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. 24, 2005.

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.

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

CLAIM CONSTRUCTION ORDER FOR UNITED STATES PATENT NUMBER 5,257,387

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

Pursuant to Markman v. Westview Instruments, Inc., 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996), on August 15-18, 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 5,257,387 ("the '387 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 '387 patent. Additionally, the Court prepared a case glossary for terms found in the claims and the specification for the '387 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 '387 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 5,257,387-***CLAIM CHART***

VERBATIM CLAIM LANGUAGE	***COURT'S CLAIM CONSTRUCTION***
Claim 1	
For use with a computer system that provides for circuit boards to be interchangeably inserted in a plurality of system slot locations, with the circuit boards having the capability to be configured to utilize one or more common computer resources, the common computer resources comprising slot locations, interrupt request lines, direct memory access channels, input/output port addresses and memory address ranges, a method for dynamically and automatically configuring the computer system and the circuit boards without user intervention comprising the computer implemented steps of:	For use with a computer system that provides for *circuit boards* [*pieces of insulating material on which electrical components are mounted and interconnected to form circuits*] to be interchangeably inserted in a *plurality of system slot locations* [*at least two positions where circuit boards can be inserted into a computer system*], with the circuit boards having the capability to be configured to utilize one or more *common computer resources* [*resources including, at least, slot locations, interrupt request lines, direct memory access channels, input/output port addresses, and memory address ranges*], the common computer resources comprising slot locations, *interrupt request* [*a signal or other input requesting that the currently executing process be suspended to permit performance of another process*] lines, *direct memory access* [*access to data by which data is transferred directly between main memory and devices that can store data*] channels, input/output port addresses and *memory address* [*an address of a particular storage location in memory*] ranges, a method for *dynamically* [*pertaining to an event or process that occurs during computer operation when necessary*] and automatically *configuring* [*setting up a device so that it operates in a particular way*] the computer system and the circuit boards without user intervention comprising the computer implemented steps of:
determining based upon a configuration of each of said circuit boards the common computer resources capable of being utilized by the circuit boards to be installed in the computer system;	**determining based upon a configuration of each of said circuit boards the common computer resources capable of being utilized by the circuit boards to be *installed*** [*the process of activating the inserted circuit board after configuration for operation*] **in the computer system** [*means prior to the circuit boards being installed in the computer system, determining based on the configuration information of each of the circuit boards the common computer resources capable of being utilized by those circuit boards*];
allocating the common computer resources to be utilized by the circuit boards based on said determination of the common computer resources capable of being utilized by the circuit boards to be installed in the computer system;	**allocating the common computer resources to be utilized by the circuit boards based on said determination of the common computer resources capable of being utilized by the circuit boards to be installed in the computer system** [*means prior to the circuit boards being installed in the computer system, allocating the common computer resources to be utilized by the circuit boards, based on the determination of the resources capable of being utilized by each of those circuit boards*];

detecting conflicts as to the common computer resources allocated to the circuit boards to be installed in the computer system;	**detecting conflicts as to the common computer resources allocated to the circuit boards to be installed in the computer system** [*means prior to the circuit boards being installed in the computer system, detecting conflicts as to the common computer resources allocated to the circuit boards*];
resolving conflicts as to the common computer resources to be utilized by the circuit boards to be installed in the computer system and re-allocating the common computer resources based upon said resolution of said common computer resource conflicts; and	**resolving conflicts as to the common computer resources to be utilized by the circuit boards to be installed in the computer system and re-allocating the common computer resources based upon said resolution of said common computer resource conflicts** [*means prior to the circuit boards being installed in the computer system, resolving conflicts as to the common computer resources to be utilized by the circuit boards and re-allocating the common computer resources, based upon said resolution of said common computer resource conflicts*]; and
storing configuration information as part of a system configuration for each of the circuit boards and the computer system based on said allocation of the common computer resources to be utilized by the circuit boards.	**storing configuration information as part of a system configuration for each of the circuit boards and the computer system** [*means prior to the circuit boards being installed in the computer system, storing configuration information as part of a system configuration for each of the circuit boards and the computer system*] based on said allocation of the common computer resources to be utilized by the circuit boards.
Claim 2	
The method of claim 1, further including the computer implemented step of determining values for initializing selected circuit board operational features and storing the circuit board and the computer system configuration information based on said initialization values .	The method of claim 1, further including the computer implemented step of determining values for initializing selected circuit board operational features and storing the circuit board and the computer system configuration information based on said initialization values.
Claim 4	
The method of claim 1, wherein the computer implemented step of determining the common computer resources capable of being utilized by the circuit boards to be installed in the computer system includes the computer implemented steps of:	The method of claim 1, wherein the computer implemented step of determining the common computer resources capable of being utilized by the circuit boards to be installed in the computer system includes the computer implemented steps of:
identifying the circuit boards to be installed in the computer system; and	**identifying the circuit boards to be installed in the computer system** [*means prior to the circuit boards being installed in the computer system, identifying the circuit boards*]; and
obtaining information on the common computer resources	obtaining information on the common computer resources capable of being utilized by said identified circuit boards from a source of configuration

