

PROFECTUS TECHNOLOGY LLC, v. HUAWEI TECHNOLOGIES CO., LTD., Appeal Nos. 2015-1016, -1018, -1019 (Fed. Cir. May 26, 2016). Before Moore, Reyna, and Wallach. Appealed from E.D. Tex. (Judge Schneider).

Background:

Profectus owns a patent directed to a mountable digital picture frame for displaying digital images. The independent claims recite "a mountable picture frame adapted to digitally display at least one still image thereon." Profectus sued numerous manufacturers and sellers of tablets for infringement based on its belief that the devices were mountable picture frames. After construing the term "mountable," the district court granted summary judgment of non-infringement on grounds that the accused devices do not satisfy the "mountable" limitation. Profectus appealed.

Issue/Holding:

Did the district court err in its claim construction and grant of summary judgment? No, affirmed.

Discussion:

Profectus argued that the correct construction of "mountable" is "capable of being mounted." The district court construed "mountable" to mean "having a feature for mounting." The Federal Circuit found the term "mountable" to be a modifying word in the claims that characterizes and further limits the claimed picture frame and picture display. The Federal Circuit noted that in every embodiment disclosed in the specification, the picture display or frame includes a feature for mounting the device to a wall or on a tabletop. Thus, the Federal Circuit affirmed the district court's claim construction of "mountable" to mean "having a feature for mounting."

Profectus further argued that the grant of summary judgment was in error because it believed there was a genuine dispute of material fact as to whether the tablets infringed even under the district court's claim construction. Profectus argued that the physical characteristics of the tablets, *e.g.*, shape and weight, and the communication ports for use with a docking station are "features for mounting." However, the Federal Circuit found that these features merely rendered the devices "capable of being mounted" but were not inherent "features for mounting." Thus, the Federal Circuit held that no genuine dispute of material fact existed and affirmed the district court's grant of summary judgment.

Judge Moore dissented on the summary judgment issue only. She argued that when the evidence was viewed in a light most favorable to Profectus, there was a genuine dispute of material fact over whether the communication ports are "features for mounting."