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

WEDDINGCHANNEL.COM, INC,
Plaintiff and Counterclaim-Defendant.
v.
THE KNOT, INC,
Defendant and Counterclaim-Plaintiff.

No. 03 Civ.7369(RWS)

Jan. 26, 2005.

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OPINION

SWEET**, J.**

Plaintiff WeddingChannel.com, Inc. ("WeddingChannel") has alleged that defendant The Knot, Inc. ("the Knot") has infringed one or more claims from a United States patent that WeddingChannel owns. *See* U.S. Patent No. 6,618,753 (the " '753 patent"). On October 7, 2004, this Court held a "Markman" hearing to address the issues of patent claim construction. *See* Markman v. Westview Instruments, Inc., 517 U.S. 370 (1996). This opinion renders the following findings and conclusions based on that hearing, and it addresses the Knot's motion to strike the declarations of linguist Douglas T. Biber ("Professor Biber"), which WeddingChannel submitted in support of its construction of one of the claims at issue. FN1

FN1. Oral arguments were heard on the Knot's motion to strike the Biber declarations on September 22, 2004.

Facts

The '753 patent covers a system and method that allows registrants (*e.g.,* an engaged couple) to collect multiple gift registries in a single website. The registrants' guests can use this website to search for the couple's registries and to view and/or purchase gift items from those registries.

More specifically, the '753 patent, entitled "Systems and Methods for Registering Gift Registries and for Purchasing Gifts," discloses and claims two separate and distinct aspects of the invented gift registry

system. One aspect of the patent, which is not at issue in this case, concerns a method and system for enabling the registrant to collect or aggregate registries into a single website. '753 Pat. at col. 2, ll. 34-56.

The other aspect, which *is* at issue in this case, concerns a method and system for enabling a guest to search the internet for registries established by a registrant at multiple stores, to select a registry from among the search results, and to select items in the chosen registry for viewing or purchase. Id. at col. 2, ll. 57-65. FN2

FN2. The '753 specification discloses two "embodiments" (*i.e.,* examples) for implementing this "guest" aspect of the invention. Both embodiments use the same basic computer architecture (referred to in the specification as "system 100"), which is depicted in Figure 1 of the specification. In the first such embodiment, the invention's memory stores data representing registry databases. In the second such embodiment one or more registry databases may actually reside on one or more remote servers. '753 Pat. at col. 11, ll. 34-37.

The "guest" aspect of the '753 invention is the subject of the first forty-six claims of the patent. WeddingChannel has accused the Knot of violating the following seven of these forty-six claims: independent claims 1, 5, 20 and 35, and dependent claims 13, 14 and 28.

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. 370, 384-85 (1996). 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.1997), *cert. denied,* 522 U.S. 950 (1997).

In determining the proper construction of a claim, courts generally rely on two broad categories of evidence: (1) intrinsic evidence (*i.e.,* the patent claims, the patent specifications, and the prosecution history), and (2) extrinsic evidence (*i.e.,* expert and inventor testimony, dictionaries, treatises, and all other evidence external to the text of the patent and the prosecution history.) *See* 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." Vitronics 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. *See, e.g.,* 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." Vitronics, 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." Vitronics, 90 F.3d at 1582; *see also* Markman, 52 F.3d at 979-80 (stating that "the 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 ." Id. at 980 (citing Autogiro Co. of Am. v. United States, 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). 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. *See* Autogiro, 384 F.2d at 399 (stating that "[i]n 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).

II. ***The Claim Language***

The claims to be construed are independent claims 1, 5, 20 and 35, and dependent claims 13, 14 and 28. The disputed claim terms are as follows: (1) "a memory coupled to the central processing unit, the memory storing a shopping module, and registries from more than one registry database provider"; (2) "memory"; (3) "coupled"; (4) "registry"; (5) "registry database provider"; (6) "guest"; (7) "displaying, in response to said first query, a plurality of registries that match said first query"; (8) "registry item"; (9) "central server"; (10) "remote server"; and (11) "aggregated purchase list." In their papers, the parties analyze the first eight of these disputed terms in the context of claim 35 and the last three such terms in the context of claim 1. In the interest of clarity, this opinion follows that structure. Nonetheless, it should be emphasized that the Court's construction of the disputed terms is applicable to all allegedly infringed claims.

A. ***Independent Claim 35***

Claim 35 of the '753 patent reads as follows:

A computer system for purchasing a gift for a registrant of an event, the computer system comprising:

[A] a central processing unit ["CPU"];

[B] a memory coupled to the central processing unit, the memory storing a shopping module, and registries from more than one registry database provider, the shopping module comprising:

[C] instructions for obtaining a first query from a guest;

[D] instructions for displaying, in response to said first query, a plurality of registries that match said first query, wherein said plurality of registries that match said first query includes registries from more than one registry database provider;

[E] instructions for receiving a selection of a first registry in said plurality of registries; and

[F] instructions for identifying, in response to instructions from said guest, a first registry item in said first registry.

'753 Pat. at col. 14, ll. 63-67, col. 15, ll. 1-13.

1. ***Element [B]-"A Memory Coupled To ... Registry Database Provider"***

The parties dispute the proper construction of element [B] of claim 35. In large measure this dispute hinges on the resolution of a question of how the commas surrounding the phrase "the memory storing a shopping module" affect the meaning of element [B].

a. ***Expert Testimony Concerning The Proper Grammatical Construction of Element [B] Is Admissible***

To assist the Court with the resolution of this grammar question, WeddingChannel has submitted declarations from Professor Biber. (*See* 06/22/04 Biber Decl. and 07/16/04 Biber Decl.) Pursuant to Fed.R.Evid. 702, the Knot has moved to strike Biber's declarations on the grounds that they are neither (1) relevant nor (2) based on reliable scientific analysis.

WeddingChannel has opposed the Knot's motion on the grounds that Rule 702 does not govern the admissibility of expert testimony with respect to claim construction and that Biber's testimony is admissible for the purpose of explaining " 'how a technician in the field, reading the patent, would understand the claims." ' Markman, 52 F.3d at 981 (quoting Advanced Cardiovascular Sys., Inc. v. Scimed Life Sys., Inc., 887 F.2d 1070, 1076 (Fed.Cir.1989)).

The Federal Circuit has stated that where an evidentiary ruling raises a procedural issue that is not unique to patent law, the law of the regional circuit applies. *See* Odetics, Inc. v. Storage Tech. Corp., 185 F.3d 1259, 1276 (Fed.Cir.1999); WMS Gaming, Inc. v. International Game Technology, 184 F.3d 1339, 1361 (Fed.Cir.1999). Since the admissibility of expert testimony is a procedural issue that arises in an array of substantive areas, Second Circuit law governs the admissibility of Professor Biber's declarations. The Second Circuit recently summarized the legal framework governing the admissibility of expert testimony:

Under Daubert v. Merrell Dow Pharmaceuticals, Inc., [509 U.S. 579 (1993)], the Federal Rules of Evidence "assign to the trial judge the task of ensuring that an expert's testimony both rests on a reliable foundation and is relevant to the task at hand." Id. at 597. In carrying out this task, a trial judge is "to make certain that an expert, whether basing testimony upon professional studies or personal experience, employs in the courtroom the same level of intellectual rigor that characterizes the practice of an expert in the relevant field." Kumho Tire Co. v. Carmichael, [526 U.S. 137, 152] (1999). Accordingly, the Federal Rules of

Evidence permit the admission of expert testimony only "if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case." Fed.R.Evid. 702.

