

Keywords: anticipation; broadest reasonable interpretation; claim construction; wireless

General: A broadest reasonable interpretation of a claim term must be consistent with the plain meaning of the term or with the specification.

In re Imes

Nos. 2014-1206 (Fed. Cir. 2015)

Decided January 29, 2015

I. Facts

Kevin Imes filed U.S. Patent Application No. 09/874,423 (“the ’423 application”), directed towards a device for communicating digital camera image and video information over a network. Independent claim 1 recites *a first wireless communication module and a second wireless communication module*. During prosecution of Mr. Imes’ application, the Examiner rejected claim 1-5 as being obvious over a combination of U.S. Patent Nos. 6,762,791 (“Schuetzle”), 6,223,190 (“Aihara”), and 7,173,651 (“Knowles”). The Examiner relied on Schuetzle as disclosing a second wireless communication module, referring to removable media card 35 as being “wireless” because “no wire is utilized” in its removal from the camera 30 and insertion into the computer 20.

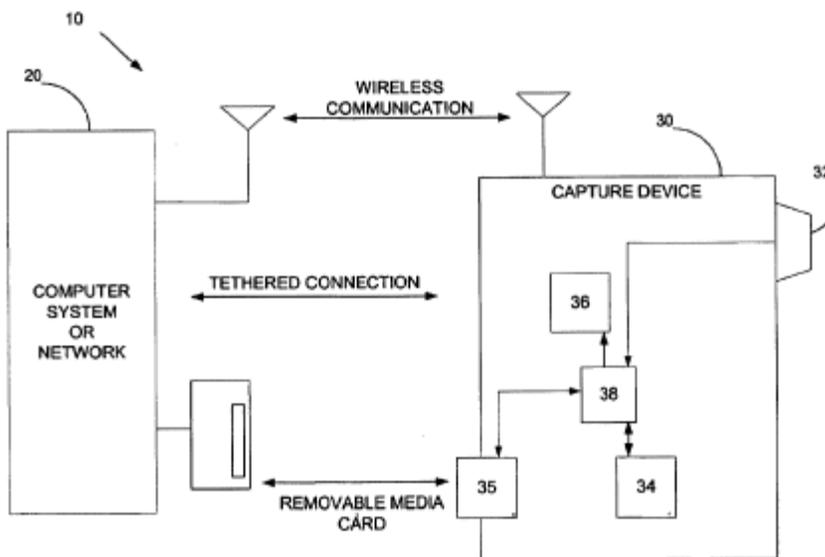


FIGURE 1

The Examiner also rejected claims 34-42 and 43-47 over Knowles or Knowles and U.S. Patent No. 7,372,485 (Bodnar). Independent claims 34 and 43 both recite a “communications module...operable to wirelessly communicate *streaming video* to a destination.” Knowles discloses a camera system that allows a user to take multiple still images that are individually transmitted to a server, when then transmits the individual images over email. The Examiner argued that “[a] continuous process of sending images is the equivalent of streaming video.” The Examiner also noted that a cited device, a Sony Vaio C1 Picturebook, disclosed sending video clips over email.

The Patent Trial and Appeals Board (the “Board”) affirmed the Examiner’s rejections over the art. Mr. Imes appealed the Board’s decision to the Federal Circuit.

II. Issues

1. Did the Board err in construing the term “wireless” to encompass a removable media card?
2. Did the Board err in construing the term “streaming video” to include emailed still images or video clips?

III. Discussion

1. Yes. The Federal Circuit found the Board’s interpretation of “wireless” as including communication along metal contacts of a removable memory card to be unreasonably broad. When considering the obviousness rejection of claims 1-5, the Federal Circuit reviewed the construction of the term “wireless” *de novo*, noting that that Board’s construction of this term was inconsistent with the broadest reasonable interpretation in view of the specification.

The construction of “wireless” is straightforward. The ’423 application expressly and unambiguously defines wireless: “[w]ireless refers to a communications, monitoring, or control system[] in which electromagnetic or acoustic waves carry a signal through atmospheric space rather than along a wire.” ’423 application.

Here, the Federal Circuit turned to the specification for guidance for the term “wireless,” noting that the definition included carrying a signal through atmospheric space. The Federal Circuit also noted that the use of the term “wireless” was consistent with a definition including carrying waves through atmospheric space throughout the specification of the ’423 application. When the Schuetzle removable media card was considered under the Federal Circuit’s construction of “wireless,” the Federal Circuit found that the metal contacts of a removable memory card do not carry a signal through atmospheric space using electromagnetic or acoustic waves, and thus, a removable memory card is not a wireless communication module under the broadest reasonable interpretation of that term in view of the specification.

2. Yes. The Federal Circuit found the Board’s interpretation of “streaming video” as including emailed still images or video clips to be unreasonably broad. The Federal Circuit’s analysis included a statement that the Board erred in its factual conclusion regarding the scope of

Knowles' disclosure, which was reviewed under a substantial evidence standard. The Federal Circuit also noted that "[s]ending a series of e-mails with attached still images is not the same as streaming video. Such a construction is unreasonable as it comports with neither the plain meaning of the term nor the specification." The Federal Circuit found that the specification of the '423 application distinguished between still images and video, as did the cited art. The Federal Circuit found such disclosure to be evidence that the plain meanings of "image" and "video" are not the same, and that the Knowles disclosure did not include any "streaming video." Similarly, the Sony Vaio device, which is capable of sending emailed video clips, does not disclose any "streaming video."

IV. Conclusion

The Federal Circuit maintained that a claim term should be given its broadest reasonable interpretation that is consistent with the specification and the plain meaning of the term.