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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KONINKLIJKE PHILIPS  
ELECTRONICS NV, et al.,

Plaintiffs,

v.

DEFIBTECH LLC, et al.,

Defendants.

CASE NO. C03-1322JLR

ORDER

**I. INTRODUCTION**

This matter comes before the court on the parties’ request for construction of the claim terms at issue in this patent infringement action. At the court’s direction, the parties jointly chose a set of ten claim terms to comprise the “first round” of terms for the court to construe. The court has reviewed the parties’ briefing and supporting materials, and has heard oral argument from the parties at an October 11, 2005 Markman hearing. This order memorializes the court’s claim construction for these first ten terms.

**II. BACKGROUND**

Plaintiff Koninklijke Philips Electronics NV (“Philips”) and Defendant Defibtech LLC (“Defibtech”) manufacture portable defibrillators. The devices at issue are automatic external defibrillators that people without medical training can use in

1 emergencies. Because their users are presumptively untrained, the defibrillators must be  
2 “smart” enough to deliver appropriate shocks to patients with a wide range of body  
3 characteristics without input from the user. Moreover, because portable defibrillators  
4 are rarely used, they must be able to remain functional through long periods of inactivity,  
5 and to signal any malfunctions to users. Heartstream, Inc. (“Heartstream”) began  
6 developing defibrillators with these characteristics in the early 1990s. Heartstream is  
7 now a wholly-owned division of Philips.  
8

9 Philips (or Heartstream) has been selling various portable defibrillators since  
10 1996, and has obtained at least thirteen patents covering its technology. The court has  
11 stayed consideration of four of those patents. The nine remaining patents cover “shock  
12 delivery” and “self-test” technology. The three self-test patents govern tests that a  
13 defibrillator performs on itself to ensure proper operation. Those patents are United  
14 States Patent Nos. 5,800,460 (the “460 Patent”), 5,879,374 (the “374 Patent”), and  
15 6,016,059 (the “059 Patent”). The six shock delivery patents address technology that  
16 adjusts the waveform of a defibrillator’s shock based on results from an electrical test  
17 that the defibrillator performs on the patient. The electrical test measures variances in  
18 patient impedance that arise from differences in weight, body fat, and other factors. The  
19 shock delivery patents are United States Patent Nos. 5,601,612 (the “612 Patent”),  
20 5,607,454 (the “454 Patent”), 5,735,879 (the “879 Patent”), 5,749,905 (the “905  
21 Patent”), 5,803,927 (the “927 Patent”), and 6,047,212 (the “212 Patent”). Philips  
22 contends that Defibtech infringes each of the self-test and shock delivery patents.  
23  
24

25 Defibtech entered the automatic external defibrillator market in 2002. It admits to  
26 studying Heartstream defibrillators and other products when designing its defibrillators,  
27 but denies that it infringes any Philips patent.  
28

1 In the first step toward deciding Philips' infringement allegations, the court must  
2 now construe the meaning of the terms of the asserted patents.

### 3 III. ANALYSIS

4 Almost ten years ago, the Supreme Court in Markman v. Westview Instruments,  
5 Inc. placed sole responsibility for construing patent claims on the court. 517 U.S. 370,  
6 372 (1996). Subsequent authority established that the court construes claims purely as a  
7 matter of law. Cybor Corp. v. FAS Tech., Inc., 138 F.3d 1448, 1456 (Fed. Cir. 1998)  
8 (applying de novo review to all claim construction issues, even "allegedly fact-based  
9 questions"). Executing the Markman mandate requires a court to rank the importance of  
10 various sources of evidence of claim term meaning and consider it accordingly.

11 Intrinsic evidence, which includes the patent and its prosecution history, is the  
12 primary source from which to derive a claim's meaning. Phillips v. AWH Corp., 415  
13 F.3d 1303, 1314 (Fed. Cir. 2005) (en banc). A patent is composed of three parts: (1) a  
14 "written description," an often lengthy exposition of the background of the invention, at  
15 least one embodiment of the invention, and other written material that assists in  
16 understanding how to practice the invention; (2) (in most cases) a set of drawings that  
17 illustrates portions of the written description; and (3) the claims, which delimit the scope  
18 of the invention. General Foods Corp. v. Studiengesellschaft Kohle mbH, 972 F.2d  
19 1272, 1274 (Fed. Cir. 1992). Together, these three components make up the patent's  
20 "specification."<sup>1</sup> Atmel Corp. v. Information Storage Devices, Inc., 198 F.3d 1374, 1384  
21 (Fed. Cir. 1999); 35 U.S.C. § 112. The prosecution history exists independently of the  
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25  
26 <sup>1</sup>Although 35 U.S.C. § 112 includes the claims as part of a patent's specification, many  
27 courts and practitioners use the term "specification" to refer to all portions of a patent except  
28 the claims. In most cases, the context of the discussion reveals what portion of the specification  
is at issue.

