

2019-1212, -1456

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**United States Court of Appeals for the Federal Circuit**

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**MIRA ADVANCED TECHNOLOGY SYSTEMS, INC.,**

**Appellant,**

**v.**

**MICROSOFT CORPORATION,**

**Appellee**

**Appeals from the United States Patent and Trademark Office, Patent Trial  
and Appeal Board in Nos. IPR2017-01052 and IPR2017-01411**

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**CORRECTED APPELLANT'S COMBINED PETITION FOR PANEL  
REHEARING AND REHEARING EN BANC**

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April 13, 2020

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**UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

Mira Advanced Technology Systems, Inc. v. Microsoft Corporation

Case No. 19-1212

**CERTIFICATE OF INTEREST**

Counsel for the:

(petitioner)  (appellant)  (respondent)  (appellee)  (amicus)  (name of party)

certifies the following (use "None" if applicable; use extra sheets if necessary):

1. Full Name of Party Represented by me	2. Name of Real Party in interest (Please only include any real party in interest NOT identified in Question 3) represented by me is:	3. Parent corporations and publicly held companies that own 10% or more of stock in the party
Mira Advanced Technology Systems, Inc.	Mira Advanced Technology Systems, Inc.	None

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court (**and who have not or will not enter an appearance in this case**) are:

DNL Zito; Joseph J. Zito, Richard Castellano, Paul Grandinetti

FORM 9. Certificate of Interest

Form 9  
Rev. 10/17

5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. *See* Fed. Cir. R. 47.4(a)(5) and 47.5(b). (The parties should attach continuation pages as necessary).

Mira Advanced Technology Systems, Inc. v. Microsoft Corporation, United States District Court for the Northern District of West Virginia, Case No. 2:16-cv-00088-JPB (The District Court has stayed this case pending the outcome of this Inter Partes Review and the Inter Partes Review of a related patent, Case IPR 2017-01411).

1/30/2019

Date

/s/ Jundong Ma

Signature of counsel

Please Note: All questions must be answered

Jundong Ma

Printed name of counsel

cc: All Counsel of Record

Reset Fields

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**STATEMENT OF COUNSEL UNDER FEDERAL CIRCUIT RULE 35(B)(2)**

Based on my professional judgment, I believe the panel decision is contrary to the following decisions of the precedents of this Court: *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc); and *In re Smith Int'l, Inc.*, 871 F.3d 1375 (Fed. Cir. 2017).

Dated: March 12, 2020

/s/ Jundong Ma  
Jundong Ma

**INTRODUCTION**

With respect to Mira’s U.S. Patent Nos. 8,848,892 and 9,531,657 (hereinafter “the patents”), the Panel affirmed the unpatentability judgment of Patent Trial and Appeal Board (“the Board”) below without opinion. In so doing, the Panel may have inadvertently overlooked a *fundamental departure* of the Board’s approach of construing the meaning of a disputed key claim term *from* Federal Circuit precedent, and in the process, issued a decision that would have sweeping consequences.

The two patents<sup>1</sup> are related and both directed to a *memo* function. With the memo function, when a communication device detects an incoming or outgoing communication address (e.g., a phone number) matching a specific stored communication address (e.g., a phone number), a pre-recorded memo would be

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<sup>1</sup> The ‘892 patent claims are specifically with respect to a phone communication, and the ‘657 patent claims are with respect to a communication in general, which covers, besides a phone communication, other types of communications (e.g. email).

displayed (or otherwise played) while the ensuing communication is being established and/or on-going. The memo function thus facilitates a user, who otherwise may have forgot a conversation point documented in the pre-recorded memo, to see (or hear) the memo and be reminded of the conversation point.

The prior art has several references also aiming to achieve the memo function. One distinction of the claimed invention that sets it apart from all those prior art references is that in achieving the memo function, the claimed invention *integrates* the pre-recorded memo *with a common “contact list” feature* available on a communication device. This integration scheme yields advantages over the prior art in areas such as reliability and user-adaptability. Appx511-512; Red Br. 4.

The central issue dispositive of this case<sup>2</sup> is the construction of the key claim term “contact list”. Throughout the IPR proceedings, Mira argued that the term “contact list” should be construed, *at its core*<sup>3</sup>, as *a common feature requiring (i.e.,*

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<sup>2</sup> Both the Board’s decision and Microsoft’s position are *premised* on the adoption of the Board’s construction of the key claim term “contact list.”

