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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

ENFISH, LLC, Plaintiff, v. MICROSOFT CORPORATION; FISERV, INC.; INTUIT, INC.; SAGE SOFTWARE, INC.; and JACK HENRY & ASSOCIATES, INC., Defendants.	Case No. 2:12-cv-7360-MRP-MRWx **Order Denying Plaintiff's Motion for Reconsideration**

I. INTRODUCTION

Plaintiff Enfish, LLC ("Enfish") has sued Defendants Microsoft Corporation, Fiserv, Inc., Intuit, Inc., Sage Software, Inc., and Jack Henry & Associates, Inc. (collectively, "Defendants") for infringement of two patents: U.S. Patent No. 6,151,604 ("the '604 Patent") and U.S. Patent No. 6,163,775 ("the '775 Patent"). On March 31, 2014, the Court granted in part Defendants' motion for summary judgment, finding certain claims of the '604 and '775 Patents to be invalid for anticipation. Dkt. No. 241 ("Anticipation Order"). Enfish now moves for partial

reconsideration of the Anticipation Order with respect to Claims 31, 32, and 47 of the ’604 Patent and Claim 31, 32, and 47 of the ’775 Patent.

II. TECHNICAL BACKGROUND

The technical background of the invention of the ’604 and ’775 Patents is set forth in this Court’s Anticipation Order.

The asserted claims in the ’604 and ’775 patents are directed to methods and systems relating to data storage and retrieval. Claims 31, 32, and 47 of the ’604 Patent are method claims directed to a method of data storage. Claim 31 of the ’604 Patent claims:

> A method for storing and retrieving data in a computer memory, comprising the steps of:
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> configuring said memory according to a logical table, said logical table including:
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> a plurality of logical rows, each said logical row having an object identification number (OID) to identify each said logical row, each said logical row corresponding to a record of information;
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> a plurality of logical columns intersecting said plurality of logical rows to define a plurality of logical cells, each said logical column having an OID to identify each said logical column; and wherein
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> at least one of said logical rows has an OID equal to the OID of a corresponding one of said logical columns, and at least one of said logical rows includes logical column information defining each of said logical columns.

Claim 32 of the ’604 Patent is dependent on Claim 31 and adds the claim limitation “wherein said logical column information defines one of said logical columns to contain information for enabling determination of OIDs from text entry” (the “text entry limitation”). Independent Claim 47 of the ’604 Patent omits the language “and wherein at least one of said logical rows

has an OID equal to the OID of a corresponding one of said logical columns, and at least one of said logical rows includes logical column information defining each of said logical columns" (the "row defining column limitation") and adds a separate step of "indexing data stored in said table" (the "indexing limitation").

The asserted claims of the '775 Patent are similarly directed to methods for storing and retrieving data, but focus on the cells, addresses, attribute sets, and records within the logical table. Independent Claim 31 claims:

> A method for storing and retrieving data in a computer system having a memory, a central processing unit and a display, comprising the steps of:
>
> configuring said memory according to a logical table, said logical table including:
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> a plurality of cells, each said cell having a first address segment and a second address segment;
>
> a plurality of attribute sets, each said attribute set including a series of cells having the same second address segment, each said attribute set including an object identification number (OID) to identify each said attribute set; and
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> a plurality of records, each said record including a series of cells having the same first address segment, each said record including an OID to identify each said record, wherein at least one of said records has an OID equal to the OID of a corresponding one of said attribute sets, and at least one of said records includes attribute set information defining each of said attribute sets.

Claims 32 and 47 differ from Claim 31 of the '775 Patent in the same ways that Claims 32 and 47 differ from Claim 31 of the '604 Patent. Claim 32 is dependent on Claim 31 and also adds the text entry limitation. Independent Claim 47 is

identical to Claim 31 except that it omits the row defining column limitation and includes the indexing limitation.

III. LEGAL STANDARD

A party may move for reconsideration under Local Civil Rule 7-18 in the Central District of California on the grounds of "a manifest showing of a failure to consider material facts presented to the Court before such decision." The local rules prohibit a party from "in any manner repeat[ing] any oral or written argument made in support of or in opposition to the original motion." L.R. 7-18. "Motions for reconsideration should not be freely granted. They are not a substitute for appeal or a means of attacking some perceived error of the court." *Bloch v. Prudential Ins. Co. of Am.*, CV05-1589-DT(MCX), 2005 WL 6141292, at *3 (C.D. Cal. Aug. 9, 2005).

IV. DISCUSSION

Enfish argues that the Court failed to consider material facts relating to three findings in the Court's Anticipation Order. First, Enfish argues that the Court's finding that Excel 5.0 included a pivot table feature allowing the creation of a spreadsheet column from information entered in a table row shows a failure to consider Enfish's expert evidence. Second, Enfish argues that the Court's finding that Excel 5.0 permitted header rows with column names defining types of data entered in the column shows a failure to consider Enfish's expert evidence. Third, Enfish argues that the Court's construction of the term "indexing" in the Anticipation Order is wrong.

A. The Court Considered All of the Submitted Evidence.

Enfish's first two arguments are based on Enfish's mistaken assumption that, because the Court cited to the statement of uncontroverted facts submitted by the Defendants to support statements regarding the functionality of the Excel 5.0 product, the Court did not consider the expert declaration submitted by Enfish that purportedly disputed those facts. But Enfish's expert did not dispute the facts

relied on by the Court, which described the basic operations of the Excel 5.0 product. Enfish's expert provided evidence relating to how a person of ordinary skill in the art would construe and understand the claim terms "object identification number (OID)" and "logical column information defining." Enfish's expert then erroneously used his own interpretation of the claim terms to conclude that Excel 5.0 did not meet the Court's construction.[1]

In addition, Enfish points to several other paragraphs in its expert's declaration that in no way dispute the facts offered by Defendants as stated by the Court. The Court's conclusion regarding the row defining column limitation and Excel 5.0's pivot tables is fully consistent with its Claim Construction Order, which construed the terms "logical table" and "a plurality of logical columns intersecting said plurality of logical rows to define a plurality of logical cells." Dkt. No. 86 at 5–6. Enfish highlights portions of its expert's declaration that relate to the meaning of these already-construed terms, not to the operation of the pivot tables. Under the Court's constructions, which were reached after careful consideration, Excel 5.0 meets the row defining column limitation. Enfish's belated dispute over claim construction does not create a genuine issue of material fact. *See Wolverine World Wide, Inc. v. Nike, Inc.*, 38 F.3d 1192, 1197 (Fed. Cir. 1994) (quoting *Johnston v. IVAC Corp.*, 885 F.2d 1574, 1579 (Fed. Cir. 1989)) ("[C]laim construction is a question of law amenable to summary judgment; a 'mere dispute over the meaning of a term does not itself create an issue of fact.'").

[1] The Court construed the terms discussed by Enfish's expert in its prior Claim Construction Order. Dkt. No. 86. With respect to the "OID" term, Enfish's expert concluded that the Excel 5.0 headers failed to meet the Court's construction for the term "OID," but did so by only considering displayed column and row numbers, not column headers, as OIDs. This evidence was not sufficient to create an issue of material fact. Likewise, with respect to the "logical column information defining" term, Enfish's expert failed to provide an analysis of Excel 5.0 in light of the Court's ruling that the term "requir[es] at least one row with values defined for each column." *Id.* at 7. This evidence similarly failed to create an issue of material fact.

Because the Court properly considered all the evidence submitted by both parties in conjunction with the Anticipation Order, no grounds exist for reconsidering this Court's conclusions on validity.

B. The Court Properly Construed the Term "Indexing."

Enfish's third argument is based on Enfish's belief that the Court's construction of the term "indexing" is contrary to the evidence submitted and does not provide a sufficient record for appeal. For several reasons, the Court finds this argument for reconsideration both implausible and inappropriate.

First, Enfish complains that the Court ignored several pieces of extrinsic evidence in construing the term "indexing." In support of its argument, Enfish lists Defendants' statements to the U.S. Patent and Trademark Office and several textbooks. But statements by someone other than the patent holder over a decade after the filing of the patent application are not acceptable extrinsic evidence in construing claims. *See Plant Genetic Sys., N.V. v. DeKalb Genetics Corp.*, 315 F.3d 1335, 1346 (Fed. Cir. 2003) (allowing consultation of extrinsic evidence relevant to "the understanding in the technical field as of the filing date of the patent"). Three of the four quoted textbooks were published seven or more years after the filing date of the parent application. A failure to consider irrelevant evidence cannot provide grounds for reconsideration.

Second, Enfish's argument for reconsideration of the "indexing" construction is disingenuous in light of its prior litigation position. Enfish requested that the Court construe the term "indexing" according to its plain and ordinary meaning. Now that the Court has adopted its requested construction, Enfish argues that the record does not support that construction.[2] Although Justice Bradley made his famous

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[2] The Court stated in the Anticipation Order that the plain and ordinary meaning of the term "indexing" at least required "organizing data to enable searching." To the extent that Enfish disagrees with this requirement because it claims an index would not be understood by a person of ordinary skill in the art to "enable searching" but instead only to "enable rapid searching," the extrinsic evidence submitted by both parties supports the proposition that indexing may speed up

statement condemning treating a patent "like a nose of wax" with reference to issues of anticipation and infringement, it applies in all stages of patent litigation. The doctrine of judicial estoppel clearly applies to prevent this injustice. *See SanDisk Corp. v. Memorex Products, Inc.*, 415 F.3d 1278, 1290–91 (Fed. Cir. 2005). Enfish persuaded the Court to adopt one claim construction and now seeks to disadvantage Defendants with another inconsistent claim construction. Enfish's argument is not only insufficient grounds for reconsideration, but Enfish is also arguably judicially estopped to make it.

Third, and finally, Enfish cites to several Federal Circuit cases in support of the proposition that the Federal Circuit has ***repeatedly emphasized*** the need for a full record reflecting the trial court's reasoning on claim construction. But only one cited case even marginally supports this proposition. *Nazomi Commc'ns, Inc. v. Arm Holdings, PLC*, 403 F.3d 1364, 1371 (Fed. Cir. 2005) (finding a claim construction analysis "inadequate because it [did] not supply the basis for its reasoning sufficient for a meaningful review"). The remaining cases address district court decisions that either do not even state a claim construction or are devoid of any claim construction analysis. *See Frans Nooren Afdichtingssystemen B.V. v. Stopaq Amcorr Inc.*, 744 F.3d 715, 721 (Fed. Cir. 2014) ("The district court, not having articulated a construction, did not parse the experts' evidence for genuine disputes under the proper construction, and we will not do so ourselves. . . . [W]e vacate the district court's summary-judgment ruling."); *Graco, Inc. v. Binks Mfg.*, 60 F.3d 785, 791 (Fed. Cir. 1995) ("The entire omission of a claim construction analysis from the opinion . . . provide[s] an independent basis for remand . . . . [and] preclude[s] meaningful review by this court."). This

data searches, but also may optimize or otherwise retrieve items in a way that increases organization without necessarily completing the search in a time frame that would be considered "rapid." *See, e.g.*, Jeffrey D. Ullman & Jennifer Widom, *A First Course in Database Systems* (Prentice Hall 1997) (describing an example of an index that performs a search function for a given attribute value).

1 Court construed the term "indexing" according to Enfish's proposed construction
2 with prior claim construction briefing, a technology tutorial, and expert evidence in
3 the record. While this Court strives to provide detailed reasoning and analysis in
4 its decisions for the benefit of the parties, other courts, and the general public, the
5 judiciary is a limited resource. Parties may, at times, be dissatisfied with the level
6 of detail in an order. As long as this Court meets the requirement that it "state on
7 the record the reasons for granting or denying [a] motion," then there is no clear
8 error requiring reconsideration. Fed. R. Civ. P. 56(a).

9 **V. CONCLUSION**

10 Having read and considered the briefs and arguments of the parties, the Court in
11 its discretion **DENIES** Enfish's Motion for Partial Reconsideration.

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15 IT IS SO ORDERED.

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17 DATED: June 26, 2014

18 Hon. Mariana R. Pfaelzer
19 United States District Judge

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