

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
JUL - 7 2014
CLERK, U.S. DISTRICT COURT
By _____
Deputy

INVUE SECURITY PRODUCTS, INC., §
§
Plaintiff, §

VS. §

NO. 4:13-CV-457-A

HANGZHOU LANGHONG TECHNOLOGY §
CO., LTD., et al., §
§
Defendants. §

ORDER REJECTING DEFENDANTS' REMAINING
INDEFINITENESS CLAIMS

In the Order Pertaining to Preliminary Claim Construction and Related Matters the court signed May 21, 2014, the court left unresolved for future determination defendants' claim that the term "sense loop operatively communicating with the attachment device for sensing when the integrity of the attachment device is compromised" ('843 Patent, col. 8, ll. 6-8) is indefinite; and, the court suggested that an issue or issues raised by that indefiniteness claim might well exist in reference to the additional phrase found in claim 1 that "an audio alarm located within the housing for activation when the sense loop senses that the integrity of the attachment device is compromised" ('843 Patent, col. 8, ll. 9-11). The court requested further briefing on those issues. After having considered the further briefing submitted by both sides on those issues, the court has concluded

that neither of the claim terms in dispute is indefinite. In resolving the claims of indefiniteness, the court has applied the standard articulated by the Supreme Court on June 2, 2014, in Nautilus, Inc. v. Biosig Instruments, Inc., 572 U.S. _____, 134 S. Ct. 2120, 2124 (2014).¹

In evaluating the indefiniteness claims, the court has studied each part of the '843 Patent in which the terms "sense loop" or "sense loops" were used, as set forth below:

1. The following phrases are in the text under the heading "Abstract" on the first page of the patent:

An attachment device attaches the alarm module to the item of merchandise and a sense loop operatively communicates with the attachment device for sensing when the integrity of the attachment device is compromised. An audio alarm is located within the housing and is actuated when the integrity of the sense loop is compromised. . . . The housing includes a plurality of terminal jacks which are connected to the logic control circuit for connection to one or more attachment devices containing the sense loops which extend from the alarm module to items of merchandise.

Defs.' Claim Construction Br., App. at 39 (emphasis added).

¹The indefiniteness standard established by Nautilus is that: a patent is invalid for indefiniteness if its claims, read in light of the specification delineating the patent, and the prosecution history, fail to inform, with reasonable certainty, those skilled in the art about the scope of the invention. 134 S. Ct. at 2124.

2. Under the main heading "Brief Summary of the Invention," the following statements are made as part of an explanation of aspects of the invention:

Another feature of the invention is to provide for a visual and audible indication of the status of the alarm module, such as whether the alarm module is armed or disarmed, whether the alarm module is operational and whether the integrity of the alarm module including various sense loops connected thereto, is being compromised and whether a wrong key is attached and attempted to be utilized to disarm the alarm module.

Another aspect of the invention is to provide the alarm module with a plurality of attachment ports or jacks for connecting attachment cables to the alarm module and to items of merchandise to be protected thereby, which attachment cables contain sense loops which sound an alarm if the integrity of the loop is compromised by a thief.

Id. at 48, Col. 2, ll. 28-41 (emphasis added), and

an attachment device for attaching the alarm module to an item of merchandise; a sense loop operatively communicating with the attachment device for sensing when the integrity of the attachment is compromised; and an audio alarm which is actuated when the integrity of the sense loop is compromised.

Id. at 49, Col. 3, ll. 27-32 (emphasis added).

3. Under the heading "Detailed Description of the Invention," the following statements are made:

Control logic circuit 14 further includes one or more sense loops 67 which are in communication with and extend from a plurality of jack ports 68, four of which

are shown on printed circuit board 15. Each sense loop, which preferably is an electrical conductor or a fiber optic conductor, extends through attachment cable 69 which extends from alarm module 1 to an item of merchandise 70 to be protected by the security system of the present invention, as shown diagrammatically in FIG. 10. A switch (not shown) usually will connect the sense loop to merchandise 70 to sound alarm 27 if merchandise 70 is illegally removed from cable 69.

Printed circuit board 15 is shown diagrammatically in FIG. 5 and includes as its main components four attachment ports or jacks 68 for receiving the end couplers of attachment cable 69, each of which preferably contains an internal electrical sense loop 67, which loops are electrically and operatively connected to the control logic circuit 14. Controller 53 is mounted on circuit board 15, as well as a step up transformer 71, a capacitor 73, LED 59, LED diode 74, sundry resistors and capacitors 75.

Id. at 50, Col. 5, ll. 21-40 (emphasis added), and

The alarm module also provides a flashing indication of LED 59 when attachment cable 69 is attached to an item of merchandise 70 with the electrical connection being provided by sense loop 67. Should a thief violate the integrity of sense loop 67, such as illegally removing merchandise 70 from cable 69 or removing the sense loop or the cable from alarm module 1 or interfering directly with the control logic circuit contained therein or removing security device 1 from support surface 5 and actuating plunger switch 28, will cause alarm 27 to sound a preset chirping together with a flashing of LED.

Id., Col. 6, ll. 18-27 (emphasis added).

4. The elements of claim 1 of the invention that are claimed by defendants to be indefinite are worded as follows:

- d) a sense loop operatively communicating with the attachment device for sensing when the integrity of the attachment device is compromised; and
- e) an audio alarm located within the housing for actuation when the sense loop senses that the integrity of the attachment device is compromised.

Id. at 51, Col. 8, ll. 6-11 (emphasis added).

5. Dependent claim 11 reads as follows:

11. The alarm module defined in claim 1 including a plurality of terminal jacks operatively connected to the logic control circuit for connection of one or more attachment devices and sense loops to the alarm module.

Id., Col. 8, ll. 46-49 (emphasis added).

6. Elements of Independent claim 15 are as follows:

at least one sense loop connecting the alarm module and the object;
wherein the audio alarm in the alarm module is actuated when the integrity of the sense loop is compromised.

Id. at 52, Col. 9, ll. 13-16 (emphasis added).

As the court noted on pages 16-17 of the May 21, 2014 order, defendants' claims of indefiniteness focus on the "operatively

communicating with the attachment device," the "sensing when the integrity of the attachment device is compromised," and the "senses that the integrity of the attachment device is compromised" features of the claim terms defendants allege are indefinite. Defendants urge that one could only guess "how, if at all, a sense loop [construed to be a 'conductor'] could communicate with the attachment device" and that "it is insolubly ambiguous how a sense loop [a mere conductor] can perform the claimed step of "sensing when the integrity of the attachment device is compromised." Defs.' Claim Construction Br. at 24 (emphasis added).

The court sees no reason to reconsider its construction of the term "sense loop" to mean "a conductor." The court is now satisfied that when the claim terms in dispute are read in the light of the specification delineating the patent and the prosecution history, they inform with reasonable certainty those skilled in the art about the scope of the invention. A person skilled in the art would understand that a conductor is capable of operatively communicating when it serves as a conduit from one part of the invention to another part of the invention of information that is important to the functioning of the invention and that such a conductor is capable of sensing when information from one part of the invention reaches and passes through it to

another part of the invention to cause the other part to react to the information. Put another way, the receipt and transmittal of information through the sense loop causes the sense loop to be sensing and communicating the information. Those skilled in the art about the scope of the invention would be informed, with reasonable certainty, by the disputed claim terms that the sense loops referenced in the terms operatively communicate with a part of the invention when they serve as a conduit for a message to that part of the invention and sense information when that information reaches the sense loop for transmittal through the sense loop. The understanding would be that the sensing and communicating would occur when the information in the form of electrical impulses reaches and passes through the conductor ("sense loop").

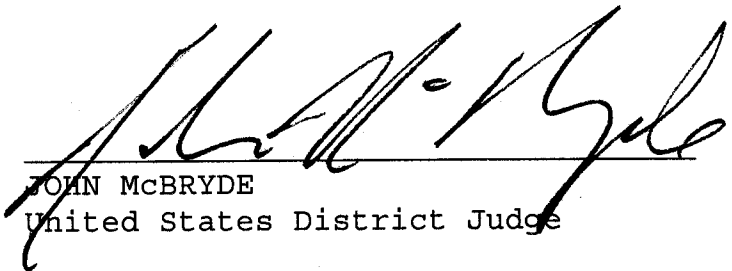
Those skilled in the art about the scope of the invention would be informed, with reasonable certainty, that the "communicating" and "sensing" mentioned in the claim terms in dispute pertain to, and describe, the functional relationship of the sense loops (conductors) with other components of the invention.

Therefore, the court rejects defendants' claims of indefiniteness as to the following elements of claim 1 of the '843 Patent:

- d) a sense loop operatively communicating with the attachment device for sensing when the integrity of the attachment device is compromised; and
- e) an audio alarm located within the housing for actuation when the sense loop senses that the integrity of the attachment device is compromised.

Col. 8, ll. 6-11.

SIGNED July 7, 2014.



JOHN MCBRYDE
United States District Judge