<sup>3</sup> Mira’s proposed construction of “contact list” is as follows:  
*a feature commonly and already available on a smart communication device, a feature which includes entries (namely, “contact list entries”) each including fields of contact information that are known and familiar to ordinary users such as name, phone number, address, or email. In particular, a contact list as claimed is a feature which includes user interfaces to access well-known capabilities relating to communication, capabilities at least including:*

*having own) user interface functionality* (through which a user can, e.g., save and view contact information, and initiate common functions<sup>4</sup>, such as speed-dialing).

One claim construction principle *fundamental* to a correct construction is that the specification, *not anything else such as claim language*, “is the **single best guide** to the meaning of a disputed term.” (emphasis added) *Phillips* at 1315 (internal quotes omitted). This **single-best-guide** principle has no less vitality under the BRI standard. Specifically, a correct construction is one “that **corresponds with** what and how the inventor describes his invention in the specification, i.e., an interpretation that is consistent with the specification.” (emphasis added) (hereinafter “the **correspond-with** principle) *In re Smith Int’l, Inc.* (hereinafter “*In re Smith*”) at 1382–83. (citation and internal quotation marks omitted).

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*(1) inputting, saving and viewing contact information of an entity (such as a person) visually represented by a contact list entry of the contact list which is visually-represented, selectable, and activatable by a user, and (2) selecting and activating a “contact list entry” by a user so as to initiate a well-known common function such as speed-dialing an underlying phone number of the contact list entry) or opens for displaying the underlying contact information contained therein.*

The Board correctly used the “user interface,” generally, as a proxy for the **core** claim construction dispute in this case. It recognized that “the **thrust** of Patent Owner’s argument in the Patent Owner Response is that a ‘contact list,’ as claimed, must necessarily include a ‘user interface.’” (emphasis added) Appx9.

<sup>4</sup> The Board appears to suggest that Mira argued that the contact list itself must include the listed “common functions.” This would misstate Mira’s claim construction. Mira provides that a contact list’s user interface is used **so as to initiate** a well-known common function, as clearly provided in Mira’s construction. That is, a “contact list” needs not itself have each of those common functions. Appx526.



Mira's approach, thus its position, with respect to the construction of the key claim term "contact list" follows the *single-best-guide* and *correspond-with* principles respectively of *Phillips* and *In re Smith*. With that settled approach, Mira reasoned and established that the specification **requires** that the key claim term "contact list" must be construed, at its core, as a *common feature requiring* user interface functionality. Mira reasoned that if the same term is construed otherwise, the claimed invention would simply NOT be one that "*corresponds with what and how the inventor describes his invention in the specification,*" per *In re Smith*.

The Board's approach, thus its position, with respect to the same construction is however **contrary to** the *single-best-guide* and *correspond-with* principles respectively of *Phillips* and *In re Smith*. As a first step, the Board **solely** uses the claim language (particularly the modifier "*saved*" in the "saved contact list"), NOT **the specification** per *Phillips*, as the *single best guide* to construe "contact list" as merely a *saved list, or a data structure that cannot require user interface functionality*. That part of the Board's approach alone is **contrary to** *Phillips*. As a subsequent second step, the Board looked to the specification to *unilaterally confirm* the construction **already, but improperly, decided** in the Board's first step, rather than to *construe* a yet-to-decide construction per *Phillips*. The second step is unsurprisingly riddled with *troubling* reasoning **tailor-made** for achieving nothing but that *unilateral confirmation* of the foregone construction.

With this *contrary* two-step approach, the Board construes “contact list” as *nothing more than a simple data structure or data template*, a construction which is predictably NOT one that “*corresponds with what and how the inventor describes his invention in the specification*” (emphasis added) per *In re Smith*. That is, the Board’s construction is not sufficient to *capture* the well-appreciated invention.

Consequently, the Board’s approach used to construct “contact list”, and thus its construction, are *arbitrary* and *capricious*, and both should therefore be set aside. With the construction of “contact list” being the *single central dispositive* issue of this case, permitting the Board’s *contrary* claim construction approach would have sweeping consequences. Panel rehearing or en banc review is appropriate to correct this Boards’ fundamental error.

