United States District Court,
S.D. New York.

RESQNET.COM, INC,
Plaintiff.
v.
LANSA, INC,
Defendant.

No. 01 Civ.3578 RWS

Sept. 5, 2002.

In patent infringement actions, the District Court, Sweet, J., held that: (1) "information," as used in means-plus-function claim in computer-software-related patents addressing a process by which screen information from a central computer could be recognized, converted, and viewed on smaller, remote computers in a graphical format, referred to the entire layout of a green screen and includes, for purposes of generating a screen ID, at least the number, length, and location of all fields of data on a screen, and (2) ascertaining the "type" of every field of the "green screen" was not a limitation patent claims, but was a limitation in claim of another patent.

Claims construed.

"Uniquely identifying said first image" as used in computer-software-related patent addressing a process by which screen information from a central computer could be recognized, converted, and viewed on smaller, remote computers in a graphical format, referred to identifying the layout as the only one of its kind.

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OPINION

SWEET**, J.**

Plaintiff ResQNet.com ("ResQNet") has alleged that defendant LANSA, Inc. ("LANSA") has infringed one or more claims from three United States patents which it owns, U.S. Patent Nos. 5,831,608 (the " '608 patent"), 5,530,961 (the " '961 patent"), and 6,295,075 (the " '075 patent"). On June 12, 2002, this Court held a "Markman" hearing to address the issues of patent claim construction. Markman v. Westview Instruments, Inc., 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996). This opinion renders the following findings and conclusions based on that hearing.

Facts

This case involves three computer-software-related patents owned by ResQNet, all of which address a process by which screen information from a central computer can be recognized, converted, and viewed on smaller, remote computers in a graphical format. To properly discuss the disputes surrounding these patents, it is necessary to begin with a bit of technical background.

Large mainframe computers have been around for decades. Traditionally, such systems operated in a timesharing mode to permit use by a large number of users, each of whom would connect or "log in" to the mainframe using a "dumb terminal." A dumb terminal, which allowed plural users to work simultaneously, was essentially a device for displaying information downloaded from the mainframe. It would typically include a keyboard for data entry and would display plain text, usually in green. Hence, the information displayed on such a terminal was often termed a "green screen."

In such systems, a digital stream of data is downloaded from the mainframe computer for display at the dumb terminal. The terminal does not process or reformat the data in any way, but rather displays whatever information is sent from the mainframe. Similarly, information entered by a user is not processed or reformatted in any manner, but is instead simply sent to the host mainframe computer.

As the cost of personal computers ("PCs") decreased in the late 1980's and early 1990's, it became popular to replace the dumb terminals with PCs. A PC connected to a mainframe must include software for translating between the "language" of the PC, and the language of the legacy mainframe. More specifically, it is desirable to display information from the legacy mainframe on the PC in a graphical user interface ("GUI") format which includes icons, windows, help menus, and other features that represent the standard well-known interfaces in today's modern PCs. Conversely, information input onto a GUI screen by clicking icons or selecting from pull-down menus is translated by the software to appear as if it were simply typed into a dumb terminal as text, and is then transmitted up to the host mainframe computer. The parties agree that the technology at issue in this case relates to "screen recognition" software that translates between the GUI world of the PC and the plain text, green-screen world of the legacy mainframe system.

Although ResQNet originally alleged infringement of twenty-nine claims from five different patents in its original complaint, only three claims remain at issue: claim 2 from the '961 patent, claim 1 from the '075 patent, and claim 1 from the '608 patent. As will become evident in the discussion that follows, however, much of the dispute in the present action involves the language of claim 1 in the '961 patent, which has been incorporated into the '075 patent and the '608 patent, and upon which claim 2 is dependent.

Discussion

I. ***The Legal Framework***

Patent infringement analysis involves two steps. In the first step the court determines the proper construction of the patent claims by establishing the scope and boundaries of the subject matter that is patented, as a matter of law, and in the second step the trier of fact determines issues of validity and infringement. *See* Markman v. Westview Instruments, Inc., 52 F.3d 967, 976 (Fed.Cir.1995) (en banc), *aff'd,* 517 U.S. at 384-85. It is the first step, claim construction, which is the subject of this opinion.

