

United States District Court,
N.D. Georgia, Atlanta Division.

DATASCAPE, INC., a Georgia Corporation,
Plaintiff.

v.
SPRINT NEXTEL CORPORATION a Kansas Corporatio,
SPRINT NEXTEL CORPORATION a Kansas Corporation.
Sprint Spectrum,
L.P. a Delaware Limited Partnership.

and

Sprint Solutions, Inc. a Delaware Corporation,
Defendants.

Civil Action File No. 1:07-CV-0640-CC

Aug. 6, 2008.

A. James Anderson, J. Scott Culpepper, Stephen Robert Risley, Heidi Hudson Raschke, Robins Kaplan Miller & Ciresi, Atlanta, GA, William J. Rocha, Robins Kaplan Miller & Ciresi, LLP, Boston, MA, for Plaintiff.

Franklin E. Gibbs, Jason B. Witten, Jennifer L. Ishimoto, Richard F. Cauley, Erick P. Wolf, Wang, Hartmann, Gibbs & Cauley, P.C., Newport Beach, CA, Jessica Neyman, King & Spalding, LLP, Atlanta, GA, for Defendants.

DEMAND FOR JURY TRIAL

ORDER

CLARENCE COOPER, District Judge.

Pursuant to the Stipulation of the parties and good cause appearing therefore, IT IS ORDERED that, for the purposes of this litigation, each claim term in the '476 patent which the parties submitted to the Special Master for construction in the parties' Patent Local Rule 6.3 Joint Claim Construction Statement shall have the same construction as that term was given in Special Master Peterson's May 7, 2008 Report and Recommendation on Claim Construction in the *Datascape, Inc. v. UTStarcom, Inc.* case, Case No. 1:05-CV-3164-CC, except to the extent such definition may be inconsistent with (1) this Court's Rule 53 ruling(s) that may be made with respect to any term in the *Datascape, Inc. v. UTStarcom, Inc.* case; or (2)

any decision of the Federal Circuit or the United States Supreme Court with respect to this Court's Rule 53 ruling(s). in which event the ruling of this Court, the Federal Circuit or the Supreme Court shall dictate the construction(s) used in the present case pending resolution of any appropriate appeal thereof.

IT IS FURTHER ORDERED that, if the *Datascape, Inc. v. UTStarcom, Inc.* case is settled (1) after this Court's claim construction ruling; and (2) prior to a ruling on such claim construction by the Federal Circuit, both Defendants and Datascape shall retain the right-in this action-to appeal this Court's claim construction rulings with respect to any terms originally proposed for construction in this case.

IT IS SO ORDERED.

N.D.Ga.,2008.

Datascape, Inc. v. Sprint Nextel Corp.

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