

District Court in the Claim Construction Zone: Federal Circuit Permits at Rule 12 Stage

UTTO Inc. v. Metrotech Corp., No. 2023-145 (Fed. Cir. Oct. 18, 2024)

Authors: Reid Huefner & Suet Lee | Editor: Jason Keener | October 25, 2024

On October 18, 2024, the United States Court of Appeals for the Federal Circuit issued a precedential decision in *UTTO Inc. v. Metrotech Corp.*, No. 2023-145 (Fed. Cir. Oct. 18, 2024), ruling that a district court may engage in claim construction when determining a motion to dismiss. *UTTO Inc.* (“*UTTO*”) sued its competitor *Metrotech Corp.* (“*Metrotech*”), alleging patent infringement through the sale of its underground utility line locator device. The Federal Circuit vacated and remanded the district court’s dismissal of *UTTO*’s infringement suit for further claim construction proceedings to construe the disputed claim language, finding that a “fuller claim-construction analysis” was needed to define the scope of the claim language implicated in the 12(b)(6) motion.



UTTO’s asserted patent, U.S. Pat. No. 9,086,441, claims methods of detecting underground utility lines—i.e., “buried assets”—such as telephone or electrical lines. The methods include using GPS to identify a person’s location and then determine if the individual is within the buffer zone of a particular buried utility line without interference from conflicting signals from another buried line.

The district court had previously dismissed multiple iterations of *UTTO*’s complaint and had also denied *UTTO*’s motion for preliminary injunction wherein the district court construed the claim term “group” as more than one per the ordinary meaning and thus, construed a “group of buried assert data points” as requiring two or more data points for each buried asset. Based on this construction, the district court dismissed each iteration of *UTTO*’s complaint as *Metrotech*’s device used only one data point at a time and “as explained, the ’441 Patent requires the use of multiple data points to generate the buffer zone.” *UTTO* unsuccessfully argued that the district court had no authority to engage in claim construction when deciding a motion to dismiss, citing *Nalco Co. v. Chem-Mod, LLC*, 883 F.3d 1337 (Fed. Cir. 2018), wherein the Federal Circuit reversed a dismissal of patent infringement claims because the district court rested “on a premature resolution of claim-construction disputes.”

On appeal, the Federal Circuit rejected *UTTO*’s interpretation of *Nalco*, explaining that *Nalco* did not establish “a categorical rule against a district court’s adoption of a claim construction in adjudicating a motion to dismiss.” Additionally, the Federal Circuit explained that district courts have deference in resolving matters before them, and separate claim construction proceedings are not required. Finally, the Federal Circuit found passages of the specification for the ’441 Patent to require closer scrutiny as they appear to support *UTTO*’s proposed claim construction that group means one or more. The Federal Circuit also asked, “whether a relevant artisan would read the phrase [group of buried asset data points] in light of a recognized meaning of ‘group’ in mathematics to mean one or more, not two or more,” thereby prompting the remand. While strong intrinsic evidence may provide a basis for aggressively pushing for an early claim construction ruling in support of (or against) early motion practice, this case also provides a roadmap to push a court to avoid premature constructions based on solely intrinsic evidence.