Lippe v. Bairnco Corp., 99 Fed. Appx. 274, 278 (2d Cir.2004). The Second Circuit has also stated that the abuse-of-discretion standard governs review of a district court's decision to admit or exclude expert testimony. *See, e.g.,* Zaremba v. GMC, 360 F.3d 355, 357 (2d Cir., 2004) (citing GE v. Joiner, 522 U.S. 136, 143 (1997)). "A decision to [admit or] exclude expert testimony is not an abuse of discretion unless it is 'manifestly erroneous." ' Fashion Boutique of Short Hills, Inc. v. Fendi USA, Inc., 314 F.3d 48, 60 (2d Cir.2002) (quoting McCullock v. H.B. Fuller Co., 61 F.3d 1038, 1042 (2d Cir.1995)).

Pursuant to this framework, the first step in determining the admissibility of Professor Biber's declarations is to examine "whether the proposed witness qualifies as an expert." *Baker v. Urban Outfitters, Inc.,* 254 F.Supp. 346, 352 (S.D.N.Y.2003). The court is required to "decide whether th[e] particular expert ha[s] specialized knowledge to assist ...' in deciding the particular issue in the case." ' Kuhmo Tire Co. v. Carmichael, 526 U.S. 137, 157 (1999) (internal citation omitted). There is no dispute as to Professor Biber's general expertise concerning the rules of English grammar.

Next, the Court must determine "whether the scientific, technical or other specialized testimony provided by the expert is both relevant and reliable." *Baker,* 254 F.Supp.2d at 353; *see also* Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 596-97 (1993) (describing the trial court's "gatekeeping" function in applying Rule 702); Amorgianos v. Nat'l R.R. Passenger Corp., 303 F.3d 256, 265 (2d Cir.2002) (internal quotation marks and citation omitted). The Knot argues that Professor Biber's testimony is irrelevant to the issue of claim construction because he opines on generally applicable rule of grammar rather that the more narrow question of how such rules are understood and applied by those of ordinary skill in the art. This argument is unavailing because it conflates the standard for admissibility of expert testimony with the standard governing a court's reliance on extrinsic evidence for the purpose of claim construction.

It is certainly true that the Federal Circuit has held that when a court endeavors to construct a patent claim, it cannot accord any weight to expert testimony and other forms of extrinsic evidence unless: (1) the intrinsic evidence fails to resolve an ambiguity in a disputed claim term or (2) the evidence assists the court's understanding of the technical aspects of the relevant art. *See* DeMarini, 239 F.3d at 1323; EMI Group, Inc., 157 F.3d at 892; Bell & Howell Document Mgmt. Prod. Co. v. Altek Sys., 132 F .3d 701, 706 (Fed.Cir.1997). However, the Federal Circuit has also emphasized that these rules concerning how much (if any) weight to accord extrinsic evidence are not applied to the underlying question of admissibility. *See, e.g.,* Aqua-Aerobic Systems, Inc. v. Aerators, Inc., 211 F.3d 1241 (Fed.Cir.2000) (stating that "expert testimony that is admissible in the proceeding, *see* Fed.R.Evid. 702, may be considered by the court and given weight appropriate to its content"); Pitney Bowes, Inc. v. Hewlett-Packard Co., 182 F.3d 1298, 1308 n. 2 (Fed.Cir.1999) (stating that admissibility of expert testimony and reliance on such testimony for the purpose of claim construction are separate issues governed by different rules).

Based on the foregoing, Professor Biber's testimony is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Fed.R.Evid. 401; *see also* Campbell ex rel. Campbell v. Metropolitan Property and Cas. Ins. Co., 239 F.3d 179, 184 (2d Cir.2001). Each of the parties has argued that standard rules of English grammar supports its construction of element [B] of claim 35. Professor Biber's testimony tends to support WeddingChannel's interpretation of these grammatical rules, thereby tending to make

WeddingChannel's interpretation of this element more probable than it would have been in the absence of such testimony. Therefore, Professor Biber's testimony is relevant to the issue of the proper construction of element [B].

Finally, the Court must assess whether the proffered testimony is sufficiently reliable:

[T]he district court should consider the indicia of reliability identified in Rule 702, namely, (1) that the testimony is grounded on sufficient facts or data; (2) that the testimony "is the product of reliable principles and methods"; and (3) that "the witness has applied the principles and methods reliably to the facts of the case ."

Amorgianos v. Nat'l R.R. Passenger Corp., 303 F.3d 256, 265 (2d Cir.2002) (quoting Fed.R.Evid. 702). There is no dispute that Professor Biber's testimony, which was based on a close reading of relevant claim language and also relevant passages from usage handbooks and grammar texts, is grounded on sufficient facts and data, thereby satisfying Rule 702(1).

With respect to subsections (2) and (3) of Rule 702, the Knot argues that Biber's methodology-which it characterizes as "subjective," "untested," and "untestable"-fails to satisfy *Daubert,* which sets out the following non-exclusive criteria for assessing the reliability of an expert's methodology: (1) whether the methodology can be tested, (2) whether the methodology has been subjected to peer review, (3) whether the expert's technique has a known rate of error, (4) whether standards exist controlling the technique's operation, (5) whether the technique has been generally accepted.

With respect to the proper application of the *Daubert* criteria to non-scientific expert testimony (such as that offered by Professor Biber), courts of this district have stated that:

[a]lthough a court *may* look to the *Daubert* criteria when evaluating the admissibility of non-scientific expert testimony, the standard under Rule 702 is a liberal and flexible one, and the factors outlined in *Daubert* are merely guidelines in aiding a court's reliability determination. For example, in some cases, reliability concerns may focus on personal knowledge or experience rather than strict scientific methods.

Houlihan v. Marriott Intern., Inc., No. 00 Civ. 7439(RCC), 2003 WL 22271206 at (S.D.N.Y. Sept. 30, 2003) (citations omitted) (emphasis in original).

Here, WeddingChannel has established the reliability of Professor Biber's methods. First, Professor Biber's methodology-explicating sample text according to a stated set of linguistic rules-is a reliable form of textual analysis. Second, Professor Biber's June 22, 2004 declaration demonstrates that he applied this methodology in a reliable manner: The declaration identified (1) the grammatical rules that Professor Biber applied, (2) textual authority for those grammatical rules, and (3) the alleged meaning of the text based on the application of these rules. FN3

FN3. The Knot argues that Professor Biber made three unwarranted assumptions about the text at issue, thereby rendering his methodology and results unreliable. However, these arguments go to the weight of the evidence and not its admissibility. *See* Daubert, 509 U.S. at 595 (stating that the admissibility inquiry hinges on methodology and not conclusions); Campbell, 239 F.3d at 186 (holding that an expert opinion is not rendered inadmissible merely because it contained logical "gaps or inconsistencies").

Based on the foregoing, the Knot's motion to strike the declarations of Professor Biber is hereby denied.

b. ***Construction of Element [B]-"A Memory Coupled To The Central Processing Unit, The Memory Storing A Shopping Module, And Registries From More Than One Registry Database Provider"***

WeddingChannel argues that element [B] should be interpreted to provide that the claimed memory, which stores a shopping module, is coupled to the following two elements: (1) the CPU and (2) registries provided by more than one database provider. In contrast, the Knot argues that element [B] should be interpreted to provide that the claimed memory, which is coupled to the CPU, stores the following two elements: (1) a shopping module and (2) registries from more than one registry database provider.

In short, WeddingChannel argues that element [B] provides that the memory must be merely *linked* to the registries. The Knot takes the position that the memory must *store* the registries.

WeddingChannel argues that the commas surrounding the phrase "the memory storing a shopping module" operate like parentheses. On this view, the only thing required to be stored in the memory is the "shopping module," and the claimed "registries" are required only to be "coupled" to that memory. WeddingChannel argues that, pursuant to the rules of standard English grammar, commas can only be used for the purpose of dividing a series of items (*e.g.,* nouns, noun phrases, or adjectives) where there are three or more items in such series. WeddingChannel argues that it is therefore impossible for element [A] to be read as requiring that the memory stores both a shopping module and registries from more than one registry database provider.

WeddingChannel argues that its construction is supported by the text of element [D] of Claim 1, which provides as follows:

a memory coupled to the central processing unit, the memory storing a shopping module and an aggregated purchase list, the shopping module comprising ...

'753 Pat. at col. 11, ll. 47-05 (emphasis added). WeddingChannel points out that this element reflects the proper grammatical structure for a phrase indicating that the memory stores two elements (*i.e.,* "a shopping module and an aggregated purchase list"). According to WeddingChannel, if the '753 patent inventors had intended to indicate in element [B] of claim 35 that the memory must store both a shopping module and registries, then they would have mirrored the language used in claim 1. That is, the inventors would have omitted the comma after the word "module."

Finally, WeddingChannel argues that its construction of element [B] is supported by '753 specification. According to WeddingChannel, claim 35 is directed to the alternative embodiment of the '753 patent in which registries are coupled to the claimed memory over the internet through a network interface:

Further, one or more registry databases 120 may actually reside on one or more remote servers 142 that are accessible to system memory 114 through network interface 112.

'753 Pat. at col. 11, ll. 34-37. WeddingChannel argues that this text and Figure 1 to which it refers demonstrate that registries from database providers need not be stored in the memory of system 100 so long as such registries are coupled to system 100's memory. According to WeddingChannel, this embodiment

thus allows registry database providers to keep their registry data on their own servers, without having to upload their databases to system 100.

The Knot argues that WeddingChannel's construction of element [B] is nonsensical. That is, the Knot argues that one of ordinary skill in the art would understand that registries are non-physical collections of data that cannot be coupled (or otherwise physically attached) to physical components of a computer system. Rather, such data must be stored in a physical component of a computer system (*i.e.,* the memory). The Knot draws support for this argument from the fact that claims 1 and 5 make clear that data must be stored on some physical component. For example, claim 1 provides that the shopping module and the aggregated purchase list (both of which are non-physical data) are stored in the memory. Similarly, claim 5 provides that the shopping module, the registries, and the aggregated purchase list (all of which are non-physical data) are stored in the memory.

WeddingChannel disputes the Knot's argument that registries are non-physical information that cannot be coupled to physical components of the computer system. WeddingChannel argues that the claimed registries are not merely inchoate information. Such registries, WeddingChannel argues, are physical manifestations of data represented by electronic signals-a view that WeddingChannel argues has been adopted by the Federal Circuit. *See* In re Lowry, 32 F.3d 1579, 1583-84 (Fed.Cir.1994) (stating that data stored in memory is a physical component of a computer).

It is axiomatic that "[a] claim must be read in accordance with the precepts of English grammar." In re Hyatt, 708 F.2d 712, 714 (Fed Cir.1983); *see also* Kinzenbaw v. Case, LLC, 318 F.Supp.2d 778, 783 (N.D.Iowa 2004). WeddingChannel's proposed construction of element [B] conforms to rules of standard English grammar. The Knot's proposed construction does not: The Knot simply ignores the comma following the word "module" in element [B]. On this basis, WeddingChannel's proposed construction is adopted.

2. *Element [B]-"Memory"*

The parties dispute the proper construction of the term "memory" in element [B]. WeddingChannel argues that "memory" entails any device where information can be stored and retrieved. The Knot argues that the term is more restrictive, encompassing only the volatile main storage in a computer- *i.e.,* the RAM.

WeddingChannel argues that its proposed construction is supported by the plain meaning of the term "memory" (as understood by one of ordinary skill in the art of the '753 patent). The *Microsoft Computer Dictionary* (4th ed.1999) (5th ed.2002), which WeddingChannel cites in its brief, defines "memory" as follows:

A device where information can be stored and retrieved. In the most general sense, memory can refer to external storage such as disk drives or tape drives; in common usage, it refers only to a computer's main memory, the fast semiconductor storage (RAM) directly connected to the processor.

WeddingChannel acknowledges that pursuant to the *Microsoft Dictionary* definition, the term "memory" is used to refer narrowly to "RAM," and the term is also used to refer more generally to a computer system's external storage capacity (*e.g.,* disk drive memory). WeddingChannel argues that where, as here, "more than one dictionary definition is consistent with the use of the words in the intrinsic record, the claim term may be construed to encompass all such consistent meanings." Texas Digital Sys., Inc. v. Teleginix, Inc.,

308 F.3d 1193, 1203 (Fed.Cir.2002).

Moreover, WeddingChannel argues that the intrinsic evidence compels a construction of the term "memory" that encompasses both volatile system memory and also disk drive memory. *See id*. (stating that "the objective and contemporaneous record provided by the intrinsic evidence is the most reliable guide to help the court determine which of the possible meanings of the terms in question was intended by the inventor"). WeddingChannel points out that the specification uses the term "system memory" to refer exclusively to RAM. However, the claims do not use the term "system memory." Rather, they refer generally to "memory" thereby evidencing, in WeddingChannel's view, an intent to encompass both RAM and disk-drive memory.

WeddingChannel argues that the text of the specification and Figure 1 demonstrate that the term "memory" must encompass both RAM and disk-drive memory. The description of the general architecture of system 100 states:

System 100 has a standard computer configuration including at least one central processing unit (CPU) 102, at least one hard disc 104, an optional user interface 106, a network interface 112, and a system memory 114 that are connected by bus 138. Disc 104 is used to store various components of system memory 114. Optional user interface 106 can perform tasks such as monitoring traffic on system 100, controlling disc 104 data upload or download, and/or optimizing a component of system memory 114.

'753 Pat. at col. 4, ll. 25-33. The above-excerpted text provides that disc drive 104 is "used to store various components of system memory 114." *Id*. at ll. 29-30. Elsewhere in the specification, Figure 1 shows system memory 114 storing various system 100 software modules and data components. WeddingChannel argues that, taken together, the specification's text and graphics provide that the burden of storing system 100's software and data is shared by disc drive 104 and system memory 114 (*i.e.*, the RAM). Based on the fact that the specification appears to provide that the storage burden is shared between the two different types of memory, WeddingChannel concludes that the claimed memory must be construed to entail more than just RAM.

