

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

**PAICE LLC,**

**Plaintiff,**

**v.**

**TOYOTA MOTOR CORP., et al.,**

**Defendants.**

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**2:04-CV-211-DF**

**CLAIM CONSTRUCTION ORDER**

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

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

**TABLE OF CONTENTS**

**I. Background..... 1**

**II. The Legal Principles of Claim Construction ..... 2**

**III. The Patents-in-Suit Generally..... 8**

**IV. Claim Construction ..... 10**

A. “torque”.....13

B. “drive torque”.....14

C. “controllable torque transfer unit” .....14

D. “input shafts”.....17

E. “a controller for controlling the operation of ...and for controlling the relative contributions of...”.....17

F. “output member” .....18

G. “controller means” .....19

H. “operating mode” .....19

I. “solid state switching means” and “solid state switching means for converting... [and means] for rectifying”.....21

J. “means for performing the following functions responsive to input commands and monitored operation of said vehicle: selecting an appropriate mode of operation...”.....23

K. “low speed running [mode]” .....24

L. “steady state running [mode]”.....25

M. “acceleration or hill climbing [mode]” .....25

N. “battery charging [mode]” .....26

O. “braking [mode]” .....27

P. “engine starting [mode]” .....27

Q. “solid state switching network” .....28

R. “clutch” .....30

S. “controllable clutch”.....33

T. “directly coupled”.....33

U. “instantaneous road load,” “road load,” and “RL” .....36

V. “monitoring commands provided by the vehicle operation” .....38

W. “total torque available at the road wheels from said engine” .....39

X. “operating said controller to control selection between a low-speed mode I, a cruising mode IV, and an acceleration mode V” .....39

Y. “low-speed mode I” .....40

Z. “cruising mode IV” .....40

AA. “acceleration mode V” .....41

BB. “monitoring the instantaneous torque requirements required for propulsion of the vehicle (RL)” .....42

CC. “operating mode” .....42

DD. “at least one traction motor being coupled to road wheels of said vehicle” .....43

EE. “a controller for controlling operation... and controlling flow” .....43

FF. “configured as a number of batteries connected by normally open switching devices, such that said batteries are electrically isolated from one another in the event power is cut off from said switching devices” .....44

GG. “instantaneous torque demands” and “RL” .....46

HH. “said microprocessor controls operation... so as to operate said vehicle in a selected one of said operating modes in response to the instantaneous torque demands (RL) of said vehicle” .....46

II. “operating mode” .....47

JJ. “said selected operating mode being selected such that said engine is operated only in response to a load equal at least to a predetermined value of its maximum torque output” .....47

**V. Conclusion..... 48**

## 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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