

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

**Before the Honorable Dee Lord
Administrative Law Judge**

In the Matter of

**CERTAIN MOBILE ELECTRONIC
DEVICES AND LAPTOP COMPUTERS**

Inv. No. 337-TA-1215

COMPLAINANT'S REBUTTAL *MARKMAN* BRIEF

with the plain and ordinary meaning of the term and well-known principles of claim construction.

Term 2: “first controller . . .” and “second controller . . .” (’086 patent, claim 1)

To maintain its argument that “controller” is a MPF term and arrive at its indefiniteness argument, Apple and its expert allege that “controller” is understood as a nearly infinite combination of hardware, firmware, and/or software, and nothing about the word “controller” or any other language in the asserted claims tells a POSITA which specific combination of hardware/firmware/software performs the recited functions. Jones Decl. at ¶¶ 51-53. In so doing, Apple advocates against the opinions of its own experts, who have consistently applied the plain and ordinary meaning of the term “controller” in recent proceedings.

For example, Dr. Jones’s own patent refers to controller as a known structure. *See* U.S. Patent No. 5,081,685 at 7:53-59 (Ex. 26) (“controller 52 may also be interconnected with an exterior computer 54 which, in turn, can interconnect with an operator in/out terminal 56.”)

Additionally, as shown below, **seven** different experts retained by Apple in proceedings against Maxell apply the plain and ordinary meaning of the term “controller” for various patents.

Patents with “Controller” Limitation	Apple’s Experts
U.S. Patent No. 10,212,586, claim 1: “a controller which switches the mobile terminal between an unlocked state and a locked state”	Dr. Daniel Menasce (<i>see</i> Ex. 27 (Apple’s CC brief not seeking to construe controller terms)); Dr. Victor Shoup (<i>see</i> IPR2020-00202 excerpts (Ex. 28))
U.S. Patent No. 6,329,794, claim 1: “a controller for controlling operation of said function devices based on said remaining capacity”	Dr. Daniel Menasce (<i>see</i> Ex. 27); Dr. Louis Hruska (<i>see</i> IPR2020-00199 excerpts (Ex. 29))
U.S. Patent No. 6,928,306, claim 1: “a controller for controlling operations of said portable mobile unit”	Dr. Benjamin Bederson (<i>see</i> Ex. 27); Dr. Michael Kotzin (<i>see</i> IPR2020-00204 excerpts (Ex. 30))
U.S. Patent No. 6,408,193, claim 1: “a controller connected to said receiver and said transmitter for controlling an amplitude of said transmitter”	Dr. Harry Bims (<i>see</i> Ex. 27); Dr. William Redman-White (<i>see</i> IPR2020-00203 excerpts (Ex. 31))

Even Apple’s expert for the IPR for the ’086 Patent (IPR2021-00362) asserts a “plain and ordinary meaning” for these claimed “controller” terms. *See* IPR2021-00362, Paper No. 1 (Ex. 32) at 9, 23 (confirming that “no claim construction is necessary” and mapping the “processor” of alleged prior art to the claimed “first controller”); *see also* IPR2021-00362, Sears Decl. at 12-13, (Ex. 33) (applying the plain and ordinary meaning of the “controller terms”).

Consistent with the litany of Apple’s experts who understand that “controller” has a known structure, “a POSITA would understand that the structure of the claimed first controller is limited because it is required ‘to control the information processing apparatus to operate into two operating modes: at least an identification mode and a registering mode, as the operating mode thereof,’ as recited by claim 1.” Wobbrock Reb. Dec. (Ex. 24) ¶ 28. Similarly, the structure of the claimed second controller would be limited as it is required “to execute a specified process when said first information and said second information are coincident within said registering mode.” *Id.* Thus, in claim 1, the controllers are described as components of an information processing terminal and the claim language connotes sufficient structure by describing how the “first controller” and “second controller” operate within the claim invention.

