '278, *Claims 1,3,4, and 10: " Posting."*

Defendant construes this term to mean "sending data to a server computer." Plaintiff does not object to this construction, and the Court agrees it is appropriate. The Court, therefore, adopts this construction.

3. Patent '278, *Claim 21: " Server computer."*

Defendant asserts this term means "a stand alone computer that acts as a server delivering information or software to other devices linked to a computer network." Plaintiff disagrees and argues this construction is unduly limiting because a "server computer" may include one or more computers.

The Court agrees with Plaintiff that there is not any support in the context of Claim 21 to limit this term to a single computer. The Court, therefore, declines to adopt Defendant's proposed construction.

4. Patent '278, *Claim 1: " Creating."*

Patent '042, Claim 1: " Generating."

Magistrate Judge Hubel found these terms do not require construction. *See* Finding and Recommendation at 30 (issued Oct. 29, 2004). This Court adopted Judge Hubel's Findings and Recommendation. *See* Order (issued May 13, 2005). The Court does not have any reason to revisit those rulings.

5. Patent '278, *Claims 1 and 13: " Form Data Fields."*

Defendant asserts this term means "Two or more spaces reserved on a form displayed on a screen *in which an applicant enters data* " (emphasis added). Plaintiff contends this term has a usual and customary meaning and does not need construing.

Judge Hubel construed "form" and "database field" as follows: "Form" means "a structured document having a collection of fields for entering and containing data," and "database field" means "the space reserved in the database for storage of a particular type of data."

This Court previously determined an applicant may or may not enter the information in the form data fields. Moreover, Claim 13 states "[f]irst form data fields include first form data field *labels* " (emphasis added).

The Court agrees with Plaintiff that Defendant's construction is unduly narrow and excludes other possibilities, including those expressly included within Claim 13 of the '278 Patent.

6. Patent '042, *Claim 9: " Validation Criteria."*

Defendant asserts the term means "Rules used to determine whether there are errors in data entered by the applicant." Plaintiff contends the term has a usual and customary meaning and does not need construing. Plaintiff also objects specifically to Defendant's proposed limitation requiring that "data" be entered "by the applicant." *See* 1 and 6 above.

Although the Court agrees with Plaintiff that Defendant's proposed construction is unduly limiting, the Court concludes a construction is necessary and adopts the following: "Rules used to determine whether there are errors in data entered in form data fields."

7. Patent '042*, Claims 7 and 8: " Verifying in accordance with validation criteria."*

Defendant asserts the term means "Comparing data entered by an applicant to validation criteria." Plaintiff argues the term has a usual and customary meaning, does not need construing, and is not a technical term of art.

Although the Court agrees Defendant's construction is flawed for the same reasons stated in Paragraphs 1, 5, and 6 above, the Court concludes a construction is necessary and adopts the following: "Comparing data entered in form data fields in accordance with validation criteria."

8. Patent '042*, Claim 16: " Administrative Burdens."*

Magistrate Judge Hubel found this term does not require a construction. *See* Finding and Recommendation at 76 (issued Oct. 29, 2004). This Court adopted Judge Hubel's Findings and Recommendation. *See* Order (issued May 13, 2005). The Court does not have any reason to revisit those rulings. FN1

FN1. Defendant also asserts administrative burdens include the processing, receiving, and reconciling of the accounts for monies received by applicants. The Court, however, rejected this same argument made by Defendant in its opposition to Plaintiff's Motion for Partial Summary Judgment (# 371). *See* Opin. and Order at 18-21 (issued July 17, 2006).

9. Patent '278*, Claim 32: " Each record capable of storing information corresponding to each of the database fields."*

This claim limitation was previously addressed by Judge Hubel. He did not construe the term specifically, but did construe elements; *i.e.* "record" and "database field." The Court does not see any need to revisit these constructions or to add to them.

10. Patent '278**, Claim 1: "** *Applicant Information.*"

The Court agrees with Plaintiff that this term does not require a construction.

CONCLUSION

The Court rejects Defendant XAP's construction of the following terms and finds they do not require construction: Entering the information in the form data fields; Server Computer; Creating; Generating; Form Data Fields; Administrative Burdens; Each record capable of storing information corresponding to each of the database fields; and Applicant Information.

The Court accepts Defendant's construction of the term "posting" to mean "sending data to a server computer."

The Court construes the term "Validation Criteria" to mean "Rules used to determine whether there are errors in data entered in form data fields."

The Court construes the term "Verifying in accordance with validation criteria" to mean "Comparing data entered in form data fields in accordance with validation criteria."

IT IS SO ORDERED.

D.Or.,2006.
Collegenet, Inc. v. XAP Corp.

Produced by Sans Paper, LLC.