

United States District Court,
S.D. California.

LUCENT TECHNOLOGIES, INC,
Plaintiff.

v.

GATEWAY, INC and Gateway Country Stores LLC; and, Microsoft Corporation; and, Dell, Inc,
Defendants.

Civil Nos. 02CV2060-B(WMc), 03CV0699-B(WMc), 03CV1108-B(WMc)

Nov. 16, 2005.

Alan S. Kellman, James T. Bailey, Jeanne M. Heffernan, John M. Desmarais, Maxine Y. Graham, Robert A. Appleby, Steven Lever, Todd M. Friedman, Anne Hassett, Kirkland and Ellis, New York, NY, David A. Hahn, David A. Hahn, Attorney at Law, San Diego, CA, for Plaintiff.

Ali R. Sharifahmadian, Joseph A. Micallef, Arnold and Porter, Joel M. Freed, McDermott Will and Emery, Washington, DC, James S. Blackburn, Arnold and Porter, Los Angeles, CA, for Defendants.

ORDER CONSTRUING CLAIMS FOR UNITED STATES PATENT NUMBER 4,439,759

RUDI M. BREWSTER, District Judge.

Before the Court is the matter of claims construction for U.S. Patent Number 4,439,759 ("the '759 Patent") in the above titled cases for patent infringement. FN1 Pursuant to *Markman v. Westview Instruments, Inc.*, 517 U.S. 370 (1996), the Court conducted a Markman hearing regarding construction of the disputed claim terms for the '759 Patent on July 6 and 7, 2005. Plaintiff Lucent Technologies, Inc. ("Lucent") was represented by the Kirkland & Ellis law firm, Defendant Gateway Inc. ("Gateway") was represented by the Dewey Ballantine law firm, Defendant Microsoft Corporation ("Microsoft") was represented by the law firm of Fish and Richardson and Defendant Dell, Inc. ("Dell") was represented by the Arnold and Porter law firm.

FN1. Lucent originally filed two separate patent infringement actions, one against Defendant Gateway (02CV2060), and a second against Defendant Dell (03CV1108). Microsoft intervened in the action filed by Lucent against Gateway, Microsoft also filed a declaratory judgment action against Lucent (03CV0699) and Lucent filed counterclaims for patent infringement against Microsoft in that action. On July 7, 2003, the Court entered an order consolidating these three cases. There are a total of 15 different patents involved in these three cases collectively.

The purpose of the Markman hearing was for the Court, with the assistance of the parties, to prepare jury instructions interpreting the pertinent claims for all claim terms at issue in the '759 Patent. Additionally, the

Court and the parties prepared a "case glossary" for terms found in the claims and the specification for the '759 Patent, considered to be technical in nature and which a jury of laypersons would not understand clearly without specific definition. As the case advances, the parties may request additional terms to be added to the glossary to further facilitate the jury's understanding of the disputed claims.

After careful consideration of the parties' arguments and the applicable statutes and case law, the Court **HEREBY CONSTRUES** all claim terms in dispute in the '759 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 FN2

FN2. All terms appearing in bold face type and underlined have been construed by the court and appear with their definitions in the glossary in Exhibit B. The definition for each construed term appears in italics after its first use in the patent.

UNITED STATES PATENT NUMBER 4,439,759

VERBATIM CLAIM LANGUAGE	COURT'S CLAIM CONSTRUCTION
CLAIM 1	CLAIM 1
In a digital image display system:	In a digital image <i>display system</i> [<i>hardware and software, needed to achieve a visible representation of information in a data-processing system</i>]:
a memory for storing color data values;	a <i>memory</i> [<i>a color map that stores a table of color data values indexed by numbers</i>] for storing <i>color data values</i> [<i>color components of a particular color (such as the red, green and blue (RGB) color components)</i>];

processing means responsive to a predetermined command and data sequence comprising at least one command, the processing means decoding the predetermined command and data sequence, the predetermined command and data sequence selecting one of a plurality of modes of access to color data values, the modes comprising

processing means responsive to a ***predetermined command and data sequence*** [*a command and data pattern having a known encoded meaning*] ***comprising*** [*including, but not limited to*] at least one command, the processing means ***decoding*** [*interpreting*] the predetermined command and data sequence, the predetermined command and data sequence selecting one of a plurality of ***modes of access*** to [*manners of retrieving*] color data values, the modes comprising

