


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED
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CLERK OF DISTRICT COURT
BY 

CROSSROADS SYSTEMS, INC.,
Plaintiff,

-vs-

Case No. A-10-CA-652-SS

3PAR, INC., AMERICAN MEGATRENDS, INC.;
RORKE DATA, INC.; D-LINK SYSTEMS, INC.;
CHELSIO COMMUNICATIONS, INC. (a
Delaware corporation); ISTAR NETWORKS,
INC.; and CHELSIO COMMUNICATIONS, INC.
(a California corporation),

Defendants.

ORDER

BE IT REMEMBERED on this day the Court reviewed the file in the above-styled cause, and specifically the Report and Recommendations [#167] of Special Master Karl Bayer, Defendant Rorke Data, Inc.'s [#170] and Plaintiff Crossroads Systems, Inc.'s [#172] objections thereto, and Crossroads' response [#173] to Rorke's objections; Crossroads' Motion to Strike [#160]; and a variety of unopposed motions [##139, 145, 153, 171]. Having reviewed the documents, the relevant law, and the file as a whole, the Court now enters the following opinion and orders OVERRULING Rorke's objections, SUSTAINING IN PART Crossroads' objections, and otherwise ACCEPTING AS MODIFIED the Report and Recommendations of the Special Master.

At the outset, as a housecleaning matter, the Court GRANTS the parties' unopposed motions [##139, 145, 153, 171]. Moreover, because the Court does not rely on the supplemental declaration of Brian Berg in reaching its conclusion on claims construction, it DISMISSES WITHOUT

PREJUDICE Crossroads' motion to strike [#160].

Background

In this patent case, Plaintiff Crossroads brings claims against Defendant Rorke, alleging the latter is infringing United States Patent 6,425,035 (the '035 patent) through, among other things, the making, using, and selling of various Rorke products.¹ In its first amended answer, Rorke asserts various defenses and counterclaims, including claims for declaratory judgments of non-infringement and invalidity.

The Court, through Special Master Karl Bayer, held a technical tutorial on February 28, 2011, and a *Markman* hearing on March 8, 2011. The parties were so generous in their evidentiary submissions to the Court, both during the hearing and afterward, that the warmth of this record-breaking Texas summer was as nothing, compared to the warmth the undersigned felt in his heart. On August 10, 2011, Special Master Karl Bayer issued his report and recommendations regarding claims construction. The parties were comparatively miserly in their post-recommendation briefing, with Rorke objecting to only two of the Special Master's proposed constructions, and Crossroads simply objecting to the omission from the Special Master's report of the parties' previously stipulated list of terms and their constructions.

Now, for the following reasons, the Court overrules Rorke's objections, sustains in part Crossroads' technical objection, and otherwise accepts as modified the Report and Recommendations of the Special Master.

¹ Although this case originally involved two patents and eight defendants, the parties and issues in this case have since narrowed considerably. Specifically, Crossroads' Second Amended Complaint [#104] brings an infringement claim against Rorke only with respect to the '035 patent.

Analysis

The Court first notes a procedural anomaly regarding the Special Master's report in this case. On August 10, 2011, when the Special Master issued his report and recommendations, United States Patent 7,051,147 (the '147 patent), and the claims constructions relevant thereto, were still at issue in this case. Naturally, therefore, the Special Master proposed constructions for disputed claim terms relevant to both the '147 and the '035 patents. However, because the only patent currently at issue in this lawsuit is the '035 patent, the Court neither considers nor accepts the Special Master's proposed constructions that are relevant solely to the '147 patent. Likewise, the Court declines to adopt the parties' stipulated constructions of terms unique to the '147 patent.

I. Stipulated Claim Terms

Per the stipulations [##117, 143] between the parties, the following terms in the '035 patent will be given the following constructions, for the purposes of this lawsuit:

| | |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Data:</i> | Information in a form suitable for use in a computing device. |
| <i>Fibre Channel:</i> | A known high-speed serial interconnect, the structure and operation of which is described, for example, in Fibre Channel Physical and Signal Interface (FC-PH), ANSI X3.230 Fibre Channel Arbitrated Loop (FC-AL), and ANSI X3.272 Fibre Channel Private Loop Direct Attach (FC-PLDA). |
| <i>Virtual Local Storage:</i> | Storage space, in a storage device that is remotely connected to an initiator device, such that the storage space appears to the initiator device to be within or locally connected to the initiator device. |
| <i>Remote:</i> | Indirectly connected through at least one serial network transport medium. |
| <i>First Transport Medium:</i> | A first communications link. |

| | |
|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Second transport medium:</i> | A second communications link that is physically separate from the first transport medium. |
| <i>Map/Mapping:</i> | To create a path from a device on one side of the storage router to a device on the other side of the router. A “map” contains a representation of devices on each side of the storage router, so that when a device on one side of the storage router wants to communicate with a device on the other side of the storage router, the storage router can connect the devices. |
| <i>Buffer:</i> | A memory device that is utilized to temporarily hold data. |
| <i>Storage Device(s):</i> | Any storage device, including, for example, a tape drive, CD-ROM drive, an optical drive or a hard disk drive. |

Finally, the parties agree the term “Connected To/Connects” needs no construction.

II. Disputed Claim Terms

A. Claim Construction Principles

When construing claims, courts begin with “an examination of the intrinsic evidence, i.e., the claims, the rest of the specification and, if in evidence, the prosecution history.” *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366 (Fed. Cir. 2002); *Interactive Gift Express, Inc. v. Compuserve Inc.*, 256 F.3d 1323, 1327 (Fed. Cir. 2001).

The words in the claims themselves are of primary importance in the analysis, as the claim language in a patent defines the scope of the invention. *SRI Int’l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc). The words of a claim “are generally given their ordinary and customary meaning.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005). “[T]he ordinary and customary meaning of a claim term 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 1313. The inquiry into how a person of ordinary skill in the art understands a claim term provides an “objective baseline” from which to begin claim interpretation. *Id.* The person of ordinary skill in the art is understood to read a claim term not only in the context of the particular claim in which the term appears, but in the context of the entire patent, including the specification; thus, both the plain language of the claims and the context in which the various terms appear “provide substantial guidance as to the meaning of particular claim terms.” *Id.* at 1314.

The specification also plays a significant role in the analysis. *Id.* at 1315. The Federal Circuit has repeatedly reaffirmed the principle that the specification “is always highly relevant Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.” *Id.* at 1315 (quoting *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)). In interpreting the effect the specification has on the claim limitations, however, courts must pay special attention to the admonition that one looks “to the specification to ascertain the meaning of the claim term as it is used by the inventor in the context of the entirety of his invention, and not merely to limit a claim term.” *Interactive Gift*, 256 F.3d at 1332 (internal quotation marks and citations omitted).

The final form of intrinsic evidence the Court may consider is the prosecution history. Although the prosecution history “represents an ongoing negotiation between the PTO and the applicant” and therefore “often lacks the clarity of the specification and thus is less useful for claim construction purposes,” it can nonetheless “often inform the meaning of the claim language by demonstrating how the inventor understood the invention and whether the inventor limited the

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