

EIDOS LLC., v. AU OPTRONICS CORP., Appeal No. 2014-1254 (Fed. Cir. March 10, 2015).
Before Wallach, Taranto and Chen. Appealed from E.D. Tex. (Judge Davis).

Background:

Eidos sued AU Optronics alleging infringement of a single claim, which represented one of seventeen different disclosed embodiments. The specification is directed to a manufacturing process that, when compared to prior art processes, reduces the number of photolithographic steps in creating an LCD panel, thus lowering the production cost and improving yield and production efficiency. In LCD panels are many individual source and gate wires, each with a connection terminal at the end of the wire. The electrical connection between a source wire and the signal supply circuit is called "a source wiring connection terminal." The electrical connection between a gate wire and scanning circuit is called "a gate wiring connection terminal."

The meaning of "a contact hole for source wiring and gate wiring connection terminals" was disputed, although both parties agreed that it was common practice, at the time of the patent in issue, to create individual holes ("contact holes") through the passivation film to each connection terminal. The judge determined that it would be unclear to one of skill in the art what is claimed and that the claim was accordingly, indefinite. He did not consider the structure in the other embodiments because they were "different." Eidos appealed.

Issue/Holding:

Did the district court err in granting summary judgment of indefiniteness? Yes, reversed and remanded.

Discussion:

The Federal Circuit concluded that "a contact hole for source wiring and gate wiring terminals" could be read as providing separate contact holes for source wiring connection terminals and gate wiring connection terminals, and that one of ordinary skill in the art would presumptively understand it that way, as that was the ordinary way to form contact holes. Moreover, the same claim language was used in original claims corresponding to five of the seventeen disclosed embodiments and in some of those embodiments that language clearly meant creating separate contact holes for each of the terminals. Therefore, the Federal Circuit determined that the limitation of "a contact hole for source wiring and gate wiring terminals" is not indefinite under 35 U.S.C. 112, 2nd paragraph.