

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

**SMARTPHONE TECHNOLOGIES
LLC,**

Plaintiff,

vs.

**RESEARCH IN MOTION
CORPORATION, et al.,**

Defendants.

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NO. 6:10cv74 LED-JDL

PATENT CASE

**SMARTPHONE TECHNOLOGIES
LLC,**

Plaintiff,

vs.

HTC CORPORATION, et al.,

Defendants.

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NO. 6:10cv580 LED-JDL

PATENT CASE

ORDER

This provisional claim construction Order sets forth the Court’s initial construction for the disputed claim terms in U.S. Patent Nos. 7,076,275 (“the ‘275 patent”); 7,506,064 (“the ‘064 patent”); 7,533,342 (“the ‘342 patent”); 7,693,949 (“the ‘949 patent”); RE40,459 (“the ‘459 patent”); and 6,950,645 (“the ‘645 patent”). The Court will issue a Memorandum Opinion and Order, including a full analysis of the disputed claim terms, at a later date. The Court may modify this provisional construction when it issues the Memorandum Opinion and Order. This Order is intended to serve as a guideline and framework with which the parties may proceed at an earlier point in the litigation.

BACKGROUND

Plaintiff Smartphone Technologies LLC (“SmartPhone”) alleges that Defendants¹ infringe the patents-in-suit. The parties have presented their claim construction positions (Doc. Nos. 362, 369 & 371 in Civil Action No. 6:10cv74 and Doc. Nos. 172, 184 & 193 in Civil Action No. 6:10cv580).² On March 6, 2012, the Court held a joint claim construction hearing.³

DISCUSSION

I. The ‘459 Patent

a. “the form including one or more fields”⁴

Plaintiff’s Construction	Defendants’ Construction
the form comprising a data structure with at least one field for user input	an electronic page displayed with at least one field name and value attribute for user input

The provisional construction of “the form including one or more fields” is “the form comprising a data structure with at least one field for user input.”

b. “access the set of data from the memory to render a form for the selected network site”⁵

¹ Defendants in Civil Action No. 6:10cv74 are LG Electronics, Inc.; LG Electronics USA, Inc.; Apple, Inc.; AT&T Inc.; and AT&T Mobility LLC. HTC Corporation; HTC America, Inc.; Sony Ericsson Mobile Communications AB; and Sony Ericsson Mobile Communications (USA), Inc. make up Defendants in Civil Action No. 6:10cv580.

² Briefing is identical in both cases.

³ Smartphone alleges infringement of the ‘275 patent, the ‘064 patent, the ‘342 patent, the ‘949 patent, the ‘459 patent, and the ‘645 patent in both Civil Action No. 6:10cv74 and 6:10cv580. The Court held a claim construction hearing specifically to address the common patents between the two actions.

⁴ This term is contained in claim 1 of the ‘459 patent.

⁵ This term is contained in claim 1 of the ‘459 patent.

Plaintiff's Construction	Defendants' Construction
Plain and ordinary meaning, no construction necessary. Alternatively, if construed: display a form for the selected network site using the set of data stored in the memory	displaying a form for a specific website generated entirely from the set of data stored in memory

The Court concludes that to “access the set of data from the memory to render a form for the selected network site” means to “use the set of data stored in the memory to display a form for the selected network site.”

- c. **“the wireless communication comprising the form with the user-input being associated with the one or more fields”⁶**

Plaintiff's Construction	Defendants' Construction
Plain and ordinary meaning, no construction necessary. Alternatively, if construed: the wireless communication including the form with the user-input and the association of the user-input with the one or more fields	the wireless communication comprising the rendered form, the user-input, and the association of the user-input with one or more fields

The Court concludes that no construction is necessary. However, the wireless communication does not comprise the rendered form, but rather the part of the form with user-inputted information.

⁶ This term is contained in claim 1 of the '459 patent.

II. The ‘275 Patent

a. “a background task executed by said processor”⁷

Plaintiff’s Construction	Defendants’ Construction
a background task of said operating system of said device executed by said processor	a single thread that is not displayed on the graphical user interface and that runs independent of the operating system

The construction for “a background task executed by said processor” is “a background task of said operating system of said device executed by said processor.”

b. “always active”⁸

Plaintiff’s Construction	Defendants’ Construction
active when said telephony functionality is enabled	always monitoring for incoming phone calls and always capable of detecting incoming phone calls, notifying the operating system of incoming phone calls and notifying the user of incoming phone calls

The Court provisionally finds that “always active” means “active when said telephony functionality is enabled.”

c. “irrespective of the user’s activity on said device without terminating said application”⁹

Plaintiff’s Construction	Defendants’ Construction
Plain and ordinary meaning, no construction necessary	without regard to the user’s operation on the device and without interrupting or affecting

⁷ This term is contained in claim 1 of the ‘275 patent.

