

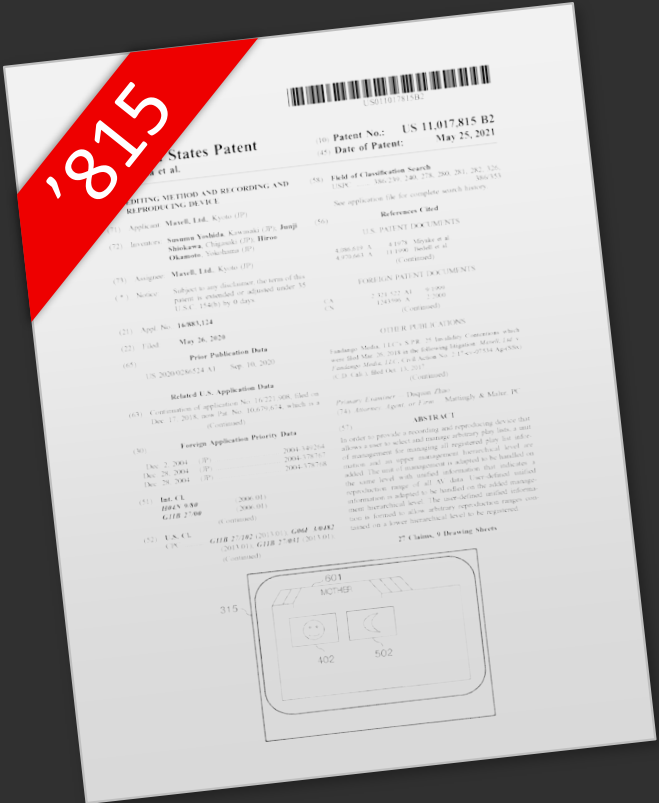


PLAINTIFF MAXELL, LTD.'S MARKMAN PRESENTATION

*Maxell, Ltd. v. Samsung Electronics Co., Ltd. and Samsung
Electronics America, Inc.*

Case No. 5:23-CV-00092-RWS (E.D. Tex.)

August 7, 2024



USER DEDICATED VIDEO PLAYLIST MANAGEMENT U.S. PATENT NO. 11,017,815





Disputed Term for the '815 Patent –
*“receiving ... first video information ...
including second video information that is encrypted”*

Maxell’s Proposed Construction	Samsung’s Proposed Construction
Plain and ordinary meaning	Plain and ordinary meaning, which is that the second video information is in encrypted form at the time it is received

The Dispute: Whether the plain meaning of “video information” requires encryption at a particular time



Samsung Wants to Rewrite the Claim

Samsung's Proposed Rewrite

“a network interface receiving first video information wirelessly from a device external to the information processing apparatus, the first video information being received including second video information that is encrypted at the time it is received”

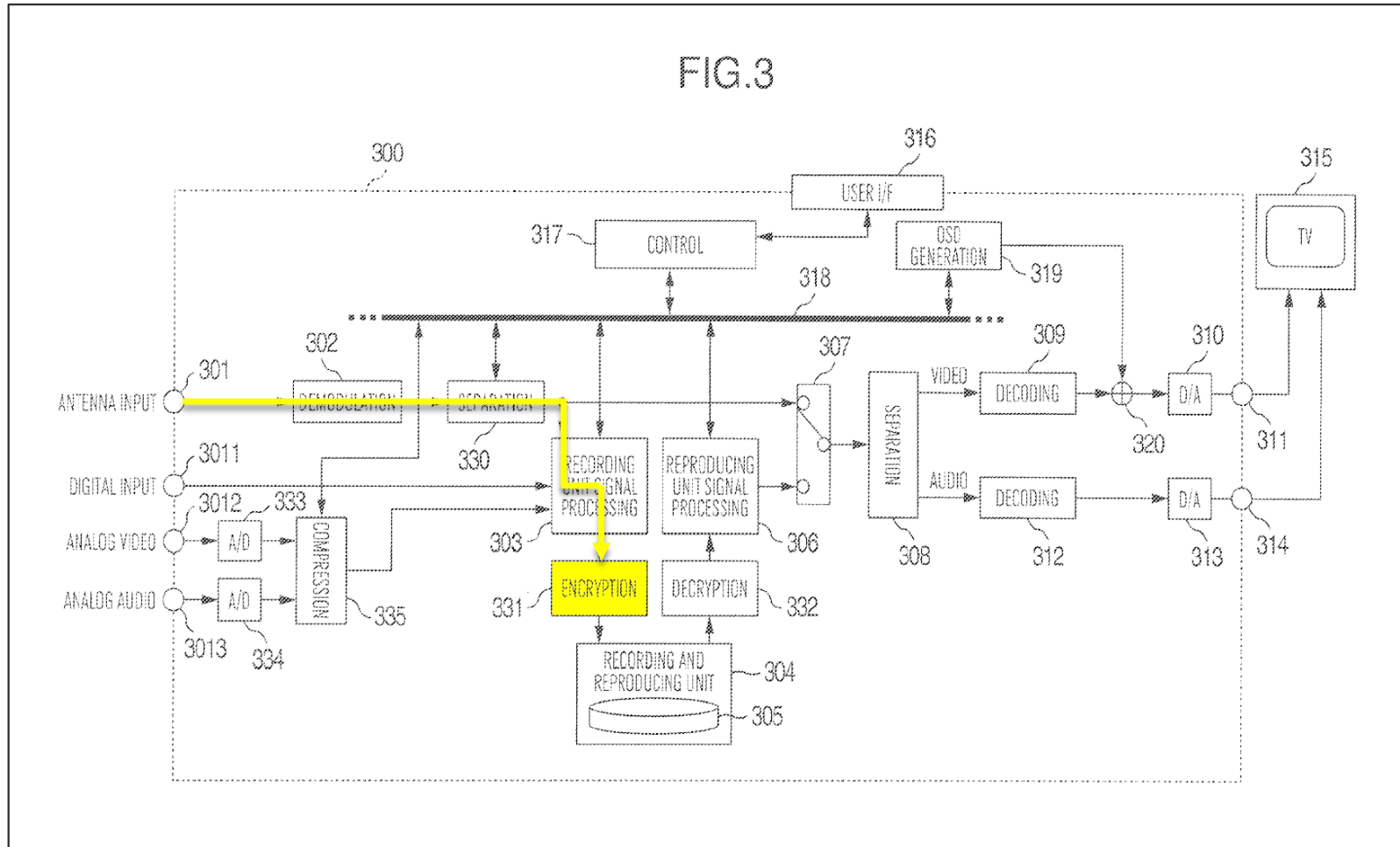
Other Possible Rewrites

“a network interface receiving first video information wirelessly from a device external to the information processing apparatus, the first video information being received including second video information that is encrypted after it is received”

“a network interface receiving first video information wirelessly from a device external to the information processing apparatus, the first video information being received including second video information that is encrypted before it is received”



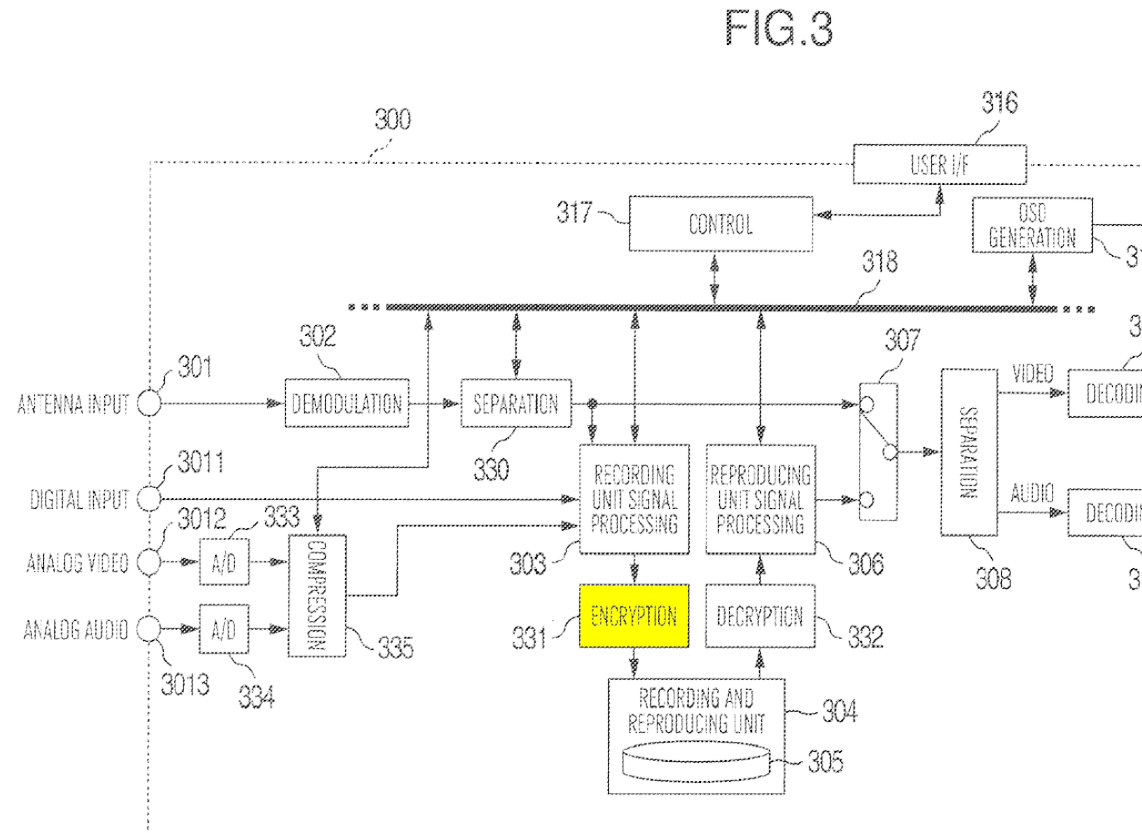
Samsung's Rewrite Excludes Disclosed Embodiments



'815 Patent, Fig. 3



Samsung's Rewrite Excludes Disclosed Embodiments



At the time of recording, a signal transmitted by digital broadcast or the like and received is demodulated in the demodulation circuit 302 by using a predetermined scheme, subjected to necessary signal processing such as timing adjusting data addition and modulation in the recording unit signal processing circuit 303, encrypted in the encryption circuit 331, and then recorded on the recording medium 305 by the recording and reproducing unit 304. A digital signal input from the digital input terminal 3011 is subjected to necessary signal processing such as timing adjusting data addition and modulation in the recording unit signal processing circuit 303, encrypted in the encryption circuit 331, and then recorded on the recording medium 305 by the recording and reproducing unit 304. An analog video signal input from the analog video input terminal 3012 and an analog audio signal input from the analog audio input terminal 3013 are subjected to compression processing in the compression circuit 335, encrypted in the encryption circuit 331 via the recording unit signal processing circuit 303, and then recorded on the recording medium 305 by the recording and reproducing unit 304.

'815 Patent at 5:6-27

'815 Patent, Fig. 3



Testimony from Samsung's Expert Belies Samsung's Position

a POSITA would have understood the disclosure in the '815 patent to imply the opposite, i.e., that the video information being received wirelessly was not encrypted. This is because, as explained in further detail in my IPR declaration, the only discussion of decrypting video information in the '815 patent applies to video information that was encrypted by an encryption circuit 331 after it was received and then stored and decrypted in a decryption circuit 332.

Dkt. 76-3 (Bederson Decl.) at ¶ 35



Disputed Term for the '815 Patent – *“character”*

Maxell's Proposed Construction	Samsung's Proposed Construction
Plain and ordinary meaning	A letter, number, punctuation mark, or other symbol or control code that is represented to a computer by one unit of information

The Dispute: Whether the well-known term “character” requires a construction



Disputed Term for the '815 Patent – *“character”*

Samsung's Proposed Construction

A letter, number, punctuation mark, or other symbol or control code that is represented to a computer by one unit of information

- Control code (not in specification or claims)
- One unit of information
 - Not in specification; no restriction on any volume used to display
 - Why just **one**? (no lexicography or disavowal)



Disputed Term for the '815 Patent – *“character”*

Samsung's Proposed Construction

A letter, number, punctuation mark, or other symbol or control code that is represented to a computer by one unit of information

Dkt. No. 76 at 3

Samsung's Brief

A letter, number, punctuation mark, or other symbol or control code that is represented to a computer by one unit of information, but not including a graphic (batman). (Dkt. No. 76 at 3)

The Claim Is Directed To Displaying On A Graphical User Interface



1. An information processing apparatus comprising:
 a network interface;
 a recording medium on which is stored a plurality of video information including first video information received wirelessly by the network interface over a network from another information processing apparatus, wherein at least some of the plurality of video information is associated with a user profile;
 a display; and
 a processor for controlling the display to display:
 a first area including a first character associated with a first group of video information for a first classification and a second character associated with a second group of video information for a second classification different from the first classification, the first group of video information being configured to allow a user to edit, wherein the first group of video information and the second group of video information are part of the plurality of stored video information, and
 a second area displaying thumbnails corresponding to at least a portion of the plurality of stored video information,
 wherein user selection of the first character enables the display of a first group of thumbnails corresponding to the first group of video information in the second area,
 wherein user selection of the second character enables the display of a second group of thumbnails corresponding to the second group of video information in the second area,

FIG.6

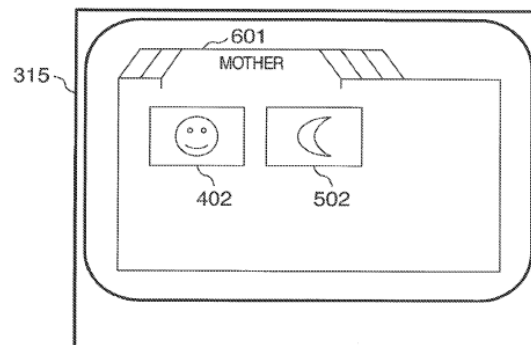


FIG.6

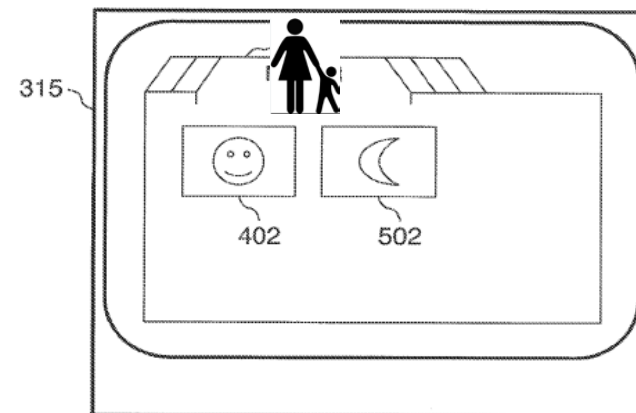


FIG.7

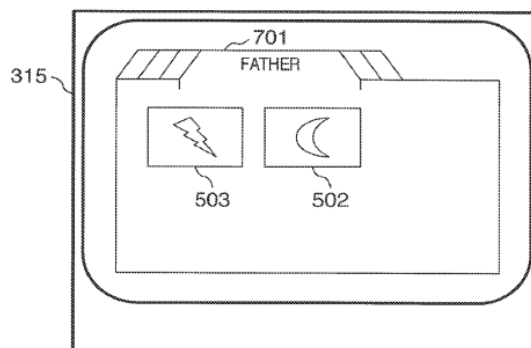
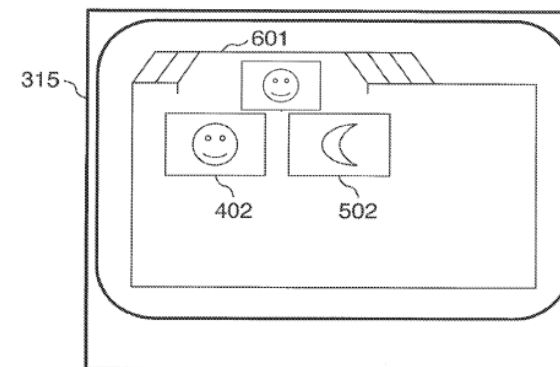


FIG.6



'815 Patent, Claim 1

Samsung's Expert Agrees That Emojis Are Characters/Symbols



A. Well, as I said, I have not seen this document before. So I don't have an opinion about this document. But, generally, characters are effectively indexes to a letter, number, punctuation mark, or other symbol or control code that can be represented to a computer and then displayed.

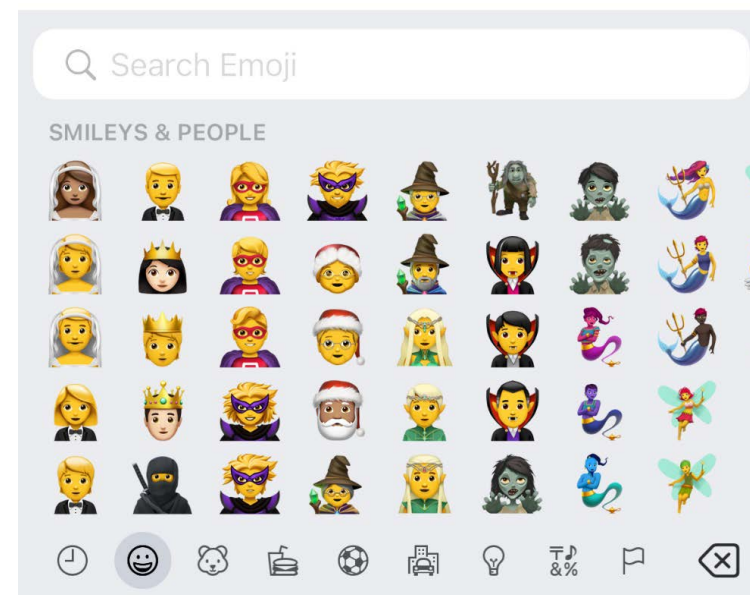
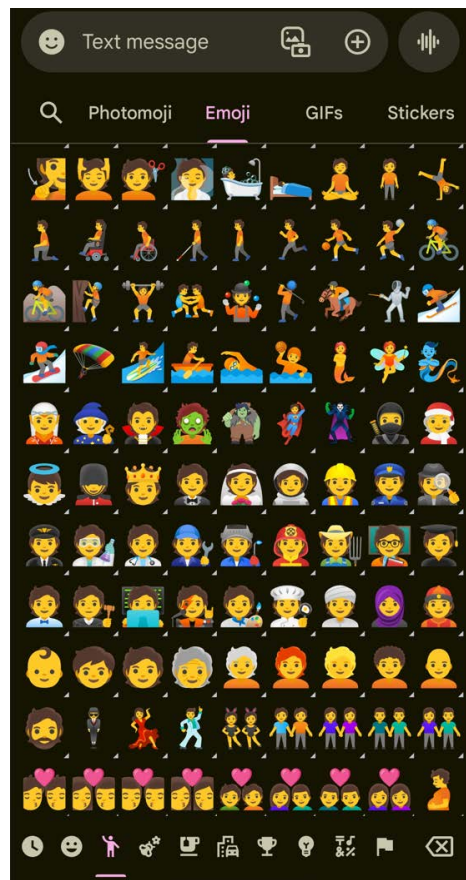
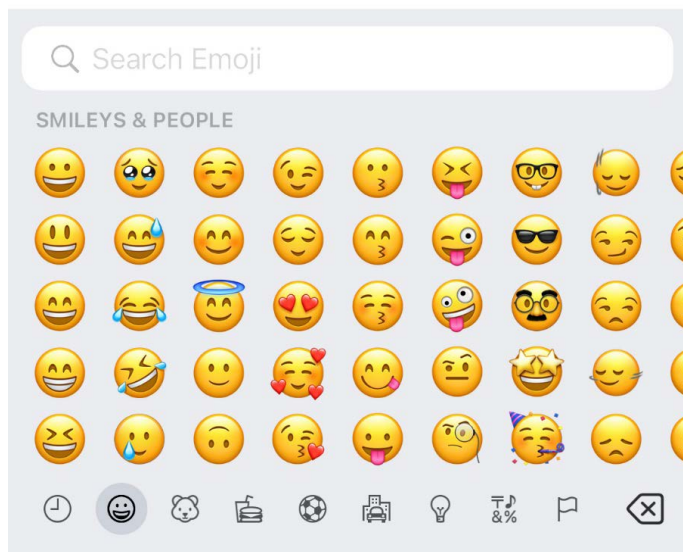
So to the extent an emoji is represented by one of these -- call it an index and it might be rendered by a font, then, yes, I think it's likely that it -- like other symbols would be considered by a POSITA to be a character.

Although, I don't think that's a specific opinion that I formed in my declaration.