1 patent. It consists of the inventor's application to the United States Patent and  
2 Trademark Office ("PTO") and all correspondence between the PTO and the inventor  
3 documenting the invention's progress from patent application to issued patent. Vitronics  
4 Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1582 (Fed. Cir. 1996).

5  
6 In its review of intrinsic evidence, the court should begin with the language of  
7 both the asserted claim and other claims in the patent. Phillips, 415 F.3d at 1314; Biagro  
8 Western Sales, Inc. v. Grow More, Inc., 423 F.3d 1296, 1302 (Fed. Cir. 2005) ("It is  
9 elementary that claim construction begins with, and remains focused on, the language of  
10 the claims."). The court's task is to determine the "ordinary and customary meaning" of  
11 the terms of a claim through the eyes of a person of ordinary skill in the art on the filing  
12 date of the patent. Phillips, 415 F.3d at 1313 (quoting Vitronics, 90 F.3d at 1582).

13  
14 The court must read claim language, however, in light of the remainder of the  
15 specification. Id. at 1316 ("[T]he specification necessarily informs the proper  
16 construction of the claims."). The specification acts as a "concordance" for claim terms,  
17 and is thus the best source beyond claim language for understanding claim terms. Id. at  
18 1315. The inventor is free to use the specification to define claim terms as she wishes,  
19 and the court must defer to an inventor's definition, even if it is merely implicit in the  
20 specification. Id. at 1316 ("[T]he inventor's lexicography governs."), 1320-21 (noting  
21 that a court cannot ignore implicit definitions). The court should "rely heavily" on the  
22 specification in interpreting claim terms. Id. at 1317. In doing so, however, it must walk  
23 a tightrope between properly construing the claims in light of the written description and  
24 the "cardinal sin" of improperly importing limitations from the written description into  
25 the claims. Sci Med Life Sys., Inc. v. Advanced Cardiovascular Sys., Inc., 242 F.3d  
26

1 1337, 1340 (Fed. Cir. 2001); Phillips, 415 F.3d at 1323 (citing Comark Communications,  
2 Inc. v. Harris Corp., 156 F.3d 1182, 1186-87 (Fed. Cir. 1998)).

3 Although a patent's prosecution history is also intrinsic evidence, it is "less useful  
4 for claim construction purposes," because it usually "lacks the clarity of the  
5 specification." Id. at 1317. The prosecution history is useful, however, in determining  
6 when an inventor has disavowed certain interpretations of his or her claim language. Id.  
7

8 Finally, the court can consider extrinsic evidence, "including expert and inventor  
9 testimony, dictionaries, and learned treatises." Id. (citing Markman v. Westview  
10 Instruments, Inc., 52 F.3d 967, 980 (Fed. Cir. 1995)). Extrinsic evidence is usually "less  
11 reliable than the patent and its prosecution history" as a source for claim interpretation.  
12 Id. at 1318. The court thus need not admit extrinsic evidence, but may do so in its  
13 discretion if intrinsic evidence does not disclose the meaning of a claim term. Id. at  
14 1319; Vitronics, 90 F.3d at 1583 ("[W]here the public record unambiguously describes  
15 the scope of the patented invention, reliance on any extrinsic evidence is improper.").  
16

17 In this case, court declines to rely on the sole extrinsic evidence the parties have  
18 put before it: dictionary definitions of the claim terms. For each disputed claim term,  
19 the court has begun with a view of its ordinary meaning formed from the undisputed  
20 portions of the parties' proposed claim constructions. The court has then looked to the  
21 intrinsic evidence to elucidate that meaning. In each of these claim terms, the intrinsic  
22 evidence is sufficient to either confirm that the inventors used the term in its ordinary  
23 sense or to reveal the precise departure from ordinary meaning that the inventors had in  
24 mind. The court thus declines to discuss the dictionary definitions of these claim terms,  
25 consistent with the Phillips court's recognition that it is not necessary to do so. 415 F.3d  
26 at 1318-1319.  
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