

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMERICAN AIRLINES, INC. AND SOUTHWEST AIRLINES CO.,

Petitioners

v.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
(INTELLECTUAL VENTURES I LLC),

Patent Owner.

Inter Partes Review No. IPR2025-01511

U.S. Patent No. 7,712,080 B2

Issue Date: May 4, 2010

Title: SYSTEM AND METHODS FOR PARALLEL DISTRIBUTED PROGRAMMING

**PETITIONERS' SUR-REPLY BRIEF IN OPPOSITION TO PATENT
OWNER'S REQUEST FOR DISCRETIONARY DENIAL**

Mail Stop Patent Board
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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PETITIONERS' LIST OF EXHIBITS

Exhibit No.	Description of Document
1001	U.S. Patent No. 7,712,080 B2 (the '080 Patent) to Lei Pan, Lubomir R. Bic, and Michael B. Dillencourt (filed May 21, 2004; issued May 10, 2010).
1002	File history for the '080 Patent.
1003	Declaration of Dr. Michael Shamos regarding the invalidity of U.S. Patent No. 7,712,080 B2.
1004	CV for Dr. Michael Shamos.
1005	Lei Pan, Lubomir F. Bic, Michael B. Dillencourt, <i>Distributed Sequential Computing Using Mobile Code: Moving Computation to Data</i> , International Conference on Parallel Processing, pp. 77-84, September 3-7, 2001, available at https://ieeexplore.ieee.org/document/952049 ("Pan").
1006	Naoya Suzuki, Munehiro Fukuda, Lubomir F. Bic, <i>Self-Migrating Threads for Multi-Agent Applications</i> , ICWC 99; IEEE Computer Society International Workshop on Cluster Computing, December 2-3, 1999, available at https://ieeexplore.ieee.org/document/810828 ("Suzuki").
1007	Munehiro Fukuda, Lubomir F. Bic, Michael B. Dillencourt, Fehmina Merchant, <i>Message versus Messengers in Distributed Programming</i> , Proceedings of 17th International Conference on Distributed Computing Systems, May 27-30, 1997, available at https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=1c575e92687dbc06acec75ae66a7a2f9174cb31c ("Fukuda '97")
1008	Munehiro Fukuda, Lubomir B. Bic, Michael B. Dillencourt, Fehmina Merchant, <i>Distributed Coordination with Messengers</i> , Science of Computer Programming 31 (July 1998) 291-311, available at https://www.sciencedirect.com/science/article/pii/S0167642397080245 ("Fukuda '98")..

Exhibit No.	Description of Document
1009	Munehiro Fukuda, Lubomir F. Bic, Michael B. Dillencourt, Fehmina Merchant, <i>Messengers: Distributed Programming Using Mobile Agents</i> , Transactions of the Society for Design and Process Science, Vol. 5, No. 4, pp. 95-112, December 2001, available at https://scispace.com/papers/messengers-distributed-programming-using-mobile-agents-50ktvx5clr (“Fukuda ’01”).
1010	Amended Complaint, <i>Intellectual Ventures I LLC v. American Airlines, Inc.</i> , No. 4:24-cv-980-ALM (E.D. Tex. Nov. 2, 2024) (Dkt. No. 84).
1011	Amended Complaint, <i>Intellectual Ventures I LLC v. Southwest Airlines Co.</i> , No. 7:24-cv-277-ALM (W.D. Tex. Nov. 2, 2024) (Dkt. No. 56).
1012	IV’s Infringement Contentions re the ’080 patent in <i>Intellectual Ventures I LLC v. American Airlines, Inc.</i> , No. 4:24-cv-980-ALM (E.D. Tex. Nov. 2, 2024).
1013	IV’s Infringement Contentions re the ’080 patent in <i>Intellectual Ventures I LLC v. Southwest Airlines Co.</i> , No. 7:24-cv-277-ALM (W.D. Tex. Nov. 2, 2024).
1014	Defendant Southwest Airlines Co.’s Opening Claim Construction Brief in <i>Intellectual Ventures I LLC v. Southwest Airlines Co.</i> , No. 7:24-cv-277-ALM (W.D. Tex. Nov. 2, 2024).
1015	Scheduling Order in <i>Intellectual Ventures I LLC v. American Airlines, Inc.</i> , No. 4:24-cv-980-ALM (E.D. Tex. Nov. 2, 2024).

I. PETITIONERS ARE NOT “ADVANCING INCONSISTENT CLAIM CONSTRUCTION POSITIONS,” AS PATENT OWNER CONTENDS

A. Patent Owner Waived its Arguments Relating to “Distributed Sequential Computing” by Failing to Raise these Arguments in its Opening Discretionary Denial Brief (Paper No. 6)

Patent Owner waived arguments relating to “distributed sequential computing” by failing to raise any such arguments in its Opening Discretionary Denial Brief (Paper No. 6).

In its Request for Discretionary Denial, Patent Owner contended that Southwest took inconsistent claim construction positions by stating in its Preliminary Invalidity Contentions (Exhibit 2004) that two terms were indefinite. Request at 8-12. In response, Petitioners contended that Southwest did not include any indefiniteness arguments in its claim construction brief.¹ Response at 8-9. Neither of those terms are the term that Patent Owner now raises—“distributed sequential computing”—in its Reply to its Request for Discretionary Denial.

