United States District Court,
N.D. Illinois, Eastern Division.

Philip JACKSON and PMJ Family Ltd. Partnership,
Plaintiffs.
v.
VTECH TELECOMMUNICATIONS LTD., Vtech Communications, Inc., and TDS Metrocom, Inc,
Defendants.

Oct. 23, 2003.

Herbert H. Finn, Richard Eugene Dick, John S. Pacocha, Richard Daniel Harris, Greenberg Traurig, LLP, Brad Richard Bertoglio, Dick and Harris, Chicago, IL, for Defendants.

CLAIM CONSTRUCTION

RUBEN CASTILLO**, District Judge.**

Plaintiff Philip Jackson, who holds title to United States Patent No. 4,596,900 ("the '900 patent"), sued Defendants VTech Communications Ltd., VTech Communications, Inc. (collectively "VTech") and TDS Metrocom, Inc. ("TDS") for patent infringement. The '900 patent "discloses and claims a set of electronic circuits for remotely controlling appliances or devices through the use of tones produced by touch-tone telephones." Jackson v. Thomson Consumer Elecs., Inc., 139 F.Supp.2d. 1003, 1005 (S.D.Ind.2001). Jackson's apparatus uses integrated circuit digital logic to perform its functions. *Id*. In this case Jackson alleges that certain of Defendants' voicemail and telephone answering devices, each of which function by microprocessors rather than integrated circuit digital logic, infringe Claims 5 and 79 of the '900 patent. FN1 The task presently before the Court is the construction of Claim 5 of the ' 900 patent.

FN1. Jackson originally asserted that Defendants infringed several additional claims of the '900 patent, but later notified this Court and the other parties that he sought only to assert Claims 5 and 79 against Defendants in this case. (R. 158-1.) The parties also acknowledge that Claims 5 and 79 are almost identical, differing only in their use of "tone signal" versus "DTMF tone signal," respectively. Thus, our construction of Claim 5 equally applies to Claim 79.

LEGAL STANDARDS

This Court construes patent claims as a matter of law. Markman v. Westview Instruments, Inc., 52 F.3d 967, 977-78 (Fed.Cir.1995), *aff'd,* 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996). Claims are construed from the point of view of a person with ordinary skill in the art at the time of the invention. Altiris, Inc. v. Symantec Corp., 318 F.3d 1363, 1369 (Fed.Cir.2003). In construing a claim, we first look to intrinsic evidence, which consists of: (1) the language of the claim; (2) the specification; and (3) the relevant prosecution history. *Id*. In examining the intrinsic evidence, the Court first begins with the claim language, which defines the scope of the claim. *Id*. In analyzing the claim language, we give the words of the claim their ordinary and customary meaning. *Id*. But, in order to place the claim language in context, we also may look to the specification. Bell Atlantic Network Servs., Inc. v. Covad Communications Group, Inc., 262 F.3d 1258, 1268 (Fed.Cir.2001). Specifically, we may use the specification as a dictionary when the "patentee has chosen to be his own lexicographer" or when "a claim term deprives the claim of clarity such that there is no

means by which the scope of the claim may be ascertained from the language used." *Id*. (internal quotations omitted). Last, we may turn to the prosecution history, which contains the complete record of the proceedings before the Patent and Trademark Office.

If the intrinsic evidence does not provide sufficient information from which to construe the claims, the court may resort to extrinsic evidence as an aid in construing the claim language. Storage Tech. Corp. v. Cisco Sys., Inc., 329 F.3d 823, 832 (Fed.Cir.2003). Extrinsic evidence includes any evidence outside of the patent and the prosecution history. FN2 But we may not rely on extrinsic evidence when the available intrinsic evidence unambiguously describes the scope of the invention, *N*. Telecom Ltd v. Samsung Elecs. Co., Ltd., 215 F.3d 1281, 1288 (Fed.Cir.2000), or to vary or contradict the clear meaning of terms in the claims, Altiris, 318 F.3d at 1369.