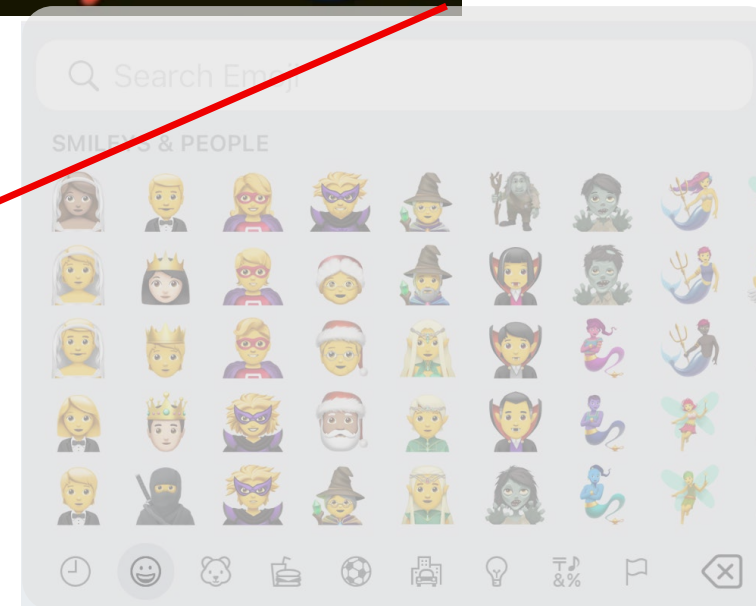
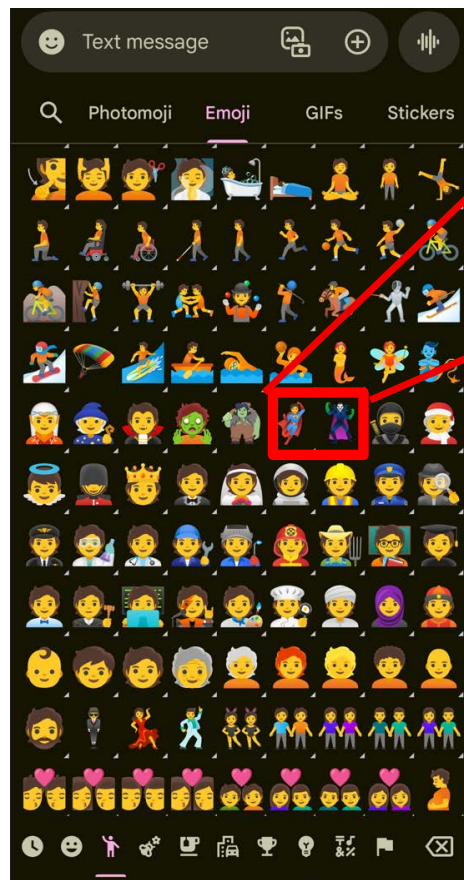
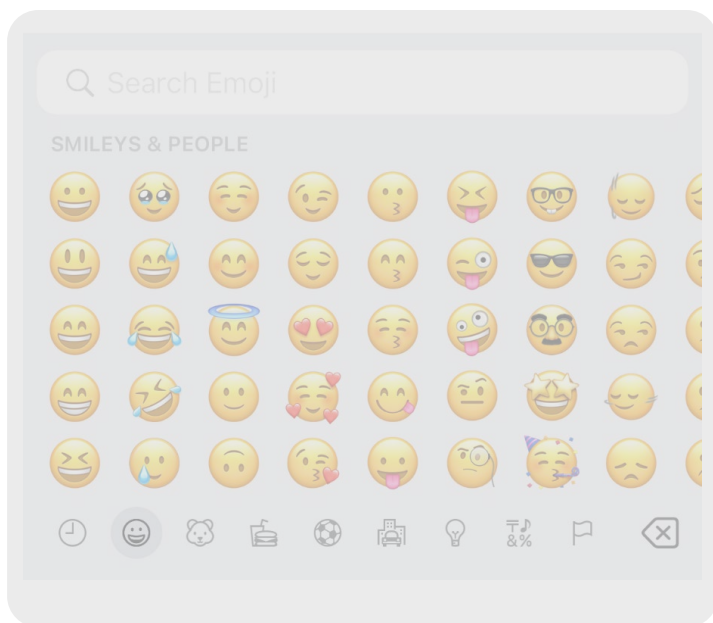
See Dkt. No. 73-10, at 50:1-14

e (絵, 'picture') + moji (文字, 'character')

POSITA Knows A “Character” Is Rendered As a Graphic In a GUI



POSITA Knows A “Character” Is Rendered As a Graphic In a GUI



POSITA Knows A “Character” Is Rendered As a Graphic In a GUI



Codepoints: 303D FE0F

Introduced: March, 2002 in Unicode version 3.2.0 (Emoji version 0.6)

Related emoji

 [currency exchange](#)

 [Japanese “discount” button](#)

 [radio button](#)

 [Japanese “secret” button](#)

 [Japanese “monthly amount” button](#)

 [last track button](#)

 [input numbers](#)

 [repeat button](#)

 [shuffle tracks button](#)

 [input symbols](#)

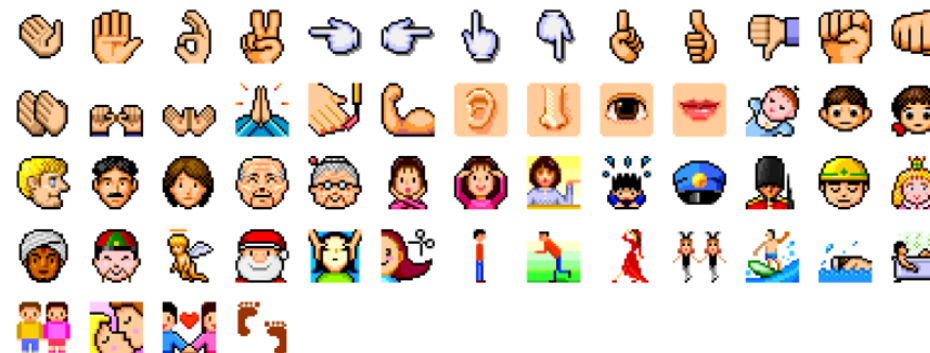
 [Japanese “no vacancy” button](#)

SoftBank

2004 - 31 December 2003

An increased resolution and a number of design changes. This was the first release to switch the  [Person](#) [Tipping Hand](#) (see Information Desk Person) from a [Man](#) to a [Woman](#), and many emojis were redesigned with additional detail.

People



Symbols



<https://yaytext.com/emoji/part-alternation-mark/>

<https://emojipedia.org/softbank/2004>

Specification Describes Displaying “Character” Consistent With P&O



FIG. 5 shows an example in which menu display is conducted by using the play list unified information shown in FIG. 1. Reference numeral 501 designates a tag for displaying all play lists, 502 a thumbnail indicating play list information #1, and 503 a thumbnail indicating play list information #2. In the same way as the above-described case, the user moves a cursor position on the screen to a desired thumbnail and conducts selection and determination by using a remote controller or the like. As a result, the user can reproduce arbitrary play lists or all play lists. By the way, display switching from the all program display tag 401 to all play list display tag can be implemented by, for example, movement of the

FIG. 6 shows an example in which menu display is conducted by using the user-defined unified information #2 shown in FIG. 1. Reference numeral 701 designates a menu display tag for user #1 (who is supposed to be “father” here). As appreciated from FIG. 1, reference numerals 503 and 502 designate thumbnails indicating the play list information #1 and the play list information #2, respectively. In this case, the “father” selects two play lists. However, the reproduction sequence of them can be altered. In the same way as the “mother,” the “father” can use the menu display tag for father 701 as a folder dedicated to himself, and freely register and delete data to be reproduced.

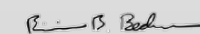
FIG. 7 shows an example in which menu display is conducted by using the user-defined unified information #2 shown in FIG. 1. Reference numeral 701 designates a menu display tag for user #2 (who is supposed to be “father” here). As appreciated from FIG. 1, reference numerals 503 and 502 designate thumbnails indicating the play list information #2 and the play list information #1, respectively. In this case, the “father” selects two play lists. However, the reproduction sequence of them can be altered. In the same way as the “mother,” the “father” can use the menu display tag for father 701 as a folder dedicated to himself, and freely register and delete data to be reproduced.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TEXARKANA DIVISION	
MAXELL, LTD., <i>Plaintiff,</i>	Case No. 5:23-cv-00092-RWS
v. SAMSUNG ELECTRONICS CO., LTD. and SAMSUNG ELECTRONIC AMERICA, INC.,	

46. These “menu display tags,” also referred to in the ’815 patent as simply “tags,” are graphical images of a file folder with a tab on which appear textual labels such as “ALL PROGRAM INFORMATION” or “MOTHER.”

I declare under penalty of perjury that the following is true and correct.

Executed on May 30, 2024


Benjamin B. Bederson, Ph.D.

See Dkt. No. 76-3, ¶46



Conclusion

“character”

Maxell’s Proposed Construction

Plain and ordinary meaning

- A POSITA would have readily understood what is meant by “character” in the context of the ’815 Patent’s claims.
 - The ’815 Patent Specification confirms this understanding **and** puts no limit on the **volume** required to display a character.
 - The extrinsic evidence confirms this understanding.
 - Samsung’s expert confirms this understanding.
- Samsung has identified no lexicography or disavowal to depart from this plain and ordinary meaning and to include restriction on volume or to inject claims not in the spec.



Disputed Term for the '815 Patent –

“the first group of video information being configured to allow a user to edit”

Maxell’s Proposed Construction	Samsung’s Proposed Construction
Plain and ordinary meaning	Indefinite

The Dispute: Whether Samsung has established by clear and convincing that a POSITA would **not** be able to ascertain the meaning of “the first group of video information being configured to allow a user to edit” with reasonable certainty



Samsung's Contentions for Indefiniteness

1

The term is unclear whether (1) the group of video information, (2) the video information itself, or (3) both are to be edited. RCC

(Dkt. No. 76) at 9

2

Those skilled in the art do not know what it means for digital information—be it a group of video information or the video information itself—to be configured to edit, and the specification provides no explanation.

Id.



Samsung's Contentions for Indefiniteness

1

The term is unclear whether (1) the group of video information, (2) the video information itself, or (3) both are to be edited. RCC

(Dkt. No. 76) at 9

2

Those skilled in the art do not know what it means for digital information—be it a group of video information or the video information itself—to be configured to edit, and the specification provides no explanation.

Id.

Intrinsic evidence demonstrates that both of Samsung's contentions are wrong



Claim 1 Conveys the Claim Scope with Reasonable Certainty

1. An information processing apparatus comprising:
a network interface;
a recording medium on which is stored a plurality of video information including first video information received wirelessly by the network interface over a network from another information processing apparatus, wherein at least some of the plurality of video information is associated with a user profile;
a display; and
a processor for controlling the display to display:
a first area including a first character associated with a first group of video information for a first classification and a second character associated with a second group of video information for a second classification different from the first classification, the first group of video information being configured to allow a user to edit, wherein the first group of video information and the second group of video information are part of the plurality of stored video information, and

1 Information processing apparatus

'815 Patent, Claim 1



Claim 1 Conveys the Claim Scope with Reasonable Certainty

1. An information processing apparatus comprising:
a network interface;
a recording medium on which is stored a plurality of video information including first video information received wirelessly by the network interface over a network from another information processing apparatus, wherein at least some of the plurality of video information is associated with a user profile;
a display; and
a processor for controlling the display to display:
a first area including a first character associated with a first group of video information for a first classification and a second character associated with a second group of video information for a second classification different from the first classification, the first group of video information being configured to allow a user to edit, wherein the first group of video information and the second group of video information are part of the plurality of stored video information, and

- 1 Information processing apparatus
- 2 Recording medium that stores a plurality of video information

'815 Patent, Claim 1



Claim 1 Conveys the Claim Scope with Reasonable Certainty

1. An information processing apparatus comprising:
a network interface;
a recording medium on which is stored a plurality of video information including first video information received wirelessly by the network interface over a network from another information processing apparatus, wherein at least some of the plurality of video information is associated with a user profile;
a display; and
a processor for controlling the display to display:
a first area including a first character associated with a first group of video information for a first classification and a second character associated with a second group of video information for a second classification different from the first classification, the first group of video information being configured to allow a user to edit, wherein the first group of video information and the second group of video information are part of the plurality of stored video information, and

- 1 Information processing apparatus
- 2 Recording medium that stores a plurality of video information
- 3 A first group of video information

'815 Patent, Claim 1



Claim 1 Conveys the Claim Scope with Reasonable Certainty

1. An information processing apparatus comprising:
a network interface;
a recording medium on which is stored a plurality of video information including first video information received wirelessly by the network interface over a network from another information processing apparatus, wherein at least some of the plurality of video information is associated with a user profile;
a display; and
a processor for controlling the display to display:
a first area including a first character associated with a first group of video information for a first classification and a second character associated with a second group of video information for a second classification different from the first classification, the first group of video information being configured to allow a user to edit, wherein the first group of video information and the second group of video information are part of the plurality of stored video information, and

- 1 Information processing apparatus
- 2 Recording medium that stores a plurality of video information
- 3 A first group of video information
- 4 The first group of video information being configured to allow a user to edit

'815 Patent, Claim 1



Claim 1 Conveys the Claim Scope with Reasonable Certainty

1. An information processing apparatus comprising:
a network interface;
a recording medium on which is stored a plurality of video information including first video information received wirelessly by the network interface over a network from another information processing apparatus, wherein at least some of the plurality of video information is associated with a user profile;
a display; and
a processor for controlling the display to display:
a first area including a first character associated with a first group of video information for a first classification and a second character associated with a second group of video information for a second classification different from the first classification, the first group of video information being configured to allow a user to edit, wherein the first group of video information and the second group of video information are part of the plurality of stored video information, and

- 1 Information processing apparatus
- 2 Recording medium that stores a plurality of video information
- 3 A first group of video information
- 4 The first group of video information being configured to allow a user to edit
- 5 The first group of video information is part of the plurality of video information that is stored in the recording medium.

'815 Patent, Claim 1



Claim 1 Conveys the Claim Scope with Reasonable Certainty

1. An information processing apparatus comprising:
 a network interface;
 a recording medium on which is stored a plurality of video information including first video information received wirelessly by the network interface over a network from another information processing apparatus, wherein at least some of the plurality of video information is associated with a user profile;
 a display; and
 a processor for controlling the display to display:
 a first area including a first character associated with a first group of video information for a first classification and a second character associated with a second group of video information for a second classification different from the first classification, the first group of video information being configured to allow a user to edit, wherein the first group of video information and the second group of video information are part of the plurality of stored video information, and

- 1 Information processing apparatus
- 2 Recording medium that stores a plurality of video information
- 3 A first group of video information
- 4 The first group of video information being configured to allow a user to edit
- 5 The first group of video information is part of the plurality of video information that is stored in the recording medium.

'815 Patent, Claim 1

Samsung's Expert Is Reasonably Certain About the Claim Scope



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

MAXELL, LTD.,
Plaintiff,

v. Case No. 5:23-cv-00092-RWS

SAMSUNG ELECTRONICS CO., LTD. and
SAMSUNG ELECTRONIC AMERICA,
INC.,
Defendants.

DECLARATION OF DR. BENJAMIN B. BEDERSON

I declare under penalty of perjury that the following is true and correct.
Executed on May 30, 2024


Benjamin B. Bederson, Ph.D.

62. The meaning of the “configured to edit” limitation cannot be reasonably determined by a POSITA and is therefore indefinite. First, this limitation is oddly structured, and grammatically it is not even clear whether the group of video information or the video information is configured to edit something else, or whether the group of video information is itself to be edited. In context, it seems reasonably certain that the latter is intended, and I have assumed that this is the case for the purpose of my opinion.

See Dkt. No. 76-3, ¶¶64, 66

Samsung's Expert Is Reasonably Certain About the Claim Scope



Q. So just to clear my understanding, when you say, "it seems reasonably certain that latter is intended," you mean by looking at this term, a POSITA will understand the "group of video information" is itself to be edited; correct?

A. I'm referring to the term -- sorry, the text, "group of video information," that that is the thing being edited rather than the "group of video information" is editing something else.

Of course, I then go on to explain my analysis of this partial claim term, "group of video information." But, yes, my opinion is focused on that it is the first group of video information that is being configured to itself be edited.

Q. And that's your opinion that a POSITA reading this term would have the same understanding as what you just told me?

A. Well, as I said, I think this -- this portion of this limitation is oddly structured and it is grammatically not clear, but I think it's reasonably certain that a POSITA would understand it in the way that I explained.

See Dkt. No. 73-10, at 56:11-57:11



Samsung's Contentions for Indefiniteness

1

~~The term is unclear whether (1) the group of video information, (2) the video information itself, or (3) both are to be edited. RCC~~

(Dkt. No. 76) at 9.

2

Those **skilled in the art** do not know what it means for digital information—be it a group of video information or the video information itself—to be **configured to edit**, and the specification provides no **explanation**.

Id.



Samsung Is Contradicted by Its Own Expert

DEFENDANTS' RESPONSIVE CLAIM CONSTRUCTION BRIEF

edited. Ex. C, ¶¶ 62-63. Second, the unrebutted opinion of Dr. Bederson establishes that those skilled in the art do not know what it means for digital information—be it a group of video information or the video information itself—to be configured to edit, and the specification provides no explanation. *Id.* at ¶ 75. Maxell attempts to avoid an invalidity finding by effectively rewriting

DECLARATION OF DR. BENJAMIN B. BEDERSON

66. Modifying groups of video information, such as by adding and deleting items of video information 402, 502 from the group, is also disclosed in the '815 patent at 6:21-28: “Reference numeral 601 designates a menu display tag for user #1 (who is supposed to be ‘mother’ here). As appreciated from Fig. 1, reference numerals 402 and 502 designate thumbnails indicating the program information #1 and the play list information #1, respectively. The “mother” can use the menu display tag for mother 601 as a folder dedicated to herself, and freely register and delete data to be reproduced.”

67. A POSITA would understand this passage to mean the group of video information in the menu display tag 601 can be modified by adding additional programs and playlists to the menu display tag 601, and by deleting programs and playlists from the menu display tag 601. A POSITA would further understand such modification of membership in the group of video information to constitute editing the group of video information.

See Dkt. No. 76-3, ¶¶66-67



Samsung Is Contradicted by Its Own Expert

IN THE UNITED STATES DISTRICT COURT
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TEXARKANA DIVISION

MAXELL, LTD.,
Plaintiff,

v. Case No. 5:23-cv-00092-RWS

SAMSUNG ELECTRONICS CO., LTD. and
SAMSUNG ELECTRONIC AMERICA,
INC.,
Defendants.

DECLARATION OF DR. BENJAMIN B. BEDERSON

I declare under penalty of perjury that the following is true and correct.

Executed on May 30, 2024


Benjamin B. Bederson, Ph.D.

65. Additionally, as discussed in detail in the PTAB's Final Written Description in the *inter partes* review of an ancestor patent, the '815 patent discloses storing only a single copy of a piece of video information. *See, e.g.*, IPR2018-01432, Paper 32, 12-13 (Ex. S); '815 patent, 3:55-4:13 and Fig. 1 (showing only a single copy of Program #1-3 with multiple program information such as Program Information #2 and Program Information #2a pointing to a single copy of Program #2). A POSITA would therefore consider that creating playlists that identify one or more parts of one of the Programs #1-#3 in Fig. 1 arbitrarily specified by a user as discussed at 3:61-63 as a form of editing a program.

See Dkt. No. 76-3, ¶165



Samsung's Contentions for Indefiniteness

1

~~The term is unclear whether (1) the group of video information, (2) the video information itself, or (3) both are to be edited. RCC~~

(Dkt. No. 76) at 9.

2

~~Those **skilled in the art do not know** what it means for digital information be it a group of video information or the video information itself—to be configured to edit, and the specification provides no explanation.~~

Id.



Conclusion

“the first group of video information being configured to allow a user to edit”

Maxell’s Proposed Construction

Plain and ordinary meaning

- A POSITA would understand with reasonable certainty that the “the” in the claim language confirms that the first group of video information is being configured to allow a user to edit
 - Samsung’s expert confirms this understanding.
 - The ’815 Patent Specification confirms this understanding.
- Samsung has not established clearly and convincingly that there is ambiguity in the claim.



A Claim Covering Multiple Possibilities Is Not Indefinite



See CyWee Grp., Ltd. v. Huawei Device Co. Ltd., 2018 WL 6419484, at *20 (E.D. Tex. Dec. 6, 2018)

“That the claim is drafted broadly enough to cover multiple embodiments does not render the claim indefinite.”



See California Inst. of Tech. v. Hughes Commc'ns Inc., 35 F.Supp.3d 1176, 1194 (C.D.Cal.2014)

Just because “a term covers broad possibilities does not render it indefinite.”



See SmithKline Beecham Corp. v. Apotex Corp., 403 F.3d 1331, 1341 (Fed.Cir.2005)

“[B]readth is not indefiniteness.”



See Ultimex Cement Mfg. Corp. v. CTS Cement Mfg. Corp., 587 F.3d 1339, 1353 (Fed.Cir.2010)

“Merely claiming broadly” does not “prevent the public from understanding the scope of the patent.”



Disputed Term for the '815 Patent – *“being deleted from the first group of video information”*

Maxell's Proposed Construction	Samsung's Proposed Construction
Plain and ordinary meaning	reversing a registration (i.e., unregistering) of video information from the first group

The Dispute: Whether the plain meaning of “being deleted from the first group of video information” requires reversing a registration of video information when “reversing” (and “unregistering”) do not appear anywhere in the '815 Patent



Samsung's Contentions for Construction

The construction is needed because:

1

It is substantively correct, and

2

It is binding on Maxell because of the PTAB's construction of a "substantively identical limitation" in an inter partes review of a related patent.

Dkt. No. 76 at 7



Samsung's Contentions for Construction

The construction is needed because:

1

It is substantively correct, and

2

It is binding on Maxell because of the PTAB's construction of a "substantively identical limitation" in an inter partes review of a related patent.

Dkt. No. 76 at 7

The intrinsic evidence demonstrates that Samsung's construction is wrong



Samsung Acknowledges that a Party Can Forward Different Constructions in an Inter Partes Review Versus District Court

Case 5:23-cv-00092-RWS Document 76 Filed 07/10/24 Page 1 of 45 PageID #: 2991

IN THE UNITED STATES DISTRICT COURT
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TEXARKANA DIVISION

MAXELL, LTD.,

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v.

SAMSUNG ELECTRONICS CO., LTD., and
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INC.,

Defendants.

Civil Action No. 5:23-CV-00092-RWS

DEFENDANTS' RESPONSIVE CLAIM CONSTRUCTION BRIEF

indefiniteness renders it logically impossible for the Board to reach such a decision.”). Moreover, as shown above, the PTAB cannot determine indefiniteness and there is nothing improper in asserting different constructions in an IPR petition and a district court proceeding. Ex. Y, *Abbott Diabetes Care Inc. v. Dexcom, Inc.*, IPR2022-00913, Paper 14 at 14 (P.T.A.B. November 3, 2022).

Dkt. No. 76 at 13-14 (“user profile” term)



The PTAB's *Sua Sponte* Construction – Not Maxell's Construction – in the '783 IPR Is Inclusive of Deletion

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

FANDANGO MEDIA, LLC,
Petitioner,

v.

MAXELL, LTD.,
Patent Owner.

IPR2018-01432
Patent 9,384,783 B2

Before TERRENCE W. McMILLIN, JOHN A. HUDALLA, and
JASON W. MELVIN, *Administrative Patent Judges*.

HUDALLA, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining All Challenged Claims Unpatentable
35 U.S.C. § 318(a)

Petitioner, Fandango Media, LLC ("Petitioner"), filed a Petition (Paper 1, "Pet.") requesting an *inter partes* review of claims 2, 5, and 6 of U.S. Patent No. 9,384,783 B2 (Ex. 1001, "the '783 patent"). Patent Owner, Maxell, Ltd. ("Patent Owner"), filed a Preliminary Response (Paper 8, "Prelim. Resp."). Taking into account the arguments presented in Patent Owner's Preliminary Response, we determined that the information

information" (emphases added)). Thus, under the broadest reasonable interpretation standard, we determine that "delet[ing]" video information from the first group includes reversing a registration (i.e., unregistering) of video information from the first group. *See id.* at 6:4–7, 6:16–18, 6:26–31. For similar reasons, we also determine that "delet[ing]" video information from a group does not necessarily require deleting underlying AV data.

