

ADVANCED GROUND INFORMATION SYSTEMS, INC. v. LIFE360, INC., Appeal No. 2015-1732 (Fed. Cir. July 28, 2016). Before Moore, Mayer and Wallach. Appealed from S.D. Fla. (Judge Middlebrooks).

Background:

Advanced Ground Information Systems (AGIS) sued Life360 for patent infringement. In response, Life360 argued that the claim term "symbol generator" invoked means-plus-function treatment under 35 U.S.C. §112(f), and that the specification failed to disclose adequate structure for the "symbol generator." Therefore, Life360 argued that the asserted claims were indefinite under 35 U.S.C. §112(b).

According to the district court, the term "symbol generator" is analogous to a "means for generating symbols" because the term is not a term used "in common parlance or by an ordinarily skilled artisan to designate structure," but simply a description of the function performed. Thus, the district court then attempted to determine compliance with the §112(b) adequate disclosure requirement. Although the district court recognized that the specification describes, in general terms, that "symbols are generated based on the latitude and longitude of the participants," it nonetheless determined that the specification fails to disclose an algorithm or description as to how those symbols are actually generated.

Thus, the district court agreed with Life360 in finding that the asserted claims were indefinite based on the "symbol generator" term being present in each claim. AGIS appealed the indefiniteness determinations.

Issues/Holdings:

Did the district court err in interpreting the term "symbol generator" under §112(f)? No. Did the district court err in finding the term "symbol generator" indefinite under §112(b)? No, affirmed.

Discussion:

The Federal Circuit first laid out a two-part inquiry for indefiniteness: (i) whether the asserted claim terms are in means-plus-function form, and (ii) if in means-plus-function form, whether the disputed claim term has "corresponding structure, material or acts described in the specification to which the term will be limited."

The Federal Circuit agreed with the district court that "symbol generator" does not describe anything structural, and thus is subject to §112(f). In doing so, the Federal Circuit found AGIS's arguments, based on expert witness testimony that "symbol generator" connotes structure to an ordinarily-skilled artisan, unpersuasive.

In affirming the district court's indefiniteness determination, the Federal Circuit held, citing *Net MoneyIN, Inc. v. VeriSign, Inc.*, that "in the case of computer-implemented functions, we require that the specification disclose an algorithm for performing the claimed function." The Federal Circuit noted that the algorithm can be "in any understandable terms including as a mathematical formula, in prose, ... as a flow chart, or in any other manner that provides sufficient structure." Because the Federal Circuit was not able to find any such algorithm, the Federal Circuit affirmed the indefiniteness determinations.