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

INTERNATIONAL AUTOMATED SYSTEMS, INC,
Plaintiff.
v.
DIGITAL PERSONA, INC.; Microsoft Corporation; IBM; IBM Corporation; IBM Personal Computing Division; Lenovo (United States) Inc.; Lenovo Group Ltd.; UPEK, Inc. and John Does 1-20,
Defendants.

No. 2:06-CV-00072-DB

Feb. 12, 2008.

J. David Nelson, Robert D. Dahle, Nelson Snuffer Dahle & Poulsen, Sandy, UT, Bryan A. Kohm, Fenwick & West, San Francisco, CA, for Plaintiff.

James Jardine, Rick B. Hoggard, Ray, Quinney & Nebeker, P.C., Todd M. Shaughnessy, Snell & Wilmer, Salt Lake City, UT, Jared S. Goff (Admitted Pro Hac Vice), Goff Patent Law, Vancouver, WA, John D. Vandenberg (Admitted Pro Hac Vice), Klarquist Sparkman, LLP, Portland, OR, Jeffrey A. Miller, Sugithra Somasekar, Orrick Herrington & Sutcliffe, Menlo Park, CA, Joseph R. Bond, Heber City, UT, James G. Snell, Bingham McCutchen LLP, East Palo Alto, CA, for Defendants.

ORDER ON AGREED PATENT CLAIM CONSTUCTIONS

DEE BENSON**, District Judge.**

On November 20, 2007, the Court conducted a Markman hearing to assist the Court in interpreting the meaning of the claim terms in dispute. The Court has already construed those terms in an order dated January 3, 2008, and the parties preserve for appeal their objections and arguments with respect to the disputed claim terms. Plaintiff International Automated Systems, Inc. (IAS), Defendant Microsoft Corporation (Microsoft), and Defendant Digital Persona, Inc. (Digital) also agreed on a number of constructions of other claim terms. To ensure that the record is complete for appellate purposes and for purposes of possible later proceedings in this Court, Microsoft and Digital have requested that the Court enter this order to document the parties' agreed constructions. The constructions agreed upon comport with the meaning of the terms as they are used in the claims, the specification, the prosecution history, and any applicable extrinsic evidence.

Therefore, IT IS HEREBY ORDERED the Joint Motion For Order On Agreed Patent Claim Constructions is granted, and the agreed claim terms will be construed as follows:

"**Reading**"-Receiving a representation of the thing being read.

"**Unique identifying characteristics**"-Physical traits of a person that can be used to distinguish that person from others. For fingerprints (which could include all or part of a fingerprint), fingerprint ridge minutiae are examples of unique identifying characteristics. Fingerprint ridge minutiae properties may include type, relative location, orientation, and quality.

"**Computer**"-An electronic device that can process data.

"**Digitizing**"-Converting to a form that can be input to a computer.

"**Type**"-Particular class of unique identifying characteristics. For fingerprints, unique identifying characteristics types may include, for example, ridge endings, ridge bifurcations, ridge compounds, ridge islands, ridge lines, ridge curves, or some particular combination of these types, as distinguished from other properties associated with ridge characteristics, such as relative location, orientation, or quality.

"**Code**"-Computer readable data used to represent an assigned meaning.

"**Unique code**"-Code corresponding to a characteristic that is without like or equal in the codes corresponding to other characteristics.

"**Unique code which is comprised of the type**"-A unique code that indicates to which one of the different types the characteristic belongs. For fingerprints, the code indicates that it is a characteristic of a type that may include, for example, a ridge ending, a ridge island, a ridge bifurcation, a ridge compound, a ridge line, a ridge curve, or some particular combination of these types of ridge characteristics.

"**Relative location**"-Location of the characteristic with respect to one or more other unique identifying characteristics.

"**Unique code which is comprised of the type and also relative location**"-For a unique identifying characteristic, a unique code representing the characteristic type and the location of the characteristic with respect to one or more other unique identifying characteristics.

