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

JOAO CONTROL & MONITORING SYSTEMS, LLC, PLAINTIFF,	§	
V.	§	CAUSE NO. 1-14-CV-134-LY
PROTECT AMERICA, INC., DEFENDANT.	§	

MEMORANDUM OPINION AND ORDER REGARDING CLAIM CONSTRUCTION

Before the court in the above-styled and numbered cause are Plaintiff Joao Control & Monitoring Systems, LLC's ("Joao") Opening Claim Construction Brief filed April 3, 2015 (Clerk's Doc. No. 84); Defendant Protect America, Inc.'s ("Protect America") Opening Claim Construction Brief filed April 3, 2015 (Clerk's Doc. No. 83); Joao's Responsive Claim Construction Brief filed May 8, 2015 (Clerk's Doc. No. 93); Protect America's Reply Claim Construction Brief filed May 8, 2015 (Clerk's Doc. No. 92); the parties' Notice of Supplemental Authority filed June 22, 2015 (Clerk's Doc. No. 102); Joao's Supplemental Claim Construction Brief filed June 26, 2015 (Clerk's Doc. No. 106); Protect America's Supplemental Claim Construction Brief filed June 26, 2015 (Clerk's Doc. No. 105); Joao's Notice of Supplemental Authority filed August 6, 2015 (Clerk's Doc. No. 108); the parties' Amended Joint Claim Construction Statement filed March 19, 2015 (Clerk's Doc. No. 73); and the claim-construction presentations of both parties.

The court held a claim-construction hearing on May 27, 2015. *See Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 976 (Fed. Cir. 1995) (en banc), *aff'd*, 517 U.S. 370 (1996). After considering the patents and their prosecution history, the parties' claim-construction briefs, the parties' opposing expert declarations, the applicable law regarding claim construction, and argument of counsel, the court now renders its order with regard to claim construction.

I. Introduction

The court renders this memorandum opinion and order to construe the claims of U.S. Patent Nos. 6,542,076 (the '076 Patent), 6,549,130 (the '130 Patent), 7,397,363 (the '363 Patent), 7,277,010 (the '010 Patent), 6,587,046 (the '046 Patent), and 6,542,077 (the '077 Patent) (collectively "patents-in-suit"). Joao asserts that Protect America infringes various claims of the six patents-in-suit. The patents-in-suit generally relate to "systems for remotely controlling and/or monitoring devices such as appliances or other equipment at a premises." Collectively, the patents contain 906 claims and consist of more than 500 pages.

II. Legal Principles of Claim Construction

Determining infringement is a two-step process. *See Markman,* 52 F.3d at 976 ("[There are] two elements of a simple patent case, construing the patent and determining whether infringement occurred . . . ."). First, the meaning and scope of the relevant claims must be ascertained. *Id.* Second, the properly construed claims must be compared to the accused device. *Id.* Step one, claim construction, is the current issue before the court.

The court construes patent claims without the aid of a jury. *See Markman* 52 F.3d at 979. 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) (en banc) (quoting *Vitronics Corp v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)). The 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. *Id.* at 1313. The person of ordinary skill in the art is deemed to have read the claim term in the context of the entire patent. *Id.* Therefore, to ascertain the

meaning of a claim, a court must look to the claim, the specification, and the patent's prosecution history. *Id.* at 1314–17; *Markman*, 52 F.3d at 979. Claim language guides the court's construction of a claim term. *Phillips*, 415 F.3d at 1314. "[T]he context in which a term is used in the asserted claim can be highly instructive." *Id.* Other claims, asserted and unasserted, can provide additional instruction because "terms are normally used consistently throughout the patent." *Id.* Differences among claims, such as additional limitations in dependent claims, can provide further guidance. *Id.*