"Processing Means"

Function:

The function of this element is decoding the predetermined command and data sequence, the predetermined command and data sequence selecting one of a plurality of modes of access to color data values

Structure:

	Data processor 1 programmed to perform the algorithm of boxes 301, 302, and 303 of Figure 3 and boxes 401, 402, 403, 404, 405, 407, 408, and 411 of Figure 4 (<i>See</i> , Col.5, line 60-Col.6, line 19, Col.6, lines 20-23 (except for "and for setting foreground and background in-use colors for two of these modes"), lines 24-29, 29-32 (except for "and the background and foreground color"), lines 33-43).
a first mode of access wherein an in-use foreground color is directly specified as a color data value;	a first <i>mode of access</i> [<i>manner of retrieving</i>] wherein an <i>in-use foreground color</i> [<i>a color that will be used as the foreground color for subsequently received text and graphics drawing commands until changed</i>] is directly <i>specified as</i> [<i>called for by</i>] a <i>color data value</i> ;
a second mode of access wherein the in-use foreground color is specified as an index into the color memory; and	a second <i>mode of access</i> wherein the <i>in-use foreground color</i> is <i>specified as</i> an index into the <i>color memory</i> [<i>a color map that stores a table of color data values indexed by numbers</i>]; and
a third mode of access wherein the in-use foreground color and an in-use background color are specified as indexes into the color memory; and	a third <i>mode of access</i> wherein the <i>in-use foreground color</i> and an <i>in-use background color</i> [<i>a color that will be used as the background color for subsequently received text and graphics drawing commands until changed</i>] are <i>specified as</i> indexes into the <i>color memory</i> ; and

display means responsive to the processing means, the display means displaying the colors associated with the color data values accessed by the selected mode.

display means responsive to the processing means, the display means displaying the colors associated with the ***color data values*** accessed by the selected mode.

"Display means"

Function:

The function of this element is displaying the colors associated with the color data values accessed by the selected mode

Structures:

- (1) monitor;
- (2) television set;
- (3) video projection system;
- (4) a liquid crystal display; or

	(5) an LED display (<i>See e.g.</i> , Col. 4, lines 50-55).
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CLAIM 2

A digital image display system comprising:
a color memory for storing color data values;

processing means responsive to predetermined command and data sequences, the processing means, responsive to a first command, selecting a mode of access to the color memory; and

CLAIM 2

A digital image ***display system*** comprising:

a ***color memory*** for storing ***color data values***;

processing means responsive to ***predetermined command and data sequences***, the processing means, responsive to a first command, selecting a ***mode of access*** to the ***color memory***; and responsive to a second command, ***setting*** [*storing*] a ***color data value*** in the ***color memory***; and

responsive to a second command, setting a color data value in the color memory; and

"Processing means"

Function:

The function of this element is:

- (a) selecting a mode of access to the color memory; and
- (b) setting a color data value in the color memory.

Structure:

(a) structure for selecting a mode of access to the color memory is:

Data processor 1 programmed to perform the algorithm shown in Fig. 3: boxes 301-303; Fig. 4: boxes 401-405, 407, 408, and 411 (*See*, Col.5, line 60-Col.6, line 19, Col.6, lines 20-23 (except for "and for setting foreground and background in-use colors for two of these modes"), lines 24-29, 29-32 (except for "and the background and foreground color"), and lines 33-43));

(b) structure for setting a color data value in the color memory is:

	Data processor 1 programmed to perform the algorithm shown in Fig. 5: boxes 501, 504, 506, 508, and 510 (<i>See</i> , Col. 7, lines 14-17 (except for "or (2) in color mode 0, for setting"), Col. 7, lines 53-64 (except for "The sequence of boxes 504, 506, 508, and 510 is")).
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display means responsive to the processing means, the display means displaying a color associated with the color data value accessed by the selected mode.

display means responsive to the processing means, the display means displaying a color associated with the *color data value* accessed by the selected mode.