FN2. We note, however, that extrinsic evidence does not include technical treatises and dictionaries, which the court may reference at any time in order to better understand the terms or underlying technology. Tex. Digital Sys., Inc. v. Telegenix Inc., 308 F.3d 1193, 1202 (Fed.Cir.2002). Indeed, we may consult a dictionary at any stage of the claim-construction process, even before consulting the patent and prosecution history. Intellectual Prop. Dev. Inc. v. UA-Columbia Cablevision of Westchester Inc., 336 F.3d 1308, 1315 (Fed.Cir.2003).

The parties here agree that the claims at issue are "means-plus-function" claims, which are governed by 35 U.S.C. s. 112, para. 6. Such claims are recited as a means for performing a precise function without identifying the particular structure, material or acts of the claimed invention. According to the statute:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material or acts described in the specification and equivalents thereof.

35 U.S.C. s. 112, para. 6. Determining infringement, an issue of fact determined after the claims are construed, IMS Tech., Inc. v. Haas Automation, Inc., 206 F.3d 1422, 1430 (Fed.Cir.2000), requires comparing the construed claims to the accused devices under either a literal infringement analysis or under the doctrine of equivalents, 35 U.S.C. s. 112, para. 6; Allen Eng'g Corp. v. Bartell Indus., Inc., 299 F.3d 1336, 1345 (Fed.Cir.2002). The scope of a means-plus-function claim is strictly limited to the corresponding structure and equivalents of that structure. J & M Corp. v. Harley-Davidson, Inc., 269 F.3d 1360, 1367 (Fed.Cir.2001). In construing means-plus-function claims, we must first decide what function is claimed in the limitation; then, we must ascertain what structure or material disclosed in the specification performs the function claimed in the limitation. Intellectual Prop. Dev., 336 F.3d at 1319.

Turning to the task of construing Claim 5, we first must address the parties' arguments concerning the preclusive effect, if any, of other courts' prior claim constructions. By way of background, the parties have relied on at least three other courts' decisions regarding claim construction matters in order to raise issues of preclusion arising from the earlier courts' decisions. *See Jackson v. Glenayre Elecs., Inc.,* No. 02 C 0256 (N.D.Ill.2003) (Leinenweber, J.); Jackson v. Casio Phonemate, Inc., 105 F.Supp.2d 858 (N.D.Ill.2000) (Gettleman, J.) ("*Casio I*"); Jackson v. Thomson Consumer Elecs., Inc., 139 F.Supp.2d 1003 (S.D.Ind.2001) (Young, J.). Jackson argues that we should accept Judges Young and Gettleman's claim constructions under principles of comity and efficiency. *See* Abbott Labs. v. Dey, L.P., 110 F.Supp.2d 667, 670-72 (N.D.Ill.2000) (applying claim preclusion but also recognizing split of authority over the issue and noting that even if it were not bound to follow prior ruling under preclusion principles, it would nonetheless apply the same claim construction because prior court's reasoning was persuasive). Defendants would like us to rely on prior claim constructions only in part; they seek to supplement and/or modify the earlier constructions.

Thus, as an initial matter we must decide whether: (1) other courts' prior constructions of the '900 patent claims are binding on any party under collateral estoppel doctrines; and if not, (2) what persuasive weight these prior constructions have, if any, in this Court. Additionally, if we do adopt a another court's construction of the '900 patent claims, for whatever reason, we must decide whether to do so wholesale or if the prior constructions should be supplemented or expanded.

We conclude that none of the prior claim constructions have binding or preclusive effect in this Court, especially in light of the fact that none of the defendants here were party to the earlier actions. *See* Allen Archery, Inc. v. Browning Mfg. Co., 819 F.2d 1087, 1091 (Fed.Cir.1987) (noting that *Blonder Tongue* doctrine, which holds that a patentee is collaterally estopped form relitigating validity of patent, "is of necessity a one-way street" and does not bar a defendant charged with infringement from challenging the validity of patent claims upheld in prior suits); Texas Instruments, Inc. v. Linear Techs. Corp., 182 F.Supp.2d 580, 589-90 (E.D.Tex.2002) (declining to hold that prior claim constructions had preclusive effect against defendants not party to earlier litigation); Nilssen v. Motorola, 80 F.Supp.2d 921 (N.D.Ill.2000). We will, however, consult, adopt and refer to these prior opinions when we find it persuasive, reasonable, economical or otherwise appropriate to do so. Specifically, we find that the prior claim constructions of Judges Gettleman and Leinenweber, which are based on and expanded from Judge Young's first construction of Claim 5, to be thorough, persuasive and, except as otherwise stated below, applicable here.

