

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FORD MOTOR COMPANY,

Plaintiff,

v.

VERSATA SOFTWARE, INC., *et al.*

Defendants.

Case No. 15-cv-10628-MFL-EAS
(*consolidated with Case No. 15-11624*)

Hon. Matthew F. Leitman

**REPORT AND RECOMMENDATION OF THE SPECIAL MASTER REGARDING
CLAIM CONSTRUCTION**

This matter comes before me pursuant to the Court's Order Appointing Special Master (Court Doc. #101, dated March 31, 2016) to construe the claims of the patents asserted in this action. Prior to this report, the parties agreed to opening briefs of not more than 75 pages. Ford submitted an opening brief on claim construction on July 15, 2016. Versata submitted its opening brief on August 15, followed by Ford's reply on August 29. A hearing was conducted on September 13, 2016 in Farmington Hills, Michigan, beginning at 9:30 a.m. and concluding at 3:52 p.m. At the hearing, I requested supplemental briefing with respect to a group of means-plus-function limitations, which the parties submitted on October 14, 2016. Having reviewed the parties' briefs and accompanying materials, and having listened to oral argument, I make the following report and recommend that the disputed claim terms be construed as set forth below.

Overview of Patents in Suit

The present dispute, at least with respect to claim construction, involves the assertion of eight patents. A first family of three patents includes US patent 5,825,651; US patent 6,405,308; and US patent 6,675,294. Each of these three patents is entitled "Method and Apparatus for

Versata 2011

Maintaining and Configuring Systems.” The ‘294 patent is a continuation of the ‘308 patent, which in turn is a continuation of the ‘651 patent. The parties have referred to this group as the ‘651 patent family because the ‘651 is the original parent patent in this family.

As the title of the ‘651 family of patents suggests, the patents are generally directed to the notions of “maintaining” and “configuring” a system. The background of the ‘651 patent explains that a “system” is comprised of components, and when configuring a system a user must select the components to include in the system. An example is described as an automobile configuration, in which a user (such as a potential buyer, perhaps with the aid of a salesperson) might select from an array of features and options in order to configure the automobile into a specific system desired by the particular user. The ‘651 patent further states that prior art computer systems that were created to assist in the configuration process needed improvement because they used a specialized syntax or configuration language and tended to impose a particular order on the process of configuration and on the modification of a configuration. The ‘651 family of patents further explains that a “maintenance system” is used to define a product, in which the maintenance user may specify the various combinations of features and options that will result in valid configurations. In the language of the patent, a “configuration system” is used to configure a system (or a product) using a definition of permissible configurations created by the “maintenance system.”

The ‘582 patent family includes US patent 7,200,582 and US patent 7,464,064, in which the ‘064 patent is a division of the ‘582 patent. Each of these patents is entitled “Configuration Model Consistency Checking Using Flexible Rule Space Subsets.” In general, these patents explain that a configurable product can be described by a configuration model having a set of configuration rules. Inconsistencies may exist between rules, potentially resulting in errors in the

configuration model. This family of patents is generally directed to checking for consistency errors.

US patent 7,882,057 is entitled “Complex Configuration Processing Using Configuration Sub-Models.” This patent generally explains that a computer-assisted configuration system often requires a significant amount of data processing capabilities. The patent further explains that it addresses the issue of configuration model and query complexity by breaking a configuration problem down into a set of smaller problems that are solved individually, then combining the smaller results into a consolidated single result.

US patent 8,805,825 is entitled “Attribute Prioritized Configuration Using a Combined Configuration-Attribute Data Model.” The ‘825 patent uses a combined configuration rules-attribute configuration system which determines valid configuration answers and prioritizes them based on one or more attributes.

Finally, US patent 7,739,080 is entitled “Consolidation of Product Data Models.” This patent seeks to combine multiple configuration models into a single unified configuration model. The patent further explains that it allows models to be combined in a way such that incompatibilities or contradictions between models are detected and automatically resolved where possible.

From among these patents, Versata apparently asserted (at least initially) that 202 claims were infringed. The parties dispute the meanings of certain claim limitations, as addressed below. In addition, Ford contends that certain claims cannot be interpreted with reasonable certainty, and that the applicable claims are invalid as a result.

Legal Standards

The meaning of language used in a patent claim is construed as a matter of law. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979 (Fed. Cir. 1995) (en banc), *aff'd*, 517 U.S. 370 (1996). 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) (*quoting Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111 (Fed. Cir. 2004)).

The words of a claim are generally given their ordinary and customary meaning as they would have been understood by a person of ordinary skill in the art at the time of the invention. *Phillips*, 415 F.3d at 1312-13. In some cases, the ordinary meaning may be readily apparent and claim construction involves little more than the application of a widely accepted meaning of commonly understood words. *Id.* at 1314.

“Claim construction is a matter of resolution of disputed meanings and technical scope, to clarify and when necessary to explain what the patentee covered by the claims, for use in the determination of infringement. It is not an obligatory exercise in redundancy.” *United States Surgical Corp. v. Ethicon, Inc.*, 103 F.3d 1554, 1568 (Fed. Cir. 1997). For this reason, “district courts are not (and should not be) required to construe every limitation present in a patent's asserted claims.” *O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co.*, 521 F.3d 1351, 1362 (Fed. Cir. 2008). At the same time, when “the parties present a fundamental dispute regarding the scope of a claim term, it is the court's duty to resolve it.” *Id.* In such a case, a “determination that a claim term ‘needs no construction’ or has the ‘plain and ordinary meaning’ may be inadequate when a term has more than one ‘ordinary’ meaning or when reliance on a term's ‘ordinary’ meaning does not resolve the parties' dispute.” *Id.*, at 1361.

The claims themselves and the context of the surrounding words can be “highly instructive” in resolving the meaning of the term. *Id.* at 1314. Indeed, “a claim construction analysis must begin and remain centered on the claim language itself, for that is the language the patentee has chosen to ‘particularly point[] out and distinctly claim[] the subject matter which the patentee regards as his invention.’” *Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111, 1116 (Fed. Cir. 2004). Other claims in a patent may also provide valuable contextual cues for deciphering the meaning of a term. *Id.* If a limitation is present in a dependent claim, then there is a presumption that the limitation is not present in the parent claim. *Id.* at 1314-15.

The claims must also be read in light of the specification. *Markman*, 52 F.3d at 979. Indeed, “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 term appears, but in the context of the entire patent, including the specification.” *Phillips*, 415 F.3d at 1313. “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.” *Id.* at 1316. Consequently, the specification is always highly relevant to the meaning of a claim term: “Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.” *Vitronics Corp. v. Conceptoronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996); *Phillips*, 415 F.3d at 1314-17.

If the specification reveals a definition of a claim term that is different from how that term would otherwise be used, then “the inventor’s lexicography governs.” *See Phillips*, 415 F.3d at 1316. Care must be taken, however, not to import limitations from the specification into the claims. *Id.* at 1323. While the patentee is free to be his own lexicographer, any special

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