

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MIRROR WORLDS, LLC

Plaintiff

vs.

APPLE, INC.

Defendant

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CASE NO. 6:08-CV-88

MEMORANDUM OPINION AND ORDER

Having reviewed Apple’s Motion Regarding Independent Claims 8, 16, and 32 of the ’427 Patent and Independent Claim 9 of the ’313 Patent (Docket No. 350) and Mirror Worlds LLC’s Brief Regarding Whether All of Mirror Worlds’ Claims Require a “Stream” (Docket No. 354), the Court **DENIES** Apple’s Motion and holds that independent claims 8, 16, and 32 of the 6,725,427 (the “’427 patent”) and independent claim 9 of the 6,638,313 (the “’313 patent”) do not require a “stream” limitation.

At the August 26, 2010 pretrial conference, the parties disputed whether all of Mirror Worlds’ asserted claims include a “stream” limitation; therefore, the Court requested further briefing to address this issue.

Apple argues that independent claims 8, 16, and 32 of the ’427 patent and independent claim 9 of the ’313 patent should be construed to include a “stream” limitation. Apple contends the ’427 and ’313 patents are directed solely to the “stream” concept, citing the criticism in the specification of conventional operating systems. Apple also argues that the construction of the claims implies the “stream” limitation, and that one of ordinary skill in the art would read in this limitation.

Mirror Worlds contends the claims should not be construed to require the “stream” limitation. Mirror Worlds maintains the claims do not recite a “stream” and importing this limitation is impermissible. In support of its argument, Mirror Worlds compares the various claims of the ’427 and ’313 patents, asserting they were intentionally drafted to exclude the “stream” limitation.

Based on the Court’s review of the claim language, the specification, prosecution history, and the parties’ arguments, independent claims 8, 16, and 32 of the ’427 patent and independent claim 9 of the ’313 patent do not include the “stream” limitation. The claims themselves do not use the word “stream,” and the specification does not demonstrate a clear intention to limit the claim’s scope. *See Abbott Labs. v. Sandoz, Inc.* 566 F.3d 1282, 1288 (Fed. Cir. 2009). Although the “stream” limitation is highlighted in the specification as a benefit, it is not itself a limitation. *See i4i Ltd. P’ship v. Microsoft Corp.*, 598 F.3d 831, 843 (Fed.Cir. 2010). Accordingly, the Court will not import the “stream” limitation into independent claims 8, 16, and 32 of the ’427 patent and independent claim 9 of the ’313 patent.

So ORDERED and SIGNED this 16th day of September, 2010.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**