

United States District Court,  
S.D. California.

**HEWLETT-PACKARD DEVELOPMENT COMPANY, L.P.,**  
Plaintiff.

v.

**GATEWAY, INC,**  
Defendant.

**Gateway, Inc,**  
Counterclaim-Plaintiff.

v.

**Hewlett-Packard Development Company, L.P., Hewlett-Packard Company and Compaq Information Technologies Group, L.P,**  
Counterclaim-Defendants.

Civil No. 04CV0613-B(LSP)

**Oct. 5, 2005.**

John Allcock, DLA Piper US, San Diego, CA, for Plaintiff/Counterclaim-Defendants.

Darryl J. Adams, Dean M. Munyon, James D. Smith, Wayne Harding, Dewey Ballantine, W. Bryan Farney, Dechert LLP, Austin, TX, Jonathan D. Baker, Dechert LLP, Mountain View, CA, for Defendant/Counterclaim-Plaintiff.

**CLAIM CONSTRUCTION ORDER FOR UNITED STATES PATENT NUMBER 6,426,871**

**RUDI M. BREWSTER, District Judge.**

Pursuant to *Markman v. Westview Instruments, Inc.*, 517 U.S. 370 (1996), on August 23-25, 2005, the Court conducted a Markman hearing in the above-titled patent infringement action regarding construction of the disputed claim terms for U.S. Patent Number 6,426,871 ("the '871 patent"). Plaintiff Hewlett-Packard Development Company, L.P. ("HP") was represented by the law firm of DLA Piper Rudnick Gray Cary U.S. LLP, and Defendant Gateway, Inc. ("Gateway") was represented by the law firm Dewey Ballantine LLP.

At the Markman hearing, the Court, with the assistance of the parties, analyzed the claim terms in order to prepare jury instructions interpreting the pertinent claims at issue in the '871 patent. Additionally, the Court prepared a case glossary for terms found in the claims and the specification for the '871 patent considered to be technical in nature which a jury of laypersons might not understand clearly without specific definition.

After careful consideration of the parties' arguments and the applicable statutes and case law, the Court **HEREBY CONSTRUES** the claims in dispute in the '871 patent and **ISSUES** the relevant jury instructions

as written in Exhibit A, attached hereto. Further, the Court **HEREBY DEFINES** all pertinent technical terms as written in Exhibit B, attached hereto.

**IT IS SO ORDERED.**

**EXHIBIT A**

**UNITED STATES PATENT NUMBER 6,426,871-CLAIM CHART**

<b>VERBATIM CLAIM LANGUAGE</b>	<b>COURT'S CONSTRUCTION</b>
<b>Claim 1</b>	
A notebook computer, comprising:	A notebook computer, comprising:
a computer housing with a generally rectangular configuration, including a top side, a bottom, a front side and a rear side, and sidewalls extending from the front side to the rear side with a substantially uniform height;	a computer housing with a generally rectangular configuration, including a top <b>side</b> [ <i>a surface of the computer housing</i> ], a bottom, a front side and a rear side, and sidewalls extending from the front side to the rear side with a <b>substantially uniform height</b> [ <i>substantially uniform height throughout, from the front side to the rear side</i> ];
a keyboard assembly mounted in the top side of said computer housing;	a <b>keyboard assembly</b> [ <i>all the components necessary to Junction as a keyboard</i> ] mounted in the top side of said computer housing;
a lid including a display mounted therein, said lid being rotatably attached to the top side of said computer housing near the rear side, and covering substantially the entire top side of said housing when closed;	a lid including a display mounted therein, said lid being <b>rotatably</b> [ <i>capable of being rotated about an axis</i> ] attached to the top side of said computer housing near the rear side, and covering substantially the entire top side of said housing when closed;
a motherboard, including component chips mounted thereon, attached to the bottom of said computer housing, and wherein at least a portion of said motherboard is positioned underneath the keyboard assembly to define a region bounded on the upper and lower side by the keyboard assembly and the motherboard;	a motherboard, including component chips mounted thereon, attached to the bottom of said computer housing, and wherein at least a portion of said motherboard is positioned <b>underneath</b> [ <i>directly beneath</i> ] the <b>keyboard assembly</b> to define a <b>region bounded on the upper and lower side by the keyboard assembly and the motherboard</b> [ <i>the space enclosed by the area of overlap between the keyboard assembly on the upper side and the motherboard on the lower side</i> ];
a hard disk drive positioned in said housing in an area outside of said region, and toward the front side of said housing; and	a hard disk drive <b>positioned in said housing</b> [ <i>included within the housing</i> ] in an area <b>outside of said region, and toward the front side of said housing</b> [ <i>the front portion of the housing, co-planar to (the bottom surfaces are on the same plane) and on the front side of the motherboard</i> ]; and
an input pointing device positioned in said housing in an area outside of said region, and toward the front side of said housing.	an input pointing device <b>positioned in said housing</b> in an area <b>outside of said region, and toward the front side of said housing.</b>
<b>Claim 4</b>	
A notebook computer as in claim I, further comprising a battery located in a battery housing, separate from said computer housing, said battery housing attaching to	A notebook computer as in claim 1, further comprising a battery located in a battery housing, separate from said computer housing, said battery housing attaching to said computer housing along the rear side of said computer housing.

