

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

INTERDIGITAL COMMUNICATIONS,
INC., a Delaware corporation,
INTERDIGITAL TECHNOLOGY
CORPORATION, a Delaware corporation,
IPR LICENSING, INC., a Delaware
corporation, and INTERDIGITAL
HOLDINGS, INC., a Delaware corporation,

Plaintiffs and Counterclaim
Defendants,

v.

ZTE CORPORATION, a Chinese corporation,
and ZTE (USA) INC., a New Jersey
corporation,

Defendants and
Counterclaim Plaintiffs.

Civil Action No.: 1:13-cv-00009-RGA

INTERDIGITAL COMMUNICATIONS,
INC., a Delaware corporation,
INTERDIGITAL TECHNOLOGY
CORPORATION, a Delaware corporation,
IPR LICENSING, INC., a Delaware
corporation, and INTERDIGITAL
HOLDINGS, INC., a Delaware corporation,

Plaintiffs and Counterclaim
Defendants,

v.

NOKIA CORPORATION, NOKIA, INC.,
AND MICROSOFT MOBILE OY,

Defendants and
Counterclaim Plaintiffs.

Civil Action No.: 1:13-cv-00010-RGA

MEMORANDUM OPINION

IPR Licensing, Inc.
Exhibit 2022

Neal C. Belgam, Esq., Smith, Katzenstein & Jenkins, Wilmington, DE; Maximilian A. Grant, Esq., Bert C. Reiser, Esq., Jonathan D. Link, Esq., Latham & Watkins LLP, Washington D.C.; Ron E. Schulman, Esq., Latham & Watkins LLP, Menlo Park, CA; Julie M. Holloway, Esq. (argued), Latham & Watkins LLP, San Francisco, CA; David S. Steuer, Esq., Michael B. Levin, Esq., Maura L. Rees, Esq., Wilson Sonsini Goodrich & Rosati, Palo Alto, CA, attorneys for Plaintiffs InterDigital Communications, Inc., InterDigital Technology Corporation, IPR Licensing, Inc., and InterDigital Holdings, Inc.

Kelly E. Farnan, Esq., Travis S. Hunter, Esq., Richards, Layton & Finger, Wilmington, DE; Ralph J. Gabric, Esq., Charles M. McMahon, Esq. (argued), Mircea A. Tipescu, Esq., Brian A. Jones, Esq., Hersh H. Mehta, Esq., Brinks, Gilson, & Lione, Chicago, IL; Jay H. Reiziss, Esq., Brinks, Gilson, & Lione, Washington D.C., attorneys for Defendants ZTE Corporation and ZTE (USA) Inc.

Jack B. Blumenfeld, Esq., Rodger D. Smith II, Esq., Jeremy A. Tigan, Esq., Morris, Nichols, Arsht & Tunnell LLP, Wilmington, DE; Richard A. Cederoth, Esq., Sidley Austin LLP, Chicago, IL; Brian R. Nester, Esq., Joseph A. Micallef, Esq. (argued), Sidley Austin LLP, Washington, DC; Dan K. Webb, Esq., Raymond C. Perkins, Esq., Kevin E. Warner, Esq., Winston & Strawn LLP, Chicago, IL; David A. Frist, Esq., Alston & Bird, Atlanta, GA, attorneys for Defendants Nokia Corporation, Nokia, Inc. and Microsoft Microsoft Mobile Oy.

March 6, 2015


ANDREWS, U.S. DISTRICT JUDGE:

Pending before this Court is the issue of claim construction of various disputed terms found in U.S. Patent Nos. 8,380,244 (“the ’244 patent”) and 7,941,151 (“the ’151 patent”). The Court has considered the Parties’ Joint Claim Construction Briefs. (D.I. 407 & 485). The Court heard oral argument on February 27, 2015. (D.I. 418 [hereinafter “Tr.”]).