I. Construction of Claims 5 and 79

Turning to the parties' proposed claim constructions in this case, as noted above, Jackson adopts *in toto* Judges Young and Gettleman's constructions in prior cases. Although VTech concurs with many of Judges Young and Gettleman's findings as to the functions performed by the means elements recited in the claims and their corresponding structures, (R. 69, Defs.' Opp'n at 26), VTech proffers a much narrower construction of certain claim elements than either Jackson or any of the courts to have previously construed the '900 patent. It also requests that this Court construe a number of additional terms contained within the patent claims and specification. Finally, VTech seeks to supplement the identified corresponding structures with additional components and language. TDS Metrocom endorses Judge Gettleman's claim construction in *Casio I* with respect to Claim 5, (R. 63, TDS Supp. Br. at 3, 8), but it urges this Court to construe several additional terms contained within the specification that it believes comprise some or all of the "corresponding structure" to Jackson's digital logic circuit, (*id*. at 11). FN3 We address each of these arguments below and our findings are summarized in the claim construction chart appended to this Order as Appendix A.

FN3. TDS identifies forty-seven additional components that it believes this Court should construe as "contours of the corresponding structure," all of which are contained within the '900 patent specification as opposed to the claims themselves.

Claim 5, the only remaining claim at issue, reads as follows:

A phone-line-linked. tone-operated control apparatus comprising: a **detecting means** *coupled* to receive *tone signals* from said phone line for detecting at least one *predetermined sequence of predetermined tone signals* for producing a corresponding detection signal; **control means** responsive to *said* sequence detection signal *for producing* a *corresponding* control signal; **access limiting circuit means** *coupled with* said detecting means for preventing production of said sequence detection signal until an access sequence comprising a further predetermined sequence of predetermined tone signals is first received on said phone line; wherein said access limiting circuit means includes **gate means** coupled with said detecting means for normally preventing *response thereof* to said tone signals, and **counter means** coupled to said gate means

and responsive to said tone signals for causing said gate means to enable operation of said detecting means following a predetermined number of tone signals received thereby.

(R. 70, Defs.' App. in Supp. of Opp. to Pls.' *Markman* Br., Ex. A, ' 900 Patent) (emphasis supplied). The bolded terms comprise the separate components that we must construe within the claim. The italicized terms are those that Defendants request we construe differently from or in addition to terms construed in prior cases. And, as noted above, Defendants also seek to supplement the prior judges' identification of the corresponding structures to the claimed language.

Defendants first argue that we should construe the phrase "phone-line-linked, tone-operated control apparatus," which has not been previously construed, because that phrase appears in the preamble to each claim. Jackson responds that the preamble in this case does not limit Claim 5 because it is not necessary to breathe life and meaning into the claim. Jackson points out that neither "phone-line-linked" nor "tone-operated control" appear in the text of Claim 5 and, therefore, argues that the Court need not construe the phrase to add definition or content to the claim itself. (R. 76, Pl.'s Reply at 19.) Jackson adds that even if this Court decides to construe the phrase, Defendants' proposed construction, pulled entirely from the specification to adopt limitations from the preferred embodiment instead of from the plain and ordinary meaning of the terms, is wholly inappropriate. FN4 (Id. at 20.)

FN4. Defendants' proposed construction of "phone-line-linked, tone-operated control apparatus" is "a device wired independently or in parallel with a standard receiver to conventional tip and ring lines which produces standard logic level signals in response to the dual-tone frequencies generated by conventional push-button or Touch-Tone telephones and which thereby controls the operation of one or more instruments." (R. 69, Defs.' Opp'n Br. at 27.) Jackson's proposed definition is "a group or combination of materials, etc., intended for the specific use of executing of a system change, used or managed with audible signals transmitted over the telecommunications network, and connected to a conductor or conductors associated with a particular telephonic communication channel." (R. 76, Pl.'s Reply at 22.)