"Display means"

Function:

The function of this element is displaying the colors associated with the color data values accessed by the selected mode

Structures:

- (1) monitor;
- (2) television set;
- (3) video projection system;
- (4) a liquid crystal display; or

	(5) an LED display (<i>See e.g.</i> , Col. 4, lines 50-55).
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CLAIM 3

A display system as recited in claim 2, wherein the processing means responsive

CLAIM 3

A *idisplay system* as recited in claim 2, wherein the processing means responsive to a second command *sets* plural *color data*

to a second command sets plural color data values in color memory.

values in *color memory*.

"Processing means":

Function:

The function of this element is sets plural color data values in color memory.

Structure:

	Data processor 1 programmed to perform the algorithm of Fig. 5, Boxes 501, 504, 506, 508 and 510 and the line exiting box 510 (<i>See</i> Col. 7 Lns. 14-17 [except for "or (2) in color mode 0, for setting"], Col. 7, Lns. 53-65).
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CLAIM 4

In a video image display system having a color memory, a method for displaying a color image in a terminal independent manner responsive to commands and data received from a command and data source, the method comprising the steps of:

receiving commands and data from the command and data source;

reading a first command for selecting a mode of access to the color memory, and responsive to data following the first command, selecting the mode of access to the color memory;

reading a second command for setting color data values in the color memory and, responsive to data following the second command, setting the color data values in the color memory,

reading a third command for accessing color data values in the color memory, and displaying a color image associated with the color data values accessed by the third command on a video display terminal.

CLAIM 4

In a video image *display system* having a *color memory*, a method for displaying a color image in a *terminal independent manner* [*meaning that terminals having varying color capabilities are able to receive common input information and each terminal provides a color display that within its capabilities most closely matches that input information*] responsive to commands and data received from a command and data source, the method comprising the steps of:

receiving commands and data from the command and data source;

reading a first command for selecting a *mode of access* to the *color memory*, and *responsive to data following the first command* [*taking some action based on the data following the first command*], selecting the *mode of access* to the *color memory*;

reading a second command for setting *color data values* in the *color memory* and, *responsive to data following the second command* [*taking some action based on the data following the second command*], *setting* the *color data values* in the *color memory*.

reading a third command for *accessing* [*retrieving*] *color data values* in the *color memory*, and displaying a color image associated with the *color data values accessed* [*retrieved*] by the third command on a video display terminal.

EXHIBIT B

GLOSSARY FOR UNITED STATES PATENT NUMBER 4,439,759

TERM	DEFINITION
color data value	color component of a particular color (such as the red, green and blue (RGB) color components)
color memory	a color map that stores a table of color data values indexed by numbers

comprising	including, but not limited to
decoding	interpreting
display system	hardware and software needed to achieve a visible representation of information in a data-processing system
in-use background color	a color that will be used as the background color for subsequently received text and graphics drawing commands until changed
in-use foreground color	a color that will be used as the foreground color for subsequently received text and graphics drawing commands until changed
memory	a color map that stores a table of color data values indexed by numbers
mode of access	manner of retrieving
predetermined command and data sequence	a command and data pattern having a known encoded meaning
responsive to data following the first command	taking some action based on the data following the first command
setting	storing
specified as	called for by
terminal independent manner	meaning that terminals having varying color capabilities are able to receive common input information and each terminal provides a color display that within its capabilities most closely matches that input information

S.D.Cal.,2005.

Lucent Technologies v. Gateway, Inc.

Produced by Sans Paper, LLC.