

UNWIRED PLANET, LLC v. APPLE INC., Appeal No. 2015-1725 (Fed. Cir. July 22, 2016).  
Before Moore, Bryson, and Reyna. Appealed from N.D. Cal. (Judge Chhabria).

### Background:

Unwired sued Apple for infringement of several patents directed to wireless communications, including claims 15 and 35 of the '446 patent. The '446 patent involved a mobile device that sends a user's voice input to a remote speech recognition server, which translates the voice input into a data file that can be processed by the mobile device.

The parties disputed the construction of the term "voice input," which is in each of claims 15 and 35. Unwired argued that the term should be given its plain and ordinary meaning. Apple argued that the term should be construed to mean "speech provided over a voice channel." Apple supported this construction based on the second sentence of the summary of the invention that discusses how the voice input is sent over a specific voice communication channel. Apple also noted that the '446 specification consistently maintained a distinction between voice input sent to a server over a *voice* channel and a data file sent back to the mobile device over a *data* channel.

The district court agreed with Apple's construction. Apple then moved for summary judgment of non-infringement based on the construction, because Siri conveys a user's speech over the TCP/IP, which is not an identifiable "voice channel" but rather, a channel that does not distinguish between voice data and any other data.

The district court granted Apple's motion for summary judgment.

### Issue/Holding:

Did the district court err in granting summary judgment for non-infringement? Yes, vacated.

### Discussion:

The Federal Circuit held that the district court erred in its claim construction of "voice input." The Federal Circuit stated that a claim term will be given its ordinary and customary meaning as understood by a person of ordinary skill in the art. They noted that the claims require a "voice *input*" not a "voice *channel*," and that a voice input signal could be transmitted over either a voice channel or a data channel or, as Apple does, over TCP/IP.

The Federal Circuit also did not agree that the second sentence of the summary of the invention constitutes a disclaimer that limits the scope of every claim. They emphasized that a disclaimer must be "clear and unmistakable, requiring words or expressions of manifest exclusion or restriction." The Federal Circuit stated that the first sentence, which recites "the present invention relates to a wireless communication system," does not even mention a voice communication channel. They also noted that while the specification mentions voice channels in many places, it is not the case that everything in the first paragraph of the summary constitutes a mandatory claim limitation to be read into claims just because the first sentence begins with the "present invention."

The Federal Circuit also noted that other claims specifically refer to the voice communication channel, whereas the disputed claims 15 and 35 do not. Further, the Federal Circuit also pointed to claim 31, which recites "receiving a voice input" without specifying a path on which the voice input travels. Lastly, the Federal Circuit noted that claim 1 recites "retrieving a voice input signal...*from a first communication path*" without requiring that path to be a voice channel. Based on these facts, the Federal Circuit vacated the district court's summary judgment of non-infringement.