"**Unique identification characteristics code**"-For a unique identifying characteristic, a unique code representing the characteristic type and the location of the characteristic with respect to one or more other unique identifying characteristics. In claim 1, "the unique identification characteristics code" and "the unique identification characteristics codes" refer to the previously-recited "unique code which is comprised of the type and also relative location".

"**Reading unique identifying characteristics from a body part, transmitting said unique identifying characteristics to a computer, digitizing the characteristics, and then having a computer with the ability to separate out from the whole unique identifying characteristics into separate unique identifying characteristics and then distinguish and identify the different unique characteristics and then giving each of those unique identifying characteristics a unique code that represents the unique identifying characteristics type and location relative to other unique identifying characteristics for the purpose of affixing them on an identification document, or electronic storage medium**"-This language of the preamble of the claim does not include independent claim limitations. At least some of the preamble language (like the rest of the intrinsic evidence) may be used to clarify the limitations in the body of the

claim(s) during the claim construction proceedings.

"**Digitizer**"-Device that converts a signal to a form that can be input to a computer.

"**Means for transferring the characteristics from a camera means to a digitizer**"-This is a means-plus-function limitation under 35 U.S.C. s. 112, para. 6.

Function-Moving, from a camera means to a digitizer, information representing the unique identifying characteristics that are read from the body part.

Structure-Communications link between a camera means and a digitizer.

"**Means for transferring the characteristics from the digitizer to the computer for the purpose of separating out from the whole image each unique identifying characteristic**" This is a means-plus-function limitation under 35 U.S.C. s. 112, para. 6.

Function-Moving, from the digitizer to the computer, digital information representing the unique identifying characteristics. The language "for the purpose of separating out from the whole image each unique identifying characteristic" is a statement of intended use that is not a limitation on the claims.

Structure-Communications link between the digitizer and the computer.

"**Live impression**"-A representation of a body part produced by reading a live body part.

"**Digital impression**"-A computer readable representation of a body part.

"**Live digitized impressions**"-A computer readable representation of a body part produced by reading a live body part.

"**Means for digitizing the live impression**" This is a means-plus-function limitation under 35 U.S.C. s. 112, para. 6.

Function-Converting a representation of the live impression of the body part to a form that can be input to a computer.

Structure-A digitizer.

"**Means for transmitting said digital impression to a computer**" This is a means-plus-function limitation under 35 U.S.C. s. 112, para. 6.

Function-Sending the digital impression to a computer.

Structure-Communications link.

"**Means for sending a signal to verify the identity of the person evidencing the live impression of the body part**" This is a means-plus-function limitation under 35 U.S.C. s. 112, para. 6.

Function-Sending a signal to verify the identity of the person evidencing the live impression of the body part.

Structure-Communications link.

Function of "**Means for reading the characteristics from a live impression of a body part**" This is a means-plus-function limitation under 35 U.S.C. s. 112, para. 6.

Function-Reading the characteristics from a live impression of a body part.

"**Wherein the reading of the characteristics from a live impression of a body part uses a lens that has the capacity to have within itself internal reflection that when a certain type of material touches the outside portion of the lens that at the point of touching the internal reflection is destroyed and an image of where the internal reflection is destroyed is transmitted to a camera**"-Reading the characteristics uses a lens that is structured and positioned in such a way that:(1) electromagnetic radiation within the lens travels to a surface of the lens and returns back into the lens; (2) at the locations where the material touches the surface of the lens, the electromagnetic radiation does not return back into the lens; and (3) an image of those locations is sent to a camera.

"**Prism**"-A body that has at least two non-parallel faces and has the capacity to disperse or change the path of electromagnetic radiation.

"**Fingerprint**"-At least part of the ridge detail of a finger.

"**Handprint**"-At least part of the ridge detail of a hand, including at least part of the palm.

"**Printing an impression of the body part on a transactional document**"-Printing a representation of the body part on a transactional document.

"**Video camera**"-Camera with the capability of receiving one or more images and converting them into one or more signals, representing the one or more images, that can be input to a computer, possibly after being digitized by a digitizer.

IT IS SO ORDERED.

D.Utah,2008.
International Automated Systems, Inc. v. Digital Persona, Inc.