A "claim" in a patent "provides the metes and bounds of the right which the patent confers on the patentee

to exclude others from making, using, or selling the protected invention." Corning Glass Works v. Sumitomo Elec. U.S.A., Inc., 868 F.2d 1251, 1257 (Fed.Cir.1989). The purpose of construing patent claims is to define the scope of the coverage of the claim by interpreting the words and terms of art used as they would be understood at the time the claim was made by one reasonably skilled in the relevant art. Claim construction "is the judicial statement of what is and is not covered by the technical terms and other words of the claims." Netword, LLC v. Centraal Corp., 242 F.3d 1347, 1352 (Fed.Cir.2001); *see also* United States Surgical Corp. v. Ethicon, Inc., 103 F.3d 1554, 1568 (Fed.Cir.), *cert. denied,* 522 U.S. 950, 118 S.Ct. 369, 139 L.Ed.2d 287 (1997).

In determining the proper construction of a claim, courts generally rely on two broad categories of evidence: (1) intrinsic evidence, comprised of the claims and the specification of the patent, and the prosecution history, and (2) extrinsic evidence, which is all evidence external to the patent and prosecution history, such as expert and inventor testimony, dictionaries, and treatises. Markman, 52 F.3d at 979-80. The intrinsic evidence should be examined first, as it is "the most significant source of the legally operative meaning of disputed claim language." Vitrionics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1582 (Fed.Cir.1996). Extrinsic evidence should only be used where necessary to resolve any ambiguities in a disputed claim term, and where the court needs assistance in learning the technical aspects of the relevant art. *See* DeMarini Sports, Inc. v. Worth, Inc., 239 F.3d 1314, 1323 (Fed.Cir.2001) (*citing* Mantech Envtl. Servs., Inc. v. Hudson Envtl. Serv., Inc., 152 F.3d 1368, 1373 (Fed.Cir.1998); EMI Group N. Am., Inc. v. Intel Corp., 157 F.3d 887, 892 (Fed.Cir.1998)).

In examining the intrinsic evidence, a court should look first to the plain language of the claim itself. Bell Communications Research, Inc. v. Vitalink Communications Corp., 55 F.3d 615, 619-20 (Fed.Cir.1995). "Although words in a claim are generally given their ordinary and customary meaning, a patentee may choose to be his own lexicographer and use terms in a manner other than their ordinary meaning, as long as the special definition of the term is clearly stated in the patent specification or file history." Vitrionics, 90 F.3d at 1582 (*citing* Hoechst Celanese Corp. v. BP Chems. Ltd., 78 F.3d 1575, 1578 (Fed.Cir.1996); Hormone Research Found., Inc. v. Genentech, Inc., 904 F.2d 1558, 1563 (Fed.Cir.1990)). For this reason, "it is always necessary to review the specification to determine whether the inventor has used any terms in a manner inconsistent with their ordinary meaning." Vitrionics, 90 F.3d at 1582; *see also* Markman, 52 F.3d at 979-80 ("[T]he description may act as a sort of dictionary, which explains the invention and may define terms used in the claims .").

