

# Exhibit 2122

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CALLWAVE COMMUNICATIONS, LLC,

Plaintiff,

v.

AT&T MOBILITY, LLC, et al.,

Defendants.

Civil Action No. 12-1701-RGA

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CALLWAVE COMMUNICATIONS, LLC,

Plaintiff,

v.

SPRINT NEXTEL CORP., et al.,

Defendants.

Civil Action No. 12-1702-RGA

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CALLWAVE COMMUNICATIONS, LLC,

Plaintiff,

v.

T-MOBILE USA INC., et al.,

Defendants.

Civil Action No. 12-1703-RGA

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CALLWAVE COMMUNICATIONS, LLC,

Plaintiff,

v.

VERIZON SERVICES CORP., et al.,

Defendants.

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Civil Action No. 12-1704-RGA

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CALLWAVE COMMUNICATIONS, LLC,

Plaintiff,

v.

AT&T MOBILITY, LLC, et al.,

Defendants.

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Civil Action No. 12-1788-RGA

MEMORANDUM OPINION

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December 17, 2014

  
ANDREWS, U.S. DISTRICT JUDGE:

Pending before the Court is the issue of claim construction for the disputed terms found in U.S. Patent Nos. 6,771,970 (“the ’970 patent”) and 7,907,933 (“the ’933 patent”).

## I. BACKGROUND

On December 12 and 28, 2012, CallWave Communications, LLC (“CallWave”) filed these actions for patent infringement against Defendants, alleging infringement of the ’970 and ’933 patents. (D.I. 1).<sup>1</sup> The Court has considered the parties’ joint claim construction brief (D.I. 168), joint appendix (D.I. 170), and oral argument (D.I. 195).

## 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 matter of law, 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).

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<sup>1</sup> All references to docket items use the numbering of the docket in case No. 12-1701.

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