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

INNOVATIVE DISPLAY TECHNOLOGIES LLC	§	
	§	
	§	CASE NO. 2:13-CV-522-JRG
v.	§	(LEAD CASE)
	§	
ACER INC., et al.	§	
	§	

CLAIM CONSTRUCTION
MEMORANDUM AND ORDER

On July 30, 2014, the Court held a hearing to determine the proper construction of the disputed claim terms in United States Patents No. 6,755,547, 7,300,194, 7,384,177, 7,404,660, 7,434,974, 7,537,370, and 8,215,816. After considering the arguments made by the parties at the hearing and in the parties' claim construction briefing (Dkt. Nos. 69, 75, and 82),[1] the Court issues this Claim Construction Memorandum and Order.

[1] Citations to documents (such as the parties' briefs and exhibits) in this Claim Construction Memorandum and Order refer to the page numbers of the original documents rather than the page numbers assigned by the Court's electronic docket unless otherwise indicated. Defendants are Acer Inc., Acer America Corp., Huawei Device USA Inc., Huawei Technologies Co., Ltd., Huawei Investment and Holding Co. Ltd., Microsoft Corp., Blackberry Ltd., Blackberry Corp., Dell Inc., and Hewlett-Packard Co.

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BACKGROUND

Plaintiff brings suit alleging infringement of United States Patents No. 6,755,547 ("the '547 Patent"), 7,300,194 ("the '194 Patent"), 7,384,177 ("the '177 Patent"), 7,404,660 ("the '660 Patent"), 7,434,974 ("the '974 Patent"), 7,537,370 ("the '370 Patent"), and 8,215,816 ("the '816 Patent"). All seven of the patents-in-suit are titled "Light Emitting Panel Assemblies" and relate to backlighting for liquid crystal displays ("LCDs").

The Abstract of the '547 Patent is generally representative and states:

> Light emitting panel assemblies include a sheet, film or plate overlying a light emitting member. The sheet, film or plate has a pattern of deformities on one or both sides that may vary or be random in size, shape or geometry, placement, index of refraction, density, angle, depth, height and type for controlling the light output distribution to suit a particular application. Also the sheet, film or plate may have a coating or surface treatment for causing the light to pass through a liquid crystal display with low loss.

All of the patents-in-suit claim priority to a common ancestor patent and bear an earliest priority date of June 27, 1995. The parties submit, at least for purposes of the present claim construction proceedings, that the patents-in-suit share a common written description and figures. Dkt. No. 69 at 1; Dkt. No. 75 at 1. For convenience, this Claim Construction Memorandum and Order refers to the specification of only the '547 Patent unless otherwise indicated.

Finally, although Plaintiff submitted an expert declaration with its opening claim construction brief (*see* Dkt. No. 69, Ex. B, 6/16/2014 Declaration of Kenneth I. Werner), the Court granted Defendants' motion to strike that expert declaration. *See* Dkt. No. 85, 7/11/2014 Order. Therefore, in construing the disputed terms, the Court does not consider the expert declaration.

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LEGAL PRINCIPLES

"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) (quoting *Innova/Pure Water Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111, 1115 (Fed. Cir. 2004)). To determine the meaning of the claims, courts start by considering the intrinsic evidence. *See id.* at 1313; *see also C.R. Bard, Inc. v. U.S. Surgical Corp.*, 388 F.3d 858, 861 (Fed. Cir. 2004); *Bell Atl. Network Servs., Inc. v. Covad Commc'ns Group, Inc.*, 262 F.3d 1258, 1267 (Fed. Cir. 2001). The intrinsic evidence includes the claims themselves, the specification, and the prosecution history. *See Phillips*, 415 F.3d at 1314; *C.R. Bard*, 388 F.3d at 861. Courts give claim terms their ordinary and accustomed meaning as understood by one of ordinary skill in the art at the time of the invention in the context of the entire patent. *Phillips*, 415 F.3d at 1312-13; *accord Alloc, Inc. v. Int'l Trade Comm'n*, 342 F.3d 1361, 1368 (Fed. Cir. 2003).

The claims themselves provide substantial guidance in determining the meaning of particular claim terms. *Phillips*, 415 F.3d at 1314. First, a term's context in the asserted claim can be very instructive. *Id.* Other asserted or unasserted claims can aid in determining the claim's meaning because claim terms are typically used consistently throughout the patent. *Id.* Differences among the claim terms can also assist in understanding a term's meaning. *Id.* For example, when a dependent claim adds a limitation to an independent claim, it is presumed that the independent claim does not include the limitation. *Id.* at 1314-15.

"[C]laims 'must be read in view of the specification, of which they are a part.'" *Id.* at 1315 (quoting *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979 (Fed. Cir. 1995) (en banc)). "[T]he specification 'is always highly relevant to the claim construction analysis.

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Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.'" *Phillips*, 415 F.3d at 1315 (quoting *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)); *accord Teleflex, Inc. v. Ficosa N. Am. Corp.*, 299 F.3d 1313, 1325 (Fed. Cir. 2002). This is true because a patentee may define his own terms, give a claim term a different meaning than the term would otherwise possess, or disclaim or disavow claim scope. *Phillips*, 415 F.3d at 1316. In these situations, the inventor's lexicography governs. *Id.* The specification may also resolve the meaning of ambiguous claim terms "where the ordinary and accustomed meaning of the words used in the claims lack sufficient clarity to permit the scope of the claim to be ascertained from the words alone." *Teleflex*, 299 F.3d at 1325. But, "[a]lthough the specification may aid the court in interpreting the meaning of disputed claim language, particular embodiments and examples appearing in the specification will not generally be read into the claims." *Comark Commc'ns, Inc. v. Harris Corp.*, 156 F.3d 1182, 1187 (Fed. Cir. 1998) (quoting *Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 1571 (Fed. Cir. 1988)); *accord Phillips*, 415 F.3d at 1323.

The prosecution history is another tool to supply the proper context for claim construction because a patent applicant may also define a term in prosecuting the patent. *Home Diagnostics, Inc., v. Lifescan, Inc.*, 381 F.3d 1352, 1356 (Fed. Cir. 2004) ("As in the case of the specification, a patent applicant may define a term in prosecuting a patent."). "[T]he prosecution history (or file wrapper) limits the interpretation of claims so as to exclude any interpretation that may have been disclaimed or disavowed during prosecution in order to obtain claim allowance." *Standard Oil Co. v. Am. Cyanamid Co.*, 774 F.2d 448, 452 (Fed. Cir. 1985).

Although extrinsic evidence can be useful, it is "less significant than the intrinsic record in determining the legally operative meaning of claim language." *Phillips*, 415 F.3d at 1317

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