

FEDERAL CIRCUIT PATENT LAW CASE UPDATE

Irdeeto Access, Inc. v. Echostar Satellite Corp., 04-1154 (Fed. Cir. Sept. 14, 2004) (Michel, J.)

Finding no error in the claim construction, the court affirmed the district court’s summary judgment that Echostar did not infringe Irdeto’s patent covering digital broadcast cryptographic access control technology. The applicant admitted that the claim terms at issue had no meaning within the art, and referred the examiner to the specification as completely describing the terms. This supported a narrow construction of the word “group.” A group must be a subset of all subscribers, and the accused infringing system did not use groups.

Irdeto owns U.S. Pat. No. 4,531,020, relating to broadcast cryptography.

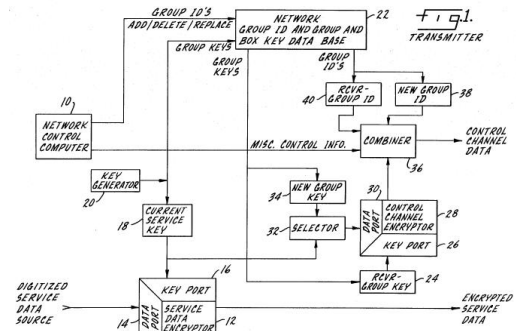
[The patent is] directed to a system for controlling the broadcast of digital information signals by using three layers or tiers of complementary encryption and decryption keys -- “service keys,” “group keys,” and “box keys.”

The claimed system enabled content control for individual or subscriber groups. It claims methods to distribute encryption keys to users, and claims how to apply such keys in the context of a broadcast system with “permanent box enciphering keys.” There was also a product claim for the system.

During prosecution the PTO rejected the claims under § 112 and obviousness. Irdeto responded by agreeing with the examiner that the modifying words “service,” “group” and “box” for a key had no accepted meaning, but that it had acted as a lexicographer by fully describing them in the specification. For obviousness, Irdeto emphasized that the prior art did not have three tiers of complimentary encryption, and could not create new groups within an existing subscriber base.

The accused system was EchoStar's DISH network. It used a "control word" that is frequently updated to all subscribers via an encrypted message. The DISH system had no grouping capability for delivery of new control words to a subset of subscribers.

Based on the patent applicant's representation to the PTO that the "key" modifiers -- lacking an accepted meaning within the art -- are "very adequately described in the specification," the [district] court held that "the term 'group' must be defined as it is in the specification, even if the ordinary meaning of group might be broader." . . . The district court determined that the specification consistently uses the



term “group” to refer to fewer than all subscribers.

The court explained that there was no “heavy presumption” of ordinary meaning when a term has no art-specific meaning. Absent an accepted meaning, courts should “construe a claim term only as broadly as provided for by the patent itself.” Moreover, art specific meanings given in the specification or otherwise available should predominate over general dictionary meanings.

Having conceded that the “key” modifiers have no accepted meaning in the art, the applicant expressly directed the public to the specification to discern that meaning and thus measure the scope of the claimed invention. And while the specification does not contain any statements of explicit disavowal or words of manifest exclusion, it repeatedly, consistently, and exclusively uses “group” to denote fewer than all subscribers, manifesting the patentee’s clear intent to so limit the term. The specification also contains no affirmative indication that group can consist of all subscribers within the system. A reasonable competitor reading the patent could only understand “group” to refer to a subset of all subscribers. The claims must be limited accordingly.