said computer housing along the rear side of <i>said computer housing</i> .	
<b>Claim 5</b>	
A notebook computer as in claim 4, wherein said battery housing is capable of accommodating multiple batteries.	A notebook computer as in claim 4, wherein said battery housing is capable of accommodating multiple batteries.
<b>Claim 10</b>	
A notebook computer as in claim 1, wherein said notebook computer has a thickness not substantially greater than one inch when said lid is closed.	A notebook computer as in claim 1, wherein said notebook computer has a thickness not substantially greater than one inch when said lid is closed.
<b>Claim 12</b>	
An ultra-thin notebook computer, comprising:	An ultra-thin notebook computer, comprising:
a computer housing including a top side, a bottom, a front side, rear side, and sidewalls extending from the front side to the rear side with a substantially uniform height;	a computer housing including a top side, a bottom, a front side, rear side, and sidewalls extending from the front side to the rear side with a <b>substantially uniform height</b> ;
a lid, including a display, rotatably attached to the top side of said computer housing near the rear side, said lid covering substantially the entire top side of said housing when closed;	a lid, including a display, <b>rotatably</b> attached to the top side of said computer housing near the rear side, said lid covering substantially the entire top side of said housing when closed;
a keyboard assembly mounted in the top side of said computer housing;	a <b>keyboard assembly</b> mounted in the top side of said computer housing;
a motherboard, including component chips mounted thereon, mechanically coupled to the bottom of said computer housing and mounted completely within said computer housing, and wherein said motherboard is positioned beneath the keyboard assembly to define a region bounded by the keyboard assembly and the motherboard;	a motherboard, including component chips mounted thereon, mechanically coupled to the bottom of said computer housing and mounted completely within said computer housing, and wherein said motherboard is positioned beneath the <b>keyboard assembly</b> to define a region bounded by the <b>keyboard assembly</b> and the motherboard;
a hard disk drive positioned in said housing outside of said region, and in an area on the front side of said housing relative to said region; and	a hard disk drive <b>positioned in said housing</b> outside of said region, and in an area on the front side of said housing relative to said region; and
an input pointing device positioned in said housing in an area outside of said region, and toward the front side of said housing.	an input pointing device <b>positioned in said housing</b> in an area <b>outside of said region, and toward the front side of said housing</b> .
<b>Claim 20</b>	
A notebook computer, comprising:	A notebook computer, comprising:
a computer housing including a top side, a bottom, a front side and a rear side, and sidewalls extending from the front side to the rear side with a substantially uniform height;	a computer housing including a top side, a bottom, a front side and a rear side, and sidewalls extending from the front side to the rear side with a <b>substantially uniform height</b> ;

a lid, including a display, rotatably attached to the top side of said computer housing near the rear side, said lid covering substantially the entire top side of said housing when closed;	a lid, including a display, <b>rotatably</b> attached to the top side of said computer housing near the rear side, said lid covering substantially the entire top side of said housing when closed;
a keyboard assembly mounted in the top side of said computer housing;	a <b>keyboard assembly</b> mounted in the top side of said computer housing;
a motherboard, including component chips mounted thereon, attached to the bottom of said computer housing, and wherein said motherboard is positioned beneath the keyboard assembly to define a region bounded by the keyboard assembly and the motherboard;	a motherboard, including component chips mounted thereon, attached to the bottom of said computer housing, and wherein said motherboard is positioned beneath the <b>keyboard assembly</b> to define a region bounded by the <b>keyboard assembly</b> and the motherboard;
a drive bay positioned in said housing in an area outside of said region; and	a <b>drive bay</b> [ <i>an area of reserved space in a personal computer where drives (e.g., hard drive, floppy disk drive, DVD drive, CD drive) can be installed</i> ] <b>positioned in said housing</b> in an area outside of said region; and
an input pointing device positioned in said housing in an area outside of said region, toward the front side of said housing.	an input pointing device <b>positioned in said housing</b> in an area outside of said region, toward the front side of said housing.
<b>Claim 21</b>	
A method of manufacturing a portable computer to minimize the thickness of the portable computer, comprising the following acts, performed in any order:	A method of manufacturing a portable computer to minimize the thickness of the portable computer, comprising the following acts, performed in any order:
configuring a computer housing to include a top side, a bottom side, a front side and a rear side, with sidewalls extending from the front side to the rear side with a substantially uniform height;	configuring a computer housing to include a top side, a bottom side, a front side and a rear side, with sidewalls extending from the front side to the rear side with a <b>substantially uniform height</b> ;
attaching a lid to the top side of the computer housing near the rear side, said lid including a display that rotates to a closed position to cover substantially the entire top side of said computer housing;	attaching a lid to the top side of the computer housing near the rear side, said lid including a display that rotates to a closed position to cover substantially the entire top side of said computer housing;
mounting a motherboard, with circuitry mounted thereon, within the computer housing near the bottom side;	mounting a motherboard, with circuitry mounted thereon, within the computer housing near the bottom side;
mounting a keyboard in an aperture in the top side of the computer housing, thereby defining a region bounded on the upper side by the keyboard and on the bottom side by the motherboard; and	mounting a keyboard in an aperture in the top side of the computer housing, thereby defining a region bounded on the upper side by the keyboard and on the bottom side by the motherboard; and
arranging all drive bays outside of said region to thereby minimize the distance between the keyboard and the motherboard.	arranging all <b>drive bays</b> outside of said region to thereby minimize the distance between the keyboard and the motherboard.