Dkt. 73-12, IPR2018-01432 (Final Written Decision), Paper 32 at 14-15

Completely absent from Samsung's Brief

The Specification Is Consistent with the Plain Meaning of the Term

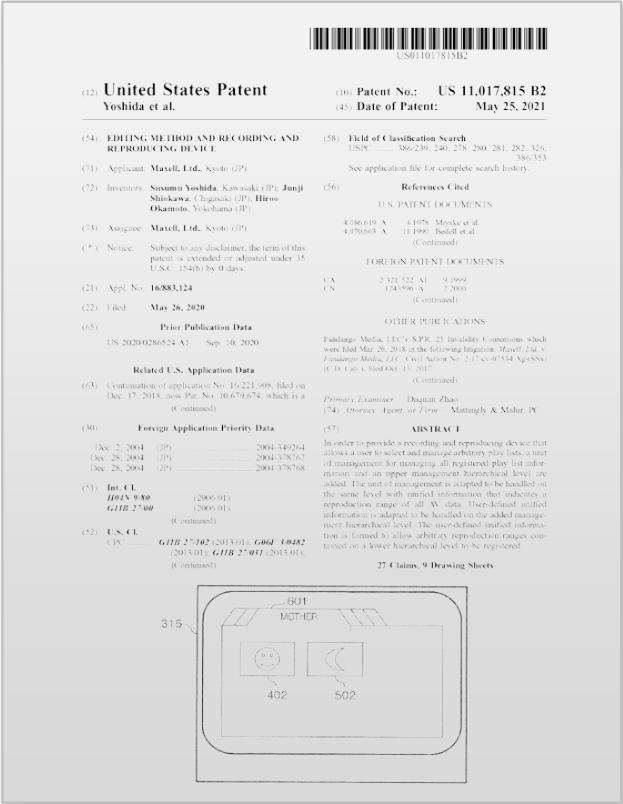
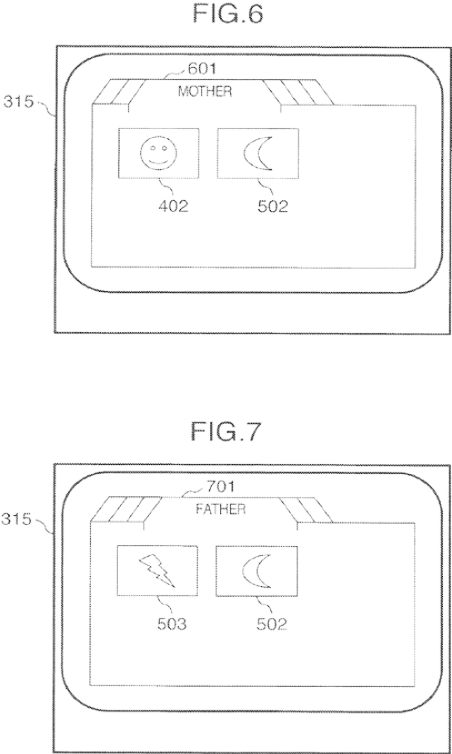


FIG. 6 shows an example in which menu display is conducted by using the user-defined unified information #1 shown in FIG. 1. Reference numeral **601** designates a menu display tag for user #1 (who is supposed to be “mother” here). As appreciated from FIG. 1, reference numerals **402** and **502** designate thumbnails indicating the program information #1 and the play list information #1, respectively. The “mother” can use the menu display tag for mother **601** as a folder dedicated to herself, and freely register and delete data to be reproduced. In the same way, FIG. 7 shows an example in which menu display is conducted by using the user-defined unified information #2 shown in FIG. 1. Reference numeral **701** designates a menu display tag for user #2 (who is supposed to be “father” here). As appreciated from FIG. 1, reference numerals **503** and **502** designate thumbnails indicating the play list information #2 and the play list information #1, respectively. In this case, the “father” selects two play lists. However, the reproduction sequence of them can be altered. In the same way as the “mother,” the “father” can use the menu display tag for father **701** as a folder dedicated to himself, and freely register and delete data to be reproduced.

'815 Patent, 6:19-40; Figures 6-7



Samsung Conjures “Reversing” or “Unregistering” Out of Whole Cloth



- Samsung proposes a construction which includes terminology such as “reversing” or “unregistering” into the claim when the specification does not even use these words.



See Lexos Media OP, LLC v. APMEX, Inc., No. 2:16-CV-00747, 2017 WL 1021366, at *4 (E.D. Tex. Mar. 16, 2017) (quoting *K-2 Corp. v. Salomon S.A.*, 191 F.3d 1356, 1364 (Fed. Cir. 1999))

“Courts do no rewrite claims; instead, we give effect to the terms chosen by the patentee”



See International Rectifier Corp. v. IXYS Corp., 361 F.3d 1363, 1374 (Fed. Cir. 2004)

“We must consider the word that the inventor actually chose and use the definitions of that term that are consistent with the written description.”



Claims 1 and 9 Convey the Plain Meaning of the Term

- The plain language of this term in the context of the claims conveys to a POSITA that, when one video information is deleted from the first group of video information, it continues to be included in the second group of video information.

wherein, upon one video information stored on the recording medium included in both the first group of video information and the second group of video information being **deleted** from the first group of video information, the one video information **continues to be included** in the second group of video information and the processor controls the display to display a thumbnail corresponding to the one video information as one of the second group of thumbnails when the second character is selected.

'815 Patent, Claim 1

upon one video information stored on the recording medium included in both the first group of video information and the second group of video information being **deleted** from the first group of video information, the one video information **continues to be included** in the second group of video information, and displaying a thumbnail corresponding to the one video information as one of the second group of thumbnails when the second character is selected;

'815 Patent, Claim 9



Conclusion

“being deleted from the first group of video information”

Maxell’s Proposed Construction

Plain and ordinary meaning

- A POSITA would have readily understood what is meant by “being deleted from the first group of video information” in the context of the ’815 Patent’s claims.
 - The ’815 Patent’s specification confirms this understanding.
 - The PTAB’s construction of a different term in a related patent under a different claim construction standard is not binding on Maxell.



Collateral Estoppel Does Not Apply



In re Freeman, 30 F.3d 1459, 1465 (Fed. Cir. 1994)

A party seeking to invoke collateral estoppel must show:

(1) the **issue is identical** to one decided in the first action; (2) the issue was **actually litigated** in the first action; (3) resolution of the issue was essential to a final judgment in the final action; and (4) the party against whom collateral estoppel is being asserted had a full and fair opportunity to litigate the issue in the first action.



Skyhawk Techs., LLC v. Deca Int'l Corp., 828 F.3d 1373, 1376 (Fed. Cir. 2016)

"The **different claim construction standards** applied by the PTAB in the prior proceeding prevent any expansion of the collateral estoppel doctrine here because the claim construction issues have **not actually been litigated.**"



Collateral Estoppel Does Not Apply

- The issues of patentability between the two proceedings are not identical when considering the claim language as a whole.

'783 Patent	'815 Patent
2. A method comprising: reproducing selected video information from among a plurality of video information recorded on a recording medium by the recording unit, displaying, on a display device, a user interface for a user to select desired video information to be reproduced from among the plurality of video information recorded on the recording medium by the recording unit; reproducing the selected video information read out from the recording medium, wherein a first area and a second area are displayed within a menu display, wherein the first area is configured to display at least first indication associated with a first group of video information for a first classification and second indication	1. An information processing apparatus comprising: a network interface; a recording medium on which is stored a plurality of video information including first video information received wirelessly by the network interface over a network from another information processing apparatus, wherein at least some of the plurality of video information is associated with a user profile; a display; and a processor for controlling the display to display: a first area including a first character associated with a first group of video

'783 Patent	'815 Patent
associated with a second group of video information for a second classification different from the first classification, and wherein the second area is configured to display thumbnails corresponding to video information recorded on the recording medium by the recording unit; wherein, when the first indication shown in the first area is selected, displaying, in the second area, a first group of thumbnails corresponding to the first group of video information; wherein, when the second indication shown in the first area is selected, displaying, in the second area, a second group of thumbnails corresponding to the second group of video information, wherein, even if one video information recorded on the recording medium included in both the first group of video information and the second group of video information is deleted from the first group of video information, the one video information continue to be included in the second group of video information.	information for a first classification and a second character associated with a second group of video information for a second classification different from the first classification, the first group of video information being configured to allow a user to edit, wherein the first group of video information and the second group of video information are part of the plurality of stored video information, and a second area displaying thumbnails corresponding to at least a portion of the plurality of stored video information, wherein user selection of the first character enables the display of a first group of thumbnails corresponding to the first group of video information in the second area, wherein user selection of the second character enables the display of a second group of thumbnails corresponding to the second group of video information in the second area, wherein, upon one video information stored on the recording medium included in both the first group of video information and the second group of video information being deleted from the first group of video information, the one video information continues to be included in the second group of video information and the processor controls the display to display a thumbnail corresponding to the one video information as one of the second group of thumbnails when the second character is selected.



The “Deleted” Term Was Not the Only Claim Construction Issue for the Relevant Limitation in the ’783 IPR

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JASON W. MELVIN, *Administrative Patent Judges*.

HUDALLA, *Administrative Patent Judge*.

JUDGMENT
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Petitioner, Fandango Media, LLC (“Petitioner”), filed a Petition (Paper 1, “Pet.”) requesting an *inter partes* review of claims 2, 5, and 6 of U.S. Patent No. 9,384,783 B2 (Ex. 1001, “the ’783 patent”). Patent Owner, Maxell, Ltd. (“Patent Owner”), filed a Preliminary Response (Paper 8, “Prelim. Resp.”). Taking into account the arguments presented in Patent Owner’s Preliminary Response, we determined that the information

First, we consider the usage of the singular “one” in “one video information.” Limitation 2.9 requires that the “one video information” is “recorded on the recording medium” and “continue[s] to be included in the second group of video information” even if is “is deleted from the first group of video information.” At oral argument, Patent Owner’s counsel argued

Given this background in the specification, and in light of the plain usage of the words in this limitation, we determine that the “one video information” included in the first group and the second group is the same “one video information,” not merely copies thereof.

Next, we consider the usage of “deleted” in the phrase “one video information . . . is deleted from the first group of video information.”

Dkt. 73-12, IPR2018-01432 (Final Written Decision), Paper 32 at 11, 13



Disputed Term for the '815 Patent – *“user profile”*

Maxell's Proposed Construction	Samsung's Proposed Construction
Plain and ordinary meaning	Indefinite

The Dispute: Whether Samsung has established by clear and convincing evidence that “user profile” is indefinite in view of the disclosures of the '815 Patent that do not recite the term verbatim



Samsung's Contention for Indefiniteness

This term is indefinite because a POSITA cannot discern with reasonable certainty whether a “user profile” must include something more than the information already recited elsewhere in the claims and therefore cannot determine the scope of the claim.

Dkt. No. 76 at 11-14

89:21-90:15, 98:3-103:16. Accordingly, the only items of information disclosed in the '815 patent that Maxell could identify as possibly constituting a “user profile” are already separately recited elsewhere in the claim as the first and second characters, the first and second display areas, and video information represented by thumbnails.

Dkt. No. 76 at 12



Samsung Misunderstands the Claimed Technology

1. An information processing apparatus comprising:
a network interface;
a recording medium on which is stored a plurality of video information including first video information received wirelessly by the network interface over a network from another information processing apparatus, wherein at least some of the plurality of video information is associated with a user profile;
a display; and
a processor for controlling the display to display:
a first area including a first character associated with a first group of video information for a first classification and a second character associated with a second group of video information for a second classification different from the first classification, the first group of video information being configured to allow a user to edit, wherein the first group of video information and the second group of video information are part of the plurality of stored video information, and
a second area displaying thumbnails corresponding to at least a portion of the plurality of stored video information,
wherein user selection of the first character enables the display of a first group of thumbnails corresponding to the first group of video information in the second area, wherein user selection of the second character enables the display of a second group of thumbnails corresponding to the second group of video information in the second area,

1

First and second characters

2

First and second display areas

'815 Patent, Claim 1



Samsung Misunderstands the Claimed Technology

1. An information processing apparatus comprising:
a network interface;
a recording medium on which is stored a plurality of video information including first video information received wirelessly by the network interface over a network from another information processing apparatus, wherein at least some of the plurality of video information is associated with a user profile;
a display; and
a processor for controlling the display to display:
a first area including a first character associated with a first group of video information for a first classification and a second character associated with a second group of video information for a second classification different from the first classification, the first group of video information being configured to allow a user to edit, wherein the first group of video information and the second group of video information are part of the plurality of stored video information, and
a second area displaying thumbnails corresponding to at least a portion of the plurality of stored video information,
wherein user selection of the first character enables the display of a first group of thumbnails corresponding to the first group of video information in the second area, wherein user selection of the second character enables the display of a second group of thumbnails corresponding to the second group of video information in the second area,

1

First and second characters

2

First and second display areas

'815 Patent, Claim 1



Samsung Misunderstands the Claimed Technology

1. An information processing apparatus comprising:
a network interface;
a recording medium on which is stored a plurality of video information including first video information received wirelessly by the network interface over a network from another information processing apparatus, wherein at least some of the plurality of video information is associated with a user profile;
a display; and
a processor for controlling the display to display:
a first area including a first character associated with a first group of video information for a first classification and a second character associated with a second group of video information for a second classification different from the first classification, the first group of video information being configured to allow a user to edit, wherein the first group of video information and the second group of video information are part of the plurality of stored video information, and
a second area displaying thumbnails corresponding to at least a portion of the plurality of stored video information,
wherein user selection of the first character enables the display of a first group of thumbnails corresponding to the first group of video information in the second area, wherein user selection of the second character enables the display of a second group of thumbnails corresponding to the second group of video information in the second area,

- 1 First and second characters
- 2 First and second display areas
- 3 Video information represented by thumbnails

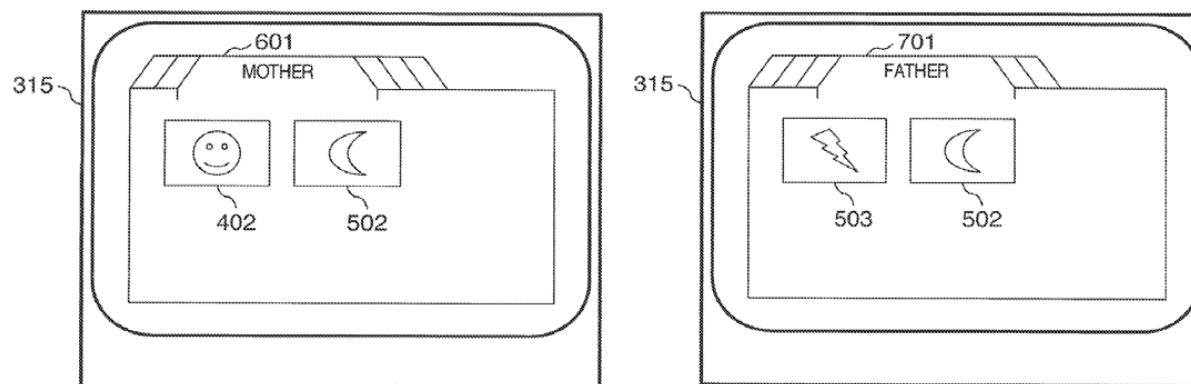
'815 Patent, Claim 1



Displaying Is Not the Same As Associating With a User Profile

1. An information processing apparatus comprising:
 a network interface;
 a recording medium on which is stored a plurality of video information including first video information received wirelessly by the network interface over a network from another information processing apparatus, wherein at least some of the plurality of video information is associated with a user profile;
 a display; and
 a processor for controlling the display to display:
 a first area including a first character associated with a first group of video information for a first classification and a second character associated with a second group of video information for a second classification different from the first classification, the first group of video information being configured to allow a user to edit, wherein the first group of video information and the second group of video information are part of the plurality of stored video information, and
 a second area displaying thumbnails corresponding to at least a portion of the plurality of stored video information,
 wherein user selection of the first character enables the display of a first group of thumbnails corresponding to the first group of video information in the second area,
 wherein user selection of the second character enables the display of a second group of thumbnails corresponding to the second group of video information in the second area,

The “alleged” redundant recitations are directed to the features of a GUI.



'815 Patent, Claim 1



Displaying Is Not the Same As Associating With a User Profile

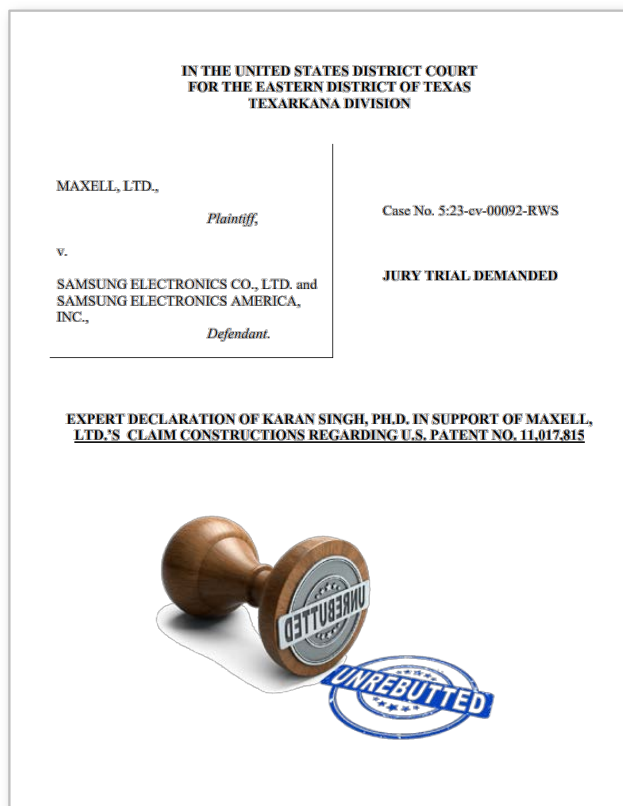
1. An information processing apparatus comprising:
a network interface;
a recording medium on which is stored a plurality of video information including first video information received wirelessly by the network interface over a network from another information processing apparatus, wherein at least some of the plurality of video information is associated with a user profile;
a display; and
a processor for controlling the display to display:
a first area including a first character associated with a first group of video information for a first classification and a second character associated with a second group of video information for a second classification different from the first classification, the first group of video information being configured to allow a user to edit, wherein the first group of video information and the second group of video information are part of the plurality of stored video information, and
a second area displaying thumbnails corresponding to at least a portion of the plurality of stored video information,
wherein user selection of the first character enables the display of a first group of thumbnails corresponding to the first group of video information in the second area, wherein user selection of the second character enables the display of a second group of thumbnails corresponding to the second group of video information in the second area,

Displaying in a GUI is separate from associating video information with a user profile in the recording medium.

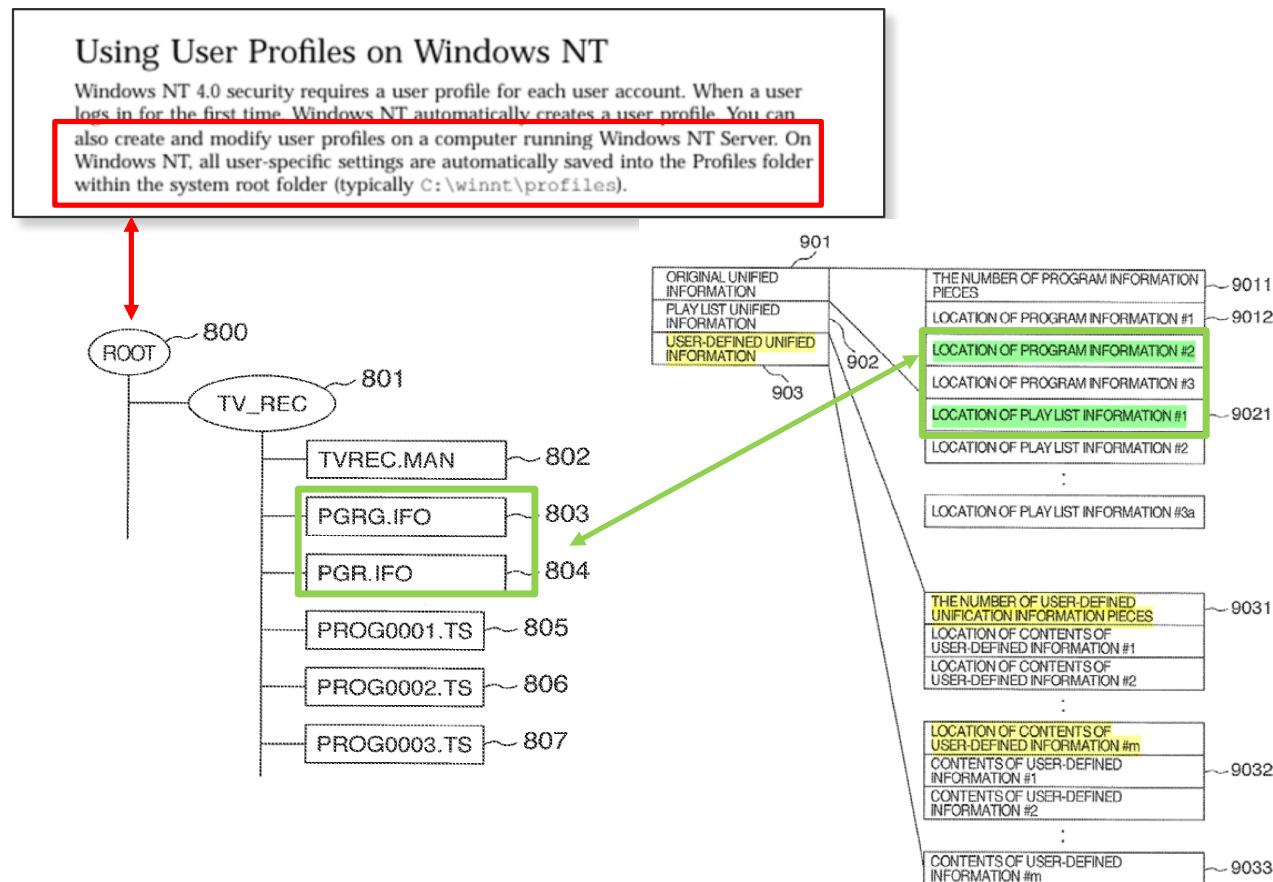
'815 Patent, Claim 1



Unrebutted Testimony by Dr. Singh Shows that the '815 Patent Discloses a User Profile



Dkt. No. 73-1 at 19



'815 Patent, Figs. 8-9

55



Unrebutted Testimony by Dr. Singh Shows that the '815 Patent Discloses a User Profile

IN THE UNITED STATES
FOR THE EASTERN DISTRICT OF TEXAS

MAXELL, LTD.,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD. and
SAMSUNG ELECTRONICS AMERICA,
INC.,

Defendant.

EXPERT DECLARATION OF KAR
LTD.'S CLAIM CONSTRUCTION



management level 3. For example, when a plurality of users use a single recording medium, it becomes possible to manage reproduced contents that meet respective users' tastes by using one user-defined unified information every user.

'815 Patent, 4:35-39

ally. Even when the number of recorded programs is very large, the user can rapidly find out a program that the user wants to view, because the user can refer to a folder defined by the user.

'815 Patent, 8:28-34

mation #1 and the play list information #1, respectively. The "mother" can use the menu display tag for mother 601 as a folder dedicated to herself, and freely register and delete data to be reproduced. In the same way, FIG. 7 shows an example in which menu display is conducted by using the user-defined unified information #2 shown in FIG. 1. Reference numeral 701 designates a menu display tag for user #2 (who is supposed to be "father" here). As appreciated from FIG. 1, reference numerals 503 and 502 designate thumbnails indicating the play list information #2 and the play list information #1, respectively. In this case, the "father" selects two play lists. However, the reproduction sequence of them can be altered. In the same way as the "mother," the "father" can use the menu display tag for father 701 as a folder dedicated to himself, and freely register and delete data to be reproduced.

'815 Patent, 6:25-40

Dkt. No. 73-1 at 19



Samsung's Contentions for Indefiniteness

~~This term is indefinite because a POSITA cannot discern with reasonable certainty whether a "user profile" must include something more than the information already recited elsewhere in the claims and therefore cannot determine the scope of the claim.~~

Dkt. No. 76 at 11-14



Conclusion

“user profile”

Maxell’s Proposed Construction

Plain and ordinary meaning

- A POSITA would understand with reasonable certainty that the claim discloses “user profile” separate from graphical user interface elements as confirmed by the claim language, specification, and the unrebutted testimony of Dr. Singh.
- By misunderstanding the claimed technology, Samsung does not come close to meeting its clear and convincing burden.