**I. THE COURT SHOULD GRANT PANEL REHEARING OR EN BANC REVIEW WITH RESPECT TO MIRA’S PATENTS.**

**A. Federal Circuit Precedent Requires That “Contact List” Be Construed, At Its Core, As A Common Feature Requiring A User Interface Functionality.**

The specification makes it *unmistakably* clear that the claimed “contact list” is a *common feature* that *requires* user interface functionality under the *single-best-guide* and *correspond-with* principles respectively of *Phillips* and *In re Smith*. First, the specification, *in no ambiguous terms*, defines the term “contact list” in its opening sentences.

“Contact list is *a common feature* in most modern communication devices. *It comprises of multiple contact list entries and enables users to enter and save contact information of entities.* Users are able to enter and save name, address, phone, fax, and email into a contact list entry. Most communications devices also provide users means to *speed dial* a phone number container [sic] in contact list entry directly without having to dial phone number manually.” Appx141, 1:6-13.

That is, the specification *requires* that a “contact list” be “*a common feature* in most modern communication devices.” Appx141 (emphasis added). The specification expressly provides that “[I]t... *enables users to enter and save contact information of entities*”, with “it” referring to a “contact list” used in the teachings of the specification. Indeed, how can a *contact list* “enable users” to do anything without having its own user interfaces!<sup>5</sup> Appx529; Appx1109, Declaration ¶ 40. Plus, the above disclosure *requires* user interface functionality for a user to take advantage of well-known communication device functions such as *speed dialing*. Thus, the specification, *just with the above description alone*, makes it *unmistakably clear* that a “contact list” be *a common feature requiring user interface functionality*.

Further, the specification, *inter alia*, provides that a “contact list” was “typically provided with email clients such as hotmail, outlook, gmail etc.” Appx141. But an email client—including these popular email clients *whose names*

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<sup>5</sup> What the Board and Microsoft has never addressed is how a contact list, *itself*, can enable users to activate the common functions of a communication device, per the specification, *without* a user interface.

alone provide *wealth of information*, such as information about specific user interface, to those skilled in the art — requires that its respective “contact list” have own *user interface* functionality. As shown in Figure 4 of the ’657 patent, a “contact list” of Gmail email application *indisputably* has user interface<sup>6</sup> as appreciated by those skilled in the art. Appx148; Appx866; Red Br. 7-8.

The specification thus shows the inventor’s use of, and reliance on, common well-known software clients like Hotmail, Outlook, and Gmail. This use and reliance convey to the skilled artisan with *unmistakable clarity* as to the user interface functionality of their respective “contact lists,” and therefore as to the user interface functionality of a “contact list” referred to in the patents, even when no additional disclosure about them is included. Cf. *Vas-Cath Inc. v. Marhurkar*, 935 F.2d 1555, 1566 (Fed. Cir. 1991) (“Consideration of what the drawings conveyed to persons of ordinary skill is essential.”).

Still further, the specification also refers to “a contact list *with* means to enable [a] user to enter and save contact information,” and “a contact list *with* means to

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<sup>6</sup> Although FIG. 4 of the ’657 patent (which is also the original FIG. 4 of the ’892 patent) does not show an actual visual example of a “contact list” of the well-known and popular Gmail, there is no dispute that the “*Contacts*” clickable link -- the link has a familiar underline below the letters, indicating clicking of the link would launch a “*Contacts*” of Gmail with the user interface of “contact list” being displayed – in conjunction with the specification’s discussion of the well-known popular email client Gmail in regards to “*contact list*,” conveys to those skilled in the art as to the user interface functionality of Gmail’s “contact list.” Appx1970-1973; Red Br. 7-8.

attach [a] memo.” Appx141 (emphasis added). In either instance, the “means” *unmistakably* refers to user interface functionality *as required* by the “contact list” *itself*, since it is *undisputed*<sup>7</sup> that there is no means without user interface(s) that can “enable a user to enter and save contact information” or “attach a memo.”

Still further, portions of the specification describing a “contact list entry” of a “contact list,” provides as follows:

“Contact list entry may be activated, for example, when user opens contact information contained therein for viewing.” Appx141, 2:17-21.  
 “FIG. 2 shows the method of display of memo in contact list entry of communication device when contact list entry is selected for outgoing communication.” Appx141, 1:39-41.

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<sup>7</sup> Neither the Board nor petitioner Microsoft *ever disputed* that means, such as (a) “means to enable [a] user to enter and save contact information” and (b) “means to attach a memo,” requires user interface(s). The Board and petitioner Microsoft only seem to argue that another entity (other than “contact list”) may provide “contact list” with user interface functionality. However, that argument *has no bearing* on whether a “contact list” should be understood as a *common feature with (i.e. having)* the above-noted means (a) and mean (b), as the specification makes it *unmistakably express* that a “contact list” is “a contact list *with* means to enable [a] user to enter and save contact information” and “a contact list *with* means to attach a memo.” Appx141 (emphasis added). That is, *regardless of which entity* – whether it be an umbrella software application (like a Gmail), the “contact list” itself, or any other entity (e.g., a processor) for that matter – that provides a “contact list” with the required user interface functionality, it is *still*, per the *express* disclosure of the specification, that a “contact list” is a *common feature with means (a) and means (b), each of which indisputably requires user interface(s).*

These two disclosures indicate that a “contact list” is a common feature *requiring* user interface functionality.<sup>8</sup>

To recap, the specification thus provides overwhelming evidence, both individually and collectively, *requiring* that a “contact list” be a common feature that must have user interface functionality. If otherwise construed, the construction of a “contact list” simply does NOT *correspond with what and how the inventor describes his invention in the specification*, a construction which is *incorrect* as it is contrary to *In re Smith* and does not *capture* the claimed invention.

The claim language *supports* Mira’s construction of “contact list.” Mira’s claims recite “*a saved contact list having one or more contact list entries.*” The “contact list entry” includes fields that are “*configured to retrieve*” contact information and “*configured to attach*” memo data inputted by the user. Appx141-142 (emphasis added). That is, the “contact list entry” is *itself* a feature “configured to” perform functions (i.e., retrieving, attaching) that can be, and indeed are, user interface functions. Likewise, step (c) of each independent claim recites “activating” a “contact list entry,” indicating that “contact list entry” is selectable and activatable,

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<sup>8</sup> There is no dispute that a “contact list entry” cannot be *user-selectable* or *activable (by a user or processor)* if a “contact list entry” does not have a visual representation, which is a form of user interface functionality, for user-selection or activation.

which plainly *requires* user interface(s) in view of the specification<sup>9</sup> and even according to the Board’s own interpretation of “activating.”<sup>10</sup>

To sum, under the *single-best-guide* and *corresponds-with* principles respectively of *Phillips* and *In re Smith*, the claimed “contact list” should be construed, *at its core*, as a *common feature requiring* user interface functionality.

**B. The Board’s Approach Used To Construe Meaning Of “Contact List” Is Contrary To Federal Circuit Precedent, And Accordingly Its Construction Should Be Set Aside.**

The Board construes “contact list” to mean “*an electronic list comprising contact list entries*,” and “contact list entry” to mean “*an item in a contact list comprising data fields to input contact information*,” emphasizing that its construction did not require any user interface functionality. Thus, the Board construed “contact list” as nothing more than *a data structure or data template* (in the form of a list stored in memory). Appx455.

However, this construction results from an approach that is *contrary to* the *single-best-guide* and *correspond-with* principles respectively of *Phillips* and *In re*

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<sup>9</sup> The specification specifically provides that “Contact list entry may be *activated*, for example, when user *opens contact information* contained therein for viewing.” (emphasis added), indicating that a “contact list entry” of a “contact list” is *selectable* and *activatable*, both connoting that a “contact list entry”, thus a “contact list,” has user interface functionality. Appx141, 2:17-21.

<sup>10</sup> The Board construed the term “activating” to mean “*selecting* or *opening*” a contact list entry. Appx456; Appx43; On their face, “*selecting*” or “*opening*” a contact list entry conveys with reasonable clarity the required user interface functionality. Appx456; Appx43.

*Smith*, both being *fundamental* principles of this Court. The Board’s approach consists of: (a) that ***the claim language***, NOT the specification (i.e., the teachings of the specification as a whole), is used as *the single best guide* to construe the meaning of “contact list,” and (b) that the specification is merely used as an ***after-thought secondary*** source to *unilaterally confirm* the Board’s ***already decided*** construction with *troubling* reasoning ***tailor-made*** for that unilateral confirmation.