In addition to the claim language and the specification, a court may also consider the prosecution history of the patent. The prosecution history is the "undisputed public record" of the patent process before the United States Patent and Trademark Office (USPTO) and "is of primary significance in understanding the claims ." Markman, 52 F.3d at 980 (*citing* Autogiro Co. of Am. v. United States, 181 Ct.Cl. 55, 384 F.2d 391, 397 (Ct.Cl.1967)). This history "limits the interpretation of claim terms so as to exclude any interpretation that was disclaimed during prosecution." Southwall Tech., Inc. v. Cardinal IG Co., 54 F.3d 1570, 1576 (Fed.Cir.1995), *cert. denied,* 516 U.S. 987, 116 S.Ct. 515, 133 L.Ed.2d 424 (1995). Prior art considered by the USPTO during prosecution of a patent in suit is also intrinsic evidence for the purpose of construing the claims in that patent. Autogiro, 384 F.2d at 399 ("In its broader use as source material, the prior art cited in the file wrapper gives clues as to what the claims do not cover."). If multiple patents derive from the same initial application, the prosecution history regarding a claim limitation in any one of the series of those patents will apply with equal force to subsequently issued patents that contain the same claim limitation. *See* Biovail Corp. Int'l v. Andrx Pharms., Inc., 239 F.3d 1297, 1301 (Fed.Cir.2001); Elkay Mfg. Co. v. Ebco Mfg. Co., 192 F.3d 973, 980 (Fed.Cir.1999), *cert. denied,* 529 U.S. 1066, 120 S.Ct. 1672, 146 L.Ed.2d 482

(2000); Jonsson v. The Stanley Works, 903 F.2d 812, 818 (Fed.Cir.1990).

A number of the disputed claim elements at issue in this case are written in a "means-plus-function" form, which means that they are subject to special statutory rules of construction. A patent claim may recite a "means for" or "step for" performing a specified function or process instead of reciting an element in precise detail. 35 U.S.C. s. 112, para. 6. Claims with such language (hereinafter "means-plus" language) are "construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof." *Id*. The use of the word "means" in the claim gives rise to a "presumption that the inventor used the term advisedly to invoke the statutory mandates for means-plus-function clauses." Sage Prods., Inc. v. Devon Indus., Inc., 126 F.3d 1420, 1427 (Fed.Cir.1997) (*quoting* York Prods., Inc. v. Cent. Tractor Farm & Family Ctr., 99 F.3d 1568, 1574 (Fed.Cir.1996). The prerequisite to invoking this statutory convenience is that, either in the specification or in the prosecution history, it must be clear which structure or acts set forth in the specification are intended to be tied to the stated "means" disclosed in the claim. 35 U.S.C. s. 112, para. 6; *see* B. Braun Med. Inc. v. Abbott Labs., 124 F.3d 1419, 1424 (Fed.Cir.1997). Thus, when construing a "means-plus" claim element, the court must look to and construe the claim to include the relevant structural language contained in the specification.

II. ***The Claim Language***

As mentioned, the claims to be construed are claim 2 of the '961 patent, claim 1 of the '608 patent, and claim 1 of the '075 patent. However, the parties have focused on the construction of four terms listed in claim 1 of the '961 patent since the '961 patent specification is incorporated by the other patents and claim 2 of the '961 patent is a dependent claim, including all of the limitations of claim 1 of that patent. Claim 1 of the '961 patent reads as follows (with emphasis on the disputed language):

A user terminal for connecting to a remote host comprising:

means for receiving *information* to be displayed as a first image on a screen;

means for processing said information to *generate* a *screen identification ("ID")* from said first image, said ID being generated as a function of the number, location, and length of each field in said first image said ID *uniquely identifying* said first image;

means for comparing said generated ID to a list of stored IDs, and for selecting display parameters associated with said stored ID, said second image being determined based upon the generated ID.

'961 Pat. at col. 8, 11. 20-34.

The Court concludes, based on the parties' submissions, that the following disputed terms must be identified in order to provide an adequate basis for construing the claims at issue: (1) "information"; (2) "to generate"; (3) "screen identification ("ID"); and (4) "uniquely identifying."

A. "*Information*"

[1] Claim 1 from the '961 patent is written in a means-plus-function format. By statute, in order to construe it, the function within the element must be identified and matched to a corresponding structure from the specification, which is then read into the claim. *See* 35 U.S.C. s. 112, para. 6; Braun, 124 F.3d at 1424. The element primarily in dispute is that which contains the function of "processing said information to generate

a screen identification ("ID") from said first image." '961 Pat. at col. 8, 11. 22-23. The specification reveals only one structure tied to this function: "an algorithm which recognizes the screen by the layout and fields therein, not based solely upon the particular screen ID number." *Id.,* col. 3, ll. 22-24. Consistent with the language of the function described in the claim, the specification states that after "an image recognition algorithm is utilized to recognize and display the information stored" in a buffer, the information is read from the buffer "and *processed* by an algorithm which *generates* a unique ID number." *Id.,* col. 3, ll. 25-29 (emphasis added).