⁸ This term is contained in claim 1 of the ‘275 patent.

⁹ This term is contained in claim 1 of the ‘275 patent.

	the application the user is interfacing with
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The Court finds that no construction is necessary for the term “irrespective of the user’s activity on said device without terminating said application.”

d. “said background task interfacing directly with the telephony functionality of said device”¹⁰

Plaintiff’s Construction	Defendants’ Construction
Plain and ordinary meaning, no construction necessary	the referenced background task communicating directly with the telephony chipset through a port

The Court finds that the jury will readily understand the plain and ordinary meaning of the term “said background task interfacing directly with the telephony functionality of said device.” Therefore, no construction is necessary.

III. The ‘645 Patent

a. Bluetooth Limitation

Many of Defendants’ proposals attempt to insert a Bluetooth limitation. The Court concludes that the ‘645 patent is not limited to Bluetooth embodiments.

b. “discoverable mode”¹¹

Plaintiff’s Construction	Defendants’ Construction
a mode in which a device is responsive to broadcast wireless signals from initiator devices	a Bluetooth mode in which a responder device scans for and responds to all inquiry messages

¹⁰ This term is contained in claim 1 of the ‘275 patent.

¹¹ This term is contained in claims 18 and 19 of the ‘645 patent.

The Court concludes that “discoverable mode” is “a mode in which the responder device scans for, and responds to, broadcast wireless signals from initiator devices.”

c. “standby mode”¹²

Plaintiff’s Construction	Defendants’ Construction
Plain and ordinary meaning, no construction necessary. Alternatively, if construed: a power-conserving mode	a mode in which the responder device is powered off and its transceiver remains connectable and not discoverable

No construction is necessary for the term “standby mode.”

d. “automatically setting”¹³

Plaintiff’s Construction	Defendants’ Construction
Plain and ordinary meaning, no construction necessary	selecting a mode in response to the occurrence of a condition without user discretion or intervention

The Court finds that “automatically setting,” is easily understood in accordance with its plain and ordinary meaning. Therefore, the Court finds that no construction is necessary.

e. “non-discoverable mode”¹⁴

Plaintiff’s Construction	Defendants’ Construction
a mode in which a device is not responsive to broadcast wireless signals from initiator devices	a Bluetooth mode in which a responder device does not scan for and does not respond to inquiry messages

¹² This term is contained in claim 18 of the ‘645 patent.

¹³ This term is contained in claim 18 of the ‘645 patent.

¹⁴ This term is contained in claim 18 of the ‘645 patent.

The Court provisionally construes “non-discoverable mode” as “a mode in which the responder device does not scan for, and does not respond to, broadcast wireless signals from initiator devices.”

f. “connectable mode”¹⁵

Plaintiff’s Construction	Defendants’ Construction
a mode in which a device is responsive to directed wireless signals from initiator devices	a Bluetooth mode in which a responder device scans for and responds to page messages

“Connectable mode” is “a mode in which the responder device scans for, and responds to, directed wireless signals from initiator devices.”

g. “initiator device”¹⁶

Plaintiff’s Construction	Defendants’ Construction
Plain and ordinary meaning, no construction necessary. Alternatively, if construed: a device capable of sending broadcast wireless signals and directed wireless signals	a device that discovers responder devices and connects with previously-discovered responder devices

The Court finds that an “initiator device” is “a device capable of sending broadcast wireless signals and directed wireless signals.”

¹⁵ This term is contained in claim 18 of the ‘645 patent.

¹⁶ This term is contained in claims 18, 19 and 20 of the ‘645 patent.

IV. The ‘949 Patent

a. “the application program shielded from details of the transport mechanism”¹⁷

Term	Plaintiff’s Construction	Defendants’ Construction
the application program is shielded from details of the transport mechanism	No construction necessary see below	the application does not know anything about the actual method that is used to transmit the message
is shielded from	need not specify	construed in the context above

To address the claim scope dispute among the parties, the Court need only address the term “is shielded from.” The Court defines “is shielded from” as “need not know anything about.”

b. “exchange manager program”¹⁸

Plaintiff’s Construction	Defendants’ Construction
a program that allows other applications to transmit or receive messages in different formats	a program for transparently selecting one of multiple communication methods for exporting a message from the portable device

The Court finds that the term requires no construction.

c. “library of transport mechanisms”¹⁹

Plaintiff’s Construction	Defendants’ Construction
Plain and ordinary meaning, no construction necessary	a collection of communication methods for exporting a message that are accessible to the exchange manager through a library API (application programming interface)

¹⁷ This term is contained in claim 1 of the ‘949 patent.