The specification further establishes the structural character of the “controller” terms. *See Finjan, Inc. v. Proofpoint, Inc.*, No. 13-cv-05808-HSG, 2015 WL 7770208, at *11 (N.D. Cal. Dec. 3, 2015) (finding “content processor” had sufficient structure because the specification described how the processor interacted with the invention’s other components and illustrated the processor’s location and relationship to other components). For example, the ’086 Patent describes a “portable terminal 0” that includes a “touch panel 1,” “a group of sensors 4,” “a liquid crystal panel,” and “a control unit 3 for controlling elements of the touch panel 1.” ’086 Patent, 3:14-35. This structural description, which shows how the elements are connected and

“how the function is achieved in the context of the invention,” remove the controller terms from MPF usage. *See Inventio AG v. ThyssenKrupp Elevator Americas Corp.*, 649 F.3d 1350, 1358 (Fed. Cir. 2011).

Further, the cases cited by Apple do not apply as they are in a different field of art. For example, in *Certain Access Control Systems and Components Thereof*, the court found that controller was a MPF term in the field of art of “garage door openers” because of “the failure of Complainant’s expert to explain what the supposedly well-known structure of ‘controller’ is in the field of art.” *See* Inv. No. 337-TA-1016, Order No. 13 at 49 (Jan. 26, 2017).¹ Here, Dr. Wobbrock has specifically identified that such a controller within the field of the ’086 Patent would correspond to known structures, such as ARM’s Cortex-A7 SoC and/or Texas Instruments multi-core 1.8GHz OMAP4470. Wobbrock Reb. Dec. (Ex. 24) at ¶ 30. No legal conclusion can be drawn with respect to the holding of *IPS Group, Inc. v. CivicSmart, Inc.*, because that court did not provide any rationale for construing “controller module” as a MPF, which may be due to use of “module.” Case No. 17-cv-632-CABMDD, 2018 WL 6567843, at * 4.

Apple also alleges that these terms are MPF terms because the Examiner in a related application construed the term as such. Under Apple’s own logic, however, the term should not be construed as MPF because the examiner in the prosecution of the application that led to the issuance of the ’086 Patent did **not** make any such determination. In fact, more weight should be given to the prosecution history of this patent, as well as the fact that in the IPR for the ’086 Patent, Apple and its expert did **not** construe these terms as MPF terms. *See* Ex. 32, Ex. 33.

¹*See also Certain LED Lighting Devices, LED Power Supplies, and Components Thereof*, Inv. No. 337-TA-1081, Order No. 49 at 34 (“LED-based light sources”; even then finding that “controller recited in claim 17” is not a MPF term); *see Improved Search LLC v. Microsoft Corp.*, Case No. 16-650-JFB-SRF, 2018 WL 1583975, at *7 (D. Del., March 30, 2018) (directed to a controller used to standardize language for advertisements).

Apple also alleges that the '086 Patent does not disclose sufficient structure for the claimed “second controller” because the disclosed “control unit” allegedly corresponds to a single component. But the specification does not put any physical limitations on the “control unit” that would preclude it from providing corresponding structure for both the claimed first and second controllers. In particular, control unit 3 could include multiple cores, such as the ones included in the ARM’s Cortex-A7 SoC and/or Texas Instruments multi-core 1.8GHz OMAP4470. Wobbrock Reb. Dec. (Ex. 24) at ¶ 29.

In the end, none of Apple’s arguments overcome the presumption that § 112 ¶ 6 does not apply. The terms do not recite “means,” but rather recite a known structure of “controller” as explained by Dr. Wobbrock. And the term “controller” is understood by Apple’s own experts.

B. Disputed Terms for the '821 Patent

Term 3: “white balance control means” ('821 patent, claims 1, 6)

Apple’s approach to this term is clear (and flawed): identify structure that clearly does not perform the agreed-upon functions, and then argue that the structure is insufficient. A proper assessment entails assessing (1) whether the structure Maxell and Staff have proposed for this term—white balance control circuit 8—performs the claimed functions, and (2) whether adequate structure (in the form of an algorithm or known hardware components) for that component is contained in the specification. Apple did neither, ignoring the obvious component responsible (circuit 8), and the significant corresponding structure disclosed for it.

Apple starts by arguing that Maxell’s and Staff’s structure lacks several unnecessary components, including, CCD 2, AGC circuit 3, and A/D converter 4. None of these components is stated as performing any of the agreed-upon functions: (1) detecting an achromatic portion of an image of an object on the basis of chrominance signals formed from an output signal that is obtained from an image pickup device via an optical system and indicative of said object image;