In its description of the preferred embodiments, which provides only one embodiment of the invention, the specification more fully explains the structure by describing "a particular algorithm" which derives the following parameters in order to generate a unique screen ID:

a) the number of fields on the screen

b) type of each field

c) coordinates of the fields (row, column)

d) length of the field

When a screen is received in the buffer, the above parameters are determined in order to generate a unique screen ID.

Id., col. 5, ll. 42-45.

One dispute that has arisen between the parties concerns whether the algorithm discussed in the specification evaluates attributes of all of the fields of an incoming screen of data, or simply attributes of some of the fields in order to uniquely identify the incoming screen. ResQNet, focusing on the claim language "image on a screen," urges the Court to adopt the latter approach. Specifically, ResQNet states that the element in dispute does not call for the identification of the screen itself, but rather for the identification of some smaller portion of the screen that represents an image to be displayed on the screen. However, there is no mention in the description just cited, nor in any other part of the specification or prosecution history of the '961 patent, of the algorithm being based upon a subset of the incoming screen.

Both the specification and the prosecution history clarify that the purpose of the invention is to uniquely identify a screen in order to overcome the problems of the prior art. For example, the specification states that one of these problems is identifying a screen as new "if the location of fields on the *screen* being received from the remote host has changed." Id. at col. 2, ll. 64-66 (emphasis added). The specification then states that "[t]he above and other problems of the prior art are overcome in accordance with the present invention which relates to a display routine which is based upon an algorithm which recognizes the screen by the *layout* and fields therein, not based solely upon the particular screen ID number." Id. at col. 3, ll. 20-24 (emphasis added). If the information evaluated were construed as involving less than all of the fields of a screen, the prior art problem would not be overcome, as changes to the screen may or may not be identified.

This interpretation is confirmed in the prosecution history. On May 19, 1995, the USPTO issued an Office Action rejecting all 13 pending claims from the application that ripened into the '961 Patent. Almost all of these claims were rejected as being unpatentable over the U.S. Patent NO. 5,179,700 to *Aihara et al.* (1993)

(the "Aihara patent"). In their first Response to the Office Action, the applicants argued that:

rather than rely on a remotely generated screen ID which is, as in Aihara, simply "a unique name assigned to each source panel," Applicants' invention generates the screen ID, at the personal computer, based upon the values and positions of the fields in the *screen of information received* from the mainframe computer. Accordingly, if the *layout of a screen* is changed at the applications program, on the mainframe, even if the screen ID at the mainframe remains the same, the personal computer will generate a new screen ID, because the information upon which the ID is generated (e.g., location and length of fields) will change. Accordingly, Applicant's unique invention overcomes these numerous drawbacks.

(Def. Cl. Constr. Mem., App. A., Ex. 9 at 8). This argument over the prior are reveals that the information received is the "layout" of the entire screen and that the applicant disclaimed the invention evaluating less than the entire screen, for to do so would not uniquely identify the screen.

Nevertheless, it cannot be said, as Lansa proposes, that the "information" processed encompasses "at least the number, location, type, and length of every field in the 'green screen." ' (Def. Reply Mem. at 3). This broad limitation, which includes the "type" attribute, is found nowhere in the claim language itself. And although the specification excerpt quoted above from Patent '961, column 5, lines 42-45, contemplates a screen recognition algorithm which makes use of all four of the field characteristics just mentioned (number, location, type, and length), the language of that portion of the specification expressly designates the algorithm as being exemplary, not mandatory. Column 5, lines 34-39 states:

The particular algorithm used to recognize the screen and generate the screen ID *may vary from system to system, but a particular such algorithm will now be described*. The screen recognition algorithm is based on a combination of information available to the program from the display buffer sent by the remote computer, plus information entered by the user.