WeddingChannel argues that its construction of the term "memory" is further supported by the statement in the specification that "[o]ptional user interface 106 can perform tasks such as ... controlling disc 104 data upload or download...." *Id*. at ll. 30-32. WeddingChannel explains that as used in this passage, a "data upload" is a data update received from a registry database provider using software called an "upload module." Claim 39 states that the "first registry" referenced in Claim 35 is (1) stored in said memory, and it is (2) a copy of a registry stored in a master registry database stored in a remote server. *Id*. at col. 15, ll. 23-25. Claim 40 states that the memory referenced in claims 35 and 39 includes an upload module that facilitates the receipt of updates by the first registry from the master registry. Finally, WeddingChannel points out that claim 43 states that the upload module described in claim 40 uses a file transfer protocol to send the updates referenced in claim 40 to the memory referenced in claims 35 and 39. *Id*. at col. 15, ll. 36-37.

According to WeddingChannel, claims 39, 40 and 43 establish that the "memory" of claim 35 must encompass a disk-drive memory: Claim 43 says that the update is sent by the upload module to the memory referenced in claims 39 and 35, and the specification says that update data are uploaded to disc drive 104. Therefore, for claim 43 to encompass the disclosed embodiment (as it must), the "memory" of claim 35 must be construed to include disk-drive memory. *See, e.g.,* Dow Chemical Co. v. Sumitomo Chemical Co., Ltd., 257 F .3d 1364, 1378 (Fed.Cir.2001) (stating that it is "well established that a claim construction that

excludes a preferred embodiment is 'rarely, if ever, correct" ') (quoting Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1583 (Fed.Cir.1996)).

The Knot argues that the WeddingChannel has misinterpreted the specification. First, the Knot argues that no significance should be attached to the fact that the specification refers to "system memory" while the claim uses the seemingly more general term "memory." Rather, the Knot argues that the specification refers to the "memory" as "system memory" merely because it is the memory of what is labeled "system 100."

The Knot also disputes WeddingChannel's interpretation of the specification as providing that disc 104 and system memory 114 are complementary components of the memory which share the burden of storing the system's software and data. The Knot argues that the specification merely provides that disc 104 stores *some* of the non-physical elements of system 100. Furthermore, the Knot points out that Figure 1 shows *all* of the system's non-physical components stored in system memory 114. The Knot argues that this interpretation of the specification is consistent with its interpretation of claim 35 as requiring that the memory (*i.e.,* system memory 114) contain all listed non-physical elements of the claim. The Knot points out that the claim does not state that such RAM memory is the only place where such information can be stored.

The Knot also disputes WeddingChannel's argument that the "upload module" of claim 40 can only upload data to disc 104. The Knot points out that the specification shows the "upload module" stored in the system memory.

Reading the claim and the specification together, the Knot concludes that the claim provides: (1) that the RAM necessarily stores all claimed non-physical elements of system 100; (2) that the disk drive serves as a back-up to the RAM; and (3) that the disk drive stores duplicate versions of at least some of the information stored in the RAM.

WeddingChannel has correctly observed that the term "memory," as used by one of ordinary skill in the art, is broad enough to encompass both RAM and disc memory. Furthermore, WeddingChannel has demonstrated that the specification teaches storage of certain software components of system 100 in disk drive 104. Therefore, WeddingChannel's construction of the term "memory" is adopted.

3. *Element [B]-"Coupled"*

The parties dispute the proper construction of the term "coupled" in element [B] of claim 35. WeddingChannel argues that "coupled" means connected, directly or indirectly, to allow the transfer of signals or information. The Knot interprets "coupled" to mean connected directly via an internal computer bus.

WeddingChannel argues that the term "coupled" has a well-understood meaning in the art: Computer engineers understand that one structure is "coupled" to another if signals or information can pass-directly through a wire or indirectly through an intervening computer or circuit-from one to the other. In support of this interpretation, WeddingChannel cites a definition of "coupling" drawn from a technical dictionary:

(3) (software) The manner and degree of interdependence between software modules....

(7) The association of two or more circuits or systems in such a way that power or signal information may be transferred from one system or circuit to another.

The IEEE 100, The Authoritative Dictionary of IEEE Standard Terms at 247 (7th ed.2000). WeddingChannel argues that its proposed construction of the term "coupled" is also supported by relevant case law holding that the ordinary meaning of "coupled" is " 'connected, directly or indirectly" ' Silicon Graphics, Inc. v. n Vidia Corp., 58 F.Supp.2d 331, 346 (D.Del.1999); *see also* Intel Corp. v. Broadcom Corp., 172 F.Supp.2d 478, 490 (D.Del.2001) (stating that "coupled" is "a term of art in patent parlance that means electrically (or otherwise) connected to allow the transfer of signals").

WeddingChannel argues that the patent specification confirms that the term "coupled" should be read broadly (and according to its ordinary meaning) to include indirect coupling. The specification states that "one or more registry databases 120 may actually reside on one or more remote servers 142 that are accessible to system memory 114 through network interface 112." '753 Pat. at col. 11, ll. 34-39. WeddingChannel argues that because such data typically passes through numerous intervening computer systems as they traverse the internet, the specification necessarily contemplates indirect coupling.

The Knot argues that the generic definition of "coupling"- *i.e.,* the direct or indirect connection of two components so that information or power can be passed between them-is not applicable to the '753 patent. Rather, the Knot takes the position that the term "coupled" has different meanings depending on the patent that is being construed. *See, e.g., Acacia Media Technologies Corp. v. New Destiny Internet Group,* No. SA CV 02-1040-JW (MLGx), 2004 U.S. Dist. LEXIS at (C.D.Cal. July 12, 2004). FN4 The Knot argues that any construction of the term "coupled" must take into consideration the following: (1) that in the '753 claims, only the "central processing unit" and the "memory" are recited as being "coupled," and (2) that in the specification, the only connection shown or described between the central processing unit and the memory is computer bus 138, a direct physical connection. (*'753* Pat. at col. 4, ll. 25-29; Fig. 1).

FN4. The Knot points out that in *Acacia,* the court found that the ordinary meaning of the phrase "coupled to" was "directly connected or attached to." *Acacia,* 2004 U.S. Dist. LEXIS at *42. It should be noted that the *Acacia* court read the directness requirement into the definition; there is no such directness requirement contained in the dictionary definition cited by the *Acacia* court. *Id.* (stating that *Webster's Ninth New Collegiate Dictionary* (1991) defines " 'couple' to mean 'to connect for consideration together" ').

The Knot disputes WeddingChannel's contention that the specification provides that remote servers are "coupled" across the internet to system memory 114 through intervening network interface 112. Rather, the Knot argues that the specification merely states that one or more remote servers are "accessible" to system memory 114 through network interface 112.

The Knot argues that this intrinsic evidence must be consulted "to identify which of the different possible dictionary meanings of the claim terms in issue is most consistent with the use of the words by the inventor." Tex. Digital Sys. v. Telegenix, Inc., 308 F.3d 1193, 1203 (Fed.Cir.2002). FN5

FN5. The *Texas Digital Systems* court also stated that " 'if more than one dictionary definition is consistent with the use of the words in the intrinsic record, the claim terms may be construed to encompass all such consistent meanings." ' *Tex. Digital Sys.,* 308 at 1203. (quoting Rexnord Corp. v. Laitram Corp., 274 F.3d 1336, 1343 (Fed.Cir.2001)).