Samsung's Patents Support P&O

a. U.S. Patent No. 8,176,068 (claiming elements including a “user profile” limitation)

(emphasis added):

Claim 5: “The method of claim 4, wherein the user-related information includes one or more of: **user profile**, user preferences, content previously accessed by the user, terms previously selected by the user.”

Claim 19: “The apparatus of claim 18, wherein the user-related information includes one or more of: **user profile**, user preferences, content previously accessed by the user, terms previously selected by the user.”

Claim 31: “The system of claim 30, wherein the user-related information includes one or more of: **user profile**, user preferences, content previously accessed by the user, terms previously selected by the user.”

Dkt. No. 73-1 at ¶64



Samsung's Patents Support P&O

- b. U.S. PG Pub No. 2008/0288641 (claiming elements including a “user profile” limitation) (emphasis added):

Claim 36: “The apparatus of claim 24 wherein the first information gatherer is further configured for obtaining information about current user activity from one or more of: user input to the device, applications running on the local network, a **user profile** on the local

- c. U.S. Patent No. 8,843,467 (describing a “user profile”):

The user profile store 304 stores **user profiles**. Examples of the information contained in a **user profile** include user information, recent user activity history, historical user activity, user's access patterns, user interests, etc.

Dkt. No. 73-1 at ¶64



Disputed Term for the '815 Patent –

“the processor generates a group of video information based on user preferences determined by the user selections of the video information”

Maxell’s Proposed Construction	Samsung’s Proposed Construction
Plain and ordinary meaning	Plain and ordinary meaning, which is generating a group of video information that includes (i) only video information that has previously been selected by a user, (ii) only video information that has not previously been selected by a user, or (iii) a mix of video information including video information that has been previously selected by a user and video information not previously selected by a user

The Dispute: Whether the plain meaning of “the processor generates a group of video information based on user preferences determined by the user selections of the video information” requires a construction



Samsung's Construction is Wrong

Samsung's Proposed Construction

Plain and ordinary meaning, which is generating a group of video information that includes (i) **only** video information that has previously been selected by a user, (ii) **only** video information that has not previously been selected by a user, or (iii) **a mix** of video information including video information that has been previously selected by a user and video information not previously selected by a user

- The specification does not use the terms “mix” and “only” to limit the group of video.
- Samsung is rewriting a twenty-one word claim element into sixty-plus words, with unnecessary adverbs and temporal and negative limitations.
- “Only” creates a close ended set in each example whereas the claim language is inclusive of different items in a group.
 - The group can include an audio file or descriptive information.



Improper to Construe Claims based on Infringement Contentions



SRI Int'l v. Matsushita Elec. Corp. of Am., 775 F.2d 1107, 1118 (Fed. Cir. 1985)

“[a] claim is construed in the light of the claim language, the other claims, the prior art, the prosecution history, and the specification, not in light of the accused device. . . claims are not construed ‘to cover’ or ‘not to cover’ the accused device.”



Samsung's Proposed Construction Support

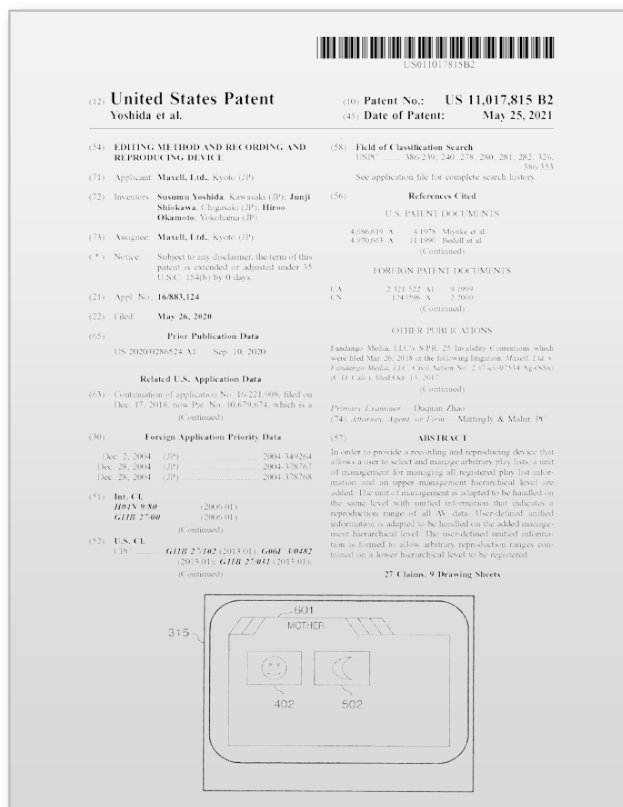
IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TEXARKANA DIVISION	
MAXELL, LTD., Plaintiff,	Civil Action No. 5:23-CV-00092-RWS
v. SAMSUNG ELECTRONICS CO., LTD., and SAMSUNG ELECTRONICS AMERICA, INC., Defendants.	
DEFENDANTS' RESPONSIVE CLAIM CONSTRUCTION BRIEF	

Samsung's construction aligns with the meaning that Maxell employed in its infringement contentions, which identify: (i) a group of video information including information previously selected by the user, which corresponds to group type (i) in Samsung's construction (Ex. B, p. 169

See Dkt. No. 76-2

- Samsung did not rely on the patent specification or prosecution history for its proposed construction.

The Specification Is Consistent with the Plain Meaning of the Term



Furthermore, in the conventional technique example, attention is not paid to that a plurality of users generate, select and manage favorite play list information. For example, even when a plurality of users desire to generate, select and manage respective favorite play list information pieces, it cannot be implemented. Furthermore, attention is not especially paid to that a user select some arbitrary play lists from among a plurality of play lists and manage them.

In view of these problems, the present invention has been achieved. An object of the present invention is to provide a recording and reproducing device in which the user can select and manage arbitrary play lists.

“the processor generates a group of video information based on user preferences determined by the user selections of the video information”

management level 3. For example, when a plurality of users use a single recording medium, it becomes possible to manage reproduced contents that meet respective users' tastes by using one user-defined unified information every user.

'815 Patent, 2:40-52; 4:35-39



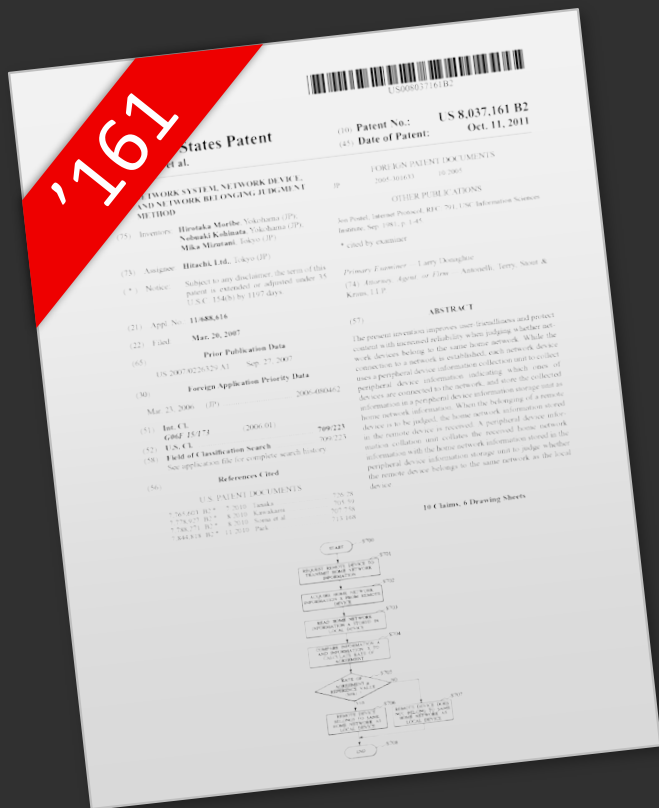
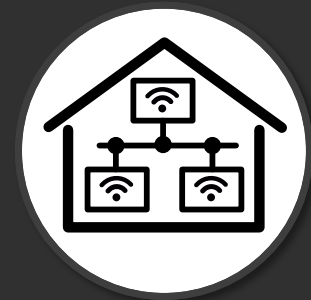
Conclusion

“the processor generates a group of video information based on user preferences determined by the user selections of the video information”

Maxell’s Proposed Construction

Plain and ordinary meaning

- A POSITA would have readily understood what is meant by “the processor generates a group of video information based on user preferences determined by the user selections of the video information” in the context of the ’815 Patent’s claims.
 - The ’815 Patent Specification confirms this understanding.
- Samsung has not provided a reason (*e.g.*, lexicography or disclaimer) that justifies departing from the plain and ordinary meaning of this term.

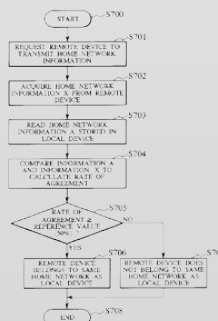


SMART HOME NETWORKS

U.S. PATENT NO. 8,037,161

Moribe et al. (US 8,037,161 B2)

NETWORK SYSTEM, NETWORK DEVICE, AND NETWORK BELONGING JUDGMENT METHOD





Disputed Term for the '161 Patent –

“a chronological list of network devices connected to the network”

Maxell’s Proposed Construction	Samsung’s Proposed Construction
Plain and ordinary meaning	Indefinite or alternatively—“home network information” must “include, for each device that is a member of a local area network, a list with an entry for each time any device joins the local area network, transmits a message on the local area network, or leaves the local area network”

The Dispute: Whether Samsung has proven by clear and convincing evidence that a POSITA would not understand the scope of “a chronological list of network devices connected to the network” with reasonable certainty



Reasonable Certainty Standard



Nautilus, Inc. v. Biosig Instruments, Inc., 572 U.S. 898, 910 (2014)

"[W]e read § 112, ¶ 2 to require that a **patent's claims, viewed in light of the specification and prosecution history, inform those skilled in the art about the scope of the invention with reasonable certainty.** The definiteness requirement, so understood, mandates clarity, while recognizing that **absolute precision is unattainable.**"



Samsung's Contentions for Indefiniteness

The '161 patent fails to inform a POSITA with reasonable certainty as to whether the chronological lists illustrated in the patent are simply:

1

“lists of device names in a particular order” or

2

“instead are chronologically ordered lists of events corresponding to network devices and if so, what events must be included on the chronological list” (e.g., when the device joins the network or communicates in the network).

Dkt. 76 at 30



Samsung's Contentions for Indefiniteness

The '161 patent fails to inform a POSITA with reasonable certainty as to whether the chronological lists illustrated in the patent are simply:

1

“lists of device names in a particular order” or

2

“instead are chronologically ordered lists of events corresponding to network devices and if so, what events must be included on the chronological list” (e.g., when the device joins the network or communicates in the network).

Dkt. 76 at 30

Legal precedent, intrinsic evidence, and extrinsic evidence – including by its own expert – demonstrate that Samsung's indefiniteness argument is wrong.



Samsung Mistakes Breadth for Indefiniteness



BASF Corp. v. Johnson Matthey Inc., 875 F.3d 1360, 1367 (Fed. Cir. 2017)

“[B]readth is not indefiniteness.”



CyWee Grp., Ltd. v. Huawei Device Co. Ltd., 2018 WL 6419484, at *20 (E.D. Tex. Dec. 6, 2018)

“That the claim is drafted broadly enough to cover multiple embodiments does not render the claim indefinite.”



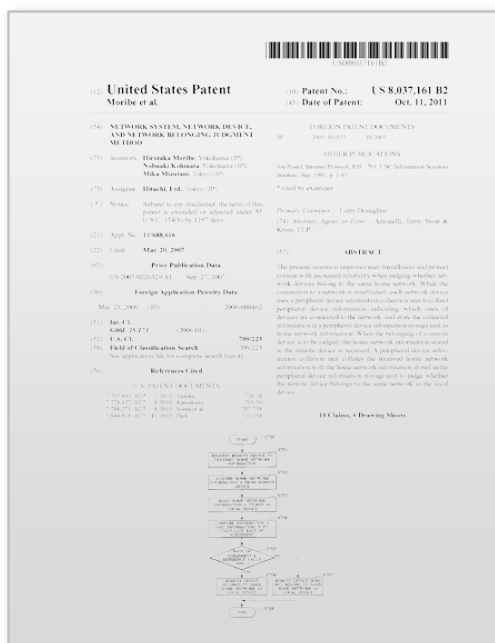
dunnhumby USA, LLC v. emnos USA Corp., 2015 WL 1542365, at *29 (N.D. Ill. April 1, 2015)

“A claim is not indefinite merely because it covers broad possibilities and encompasses multiple embodiments of the claimed terms.”



Samsung Mistakes Breadth for Indefiniteness (cont.)

- A POSITA is reasonably certain as to the scope and boundaries of the claim language
 - “a chronological list of network devices connected to the network”



The '161 Patent provides **EXAMPLES** such as

- One entry for each device on a network
- List of network events in which devices can be listed more than once
- And the events could be, but are not limited to:
 - 1) joining/participating on the network,
 - 2) leaving/departing from the network, and
 - 3) periodically transmitting “alive” messages on the network.

See '161 Patent, 4:65-5:34, 6:30-63, Figure 4



Samsung Mistakes Breadth for Indefiniteness (cont.)

- Samsung acknowledges that there are at least three examples of “events” that make up the chronological list in its brief:

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TEXARKANA DIVISION	
MAXELL, LTD., Plaintiff,	Civil Action No. 5:23-CV-00092-RWS
v. SAMSUNG ELECTRONICS CO., LTD., and SAMSUNG ELECTRONICS AMERICA, INC., Defendants.	
DEFENDANTS' RESPONSIVE CLAIM CONSTRUCTION BRIEF	

The specification describes three types of the events as peripheral device information, network devices (1) joining/participating on the network, (2) leaving/departing from the network, and (3) periodically transmitting “alive” messages on the network. '161 patent, 4:65-5:34, 6:30-63; Ex. X, ¶¶ 40-47.

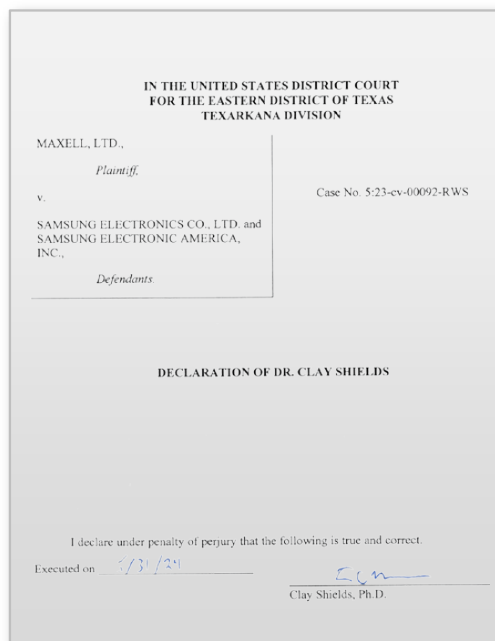
- Samsung’s brief undercuts its apparent confusion on this term – there is no dispute.

Dkt. 76 at 31-32



Samsung's Indefiniteness Theory Is Contradicted by the Specification and Its Own Expert, Dr. Shields

- Maxell's plain and ordinary meaning construction is consistent with the opinion of ***Samsung's own expert*** who identified the "events" (described as "rules") regarding messages that would be collected as "home network information."



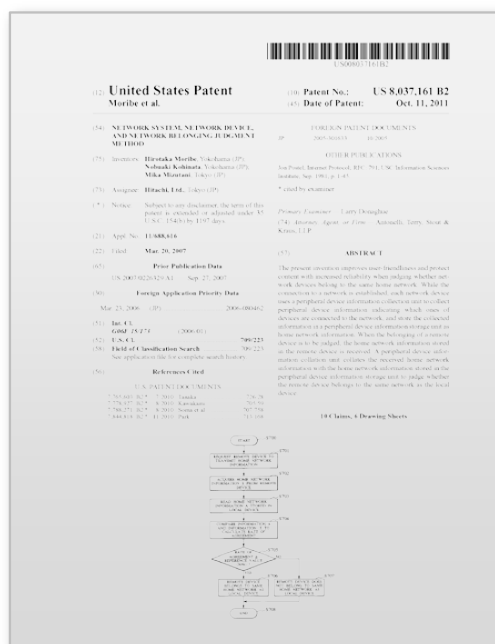
47. From the foregoing information, a POSITA would then posit the following set of rules about when messages are sent and what received messages would be collected as "home network information":

- i. When a device joins a network.
- ii. Afterward, repeatedly at fixed period of at least 30 minutes.
- iii. When a device leaves the network (if such message is sent).
- • •
- iv. A device will record when it sends messages to the network



Samsung's Indefiniteness Theory Is Contradicted by the Specification and Its Own Expert, Dr. Shields (Cont.)

- Dr. Shields cites to the same areas of columns 4 and 5 in the '161 Patent for support for his "rules" (events) that Dr. Weissman and Maxell cite to illustrating the definiteness of the term:

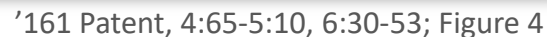


The peripheral device information collection unit 31 collects, through the LAN 2, the device information about the other network devices (hereinafter referred to as the peripheral devices) and the information indicating, for instance, whether the peripheral devices have participated in or departed from the LAN 2. These items of information are hereinafter referred to as the "peripheral device information." When a peripheral device has participated in the LAN 2, it means that the peripheral device has started connecting with the LAN 2 or is being connected with the LAN 2. When a peripheral device has departed from the LAN 2, it means that the peripheral device has been disconnected with the LAN 2 or is being disconnected from the LAN 2. Although the peripheral device information can be collected by using various existing technologies, it is assumed that UPnP (Universal Plug and Play) is used. When UPnP is used, the devices connected to the LAN 2 can mutually transmit device information to and receive device information from each other at fixed time intervals. Further, since each device can receive the information about itself, the term "peripheral devices" includes the local device as well. The information to be collected includes the information contained in a device description or service description possessed by the peripheral devices and the information indicating the participation of the peripheral devices in the LAN 2 and the departure of the peripheral devices from the LAN 2, which can be grasped by SSDP (Simple Service Discovery Protocol).

Samsung's Expert is Reasonably Certain About the Claim Scope

Compare Dkt. 76-24 (Shields Dec.), ¶41 (citing '161 Patent, 4:65-5:24), ¶43 (citing '161 Patent, 5:13-16) ¶48 (citing '161 Patent, 5:16-18) with Dkt. 73-45 (Weissman Dec.), ¶¶ 56-57 (citing '161 Patent, 4:65-5:4, 5:10-12, 5:18-24)

maxell



For example, a friendly name derived from the device description of a network device, a UDN (Unique Device Name), which is a unique identifier, a manufacturer name, a serial number, and other device information and the time information about an SSDP alive packet received from the network device can be recorded. For the sake of brevity, FIG. 4 lists log information that indicates device names (UDNs) 42 in plain text format in chronological order 41 in which SSDP alive packets were received. The home network information 40 may be encrypted or otherwise processed before being written so that it will not be falsified.

78



The Specification Is Consistent with the Plain Meaning of the Term



FIG. 4 shows an example of home network information (peripheral device information) that is recorded in the peripheral device information storage unit 32. In accordance with information that the peripheral device information collection unit 31 has collected from the peripheral devices at fixed time intervals, the peripheral device information storage unit 32 (which corresponds to the RAM 21 or hard disk 25) records and stores home network information 40. The home network information 40 is log information about a list of network devices that are currently connected to the LAN 2 or were found to be connected to the LAN 2. The list of network devices contains log information indicating that the local device is connected to the LAN 2.

For example, a friendly name derived from the device description of a network device, a UDN (Unique Device Name), which is a unique identifier, a manufacturer name, a serial number, and other device information and the time information about an SSDP alive packet received from the network device can be recorded. For the sake of brevity, FIG. 4 lists log information that indicates device names (UDNs) 42 in plain text format in chronological order 41 in which SSDP alive packets were received. The home network information 40 may be encrypted or otherwise processed before being written so that it will not be falsified.

FIG. 4

HOME NETWORK INFORMATION

CHRONOLOGICAL ORDER #	UNIQUE DEVICE NAME (UDN)
1	uuid: JPN-CO-HI-DVDH1000W-200000001
2	uuid: JPN-CO-HI-DH73N-200000123
3	uuid: JPN-CO-HI-W32H-400056329
4	uuid: JPN-CO-HI-DZGX25M-500001458
5	uuid: JPN-CO-HI-DVDH1000W-200000001
6	uuid: JAN-CO-HI-DH73N-200000123
7	uuid: JPN-CO-HI-W32H-400056329
8	uuid: JPN-CO-HI-DZGX25M-500001458
9	uuid: JPN-CO-HI-DVDH1000W-200000001
10	uuid: JPN-CO-HI-DH73N-200000123
11	uuid: JPN-CO-HI-W32H-400056329
12	uuid: JPN-CO-HI-DVDH1000W-200000001
13	uuid: JAN-CO-HI-DH73N-200000123
14	uuid: JPN-CO-HI-W32H-400056329
15	uuid: JPN-CO-HI-DVDH1000W-200000001
16	uuid: JPN-CO-HI-DH73N-200000123
17	uuid: JAN-CO-HI-W32H-400056329

'161 Patent, 4:65-5:10, 6:30-53; Figure 4

Samsung's expert, Dr. Shields, does not even discuss Figure 4 for this term



The Specification Is Consistent with the Plain Meaning of the Term

- Samsung misreads the specification and figures:

- “But Fig. 4 lists each device **multiple times**, and the specification describes Fig. 4 at col. 6:48-51 as a list of **events** (a list of log information indicating the order in which devices receive periodic “alive packets” from other devices) **rather than as a list of device names.**”

- Dkt. 76 at 30-31

- But Figure 4 explicitly includes, for example, a “UDN (Unique Device Name), which is a unique identifier” – **i.e., a list of device names**

FIG.4

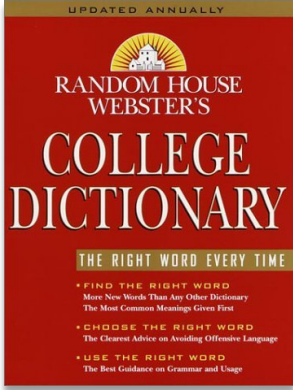
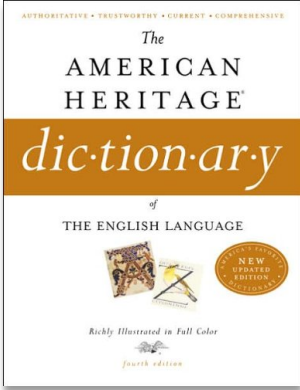
41 CHRONO- LOGICAL ORDER #	42 UNIQUE DEVICE NAME (UDN)	HOME NETWORK INFORMATION 40
1	uuid: JPN-CO-HI-DVDH1000W-200000001	
2	uuid: JPN-CO-HI-DH73N-200000123	

- Samsung’s citation to Dr. Weissman’s testimony relating to Figures 4 and 5 (Dkt. 76 at 30-32)
 - both EXEMPLARY EMBODIMENTS – regarding the devices listed in an order based on events does not contradict the intrinsic evidence.
 - See also Dkt. 76-22, Ex. V, 43:9-45:18 (additional Weissman testimony consistent with specification and Maxell’s construction but omitted by Samsung)



The “a chronological list of network devices connected to the network” term has a Plain and Ordinary Meaning

Common, clearly understood words

Dr. Weissman confirmed that a POSITA knows what this term means 	Dictionary definitions support a plain and ordinary construction	Samsung – through its patents – knows what “chronological” means
A “chronological list” “simply denotes an ordering of items one after another on a list.” See Dkt. 73-45, ¶152 A chronological list is “an ordered list of - - time-ordered list of information.” See Dkt. 76-22, Ex. V, 52:23-25	 See Dkt. 73-47, 73-48	 U.S. Patent No. 8,849,252 (Dkt. 73-49) Claim 3: “... outputting a state information region which offers the state information arranged in a chronological order in connection with the selected other mobile device.” See Dkt. 73-49, Dkt. 73-50, Dkt. 73-51



Samsung's Contentions for Indefiniteness

The term is unclear/ambiguous because “the ’161 patent fails to inform a POSITA with reasonable certainty as to whether the chronological lists illustrated in the patent are simply:

1

~~“lists of device names in a particular order” or~~

2

~~“instead are chronologically ordered lists of events corresponding to network devices and if so, what events must be included on the chronological list” (e.g., when the device joins the network or communicates in the network.~~

Dkt. 76 at 30



Samsung's Alternative Construction Is Wrong

- Samsung's alternative construction for the “chronological list” term:
 - “home network information” must “include, for **each device** that is a member of a local area network, **a list with an entry for each time any device joins the local area network, transmits a message on the local area network, or leaves the local area network**”
 - Wrong for two reasons
 - Improperly imports “each device” from claim 1 into claim 3
 - Requires an entry for **each time** one of three events occurs, which improperly limits the disclosure to specific embodiments.



