

Claim Construction Chart

Disputed Claim Language	Plaintiff's Construction	Defendants' Construction	Special Master's Recommendation	Court's Construction
<p>“multitasking” (of the 575 patent claim 1)</p>	<p><i>“The function that is performed by the various hardware included the claim (sic)....For the ‘575 patent (the ‘read/read’ patent), this entails, among other things, simultaneously coordinating the reading of information from two compact discs....For the ‘799 patent (‘the read/write’ patent) this entails, among other things, simultaneously controlling the reading and writing of compact disc information.”</i>(citation and footnote omitted)</p> <p>“Moreover, ‘multitasking’ encompasses more than the running of several <i>software</i> programs at the same time. Defendants’ ‘software’ construction ignores the scores of references to audio in both patents.”</p> <p><b>(Plaintiff’s Memorandum in Opposition to Noninfringement Motion; Tab 2 at 11-12)</b></p>	<p>“One of ordinary skill in the art would understand the ‘multitasking function’ as used in the ‘575 Read/Read Patent and the ‘799 Read/Write Patent to mean:</p> <p style="padding-left: 40px;">the execution or launching of separate or several software programs simultaneously from two or more optical drives.”</p> <p><b>(Defendants’ Memorandum in Support of Noninfringement Motion; Tab 1 at 15)</b></p>	<p>This term should be construed as a required element of claim 1 of the 575 patent, and should be construed in accordance with its stated definition at 3:23-27 of the 575 patent, to require the launching or execution of software from an optical disc as at least one of the multiple tasks performed in combination with some other task.</p> <p><b>(Report and Recommendation of the Special Master at 8-15)</b></p>	

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2	<p><b>“data transmitting means”</b> (of the 575 patent claim 1)</p>	<p>“The recited function in this means-plus-function claim element is ‘transmitting a plurality of information of sets (sic) and does not involve the host computer. The host computer is simply the destination of the information sets that are being transmitted.’”</p> <p><b>(Plaintiff’s Memorandum in Opposition to Noninfringement Motion; Tab 2 at 15)</b></p> <p>“The proper construction of the ‘data transmitting means’ thus involves identifying the components that perform the transmitting function. Those components are:</p> <p><i>a high-speed control bus, ITDM (intelligent time-division multiplexer), wide-band host interface bus, and ROM/RAM (read only memory and random access memory).”</i></p>	<p>“the functional limitation in Claim 1(e) should be construed to require: Transmitting of software programs from optical discs to a CPU which controls the operation of the optical discs from which the software programs are launched or executed.”</p> <p><b>(Defendants’ Memorandum in Support of Noninfringement Motion; Tab 1 at 17)</b></p> <p>“the claimed transmitting function is referring to taking data from at least two optical discs and transmitting it in an interleaved (i.e., multiplexed) fashion along a bus to the host computer. The data transmitting means (<i>see</i> 35 U.S.C. §112, ¶(6) is a system control bus, ITDM (intelligent time-division multiplexer), host interface bus, ROM/RAM (read only memory and random access memory) and host computer. SMF</p>	<p>This term should be construed to cover hardware capable of handling converted digital data that includes at least a high-speed system control bus, an ITDM, a wide-band host interface bus, and ROM/RAM (read only memory and random access memory), and structural equivalents to such hardware.</p> <p>Though “host computer” is not construed as a structural element, as an intended application or destination, it is recommended that its presence in the claims be construed to require that the structure of the data transmitting means be capable of handling converted digital data.</p> <p><b>(Report and Recommendation of the Special Master at 15-18)</b></p>	
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		<p><b>(Plaintiff's Memorandum in Opposition to Noninfringement Motion; Tab 2 at 15)</b></p> <p>The construction of 'host computer' is: <i>A microprocessor plus common adjuncts and associated circuitry, including (and depending on the context), digital-to-analog converters, housing, interface circuitry, video circuit, and/or keyboard.</i>"</p> <p><b>(Plaintiff's Memorandum in Opposition to Noninfringement Motion; Tab 2 at 13-14)</b></p> <p>Though reciting in its Briefing that "[t]he invention claimed by the</p>	<p>¶67. The host computer is a CPU designed to execute or launch software programs from the optical discs and which, among other things, ultimately controls the operation of the optical disc drives from which the software programs are read. SMF ¶69."</p> <p><b>(Defendants' Memorandum in Support of Invalidity Motion; Tab 3 at 13)</b></p> <p>The host computer is: "a CPU designed to execute or launch software programs from optical discs and which, among other things, controls the operation of the optical disk drives from which software programs are read."</p> <p><b>(Defendants' Memorandum in Support of Noninfringement Motion; Tab 1 at 17)</b></p> <p>"Since ['multitasking'] was added to the preamble to overcome the cited art ..., it</p>		
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		<p>‘575 paradigm claim is an apparatus that is able to perform a ‘multitasking’ function” (Tab 2 at 2), at the October 2, 2007 hearing, Plaintiff urged that “the preamble is not a claim limitation”. (Tab 7 at 40-42)</p>	<p>is a claim limitation.” <b>(Defendants’ Memorandum in Support of Noninfringement Motion; Tab 1 at 14)</b></p>		
3	<p><b>“a plurality of signal-process systems for converting a plurality of information sets retrieved by said plurality of optical read heads from a compact disc format to the original state of the information”</b> (of the 575 patent claim 1)</p>	<p>At least two processors in parallel are needed in order to perform a required error detection and correction function.</p> <p><b>(Plaintiff’s Memorandum in Opposition to Invalidity Motion; Tab 4 at 9)</b></p>	<p>“the phrase ‘plurality of signal-process systems’ does not contain the term ‘means and, therefore, is by law presumptively <i>not</i> a means-plus-function limitation.... Indeed, the term ‘system is a structure connoting term....When a structure-connoting term is coupled with a description of the structure-connoting terms’ operation (here the operation is ‘for converting’) sufficient structural meaning will be conveyed to persons of ordinary skill in the art, and §112 ¶6 will not apply....Thus, the term ‘plurality of signal-process systems for converting’ describes sufficient structural meaning to a person of ordinary skill in</p>	<p>This term should be construed to include more than one signal-process system that does not merely convert data, but includes the associated functions necessary to convert the data from the state it is detected by the optical read heads (namely, from a format by which pits are formed on a coated polymer disc, such that the presence or absence of the pits can be detected by a laser of the optical read heads) and ready it for transmission to a host computer, including error correction.</p> <p><b>(Report and Recommendation of the Special Master at 19-22)</b></p>	

