

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SMARTSKY NETWORKS, LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 22-266 (JLH)
)	
GOGO BUSINESS AVIATION, LLC, and)	
GOGO, INC.,)	
)	
Defendants.)	

~~PROPOSED~~ CLAIM CONSTRUCTION ORDER

Pursuant to the Court’s March 7, 2024 oral order, Plaintiff SmartSky Networks, LLC (“SmartSky” or “Plaintiff”) and Defendants Gogo Business Aviation, LLC and Gogo, Inc.’s (collectively, “Gogo” or “Defendants”) hereby submit the following proposed joint claim construction order setting forth (1) the joint constructions agreed upon by the parties either before, or in response to, the Markman hearing; and (2) the constructions for certain terms, phrases, or clauses contained in the asserted claims of U.S. Patent No. 9,312,947 (“the ‘947 Patent”), U.S. Patent No. 11,223,417 (“the ‘417 Patent”), U.S. Patent No. 10,257,717 (“the ‘717 Patent”), U.S. Patent No. 9,730,077 (“the ‘077 Patent”), U.S. Patent No. 11,558,108 (“the ‘108 Patent”), and U.S. Patent No. 11,533,639 (“the ‘639 Patent”) (collectively, “the Asserted Patents”) ruled upon by the Court.

AGREED UPON CLAIM CONSTRUCTIONS

Patent/Claim	Claim Term	Adopted Construction
'947 Patent: Claims 1, 11	“radio configured via software defined radio to utilize beamforming to generate a plurality of steerable beams”	a radio configured such that some or all physical layer elements (including mixers, filters, amplifiers, modulators/demodulators, detectors, etc.), which are typically implemented in hardware, are implemented in software on a programmed computer or embedded system in order to form and/or steer radio waves in a particular direction
'417 Patent: Claims 1, 11	“software defined radio”	a radio configured such that some or all physical layer elements (including mixers, filters, amplifiers, modulators/demodulators, detectors, etc.), which are typically implemented in hardware, are implemented in software on a programmed computer or embedded system
'108 Patent: Claims 1, 11		
'417 Patent: Claims 1, 11	“generate one or more steerable beams”	form and/or steer radio waves in a particular direction
'717 Patent: Claims 1, 12	“base station[s]”	all ground-based equipment necessary to establish a wireless communication link with a radio disposed on an aircraft flying within the equipment’s coverage area
'639 Patent: Claims 1, 11		

CLAIM CONSTRUCTIONS ADOPTED BY THE COURT

Patent/Claim	Claim Term	Adopted Construction
'947 Patent: Claims 1, 11	"data communication links that are enabled to be maintained continuous and uninterrupted in time"	connections for transferring data, wherein the connections maintain a communication session continuous and uninterrupted in time
'947 Patent: Claims 1, 11	"high speed data communication links that are enabled to be maintained continuous and uninterrupted in time while one of the respective different in-flight communication nodes transitions between [a first coverage area and a second coverage area]"	high speed connections for transferring data, wherein the connections maintain a communication session continuous and uninterrupted in time while one of the respective different in-flight communication nodes transitions between a first coverage and a second coverage area by conducting a hard or soft handoff
'417 Patent: Claims 1, 1	"conduct a handover of the inflight aircraft to another ground station within the network of ground stations to maintain the high speed data communication link continuous and uninterrupted in time"	conduct a hard or soft handoff of the inflight aircraft to another ground station within the network of ground stations to maintain the high speed connection for transferring data, wherein the connection maintains a communication session continuous and uninterrupted in time
	"the high speed data communication link is maintained continuous and uninterrupted in time while the in-flight aircraft moves from a coverage area provided by one of the plurality of ground stations to a coverage area provided by another of the plurality of ground stations"	the high speed connection for transferring data maintains a communication session continuous and uninterrupted in time while the in-flight aircraft moves from a coverage area provided by one of the plurality of ground stations to a coverage area provided by another of the plurality of ground stations

Patent/Claim	Claim Term	Adopted Construction
'108 Patent: Claims 1, 11	<p>“the high speed data communications link is maintained while the aircraft transitions between a coverage area provided by the ground station and coverage areas of respective ones of the other ground stations” /</p> <p>“the high speed data communication link is maintained while the in-flight aircraft is within a coverage area provided by one of the plurality of ground transmission stations and as the in-flight aircraft transitions from the coverage area provided by the one of the plurality of ground transmission stations to a coverage area provided by another of the plurality of ground transmission stations”</p>	the high speed connection for transferring data maintains a communication session while the aircraft transitions between a coverage area provided by the ground station and coverage areas of respective ones of the other ground stations
'717 Patent: Claims 1, 12 '639 Patent: Claim 1, 11	“a radio”	one or more radios
'717 Patent: Claims 1, 12	“the first and second base stations are each configured to handover communication with the radio”	the first base station that employs unlicensed spectrum to communicate with the radio is configured to handover communication with the same radio to the second base station, which employs licensed spectrum to communicate with the same radio

Patent/Claim	Claim Term	Adopted Construction
'639 Patent: Claim 1	“the base station is configured to wirelessly communicate with a radio disposed on an aircraft while the aircraft is located inside the first directional radiation pattern via the unlicensed spectrum, and coordinate with the adjacent base station to enable the adjacent base station to communicate with the radio while the aircraft is located inside the at least one second directional radiation pattern of the adjacent base station”	the base station is configured to wirelessly communicate with a radio disposed on an aircraft while the aircraft is located inside the first directional radiation pattern via the unlicensed spectrum, and coordinate with the adjacent base station to enable the adjacent base station to communicate with the same radio on the aircraft while the aircraft is located inside the at least one second directional radiation pattern of the adjacent base station via the licensed spectrum
'639 Patent: Claim 11	“the base station is configured to wirelessly communicate with a radio disposed on an aircraft flying through one of the respective sectors while the aircraft is located inside the first directional radiation pattern via the unlicensed spectrum, and coordinate with the second base station to enable the second base station to communicate with the radio while the aircraft is located inside the second directional radiation pattern of the second base station”	the base station is configured to wirelessly communicate with a radio disposed on an aircraft flying through one of the respective sectors while the aircraft is located inside the first directional radiation pattern via the unlicensed spectrum, and coordinate with the second base station to enable the second base station to communicate with the same radio on the aircraft while the aircraft is located inside the second directional radiation pattern of the second base station via the licensed spectrum
'717 Patent: Claims 1, 12 '639 Patent: Claim 1, 11	“unlicensed spectrum”	spectrum that is not licensed by the Federal Communications Commission

Patent/Claim	Claim Term	Adopted Construction
'717 Patent: Claims 1, 12 '639 Patent: Claim 1, 11	"licensed spectrum"	spectrum that is licensed by the Federal Communications Commission
'717 Patent: Claims 2, 13 '639 Patent: Claim 2, 12	"substantially wedge shaped radiation pattern"	a radiation pattern that increases in span at least vertically as the distance from the base station increases
'717 Patent: Claims 1, 12 '077 Patent: Claim 1	"focusing energy toward the horizon" / "oriented toward a horizon"	No construction at this time. The question of indefiniteness, pursuant to § 112 ¶ 2, is open, and may be submitted to the jury for an advisory opinion on this issue.
'077 Patent: Claims 1, 2	"terrestrial base stations"	the terrestrial base stations may or may not be within the same network as the ATG base stations The question of indefiniteness, pursuant to § 112 ¶ 2, is open, and may be submitted to the jury for an advisory opinion on this issue.
'077 Patent: Claims 2	"while being geographically located outside a coverage area of each of the terrestrial base stations in a portion of the ground communication layer above which the in-flight aircraft is located"	the ATG base station is outside the coverage area of each of the terrestrial base stations that cover the point on the ground below the in-flight aircraft

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SO ORDERED this 25th day of March, 2024.

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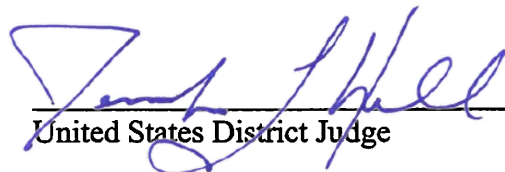
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United States District Judge