I. BACKGROUND

On January 2, 2013, InterDigital Communications, Inc., InterDigital Technology Corporation, IPR Licensing, Inc., and InterDigital Holdings, Inc. (“Plaintiffs”) filed four patent infringement actions. (C.A. 13-8-RGA D.I. 1; C.A. 13-9-RGA D.I. 1; C.A. 13-10-RGA D.I. 1; C.A. 13-11-RGA D.I. 1).¹ The two actions relevant to this opinion are against ZTE Corporation and ZTE (USA) Inc. (collectively, “ZTE”) (C.A. 13-9-RGA) and Nokia Corporation, Nokia, Inc., and Microsoft Mobile Oy (collectively, “Nokia”) (C.A. 13-10-RGA).²

The Court held a six-day jury trial for the ZTE action on October 21, 2014 through October 27, 2014. InterDigital alleged that ZTE infringed U.S. Patent Nos. 7,190,966, 7,286,847, the ’244 patent, and the ’151 patent. The Court declared a mistrial as to the ’151 patent on October 22, 2014. (D.I. 444 at 680). The jury found all asserted claims of the remaining patents valid and infringed. (D.I. 450).

Following the ZTE trial, Nokia moved for leave to file additional claim construction briefs regarding certain terms in the ’244 patent. (D.I. 375). The Court granted the motion in part. (D.I. 396). The Court gave Nokia leave to make additional arguments for two terms in the

¹ Citations to D.I. 485, D.I. 486, and D.I. 488 are to the C.A. 13-9-RGA docket. All other docket citations are to C.A. 13-10-RGA.

² With respect to the ’244 patent, “Defendants” refers to Nokia. With respect to the ’151 patent, “Defendants” refers to Nokia and ZTE.

'244 patent. (D.I. 396). The Court heard claim construction arguments for the '244 patent at the *Markman* hearing originally scheduled for the '151 patent.

II. LEGAL STANDARD

“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) (internal quotation marks omitted). “[T]here is no magic formula or catechism for conducting claim construction.’ Instead, the court is free to attach the appropriate weight to appropriate sources ‘in light of the statutes and policies that inform patent law.’” *SoftView LLC v. Apple Inc.*, 2013 WL 4758195, at *1 (D. Del. Sept. 4, 2013) (quoting *Phillips*, 415 F.3d at 1324). When construing patent claims, a court considers the literal language of the claim, the patent specification, and the prosecution history. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 977–80 (Fed. Cir. 1995) (en banc), *aff’d*, 517 U.S. 370 (1996). Of these sources, “the specification is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.” *Phillips*, 415 F.3d at 1315 (internal quotation marks and citations omitted).

“[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.” *Id.* at 1312–13 (internal quotation marks and citations omitted). “[T]he ordinary meaning of a claim term is its meaning to [an] ordinary artisan after reading the entire patent.” *Id.* at 1321 (internal quotation marks omitted). “In some cases, the ordinary meaning of claim language as understood by a person of skill in the art may be readily apparent even to lay judges, and claim

construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words.” *Id.* at 1314 (internal citations omitted).

When a court relies solely upon the intrinsic evidence—the patent claims, the specification, and the prosecution history—the court’s construction is a determination of law. *See Teva Pharm. USA, Inc. v. Sandoz, Inc.*, 135 S. Ct. 831, 841 (2015). The court may also make factual findings based upon consideration of extrinsic evidence, which “consists of all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises.” *Phillips*, 415 F.3d at 1317–19 (internal quotation marks and citations omitted). Extrinsic evidence may assist the court in understanding the underlying technology, the meaning of terms to one skilled in the art, and how the invention works. *Id.* Extrinsic evidence, however, is less reliable and less useful in claim construction than the patent and its prosecution history. *Id.*

“A claim construction is persuasive, not because it follows a certain rule, but because it defines terms in the context of the whole patent.” *Renishaw PLC v. Marposs Societa’ per Azioni*, 158 F.3d 1243, 1250 (Fed. Cir. 1998). It follows that “a claim interpretation that would exclude the inventor’s device is rarely the correct interpretation.” *Osram GmbH v. Int’l Trade Comm’n*, 505 F.3d 1351, 1358 (Fed. Cir. 2007) (internal quotation marks and citation omitted).

III. CONSTRUCTION OF DISPUTED TERMS

A. The ’244 Patent

Claim 1 of the ’244 patent is representative and reads:

A subscriber unit comprising:

a cellular transceiver configured to communicate with a cellular wireless network via a plurality of assigned physical channels;

an IEEE 802.11 transceiver configured to communicate with an IEEE 802.11 wireless local area network; and

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