United States District Court,
N.D. California, Oakland Division.

TELEPHIA, INC., a Delaware corporation,
Plaintiff.
v.
M:METRICS, INC., a Delaware corporation,
Defendant.
And Related Counterclai,
And Related Counterclaim.

No. C 06-03767 SBA (BZ)

April 13, 2007.

Behrooz Shariati, Tharan Gregory Lanier, Eric Cha, Iman Lordgooei, Jones Day, Palo Alto, CA, Darin Walter Snyder, Brian Mark Berliner, Eric J. Knapp, James Asa High, Jr., Michael Sapoznikow, O'Melveny & Myers LLP, San Francisco, CA, for Plaintiff.

Karin Bornstein Swope, Tenaya Scheinman, Wilson Sonsini Goodrich & Rosati, Seattle, WA, Michael Brett Levin, Terrence J.P. Kearney, Wilson Sonsini Goodrich & Rosati A Professional Corporation, Palo Alto, CA, for Defendant.

CLAIM CONSTRUCTION ORDER

SAUNDRA BROWN ARMSTRONG**, District Judge.**

WHEREAS the Court has considered the briefs, exhibits, declarations and other papers submitted by the parties regarding the construction of disputed claim terms in U.S. Patent No. 6,745,011 and received technology tutorials, and

WHEREAS the Court heard oral arguments on claim construction on April 4, 2007, during which the parties came to certain agreements and the Court made rulings on the record,

IT IS HEREBY ORDERED that, consistent with the parties' agreements and the Court's rulings on the record during the April 4, 2007 hearing, the meanings of the disputed terms are as follows:

Claim Term	**Court's construction**
the preambles of Claims 1, 53, 55, 56, and 81	the preambles of Claims 1, 53, 55, 56 and 81 are not affirmative limitations on those claims
"network parametric data"	"information describing the performance of the wireless network"
"device parametric data"	"information describing the performance of the wireless

	device"
"means for transmitting said device parametric data, network parametric data, and event data via wireless communication to a control center for processing"	The recited function is "transmitting said device parametric data, network parametric data, and event data via wireless communication to a control center for processing."
	The corresponding structure is a Data Transfer Module.

IT IS FURTHER ORDERED that the Court adopts the parties' agreed upon constructions of the following terms:

Claim Term	**Agreed construction**
"wireless network"	"A network that uses electromagnetic waves to transmit and/or receive information"
"wireless device"	"An end-user device capable of communicating using a wireless network"
"event data"	"Any data relating to activity on the wireless device by a user
	Event data includes, but is not limited to, data from data applications, device applications, and event statistics. Data applications include, for example, microbrowser or equivalent internet browsing activity, web clipping applications, mobile commerce transactions, mobile advertising activity, e-mail activity, and Bluetooth application usage. Device applications include, for example, games, address, books, personal information management software, and media players used for streaming audio and video. Event statistics include, for example, voice and data call activity and SMS or similar messaging activity."
"user activity of the wireless device"	"user, non-testing activity of the wireless device"
"web clippings applications"	"Computer programs designed to extract and cache portions of web pages so that they can be viewed on wireless devices"
"synchronization process"	"a process by which information is copied from one device to another and/or vice versa, so that the devices update each other with new information available on either device"
"control center"	"A system in a remote location which receives event data, network parametric data, and device parametric data transmitted by the wireless device"
"means for collecting device parametric data from a wireless device"	This element is governed by 35 U.S.C. s. 112 para. 6.
	The recited function is "collecting device parametric data from a wireless device."
	The corresponding structure is "data gathering software installed on a wireless device, or its equivalent."
means for collecting network parametric data from a wireless device	This element is governed by 35 U.S.C. s. 112 para. 6.

	The recited function is "collecting network parametric data from a wireless device."
	The corresponding structure is "data gathering software installed on a wireless device, or its equivalent."
means for collecting event data from said wireless device	This element is governed by 35 U.S.C. s. 112 para. 6.
	The recited function is "collecting event data from a wireless device."
The corresponding structure is "data gathering software installed on a wireless device, or its equivalent."	
Claim 56	This claim is not governed by 35 U.S.C. s. 112 para. 6.

N.D.Cal.,2007.
Telephia, Inc. v. M:Metrics, Inc.

Produced by Sans Paper, LLC.