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

ARIBA, INC,
Plaintiff.
v.
EMPTORIS, INC,
Defendant.

Civil Action No. 9:07-CV-90

Oct. 14, 2008.

Bryce Warren Baker, Amy Kathleen Van Zant, Brian D. Kaider, Jaideep Venkatesan, Nathan Evan Shafroth, Heller Ehrman LLP, Menlo Park, CA, Jennifer Esther Chen, Robert Thomas Haslam, III, Robert Daniel Fram, Covington & Burling LLP, Redwood Shores, CA, Matthew James Hawkinson, Covington & Burling LLP, San Francisco, CA, Amanda Aline Abraham, The Roth Law Firm, Brendan Clay Roth, Carl R. Roth, Law Office of Carl R. Roth, Marshall, TX, for Plaintiff.

David J. Beck, Michael Ernest Richardson, Beck Redden & Secrest, Houston, TX, Eric D. Levin,Hinckley Allen & Snyder LLP, Jonathan Andron, Stephen M. Muller, Wayne L. Stoner, Wyley S. Proctor, Wilmer Cutler Pickering Hale & Dorr, Lana Gladstein, Michael T. Renaud, Pepper Hamilton LLP, Boston, MA, Jeffrey S. Gleason, Timothy Robert Jezek, Wilmer, Cutler Pickering Hale & Dorr LLP, Los Angeles, CA, for Defendant.

SECOND ORDER ON AGREED CLAIM TERMS

RON CLARK**, District Judge.**

Plaintiff Ariba, Inc. filed suit against Defendant Emptoris, Inc. claiming infringement of United States Patent Nos. 6,216,114 ("the '114 patent") and 6,499,018 ("the '018 patent"). These patents relate to methods and apparatuses for conducting electronic auctions.

The court previously issued a Markman Order [Doc. # 145] and Order on Agreed Claim Terms [Doc. # 147]. Now, the court further supplements those two orders and provides the definitions of additional terms that the parties previously agreed to in their Joint Claim Construction Chart. 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. "first overtime interval." Used in '114 patent**, claims 69 and 82.**

means: "a predetermined time period during which a bid can trigger overtime."

2. "overtime." Used in '114 patent**, claims 31, 69 and 82.**

means: "a period of extra time for bidding."
3. "closing time." Used in '114 patent**, claims 31, 69 and 82.**

means: "the time that the bidding is scheduled to end."
4. "within a predefined number ordinal rank of position of best bid." Used in '114 patent**, claim 39.**

means: "no farther in ordinal rank from the current best bid than a number determined prior to the auction."

II. Conclusion

The jury shall be instructed in accordance with the court's interpretations of the agreed claim terms in the '114 patent.

So **ORDERED.**

E.D.Tex.,2008.
Ariba, Inc. v. Emptoris, Inc.

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