The Knot's construction of the term "coupled" is based on the incorrect assumption that the '753 patent only recites the CPU and "memory" as being coupled. As discussed above, element [B] provides that the CPU is also coupled to registries from database providers. As demonstrated in the specification, the connection between the CPU and the registries from database providers is necessarily indirect. Therefore, the term "coupled" must encompass both direct and indirect connections. On this basis, WeddingChannel's construction of the term "coupled" is adopted.

4. ***Element [B]-"Registries"***

WeddingChannel argues that the term "registry" in a "registry database" describes, at minimum, a registrant, an event, and the items that the registrant would like to acquire to celebrate the event. The Knot defines a "registry" in a "registry database" as a collection of data that describes either (A) a registrant, an event, and the products and/or services that the registrant would like to acquire in celebration of the event; or (B) a registrant and a wishlist of products and/or services that the registrant would like to acquire.

In the description of the related art, the specification provides the following general definition for the term "registry":

Each registry in a registry database describes a registrant, an event, and the items that the registrant would like to acquire in celebration of the event.... Further, rather than representing an event, a registry may simply represent the generalized wish list of the registrant.

'753 Pat. at col. 1, ll. 24-33. WeddingChannel acknowledges that this text from the specification describes two types of registries-the first describing three things (the registrant, the event, and item information) and the second describing two things (the registrant and a wishlist of items).

This broad definition not withstanding, WeddingChannel argues that the term "registry" was given the following more narrow definition during the course of the prosecution of an earlier-filed parent application:

Registry databases are collections of registries. Each registry in a registry database describes a registrant, an event, and the items that the registrant would like to acquire in celebration of the event.

(Qualey Decl. Ex. 3 at WC002937 (quoting from the parent application's specification).) WeddingChannel argues that this narrower definition was a "clear disavowal of claim scope" that limited the term "registry" in the '753 claims to the definition cited by WeddingChannel. *See* Int'l Rectifer Corp. v. IXYS Corp ., 361 F.3d 1363, 1370 (Fed.Cir.2004).

Furthermore, WeddingChannel argues that the preamble of claim 35, which states "[a] computer system for purchasing a gift for a registrant of an event [,]" provides further support for its construction of the term "registry." *See* Poly-America, L.P. v. GSE Lining Technology, Inc., 383 F.3d 1303, 1309 (Fed.Cir.2004) (stating that " '[w]hether to treat a preamble as a limitation is a determination resolved only on review of the entire[ ] ... patent to gain an understanding of what the inventors actually invented and intended to encompass by the claim." ') (quoting Corning Glass Works v. Sumitomo Elec. U.S.A., Inc., 868 F.2d 1251, 1257 (Fed.Cir.1989)).

The Knot offers three arguments in support of its position that in the context of the '753 patent, the term "registry" should be interpreted to include wishlists.

First, the Knot argues the above-quoted text from the prosecution history did not function as a disavowal of the language in the specification. Rather, according to the Knot, the above-described discussion of registries in the prosecution history was addressed to the distinction between the '753 patent (which involves associating a unique identifier with an already constructed registry) from an invention in the prior art that involved the construction of a registry from (1) personal information about the registrant and (2) information about items the registrant would like to acquire. The Knot argues that the above-described narrow definition of the term "registry" was merely incidental to this recitation of the differences between the prior art and the claimed invention. On this basis, the Knot concludes that the term "registry" was not narrowed by the prosecution history. *See, e.g.,* York Products, Inc. v. Central Tractor Farm & Family Center, 99 F.3d 1568, 1575 (Fed.Cir.1996) (stating that "[u]nless altering claim language to escape an examiner rejection, a patent applicant only limits claims during prosecution by clearly disavowing claim coverage.")

Second, the Knot disputes WeddingChannel's argument that the preamble of claim 35 serves to limit the definition of the term "registry." The Knot argues that the preamble is not regarded as a limitation on a claim unless it "breathes life and meaning" into the claimed language. In re Paulsen, 30 F.3d 1475, 1479 (Fed.Cir.1994). Furthermore, the Knot argues that nothing in the preamble requires that the term "registry" necessarily exclude wishlists.

Third, the Knot argues that regardless of whether WeddingChannel expressly disclaimed wishlists during the prosecution of the '753 patent, it submitted a continuation application to the USPO on June 30, 2003 that contained new dependent claims 41, 59, and 87, each of which defined a "registry" as comprising "a registrant and a plurality of items that the registrant would like to acquire ... wherein said plurality represents a generalized wish list of the registrant." (*See* Qualey 2d Supp. Decl. Ex 20 at LO002001 (claim 41), LO002003 (claim 59), and LO002006 (claim 87)). According to the Knot, this continuation application demonstrates that WeddingChannel did not disclaim wishlist registries during the prosecution of the '753 patent.

In response to the Knot's argument concerning the continuation patents, which was first raised in a supplemental brief filed on September 13, 2004, WeddingChannel argues that it cancelled the continuation claims at issue on October 7, 2003. (*See* 2d Supp. Qualey Decl. Ex. 21 at LO002091, LO002102). Furthermore, WeddingChannel argues that once claims have been narrowed by a prosecution history disclaimer, they cannot be re-broadened. *See* HockersonHalberstadt, Inc. v. Avia Group Intern., Inc., 222 F.3d 951, 957 (Fed.Cir.2000) (stating that "[plaintiff's] argument ... reduces to a request for a mulligan that would erase from the prosecution history the inventor's disavowal of a particular aspect of a claim term's meaning. Such an argument is inimical to the public notice function provided by the prosecution history").

The text quoted from the prosecution history does no more than highlight a difference between the '753 invention and the prior art- *i.e.,* the '753 invention involved a system for tagging an already constructed registry with a unique identifier while the invention in the prior art involved a system for the construction of a registry. Since the prosecution history neither clearly disavows claim coverage nor alters the claim language to escape rejection by the examiner, the term "registry" was not narrowed during the course of the prosecution history. *See York Products,* 99 F.3d 1575.

Furthermore, WeddingChannel has not established that the claim 35 preamble was intended as a limitation on the term "registry" as used in element [B]. Therefore, the Court concludes that the term "registry" should

be construed in accordance with the definition provided in the specification of the '753 patent, and the Knot's construction of the term is adopted.

5. ***Element [B]-"Registry Database Provider"***

The parties agree that a "registry database" is "a collection of registries." *See* 06/18/04 Joint Claim Construction Statement. The parties also agree that a registry database "provider" is a "business or other entity" providing one or more registry databases. However, the parties dispute whether the term "registry database provider" also encompasses an entity providing information for a registry database. WeddingChannel argues that it does. The Knot argues that it does not. This dispute centers around the following text from the '753 specification:

Web site 132 may optionally include a variety of other modules, such as a registry database provider in store registry module 140. Module 140 may support registry database providers such as small businesses or shop owners that do not have an in house electronic registry database. Module 140 may be accessed from such businesses or shop owners and serve as a proxy to an in house electronic registry.

'753 Pat. at col 5, ll. 57-62.

WeddingChannel's expert witness George T. Ligler, who holds a doctorate in computer science and has experience in the development and design of computer hardware and software, states that a person of ordinary skill would understand the above-quoted text as providing that the phrase "registry database provider" includes entities that do not have an electronic registry database, but instead provide registry information (in whatever form) to another person or entity to create a registry database for the provider. (*See* Ligler Decl. para. 36.)