Patent Owner *now* contends that “Southwest failed to inform the Board that, in its Opening Claim Construction Brief in the district court for U.S. Patent 7,712,080 (the ’080 patent), Petitioner Southwest introduced a different inconsistent claim construction by proposing a specific, narrow construction for

¹ Patent Owner notes at 1 of its Sur-Reply that Petitioners marked a different claim construction brief as Exhibit 1014 in its Brief in Opposition (Paper No. 7). This error was inadvertent. Patent Owner has marked Exhibit 2007 as the correct claim construction brief, which, as Petitioner stated in its Response Brief, does not include any indefiniteness arguments for the ’080 patent. Exhibit 2007 at 9-12.

‘distributed sequential computing’ (in independent claims 1 and 7) while opposing Patent Owner’s proposal that the phrase be given its ‘plain and ordinary’ meaning.” Reply at 1 (emphasis in original).

Having not raised any objection to Petitioners’ contentions regarding the meaning of the term “distributed sequential computing” in its Request for Discretionary Denial, Patent Owner *waived* any contention regarding the meaning of this term. Petitioner Southwest filed its Opening Claim Construction Brief, which included the ’080 patent, on October 14, 2025. Exhibit 2007. Over one and a half months later, on November 30, 2025, Patent Owner filed its Brief in Support Patent Owner’s Request for Discretionary Denial on November 3, 2025. Despite having Southwest’s claim construction briefing, and therefore being aware of Southwest’s proposed construction of “distributed sequential computing” for a month and a half before it filed its Request for Discretionary Denial, Patent Owner did *not* raise any issue with any possible discrepancy between the meanings in the Petition and in Southwest’s Claim Construction Brief (Exhibit 2007). *See* Request at 8-12.

Patent Owner’s accusation that it is Petitioners’ fault for failing to inform the Board of this alleged discrepancy in the meanings of “distributed sequential computing” is *without merit*. Reply at 1. As Patent Owner bears the burden of proof on its Request for Discretionary Denial, it is incumbent on Patent Owner to

raise all contentions on which it intends to rely in its Opening Brief. It is then incumbent on Petitioners to respond to the contentions that Patent Owner made in its Request, which is what Petitioners did. Response at 8-9. If Patent Owner fails to raise a contention in its Request, then Patent Owner waives that contention.

B. The Meanings of the Term “Distributed Sequential Computing” In the Petition and in Southwest’s Claim Construction Brief Are Consistent

Patent Owner incorrectly contends that Southwest’s proposed construction for “distributed sequential computing” in the litigation is inconsistent with the Petition. There is no inconsistency.

First, it is telling that Patent Owner failed to address any alleged inconsistencies in the meaning of “distributed sequential computing” in *both* its Request for Discretionary Denial (*see* 8-12) and in its Preliminary Response (*see* 11-16), despite having prior knowledge of Southwest’s proposed claim construction in the litigation. This fact, alone, leads to the reasonable conclusion that Patent Owner itself believes that there is no inconsistency in the meanings; otherwise Patent Owner would have included these contentions in its Request and in its Preliminary Response. Further, to the extent that Patent Owner raises these new *substantive* contentions for the first time in its Discretionary Denial Reply Brief Reply is improper, as Patent Owner should have, but did not, raise these *substantive* issues in its Preliminary Response.

Second, the premise of Patent Owner’s contention—that stating in a Petition that no “explicit construction is needed”—means that the Petitioner can never offer any construction at all in a related litigation is wrong.

Here, the term at issue is “distributed sequential computing,” a term that, apart from the ’080 patent has no readily understood “plain and ordinary” meaning. In its Petition, to give context to the term, Petitioners, described the use of this term in the specification (Petition at 26-27). Referring to the specification is always required by the Federal Circuit:

We begin, as *Phillips* instructs, with the principle that claims terms are generally given their ordinary and customary meaning. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc). The ordinary meaning of a claim term is not “the meaning of the term in the abstract.” *Id.* at 1321. Instead, “the ‘ordinary meaning’ of a claim term is its meaning to the ordinary artisan after reading the entire patent.” *Id.*; see also *Netword, LLC v. Centraal Corp.*, 242 F.3d 1347, 1352 (Fed. Cir. 2001) (“The claims are directed to the invention that is described in the specification; they do not have meaning removed from the context from which they arose.”).

Eon Corp. IP Holdings LLC v. Silver Spring Networks, Inc., 815 F.3d 1314, 1320 (Fed.Cir. 2016).

In the parallel litigation, which, unlike this IPR, will be tried to a jury, Southwest gave the following reason (inapplicable to this proceeding), that “IV asks for plain-and-ordinary meaning, but that would leave the jury to resolve claim construction.” Exhibit 2007 at 10. Southwest then proceeded to review the

specification to arrive at the meaning of the term “distributed sequential computing.” *Id.* at 10-12.

As both the Petition and Southwest address the meaning of the term “distributed sequential computing” *as described in the specification*, there is no inconsistency.

C. Patent Owner Cannot Meet its Burden of Showing Inconsistent Constructions by Showing a List of Proposed Terms Without Constructions

Patent Owner further contends the Board should use its discretion to deny the Petition because, in the parallel litigation, Petitioner American, identified 26 terms for construction, as required pursuant to the Court’s Patent Local Rules. Patent Owner, however, has not met its burden on its Request for Discretionary Denial of showing inconsistent *constructions*.

Dated: January 20, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. Sections 42.6 and 42.106, that a complete copy of the attached **PETITIONERS SUR-REPLY TO REQUEST FOR DISCRETIONARY DENIAL**, is being served, upon Patent Owner by serving the correspondence address of record with the USPTO as follows:

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