

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ACUITY BRANDS LIGHTING, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 19-2207 (MN)
)	
ULTRAVISION TECHNOLOGIES, LLC,)	
)	
Defendant.)	

MEMORANDUM ORDER

At Wilmington this 28th day of July 2021:

IT IS HEREBY ORDERED that the claim terms of U.S. Patents Nos. 8,870,410 (“the ’410 Patent”), 8,870,413 (“the ’413 Patent”), 9,734,738 (“the ’738 Patent”), 9,947,248 (“the ’248 Patent”), and 10,223,946 (“the ’946 Patent”) (collectively, “the Patents-in-Suit”) with agreed-upon constructions (*see* D.I. 92-1), are construed as follows:

1. “acrylic material” / “acrylic material substrate” means “material containing primarily acrylates” / “substrate containing primarily acrylates” (’410 Patent, cl. 15; ’413 Patent, cl. 4, 10, 12);
2. The preambles “An optics panel for use in a light emitting diode (LED) lighting assembly comprising” / “An optics panel for use in a light emitting diode (LED) lighting assembly for illuminating a billboard that has a display surface extending between outer edges of the billboard, the optics panel comprising” are limiting (’410 Patent, cl. 1, 10, 15; ’413 Patent, cl. 1, 5, 11);
3. “substantially transparent” means “transparent” (’410 Patent, cl. 1; ’413 Patent, cl. 5, 11);
4. “predetermined bounded area” means “area determined by the dimensions of the [display surface]” (’410 Patent, cl. 1);
5. “substantially the entire display surface” shall have its plain and ordinary meaning of “the entire display surface” (’410 Patent, cl. 1, 15);

6. “optics panel” shall have its plain and ordinary meaning, and the optics panels of independent claims 1 and 15 of the ’410 Patent and claims 1, 5, and 11 of the ’413 Patent comprise the respective elements of those claims (’410 Patent, cl. 1, 10, 11, 15; ’413 Patent, cl. 1, 5, 11); and
7. “wherein each lens is disposed over only one associated LED” / “each optical element disposed over only one associated LED” / “each optical element is disposed over only one associated LED” / “each optical element overlies only one associated LED” / “each optical element overlies only one associated LED” / “each convex optical element overlying an associated one of the LEDs” / “each optical element . . . overlies a respective one of the LEDs” shall have their plain and ordinary meaning of “each [lens/optical element/convex optical element] is disposed over only one LED” (’410 Patent, cl. 10; ’413 Patent, cl. 1, 5, 11; ’738 Patent, cl. 1, 10; ’248 Patent, cl. 1, 10; ’946 Patent, cl. 29).

Further, as announced at the hearing on July 21, 2021, IT IS HEREBY ORDERED that the following disputed claim terms of the Patents-in-Suit are construed as follows:

1. “substantially uniform / substantially equal level of illumination / a uniformity . . . remains substantially unchanged / the uniformity of light . . . remains substantially the same / a uniformity of light . . . remains substantially the same / a uniformity of light . . . remains substantially unchanged” mean “a level of illumination that does not create unnoticeable unevenness in the overall illumination (’410 Patent, cl. 1, 10, 15; ’248 Patent, cl. 3; ’738 Patent, cl. 11, 13; ’946 Patent, cl. 12);
2. “lens element” means “a geometrically distinct part of a lens” (’410 Patent cl. 1, 16, 22; ’413 Patent cl. 3, 7, 13);
3. “convex optical element” means “a lens that curves or bulges outward” (’946 Patent cl. 1, 21, 29);
4. “display surface” means “sign surface” (’410 Patent, cl. 1, 7, 10, 12, 14, 15, 19, 20, 21, 25, 26; ’413 Patent, cl. 1, 2, 4, 5, 6, 10, 11, 12, 16, 17);
5. “area” / “substantially rectangular area” mean “area of a sign” / “substantially rectangular area of a sign” (’946 Patent, cl. 1, 21, 24, 29; ’248 Patent, cl. 1, 10, 11, 12);
6. “configured to” / “configured so” means “designed to” / “designed so” (’410 Patent, claims 1, 10, 15; ’413 Patent, claims 1, 5, 11; ’738 Patent, claims 1, 10, 11, 12, 14; ’248 Patent, claims 1, 3, 10, 11; ’946 Patent, claims 1, 12, 21, 24, 29); and

7. “[average illumination to minimum illumination uniformity ratio] is 3:1 / [a ratio of the average illumination from that LED across the entire display surface to the minimum illumination from that LED at any point on the display surface] is 3:1 / [a ratio of the average illumination from each of the LEDs across the entire display surface to the minimum illumination at any point on the display surface from each of the LEDs] is 3:1 / [a ratio of the average illumination from that LED across the entire display surface to the minimum illumination from that LED at any point on the display surface] is 3:1 / [ratio of the average illumination from each LED across the entire display surface to the minimum illumination from that LED at any point on the display surface] [[to]] is 3:1” mean “has a ratio of 3:1” (’410 Patent, cl. 5, 14, 20; ’413 Patent, cl. 1, 5, 11).