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		<p>“One of ordinary skill in the art would understand ‘compact disc format’ to mean information in standard compact disc format, including CD-ROM or CD-Digital Audio formats. (P’s App. Ex. 1, ¶24). Likewise, one of ordinary skill in the art would understand ‘original state of the information’ to mean data in a form apart from any compact disc-compliant processing, such as the music, or, in the case of digital audio information, the digital words corresponding to the recorded music/table of contents. (<i>Id.</i>, at</p>	<p>the art and, thus, should not be construed as a means-plus-function limitation, or otherwise be limited to the specific hardware embodiments depicted or described in Figure 7 of the patent or elsewhere”.</p> <p><b>(Defendants’ Reply to Opposition re Invalidity; Tab 5 at 2-3)</b></p> <p>“one of ordinary skill in the art would understand the phrase ‘a compact disc format’ to refer to any format that can be used with an optical disc, which encompasses the format used by magneto-optical systems (which, in many cases share formats used on compact disc systems). <i>See, e.g.</i>, Jackson Decl. Tab J, ex. 45 at A501.”</p> <p><b>(Defendants’ Reply to Opposition re Invalidity; Tab 5 at 5)</b></p>		
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		¶25).(footnote omitted)” <b>(Plaintiff’s Memorandum in Opposition to Invalidity Motion; Tab 4 at 11-12)</b>			
4	<b>“means for simultaneously controlling”</b> (of the 799 patent claim 4)	<i>“One or more control units configured to simultaneously coordinate the operation and movement of the optical units and operation of the decoding and encoding of information functions.”</i>  <b>(Plaintiff’s Memorandum in Opposition to Noninfringement Motion; Tab 2 at 17)</b>	“A microprocessor, system control bus, ITDM (intelligent time division multiplexer), host interface bus, ROM/RAM (read only memory and random access memory), local processing control systems containing local control units having an MPU and ROM/RAM and a host computer.” <b>(Defendants’ Memorandum in Support of Noninfringement Motion; Tab 1 at 19)</b>	This term should be construed to require a combination of a system control unit that includes a microprocessor with both ROM, RAM and SRAM, with local control units (each containing a microprocessor, ROM and RAM), and structural equivalents that perform the function of “simultaneously controlling said plurality of head units, said at least one decoding unit and said at least one encoding unit to process information in multitasking”. <b>(Report and Recommendation of the Special Master at 22-27)</b>	
5	<b>“multitasking”</b> (of the 799 patent claim 4) <sup>1</sup>	<i>“The function that is performed by the various hardware included the</i>	“One of ordinary skill in the art would understand the ‘multitasking function’	This term should be construed to require the launching or execution of	