The Knot argues that it is improper to read the above-quoted text to mean that the phrase "registry database provider" includes entities that merely provide registry information. According to the Knot, the passage is properly read to include those entities that provide registry database services on behalf of entities that lack such in-house electronic database capacity of their own.

The Knot argues that WeddingChannel's proposed construction is inconsistent with the way "registry database providers" are described in the specification and the prosecution history. The specification refers to registry database providers as accessing "their registry databases" and as updating "their respective registry databases." '753 Pat. at col 3, ll. 33-40. The Knot argues that the use of the word "their" indicates that the registry database must be maintained by the "registry database provider." The Knot argues that this interpretation is supported by other portions of the specification: For example, the specification states that "[each registry database provider 118 may be associated with one or more registry databases 120. There is no limit on the number of distinct registry databases 120 that a particular registry database provider 118 may have in system memory 114." Id. at col. 5, ll. 41-45.

The specification cites "small business or shop owners that do not have an in house electronic registry database" as an example of a registry database provider. Id. at col. 5, ll. 60-62. WeddingChannel's construction of the term "registry database provider" encompasses this disclosure. The Knot's does not. Therefore, WeddingChannel's construction is adopted.

6. ***Element [C]-"Guest"***

The parties dispute the meaning of the term "guest" in element [C] of claim 35. According to the WeddingChannel, a guest is a person seeking to purchase a gift for a registrant. According to the Knot, a guest is a purchaser of registry items.

WeddingChannel argues that the language of claim 35 includes no requirement that the guest actually purchase a gift. WeddingChannel argues that element [F] of claim 35 merely states that the shopping module comprises instructions for "identifying" an item in response to a guest's instructions; it does not say that a guest is required to purchase anything. Furthermore, WeddingChannel observes that when the inventors intended to signify that a purchase was required- *e.g.,* in dependent claims 24 and 46-they stated as much explicitly. *See* '753 Pat. at col. 13, ll. 65-67 (stating in claim 24 that "[the method of claim 23, the method further comprising *purchasing* said first registry item using credit card information stored in said guest profile ....") (emphasis added); id. at col 15, ll. 44-48 (stating in claim 46 that "[t]he computer system of claim 45 wherein said resolving comprises deducting ... those items that *were purchased by* said guest ....") (emphasis added). On this basis, WeddingChannel concludes that pursuant to claim 35, one can be a guest without purchasing a registry item.

WeddingChannel also argues that the patent specification confirms that the term "guest" does not necessarily entail a purchase of registry items or otherwise. According to WeddingChannel, the specification teaches that the term "guest" encompasses: (1) those seeking to "purchase registry items," id. at col. 5, ll. 10-11; (2) those "attempting to buy gifts for registrants," id. at col. 2, ll. 4-8; and (3) those purchasing gifts "directly from retailers without selecting a registry or accessing a registry database." Id. at col. 9, ll. 55-57. WeddingChannel further argues that Figure 8 of the specification illustrates that the term "guest" can include one who views but does not purchase a registry item.

The Knot argues that the term "guest" is expressly defined in the specification as "the purchasers of registration items from a registry," '753 Pat. at col 1, l. 45, and that this explicit definition should govern. *See, e.g.,* Jack Goodman, Inc. v. Kopykake Enterprises, Inc., 302 F.3d 1352, 1360 (Fed.Cir.2002) (stating that " '[t]he specification acts as a dictionary when it expressly defines terms used in the claims or when it defines terms by implication" ') (quoting Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1582 (Fed.Cir.1996)). Furthermore, the Knot argues that the preamble of claim 35-"[a] computer system for purchasing a gift for a registrant of an event ..."-provides further supports its position that a "guest" is defined as one who purchases items from a registry.

The Knot argues that WeddingChannel's reliance on dependent claims 46 and 24 is misplaced. According to the Knot, these dependent claims actually support its construction: Dependent claim 24 describes how payment is affected pursuant to method claim 20, and claim 46 describes how the claim 35 computer system periodically updates the master registries maintained by registry database providers.

Finally, the Knot argues that the various excerpts from the specification quoted by the WeddingChannel, *see* '753 Pat. at col. 9, ll. 55-57; col. 5, ll. 10-11; col. 9, ll. 55-57, fail to rebut the clear definition of a "guest" as a "purchaser." The Knot argues that at best, these excerpts demonstrate some ambiguity in the specification, and that under such circumstances, the narrower construction should be adopted. *See* Athletic Alternatives v. Prince Mfg., 73 F.3d 1573, 1581 (Fed.Cir.1996) (stating that "[w]here there is an equal choice between a broader and a narrower meaning of a claim, and [the specification] indicates that the applicant is at least entitled to a claim having the narrower meaning, ... the notice function ... [is] ... best served by adopting the narrower meaning.")

As used in the specification, the term "guest" encompasses those seeking to purchase gifts for a registrant as well as those who actually purchase registry items. *See* '753 Pat. at col. 9, ll. 55-57; col. 5, ll. 10-11; col. 9, ll. 55-57. For example, the specification states that "[w]hen a registry is selected, it is opened, thus allowing the guest to review the registry over the Internet." *Id*. at col. 9, ll. 17-19. This passage, and others like it, make clear that the specification regards users of the system as guests even before they have purchased registry items. Moreover, the Knot is incorrect in its assertion that lines 44-45 of column 1 of the specification privide an explicit definition of the term "guest." These lines merely indicate that the term "guest" necessarily includes purchasers of registry items. These lines do not, however, exclude those seeking to purchase gifts from the definition of what constitutes a "guest."

On this basis, WeddingChannel's construction of the term "guest" is adopted.

7. Claim 35 Element [D]- "Displaying, In Response to Said First Query, A Plurality of Registries That Match Said First Query"

WeddingChannel argues that the above-excerpted phrase means "displaying information identifying at least two registries that match the first query." The Knot argues that the phrase should be interpreted to mean "displaying at least two registries that match the first query."

WeddingChannel argues that any ambiguity in the language of element [D] is resolved by the specification, which states: "As illustrated in panel 804, matching registries are displayed by web site 132 and the guest selects one of the matching registries 706." '753 Pat. at col. 9, ll. 11-14. WeddingChannel points out that the only embodiment of how the claimed system displays registries, panel 804 of Figure 8, displays the names of the registrants, their location, the name of the registry database provider, and the event date.

WeddingChannel argues that the Knot's proposed construction of Claim [D]- *i.e.,* that displaying registries means displaying the full contents of such registries-would fail to cover this embodiment, a result disfavored by the Federal Circuit. *See, e .g.,* Dow, 257 F.3d at 1378 (stating that it is "a claim construction that excludes a preferred embodiment is 'rarely, if ever, correct." ') (internal quotations omitted).

In its supplemental brief, the Knot argues that claims submitted in the '540 continuation application require claim 35 to be interpreted as requiring display of registry's contents. The Knot argues that on October 7, 2003, WeddingChannel filed new claims in its continuation application that include the following language: (1) [new claim 109] "communicating to the user information identifying the matching gift registry"; (2) [new claim 111] "communicating to the user a list identifying a plurality of matching gift registries"; (3) [new claim 122] "communicating to the user information identifying the gift registry that matches said search request"; (4) [new claim 33] "communicating to the user, in response to the search request, information that identifies a plurality of gift registries that match the request"; (5) [new claim 36] "transmitting to the user information identifying the matching registries"; (6) [new claim 42] "communicating to the user a list of names and associated event dates, wherein each name matches the search request and wherein the names and associated event dates are associated with registries."