Samsung's Alternative Construction Is Wrong

- Samsung's alternative construction for the "chronological list" term:
 - "home network information" must "include, for **each device** that is a member of a local area network, a list with an entry for each time any device joins the local area network, transmits a message on the local area network, or leaves the local area network"
- Improperly imports "each device" from claim 1 into claim 3

1. A network system in which a plurality of network devices are connected to a network,
wherein **each of the plurality of network devices** includes:
a peripheral device information collection unit which collects peripheral device information indicating which ones of the network devices are connected to the network while the connection to the network is established;

'161 Patent, Claim 1

3. A network device which is one of a plurality of network devices connectable to a network, the network device comprising:
a peripheral device information collection unit which collects peripheral device information indicating which ones of the network devices are connected to the network while the connection to the network is established;

'161 Patent, Claim 3



Samsung's Alternative Construction Is Wrong

- Samsung's alternative construction for the "chronological list" term:
 - "home network information" must "include, for each device that is a member of a local area network, a list with an entry for each time any device joins the local area network, transmits a message on the local area network, or leaves the local area network"
- Requires an entry for each time one of three listed events occurs, which improperly limits the disclosure to specific embodiments.
- This is another way Samsung is improperly trying incorporate the word "each" from claim 1 into claim 3.



Samsung's Alternative Construction Is Wrong

FIG. 4 shows an example of home network information (peripheral device information) that is recorded in the peripheral device information storage unit 32. In accordance with information that the peripheral device information collection unit 31 has collected from the peripheral devices at fixed time intervals, the peripheral device information storage unit 32 (which corresponds to the RAM 21 or hard disk 25) records and stores home network information 40. The home network information 40 is log information about a list of network devices that are currently connected to the LAN 2 or were found to be connected to the LAN 2. The list of network devices contains log information indicating that the local device is connected to the LAN 2.

For example, a friendly name derived from the device description of a network device, a UDN (Unique Device Name), which is a unique identifier, a manufacturer name, a serial number, and other device information and the time information about an SSDP alive packet received from the network device can be recorded. For the sake of brevity, FIG. 4 lists log information that indicates device names (UDNs) 42 in plain text format in chronological order 41 in which SSDP alive packets were received. The home network information 40 may be encrypted or otherwise processed before being written so that it will not be falsified.

'161 Patent, 6:30-53

FIG. 5 shows examples of home network information 40a-40e that is stored in various network devices 3a-3e. This figure shows log information (history) that has been recorded in each device for a fixed period of time. For the sake of brevity, however, alphabetical letters (A, B, C, . . .) are used to represent device names (UDNs). The home network information may be written to indicate the #-and-UDN relationship representing a connection status of each of network devices connected with the network at a particular point of time instead of history records.

'161 Patent, 6:45-63

In the following examples, it is assumed that network device 3a is a transmitting device whereas network devices 3b to 3e are receiving devices. The examples are used to illustrate operations that are performed to judge whether the devices belong to the same home network.

'161 Patent, 7:38-42

Specification uses “can,”
“examples,” “may” to
convey non-limiting
disclosures



Conclusion

“a chronological list of network devices connected to the network”

Maxell’s Proposed Construction

Plain and ordinary meaning

- A POSITA would understand with reasonable certainty that this term refers to an ordering of items one after another on a list, regardless if the item or piece of information is a network device’s name or events corresponding to the network devices
 - Samsung’s expert confirms this understanding.
 - The ’161 Patent Specification confirms this understanding.
 - Maxell’s expert confirms this understanding.
- Samsung has not established clearly and convincingly that there is ambiguity in the claim.
- The term is definite and should be accorded its plain and ordinary meaning.



Samsung Ignores the Majority of Dr. Shields's Opinions – Forming the Backbone of His Indefiniteness Conclusions on this Term – in Its Brief

- Apart from citing to paragraphs 37, 40-47 (all supporting the term's **definiteness**), Samsung ignored the remainder of Dr. Shields's opinions (Dkt. 76, Ex. X, ¶¶ 34-36, 48-67) for this term.
- Dr. Shields rewrote/rearranged the columns of information from Figure 5 and performed data set comparisons on the shifted information.

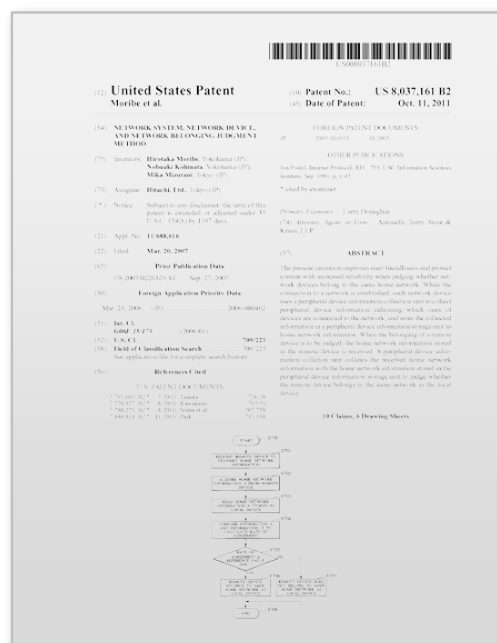


FIG. 5

	(CONSTANTLY CONNECTED)	(CONNECTED FOR LONG PERIOD OF TIME)	(CONNECTED FOR SHORT PERIOD OF TIME)	(CONSTANTLY CONNECTED)	(NOT CONNECTED)
	40a	40b	40c	40d	40e
#	UDN	#	UDN	#	UDN
1	A	1	B	1	C
2	D	2	C	2	A
3	B	3	A	3	D
4	C	4	D	4	B
5	A	5	B	5	C
6	D	6	C	6	A
7	B	7	A	7	D
8	C	8	D	8	B
9	A	9	B	9	C
10	D	10	A	10	D
11	B	11	D	11	K
12	A	12	B	12	D
13	D	13	D	13	I
14	B	14	I	14	J
15	A	15	J	15	K
16	D	16	K	16	D
17	B	17	L	17	L

REFERENCE RATE OF AGREEMENT = 12/17 RATE OF AGREEMENT = 8/17 RATE OF AGREEMENT = 13/17 RATE OF AGREEMENT = 0/17

'161 Patent, Figure 5

Event Position	40a	40b	40c	40d
1	A			
2	D			D
3	B	B		B
4	C	C	C	C
5	A	A	A	A
6	D	D	D	D
7	B	B	B	B
8	C	C	C	C
9	A	A	A	A
10	D	D	D	D
11	B	B	B	B
12	A	A	I	A
13	D	D	J	D
14	B	B	K	B
15	A	D	L	D
16	D	I	I	A
17	B	J	J	D
18		K	K	•
19		L	L	
20			I	

Dkt. 76, Ex. X, ¶57, Shields's rewritten Figure 5



Disputed Term for the '161 Patent – *“peripheral device information collation unit”*

Maxell's Proposed Construction	Samsung's Proposed Construction
Agreed Function: collates the home network information received from the other network device through the peripheral device information reception unit with the home network information stored in the peripheral device information storage unit and judges whether other network device belong to the same network as the local network device	
Proposed structure: CPU 20 operating in conjunction with ROM 22 and/or RAM 21 included within or external to the network device for executing one of the comparison and judging algorithm as disclosed in '161:5:62–6:29, or equivalent thereof	Proposed structure: indefinite for lack of corresponding structure.

The Dispute: Whether the specification discloses sufficient structure to perform the agreed-upon function



The Agreed-Upon Function

Agreed Function: collates the [(1)] **home network information received** from the other network device through the peripheral device information reception unit **with** [(2)] **the home network information stored** in the peripheral device information storage unit and **judges** whether other network device belong to the same network as the local network device

- The function is a simple comparison between two data sets to determine if there is a match/degree of match.
- A simple algorithm can be used to perform this simple function.



The '161 Patent Discloses Three Simple Comparison / Judging Algorithms to Perform the Simple Agreed-Upon Function

- 1) checking whether the collated sets of peripheral device information are identical with each other,
 - 2) determining the degree of agreement between the collated sets of peripheral device information, or
 - 3) by checking whether the collated sets of peripheral device information exhibit the same tendency.
- No dispute that the patent discloses three comparison / judging algorithms.
 - Just because these are simple algorithms to perform the simple function does not result in indefiniteness.

Agreed Function: collates the [(1)] **home network information received** from the other network device through the peripheral device information reception unit **with [(2)] the home network information stored** in the peripheral device information storage unit and **judges** whether other network device belong to the same network as the local network device



The '161 Patent Provides a Flow Chart For the Comparison/Judging Algorithm

United States Patent
Moribe et al.

(19) Patent No.: US 8,037,161 B2
(45) Date of Patent: Oct. 11, 2011

(54) NETWORK SYSTEM, NETWORK DEVICE, AND NETWORK BELONGING JUDGMENT METHOD

(75) Inventors: Hiroetaka Moribe, Yokohama (JP); Nobuaki Kohinata, Yokohama (JP); Mika Mizutani, Tokyo (JP)

(73) Assignee: Hitachi, Ltd., Tokyo (JP)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1197 days.

(21) Appl. No.: 11/888,616
(22) Filed: Mar. 29, 2007

(65) Prior Publication Data
US 2007/0226329 A1 Sep. 27, 2007

(30) Foreign Application Priority Data
Mar. 23, 2006 (JP) 2006-080462

(51) Int. Cl. G06F 12/01 (2006.01)
(52) U.S. Cl. 709/223
(58) Field of Classification Search 709/223
See application file for complete search history.

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7,844,818 B2 * 11/2010 Park 713/168

FOREIGN PATENT DOCUMENTS
JP 2005-010633 10/2005

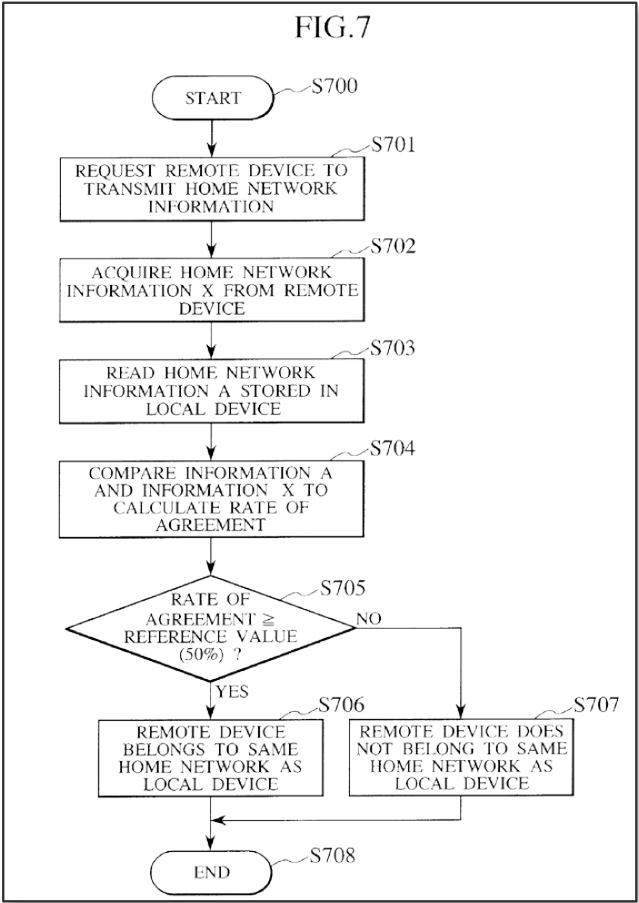
OTHER PUBLICATIONS
Jon Postel, Internet Protocol, RFC 791, USC Information Sciences Institute, Sep. 1981, p. 1-45
* cited by examiner

Primary Examiner: Larry Donoghue
(74) Attorney, Agent, or Firm: Antonelli, Terry, Stout & Krimm, LLP

ABSTRACT
The present invention improves user-friendliness and protect content with increased reliability when judging whether network devices belong to the same home network. While the connection to a network is established, each network device uses a peripheral device information collection unit to collect peripheral device information indicating which ones of devices are connected to the network, and store the collected information in a peripheral device information storage unit as home network information. When the belonging of a remote device is to be judged, the home network information stored in the remote device is received. A peripheral device information collation unit collates the received home network information with the home network information stored in the peripheral device information storage unit to judge whether the remote device belongs to the same network as the local device.

10 Claims, 6 Drawing Sheets

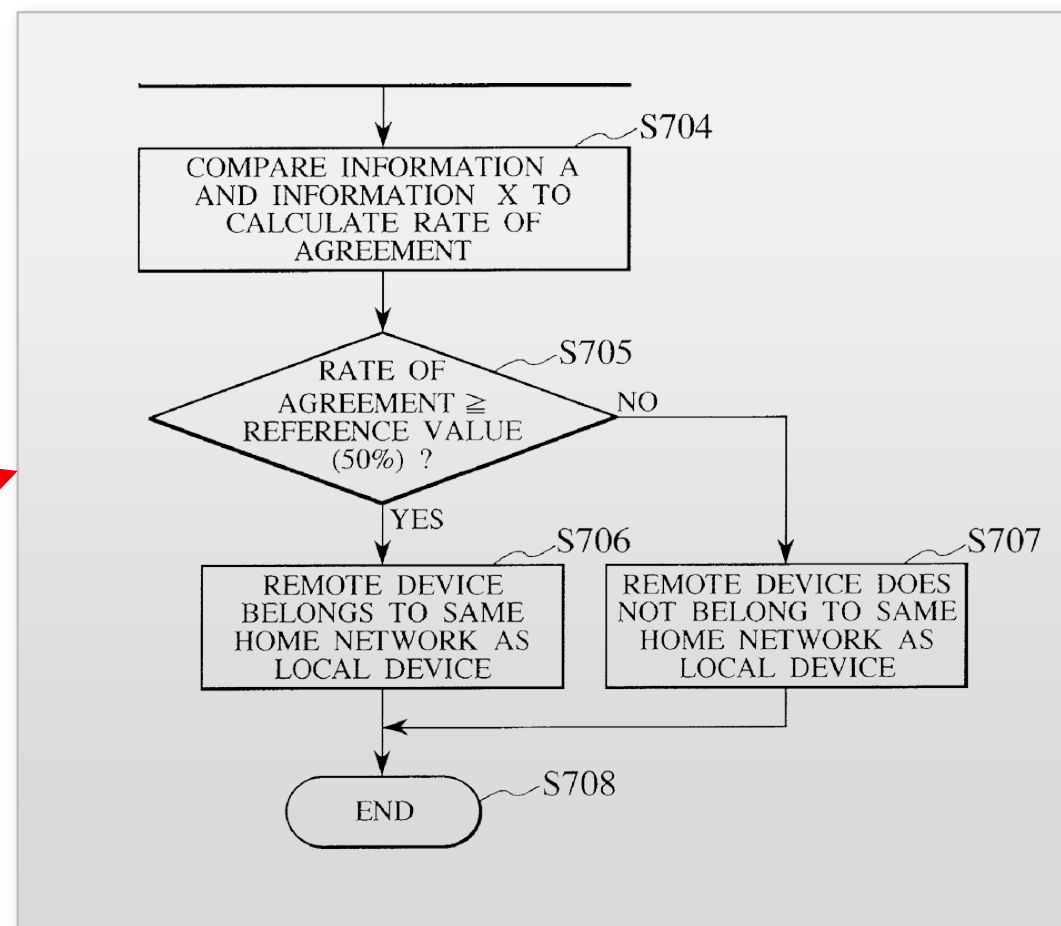
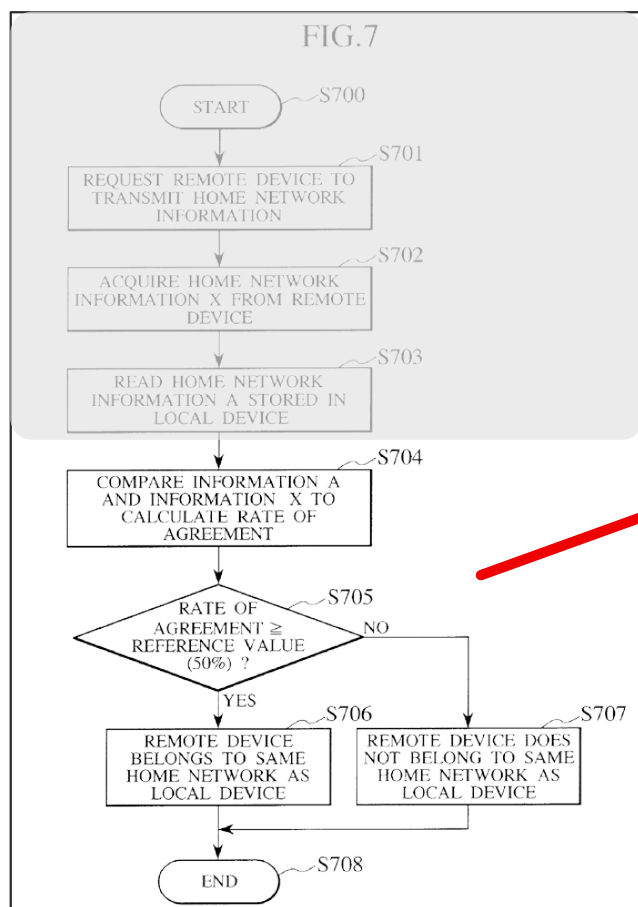
```
graph TD
    S700([START]) --> S701[REQUEST REMOTE DEVICE TO TRANSMIT HOME NETWORK INFORMATION]
    S701 --> S702[ACQUIRE HOME NETWORK INFORMATION X FROM REMOTE DEVICE]
    S702 --> S703[READ HOME NETWORK INFORMATION A STORED IN LOCAL DEVICE]
    S703 --> S704[COMPARE INFORMATION A AND INFORMATION X TO CALCULATE RATE OF AGREEMENT]
    S704 --> S705{RATE OF AGREEMENT ≥ REFERENCE VALUE (50%) ?}
    S705 -- YES --> S706[REMOTE DEVICE BELONGS TO SAME HOME NETWORK AS LOCAL DEVICE]
    S705 -- NO --> S707[REMOTE DEVICE DOES NOT BELONG TO SAME HOME NETWORK AS LOCAL DEVICE]
    S706 --> S708([END])
    S707 --> S708
```



'161 Patent, Figure 7



The '161 Patent Provides a Flow Chart For the Comparison/Judging Algorithm



'161 Patent, Figure 7

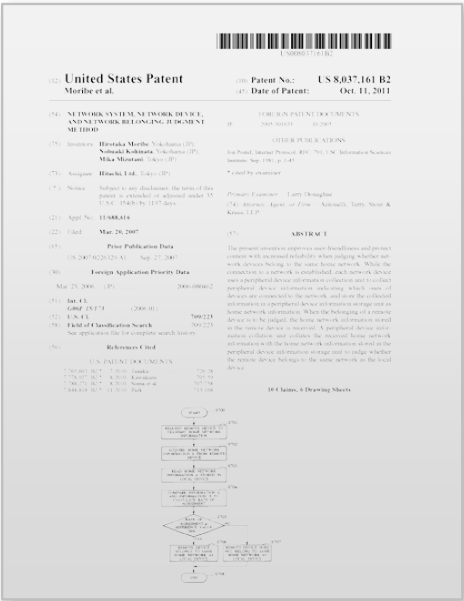


Algorithms Can Be Described a Variety of Ways



Finisar Corp. v. DirecTV Grp., Inc., 523 F.3d 1323, 1340 (Fed. Cir. 2008)

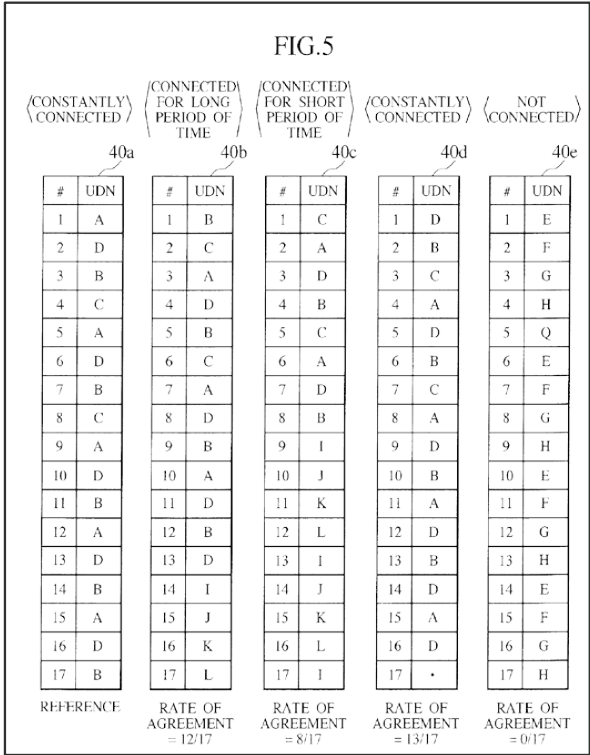
“[A] patentee [can] express that algorithm in any understandable terms including as a mathematical formula, in prose, or as a flow chart, or in any other manner that provides sufficient structure.”



