

Salazar v. AT&T Mobility LLC No. 21-2320 (Fed. Cir. Apr. 5, 2023)

Article By:

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This case addresses the construction of the articles “a” and “said” in relation to subsequently recited functions and whether “a” can be restricted to be singular in its meaning.

Background

Mr. Salazar appealed from the district court’s claim construction and subsequent finding of non-infringement. AT&T cross-appealed on the issue of validity. The claim construction dispute centered around the terms “a microprocessor” and “said microprocessor” capable of “creating,” “retrieving” and “generating.” The district court construed the terms to mean “one or more microprocessors, at least one of which is configured to perform the generating, creating, [and] retrieving [] functions.” After trial, AT&T filed for JML on the issues of infringement, damages, and preclusion. The jury found no infringement and that the patent was valid and the district court entered the jury’s verdict.

Issue(s)

Whether the District Court erred in applying principles of claim construction to the terms “a microprocessor” and “said microprocessor”?

Holding(s)

The District Court correctly construed the terms “a microprocessor” and “said microprocessor” to mean “one or more microprocessors, at least one of which is configured to perform the generating, creating, retrieving, and generating functions.”

Reasoning

The definite article “a” generally “means ‘one or more’ in open ended claims containing the transitional phrase ‘comprising.’” In addition, “use of the term ‘said’ indicates that this portion of the claim limitation is a reference back to the previously claimed term. Additionally, the use of “said” to refer back to the same claim term adopts the grammatical number (plural or singular) of the original claim term.

The Federal Circuit reasoned based on prior precedent that claim construction of this type must take into consideration subsequent references to the initial noun in order to determine whether the claim requires one item performing all recited functions or any one of multiple items performing any one of multiple functions as long as all functions are performed. For example, in *Varma*, the court reasoned that “a statistical analysis request corresponding to two or more selected investments” is “claim language that introduces a claim element using an indefinite article and further defines the element with subsequently recited functionality, a structure that effectively requires the element be capable of performing all the recited functionality.” *In re Varma*, 816 F.3d 1352, 1362-63 (Fed. Cir. 2016). The Court noted in *Varma*, “[f]or a dog owner to have ‘a dog that rolls over and fetches sticks,’ it does not suffice that he have two dogs, each able to perform just one of the tasks.” 816 F.3d at 1363. Thus, a microprocessor, where said microprocessor is capable of performing certain functions, unless otherwise indicated by the specification, claims, or prosecution history, means one or more microprocessors, at least one of which can perform all recited functions.

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