Claims must also be read "in view of the specification, of which they are a part." *Markman*, 52 F.3d at 979. 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." *Teleflex. Inc. v. Ficosa N. Am. Corp.*, 299 F.3d 1313, 1325 (Fed. Cir. 2002) (internal citations omitted). In the specification, a patentee may define a term to have a meaning that differs from the meaning that the term would otherwise possess. *Phillips*, 415 F.3d at 1316. In such a case, the patentee's lexicography governs. *Id.* The specification may also reveal a patentee's intent to disclaim or disavow claim scope. *Id.* Such intention is dispositive of claim construction. *Id.* Although the specification may indicate that a certain embodiment is preferred, a particular embodiment appearing in the specification will not be read into the claim when the claim language is broader than the embodiment. *Electro Med. Sys., S.A. v. Cooper Life Scis., Inc.*, 34 F.3d 1048, 1054 (Fed. Cir. 1994).

The prosecution history is another tool to supply the proper context for claim construction because it demonstrates how the inventor understood the invention. *Phillips*, 415 F.3d at 1317. A patentee may also serve as his own lexicographer and define a disputed term in prosecuting a patent. *Home Diagnostics Inc. v. LifeScan, Inc.*, 381 F.3d 1352, 1356 (Fed. Cir. 2004). Similarly, distinguishing the claimed invention over the prior art during prosecution indicates what a claim

does not cover. *Spectrum Int'l v. Sterilite Corp.*, 164 F.3d 1372, 1378–79 (Fed. Cir. 1988). The doctrine of prosecution disclaimer precludes a patentee from recapturing a specific meaning that was previously disclaimed during prosecution. *Omega Eng'g Inc. v. Raytek Corp.*, 334 F.3d 1314, 1323 (Fed. Cir. 2003). A disclaimer of claim scope must be clear and unambiguous. *Middleton Inc. v. 3M Co.*, 311 F.3d 1384, 1388 (Fed. Cir. 2002).

Although, "less significant than the intrinsic record in determining the legally operative meaning of claim language," the court may rely on extrinsic evidence to "shed useful light on the relevant art." *Phillips*, 415 F.3d at 1317 (quotation omitted). Technical dictionaries and treatises may help the court understand the underlying technology and the manner in which one skilled in the art might use a claim term, but such sources may also provide overly broad definitions or may not be indicative of how a term is used in the patent. *Id.* at 1318. Similarly, expert testimony may aid the court in determining the particular meaning of a term in the pertinent field, but "conclusory, unsupported assertions by experts as to the definition of a claim term are not useful." *Id.* Generally, extrinsic evidence is "less reliable than the patent and its prosecution history in determining how to read claim terms." *Id.* Extrinsic evidence may be useful when considered in the context of the intrinsic evidence, *Id.* at 1319, but it cannot "alter a claim construction dictated by a proper analysis of the intrinsic evidence," *On-Line Techs., Inc. v. Bodenseewerk Perkin-Elmer GmbH*, 386 F.3d 1133, 1139 (Fed. Cir. 2004).

III. Discussion

A. Agreed Constructions

In their amended joint-claim-construction statement, the parties present two terms with agreed constructions. Further, at the claim-construction hearing, Joao conceded that two of Protect America's constructions were technically correct and Joao would not object if the court adopted the constructions. The court hereby adopts the agreed construction of the claim term listed in the table below.[1]

Claim Term/Phrase	Adopted Agreed Construction
"premises" [All Patents]	"**a building or a structure and the grounds or parcel of land associated with the building or the structure, or a building or structure or a portion, room, or office, of or in the building or structure, or a home, mobile home, mobile building, mobile structure, residence, residential building, office, commercial building, commercial office, structure, equipment, facility, machine, rig, assembly line, or edifice.**"
"located at" [All Patents]	"**situated at, or situated in, or situated on**"
"remote" [All Patents]	"**separate and apart from, or external from, or at a distance from or distant from, or not located in**"
"video information" ['010 and '046 Patents]	"**an image or images or a photograph, or data or information containing, pertaining to, or representing, an image or images or a photograph**"

[1] Throughout, the **bolded** terms indicate the court's adopted construction.

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