The Knot argues that this new claim language is different from the actual text of element [D] of claim 35 and similar to WeddingChannel's proposed construction. On this basis, the Knot concludes that WeddingChannel is not entitled to broad construction of the "displaying" language.

WeddingChannel argues that the language from the continuation claims is not in any respect inconsistent

with WeddingChannel's construction of the "displaying" language in element [D] of claim 35 and that the new claims merely claim more particularly certain aspects of the '753 invention. WeddingChannel points out the language at issue in element [D] relates narrowly to "displaying" registries. In contrast, the continuation claims relate to "communicating" and "transmitting" registries. WeddingChannel argues that no additional clarification was necessary for the "displaying" language because it was adequately described in panel 804 of Figure 8.

The Knot's proposed construction of the term "displaying ... a plurality of registries ..." fails to cover the embodiment of the system described in Figure 8. Therefore, WeddingChannel's construction of the term, which does encompass the embodiment disclosed in the specification, is adopted.

8. ***Claim 35 Element [F]-"Registry Item"***

WeddingChannel argues that a registry item may be a product, or a service, or both, that the registrant would like to acquire. The Knot argues that a registry item encompasses products and services. WeddingChannel takes the position that the Knot's construction means that registries that do not or cannot describe services would not include registry items and would, therefore, not be covered by claim 35.

Based on the submissions of the parties, the Court concluded that a "registry item" may be a product, or a service, or both, that the registrant would like to acquire.

B. ***Independent Claim 1***

Claim 1 of the '753 patent provides as follows:

A computer system for purchasing a gift for a registrant of an event, the computer system comprising:

[A] one or more remote servers, each remote server in said one or more remote servers storing a registry database;

[B] a central server; said central server comprising:

[C] a central processing unit;

[D] a memory coupled to the central processing unit, the memory storing a shopping module and an aggregated purchase list, the shopping module comprising:

[E] instructions for obtaining a first query from a guest;

[F] instructions for displaying, in response to said first query, a plurality of registries that match said first query, wherein said plurality of registries that match said first query includes registries from more than one registry database provider;

[G] instructions for receiving a selection of a first registry in said plurality of registries;

[H] instructions for identifying, in response to instructions from said guest, a first registry item in said first registry, wherein said first registry is stored in one of said one or more remote servers; and

[I] instructions for adding said first registry item to said aggregated purchase list.

'753 Pat. at col. 11, ll. 41-64.

1. ***Element [B]-"Central Server"***

WeddingChannel argues that a central server is a computer system that provides services to other computers on a network. In contrast, the Knot takes the position that a central server is a computer unit that provides such services.

WeddingChannel argues that a person of ordinary skill in the art understands: (1) that a "server" is a computer system (*i.e.,* a combination of hardware and software) (Adler Ex. F; Ligler Decl. para. 29), and (2) that a server can be configured as a single computer unit standing alone or as multiple computer units working together. (Ligler Decl. para. 31).

WeddingChannel argues that its interpretation is supported by the language of claim 1, which describes the central server as comprising a CPU, memory (*i.e.,* hardware), and various instructions (*i.e.,* software). FN6 It should be noted that the language of claim 1 does not impose any limitation concerning the physical configuration of the central server.

FN6. WeddingChannel argues that its interpretation is further supported by the language of claim 35, which claims a "computer system" comprising a central processing unit, a memory, and various instructions. WeddingChannel asserts that these claim 35 elements are largely identical to those characterized as a "server" in claim 1. On this basis, WeddingChannel concludes that server is a computer system.

WeddingChannel argues that its interpretation is further supported by the specification. WeddingChannel observes that Figure 1 of the specification uses the term "system 100" to describe that portion of the diagram illustrating the embodiment's hardware and software architecture. Furthermore, Figure 1 shows that system 100 may be implemented using one or more microprocessors, each of which can be comprised of one or more computer units. WeddingChannel also points out that in two instances, the specification refers to system 100 as "server 100." '753 Pat. at col. 10, ll. 2-5.

The Knot argues that WeddingChannel's construction of the term "server" ignores the fact that the preamble to claim 1 already recites "a computer system," and that WeddingChannel's construction leads to the allegedly impermissible circular result that the computer system described in the preamble is comprised of two computer systems- *i.e.,* the remote server and the central server. *See* Harris Corp. v. IXYS Corp., 114 F.3d 1149, 1152 (Fed.Cir.1997) (rejecting a proposed construction on the grounds that it was circular). In support of this interpretation, the Knot points out that the '753 specification only describes and shows a single computer as the server having the elements recited in claim 1, and it specifically states that such server has a "standard computer configuration." Furthermore, the Knot argues that Figure 1 illustrates a single computer with multiple CPUs; the illustration does not suggest that a given server can be comprised of more than one computer unit.

The Knot also argues that if the inventors intended the claimed central server to be a "computer system," they would have specified as much, as evidenced by the use of the term "computer system" in the preamble of claims 1, 5, and 35. *See* '753 Pat. at col. 11, l. 39, col. 12, l. 7, col. 14, l. 63. Likewise, in new claims 109,

111, and 126 of the '540 continuation application, WeddingChannel apparently used "computer" when it wanted to indicate an individual unit and "computer system" when it wanted to indicate a combination of such computer units. (Qualey 2d Supp. Decl. Ex. 21 at LO002091-2092, LO002094). FN7

FN7. In its reply to the Knot's supplemental brief on claim construction, WeddingChannel argues that none of the '540 continuation claims say or suggest that a server is not a type of computer system. Rather, these continuation claims merely reflect the fact the term "computer system" is a broader term than "server," and not every computer system is necessarily a server.

The submissions of the parties demonstrate that the word "server" as used in the claim is ambiguous- *i.e.*, it could be read to mean that a server is a "computer system" or to mean that a server is a single computer unit. Under such circumstances, it is particularly appropriate to consult extrinsic sources. *See, e.g.*, DeMartini, 239 F.3d at 1323. The extrinsic evidence proffered by WeddingChannel resolves this ambiguity. First, Dr. Ligler states that persons of ordinary skill in the art understand that a "server" is a "computer system." (Ligler Decl. para. 29.) Furthermore, WeddingChannel has provided an excerpt from the *Random House Webster's Computer & Internet Dictionary 3d ed.*, which states that a "computer system" is merely a "complete, working computer." (Adler Decl. Ex. F.) This dictionary definition suggests that the Knot's distinction between a single, physically integrated computer unit and a computer system consisting of spatially separate components is not one that would be recognized by one of ordinary skill in the art. On the basis of this extrinsic evidence, WeddingChannel's construction of the term "central server" is adopted.

2. *Element [A]-"Remote Server"*

WeddingChannel argues that a "remote server" is a computer system that provides services to other computers on a network and may be accessed by the central server over the network. In contrast, the Knot argues that a "remote server" is a computer unit, separate and independent from the central server, that provides services to other computers on a network.

