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

PAICE LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	**2:04-CV-211-DF**
	§	
TOYOTA MOTOR CORP., et al.,	§	
	§	
Defendants.	§	
	§	

CLAIM CONSTRUCTION ORDER

CONSTRUING U.S. PATENT NOS. 5,343,970,

6,209,672, & 6,554,088

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I. Background

Plaintiff Paice LLC ("Paice") brings this cause of action against Defendants Toyota Motor Corporation, Toyota Motor North American, Inc., and Toyota Motor Sales, U.S.A., Inc. ("Toyota") alleging infringement of U.S. Patent No. 5,343,970 ("the '970 patent"), U.S. Patent No. 6,209,672 ("the '672 patent"), and U.S. Patent No. 6,554,088 ("the '088 patent") (collectively, the "patents-in-suit"). These patents are entitled "Hybrid Electric Vehicle," "Hybrid Vehicle," and "Hybrid Vehicles," respectively. Toyota generally denies any infringement and asserts the affirmative defenses of non-infringement and invalidity. Additionally, Toyota asserts counterclaims for declaratory judgment of non-infringement and of invalidity for the patents-in-suit.

Now before the Court is the claim construction of the respective patents. Paice filed its claim construction brief on March 8, 2005 (Dkt. No. 21) to which Toyota responded on March 28, 2005 (Dkt. No. 28). Toyota filed its claim construction brief on March 9, 2005 (Dkt. No. 22) to which Paice responded on March 29, 2005 (Dkt. No. 27). The Court conducted a claim construction hearing on April 19, 2005. The parties provided the Court with copies of slides used during the hearing. Additionally, on May 4, 2005, the parties submitted a letter to the Court restating each party's proposed claim construction and reflecting that the parties had reached agreement on several previously disputed terms. 5/4/05 Letter from N. Patton to the Court ("5/4/05 Letter"); *see also* 5/13/05 letter from A. Davis to the Court regarding the same ("5/13/05 Letter"). After considering the patents, the parties' submissions, arguments of counsel, and all other relevant pleadings and papers, the Court finds that the claims of the patents-in-suit should be construed as set forth herein.

II. The Legal Principles of Claim Construction

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 recently reexamined by the Federal Circuit in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (*en banc*). Reversing a summary judgment of non-infringement, an *en banc* panel specifically identified the question before it as: "the extent to which [the court] should resort to and rely on a patent's specification in seeking to ascertain the proper scope of its claims." *Id.* at 1312. Addressing this question, the Federal Circuit specifically focused on the confusion that had amassed from its recent decisions on the weight afforded dictionaries and related extrinsic evidence as compared to intrinsic evidence. Ultimately, the court found that the specification, "informed, as needed, by the prosecution history," is the "best source for understanding a technical term." *Id.* at 1315 (quoting *Multiform Dessicants, Inc. v. Medzam, Ltd.*, 133 F.3d 1473, 1478 (Fed. Cir. 1998)). However, the court was mindful of its decision and quick to point out that *Phillips* is not the swan song of extrinsic evidence, stating:

> [W]e recognized that there is no magic formula or catechism for conducting claim construction. Nor is the court barred from considering any particular sources or required to analyze sources in any specific sequence, as long as those sources are not used to contradict claim meaning that is unambiguous in light of the intrinsic evidence.

Phillips, 415 F.3d at 1324 (citations omitted). Consequently, this Court's reading of *Phillips* is that the Federal Circuit has returned to the state of the law prior to its decision

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