Whether to treat a preamble as a claim limitation is determined on the facts of each case in light of the claim as a whole and the invention described in the patent. Storage Technology Corp. v. Cisco Sys., Inc., 329 F.3d 823, 831 (Fed.Cir.2003). In Pitney Bowes, Inc. v. Hewlett-Packard Co., 182 F.3d 1298 (Fed.Cir.1999), the Federal Circuit addressed the circumstances under which construction of the preamble to a claim would be appropriate:

If the claim preamble, when read in the context of the entire claim, recites limitations of the claim, or, if the claim preamble is "necessary to give life, meaning, and vitality" to the claim, then the claim preamble should be construed as if in the balance of the claim.... If, however, the body of the claim fully and intrinsically sets forth the complete invention, including all of its limitations, and the preamble offers no distinct definition of any of the claimed invention's limitations, but rather merely states, for example, the purpose or intended use of the invention, then the preamble is of no significance to claim construction because it cannot be said to constitute or explain a claim limitation.

Id. at 1305. The court concluded in that case that the preamble was necessary to give "life, meaning and vitality" to the claim because the preamble's statement that it claimed a method or apparatus that produced "an image of generated shapes made up of spots" was not merely a statement describing the invention's intended field of use. *Id*. at 1306. Instead, the court held, the statement was "intimately meshed" with the language of the claim. *Id*.

Like the preamble in *Pitney Bowes,* we believe that the preamble to Claim 5 also breathes life into the claim by introducing terms and concepts that either appear later in the claim (although not verbatim, as Jackson points out), or otherwise gives meaning or life to the claim. But we agree with Jackson that the terms of the

phrase must be construed in their plain and ordinary meaning without undue reliance on the specification. Thus, we construe the phrase "phone-line linked, tone-operated control apparatus" as follows: a group or combination of materials intended for the specific use of executing of a system change, used or managed with audible signals transmitted over the telecommunications network, and connected to a conductor or conductors associated with a particular telephonic communication channel.

Defendants next contend that we should construe several terms in the "detecting means" limitation. First, Defendants argue that the phrase "coupled to receive" is merely descriptive and not functional, but that if this Court decides that it is functional, "coupled to receive" should be construed to mean that "the detecting means is *directly* connected with the phone line from which it receives the tone signals." (R. 69, Defs.' Opp'n Br. at 28) (emphasis added). Jackson retorts that "coupled," when construed in its plain and ordinary meaning and in its proper grammatical context, means a *direct or indirect* connection. (R. 76, Pl.'s Reply at 24-25.) In reply, Defendants note that Jackson's proposed definition is irrelevant to the way in which the term "coupled" is used in the telecommunications industry and within the specification. We agree with Defendants that the term "coupled" is used in a technical context in the '900 patent and that, therefore, a technical dictionary is a better source from which to ascertain the meaning of the term. Transclean Corp. v. Bridgewood Servs., Inc., 290 F.3d 1364, 1375 (Fed.Cir.2002). But we do not believe that the phrase "coupled to receive" describes a function in a means-plus-function limitation. On the contrary, the plain language of the claim demonstrates that the function of the "detecting means" is "for determining at least one predetermined sequence of predetermined tone signals for producing a corresponding detection signal" and that the phrase "coupled to receive" merely describes a characteristic of the means. *Id*. As the *Transclean* court points out, under 35 U.S.C. s. 112, para. 6 we must then look to the corresponding structure in the specification to ascertain the meaning of the phrase. *Id*. The parties agree on the detecting means' corresponding structure and Defendants note that its proposed definition is consistent with the specification's requirement that the "system of the invention operates essentially as an independent telephone receiver whereby it may be wired independently to the phone lines or in parallel with a standard receiver as shown in Figure 1." (R. 69, Def.'s Opp'n Br., Ex. A, '900 Patent at 3:65-67.) Thus, we adopt Defendants' proposed definition of "coupled" as reflected in the attached claim construction chart. FN5

FN5. We decline Defendants' invitation to construe the additional terms "predetermined sequence of predetermined tone signals" and "corresponding" in the phrase "to produce a corresponding detection signal."