WeddingChannel argues that its construction is supported by the intrinsic evidence. According to WeddingChannel, Figure 1 of the specification shows that remote server 142 can store registries (from registry database providers) that are accessible to the central server (computer system 100) over the internet through network interface 112. '753 Pat. at col. 11, ll. 34-37. According to WeddingChannel, this disclosure shows that the remote server is coupled to a network and may be accessed by the central server over the network. WeddingChannel also points out that element [H] of claim 1 recites instructions in the central server for identifying a registry item in a registry where the registry is "stored in one or more remote servers."

The Knot argues that the specification supports its argument that the "remote server" is a computer unit that is separate and independent from the "central server," which is itself a single computer unit. The Knot points out that Figure 1 depicts the central server (*i.e.*, system 100) and remote server 142 as separate elements, connected only by network interface 112. The Knot argues that WeddingChannel's construction is impermissible because it attempts to read this limitation out of the claim. *See, e.g.*, Ethicon Endo-Surgery, Inc. v. United States Surgical Corp., 93 F.3d 1572, 1582 (Fed.Cir.1996).

In essence, the Knot has argued that the specification provides that the central and remote server must each be single, physically integrated computer units that are connected by a network. Based on the foregoing

construction of the term "server," this construction of the term "remote server" is impermissible. Rather, Figure 1 demonstrates that the remote server and the central server are separate computer systems, and that the remote server is accessible by the central server via a computer network. Therefore, WeddingChannel's construction of the term "remote server" is adopted.

3. *Element [I]- "Aggregated Purchase List"*

WeddingChannel argues that an "aggregated purchase list" is a list of items selected for purchase by a guest from more than one registry. The Knot argues that an "aggregated purchase list" is a collection of two or more registry items selected by a guest during a session from at least two different registries from at least two different registry database providers.

WeddingChannel argues that the following text from the specification supports its interpretation:

In another aspect of the present invention, a query is received from a guest and multiple registry databases are searched.... The guest may pick items in the registry for purchase while the registry is open. In a preferred embodiment, the guest may make additional queries. The additional queries may designate different registrants or additional event dates. As with the original query, each registry database is searched for matching registries. Unique identifiers, each representing a matching registry, are communicated to the guest. The guest selects one of the unique identifiers and the corresponding registry is opened. Items selected by the guest from the opened registry are added to an aggregated purchase list that includes all items selected by the guest from previously selected registries.

'753 Pat. at col 2, l. 57-col. 3, l. 8.) According to WeddingChannel, the last sentence of this excerpt, which describes how items are added to the aggregated purchase list, contains no requirement that such items derive from the registries of more than one registry database provider. Rather, the sentence merely states that the items on the aggregated purchase list derive from more than one registry. Elsewhere, the specification states:

One of the advantages of the present invention is that the guest may make multiple queries in a single Internet session 718. Each query 704 may be for a different party and/or event. Thus, in a single session, a guest may make several different selections, or purchases, from several different registry databases 120. Each selection made by a guest in a single Internet session is collected into an aggregated purchase list.

Id. at col. 9, ll. 21-29. WeddingChannel points out that this passage of the specification does not state that an aggregated purchase list must include items from different database providers. The text merely states that the aggregated list includes items derive from registries for "a different party and/or event."

The Knot argues that the ordinary meaning of "purchase list" is a list of items to be purchased, and the ordinary meaning of the term "aggregate" is "to collect into one mass." *The Meriam-Webster Dictionary* 33 (1997). FN8 Based on these definitions, the Knot takes the position that an "aggregated purchase list" is a collection of purchase lists from different registry database providers. Furthermore, the Knot argues that its construction is consistent with the following text from the specification:

FN8. WeddingChannel argues that this definition of the word "aggregate" is consistent with how the inventors used the term during the prosecution of the '753 patent. For example, the inventors stated that an "aggregated registry" is one that "consolidates all of the disparate registries that the registrant has created at

different registry databases." (Qualey Decl. Ex. 4 at WC002875, Ex. 5 at WC002903.)

When the guest has finished making queries and selecting items, a single purchase transaction is performed. The purchase transaction includes the steps of producing a requisition for each registry database provider represented in the aggregated purchase list. Each requisition corresponds to a particular registry database provider and includes each item in the purchase list that originated from a particular registry database supported by the corresponding registry database provider.
'753 Pat. at col. 3, ll. 9-16. The Knot argues that this portion of the specification distinguishes between the "aggregated purchase list," which includes items from each registry database provider and the "individual purchase lists" from particular registry databases.
The Knot argues that its construction of the term "aggregated purchase list" is further supported by the following text from the specification: "The advantage of an aggregated purchase list is that it provides convenience to the guest. Rather than executing a series of on-line sessions to buy registry items, a guest makes all necessary selections during one session." Id. at col. 9, ll. 64-67. The Knot point out that multiple sessions are not necessary if gifts are purchased from a single registry database provider.

Furthermore, the Knot points out that Figure 9 illustrates the fact that the aggregated purchase list shows multiple registry database providers from which the guest has purchased registry items.

As the Knot has stated, the plain meaning of "purchase list" is "a list of items to be purchased," and the plain meaning of "aggregated" is "to collect into one mass." Based on these plain meanings, the term "aggregated purchase list" means a list of items drawn from multiple purchase lists. That is, the plain meaning merely requires that the items on the "aggregated purchase list" be drawn from more than one registry; it does not impose the requirement that such items be drawn from multiple registry database providers.

Moreover, the Knot has failed to point to any intrinsic material FN9 evidencing " 'expressions of manifest exclusion or restriction, representing a clear disavowal of claim scope" ' that would support the more restrictive definition that it advocates. ResONet.com, Inc. v. Lansa, Inc., 346 F.3d 1374, 1384 (Fed.Cir.2003) (quoting Teleflex, Inc. v. Ficosa North America Corp., 299 F.3d 1313, 1325 (Fed.Cir.2002)).

FN9. Indeed, the specification provides ample support for WeddingChannel's construction. The specification states that an "aggregated purchase list" is comprised of "all items selected by the guest from previously selected registries." *Id*. at col. 3, ll. 7-8. Furthermore, the specification provides that an "aggregated purchase list" contains "each selection made by a guest in a single Internet session." *Id*. at col. 9, ll. 26-28.

For example, lines 9-16 of column three of the specification, which the Knot cites in support of its construction, merely discloses that the '753 invention generates vendor-specific requisitions after a guest has made purchases. Lines 64-67 of column 9, also cited by the Knot, states that the "aggregated purchase list" facilitates purchases from the registries of multiple registry database providers, but it does not attempt to impose limitations as to what constitutes an "aggregated purchase list." Finally, Figure 9, which the Knot cites, merely illustrates that an "aggregated purchase list" *can* include items selected from multiple registry database providers; it does not say that an "aggregated purchase list" *must* include items selected from multiple registry database providers.

Based on the foregoing, WeddingChannel's construction of the term "aggregated purchase list" is adopted.

Conclusion

Based on the foregoing, WeddingChannel's constructions of the following terms are adopted:

(1) "a memory coupled to the central processing unit, the memory storing a shopping module, and registries from more than one registry database provider"

(2) "memory"

(3) "coupled"

(4) "registry database provider"

(5) "guest"

(6) "displaying, in response to said first query, a plurality of registries that match said first query"

(7) "registry item"

(8) "central server"

(9) "remote server"

(10) "aggregated purchase list"

The Knot's construction of the term "registries" is adopted.

It is so ordered.

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