IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

ROY-G-BIV CORP.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	**CIVIL ACTION NO. 2:07-CV-418 (DF)**
FANUC LTD., et al.,	§	
	§	
Defendants.	§	
	§	

CLAIM CONSTRUCTION ORDER

Construing Terms in U.S. Patent Nos. 5,691,897, 6,513,058, 6,516,236 and 6,941,543

Before the Court are RGB's Opening Brief on Claim Construction (Dkt. No. 100), FANUC's Opening Claim Construction Brief (Dkt. No. 105), RGB's Reply Brief on Claim Construction (Dkt. No. 109), and FANUC's Sur-reply Brief (Dkt. No. 117). Also before the Court are the Local Patent Rule (LPR) 4-3 Joint Claim Construction and Prehearing Statement (Dkt. No. 93) and the LPR 4-5 Supplemental Joint Claim Construction Chart (Dkt. No. 119; Dkt. No. 119, Ex. B (Second Supplemental Exhibit B)). A claim-construction hearing, in accordance with *Markman v. Westview Instruments*, 52 F.3d 967 (Fed. Cir. 1995) (en banc), *aff'd*, 517 U.S. 370 (1996), was held in Texarkana on April 16, 2009. Dkt. No. 146 (hearing transcript). After hearing the arguments of counsel and reviewing the relevant pleadings, presentation materials, other papers, and case law, the Court finds the disputed terms of the patents-in-suit should be construed as set forth herein.

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I. BACKGROUND

In the present lawsuit, ROY-G-BIV Corp. ("RGB") contends certain software (and accompanying equipment) developed, sold, offered for sale, used or imported by FANUC Ltd., FANUC Robotics America, Inc., GE Fanuc Automation Americas, Inc., and GE Fanuc Intelligent Platforms, Inc. (collectively, "FANUC") infringe claims of U.S. Patent Nos. 5,691,897 ("the '897 Patent), 6,513,058 ("the '058 Patent"), 6,516,236 ("the '236 Patent"), and 6,941,543 ("the '543 Patent"). Both the '897 and '236 Patents are entitled "Motion Control Systems," while the '058 Patent is entitled "Distribution of Motion Control Commands Over a Network," and the '543 Patent is entitled "Motion Control System and Method." All three later patents are continuations-in-part of the '897 Patent. '058 at [63]; '236 at [63]; '543 at [63].

II. LEGAL PRINCIPLES

A determination of patent infringement involves two steps: first, the patent claims are construed, and second, the claims are compared to the allegedly infringing device. *Cybor Corp. v. FAS Techs., Inc.*, 138 F.3d 1448, 1455 (Fed. Cir. 1998) (en banc). The legal principles of claim construction were reexamined by the Federal Circuit in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc). The Federal Circuit in *Phillips* expressly reaffirmed the principles of claim construction as set forth in *Markman v. Westview Instruments, Inc.*, 52 F.3d 967 (Fed. Cir. 1995) (en banc), *aff'd*, 517 U.S. 370 (1996), *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576 (Fed. Cir. 1996), and *Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111 (Fed. Cir. 2004). Claim construction is a legal question for the courts. *Markman*, 52 F.3d at 979.

The Court, in accordance with the doctrines of claim construction that it has outlined in the past, will construe the claims of the RGB Patents below. *See Pioneer v. Samsung*, No. 2:07-CV-170, Dkt. No. 94, at 2-8 (E.D. Tex. filed Mar. 10, 2008) (claim-construction order).

III. PATENTS-IN-SUIT

The patents-in-suit are directed to a particular software program development toolkit for controlling the motion of equipment and hardware, independent of the nature of the mechanical system that controls that motion. '897 Patent, 1:10-2:15. The '897 Patent consists of methods claims that issued on Nov. 25, 1997 from an application filed on May 30, 1995. *Id*. at 33:60-38:40, [45], [22]. The '897 Patent abstract reads:

> A system for motion control in which an application is developed that is independent from the actual motion control hardware used to implement the system. The system comprises a software system that employs an application programming interface comprising component functions and a service provider interface comprising driver functions. A system programmer writes an application that calls the component functions. Code associated with the component functions relates these functions to the driver functions. A hardware designer writes driver code that implements the driver functions on a given motion control hardware product. The driver functions are separated into core and extended driver functions. All software drivers implement the core driver functions, while the software drivers need not contain code for implementing the extended driver functions. If the software driver does not contain code to implement an extended driver function, the functionality of the extended driver function is obtained through a combination of core driver functions. The system programmer may also select one or more streams that allow the control commands to be communicated to, and response data to be communicated from, motion control hardware. A system for allowing an application program to communicate with any one of a group of supported hardware devices comprising a software system operating on at least one workstation and a network communications protocol. The software system includes a control command generating module for generating control commands based on component functions of an application program, component code associated with the component functions, and the driver code associated with software drivers associated with the hardware devices. The network communication protocol allows the control commands to be communicated from the control command generating module to at least one of the supported hardware devices over the network.

Id. at [57].

The '058 Patent issued January 28, 2003 from an application filed on February 27, 2001. '058 Patent at [45], [22]. The '058 Patent consists of system claims directed to the

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