capable of being utilized by said identified circuit boards from a source of configuration information.	information.
Claim 8	
The method of claim 4, wherein the computer implemented step of determining the common computer resources capable of being utilized by the circuit boards to be installed in the computer system includes the computer reading said circuit board configuration information from a battery-powered CMOS random access memory.	The method of claim 4, wherein the computer implemented step of determining the common computer resources capable of being utilized by the circuit boards to be installed in the computer system includes the computer reading said circuit board configuration information from a battery-powered CMOS random access memory
Claim 32	
The method of claim 1, further including the computer implemented step of system displaying the common computer resources allocated to the circuit boards to be installed in the computer system.	The method of claim 1, further including the computer implemented step of **system displaying the common computer resources allocated to the circuit boards to be installed in the computer system** [*means prior to the circuit boards being installed in the computer system, the computer system displays the common computer resources allocated those circuit boards*].
Claim 33	
An apparatus for dynamically and automatically configuring a computer system without user intervention that provides for circuit boards to be interchangeably inserted in a plurality of computer system slot locations, with the circuit boards having the capability to be configured to utilize one or more common computer resources, the common computer resources comprising slot locations, interrupt request lines, direct memory access channels, input/output port addresses and memory address ranges, comprising:	An apparatus for dynamically and automatically configuring a computer system without user intervention that provides for circuit boards to be interchangeably inserted in a plurality of computer system slot locations, with the circuit boards having the capability to be configured to utilize one or more common computer resources, the common computer resources comprising slot locations, interrupt request lines, direct memory access channels, input/output port addresses and memory address ranges, comprising:
means for determining based upon a configuration of each of said circuit boards the common computer resources	**means for determining based upon a configuration of each of said circuit boards the common computer resources capable of being utilized by the circuit boards to be installed in the computer system;**

capable of being utilized by the circuit boards to be installed in the computer system;	**Means-plus-function claim:** The function of this limitation is: *prior to the circuit boards being installed in the computer system, determining based on the configuration information of each of the circuit boards the common computer resources capable of being utilized by those circuit boards.*
	The structure disclosed to perform this function is: *the computer system executing blocks **1006, 1008-1014, 1016, 1018,** and **1020-1022** of the MAIN module **1000** as shown in figs. 9A and 9B, and the PROCESS subroutine **1100** of figs. 10A and 10B, as described in col. 22, l. 44-col 23, l. 54; col. 24, l. 50-col. 25, l. 2; col. 28, l. 38-col. 29, l. 24, col 30, l. 5-col. 31, l.5.*
means for allocating the common computer resources capable of being utilized by the circuit boards to be installed in the computer system based on said determination of the common computer resources capable of being utilized by the circuit boards;	**means for allocating the common computer resources capable of being utilized by the circuit boards to be installed in the computer system based on said determination of the common computer resources capable of being utilized by the circuit boards;**
	Means-plus-function claim. The function of this limitation is: *prior to the circuit boards being installed in the computer system, allocating the common computer resources capable of being utilized by the circuit boards, based on the determination of the resources capable of being utilized by the circuit boards.*
	The structure disclosed to perform this function is: *the computer system executing blocks **1202** and **1219** of the AllOCATE module 1200 as shown in fig. 11 and described in col. 31, ll. 41-48 and col. 32, ll. 14-17.*
means for detecting conflicts as to the common computer resources allocated to the circuit boards to be installed in the computer system;	**means for detecting conflicts as to the common computer resources allocated to the circuit boards to be installed in the computer system;**
	Means-plus-function claim: The function of this limitation is: *prior to the circuit boards being installed in the computer system, detecting conflicts as to the common computer resources allocated to the circuit boards.*
	The structure disclosed to perform this function is: *the computer system executing block **1204** of the ALLOCATE module **1200** as shown in fig. 11 and described in col. 31, ll. 48-53.*
means for resolving said conflicts as to the common computer resources allocated	**means for resolving said conflicts as to the common computer resources allocated to the circuit boards to be installed in the computer system and re-allocating the common computer resources to**

to the circuit boards to be installed in the computer system and re-allocating the common computer resources to the circuit boards based upon said resolution of said common computer resource conflicts; and	**the circuit boards** based upon said resolution of said common computer resource conflicts; and
	Means-plus-function claim: The function of this limitation is: *prior to the circuit boards being installed in the computer system, resolving conflicts as to the common computer resources to be utilized by the circuit boards and re-allocating the common computer resources, based upon the resolution of the common computer resource conflicts.*
	The structure disclosed to perform this function is: *the computer system executing blocks **1208, 1210, 1215, 1217, 1218, 1220-1226** of the ALLOCATE module **1200** and the BACKTRACK module **1300** as shown in figs. 11 and 12 and described in col. 25, l. 20-col. 28, l. 27; col 31, ll. 56-60; col. 32, ll. 2-27; col. 32, l. 33-col. 34, l. 43.*
means for storing configuration information as part of a system configuration for each of the circuit boards to be installed in the computer system based on said allocation of the common computer resources.	**means for storing configuration information as part of a system configuration for each of the circuit boards to be installed in the computer system** based on said allocation of the common computer resources.
Means-plus-function claim:	The function of this limitation is: *prior to the circuit boards being installed in the computer system, storing configuration information as part of a system configuration for each of the circuit boards in the computer system.* The structure disclosed to perform this function is: *the computer system executing steps **1040-1046** of fig. 9B as described in col. 29, ll. 56-66.*

EXHIBIT B

GLOSSARY OF TERMS

TERM	*DEFINITION*
circuit boards	pieces of insulating material on which electrical components are mounted and interconnected to form circuits
common computer resources	resources including, at least, slot locations, interrupt request lines, direct memory access channels, input/output port addresses, and memory address ranges
configuring	setting up a device so that it operates in a particular way
direct memory access	access to data by which data is transferred directly between main memory and devices that can store data
dynamically	pertaining to an event or process that occurs during computer operation when necessary
installed	the process of activating the inserted circuit board after configuration for operation

interrupt request	a signal or other input requesting that the currently executing process be suspended to permit performance of another process
memory address	an address of a particular storage location in memory
plurality of system slot locations	at least two positions where circuit boards can be inserted into a computer system

S.D.Cal.,2005.
Hewlett-Packard Development Co., L.P. v. Gateway, Inc.