<b>Claim 22</b>	
A method as in claim 21, further comprising the act of positioning an input pointing device outside of said region to thereby minimize the distance between the keyboard and the motherboard.	A method as in claim 21, further comprising the act of positioning an input pointing device outside of said region to thereby minimize the distance between the keyboard and the motherboard.
<b>Claim 23</b>	
A method of designing a portable computer to minimize the height of the portable computer, comprising the comprising the [sic] following acts, performed in any order:	A method of designing a portable computer to minimize the height of the portable computer, comprising the comprising the [sic] following acts, performed in any order:
configuring a computer housing to include a top side, a bottom side, a front side and a rear side, with sidewalls extending from the front side to the rear side with a substantially uniform height;	configuring a computer housing to include a top side, a bottom side, a front side and a rear side, with sidewalls extending from the front side to the rear side with a <b>substantially uniform height;</b>
attaching a lid to the top side of the computer housing near the rear side, said lid including a display that rotates to a closed positioned [sic] to cover substantially the entire top side of said computer housing;	attaching a lid to the top side of the computer housing near the rear side, said lid including a display that rotates to a closed positioned [sic] to cover substantially the entire top side of said computer housing;
positioning a motherboard, with circuitry mounted thereon, within the computer housing near the bottom side;	positioning a motherboard, with circuitry mounted thereon, within the computer housing near the bottom side;
placing a keyboard in an aperture in the top side of the computer housing, thereby defining a region bounded on the upper side by the keyboard and on the bottom side by the motherboard; and	placing a keyboard in an aperture in the top side of the computer housing, thereby defining a region bounded on the upper side by the keyboard and on the bottom side by the motherboard; and
arranging all drive bays outside of said region to thereby minimize the distance between the keyboard and the motherboard.	arranging all <b>drive bays</b> outside of said region to thereby minimize the distance between the keyboard and the motherboard.
<b>Claim 24</b>	
A method as in claim 23, further comprising the act of arranging an input pointing device outside of said region to thereby minimize the distance between the keyboard and the motherboard.	A method as in claim 23, further comprising the act of arranging an input pointing device outside of said region to thereby minimize the distance between the keyboard and the motherboard.
<b>Claim 25</b>	
A method as in claim 24, wherein the input pointing device is positioned on the top side of the computer housing, toward the front side of said region.	A method as in claim 24, wherein the input pointing device is positioned on the top side of the computer housing, toward the front side of said region.

**EXHIBIT B**

**GLOSSARY OF TERMS**

***TERM***

**drive bay**

**keyboard assembly**

**outside of said region, and toward the front side of said housing**

**positioned in said housing**

**region bounded on the upper and lower side by the keyboard assembly and the motherboard**

**rotatably**

**side**

**substantially uniform' height**

**underneath**

***DEFINITION***

An area of reserved space in a personal computer where drives (e.g. hard drive, floppy drive, DVD drive, CD drive) can be installed

All the components necessary to function as a keyboard

The front portion of the housing, co-planar to (the bottom surfaces are on the same plane) and on the front side of the motherboard

Included within the housing

The space enclosed by the area of overlap between the keyboard assembly on the upper side and the motherboard on the lower side

Capable of being rotated about an axis

A surface of the computer housing

Substantially uniform height throughout, from the front side to the rear side

directly beneath

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