'161 Patent, 5:62-6:29, 7:18-8:42, Figs. 5

maxell

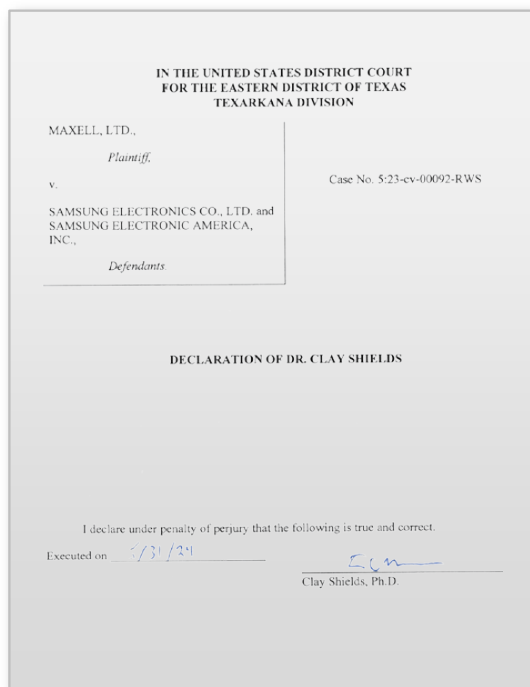
The peripheral device information collation unit 35 collates the peripheral device information stored in the peripheral device information storage unit 32 of the local device with the peripheral device information stored in a remote device, which was received by the device information reception unit 35 judges whether the local device and remote device belong to the same home network by checking whether the collated sets of peripheral device information are identical with each other, determining the degree of agreement between the collated sets of peripheral device information, or by checking whether the collated sets of peripheral device information exhibit the same tendency. When the two devices have participated in the LAN 2 for a long period of time, the peripheral device information about one device is similar to the peripheral device information about the other device. In this instance, the peripheral device information collation unit 35 judges that the two devices belong to the same home network. However, if either of the two devices has participated in the LAN 2 for a short period of time, the peripheral device information about one device is different from the peripheral device information about the other device. In this instance, the peripheral device information collation unit 35 judges that the two devices do not belong to the same home network. The algorithm employed for judgment purposes calculates the rate of agreement between the two devices and checks whether the calculated value is not smaller than a reference value. Here it is assumed that when the calculated value is equal to or larger than a predetermined value (e.g., 50%), the peripheral device information collation unit 35 judges that the two devices belong to the same home network. The peripheral device information is used to judge the belonging to the home network as described above, and is hereinafter referred to as the “home network information” for explanation purposes.



Numerous comparison / judging examples in the specification



Samsung's Expert's, Dr. Shields, Opinions Support Maxell's Construction



- Dr. Shields recognized that the disclosed comparison algorithm was the “longest common substring” algorithm. Dkt. No. 76-24, ¶ 82.
- Dr. Shields also admitted that there were “well-known mechanisms for comparing and scoring similar strings using characters like the Hamming Distance, the Levenshtein Distance, the Damerau-Levenshtein Distance, Jaro Distance, or Jaro-Winkler Distance, among many others.” Dkt. 76-24 (Shields Dec.), ¶ 103
- A POSITA could choose any of these well-known mechanisms to perform the comparison and judging function.

Samsung's Expert is Reasonably Certain About the Claim Scope

Federal Circuit Authority Supports Maxell's Proposed Construction



Enfish, LLC v. Microsoft Corp., 822 F.3d 1327, 1339-40 (Fed. Cir. 2016)

A patentee “need not disclose details of structures well known in the art” so long as some structure is disclosed.

“The fact that this algorithm relies, *in part*, on techniques known to a person of skill in the art does not render the composite algorithm insufficient under § 112 ¶ 6.”



Atmel Corp. v. Info. Storage Devices, 198 F.3d 1374, 1382 (Fed. Cir. 1999)

“[T]he knowledge of one skilled in the particular art may be used to understand what structure(s) the specification discloses, or that even a dictionary or other documentary source may be resorted to.”



Samsung's Authority - *Typhoon Touch* - Supports Maxell's Proposed Construction



Typhoon Touch Techs. v. Dell, Inc., 659 F.3d 1376, 1385 (Fed. Cir. 2011)

In *Typhoon*, the Federal Circuit held the “means for cross referencing” term definite based on the description of the algorithm in prose. *Id.* at 1386.

The court further held that “[i]t is not disputed that the steps are carried out by known computer-implement[ed] operations, and are readily implemented by persons of skill in computer programming.”

- Some description of a simple algorithm disclosed here like *Typhoon*? **YES**
- Ability for a POSITA here (Dr. Weissman) to use his knowledge along with disclosure to demonstrate definiteness of an algorithm as in *Enfish* and *Amtel*? **YES**



Conclusion

“peripheral device information collation unit”

Maxell’s Proposed Construction

Proposed structure: CPU 20 operating in conjunction with ROM 22 and/or RAM 21 included within or external to the network device for executing one of the comparison and judging algorithm as disclosed in ’161:5:62–6:29, or equivalent thereof

- A POSITA would understand with reasonable certainty that the patent adequately discloses three simple comparison algorithms to perform the agreed-upon function.
 - Samsung’s expert confirms this understanding.
 - The ’161 Patent Specification confirms this understanding.
 - Maxell’s expert confirms this understanding.
- Samsung has not established clearly and convincingly that there is ambiguity in the claim.
- The corresponding structure is definite, and Maxell’s proposed construction should be adopted.



The Determining the Degree of Agreement Algorithm is Definite

- Samsung's argument is as follows:

The second “algorithm” Maxell argues is disclosed at col. 5:62-6:27 is “determining the degree of agreement between the collated sets of peripheral device information.” Op. Br. at 32. Just as with the third “algorithm,” no actual algorithm for doing so is disclosed in the cited passage. To the extent this passage refers to the discussion of collation in connection with Fig. 5, that discussion is inadequate for the reasons explained by Dr. Shields. Ex. X, ¶¶ 69-105.

Dkt. 76 at 34

- **Nothing** substantive other than a conclusory citation to a large passage from Dr. Shields's declaration
- What did Dr. Shields do/say?

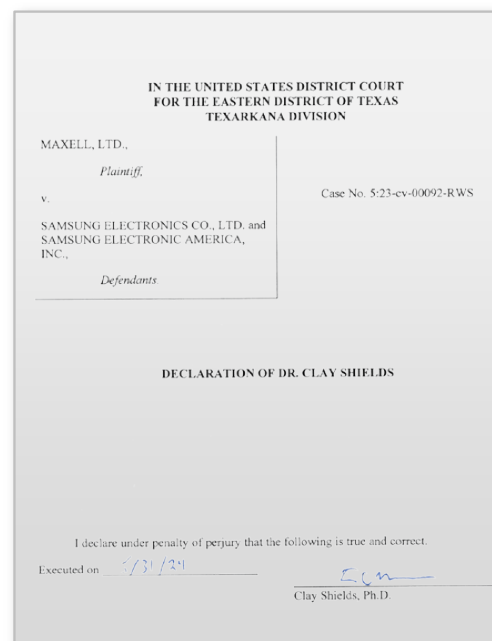
Agreed Function:

collates the [(1)] **home network information received** from the other network device through the peripheral device information reception unit **with** [(2)] **the home network information stored** in the peripheral device information storage unit and **judges** whether other network device belong to the same network as the local network device



The Determining the Degree of Agreement Algorithm is Definite

- To “trivialize” this and the other two disclosed algorithms, Dr. Shields created a “revised” version of the columns in Figure 5 to shift the row data and intentionally calculate a lower rate of agreement.
- Dr. Shields’s opinions ignore the text of the specification and should be accorded no weight.



Dkt. No. 76-24, ¶¶ 71-80

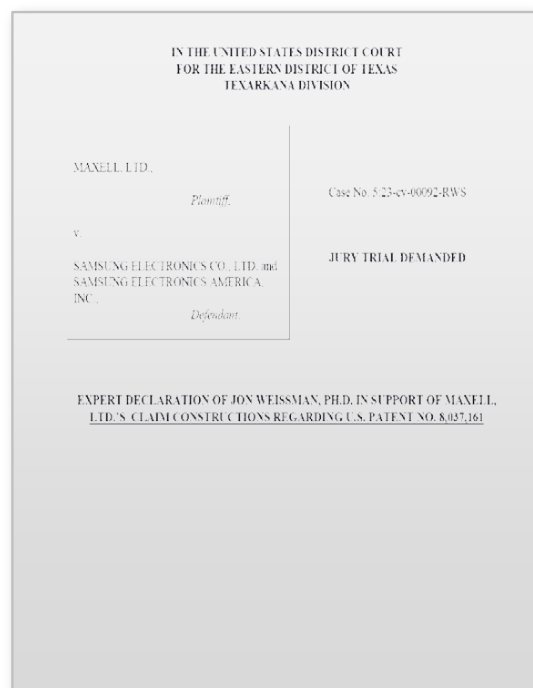
Revised-40a		40d	
#	UDN	#	UDN
1	D	1	D
2	B	2	B
3	A	3	C
4	D	4	A
5	B	5	D
6	C	6	B
7	A	7	C
8	D	8	A
9	B	9	D
10	C	10	B
11	A	11	A
12	D	12	D
13	B	13	B
14	A	14	D
15	D	15	A
16	B	16	D
17	A	17	.

Agreed Function:
collates the [(1)] **home network information received** from the other network device through the peripheral device information reception unit **with** [(2)] **the home network information stored** in the peripheral device information storage unit and **judges** whether other network device belong to the same network as the local network device



The Checking Whether the Sets of Information Are Identical Algorithm Is Definite

- Samsung merely criticizes certain paragraphs (88, 92, 94, and 96) of Dr. Weissman's declaration. Dkt. 76 at 34-35.
- Samsung confuses simplicity for indefiniteness – the specification contemplates the ability to set the rate of agreement to 100%, i.e., to measure whether sets are identical.



92. In addition, while the '161 Patent provides examples regarding whether the rate agreement is 50%, the patent states that the "that the required rate of agreement **may be changed** depending on the situation. Further, the above example determines the rate of agreement on condition that UDN columns consecutively agree with each other. Alternatively, however, the rate of agreement **may be determined in a flexible manner when**, for instance, nonconsecutive UDNs agree with each other while one or more intermediate UDNs disagree with each other." '161 Patent, at 8:42-52 (emphasis added).

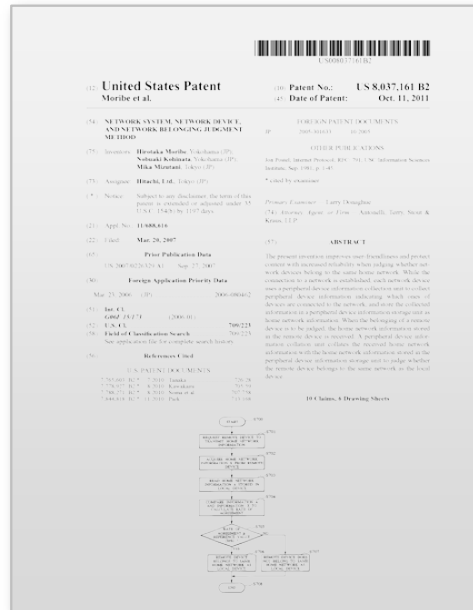
95. The judging embodiment disclosed in reference to Figure 7 had a rate of agreement of 50%. However, consistent with the examples in 7:8-8:52, the rule (e.g., rate of agreement) that the peripheral device information collation unit is to apply "may be changed in accordance with the characteristics of individual network devices." See '161 Patent, 11:13-15.

Agreed Function:
collates the [(1)] home network information received from the other network device through the peripheral device information reception unit **with** [(2)] the home network information stored in the peripheral device information storage unit and **judges** whether other network device belong to the same network as the local network device



The Checking Whether the Sets of Information Exhibit the Same Tendency Algorithm is Definite

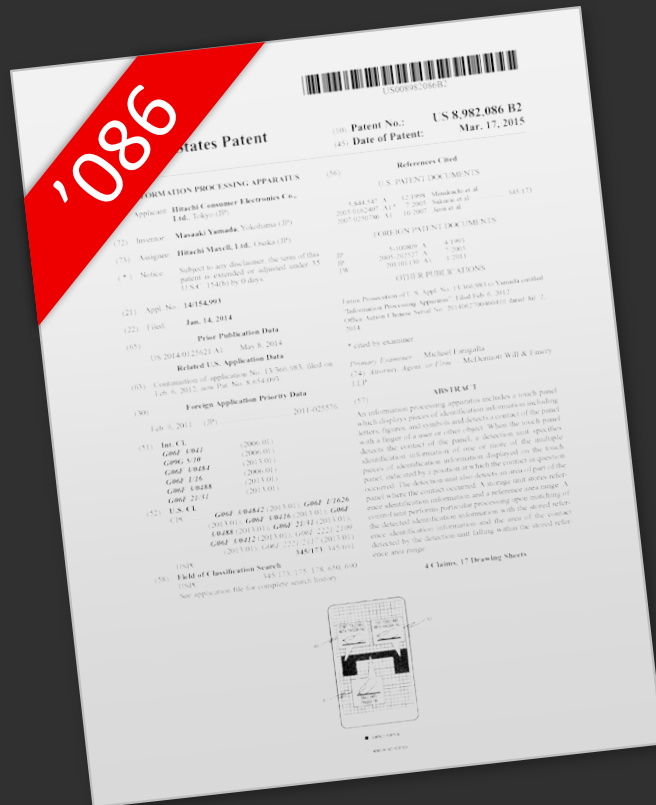
- Samsung criticizes Dr. Weissman's testimony. Dkt. 76 at 34.
- But he is supported by the specification and Samsung's expert, Dr. Shields.



In the above example, it is assumed that the two devices belong to the same home network when the rate of agreement is equal to or higher than 50%. However, it goes without saying that the required rate of agreement may be changed depending on the situation. Further, the above example determines the rate of agreement on condition that UDN columns consecutively agree with each other. **Alternatively, however, the rate of agreement may be determined in a flexible manner when, for instance, nonconsecutive UDNs agree with each other while one or more intermediate UDNs disagree with each other.**

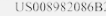
Agreed Function:
collates the [(1)] **home network information received** from the other network device through the peripheral device information reception unit **with** [(2)] **the home network information stored** in the peripheral device information storage unit and **judges** whether other network device belong to the same network as the local network device

See '161 Patent, 8:42-52



SECURITY & TOUCH OPERATION

U.S. PATENT NO. 8,982,086



■ CONTACT PORTION

□ NONCONTACT PORTION

maxell

INFORMATION PROCESSING APPARATUS



Disputed Terms for the '086 Patent –

“first information necessary for identification of the user”

“second information relating to the identification of the user”

Maxell's Proposed Construction	Samsung's Proposed Construction
Plain and ordinary meaning	information sufficient for the identification of the user, <u>but not including information about a user's fingerprint</u> information related to the identification of a user, <u>but not including information about a user's fingerprint</u>

The Dispute: Whether Samsung has met the “exacting” standard to establish a disavowal of claim scope that justifies inclusion of negative limitations into the claim.



Two Principal Reasons to Reject Samsung's Negative Limitation

1

At the Least, Applicant's Statements in the Prosecution History Create Ambiguity

2

Any Disavowal from the RE'830 Patent Cannot Extend to the '086 Patent b/c the Limitations Are Different



Disavowal Requires Clear, Unequivocal Evidence



Poly-Am., L.P. v. API Indus., Inc., 839 F.3d 1131, 1136 (Fed. Cir. 2016); *see also Cont'l Circuits LLC v. Intel Corp.*, 915 F.3d 788, 798 (Fed. Cir. 2019)

“[T]he standard for disavowal is exacting, requiring clear and unequivocal evidence that the claimed invention includes or does not include a particular feature.”

“Ambiguous language cannot support disavowal.”



3M Innovative Props. Co. v. Tredegar Corp., 725 F.3d 1315, 1326 (Fed. Cir. 2013)

“[W]here an applicant’s statements are amendable to multiple reasonable interpretations, they cannot be deemed clear and unmistakable.”



Applicant's Remarks Do Not Show Clear, Unequivocal Disavowal

- Reissue was filed two years after issuance of patent, so applicant was not permitted to include “broader” claims.
- “Claims 1-34 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 because the new claims allegedly ‘broadens’ aspects of the previously issued claim.” Ex. 41 at ECF pp. 7-8.

Status of Claims

Claims 1–34 were pending at the time of the Office Action dated January 22, 2020. By this response, claims 1 and 2 have been amended, and claims 6 and 7 have been canceled, without prejudice, reserving right to prosecution in a reissue continuation/divisional application. Previously added claims 8–34 have also been canceled, without prejudice, reserving right to prosecution in a reissue continuation/divisional application.

Broadening

Claims 8–34 were rejected under 35 U.S.C. § 251 as being broadened in a reissue application filed outside the two year statutory period.

Only to expedite prosecution of the present application, Applicant has canceled claims 8–34, rendering this rejection moot.

Dkt. 73-43 (Ex. 41 – July 22, 2020 Am.) at ECF pp. 7-8



Applicant's Remarks Do Not Show Clear, Unequivocal Disavowal

Further, during the reissue proceeding, the claims of the application were subject to various rejections. See e.g., Non-Final Office Action, dated January 22, 2020 and Final Office Action August 5, 2020. For example, then pending claims 8-34 were rejected under 35 USC § 112 and for impermissible broadening under 35 USC § 251 as the reissue application was filed two years after the original issue date. As Applicant stated in its previous responses, Applicant's cancellation of claims 8-34 and silence as to certain rejections should not be taken as an acquiesce to each of the rejections or . Indeed, Applicant asserts that new claims 8-34 were supported by the specification but Applicant did not specifically traverse these rejections under 35 USC § 112 because the cancelation of claims 8-34 to overcome the rejection under 35 USC § 251 rendered the remaining rejections moot. Further, Applicant canceled claims 8-34 to expedite allowance of claims 1-7 and to overcome the alleged impermissible broadening, not because Applicant agreed with the Examiner's rejections under 35 USC § 112 and not because Applicant agreed to disclaim claim scope of claims 8-34 during prosecution.

Dkt. 73-44 (Ex. 42 - Comments on Stmt. of Reasons for Allowance (RE'830 File History)) at ECF p. 3



Applicant's Remarks Do Not Show Clear, Unequivocal Disavowal

- During prosecution Applicant:
 - Affirmatively disagreed with the rejections
 - Specifically tailored responses to rejections at issue (unlike *Reckitt Benckiser* and *Raffle*)
 - Clearly stated that the claims were cancelled to overcome “impermissible broadening”
- No “clear and unequivocal evidence” of disavowal



Samsung Cites No Case Holding that the Mere Cancellation of Claims Itself Creates Disavowal



SanDisk Corp. v. Memorex Prods, 415 F.3d 1278, 1887-89 (Fed. Cir. 2005)

The Federal Circuit **reversed** District Court's finding of disavowal and **emphasized** that which Maxell is arguing:

- “There is no ‘clear and unmistakable’ disclaimer if a prosecution argument is subject to more than one reasonable interpretation, one of which is consistent with a proffered meaning of the disputed term.” *Id.* “The question... is whether any of SanDisk’s prosecution arguments to the examiner have **no reasonable interpretation other than to disavow.**” *Id.*
- “Given the open language in the claims, there is no reason for the court to read the prosecution argument with such a presumption in mind.” *Id.* at 1288.
- “The prosecution history as a whole confirms this point [of no disclaimer].”



Samsung Cites No Case Holding that the Mere Cancellation of Claims Itself Creates Disavowal



Reckitt Benckiser, Inc. v. Watson Labs., Inc., 430 F. App'x 871 876 (Fed. Cir. 2011))

- Applicant cancelled claims and
- Distinguished invention over the prior art:

and SR portions). The applicants disavowed claim coverage of sustained release tablets by **cancelling original claims 1–11** and remarking to the examiner that “[o]riginal claims 1–11 were directed to a sustained release formulation.... [T]he sustained release claims have been cancelled to facilitate prosecution.” *Id.* at 23. The unmistakable effect of that disavowal, **evident from the applicants' remarks distinguishing the prior art**, was to limit the remaining claims to two-portion guaifenesin products. For instance, the



Samsung Cites No Case Holding that the Mere Cancellation of Claims Itself Creates Disavowal



Schriber-Schroth Co. v. Cleveland Trust Co., 311 U.S. 211, 220 (1940)

- Applicant cancelled claims and
- Never mentioned the disclaimed feature during prosecution; and
- Distinguished invention over the prior art:

In addition to the fact of the cancellation of the only claims specifying flexing webs or their equivalents as a feature of the invention, it is to be noted that at no time during the prosecution of the Jardine application did he urge that he was the inventor of a piston having flexible webs. Before the interferences and in distinguishing his invention from the Ricardo piston, Jardine urged as his only advance over Ricardo the addition of the slotted skirt which ‘changes the structure and the resistance to a disposal of the forces within and without the piston when the piston is in use’, although in this litigation it is contended that the Ricardo patent did not disclose flexing webs. In submitting the final



Samsung Cites No Case Holding that the Mere Cancellation of Claims Itself Creates Disavowal



AstraZeneca AB v. Mylan Pharms Inc., 19 F.4th 1325, 1333-34 (Fed. Cir. 2021)

- Multiple amendments addressing the limitation without Applicant adding the disavowed feature and
- Applicant stated the limitation-at-issue, without the disavowed subject matter, was “critical” to the claimed invention

Over the course of the prosecution history, the inventors narrowed the claimed concentration of PVP to 0.001% w/w from a broader range without using the qualifier “about.” The inventors did this not just once but multiple times, each time emphasizing to the Examiner that ***1334** 0.001% w/w PVP—not concentrations slightly more or less than 0.001% w/w—was critical to stability of the claimed 2 mg/mL budesonide formulation. And, importantly, the prosecution history shows



Samsung Cites No Case Holding that the Mere Cancellation of Claims Itself Creates Disavowal



Trs. of Columbia Univ. v. Symantec Corp., 811 F.3d 1359, 1363-64 (Fed. Cir. 2016)

Our case law does not require explicit redefinition or disavowal. See, e.g.,  *Aventis Pharma S.A. v. Hospira, Inc.*, 675 F.3d 1324, 1330 (Fed.Cir.2012) (“This clear expression need not be *in haec verba* but may be inferred from clear limiting descriptions of the invention in the specification or prosecution history.”). Indeed, our en banc *Phillips* opinion



Context of Entirety of File History Must Be Considered



Mass. Inst. of Tech. v. Shire Pharms., Inc., 839 F.3d 1111, 1120 (Fed. Cir. 2016)

“In determining whether a clear and unambiguous disclaimer attaches to particular claim language, it is important to consider the **statements made by the applicant** both in the **context of the entire prosecution history**.”



Braintree Labs., Inc. v. Novel Labs., Inc., 749 F.3d 1349, 1355 (Fed. Cir. 2014)

“clear and unmistakable disavowal of claims scope depends on context”



Ecolab, Inc. v. FMC Corp., 569 F.3d 1335, 1342 (Fed. Cir. 2009)

“Even if an isolated statement appears to disclaim subject matter, the prosecution history **as a whole** may demonstrate that the patentee committed no clear and unmistakable disclaimer”

Any Disavowal from RE '830 Does Not Extend to the '086 Patent



Omega Eng'g, Inc. v. Raytek Corp., 334 F.3d 1314, 1333 (Fed. Cir. 2003)

“As long as the same claim limitation is at issue, prosecution disclaimer made on the same limitation in an ancestor application will attach.”