More specifically, as the first step of the Board’s approach, the Board, *pointing to* the claim language “saved contact list,” makes an *unfounded*<sup>11</sup> assumption solely based on the Board’s own personal experience<sup>12</sup> that the modifier “saved” means that “contact list” is merely *a saved list, or a data structure that cannot require user interface functionality*. Appx455. That is, solely using the claim

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<sup>11</sup> The Board’s assumption is *unfounded*. Most critically, that assumption contradicts what “contact list” is demonstrably intended in view of the specification, which is contrary to *In re Smith*. In addition, there is no evidence in the record whatsoever supporting that assumption. Further, the Board did not cite any evidence in support of its view that the “contact list” being “saved” ***necessarily precludes it from*** having user interface functionality. Finally, the Board’s assumption conflicts with the Board’s own construction of another term “activating,” which renders the Board’s analysis internally inconsistent and therefore invalid. *cf. Honeywell Int’l Inc. v. Mexichem Amanco Holding S.A. DE C.V.*, 865 F.3d 1348, 1354 (Fed. Cir. 2017) (rejecting Board’s reasoning because “we find the Board’s analysis to be internally inconsistent”). Red Br. 43-50.

<sup>12</sup> The Board’s assumption appears to have been based on an unfounded and unsupported preconception of its own ALJ – which is based on the ALJ’s own experience as according to his own words stated at the oral hearing of the IPR proceedings – that a user interface cannot be “saved” or “stored.” Appx666-667, Tr. 16:22-17:2; Red Br. 42-43.



language in conjunction with that unfounded assumption, the Board construes “contact list” as *nothing more than a simple data structure or data template*. Thus, the Board’s constructing of “contact list” in this step is, by nature and definition, **contrary to** the *single-best-guide* principle of *Phillips*.

As the second and final step of the Board’s approach, the Board looked to the specification, **not** to construe the meaning of “contact list,” **but to unilaterally confirm** the original construction *already, but improperly and incorrectly, decided* from the claim language alone in the first step. Under *Phillips*, the specification should be used as *the single best guide to construe* (i.e., figure out) a **yet-to-decide** construction, and NOT be used *as an after-thought secondary source to unilaterally confirm* an **already decided** construction. Yet, this second step did just the latter, which is **contrary to** *Phillips*. Not surprisingly, this step is riddled with *troubling* reasoning **tailor-made** for achieving nothing but that unilateral confirmation of the foregone construction of the Board.<sup>13</sup>

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<sup>13</sup> In this second step, the Board’s reasoning is clearly **tailor-made** for achieving nothing but the unilateral confirmation of the Board’s construction of “contact list” already decided in the first step. **First**, Board *cherry-picks* Figure 1, but mischaracterizing Figure 1 as evidence of the notion that the specification “describes contact list as a database stored in a communication device” (Appx13), despite that the specification makes express that Figure 1 is **not** a “contact list” per se, but rather is the “database structure of [a] contact list.” Appx141; Red Br. 39-40; That mischaracterization of Figure 1 is in fact a central misunderstanding that pervades Microsoft’s petition and the Board’s claim construction analysis. **Further**, the Board dismisses each of those pieces of overwhelming evidence that Mira presents to

Not surprisingly and most critically, the Board’s construction of “contact list” does not *correspond with* “*what and how the inventor describes his invention in the specification,*” which is contrary to *In re Smith*. The Board’s construction is thus not sufficient to *capture* the claimed invention. To sum, the Board’s two-step approach used to construct the key claim term “contact list” is *contrary to* the *single-best-guide* and *correspond-with* principles respectively of *Phillips* and *In re Smith*, and is therefore *arbitrary* and *capricious*. The construction of “contact list” resulting from this approach should therefore be set aside.

**C. The Panel’s Seeming Concern -- Namely, Which Thing Provides The User Interface Functionality Of “Contact List” -- *Has No Bearing On Finding Of The Unmistakable Fundamental Departure Of The Board’s Claim Construction Approach From Federal Circuit Precedent.***

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establish Mira’s construction of “contact list,” asserting *but without any evidence whatsoever* that “[P]atent Owner’s argument again does not comport with the language of the claims” (Appx19; Appx22-23) or alternatively “[P]atent Owner’s proposed construction is untenable as being incompatible with the claim language ‘saved contact list’” (Appx15). Red Br. 43-39. **Still further**, the Board dismisses Mira’s evidence on the *troubling* ground that Patent Owner does not explain adequately why *a processor*, which is recited in the claims, *requires a user interface to ... “activate a contact list entry of the contact list,”* as claimed. Appx24. However, the issue relevant to the construction of “contact list” is NOT *whether a claim step performed by a processor requires a user interface*, BUT *whether the claim term should be construed as requiring a user interface in accordance with the settled principles governing claim construction*. Thus, this ground of the Board is *irrelevant to* the construction of “contact list” and therefore *has no place* in the current claim construction analysis. **To sum**, tailor-made grounds of *arbitrary* nature percolate throughout this Board’s second step.

