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

CONTENTGUARD HOLDINGS, INC., *Plaintiff*, v. AMAZON.COM, INC., et al., *Defendants*.	§	CASE NO. 2:13-CV-1112-JRG
CONTENTGUARD HOLDINGS, INC., *Plaintiff*, v. GOOGLE, INC., *Defendant*.	§	CASE NO. 2:14-CV-61-JRG

MEMORANDUM OPINION AND ORDER

Before the Court are Plaintiff ContentGuard Holdings, Inc.'s Opening Claim Construction Brief (Dkt. No. 304),[1] the response of Defendants Amazon.com, Inc. ("Amazon"), Apple Inc., DirecTV, LLC, HTC Corporation, HTC America, Inc., Huawei Technologies Co., Ltd., Huawei Device USA, Inc., Motorola Mobility LLC, Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively, "Defendants") (Dkt. No. 331), Defendant Amazon.com, Inc.'s Separate Responsive Claim Construction Brief (Dkt. No. 336), Plaintiff's replies (Dkt. Nos. 344 & 345), and Defendants' sur-reply (Dkt. No. 353).

The Court held a claim construction hearing on February 6, 2015.

[1] References to docket numbers herein are to Civil Action No. 2:13-CV-1112 unless otherwise indicated.

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I. BACKGROUND

Plaintiff brings suit alleging infringement of United States Patents No. 6,963,859 ("the '859 Patent"), 7,523,072 ("the '072 Patent"), 7,225,160 ("the '160 Patent"), 7,269,576 ("the '576 Patent"), 8,370,956 ("the '956 Patent"), 8,393,007 ("the '007 Patent") (collectively, the "Trusted Repository Patents" or "Stefik Patents"), 7,774,280 ("the '280 Patent"), 8,001,053 ("the '053 Patent") (collectively, the "Meta Rights Patents," "Nguyen/Chen Patents," or "Nguyen Patents"), and 8,583,556 ("the '556 Patent," also referred to as the "Transaction Tracking Patent" or the "Dunkeld Patent") (all, collectively, "the patents-in-suit"). (Dkt. No. 304, Exs. A-I.)

The parties have presented the patents-in-suit as three distinct groups, as set forth above, and the Court addresses those three groups in turn, below.

The Court heard oral arguments on February 6, 2015. The parties did not present oral argument as to all disputed terms. Instead, "[g]iven the large number of disputed claim terms," the parties chose to present oral arguments on terms identified in the parties' January 23, 2015 Joint Notice Regarding *Markman* Hearing. (Dkt. No. 365.) The parties also presented oral argument regarding one additional group of terms identified by the Court, namely "nonce" and "random registration identifier" in the Stefik Patents. The parties did not present oral arguments regarding any other disputed terms and instead submitted those disputes on the briefing.

II. LEGAL PRINCIPLES

It is understood that "[a] claim in a patent provides the metes and bounds of the right which the patent confers on the patentee to exclude others from making, using or selling the protected invention." *Burke, Inc. v. Bruno Indep. Living Aids, Inc.*, 183 F.3d 1334, 1340 (Fed. Cir. 1999). Claim construction is clearly an issue of law for the court to decide. *Markman v.*

Westview Instruments, Inc., 52 F.3d 967, 970-71 (Fed. Cir. 1995) (en banc), *aff'd*, 517 U.S. 370 (1996).

To ascertain the meaning of claims, courts look to three primary sources: the claims, the specification, and the prosecution history. *Markman*, 52 F.3d at 979. The specification must contain a written description of the invention that enables one of ordinary skill in the art to make and use the invention. *Id.* A patent's claims must be read in view of the specification, of which they are a part. *Id.* For claim construction purposes, the description may act as a sort of dictionary, which explains the invention and may define terms used in the claims. *Id.* "One purpose for examining the specification is to determine if the patentee has limited the scope of the claims." *Watts v. XL Sys., Inc.*, 232 F.3d 877, 882 (Fed. Cir. 2000).

Nonetheless, it is the function of the claims, not the specification, to set forth the limits of the patentee's invention. Otherwise, there would be no need for claims. *SRI Int'l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc). The patentee is free to be his own lexicographer, but any special definition given to a word must be clearly set forth in the specification. *Intellicall, Inc. v. Phonometrics, Inc.*, 952 F.2d 1384, 1388 (Fed. Cir. 1992). Although the specification may indicate that certain embodiments are preferred, particular embodiments appearing in the specification will not be read into the claims when the claim language is broader than the embodiments. *Electro Med. Sys., S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 1054 (Fed. Cir. 1994).

This Court's claim construction analysis is substantially guided by the Federal Circuit's decision in *Phillips v. AWH Corporation*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc). In *Phillips*, the court set forth several guideposts that courts should follow when construing claims. In particular, the court reiterated that "the claims of a patent define the invention to which the

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