¹⁸ This term is contained in claim 1 of the ‘949 patent.

¹⁹ This term is contained in claim 1 of the ‘949 patent.

The Court finds that the jury will comprehend the plain and ordinary meaning of the term “library.” Therefore, no construction is needed.

V. The ‘342 Patent

a. “call initiation button”²⁰

Plaintiff’s Construction	Defendants’ Construction
Plain and ordinary meaning, no construction needed	the same button that always initiates a call to the last number called or the received digits

The Court finds the term may be understood according to its plain and ordinary meaning, and further, the claim language already describes a “call initiation button.” Accordingly, the Court finds that no construction is necessary.

b. “[thereby] suspending non-phone functions”²¹

Plaintiff’s Construction	Defendants’ Construction
temporarily stopping a current application without ending or canceling it	upon pressing the call initiation button, suspending all non-phone functions during the call

The Court provisionally construes “[thereby] suspending non-phone functions” as “temporarily stopping non-phone functions without ending or canceling them.”

c. “a speak button replaces the mute button”²²

Plaintiff’s Construction	Defendants’ Construction
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²⁰ This term is contained in claims 1 and 6 of the ‘342 patent.

²¹ This term is contained in claims 1 and 6 of the ‘342 patent.

²² This term is contained in claim 6 of the ‘342 patent.

a button that activates the microphone on the device replaces a button that deactivates the microphone on the device	a button marked with speak replaces a button marked with mute
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The Court declines to construe “a speak button replaces the mute button” in its entirety. Rather, it is more appropriate, in light of the claim scope dispute, to construe “mute button,” “speak button,” and “replaces” separately. The Court finds that a “mute button” is “a button that deactivates a microphone on the device.” Further, a “speak button” is “a button that activates the microphone on the device.” Finally, because the scope of the word “replaces” does not seem to be at issue, “replaces” shall be understood by its plain and ordinary meaning.

VI. The ‘064 Patent

a. Order of Method Steps

Defendants request the Court to find that the steps disclosed in Claim 17 must be performed in the order claimed.²³ The claim language dictates that step e follow step c. ‘064 patent at 16:43 (“e) if said step c) fails . . .”). However, the claim language does not dictate that the other steps be performed in any particular order.²⁴

b. “network link”²⁵

Plaintiff’s Construction	Defendants’ Construction
specific network connection the electronic system is configured to support	a particular network connection, not including a point-to-point link or link interface, with a

²³ Defendants also seek a ruling that the method steps disclosed in the ‘459 and ‘949 patents must be performed in the order claimed. RESPONSE AT 17, n.16.

²⁴ In addition, the Court finds that the method steps recited in the ‘459 and ‘949 patents are not required to be executed in the order they are written.

²⁵ This term is contained in claim 17 of the ‘064 patent.

	specific protocol and connection type
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The Court concludes that a “network link” is a “specific network connection the electronic system is configured to support.”

c. “diverse types of connection”²⁶

Plaintiff’s Construction	Defendants’ Construction
wired or wireless connections	both wired and wireless connections

The term “diverse types of connection” means “wired or wireless connections.”

d. “associating one or more alternative network link designations with one or more said network links based upon a priority order assigned by the user”²⁷

Plaintiff’s Construction	Defendants’ Construction
Plain and ordinary meaning, no construction necessary	the user designating a sequential list of one or more alternative network links for each of one or more network links

The Court finds that no construction is necessary because the term may be understood by its plain and ordinary meaning.

e. “attempting to initiate [a] . . . network link”²⁸

Plaintiff’s Construction	Defendants’ Construction
Plain and ordinary meaning, no construction necessary	sending a signal external to the system to initiate a network link

The plain and ordinary meaning of the term is clear. Therefore, the Court finds that no

²⁶ This term is contained in claim 17 of the ‘064 patent.

²⁷ This term is contained in claim 17 of the ‘064 patent.

²⁸ This term is contained in claim 17 of the ‘064 patent.

construction is necessary for “attempting to initiate [a] . . . network link.”

CONCLUSION

The Court sets forth the foregoing construction on a provisional basis. The Court may modify this provisional construction when a full Memorandum Opinion and Order on the disputed claim construction terms is issued.

So ORDERED and SIGNED this 24th day of May, 2012.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE