

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

COMPUTER DOCKING
STATION CORPORATION,

Plaintiff,

v.

DELL INC., GATEWAY, INC.,
TOSHIBA AMERICA, INC., and
TOSHIBA INFORMATION
SYSTEMS, INC.,

Defendants.

OPINION AND
ORDER

06-C-0032-C

This is a civil action for patent infringement. Plaintiff Computer Docking Station Corporation owns United States Patent No. 5,187,645 (the '645 patent), which discloses a portable computer with a docking connector and a method of connecting the computer to multiple peripheral devices through the docking connector. Plaintiff contends that certain portable computers and docking stations manufactured by defendants Dell, Inc., Gateway, Inc., Toshiba America, Inc. and Toshiba America Information Systems, Inc. infringe claims 17-20, 22, 24 and 26-28 of the '645 patent. Defendants have asserted a variety of

counterclaims, including invalidity of the '645 patent. Jurisdiction is present. 28 U.S.C. § 1338(a).

Currently before the court is defendants' motion for summary judgment with respect to infringement. The motion will be granted because none of the accused products satisfies the "portable computer" limitation of the '645 patent and therefore, none of them infringes. Although this alone would be sufficient cause to grant defendants' motion, I have considered also whether any of the accused products infringe the "all connections" limitation of the '645 patent. I conclude that the accused products that include at least one peripheral device connection on the housing of the computer that is not replicated on the single connector do not infringe the "all connections" limitation. I have determined that a microphone port, an RJ-11 port and a PC card port are all peripheral device connections that are not replicated on the single connector. Although I have determined that an infrared port is not a peripheral device connection, all of the accused products that include an infrared port also include at least one other port that I have determined is a peripheral device connection. As a result, none of the accused products infringes the "all connections" limitation.

Several preliminary matters require discussion. Throughout this lawsuit, the parties have been rather imprecise in describing the accused products. The only specific list of the products in question comes from plaintiff's complaint and plaintiff's subsequent responses to interrogatories, which accuse approximately ninety of defendants' products of infringing

the '645 patent. In their counterclaims, defendants request declaratory rulings regarding non-infringement with respect to all of the products they have ever manufactured and sold, but it does not appear that defendants have provided the court or the plaintiff with detailed information about these unidentified products. From the parties' filings, it is not clear whether the court would have subject matter jurisdiction to issue a declaratory ruling of non-infringement with respect to all of these products. See, e.g., Amana Refrigeration, Inc. v. Quadlux, Inc., 172 F.3d 852, 855 (Fed. Cir. 1999) (for actual controversy to exist under Declaratory Judgment Act, "[t]here must be both (1) an explicit threat or other action by the patentee, which creates a reasonable apprehension on the part of the declaratory plaintiff that it will face an infringement suit, and (2) present activity which could constitute infringement or concrete steps taken with the intent to conduct such activity."). Therefore, I have given a narrow reading to defendants' motion for summary judgment for "non-infringement" and considered infringement only as it relates to the products identified in plaintiff's complaint and plaintiff's answers to interrogatories.

In a Rule 56(f) motion for additional discovery, plaintiff argues that without information regarding all of the devices that defendants have manufactured and sold, it cannot determine whether any infringe its patent and, therefore, that it cannot respond to defendants' motion for summary judgment. Because I read defendants' motion for summary judgment to apply only to the products accused in plaintiff's complaint and plaintiff's

responses to interrogatories, and plaintiff does not assert that it lacks sufficient discovery to respond to defendants' summary judgment motion with respect to these products, plaintiff's rule 56(f) motion will be denied.

In response to defendants' motion for summary judgment, plaintiff did not propose any facts of its own. Instead, plaintiff attempted to dispute many of defendants' proposed facts by directing the court to review the record to evaluate the legitimacy of the dispute. Where plaintiff disputed facts proposed by defendant in this way, I treated defendants' facts as undisputed. This should not come as a surprise to plaintiff, as it is consistent with this court's longstanding procedure, that "[a]ll facts necessary to sustain the parties' positions on summary judgment must be explicitly proposed as findings of fact." Procedure to be Followed on Motions for Summary Judgment, Introduction. Further, the parties were warned that the court would not search the record for factual evidence. Procedure, Section I.C.1.

From defendants' proposed findings of fact, I find the following to be material and undisputed.

FACTS

A. Parties

Plaintiff Computer Docking Station Corporation is a Delaware corporation with its principal place of business in Newport Beach, California. Defendant Dell, Inc. is a Delaware

corporation with its principal place of business in Round Rock, Texas. Defendant Toshiba America Information Systems, Inc. is a California corporation with its principal place of business in Irvine, California. Defendant Gateway, Inc. is a Delaware corporation with its principal place of business in Irvine, California.

B. Procedural History

On January 17, 2006 plaintiff filed an action against defendants, alleging infringement of the '645 patent, which discloses a portable computer with a docking connector and a method of connecting the computer to multiple peripheral devices through the docking connector. Plaintiff asserts that defendants' products infringe claims 17-20, 22, 24 and 26-28 of the '645 patent. Claims 17, 20 and 28 are independent claims, from which claims 18, 19, 22, 24, 26 and 27 depend. Each of the independent claims asserted in this action includes the phrases "portable computer," referred to as the portable computer limitations, and "said single connector for making all connections from the microprocessor to said specific computer peripheral devices," referred to as the all connections limitation.

Following a hearing on claim construction on July 28, 2006, I issued an Opinion and Order construing these claim limitations. Dkt. #102. First, I construed "portable computer" to mean "a computer without a built-in display or keyboard that is capable of being moved or carried about." Second, I construed "peripheral device," a term in the "all connections"

limitation, to mean “an external device that is capable of connecting to, and is capable of being controlled by, a computer.” Finally, I construed the “all connections” limitation to “require that all individual peripheral device connections on the housing that connect to the microprocessor also pass through the single connector.”

C. Computer Ports

The following ports found on defendants’ products are “peripheral device connections” that allow a computer to connect to and control one or more external devices: TV-Out, S-Video, RJ-45, FDD, RGB monitor, VGA monitor, IEEE 1394, USB and headphone. For example, an IEEE 1394 port allows a computer to connect to and control a peripheral device having an IEEE 1394 digital data bus interface, such as a digital camera or an external data storage drive with this interface. A USB port allows a computer to connect to and control a peripheral device having a USB interface, such as an external data storage drive, a keyboard or a mouse with this interface.

Additional ports found on defendants’ products include microphone, PC card, ExpressCard and infrared ports. A microphone port allows the connection of a microphone to a computer. A computer connected to a microphone can accept and process input from the microphone. A PC card port allows a computer to connect to and control a component having a PCMCIA card interface, such as an external data storage drive or a modem with this

interface. An infrared port allows a computer to control a peripheral device having an infrared interface, such as a printer with this interface, without requiring a physical connection between the computer and peripheral device.

D. The Accused Products

In its amended complaint and supplemental interrogatory responses, plaintiff identified a number of allegedly infringing computers manufactured or sold by defendants. Each of these computers is a laptop computer having a built-in display or keyboard.

1. Dell

Twenty-two of the allegedly infringing computers are manufactured or sold by defendant Dell, including models D400, D410, D505, D510, D600, D610, D800, D810, M20, M60, M70, D500, D520, D620, D820, M65, M90, 500M, 600M, 8500, 8600 and M1710. The following computers have an IEEE 1394 or a USB peripheral device connection on the computers' housing that does not also pass through a single connector on the housing: D400, D505, D510, D800, M60, D520, D820, M65, M90, 8500, 8600 and M1710. Each of the remaining ten computers, D410, D600, D610, D810, M20, M70, D500, D620, 500M and 600M, has a microphone port, a PC card port and an infrared port. These ports are located on the computers' housing and do not also pass through a single

connector on the housing.

2. Toshiba America Information Systems

Forty-three of the allegedly infringing computers are sold by defendant Toshiba America Information Systems. The accused products include Satellite R10, R15, R20, R25, R100 and R200; Satellite Pro 6000, 6100, M10 and M15; Portege 2000, 2010, 4000, 4010, M100, M200, M205, M300, M400, M405 and S100; Tecra 9000, 9100, A2, A3, A4, A5, A6, A7, A8, S1, S2, S3, M1, M2, M2V, M3, M4, M5, M7, TE2000, TE2100 and TE2300. The Satellite R10, R15, R20 and R25 models and all of the Tecra models have at least one or more S-Video, TV-Out, headphone or IEEE 1394 peripheral device connections. Each of the Satellite Pro models has a TV-Out peripheral device connection. Each of the Portege models has at least one or more headphone, IEEE 1394 or FDD peripheral device connections. In each case, the peripheral device connections are located on the computers' housing and do not also pass through a single connector on the housing.

3. Gateway

Twenty-four of the allegedly infringing products are sold by defendant Gateway, including models M460, M680, M405, M675, M275, CX200, CX210, NX100, NX250, S-7200N, E-100N, M250, M280, M285, NX260, NX550, S-7500N, S-7510N, NX560,

NX850, NX860, M465, M685 and E-100M. Models M275 and M675 have a IEEE 1394 peripheral device connection located on the computers' housing that does not also pass through a single connector on the housing. The remaining computers have at least one or more of the following ports: microphone, PC card and RJ-11. These ports are located on the computers' housing and do not also pass through a single connector on the housing. Specifically, models M250, M280 and CX200 have a microphone, a PC card and a RJ-11 port. Model M405 has a microphone and a PC card port. Models M285, CX210, NX100, NX250, E-100M and S-7200N have a PC card and a RJ-11 port. Models M465, M460, M680, M685, NX260, NX550, NX560, NX850, NX860, S-7510N and S-7500N have a PC card port.

OPINION

A. Infringement

Infringement analysis is a two-step process in which the court must first construe the claims at issue and then compare the properly construed claims to the accused product. Cybor Corp. v. FAAS Technologies, Inc., 138 F.3d 1448, 1454 (Fed. Cir. 1998). A process or method infringes a patent claim if it contains every limitation set forth in that claim, either literally or by equivalence. Johnson Worldwide Assocs. v. Zebco Corp., 175 F.3d 985, 988 (Fed. Cir. 1999). "A patent is infringed if any claim is infringed." Pall Corp. v. Micron

Separations, Inc., 66 F.3d 1211, 1220 (Fed. Cir. 1995). Claim construction is a legal determination to be made by the court, while infringement is a question of fact. Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1582 (Fed. Cir. 1996).

Summary judgment is appropriate where there are no material facts in dispute. In particular, where the parties do not dispute any relevant facts regarding the structure or operation of the accused products, but disagree over the possible meanings of a claim, the question of literal infringement collapses to one of claim construction and is amenable to summary judgment. Athletic Alternatives, Inc. v. Prince Manufacturing, Inc., 73 F.3d 1573, 1578 (Fed. Cir. 1996).

1. “Portable Computer” Limitation

Previously, I construed “portable computer” to mean “a computer without a built-in display or keyboard that is capable of being moved or carried about.” Therefore, “portable computer” does not refer to laptop computers, which have a built-in display or keyboard. The parties agree that under the court’s construction of “portable computer,” none of the claims in the ‘645 patent asserted in this case covers laptop computers. Because it is undisputed that each of the allegedly infringing products is a laptop computer, none of the accused products manufactured or sold by defendants literally infringes the ‘645 patent. Although defendants’ motion for summary judgment could be granted on this basis alone,

I will determine whether any of defendants' products meet the "all connections" limitation included in independent claims 17(c), 20(d) and 28(d) of the '645 patent.

2. "All Connections" Limitation

The parties continue to dispute whether any of the accused products infringe the "all connections" limitation. All of the accused products have ports through which the computer communicates with external devices and many of these ports are not replicated on a corresponding single connector. As construed previously, the "all connections" limitation requires that all individual peripheral device connections on the housing that connect to the microprocessor also pass through the single connector. In other words, all of the peripheral device connectors available on a computer must be replicated on the computer's single connector, which ultimately connects to its corresponding docking station. Thus, if any peripheral device connectors found on a product's housing do not pass through the single connector, they will not meet the "all connections" limitation and will not literally infringe the '645 patent.

The parties do not dispute that several ports found on defendants' products are peripheral device connections: TV-Out, S-Video, RJ-45, FDD, RGB monitor, VGA monitor, IEEE 1394, USB and headphone. Furthermore, it is undisputed that the following accused products have one or more of these peripheral device connections located on the housing of

the computer that do not also pass through the single connector on the housing: Dell models D400, D410, D505, D510, D600, D610, D800, D810, M20, M60, M70, D500, D520, D620, D820, M65, M90, 500M, 600M, 8500, 8600 and M1710; Toshiba American Information System models Satellite R10, R15, R20 and R25 and each of the accused Satellite Pro, Portege and Tecra models; and Gateway models M275 and M675. Therefore, none of these accused products meets the all connections limitation because one or more of the peripheral device connections are not replicated on the computers' single connector. Because none of these accused products meets the all connections limitation, the products do not literally infringe claims 17-20, 22, 24 and 26-28 of the '645 patent. Therefore, defendants' motion for summary judgment regarding infringement will be granted with respect to these products.

The parties agree that the remaining accused products include one or more of the following ports: a microphone port, a PC card port, an infrared port and a RJ-11 port. Further, they agree that the ports are located on the computers' housing but do not also pass through the single connector on the housing. If the ports are "peripheral device connectors," the products will not infringe the '645 patent because they do not meet the "all connections" limitation.

a. Microphone port

Plaintiff contends that a microphone port is not a peripheral device connection because a microphone is not a peripheral device, but one that merely sends signals to the computer and therefore is not “controlled” by the attached computer. It is undisputed that a microphone port allows a user to connect a microphone to a computer and that a computer is capable of accepting input from a microphone connected via the microphone port. The disputed issue is whether the term “peripheral device” may be interpreted properly to encompass devices that transmit but do not receive signals, such as microphones.

The court adopted the parties’ construction of “peripheral device,” as “an external device that is capable of connecting to, and is capable of being controlled by a computer.” Now the parties dispute the meaning of this construction, in particular, the meaning of the term “controlled by a computer.” Because the essence of the parties’ dispute is not about the structure or operation of defendants’ products and instead about claim interpretation, it may be resolved by the court through summary judgment. See, e.g., Athletic Alternatives, Inc., 73 F.3d at 1578.

To determine the scope of the term, I turn to the general principles of claim construction. In interpreting a claim, “the court should look first to the intrinsic evidence of record, i.e., the patent itself, including the claims, the specification and if in evidence, the prosecution history.” Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1582 (Fed. Cir. 1996). Construction of claim terms begins with the language of the claims themselves. In

many instances, a court must proceed beyond the bare language of the claims and examine the patent specification. Further, a court may consider other asserted and unasserted claims as “valuable sources of enlightenment as to the meaning of a claim term.” Phillips v. AWH Corp., 415 F.3d 1303, 1314 (Fed. Cir. 2005).

The claims of the ‘645 patent identify a number of components as peripheral devices. For example, claim 27 provides that “computer-peripheral-device-specific connectors are for providing connections between the microprocessor and peripheral devices including, keyboard, display, and power supply.” It is not clear from the claims, themselves, however, whether these peripheral devices are like microphones, which transmit but do not receive signals from the microprocessor.

Turning to the patent specification, the text describes “a set of connectors 24a-h” that is provided on the rear of the computer housing. ‘645 pat., col. 4, lns. 64-66. Each of these connectors “is specific to an individual computer peripheral device.” ‘645 pat., col. 5, lns. 16-17. The connectors include a power connector (24a), a keyboard connector (24b), a modem connector (24c), serial ports (24d and 24e), a parallel port (24f) and display connectors (24g and 24h). ‘645 pat., col. 5, lns. 4-31. According to the specification, the serial ports “may be used to connect the system to serial peripheral devices such as a mouse” and the parallel port is “provided for making connections with components that transmit or receive in parallel.” ‘645 pat., col. 5, lns. 10-15. Therefore, the specification makes it clear that the

term “peripheral devices” includes components that can transmit signals but do not receive them. It follows that a port or connector that facilitates the connection of the peripheral device to the computer is a peripheral device connection.

In summary, the intrinsic evidence and undisputed facts show that microphones are peripheral devices and microphone ports are peripheral device connections. The following accused products have microphone ports located on the computers’ housing that do not also pass through the single connector: Dell models D410, D600, D610, D810, M20, M70, D500, D620, 500M and 600M and Gateway models M250, M280, CX200 and M405. Because these products do not meet the all connections limitation, they do not literally infringe claims 17-20, 22, 24 and 26-28 of the ‘645 patent. Accordingly, defendants’ motion for summary judgment will be granted with respect to these products, all of which contain a microphone peripheral device connection and do not meet the all connections limitation.

b. Infrared port

Similarly, plaintiff contends that an infrared port is not a peripheral device connection. Again, the parties do not dispute the basic function and operation of an infrared port. They agree that an infrared port allows a computer to control a peripheral device without requiring a physical connection between the computer and peripheral device.

However, plaintiff contends that the limitation refers only to peripheral device connections that provide a physical, wired connection between a computer and a peripheral device, while defendants argue that the limitation encompasses peripheral device connections that provide both wired and wireless connections between a computer and a peripheral device.

To clarify the meaning of the word “connect,” I turn to the patent’s specification. Although it is improper to read a limitation into a claim from the specification, a claim must be read in view of the specification of which it is a part. Renishaw, PLC v. Marposs Societa’ per Azioni, 158 F.3d 1243, 1248 (Fed. Cir. 1998); see also SciMed Life Systems, Inc. v. Advanced Cardiovascular Systems, Inc., 242 F.3d 1337, 1344 (Fed. Cir. 2001) (“the written description can provide guidance as to the meaning of the claims, thereby dictating the manner in which the claims are to be construed, even if the guidance is not provided in explicit definitional format.”).

The specification refers to the terms “connect,” “connector” and “connection” several times. For example, the summary of the invention provides:

Connectors are included in the system to provide the capability to connect the system with peripheral devices. A docking connector allows all peripheral connections to be realized through a single connector. The docking connector, thus, greatly simplifies coupling and decoupling of the system with peripherals, for only a single connection needs to be engaged or disengaged. By simplifying connection with the peripherals, the docking connector enhances the portability of the system.

‘645 pat., col. 1, lns. 27-37.

The verbs coupling, decoupling, engaged and disengaged suggest that the connections between the docking connector and the computer and between the peripheral devices and the computer are physical, wired connections. This excerpt would make little sense if peripheral device connections were construed to include wireless connections; by their very nature, wireless connections obviate the need for the peripheral devices to be coupled to or engaged with the computer. Furthermore, such a construction would be inconsistent with the nature of the invention. The present invention achieves simplicity and enhances portability by condensing multiple peripheral device connections into a single, docking connector. Wireless peripheral device connections achieve simplicity and enhance portability differently, by eliminating the need for any physical connection at all.

Because “connections” as used in the all connections limitations refers to wired, not wireless connections, the presence of infrared ports on defendants’ accused products will not put those products outside the scope of the claim. This conclusion would lead to the denial of defendants’ motion with respect to any accused products that include an infrared port and no other peripheral device connections that are not replicated on the single connector. However, all of the accused products that include an infrared port also include at least one other port that I have determined is a peripheral device connection. Therefore, this determination will not affect the outcome with respect to any of the accused devices.

c. RJ-11 port

Inexplicably, neither side has provided the court with any proposed facts regarding the function or operation of an RJ-11 port, despite both parties' recognition that this port may be a peripheral device connection and therefore important to any determination of infringement with respect to the all connections claim. In their briefs, the parties appear to agree that such a port is used to connect a computer to a telephone network. Plaintiff maintains that a telephone network is not a peripheral device connection, while defendants argue that it could be. However, because none of this was proposed as fact by either side, I cannot and will not consider this information to determine whether summary judgment is proper.

Absent properly proposed and supported facts, the court is left with only the rules governing summary judgment as a guide for determining which party bears the consequence of this lack of evidence. Although defendants brought the motion for summary judgment, plaintiff bears the ultimate burden of proof to demonstrate that the accused products infringe its patent. Fed. R. Civ. P. 56, Applied Medical Resources Corp. v. U.S. Surgical Corp., 448 F.3d 1324, 1333 (Fed. Cir. 2006) ("the party asserting infringement . . . ultimately bears the burden of proof). (I understand that defendants brought their motion for summary judgment to seek a judgment that none of the accused products infringe plaintiff's patent, and not to seek summary judgment with respect to their claim for a

declaratory judgment regarding non-infringement for all of their products.)

Defendants argue that the accused products do not infringe plaintiff's patent because all include at least one peripheral device connection that is not replicated on the single connector (putting the products outside the scope of plaintiff's claim) and that an RJ-11 port is such a peripheral device connection. Requiring defendants to do more and put forth evidence regarding the operation and function of an RJ-11 port would be improper because it would place the burden of demonstrating non-infringement on them. Celotex, 477 U.S. at 333 (stating that moving party need not support motion with evidence negating nonmoving party's claim). It is well-established that where the non-moving party fails to make a showing sufficient to establish the existence of an essential element on which it would bear the burden of proof at trial, summary judgment should be entered. Id. at 322-23 ("... a complete failure of proof concerning an essential element of the nonmoving party's case renders all other facts immaterial").

The following accused products have RJ-11 ports located on the computers' housing that do not also pass through the single connector on the housing: Gateway models M250, M280, CX200, M285, CX210, NX100, NX250, E-100M and S-7200N. Because these products do not meet the all connections limitation, they do not literally infringe claims 17-20, 22, 24 and 26-28 of the '645 patent. Thus, defendants' motion for summary judgment may be granted with respect to these products on the ground that the products contain a RJ-

11 peripheral device connection and do not meet the all connections limitation. Although this may be a harsh result, plaintiff may not defeat summary judgment by refusing to put forth any evidence regarding a claim for which it will bear the burden of proving at trial.

d. PC card port

Finally, plaintiff argues that a PC card port is not a peripheral device connection and need not be replicated on the single connector to fall within the all connections limitation. A PC card port allows a user to connect a computer to a device having a PCMCIA card interface, such as an external storage device or a modem. Specifically, the parties disagree about the degree to which PC cards, when placed in the corresponding port on a computer, are “external” to the computer and whether a device that is (at least) partially internal to a computer may be a peripheral device.

The parties have not provided any evidence regarding the function or placement of PC cards in defendants’ products in their proposed findings of fact (or any other filings, for that matter). Thus, the parties have given the court no way to conclude with confidence whether a PC card is a peripheral device and whether a PC card port is a peripheral device connection. Defendants have moved for summary judgment on these grounds, asserting that such devices are peripheral device connections. As discussed above, plaintiff bears the burden of “establish[ing] the existence of an essential element on which it would bear the

burden of proof at trial.” Celotex, 477 U.S. at 323. Plaintiff has failed to adduce any evidence from which a reasonable jury could conclude that a PC card port is not a peripheral device connection. Therefore, defendants’ motion for summary judgment will be granted.

The following accused products have PC card ports located on the computers’ housing that do not also pass through the single connector on the housing: Gateway models M405, M285, CX210, NX100, NX250, E-100M, S-7200N, M465, M460, M680, M685, NX260, NX550, NX560, NX850, NX860, S-7510N and S-7500N. Because these products do not meet the all connections limitation, they do not literally infringe claims 17-20, 22, 24 and 26-28 of the ‘645 patent. Thus, defendants’ motion for summary judgment may be granted with respect to these products on the basis that the products contain a PC card peripheral device connection and do not meet the all connections limitation.

B. Infringement by Equivalence

Finally, in defendants’ brief in support of their motion for summary judgment, they argue that plaintiff is legally estopped from asserting that defendants’ products infringe the ‘645 patent under the doctrine of equivalents. Under the doctrine of equivalents, “a product or process that does not literally infringe upon the express terms of a patent claim may nonetheless be found to infringe if there is ‘equivalence’ between the elements of the accused product or process and the claimed elements of the patented invention.” Warner-Jenkinson

Co. v. Hilton Davis Chemicals Co., 520 U.S. 17, 21 (1997). Defendants argue that the doctrine is inapplicable to this case because the '645 patent inventors disclaimed coverage of laptop computers and computers that do not pass every peripheral connection through a single connector. Plaintiff has not challenged this argument or made any other argument that defendants' devices infringe the '645 patent under the doctrine of equivalents. No discussion of the doctrine of equivalents appears in their brief. Thus, I conclude that plaintiffs have waived any argument that defendants' products infringe the '645 patent under the doctrine of equivalents. Central States, Southeast & Southwest Areas Pension Fund v. Midwest Motor Express, Inc., 181 F.3d 799, 808 (7th Cir. 1999) ("Arguments not developed in any meaningful way are waived.").

ORDER

IT IS ORDERED that:

1. Plaintiff Computer Docking Station Corporation's Rule 56(f) motion is DENIED.
2. The motion for summary judgment by Defendants Dell, Inc., Gateway, Inc., Toshiba America, Inc. and Toshiba America Information Systems, Inc. is GRANTED. The clerk of court is directed to enter judgment in favor of defendants and close the case.

Entered this 10th day of January, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge

