United States District Court,
E.D. Texas, Lufkin Division.

ANASCAPE,
LTD. Plaintiff.
v.
MICROSOFT CORP., and Nintendo of America, Inc,
Defendant.

Civil Action No. 9:06-CV-158

Nov. 30, 2007.

Douglas A. Cawley, Anthony Matthew Garza, Christopher Thor Bovenkamp, Jamie Mozola Shouse, Jason Dodd Cassady, Steven Chase Callahan, Theodore Stevenson, III, McKool Smith, Dallas, TX, Luke Fleming McLeroy, Ericsson Inc., Plano, TX, Samuel Franklin Baxter, McKool Smith, Marshall, TX, Charles Ainsworth, Robert Christopher Bunt, Robert M. Parker, Tyler, TX, for Plaintiff.

J. Christopher Carraway, Derrick W. Toddy, Jared S. Goff, John D. Vandenberg, Joseph T. Jakubek, Richard David McLeod, Stephen J. Joncus, Portland, OR, Clayton Edward Dark, Jr., Attorney at Law, Lufkin, TX, J. Thad Heartfield, The Heartfield Law Firm, Charles W. Goehringer, Jr., Lawrence Louis Germer, Germer Gertz, L.L.P., Beaumont, TX, Stephen P. McGrath, Redmond, WA, James S. Blank, Kaye Scholer, Robert J. Gunther, Jr., Wilmer Cutler Pickering Hale & Dorr, New York, NY, Joseph S Presta, Robert W. Faris, Nixon & Vanderhye PC, Arlington, VA, for Defendant.

ORDER ON AGREED TERMS

RON CLARK**, District Judge.**

Plaintiff Anascape, Ltd. ("Anascape") filed suit against Defendant Microsoft Corporation ("Microsoft") claiming infringement of United States Patent Nos. 5,999,084 ("the '084 patent"), 6,102,802 ("the '802 patent"), 6,135,886 ("the '886 patent"), and 6,343,991 ("the '991 patent"). These patents all relate to the switches and buttons on controllers used for video games. FN1

The court conducted a *Markman* hearing to assist the court in interpreting the meaning of the claim terms in dispute. The definitions agreed upon comport with the meaning of the terms as they are used in the claims, the specification, the prosecution history, and any applicable extrinsic evidence. Therefore, these terms will be defined as follows:

I. Claim Terms

1. "means for outputting a signal to an image generation machine, said signal at least representational of said analog electrical outputs." "means for outputting to an image generation machine a signal at

least representational of said analog electrical output." Used in '802 patent, claims 1, 5, 9 and 16. The parties agree that this term is governed by 35 U.S.C. s. 112, para. 6. The parties agree that the function is: "outputting a signal to an image generation machine that is at least representational of the analog output," and the corresponding structure is: "ASIC or micro-controller integrated circuitry, and equivalents thereof."

2. "pressure-sensitive buttons." Used in '991 patent, claims 1 and 6.

means: "a button operatively associated with a pressure-sensitive variable conductance sensor."

3. "means for reading a signal from said analog sensor." Used in '991, claim 44.

The parties agree that this term is governed by 35 U.S.C. s. 112, para. 6. The parties agree that the function is: "reading a signal from the analog signal," and the corresponding structure is: "ASIC or micro-controller integrated circuitry, and equivalents thereof."

4. "means for outputting information representing said signal ." Used in ' 991, claim 44 and 51.

The parties agree that this term is governed by 35 U.S.C. s. 112, para. 6. The parties agree that the function is: "outputting information representing the signal," and the corresponding structure is: "ASIC or micro-controller integrated circuitry, and equivalents thereof."

II. Conclusion

The jury shall be instructed in accordance with the court's interpretations of the disputed claim terms in the '084, '802, '886, and '991 patents.

So **ORDERED** and **SIGNED.**

FN1. Anascape's suit against Microsoft alleged infringement of U.S. Patent Nos. 6,208,271 ("the '271 patent"), 6,344,791 ("the '791 patent"), 6,347,997 ("the '997 patent"), 6,352,205 ("the '205 patent"), 6,400,303 ("the '303 patent") and 6,563,415 ("the '415 patent"). On February 23, 2007, the court granted stay pending reexamination before the U.S. Patent and Trademark Office ("PTO") as to the '791, '205 and '415 patents. On May 2, 2007, the parties agreed to stay the '271, '997 and '303 patents pending reexamination by the PTO. Anascape also filed suit against Microsoft and Nintendo of America, Inc. ("Nintendo") claiming infringement of U.S. Patent Nos. 6,222,525 ("the ' 525 patent") and 6,906, 700 ("the '700 patent"). The claim terms in the '525 and '700 patents will be construed in a later order.

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