<sup>1</sup> See also, Hearing transcript **(Tab 7 at 42-43)**, which reads:

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		<p><i>claim (sic)</i>....For the ‘575 patent (the ‘read/read’ patent), this entails, among other things, simultaneously coordinating the reading of information from two compact discs....For the ‘799 patent (‘the read/write’ patent) this entails, among other things, simultaneously controlling the reading and writing of compact disc information.”</p> <p>“Moreover, ‘multitasking encompasses more than the running of several <i>software</i> programs at the same time.”</p> <p><b>(Plaintiff’s Memorandum in Opposition to Noninfringement Motion;</b></p>	<p>as used in the ‘575 Read/Read Patent and the ‘799 Read/Write Patent to mean:</p> <p>the execution or launching of separate or several software programs simultaneously from two or more optical drives.”</p> <p><b>(Defendants’ Memorandum in Support of Noninfringement Motion; Tab 1 at 15)</b></p>	<p>software from an optical disc as at least one of the multiple tasks performed in combination with some other task.</p> <p><b>(Report and Recommendation of the Special Master at 8-15 and 28-30)</b></p>	
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**MR. DOBRUSIN:** Mr. Lo Cicero stated that you believe there is no dispute at multitasking in the ‘575 patent; the definition of the construction of that term is the same in the ‘799 patent. Is that the position of the Plaintiff?

**MR. BASTA:** Well, we’re defining it the same for both patents in terms of describing what the, what the hardware –

**MR. DOBRUSIN:** So whatever construction is adopted for multitasking –

**MR. BASTA:** In one would apply, would apply to both.

**MR. DOBRUSIN:** Okay.

**MR. BASTA:** Right.

**MR. DOBRUSIN:** And I assume that is what the position of the Defendants is as well?

**MR. LO CICERO:** Yes, sir.

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6	<p><b>“optical head means”</b> (of the 799 patent claim 4)</p>	<p><b>Tab 2 at 11-12)</b></p> <p>“One of ordinary skill in the art would understand this recited function to mean reading and writing of digital information. (P’s App. Ex. 1, ¶38). The ‘799 patent specification describes structure which equates to components that read and write <i>using light and optics only</i>.”</p> <p><b>(Plaintiff’s Memorandum in Opposition to Invalidation Motion; Tab 4 at 13)</b></p>	<p>“elements for interacting with optical discs”</p> <p><b>(Defendants’ Memorandum in Support of Invalidation Motion; Tab 3 at 15)</b></p> <p>Does not cover optical heads that “read and write <i>using light and optics only</i>.”</p> <p><b>Defendants’ Reply to Opposition re Invalidation; Tab 5 at 6; Defendants’ Request for Clarification; Tab 6 at 2-3)</b></p> <p>Optical head means must be construed to include a head with a magnetic impulse generator from the second embodiment of the patent:</p> <p>“In the ‘799 patent, two embodiments in the specification correspond to the claimed function of interacting with a disc surface, and the clause must be construed to embrace those optical head means of the second embodiment [Fig. 10 and ‘799 Patent at</p>	<p>This term should be construed to cover an optical head device that interacts with a disc surface by writing and reading from the disc using light, optics (lenses, prisms and waveplates) and photosensors, and structural equivalents that perform such interacting function. This construction does not necessarily require that the optical head means both read <i>and</i> write to discs using <i>only</i> light and optics.</p> <p><b>(Report and Recommendation of the Special Master at 30-31; and Clarification of Report and Recommendation of the Special Master)</b></p>	
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			<p>12:22-51], <i>i.e.</i>, optical head means capable of interacting with magneto-optical discs by (i) reading from the disc using light, optics (lenses, prisms and waveplates) and photosensors, and (ii) writing to the disc using light, optics (lenses, prisms and waveplates) and photosensors, alone or in combination with magnetic impulses, and structural equivalents that perform such interacting functions. <i>Micro Chem.</i>, 194 F.3d at 1258.”</p> <p><b>Defendants’ Request for Clarification; Tab 6 at 5)</b></p>		
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