Given this language, the limitation Lansa proposes cannot be read into the claim.

Lansa, *citing* Toro Co. v. White Consolidated Industries, Inc., 199 F.3d 1295 (Fed.Cir.1999), argues that despite the broader language in the claim element, which facially mentions only three of the four parameters from the specification (number, location, and length), the construction must be based upon the more limited structure set forth in the only embodiment described by the specification. However, this very argument was rejected recently by the Federal Circuit in Teleflex, Inc. v. Ficosa N. Am. Corp., No. 01-1372, 2002 WL 1358720 (Fed.Cir. June 21, 2002), where the court stated:

[T]he number of embodiments disclosed in the specification is not determinative of the meaning of disputed claim terms.... [A]n accused infringer cannot overcome the heavy presumption that a claim term takes on its ordinary meaning simply by pointing to the preferred embodiment or other structures or steps disclosed in the specification or prosecution history. We hold that claim terms take on their ordinary and accustomed meanings unless the patentee demonstrated an intent to deviate from the ordinary and accustomed meaning of a claim term by redefining the term or by characterizing the invention in the intrinsic record using words or expressions of manifest exclusion or restriction, representing a clear disavowal of claim scope.

Id. at *10.

The prosecution history also supports this interpretation. In the applicant's Response to the May 19, 1995

Office Action, cited by Lansa and quoted above, it was stated that "if the layout of a screen is changed ... the personal computer will generate a new screen ID, because *the information upon which the ID is generated (e.g., location and length of fields)* will change." (Def. Cl. Constr. Mem., App. A., Ex. 9 at 8). Thus, while the Response indicates that an entire screen of information is received, it contemplates a situation wherein only location and length of fields is used to generate an ID.

Moreover, it must be recognized that the application that eventually matured into the '961 patent was originally filed on April 21, 1994. That application included a relatively broad claim 1 which did not specify how the screen was identified, but simply claimed a "means for processing said information to generate a screen ID from said image, said ID uniquely identifying said screen." (Pl. Cl. Const. Mem., App. D at 15). After several rejections and responses, the examiner refused to allow the broader claims but specifically indicated that the narrower claims, which specified that the identification of the screen is derived from the number of fields, field location, and field lengths, were patentable over the prior art. The examiner did not in any way indicate that a fourth limitation, namely the field "type" as recited in claim 1 of the '608 patent, was also necessary to render the invention in the '961 patent patentable. No amendment or original claim ever called for such a limitation, no office action addressed this additional limitation, and it is therefore improper to read this limitation into the claim.

Lansa has also argued that this same limitation-ascertaining the number, location, type and length of every field of the "green screen"-should also be read into claim 1 of the '608 patent. Like claim 1 of the '961 patent, this claim is also written in a means-plus function format. The function in the disputed element is "identifying based upon a position, length and type of each of a plurality of fields, a particular screen to be displayed to said user." FN1 The language of this claim element is not identical to that of the disputed claim element in the '961 patent, but it is clear from the specification that the corresponding structure is in essence the same as that provided in the '961 patent. The specification states:

FN1. Claim 1 of the '608 Patent states in full that what is claimed is:
Apparatus for implementing a computer terminal to be connected to a remote computer, said apparatus comprising:

means for identifying a particular userlogged on to said remote computer through said computer terminal;
means for identifying, based upon a position, length and type of each of a plurality of fields, a particular screen to be displayed to said user; and
a plurality of special function keys, each key performing a specified function, the specified function performed by each key being determined by the particular user logged on and the particular screen identified to be displayed.