During the oral argument<sup>14</sup> held before the Panel, it appears that in regards to the construction of the term “contact list,” the Panel seems to be concerned of whether the user interface functionality of a “contact list” is, e.g., provided by an umbrella application, such as Gmail. This concern of the Panel *has no bearing* on the finding of the *unmistakable fundamental departure of the Board from* the precedents of this Court governing claim construction, namely, *Phillips* and *In re Smith*. That is, regardless of the answer to the Panel’s seeming concern, the Board’s construction of “contact list” should be set aside for *fundamentally departing from* the precedents of this Court.

Further, this seeming concern of the Panel has indeed *no relevance* to the construction of “contact list” in view of the specification. As demonstrated above, a correct construction of “contact list,” which should *correspond with what and how the inventor describes his invention in the specification* under *Phillips* and *In re Smith*, should be, *at its core*, a common feature requiring (*i.e. having own*) user interface functionality, **regardless of**<sup>15</sup> which thing – whether it be an umbrella

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<sup>14</sup> The recording of the oral argument held before the Panel on February 7, 2020 is available through: <http://www.cafc.uscourts.gov/oral-argument-recordings>.

<sup>15</sup> Also see footnote<sup>7</sup> in connection with the teachings (in the specification) concerning a “a contact list *with* means to enable [a] user to enter and save contact information,” (emphasis added) and “a contact list *with* means to attach [a] memo.” (emphasis added).

software application (like a Gmail), the “contact list” itself, or any other entity (e.g., a processor) for that matter – that provides the user interface functionality.

**D. This Case Should Be At Least Remanded Because The Board Did Not Make Alternative Finding Under A Correct Construction Of “Contact List” Decided With An Approach Following Federal Circuit Precedent.**

The Board did not make any alternative finding under a correct construction of the key claim term “contact list” (e.g., Mira’s construction of “contact list”) decided with an approach following the *single-best-guide* and *correspond-with* principles respectively of *Phillips* and *In re Smith*. Nor did Microsoft set forth a theory of unpatentability under such a correct construction. On the other hand, Mira demonstrated that under Mira’s correct construction of “contact list,” the claimed *integration* scheme is simply not within the grasp of those skilled in the art in view of all of the cited prior art references either singly or in combination, and should therefore be patentable.

In view of Microsoft’s decision not to allege unpatentability under a correct construction of the key claim term “contact list”, reversal is justified. At the very least, this case should be remanded for further proceedings under a correct claim construction decided with an approach that follows this Court’s precedent.

Respectfully submitted,

/s/ Jundong Ma

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*Counsel for Appellant*

# ADDENDUM

## Contents of Addendum

*Mira Advanced Technology Systems, Inc., v. Microsoft Corporation*, Nos. 2019-1212, -1456 (Fed. Cir. February 11, 2020)

NOTE: This disposition is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**MIRA ADVANCED TECHNOLOGY SYSTEMS, INC.,**  
*Appellant*

v.

**MICROSOFT CORPORATION,**  
*Appellee*

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2019-1212, 2019-1456

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Appeals from the United States Patent and Trademark Office, Patent Trial and Appeal Board in Nos. IPR2017-01052, IPR2017-01411.

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**JUDGMENT**

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JON WRIGHT, Sterne Kessler Goldstein & Fox, PLLC, Washington, DC, argued for appellant. Also represented by PAULINE PELLETIER; JUNDONG MA, Jdm Patent Law PLLC, Columbia, MD.

ANDREW M. MASON, Klarquist Sparkman, LLP, Portland, OR, argued for appellee. Also represented by J. CHRISTOPHER CARRAWAY.

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THIS CAUSE having been heard and considered, it is

ORDERED and ADJUDGED:

PER CURIAM (NEWMAN, BRYSON, and REYNA, *Circuit Judges*).

**AFFIRMED. See Fed. Cir. R. 36.**

ENTERED BY ORDER OF THE COURT

February 11, 2020  
Date

/s/ Peter R. Marksteiner  
Peter R. Marksteiner  
Clerk of Court



## UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

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\_\_\_\_\_

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# UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

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