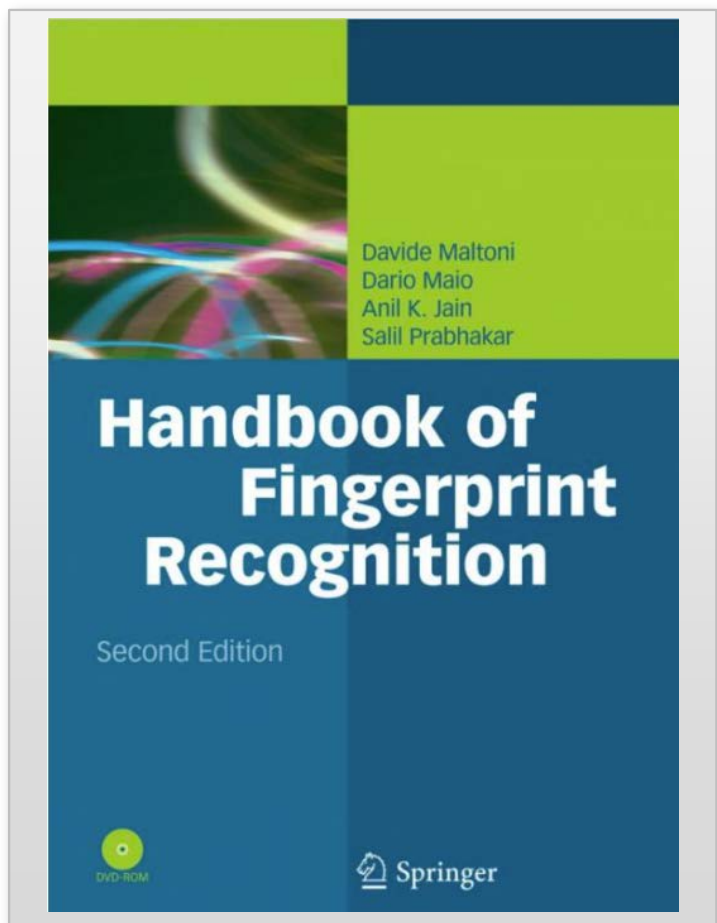
Any Disavowal from RE '830 Does Not Extend to the '086 Patent



Limitations from the '086 Patent	Limitation in the RE'830 File History
"first information necessary for identification of the user"	"the first information corresponding to a fingerprint of the user" Dkt. 76-19 (Ex. S – Jan. 29, 2019 Preliminary Am.) at 5 (claim 8)
"second information relating to the identification of the user"	???



Unrebutted Evidence By Dr. Wobbrock



needed. Four main technologies have been proposed to convert the fingerprint pattern into electrical signals: capacitive, thermal, electric field, and piezoelectric.

- *Capacitive*: this is the most common method used today within the silicon-based sensor arena (Tsikos (1982); Edwards (1984); Knapp (1994); Inglis et al. (1998); Setlak (1999); Lee et al. (1999); Dickinson et al. (2000); Morimura, Shigematsu, and Machida (2000); Hashido et al. (2003)). A capacitive sensor is a two-dimensional array of micro-capacitor plates embedded in a chip (see Figure 2.10).

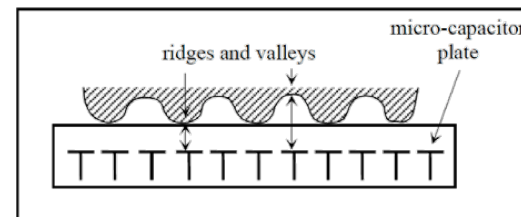


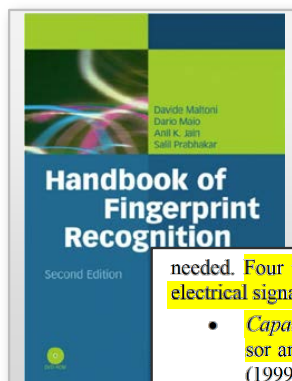
Figure 2.10. Capacitive sensing.

The other plate of each micro-capacitor is the finger skin itself. Small electrical charges are created between the surface of the finger and each of the silicon plates when a finger is placed on the chip. The magnitude of these electrical charges depends on the distance between the fingerprint surface and the capacitance plates (Tartagni and Guerrieri, 1998). Thus fingerprint ridges and valleys result in different capacitance patterns across the plates. An accurate capacitance measurement is quite

Dkt. 73-39 (Ex. 38 - Woobrock Decl.) at ECF p. 20 (citing Ex. 39)



Unrebutted Evidence By Dr. Wobbrock



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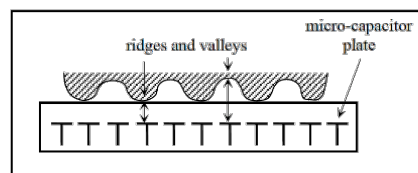
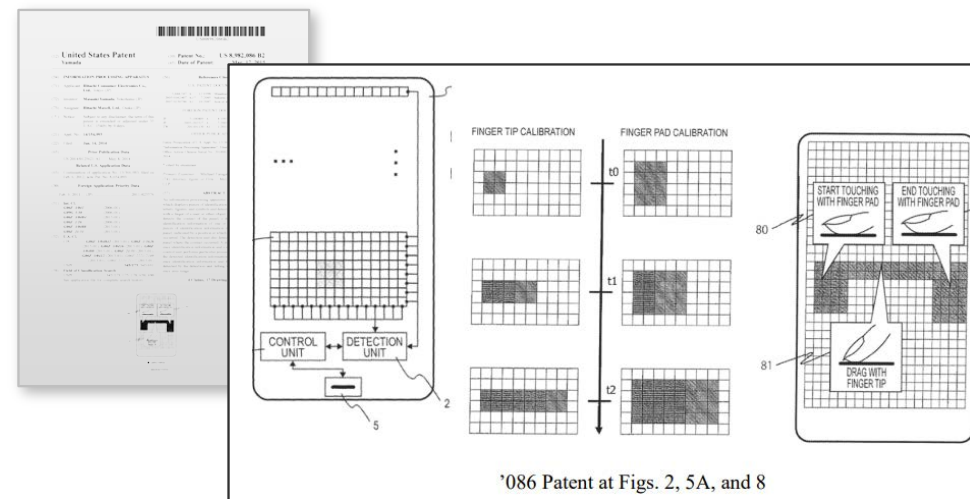


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Dkt. 73-39 (Ex. 38 – Woobrock Decl.) at ECF p. 20 (citing Ex. 39)



liquid crystal panel, and a glass panel. When the user's finger contacts with the touch panel, capacitance of the sensor 4 changes and the sensor 4 outputs a signal according to the change. The liquid crystal panel displays numerals, letters,

data. Reference numeral 4 denotes, as mentioned, a group of sensors or a sensor whose capacitance varies upon contact with the user's finger. Portions shaded with diagonal lines represent sensors 4 that are responding to the contact with the finger. The blank portions represent sensors 4 that are not

'086 Patent at 3:17-20; 3:30-33



Unrebutted Evidence By Dr. Wobbrock

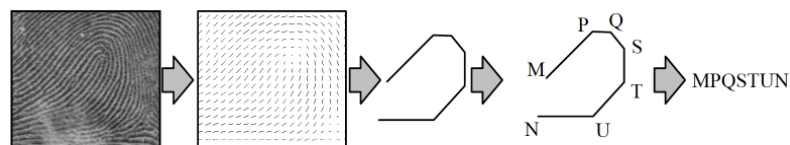
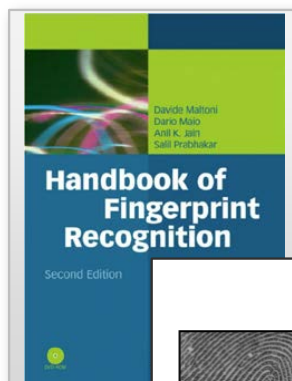
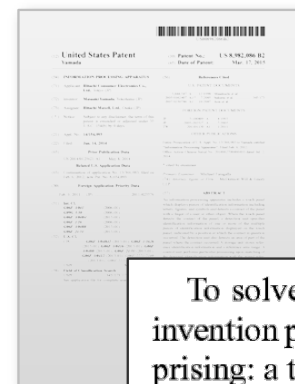


Figure 5.7. A schema of the string-construction approach in Rao and Balck (1980).

1. Each minutia in **T** and **I** is converted to a polar coordinate system with respect to the reference minutia in its set (the reference minutia is the one associated with the ridge selected during pre-alignment).
2. Both **T** and **I** are transformed into symbolic strings by concatenating each minutia in the increasing order of radial angle.

The two strings are matched with a dynamic programming technique (Cormen, Leiserson, and Rivest, 1990) to find their *edit distance*. The edit distance between two strings is the minimum cost of transformations (symbol insertion, symbol deletion, symbol exchange) necessary to make the two strings coincident (Bunke, 1993). Matching minutiae representations by their edit distance tolerates missing and spurious minutiae as these are dealt with as **symbol insertion and deletion**. Radial and angular minutiae errors are handled by defining the cost of sym-

Dkt. 73-39 (Ex. 38 – Wobbrock Decl.) at ECF pp. 22-23 (citing Ex. 39)



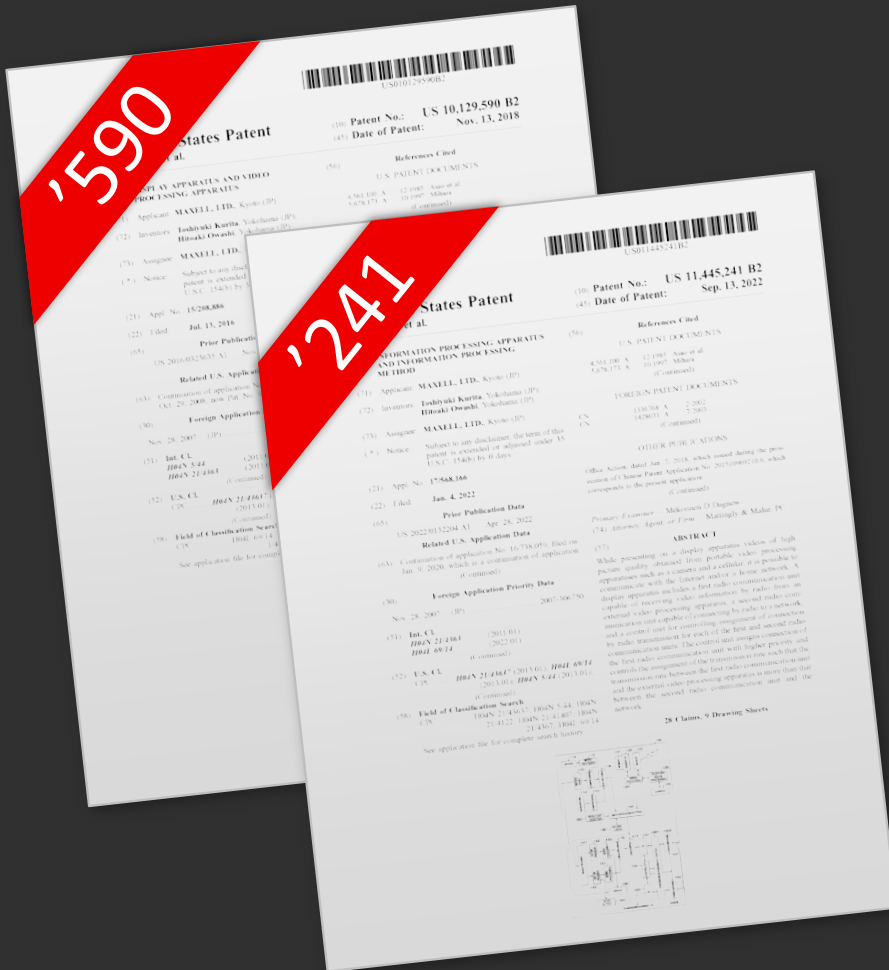
To solve the foregoing problem, an aspect of the present invention provides an information processing apparatus comprising: a touch panel which displays a plurality of pieces of identification information including letters, figures, and symbols, and for detecting a contact of the panel with a finger of a user or other objects; a detection unit, when the touch panel

'086 Patent at 1:41-46



Conclusion—“first information . . . ” / “second information . . . ”

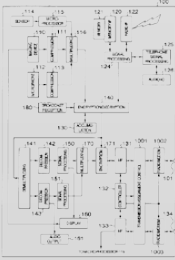
- RE’830 file history makes clear that the claims were canceled to overcome the impermissible broadening rejection; at the very least, these statements create ambiguity that precludes disavowal.
 - *See Poly-Am., L.P. v. API Indus., Inc.*, 839 F.3d 1131, 1136 (Fed. Cir. 2016) (“Ambiguous language cannot support disavowal.”).
- No authority provided by Samsung holds that the mere cancelling of claims creates a disavowal.
- Because the limitations in the ‘086 and RE’830 are different (*e.g.*, no mention of “second information”), there is no disavowal.
 - *Omega Eng’g, Inc. v. Raytek Corp.*, 334 F.3d 1314, 1333 (Fed. Cir. 2003) (“As long as the same claim limitation is at issue, prosecution disclaimer made on the same limitation in an ancestor application will attach.”).



MULTI-CIRCUIT WIRELESS COMMUNICATIONS

U.S. PATENT NO. 10,129,590
U.S. PATENT NO. 11,445,241



 US010129590B2	
(12) United States Patent Kurita et al.	(10) Patent No.: US 10,129,590 B2 (45) Date of Patent: Nov. 13, 2018
(54) DISPLAY APPARATUS AND VIDEO PROCESSING APPARATUS (71) Applicant: MAXELL, LTD., Kyoto (JP) (72) Inventors: Toshiyuki Kurita, Yokohama (JP); Hitoaki Owashi, Yokohama (JP) (73) Assignee: MAXELL, LTD., Kyoto (JP) (*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 34 days. (21) Appl. No.: 15/208,886 (22) Filed: Jul. 13, 2016 (65) Prior Publication Data US 2016/0323635 A1 Nov. 3, 2016 (63) Related U.S. Application Data Continuation of application No. 12/260,410, filed on Oct. 29, 2008, now Pat. No. 9,420,212. (30) Foreign Application Priority Data Nov. 28, 2007 (JP) 2007-306750 (51) Int. Cl. H04N 5/44 (2011.01) H04N 21/4363 (2011.01) (Continued) (52) U.S. Cl. CPC H04N 21/43637 (2013.01); H04L 69/14 (2013.01); H04N 5/44 (2013.01); (Continued) (58) Field of Classification Search CPC H04L 69/14; H04N 21/4122; H04N 21/43637; H04N 21/43637 See application file for complete search history.	(56) References Cited U.S. PATENT DOCUMENTS 4,561,100 A 12/1985 Asao et al. 5,678,173 A 10/1997 Mihara (Continued) FOREIGN PATENT DOCUMENTS CN 1428031 A 7/2003 CN 1585403 A 2/2005 (Continued) OTHER PUBLICATIONS Office Action, dated Jun. 7, 2018, which issued during the prosecution of Chinese Patent Application No. 201510969210.6, which corresponds to the present application. Primary Examiner: Amy Iisu (74) Attorney, Agent, or Firm: Baker Botts L.L.P. (57) ABSTRACT While presenting on a display apparatus videos of high picture quality obtained from portable video processing apparatuses such as a camera and a cellular, it is possible to communicate with the Internet and/or a home network. A display apparatus includes a first radio communication unit capable of receiving video information by radio from an external video processing apparatus, a second radio communication unit capable of connecting by radio to a network, and a control unit for controlling assignment of connection by radio transmission for each of the first and second radio communication units. The control unit assigns connection of the first radio communication unit with higher priority and controls the assignment of the transmission rate such that the transmission rate between the first radio communication unit and the external video processing apparatus is more than that between the second radio communication unit and the network.
10 Claims, 9 Drawing Sheets	
	

Kurita et al. (US 10,129,590 B2)

Patent No.: US 10,129,590 B2
Date of Patent: Nov. 13, 2018

Foreign Application Priority Data

Nov. 28, 2007 (JP) 2007-306750

DISPLAY APPARATUS AND VIDEO PROCESSING APPARATUS

EX PARTE REEXAMINATION CERTIFICATE (11946th)

Certificate Issued: Nov. 15, 2021



(12) **EX PARTE REEXAMINATION CERTIFICATE** (11946th)
United States Patent
 Kurita et al.

(10) Number: **US 10,129,590 C1**
 (45) Certificate Issued: **Nov. 15, 2021**

(54) **DISPLAY APPARATUS AND VIDEO PROCESSING APPARATUS**

21/4122 (2013.01); *H04N 21/41407* (2013.01);
H04N 21/4367 (2013.01)

(71) Applicant: **MAXELL, LTD.**, Kyoto (JP)

(58) **Field of Classification Search**

None
 See application file for complete search history.

(72) Inventors: **Toshiyuki Kurita**, Yokohama (JP);
Hitoaki Owashi, Yokohama (JP)

(56)

References Cited

(73) Assignee: **MAXELL, LTD.**, Kyoto (JP)

To view the complete listing of prior art documents cited during the proceeding for Reexamination Control Number 90014,651, please refer to the USPTO's public Patent Application Information Retrieval (PAIR) system under the Display References tab.

Reexamination Request:
 No. 90014,651, Jan. 12, 2021

Reexamination Certificate for:
 Patent No.: **10,129,590**
 Issued: **Nov. 13, 2018**
 Appl. No.: **15/208,886**
 Filed: **Jul. 13, 2016**

Primary Examiner — My Trang Ton

Related U.S. Application Data

(63) Continuation of application No. 12/260,410, filed on Oct. 29, 2008, now Pat. No. 9,420,212.

Foreign Application Priority Data

Nov. 28, 2007 (JP) 2007-306750

(51) **Int. Cl.**

H04N 5/44 (2011.01)

H04N 21/4363 (2011.01)

H04L 29/06 (2006.01)

H04N 21/41 (2011.01)

H04N 21/414 (2011.01)

H04N 21/4367 (2011.01)

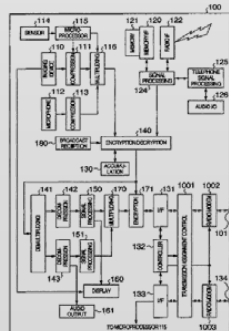
(52) **U.S. Cl.**

H04N 21/43637 (2013.01); *H04L 69/14*

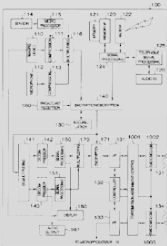
(2013.01); *H04N 5/44* (2013.01); *H04N*

(57) **ABSTRACT**

While presenting on a display apparatus videos of high picture quality obtained from portable video processing apparatuses such as a camera and a cellular, it is possible to communicate with the Internet and/or a home network. A display apparatus includes a first radio communication unit capable of receiving video information by radio from an external video processing apparatus, a second radio communication unit capable of connecting by radio to a network, and a control unit for controlling assignment of connection by radio transmission for each of the first and second radio communication units. The control unit assigns connection of the first radio communication unit with higher priority and controls the assignment of the transmission rate such that the transmission rate between the first radio communication unit and the external video processing apparatus is more than that between the second radio communication unit and the network.





 US011445241B2	
(12) United States Patent Kurita et al.	(10) Patent No.: US 11,445,241 B2 (45) Date of Patent: Sep. 13, 2022
(54) INFORMATION PROCESSING APPARATUS AND INFORMATION PROCESSING METHOD	(56) References Cited U.S. PATENT DOCUMENTS 4,561,100 A 12/1985 Asao et al. 5,678,173 A 10/1997 Mihara (Continued) FOREIGN PATENT DOCUMENTS CN 1336768 A 2/2002 CN 1428031 A 7/2003 (Continued) OTHER PUBLICATIONS Office Action, dated Jan. 7, 2018, which issued during the prosecution of Chinese Patent Application No. 201510909210.6, which corresponds to the present application. (Continued) Primary Examiner: Mekonnen D Dagneu (74) <i>Attorney, Agent or Firm</i> : Mattingly & Malur, PC
(71) Applicant: MAXELL, LTD., Kyoto (JP) (72) Inventors: Toshiyuki Kurita, Yokohama (JP); Hiitoaki Owashi, Yokohama (JP) (73) Assignee: MAXELL, LTD., Kyoto (JP) (*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days. (21) Appl. No.: 17/568,166 (22) Filed: Jan. 4, 2022 (65) Prior Publication Data US 2022/0132204 A1 Apr. 28, 2022 Related U.S. Application Data (63) Continuation of application No. 16/738,059, filed on Jun. 9, 2020, which is a continuation of application (Continued) (30) Foreign Application Priority Data Nov. 28, 2007 (JP) 2007-306750 (51) Int. Cl. H04N 21/4363 (2011.01) H04L 69/14 (2022.01) (Continued) (52) U.S. Cl. CPC H04N 21/4363* (2013.01); H04L 69/14 (2013.01); H04N 5/44 (2013.01); H04N 21/41407; H04N 21/4367; H04L 69/14 (Continued) (58) Field of Classification Search CPC H04N 21/43637; H04N 5/44; H04N 21/4122; H04N 21/41407; H04N 21/4367; H04L 69/14 See application file for complete search history.	(57) ABSTRACT While presenting on a display apparatus videos of high picture quality obtained from portable video processing apparatuses such as a camera and a cellular, it is possible to communicate with the Internet and/or a home network. A display apparatus includes a first radio communication unit capable of receiving video information by radio from an external video processing apparatus, a second radio communication unit capable of connecting by radio to a network, and a control unit for controlling assignment of connection by radio transmission for each of the first and second radio communication units. The control unit assigns connection of the first radio communication unit with higher priority and controls the assignment of the transmission rate such that the transmission rate between the first radio communication unit and the external video processing apparatus is more than that between the second radio communication unit and the network.
28 Claims, 9 Drawing Sheets 	

Kurita et al. (US 11,445,241 B2)

Patent No.: US 11,445,241 B2
Date of Patent: Sep. 13, 2022

Foreign Application Priority Data

Nov. 28, 2007 (JP) 2007-306750

INFORMATION PROCESSING APPARATUS AND INFORMATION PROCESSING METHOD



Disputed Term for the '590/'241 Patent – *“Allegedly mixed apparatus-method claims”*

Maxell's Proposed Construction	Samsung's Proposed Construction
Not indefinite. Apparatus claims	Indefinite for being directed to mixed “apparatus-method claims”

The Dispute: Whether Samsung has established by clear and convincing evidence that the “apparatus” claims are indefinite under the **narrow** scope of the *IPXL* doctrine



Samsung's Contentions For Indefiniteness

- The recitation of (1) functional language and (2) “user indication” falls under the narrow scope of *IPXL*.
 - *MasterMine* is distinguishable due to the reexamination file history and claim differentiation.

The claims recite identical language as the language of claims found to be distinguishable from IPXL claims by the Federal Circuit, and the facts fall squarely within the holding of *MasterMine*.



Disputed Term for the '590/'241 Patents – *“wherein the controller controls assignment of connection...”*

Language At Issue

“[1] **when an indication from the user indicates** to transmit video information using the first radio communication circuit, the controller assigns a connection to the first radio communication circuit for transmitting the video information,

...

[2] the second or third radio communication **circuits receive** a signal from the internet indicating that an update for an operating system of the video processing apparatus is available, and

[3] the video processing **apparatus executes** an update process such that an updated operating system of the video processing apparatus is stored in the video processing apparatus after execution of the update process.

Dkt. No. 76 at 16

Fed. Cir. Has Repeatedly Distinguished IPXL Asserting that Functional Language Is Permissible for an Apparatus Claim



MasterMine Software, Inc. v. Microsoft Corp., 874 F.3d 1307, 1314-1316 (Fed. Cir. 2017).

Conversely, in *HTC Corp. v. IPCom GmbH & Co., KG*, we held apparatus claims not invalid for indefiniteness despite their use of functional language. 667 F.3d 1270 (Fed. Cir. 2012). At issue in *HTC* was, *inter alia*, the following independent claim 1:

A mobile station for use with a network including a first base station and a second base station that achieves a handover from the first base station to the second base station by:

storing link data for a link in a first base station,

holding in reserve for the link resources of the first base station, and

when the link is to be handed over to the second base station:

initially maintaining a storage of the link data in the first base station,

Fed. Cir. Has Repeatedly Distinguished IPXL Asserting that Functional Language Is Permissible for an Apparatus Claim



MasterMine Software, Inc. v. Microsoft Corp., 874 F.3d 1307, 1314-1316 (Fed. Cir. 2017).

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A mobile station for use with a network including a first base station and a second base station that achieves a handover from the first base station to the second base station by:

storing link data for a link in a first base station,

holding in reserve for the link resources of the first base station, and

when the link is to be handed over to the second base station:

initially maintaining a storage of the link data in the first base station,

Similarly, at issue in *MEC* was the following independent claim 7:

7. A pipelined processor for executing instructions comprising:
a conditional execution decision logic pipeline stage ...;
....

the conditional execution decision logic pipeline stage performing a boolean algebraic evaluation of the condition code and said conditional execution specifier and producing an enable-write with at least two states, true and false;

said enable-write when true enabling and when false disabling the writing of instruction results at said write pipeline stage;

....

the conditional execution decision logic pipeline stage, when specified by the conditional execution specifier, determining the enable-write using the boolean algebraic evaluation;

Fed. Cir. Has Repeatedly Distinguished IPXL Asserting that Functional Language Is Permissible for an Apparatus Claim



MasterMine Software, Inc. v. Microsoft Corp., 874 F.3d 1307, 1314-1316 (Fed. Cir. 2017).

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A mobile station for use with a network including a first base station and a second base station that achieves a handover from the first base station to the second base station by:

storing link data for a link in a first base station,

holding in reserve for the link resources of the first base station, and

when the link is to be handed over to the second base station:

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said enable-write when true enabling and when false disabling the writing of instruction results at said write pipeline stage;

....

the conditional execution decision logic pipeline stage, when specified by the conditional execution specifier, determining the enable-write using the boolean algebraic evaluation;

Most recently, in *UltimatePointer*, the claims at issue claimed "a handheld device including: an image sensor, said image sensor generating data' and other similar 'generating data' limitations." *UltimatePointer*, 816 F.3d at 826 (quoting *UltimatePointer, LLC v. Nintendo Co.*, 73 F.Supp.3d 1305, 1308 (W.D. Wash. 2014)). We held that these claims were unlike those in *IPXL Holdings* and *Katz* because they "make clear that the 'generating data' limitation reflects the capability of that structure rather than the activities of the user," and "do not reflect an attempt to claim both an apparatus and a method, but instead claim an apparatus with particular capabilities." *Id.* at 827-28.

Fed. Cir. Has Repeatedly Distinguished IPXL Asserting that Functional Language Is Permissible for an Apparatus Claim



MasterMine Software, Inc. v. Microsoft Corp., 874 F.3d 1307, 1314-1316 (Fed. Cir. 2017) (cont'd).

8. A system comprising:
a database adapted to store customer relationship management (CRM) records containing CRM data;
a programmable processor adapted to execute a CRM software application and a spreadsheet software application;
a reporting module installed within the CRM software application, wherein the CRM software application includes a plurality of report toolkits, each report toolkit defining one or more report templates;
wherein the reporting module installed within the CRM software application is adapted to, in response to a report generation request, examine a schema and data structures of the CRM database and examine customized settings including local field names within the CRM application,
wherein the reporting module installed within the CRM software application includes a user interface to receive a selection of one of the plurality of report toolkits,
wherein the reporting module installed within the CRM software application displays a list of the report templates based on the selected report toolkit and receives a selection of one of the one or more report templates,

wherein the reporting module installed within the CRM software application presents a set of user-selectable database fields as a function of the selected report template, receives from the user a selection of one or more of the user-selectable database fields, and generates a database query as a function of the user selected database fields,

wherein the reporting module invokes the spreadsheet software application using an application programming interface (API) of the spreadsheet application to automatically create a new workbook, generate within the workbook an electronic worksheet viewable within the spreadsheet software application and automatically generate a pivot table within the electronic worksheet based on the CRM data by communicating the database query from the CRM software application to the spreadsheet software application and issuing the query from the spreadsheet software application to the CRM database to retrieve the CRM records and automatically create the pivot table,

Dkt. No. 78-1, claim 8



Functional Language Is Permissible for an Apparatus Claim

Claim Language Found **Not** Indefinite



“wherein the reporting module ...
presents ..., receives from the user a
selection..., and generates a database”

MasterMind Software, Inc. v. Microsoft Corp.,
874 F.3d 1307, 1316 (Fed. Cir. 2017)
(emphasis added)



“image sensor generating data”

UltimatePointer, LLC v. Nintendo Co., Ltd.,
816 F.3d 816, 827 (Fed. Cir. 2016)
(emphasis added)

**All limitations make clear that a
component in the claimed system
performs the step.**



“logic pipeline stage performing ... and
producing”

Microprocessor Enhancement Corp. v. Tex. Instruments, Inc.,
520 F.3d 1367, 1375 (Fed. Cir. 2008)
(emphasis added)

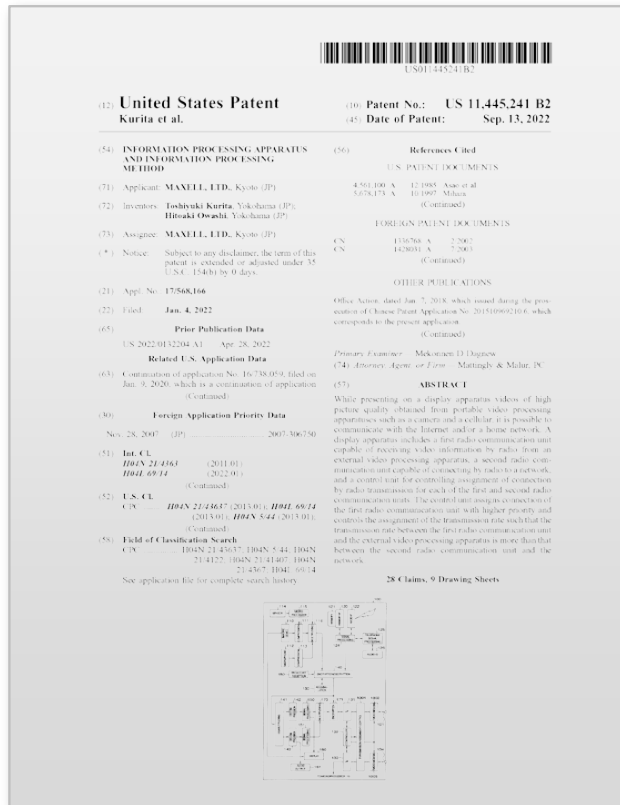


“processing means controls a function”

Motion Games, LLC v. Nintendo Co., Ltd.,
No. 6:12-CV-878-JDL, 2015 WL 11170167, at *5 (E.D. Tex. Jan. 16, 2015)
(emphasis added)



Functional Language Is Very Common In Apparatus Claims



1. A video processing apparatus, comprising:
 - a first radio communication circuit implementing a first transmission scheme having a first modulation scheme and a first transmission frequency band, the first radio communication circuit capable of transmitting video information by radio or receiving information by radio using the first transmission frequency band;
 - a second radio communication circuit implementing a second transmission scheme having a second modulation scheme different from the first modulation scheme and a second transmission frequency band different from the first transmission frequency band, the second radio communication circuit capable of connecting by radio to an internet or a home network to transmit and receive information using the second transmission frequency band;
 - a third radio communication circuit capable of transmitting information and using a third transmission frequency band;
 - an imaging circuit capable of receiving video information and still picture information via an optical system;
 - a compression circuit compressing the still picture information using a first type of compression method and the video information using a second type of compression method;

'241 Patent, Claim 1

User Indication/Input Is Very Common In Apparatus Claims





Reciting a “User Indication/Input” Also Does Not Make an Apparatus Claim a Method Claim



MasterMine Software, Inc. v. Microsoft Corp., 874 F.3d 1307, 1314-1316 (Fed. Cir. 2017).

wherein the reporting module installed within the CRM software application displays a list of the report templates based on the selected report toolkit and receives a selection of one of the one or more report templates, wherein the **reporting module** installed within the CRM software application presents a set of user-selectable database fields as a function of the selected report template, **receives from the user a selection** of one or more of the user-selectable database fields, and **generates a database query as a function of the user selected database fields**,

Dkt. No 78-1 at claim 8

wherein the controller controls assignment of connection for each of the first and second radio communication circuit in response to receiving an indication from a user[; and] such that when an indication from the user indicates to transmit video information using the first radio communication circuit, the controller assigns a connection to the first radio communication circuit for transmitting the video information,

'590 Patent, Claim 1



Reciting a “User Indication/Input” Also Does Not Make an Apparatus Claim a Method Claim



MasterMine Software, Inc. v. Microsoft Corp., 874 F.3d 1307, 1314-1316 (Fed. Cir. 2017).

wherein the controller controls assignment of connection for each of the first and second radio communication circuit in response to receiving an indication from a user[; and] such that when an indication from the user indicates to transmit video information using the first radio communication circuit, the controller assigns a connection to the first radio communication circuit for transmitting the video information,

'590 Patent, Claim 1

These claims are also distinguishable from those at issue in *IPXL Holdings* and *Katz*, as the claims here do not claim activities performed by the user. While these claims make reference to user selection, they do not explicitly claim the user's act of selection, but rather, claim the system's capability to receive and respond to user selection. The limitations at issue here (“receiv[ing] from the user a selection” and “generat[ing] a database query as a function of the user selected database fields”) focus on the capabilities of the system, whereas the claims in *IPXL Holdings* (“the user uses the input means”) and *Katz* (“said individual callers digitally enter data”) focus on specific actions performed by the user. Moreover, unlike the claims in *Rembrandt*, the functional language here does not appear in isolation, but rather, is specifically tied to structure: the reporting module installed within the CRM software application.



In Contrast, Cases Cited by Samsung Require a User's Use

Claim Language Found Indefinite



“wherein ... **the user uses the input means** to either change the predicted transaction information or accept the displayed transaction type and transaction parameters”

IPXL Holdings, LLC v. Amazon.com, Inc.,
430 F.3d 1377, 1384 (Fed. Cir. 2005) (emphasis added)



“wherein the **host user only selects the at least one document to be shared**” *Visible Connections, LLC v. Zoho Corp.*,
418 F. Supp. 3d 155, 166 (W.D. Tex. 2019) (emphasis added)



“wherein ... individual **callers digitally enter data**” or
“callers provide” *In re Katz Interactive Call Processing Patent Litig.*,
639 F.3d 1303, 1318 (Fed. Cir. 2011) (emphasis added)



“a **viewer** of said real time digital video image display device **operating** said **master control device**”

Lone Star Tech. Innovations, LLC v. Asustek Computer Inc., No. 6:19-CV-00059-RWS, 2020 WL 6811484, at *14 (E.D. Tex. July 31, 2020) (emphasis added)



Which Language Is Closer?

'590 Patent

“wherein the controller controls assignment... in response to receiving an indication from a user”

“wherein ... the user uses the input means”

IPXL

“wherein the reporting module ... receives from the user a selection...”

MasterMine



Reexamination File History Does Not Distinguish *MasterMine*

Samsung's Brief Is Factually Inaccurate

The reexamination file history confirms that user action is required by this limitation. Original claims 1 and 5 required that the controller “control[] assignment of connection ... in response to receiving an indication from a user.” Ex. M, at 3, 5. In response to the Examiner’s rejection over the “Tee” reference, Maxell distinguished its claim from Tee **due to Tee *not* disclosing a user action.** *Id.* at 21 (arguing that Tee could not be a section 103 reference because

RCC (Dkt. No. 76) at 18



Reexamination File History Does Not Distinguish *MasterMine*

Importantly, Tee's user input relates to whether or not to relay a streaming video signal; and that input occurs after control processor 210 has already assigned a connection to the communication circuits. *Id.* For example, Tee discloses that control processor 210 assigns a connection to transceiver 202 or 203 **automatically** if control processor 210 selects the display of the external device as best suited to the video/multimedia application. *See Williams Decl.* at ¶¶ 70-71. For example, Tee states that:
(Tee, ¶ [0036].) This operator input relates only to asking the operator for permission to transmit the video to the external/remote display and occurs after the controller has already assigned a

Dkt. No. 76-13 at 23-24



Reexamination File History Does Not Distinguish *MasterMine*

The flow of Tee is:

- Controller assigns connection to air interface (202 or 203) to detect presence of remote display device (Tee; Fig. 3; step 310)
- Mobile Terminal compares capabilities of detected remote display with local display by using the connection formed by the air interface (Tee; Fig. 3; step 315)
- If capabilities of detected remote display are good, mobile terminal prompts operator to select remote display device (Tee; Fig. 3; step 320)

See Williams Decl. at ¶¶ 68-71.

The response to the prompt of step 320 cannot constitute the claimed “user indication,” since by the time of this step the controller has already assigned the connection to air interface (202 or 203). Such pre-assignment is required to detect the remote display device and receive its

Dkt. No. 76-13 at 26



Reexamination File History Does Not Distinguish *MasterMine*

It Is the Controller's [Like the Reporting Module of *MasterMine*] Capability to Assign a Connection that Is Being Claimed and Distinguished

to use the first radio communication circuit. Moreover, responsive to the user indication, the controller affirmatively "assigns a connection to the first radio communication circuit for transmitting the video." These are features that are neither disclosed nor rendered obvious by Tee's disclosure.

Dkt. No. 76-13 at 21



Reexamination File History Does Not Distinguish *MasterMine*

The Reexamination File History Distinguishes Claimed Controller from Control Processor 210 of Tee

Though the Office Action cites Tee's disclosure for the teaching of controlling assignment of connection "**in response to receiving an indication from a user**" (Office Action at 30-32), Patent Owner respectfully disagrees. Indeed, Tee fails to teach the control processor 210 controlling assignment of connection to transceivers 202 or 203 in response to receiving an

Dkt. No. 76-13 at 23

The File History of the *MasterMine* Patent Also Includes Similar Discussion of User Action



Applicant submits that use of Microsoft Access with Microsoft Excel, as described by Jennings, would not achieve Applicant's invention set forth in the amended claims. For example, use of Microsoft Access with Microsoft Excel does not teach or suggest, in response to the request, examining, with a reporting module installed within the CRM software application, a schema and data structures of the CRM database and customized settings including local field names within the CRM application, as required by amended claim 1. Similarly, use of Microsoft

File History of U.S. Patent No. 7,945,850, Amendment dated September 7, 2010.



The File History of the *MasterMine* Patent Also Includes Similar Discussion of User Action

For example, the present application on pg. 4, ln. 20 – pg. 5, ln. 8 states:

As discussed in detail below, CRM reporting module 8A is "installed" within CRM application 4 and, when invoked by the user, examines the schema and data structures of CRM database 10, as well as customized settings like local field names within CRM application 4. Reporting module 8A then interacts with reporting module 8B installed within spreadsheet application 6 and reporting module 8C of worksheet 12 to create table 14 within worksheet 12. In this manner, the user can create a comprehensive multi-dimensional analysis table 14 by only entering a few parameters, thereby significantly reducing the skill normally required to generate multi-dimensional analysis tables. The process takes CRM data structures, both native and customized, into account to give the user simple yet powerful access to their CRM data in a context they can understand (i.e., using field names that they have set for their particular business).

File History of U.S. Patent No. 7,945,850, Amendment dated September 7, 2010.



Claim Differentiation Also Fails To Distinguish *MasterMine*

8. A system comprising:

a database adapted to store customer relationship management (CRM) records containing CRM data;

a programmable processor adapted to execute a CRM software application and a spreadsheet software application;

a reporting module installed within the CRM software application, wherein the CRM software application includes a plurality of report toolkits, each report toolkit defining one or more report templates;

wherein the reporting module installed within the CRM software application is adapted to, in response to a report generation request, examine a schema and data structures of the CRM database and examine customized settings including local field names within the CRM application,

wherein the reporting module installed within the CRM software application includes a user interface to receive a selection of one of the plurality of report toolkits,

wherein the reporting module installed within the CRM software application displays a list of the report templates based on the selected report toolkit and receives a selection of one of the one or more report templates,

wherein the reporting module installed within the CRM software application presents a set of user-selectable database fields as a function of the selected report template, receives from the user a selection of one or more of the user-selectable database fields, and generates a database query as a function of the user selected database fields,

wherein the reporting module invokes the spreadsheet software application using an application programming interface (API) of the spreadsheet application to automatically create a new workbook, generate within the workbook an electronic worksheet viewable within the spreadsheet software application and automatically generate a pivot table within the electronic worksheet based on the CRM data by communicating the database query from the CRM software application to the spreadsheet software application and issuing the query from the spreadsheet software application to the CRM database to retrieve the CRM records and automatically create the pivot table,

Dkt. No. 78-1, Claim 8



Claim Differentiation Also Fails To Distinguish *MasterMine*



See Puff Corp. v. SHO Products, LLC, No. CV 22-2008-GW-KSx, 2023 WL 5505031, at *14 (C.D. Cal. Mar. 3, 2023).

*14 First, Defendant argues that the claims use explicit functional language to describe capabilities of the device, such as “for,” “capable of,” and “configured to,” but do not use such language in the limitation at issue. This argument does not persuade the Court. “Claim differentiation is a guide, not a rigid rule. If a claim will bear only one interpretation, similarity will have to be tolerated.” *Laitram Corp. v. Rexnord, Inc.*, 939 F.2d 1533, 1538 (Fed. Cir. 1991) (internal quotations omitted). Moreover, the fact that claim 1 lists so many capabilities suggests a claim strategy rooted in describing capabilities of the vaporization device. Therefore, the limitation at issue likely also describes a capability. *See Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1250 (Fed. Cir. 1998) (“The construction that stays

For the foregoing reasons, a POSA would understand the wherein clauses to describe a capability of the apparatus, rather than a separate method. Defendant has not shown by clear and convincing evidence that the claims are indefinite.



MasterMine Is Controlling

~~The recitation of (1) functional language and (2) “user indication” falls under the narrow scope of *IPXL*. *MasterMine* is distinguishable due to the reexamination file history and claim differentiation.~~



Conclusion

'590/'241: Alleged mixed method-apparatus claims

Maxell's Proposed Construction

Not indefinite; directed to apparatus claims

- The claims are directed to an apparatus claim and are reciting the capabilities of structural components, not method steps.
- *MasterMine's* holding applies due to the similarities in claim language.
- Samsung has not met the exacting standard of establishing disavowal based on the reexamination file history, which is necessary to distinguish *MasterMine*.



Samsung Is Judicially Estopped from Making an Indefiniteness Argument



See Lampi Corp. v. American Power Products, Inc., 228 F.3d 1365, 1377 (Fed. Cir. 2000)

Discussing on whether to apply judicial estoppel based on inconsistent statement made during prosecution about first sale and in a later judicial proceeding. Finding that “[t]he doctrine [of judicial estoppel] also applies to **administrative proceedings** in which a party obtains a favorable order by making an argument that it seeks to repudiate in a subsequent judicial proceeding.”



Disputed Term for the '590/'241 Patent –

“wherein when an indication from a user indicates to transmit video information using the first radio communication circuit, the controller assigns a connection to the first radio communication circuit for transmitting the video”

Maxell’s Proposed Construction	Samsung’s Proposed Construction
Plain and ordinary meaning	Plain and ordinary meaning, which requires the user, not the controller, to select the particular radio for assignment

The Dispute: Whether Samsung has justified the inclusion of a negative limitation under “plain and ordinary” meaning

Samsung's Contentions For Insertion of a Negative Limitation



The reexamination file history demonstrates that Maxell distinguished Tee from the asserted claim, thus requiring the plain and ordinary meaning to recite a negative limitation.



Samsung's Construction Contradicts the Claim Language

Samsung's Proposed Construction

Plain and ordinary meaning, which requires the user, **not the controller**, to select the particular radio for assignment

Claim Language: wherein when an indication from a user indicates to transmit video information using the first radio communication circuit, **the controller assigns a connection** to the first radio communication circuit for transmitting the video

The controller **necessarily** has to select the first radio communication circuit to be able to **assign a connection**, as required by the claim.



The Reexamination History Does Not Establish a Clear Disavowal

It Is the Controller's Capability to Assign a Connection that Is Being Claimed and Distinguished

to use the first radio communication circuit. Moreover, responsive to the user indication, the controller affirmatively “assigns a connection to the first radio communication circuit for transmitting the video.” These are features that are neither disclosed nor rendered obvious by Tee's disclosure.

Dkt. No. 76-13 at 21



The Reexamination History Does Not Establish a Clear Disavowal

Importantly, Tee's user input relates to whether or not to relay a streaming video signal; and that input occurs after control processor 210 has already assigned a connection to the communication circuits. *Id.* For example, Tee discloses that control processor 210 assigns a connection to transceiver 202 or 203 **automatically** if control processor 210 selects the display of the external device as best suited to the video/multimedia application. *See Williams Decl.* at ¶¶ 70-71. For example, Tee states that:

(Tee, ¶ [0036].) This operator input relates only to asking the operator for permission to transmit the video to the external/remote display and occurs after the controller has already assigned a

Dkt. No. 76-13 at 23-24



The Reexamination History Does Not Establish a Clear Disavowal

The flow of Tee is:

- Controller assigns connection to air interface (202 or 203) to detect presence of remote display device (Tee; Fig. 3; step 310)
- Mobile Terminal compares capabilities of detected remote display with local display by using the connection formed by the air interface (Tee; Fig. 3; step 315)
- If capabilities of detected remote display are good, mobile terminal prompts operator to select remote display device (Tee; Fig. 3; step 320)

See Williams Decl. at ¶¶ 68-71.

The response to the prompt of step 320 cannot constitute the claimed “user indication,” since by the time of this step the controller has already assigned the connection to air interface (202 or 203). Such pre-assignment is required to detect the remote display device and receive its

Dkt. No. 76-13 at 26

The Reexamination History Does Not Establish a Clear Disavowal



Though the Office Action cites Tee's disclosure for the teaching of controlling assignment of connection **"in response to receiving an indication from a user"** (Office Action at 30-32), Patent Owner respectfully disagrees. Indeed, Tee fails to teach the control processor 210 controlling assignment of connection to transceivers 202 or 203 in response to receiving an

Dkt. No. 76-13 at 23

The Reexamination History Does Not Establish a Clear Disavowal



~~The reexamination file history demonstrates that Maxell distinguished Tee from the asserted claim, thus requiring the plain and ordinary meaning to recite a negative limitation.~~



Conclusion

“wherein when an indication from a user indicates to transmit video information using the first radio communication circuit, the controller assigns a connection to the first radio communication circuit for transmitting the video”

Maxell’s Proposed Construction

Plain and ordinary meaning

- The claims are directed to an apparatus claim where a “controller assigns a connection” when a user indication is received.
- Plain and ordinary meaning already confirms the relationship between the user indication and the controller assigning a connection.
- Accordingly, Samsung’s proposal should be rejected.