Pat. '608, col. 4, ll. 37-49.
Upon a screen of information being downloaded to a personal computer ... the personal computer analyzes the screen with respect to the location of particular fields, and other attributes thereof, in order to recognize the particular screen downloaded. A technique for performing such analyses is described fully in copending application Ser. No. 08/231, 373 [the '961 patent], which is commonly assigned with the present application and which is incorporated herein by reference.
'608 Pat. at col. 2, ll. 51-58. However, the language of the claim itself makes clear that, unlike the '961

patent, the algorithm is dependent on three parameters for identifying a screen: position, length, and type. Id. at col. 4, ll. 42-43. There is therefore no evidence in the claim language, nor in the specification, that the limitation Lansa has proposed should be read into the claim.
The term "information" is again specifically used in the '075 patent. The '075 patent relates to a similar system as previously described, but the screen recognition software is obtained from a server that is separate and apart from the computer that displays the screens. Although claim 1 from the '075 patent is not in a means-plus function format, it is still necessary to resort to the specification to construe it.FN2 ResQNet states that the step in the claim stating, "If said received screen matches one of the plurality of specific screen identifying information, displaying a customized GUI screen," requires only that the screen be compared to some other identifying information to determine if a match exists. However, the element language is not facially clear, and those skilled in the art of screen recognition techniques would not know what was meant by such language. Therefore, the phrase "plurality of specific screen identifying information" must be construed based upon the specification. *See* NeoMagic Corp. v. Trident Microsystems, Inc., 287 F.3d 1062, 1071. That specification describes an algorithm that identifies a screen of data in order to match it to a GUI. The specification incorporates by reference the '961 patent. Thus, the "information" which was defined by reference should be consistent with the use of that term in the '961 patent, insofar as all fields on the screen are utilized. To interpret the language otherwise would include identifying a screen in ways taught by the prior art.

FN2. Claim 1 of the '075 patent states that what is claimed is:
The method of communicating between a host computer and remote terminal over a data network comprising steps of:

establishing a first communication session between said terminal and a communications server via a first communications channel;
downloading, from said server to said terminal, communications software for communicating between said terminal and said host and a plurality of specific screen identifying information;
utilizing said communications software to implement a second communications session between said terminal and said host via a second communications channel independent of said server;
receiving a screen from said host to said terminal;
if said received screen matches one of the plurality of specific screen identifying information, displaying a customized GUI screen; and
if said received screen does not match one of the plurality of specific screen identifying information, displaying a default GUI screen.
'075 Pat. at col. 4, l. 65-col. 5, l. 19.

B. "*To Generate*"

[2] The parties are in dispute over the correct meaning of the term "to generate" in the context of the '961 patent. Lansa argues that the term takes on a special meaning as evidenced by the specification, while ResQNet insists that the term is restricted to its ordinary meaning. Vitrionics, 90 F.3d at 1582; *see also* Markman, 52 F.3d at 979-80.

The specification of the '961 patent does not provide a technical definition of the verb "to generate," leading one to believe that the term should be given its ordinary meaning. Vitrionics, 90 F.3d at 1582 ("Although words in a claim are generally given their ordinary and customary meaning, a patentee may choose to be his own lexicographer and use terms in a manner other than their ordinary meaning, as long as the special definition of the term is clearly stated in the patent specification or file history."). However, the specification discusses in detail the process of "generating" a screen ID, shedding light on the meaning of the verb in the context of the invention. The patent specification begins summarizing the invention by describing only one way of "generating" a screen ID, stating at column 3, lines 20-38:

The above and other problems of the prior art are overcome in accordance with the present invention which relates to a display routine which is based upon an *algorithm which recognizes* the screen by the layout and fields therein, not based solely upon the particular screen ID number. In accordance with the invention, an image recognition *algorithm is utilized to recognize and display* the information stored in buffer 103. The information is read from buffer 103 and processed by an *algorithm which generates* a unique ID number.

(emphasis added). As the discussion above concerning the information element demonstrates, the use of an algorithm is also referenced later in the description of the preferred embodiments. In introducing the one embodiment that is discussed in detail, it is stated that "[t]he particular *algorithm used to recognize the screen and generate* the screen ID may vary from system to system, but a particular such algorithm will now be described." '961 Pat. at col. 5, 11. 34-36 (emphasis added). The specification then goes on to describe what it labels a "screen recognition algorithm." *Id*. at col. 5, 1. 37. No other way "to generate" a unique screen ID is set forth in the specification, indicating that the invention of the '961 patent processes information and generates an ID via a screen recognition algorithm.