The parties briefed the issues, (*see* D.I. 93), and submitted a Joint Claim Construction Chart containing intrinsic evidence, (*see* D.I. 92-1). The Court carefully reviewed all submissions in connection with the parties’ contentions regarding the disputed claim terms, heard oral argument, (*see* D.I. 100), and applied the following legal standards in reaching its decision.

I. LEGAL STANDARDS

A. Claim Construction

“[T]he ultimate question of the proper construction of the patent [is] a question of law,” although subsidiary fact-finding is sometimes necessary. *Teva Pharms. USA, Inc. v. Sandoz, Inc.*, 135 S. Ct. 831, 837-38 (2015). “[T]he words of a claim are generally given their ordinary and customary meaning [which is] the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312-13 (Fed. Cir. 2005) (en banc) (internal citations and quotation marks omitted). Although “the claims themselves provide substantial guidance as to the meaning of particular claim terms,” the context of the surrounding words of the claim also must be considered. *Id.* at 1314. “[T]he ordinary meaning of a claim term is its meaning to the ordinary artisan after reading the entire patent.” *Id.* at 1321 (internal quotation marks omitted).

The patent specification “is always highly relevant to the claim construction analysis . . . [as] it is the single best guide to the meaning of a disputed term.” *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996). It is also possible that “the specification may reveal a special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess. In such cases, the inventor’s lexicography governs.” *Phillips*, 415 F.3d at 1316. “Even when the specification describes only a single embodiment, [however,] the claims of the patent will not be read restrictively unless the patentee has demonstrated a clear intention to limit the claim scope using words or expressions of manifest exclusion or restriction.” *Hill-Rom Servs., Inc. v. Stryker Corp.*, 755 F.3d 1367, 1372 (Fed. Cir. 2014) (internal quotation marks omitted) (quoting *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 906 (Fed. Cir. 2004)).

In addition to the specification, a court “should also consider the patent’s prosecution history, if it is in evidence.” *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980 (Fed. Cir. 1995) (en banc), *aff’d*, 517 U.S. 370 (1996). The prosecution history, which is “intrinsic evidence, . . . consists of the complete record of the proceedings before the PTO [Patent and Trademark Office] and includes the prior art cited during the examination of the patent.” *Phillips*, 415 F.3d at 1317. “[T]he prosecution history can often inform the meaning of the claim language by demonstrating how the inventor understood the invention and whether the inventor limited the invention in the course of prosecution, making the claim scope narrower than it would otherwise be.” *Id.*

In some cases, courts “will need to look beyond the patent’s intrinsic evidence and to consult extrinsic evidence in order to understand, for example, the background science or the meaning of a term in the relevant art during the relevant time period.” *Teva*, 135 S. Ct. at 841. Extrinsic evidence “consists of all evidence external to the patent and prosecution history,

including expert and inventor testimony, dictionaries, and learned treatises.” *Markman*, 52 F.3d at 980. Expert testimony can be useful “to ensure that the court’s understanding of the technical aspects of the patent is consistent with that of a person of skill in the art, or to establish that a particular term in the patent or the prior art has a particular meaning in the pertinent field.” *Phillips*, 415 F.3d at 1318. Nonetheless, courts must not lose sight of the fact that “expert reports and testimony [are] generated at the time of and for the purpose of litigation and thus can suffer from bias that is not present in intrinsic evidence.” *Id.* Overall, although extrinsic evidence “may be useful to the court,” it is “less reliable” than intrinsic evidence, and its consideration “is unlikely to result in a reliable interpretation of patent claim scope unless considered in the context of the intrinsic evidence.” *Id.* at 1318-19. Where the intrinsic record unambiguously describes the scope of the patented invention, reliance on any extrinsic evidence is improper. *See Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1308 (Fed. Cir. 1999) (citing *Vitronics*, 90 F.3d at 1583).

B. Indefiniteness

Section 112 of the Patent Act requires a patent applicant to “particularly point out and distinctly claim the subject matter” regarded as the applicant’s invention. 35 U.S.C. § 112 ¶ 2. “The primary purpose of the definiteness requirement is to ensure that the claims are written in such a way that they give notice to the public of the extent of the legal protection afforded by the patent, so that interested members of the public, *e.g.* competitors of the patent owner, can determine whether or not they infringe.” *All Dental Prodx, LLC v. Advantage Dental Prods., Inc.*, 309 F.3d 774, 779-80 (Fed. Cir. 2002) (citing *Warner-Jenkinson Co. v. Hilton-Davis Chem. Co.*, 520 U.S. 17, 28-29 (1997)). Put another way, “[a] patent holder should know what he owns, and the public should know what he does not.” *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd.*, 535 U.S. 722, 731 (2002).

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