

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

IN RE: MAXIM INTEGRATED
PRODUCTS, INC. MDL No. 2354

This Document Relates to: All Actions

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Master Docket: Misc. No. 12-244
MDL No. 2354

Chief Judge Joy Flowers Conti

MEMORANDUM OPINION

CONTI, Chief District Judge

These are patent infringement cases, centralized in this court for coordinated and consolidated pretrial proceedings by order of the Panel on Multidistrict Litigation. (ECF No. 1.) Approximately twenty-five separate cases are currently proceeding at the miscellaneous number assigned to this MDL, 12-mc-244, to which all citations to the record refer. Prior to creation of the instant MDL, Maxim Integrated Products, Inc. (“Maxim”) sued ten companies in the United States District Court for the Eastern District of Texas alleging patent infringement, and four companies brought declaratory judgment actions against Maxim in federal district courts in Colorado, Kansas and Pennsylvania seeking declarations of non-infringement and invalidity of the same patents. (Id.) All of these, and the later-joined, cases involve five related patents owned by Maxim directed to electronically performing secure transactions. Maxim alleges that various smartphone software applications, or “Apps,” infringe its patents. The companies accused of infringement, including those that initiated litigation by bringing declaratory judgment actions, are collectively referred to by this court as the Opposing Parties (“OPs”).

Maxim specifically asserts that the OPs infringe five of its patents: United States Patent Nos. 5,805,702 (the “702 Patent”, ECF No. 610 at JX-1), 5,940,510 (the “510 Patent”, ECF No. 610 at JX-3), 5,949,880 (the “880 Patent”, ECF No. 610 at JX-5), 6,105,013 (the “013

Patent”, ECF No. 610 at JX-7), and 6,237,095 (the “‘095 Patent”, ECF No. 610 at JX-9). These patents are all related. (ECF No. 691 at 2.) The ‘880 Patent issued from a divisional application of the ‘510 Patent. (Id.) The ‘702 Patent, ‘013 Patent and ‘095 Patent date back to a common provisional application and share a substantially similar specification. (Id.) The ‘013 Patent and ‘095 Patent incorporate by reference the ‘510 Patent. The ‘510 Patent and ‘880 Patent incorporate by reference the ‘702 Patent. (Id.)

The parties submitted a joint disputed claim terms chart originally identifying forty-three terms requiring construction by the court, (ECF No. 580), but later indicated that eight of the forty-three disputes had been resolved following claim construction briefing (ECF No. 677-1). Maxim filed an opening claim construction brief (ECF No. 634), to which the OPs filed a consolidated response (ECF No. 642). Maxim thereafter filed a reply brief. (ECF No. 651.) A subset of the OPs, referred to as the Joining Parties (“JPs”), filed a separate claim construction brief with respect to a single disputed claim term, i.e., “certificate,” (ECF No. 680), to which Maxim responded (ECF No. 686). A hearing was held before the Special Master and the court on September 12, 2013 (the “September Hearing”). (ECF No. 709 (Transcript).) Following the September Hearing, Maxim filed a supplemental brief with respect to a single disputed claim term, i.e., “packet.” (ECF No. 687.)

On October 9, 2013, the Special Master filed a Report and Recommendation (“R&R”) regarding claim construction, (ECF No. 691), which was later modified only as to the disputed claim term “microcontroller core” to correct a typographical error in the R&R (ECF No. 693). The OPs (ECF No. 704), Maxim (ECF No. 705), and the JPs (ECF No. 713) filed objections to the Special Master’s R&R and responses to those objections (ECF Nos. 715, 714

and 718, respectively.) The court heard oral argument on the objections to the R&R on November 13, 2013 (the “November Hearing”). (ECF No. 726 (Transcript).)

The court reviewed the initial claim construction briefing and the briefing on the objections to the R&R and considered the arguments made and written materials submitted at the September and November Hearings and is prepared to issue its order on claim construction. In accordance with the court’s previous order on post-claim construction scheduling, (ECF No. 724), Maxim’s counsel is directed to file a version of that order listing dates certain for the various deadlines. The court will thereafter set a date for the Daubert hearing and post-discovery status conference.

I. LEGAL STANDARDS

A. Generally Applicable Principles of Claim Construction

Claim construction is a matter of law. Markman v. Westview Instruments, Inc., 52 F.3d 967, 979 (Fed. Cir. 1995). “It is a ‘bedrock principle’ of patent law that ‘the claims of a patent define the invention to which the patentee is entitled the right to exclude.’” Phillips v. AWH Corp., 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (quoting Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc., 381 F.3d 1111, 1115 (Fed. Cir. 2004)). The 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.” Id. at 1312-13 (citing Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1582 (Fed Cir. 1996)); Innova/Pure Water, 381 F.3d at 1116. In arriving at this meaning, a court is to look first and foremost to the “intrinsic evidence,” which consists of the patent’s claim language, the specification and written description, and the

prosecution history, to determine the meaning of disputed claim terms. Phillips, 415 F.3d at 1311-17; Medrad, Inc. v. MRI Devices Corp., 401 F.3d 1313, 1319 (Fed. Cir. 2005). The specification is the single best guide to the meaning of a disputed term, and is “usually...dispositive.” Phillips, 415 F.3d at 1315 (quoting Vitronics, 90 F.3d at 1582).

Claim language guides the court’s construction of claim terms. Phillips, 415 F.3d at 1314. Yet, the “claims cannot enlarge what is patented beyond what the inventor has described as the invention.” Abbott Laboratories v. Sandoz, Inc., 566 F.3d 1282, 1288 (Fed. Cir. 2009) (citing Biogen, Inc. v. Berlex Labs., Inc., 318 F.3d 1132, 1140 (Fed. Cir. 2003)). The context in which a term is used not only in the asserted claims, but also in any claims that are not being asserted in a particular lawsuit, can be highly instructive because “terms are normally used consistently throughout the patent.” Phillips, 415 F.3d at 1314. “The construction that stays true to the claim language and most naturally aligns with the patent’s description of the invention will be, in the end, the correct construction.” Renishaw PLC v. Marposs Societa per Azioni, 158 F.3d 1243, 1250 (Fed. Cir. 1998). Differences among claims, such as additional limitations in dependent claims, can provide further guidance. The doctrine of claim differentiation provides that the presence of a dependent claim that adds a particular limitation raises a rebuttable presumption that the limitation in question is not found in the independent claim. Wenger Mfg., Inc. v. Coating Mach. Sys., Inc., 239 F.3d 1225, 1233 (Fed. Cir. 2001). Although the doctrine is at its strongest “where the limitation sought to be ‘read into’ an independent claim already appears in a dependent claim,” there is still a presumption that two independent claims have different scope when different words or phrases are used in those claims. Seachange Int’l Inc., v. C-COR, Inc., 413 F.3d 1361, 1368 (Fed. Cir. 2005) (citing cases). “However, the doctrine, ‘only

creates a presumption that each claim in a patent has a different scope.” Id. at 1369 (quoting Kraft Foods, Inc. v. Int’l Trading Co., 203 F.3d 1362, 1368 (Fed. Cir. 2000)).

Claims are always to be read in view of the specification, of which they are a part. Markman, 52 F.3d at 979. “The person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification.” Phillips, 415 F.3d at 1313. Moreover, “where the ordinary and accustomed meaning of the words used in the claims lack sufficient clarity to permit the scope of the claim to be ascertained from the words alone” the specification can provide clarity. Teleflex, Inc. v. Ficosa N. Am. Corp., 299 F.3d 1313, 1325 (Fed. Cir. 2002). In the specification, a patentee may define his own terms, give a claim term a different meaning than it would otherwise possess, or disclaim or disavow some claim scope. Id. at 1316. Although a court generally presumes terms possess their ordinary meaning, this presumption can be overcome by statements of clear disclaimer, SciMed Life Sys., Inc. v. Advanced Cardiovascular Sys., Inc., 242 F.3d 1337, 1343-44 (Fed. Cir. 2001), or when the patentee acts as his own lexicographer. Irdeeto Access, Inc. v. EchoStar Satellite Corp., 383 F.3d 1295, 1301 (Fed. Cir. 2004).

“Although the specification may aid the court in interpreting the meaning of disputed language in the claims, particular embodiments and examples appearing in the specification will not generally be read into the claims.” Constant v. Advanced Micro-Devices, Inc., 848 F.2d 1560, 1571 (Fed. Cir. 1988); see also Phillips, 415 F.3d at 1323. Nonetheless, “[a] claim interpretation that excludes a preferred embodiment from the scope of the claim ‘is rarely, if ever, correct.’” Globetrotter Software, Inc. v. Elam Computer Grp. Inc., 362 F.3d 1367, 1381 (Fed. Cir. 2004) (quoting Vitronics Corp., 90 F.3d at 1583). Even if a patent describes only a

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