However, no other limitation or definition is provided in the specification or file history, suggesting that "to generate" should in other respects be given its ordinary meaning. The verb is commonly defined as "to bring into being" or "produce as a result of a chemical or physical process," and in the context of computer science it is defined as "[t]o produce (a program) by instructing a computer to follow given parameters with a skeleton program." The American Heritage Dictionary of the English Language, Fourth Edition (2000). This definition is consistent with the discussion of the term in the '961 patent and with the limitations described above.FN3

FN3. The parties dispute the meaning of the term "algorithm." Specifically, Lansa contends that the term must imply a mathematical process. The term is not defined in either the claim or the intrinsic evidence, and no detailed description of the process by which the screen recognition algorithm produces an ID is given in the '961 patent. Therefore, it is assumed by the Court that the term is given its common, ordinary meaning. Generally, the term is defined as "[a] step-by-step problem-solving procedure, especially an established, recursive computational procedure for solving a problem in a finite number of steps." The American Heritage Dictionary of the English Language, Fourth Edition (2000). The National Institute of Standards and Technology defines the term as "[a] computable set of steps to achieve a desired result." Paul E. Black's Dictionary of Algorithms, Data Structures, and Problems (http:// www.nist.gov/dads). Accordingly, while the term certainly implies computation in a general sense, there is no specific support for otherwise labeling the process "mathematical."

C. "*Screen Identification (ID)*" *and* "*Uniquely Identifying*"

[3] "Screen identification (ID)," or screen ID, is not sufficiently defined in the claim language to reveal the format in which it is generated. In the specification of the '961 patent, however, the language repeatedly uses the term "screen ID number" in describing the concept, revealing that the format of the screen ID is a number. This is consistent with the specification's discussion of the background of the invention where, in discussing the problem of the prior art, the applicant asks the reader to "consider two possible screen IDs, 123 and 890," both of which are numbers. '961 Pat. at col. 2, 11. 23-24.

Lansa argues that the term "screen identification (ID)" is a number which is devoid of any independent meaning from its meaning associated with the algorithm, and is used solely for identifying a screen. However, no such limitation is provided by either the language or the intrinsic evidence. The only direct support Lansa argues for its position that the screen ID must be a number which is "otherwise meaningless" is a conclusory assertion by a technical expert. However, such extrinsic evidence need not be considered by this Court, particularly where it is unsupported and is not being used to resolve an ambiguous technical term. *See* Vitrionics, 90 F.3d at 1584.

[4] Lansa further contends that, when considered in conjunction with the term "uniquely identifying," screen ID must refer to something other than the data received from the incoming data screen. However, this interpretation is not supported by either the claim language or the intrinsic evidence. The fact that the screen or image must be uniquely identified, *i.e.* identified as the only one of its kind, in no way implies that it cannot be uniquely identified from information downloaded in the incoming data. The term "uniquely," as used in the claim language, quite simply means one of its kind, and is simply used to qualify the term "screen ID," a number which identifies the screen or image.

Conclusion

In sum, the Court concludes that: (1) "information" in the context of the '961 patent refers to the entire layout of a green screen and includes, for purposes of generating a screen ID, at least the number, length, and location of all fields of data on a screen; (2) ascertaining the "type" of every field of the "green screen" is not a limitation in claim 1 of the '961 patent or claim 1 of the '075 patent, but is a limitation in claim 1 of the '608 patent; (3) "to generate" means to produce by means of an algorithm; (4) "screen identification (ID)" refers to a number; and (5) "uniquely identifying said first image" refers to identifying the layout as the only one of its kind.

It is so ordered.

S.D.N.Y.,2002.
Resqnet.com, Inc. v. Lansa, Inc.

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