

## Federal Circuit Patent Bulletin: *Ruckus Wireless, Inc. v. Innovative Wireless Solutions*

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May 31, 2016

*"If, after applying all other available tools of claim construction, a claim is ambiguous, it should be construed to preserve its validity."*

On May 31, 2016, in *Ruckus Wireless, Inc. v. Innovative Wireless Solutions*, the U.S. Court of Appeals for the Federal Circuit (Prost, Reyna,\* Stark) affirmed the district court's judgment that Ruckus did not infringe U.S. Patents No. 5,912,895, No. 6,327,264, and No. 6,587,473, which related to access to a local area network (LAN) from a relatively distant computer. The Federal Circuit stated:

"[T]he words of a claim are generally given their ordinary and customary meaning," which is "the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention." The ordinary meaning may be determined by reviewing various sources, such as the claims themselves, the specification, the prosecution history, dictionaries, and any other relevant evidence. Ultimately, "[t]he only meaning that matters in claim construction is the meaning in the context of the patent." Legal error arises when a court relies on extrinsic evidence that contradicts the intrinsic record.

[The district court held] that the specification limits the scope of the invention to "any twisted pair wiring which is too long to permit conventional . . . LAN interconnections." It dismisses IWS's claim differentiation arguments because "two-wire telephone line" is only one type of several wired lines disclosed in the specification, meaning that the term "communications path" need not cover wireless communications to be broader than "two-wire telephone line."

IWS's argument relies on the assumption that "communications path" has an ordinary meaning which encompasses both wired and wireless communications. But we see no intrinsic or extrinsic evidence to support IWS's assumption that a person of ordinary skill at the time of invention would have understood the plain and ordinary meaning of "communications path" to include wireless communications. We see nothing in the intrinsic record that would have suggested to one of ordinary skill that "communications path" refers to wireless communications. To the contrary, the intrinsic record militates powerfully against that understanding. First, the title of the Terry patents indicates that they are directed to "Communicating Information Packets Via Telephone Lines." Second, the specification describes "[t]his invention" as one "particularly concerned" with "two wire lines such as telephone subscriber lines." Third, every embodiment described in the specification

utilizes a telephone wire, and when the specification clarifies that the full breadth of the invention is not limited to the expressed embodiments, it declares only that the patents may also reach any wired connection. Though these statements do not expressly exclude wireless communications from the meaning of “communications path,” they do not include it, and they discourage that understanding. Further, IWS did not present—nor did the district court consult—any extrinsic evidence, such as dictionaries, trade literature, expert testimony, or any other evidence showing that “communications path” was a term of art or otherwise understood to include wireless communications at the time of invention.

Considering the claims as a whole provides no additional clue that “communications path” includes wireless communications. Though several dependent claims limit the communications path to a “two-wire telephone subscriber line” or a “twowire line”, we agree with Ruckus that these dependent claims could merely exclude other types of wired communications paths disclosed in the specification, such as coaxial cable. The doctrine of claim differentiation—which encourages us to construe independent claims more broadly than their dependent claims—therefore does not necessarily suggest that the “communications path” recited in the independent claim encompasses wireless communications. We also have no evidence that the underlying purpose and disclosed solution of the Terry patents might evoke wireless communication in the mind of a skilled artisan. IWS presents no evidence that the inability to execute collision detection protocols over long distances was a problem in wireless communication or that collision detection was even used in that context. We therefore have no reason to believe that the purpose of the patents would have implicated wireless communications within the meaning of “communications path.”

The canons of claim construction provide additional reason to limit the scope of the claims to wired communication. If, after applying all other available tools of claim construction, a claim is ambiguous, it should be construed to preserve its validity. Because the specification makes no mention of wireless communications, construing the instant claims to encompass that subject matter would likely render the claims invalid for lack of written description. The canon favoring constructions that preserve claim validity therefore counsels against construing “communications path” to include wireless communications. We conclude that no intrinsic or extrinsic evidence suggests that “communications path” encompasses wireless communications. Accordingly, we affirm the district court’s claim constructions and final judgment of non-infringement based thereon.