Defendants next take issue with the language "for producing a corresponding control signal" contained within the "control means." Jackson proposes that the control means limitation should be construed as two separate functions: (1) "[t]o respond to said sequence detection signal"; and (2) "[t]o produce a corresponding control signal." (R. 43, PL's *Markman* Br., claim construction chart.) Defendants claim that Jackson's proposed construction is skewed because it interprets the language as involving two separate and independent functions with no causal relationship. Defendants assert that the cause-and-effect relationship between the receipt of the sequence detection signal and the production of a control signal is crucial to the '900 patent. (R. 69, Defs.' Opp'n Br. at 30-31.) Furthermore, Defendants argue that Jackson's interpretation is belied by the language of the specification itself, where Jackson repeatedly emphasizes that the very purpose of the control means is to respond to a sequence detection signal by producing a corresponding control signal. (R. 81, Defs.' Surreply at 20.) Thus, Defendants propose that we change the "for producing" language to "by producing" in order to capture this causal relationship. Jackson responds that Defendants are simply trying to insert additional limitations by changing the plain language of the claim. We agree with Defendants that the claim language is not entirely clear. Therefore, we have referred to portions of the specification and to an ordinary dictionary to ascertain the proper construction of the term "for producing." *See* Bell Atlantic, 262 F.3d at 1268. We do not, however, accept Defendants' argument that the term "by producing" is the proper construction of these terms. The term "for producing," when taken in the context of the specification, is clearly used to indicate purpose or intent, rather than direct causation. And the plain meaning of the word

"for" supports this construction. THE AMERICAN HERITAGE DICTIONARY 522 (2d ed.) (defining "for" as indicating the "object, aim, or purpose of an action or activity"). Accordingly, we construe the control means language as follows: "It is the function of the control means to respond to the sequence detection signal produced by the detecting means in order to produce a corresponding control signal."

Having construed the relevant portions of Claim 5 and identifying their functions, we now turn to the task of identifying the structures within the patent that correspond to those functions. *See* Intellectual Prop. Dev., 336 F.3d at 1319. Although Defendants generally agree with the prior courts' identification of the corresponding structures to the limitations contained within Claim 5, they ask us in certain instances to supplement those structures. FN6 Aside from the inclusion of Counter 124 as a corresponding structure to the counter means, which we believe is appropriate, we conclude that Defendants' other proposed additions do not constitute corresponding structures and are not necessary to our claim construction.

FN6. Additionally, TDS suggests in a supplementary *Markman* brief that we should construe a host of other terms found in the specification because they comprise "some or all of the corresponding structure identified by Jackson." (R. 63, TDS Supp. Br. at 11.) We decline to undertake this onerous task at this point because we believe that doing so would be tantamount to reading limitations into the claim from the specification, which is improper. *See* Comark Communications, Inc. v. Harris Corp., 156 F.3d 1182, 1186-87 (Fed.Cir.1998).

II. Structural Equivalence

Our final task is to determine which structures are equivalent for purposes of a literal infringement analysis under 35 U.S.C. s. 112, para. 6 and under the doctrine of equivalents. Evaluating an infringement allegation involves comparing the construed claim to the accused device. Literal infringement of a means-plus-function limitation requires that the relevant structure in the accused device performs the identical function recited in the claim and be identical or equivalent to the corresponding structure in the specification. Odetics, Inc. v. Storage Tech. Corp., 185 F.3d 1259, 1266 (Fed.Cir.1999) (*citing* Pennwalt Corp. v. Durand-Wayland, Inc., 833 F.2d 931, 934 (Fed.Cir.1987)). Thus, functional identity and either structural identity or equivalence are both necessary. *See* Pennwalt, 833 F.2d at 934. If literal infringement under s. 112, para. 6 cannot be established, the patentee still may attempt to prove that the accused device infringes under the doctrine of equivalents. Either way, equivalence requires that any differences between the structure in the accused device and the structures disclosed in the specification be "insubstantial." Valmont Indus., Inc. v. Reinke Mfg. Co., 983 F.2d 1039, 1043 (Fed.Cir.1993).

Structural equivalence under s. 112, para. 6 is "an application of the doctrine of equivalents ... in a restrictive role." Odetics, 185 F.3d at 1267 (*quoting* Warner-Jenkinson Co., Inc. v. Hilton Davis Chem. Co., 520 U.S. 17, 28, 117 S.Ct. 1040, 137 L.Ed.2d 146 (1997)). As such, "their tests for equivalence are closely related," and involve application of the insubstantial-differences test. *Id*. (internal citations and quotations omitted). *See also* Valmont, 983 F.2d at 1043 ("The word 'equivalent' in section 112 invokes the familiar concept of an insubstantial change."). In the doctrine-of-equivalents context, courts use the "function, way, result" test, which looks to whether an accused device "performs substantially the same overall function or work, in substantially the same way, to obtain substantially the same result as the claimed invention." Pennwalt, 833 F.2d at 934; *see also* Casio I, 105 F.Supp.2d at 864. As the *Odetics* court noted, this tripartite test developed for the doctrine of equivalents is not wholly transferable to the s. 112, para. 6 statutory equivalence context. *Id*. "Instead, the statutory equivalence analysis, while rooted in similar concepts of insubstantial differences as its doctrine of equivalents counterpart, is narrower" because, under s. 112, para. 6 equivalence, functional identity is required. *Id*. Thus the equivalence of the "function" of the accused device's structure or material first must be established in order to reach the statutory equivalence analysis. *See* 35 U.S.C. s. 112, para. 6; Pennwalt, 833 F.2d at 934. Because function must be identical, the tripartite test for insubstantial differences under s. 112, para. 6 is reduced to two parts: "way" and "result." Odetics,

185 F.3d at 1267. That is, "the statutory equivalence analysis requires a determination of whether the way the assertedly substitute structure performs the claimed function, and the result of that performance, is substantially different from the way the claimed function is performed by the corresponding structure, acts, or materials described in the specification, or its result." *Id*. (internal quotations omitted). And, again, structural equivalence under s. 112, para. 6 is met only if the differences are insubstantial. *Id*.

In this case Jackson does not argue that the structure embodied in the ' 900 patent specification and the accused devices are identical, primarily because the latter devices include microprocessors rather than the digital logic circuitry contained in the '900 patent. Rather, the question here is whether the structures are equivalent for purposes of s. 112, para. 6 and the doctrine of equivalents. *See Odetics,* 185 F.2d at 1267. Thus, in the context of this case, we must determine to what extent microprocessors are equivalent to the digital logic integrated circuitry contained within the '900 patent. Jackson argues for a "*per se*" equivalence rule holding that any microprocessor that performs the same function as the discrete logic circuitry of the '900 patent is equivalent to that circuitry. Defendants argue that Jackson must prove more-namely, he must prove not only that a microprocessor in an accused device is programmed to perform the functions recited in Claim 5 of the '900 patent, but also that the microprocessor is programmed to perform those functions in substantially the same way and with the same result as the corresponding structures in the '900 patent. (R. 69, Defs.' Opp'n Br. at 11.) Thus, according to Defendants, Jackson must prove that the algorithm executed by the microprocessor to perform the identical function as Jackson's digital logic integrated circuit is not substantially different. WMS Gaming, Inc. v. Int'l Game Tech., 184 F.3d 1339, 1348 (Fed.Cir.1999).

We agree with Defendants that the proper test of equivalence is whether the accused device performs identical functions in substantially the same way and with substantially the same result as the corresponding structures in the ' 900 patent. Odetics, 185 F.3d at 1267. This approach, we believe, is similar to the one adopted by Judges Gettleman and Leinenweber in prior litigations. Judge Gettleman held that:

[t]o make a finding of literal infringement or infringement under the doctrine of equivalents for a means-plus-function claim, the court must compare the '900 patent to the accused device not just in terms of the functions performed by each claim, but also in terms of the way in which the embodiment of each claim (i.e., its structure) goes about performing each function.

Jackson v. Casio Phonemate, Inc., 166 F.Supp.2d 1237, 1242 (N.D.Ill.2001) ("*Casio II*"). FN7

FN7. Jackson seizes on other language from the *Casio II* opinion wherein Judge Gettleman stated that "a microprocessor containing digital logic integrated circuitry, and programmed to perform the same functions [as performed by the digital logic integrated circuitry of the '900 patent] is an equivalent under 35 U.S.C. s. 112, para. 6 ... for all the reasons set forth in Jackson v. Thomson Consumer Elecs., 139 F.Supp.2d 1003, 1008-09 (S.D.Ind.2001)." But other language in that opinion convinces us that Judge Gettleman employed a similar test as the one we follow today, and therefore, a *per se* equivalence rule as Jackson frames it is not appropriate here.

CONCLUSION

We construe the claims as delineated in Appendix A and as explained in this opinion. Additionally, we hold that for purposes of an analysis of literal infringement under 35 U.S.C. s. 112, para. 6 (as well as any claims under the doctrine of equivalents), Jackson must show that the accused devices perform substantially the same overall function or work, in substantially the same way, to obtain substantially the same result as the claimed invention.

APPENDIX A

CLAIM 5 LANGUAGE	FUNCTION	CORRESPONDING STRUCTURE
A phone-line-linked, tone-operated control apparatus comprising:	A group or combination of materials intended for the specific use of executing of a system change, used or managed with audible signals transmitted over the telecommunications network, and connected to a conductor or conductors associated with a particular telephonic communication channel.	
A **detecting means** coupled to receive tone signals from said phone line	The detecting means is directly connected with the phone line. It is the function of the detecting means to receive tone signals from the phone line, to detect at least one predetermined sequence of predetermined tone signals, and to produce a sequence detection signal corresponding to the predetermined sequence of predetermined tone signals	Integrated circuits including DTMF decoder 20, crystal 40, inverter 47, AND gates 48, 50, 52, 60 and 62, flip-flops 56 and 58
for detecting at least one predetermined sequence of predetermined tone signals		
for producing a corresponding detection signal		
Control means responsive to said sequence detection signal	It is the function of the control means to respond to the sequence detection signal produced by the detecting means in order to produce a corresponding control signal.	Integrated circuits including OR gate 64, flip-flop 66
for producing a corresponding control signal		
Access limiting circuit means coupled with said detecting means	"According to the plain language of the claim, the function of the '900 patent's access limiting circuit means is to prevent a sequence detection signal from being produced until after the phone line receives a predetermined sequence of predetermined tone signals. In essence, it is the function of the access limiting circuit means to prevent a user from accessing a mailbox unless she first enters an access code." *Casio I,* 105 F.Supp.2d at 874.	Break-in prevention system 25; relay 90 and integrated circuits including AND gates 55, 100, 102, 104, 108, 112, 116,118, and 126; OR gates 85 and 120, exclusive OR gate 95,, flip-flops 106, 110, 114, 122, counters 70 and 124, buffer 88, inverter 125
for preventing production of said sequence detection signal		

until an access sequence comprising		
a further predetermined sequence of predetermined tone signals is first received on said phone line;		
wherein said access limiting circuit means includes **gate means:**	It is the function of the gate means to coupled with said detecting means to normally prevent the detecting means from responding to said tone signals.	Integrated circuit including AND gate 55
couple with said detecting means		
for normally preventing response thereof to said tone signals, and		
counter means	"According to the plain language of the claim, the function of the counter means is to count the number of tone signals that are entered until the number of signals entered equals the number of digits in the access code. If the correct tone signals were entered, the counter means enables operation of the detecting means." *Casio I,* 105 F.Supp.2d at 875.	Counter 124
coupled to said gate means and responsive to said tone signals		
for causing said gate means to enable operation of said detecting means following a predetermined number of tone signals received thereby.		

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