IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

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SANDISK CORPORATION,

                                                          OPINION and ORDER

      Plaintiff,

  v.   10-cv-243-bbc

KINGSTON TECHNOLOGY CO., INC. and
KINGSTON TECHNOLOGY CORP.,

      Defendants.

- -

   In this patent infringement suit, plaintiff SanDisk Corporation contends that defendants Kingston Technology Co., Inc. and Kingston Technology Corp. are infringing plaintiff's United States Patents Nos. 7,397,713 ('713 patent); 7,492,660 ('660 patent); 7,657,702 ('702 patent); 7,532,511 ('511 patent); 7,646,666 ('666 patent); and 7,646,667 ('667), all of which are related to flash memory technology. Now before the court are the parties' cross motions for construction of certain terms found in the claims being asserted in these patents. I construe the terms as provided below.

OPINION

A. Background

   In a previous case between the parties, a consolidated action including Cases Nos. 07-cv-605-bbc and 07-cv-607-bbc, plaintiff asserted several patents against defendants that

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relate to flash memory technology, and in particular, technology known as "flash EEPROM" (Electrically Erasable Programmable Read Only Memory). In the consolidated action, I construed several claim terms related to the patents at issue in that case, U.S. Patents Nos. 6,757,842 ('842 patent); 6,149,316 ('316 patent); 5,719,808 ('808 patent); 6,426,893 ('893 patent); and 6,763,424 ('424 patent). The patents asserted in this case are related to those patents; each of the patents asserted in this lawsuit is a divisional patent or a continuation of one of the patents that plaintiff asserted against defendants in the consolidated action and shares a specification with those patents. There are three separate "groups" of patents in this case, which relate to the patents in the consolidated action as follows:

- the '713 and '660 patents are entitled "Flash EEPROM System" and share a specification with the '842 patent, '316 patent and '808 patent;

- the '702 patent is entitled "Partial Block Data Programming and Reading Operations in a Non-Volatile Memory" and shares a specification with the '424 patent; and

- the '511, '666 and '667 patents are entitled "Flash EEPROM System with Simultaneous Multiple Data Sector Programming and Storage of Physical Block Characteristics in Other Designated Blocks" and share a specification with the '893 patent.

B. <u>Claims to be Construed:</u>

The parties seek construction of fifteen terms, as follows.

A. Terms from the '713 and '660 patents:

  1. "Address register file" ('713 pat., cl. 1) and "register file" ('713 pat., cl. 11); and

  2. "defective memory location" ('660 pat., cl. 1) and "defective location" ('660 pat., cl. 15);

B. Terms from the '702 patent:

  1. "Logical addresses" ('702 pat., cls. 1, 16, 24 and 33);

  2. "Page" ('702 pat., cl. 1);

  3. "Sub-array" ('702 pat., cls. 1 and 33)

  4. "updatable data structure" ('702 pat., cl. 1) and "updatable address information" ('702 pat., cl. 16);

  5. "memory controller" ('702 pat., cls. 24 and 33); and

  6. The "Update Programming Step," as the parties call it ('702 pat., cls. 1, 16, 24 and 33).

C. Terms from the '511, '666 and '667 patents:

  1. "Defective" ('511 pat., cl. 7);

  2. "Attach the calculated redundancy codes" ('667 pat., cl. 5) and "adding the generated code to the user data" ('511 pat., cl. 1);

  3. "Generating a redundancy code" ('511 pat., cls. 1 and 15);

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4.   "Storing, in individual ones of the second group of said blocks" ('511 pat., cls. 14 and 6 and '667 pat., cl. 1);

5.   "A record stored in the memory system" ('666 pat., cl. 1);

6.   "A controller adapted to [] communicate user data" ('667 pat., cl. 1); and

7.   "A controller adapted to [] write data" ('667 pat., cl. 1).

As was the case in the consolidated action, the parties' disputes about the meaning of each term relate to differing views about the scope of the claims more than differing views about which language is clearest and easiest to understand. For that reason, although I will resolve the parties' disputes regarding whether the disputed limitations they identify should apply to the terms at issue, I will not endeavor to provide specific definitions for each term. As I explained to the parties in the consolidated action, providing such specific definitions tends only to encourage disputes about the meaning of those definitions. Sandisk v. Phison Electronics Corp., Case No. 07-cv-607-bbc, dkt. #582, at 5 ("It is counterproductive to resolve claims construction disputes by replacing them with new ones for the parties to dispute about at summary judgment."). To the extent the parties seek to use specific language to describe a given claim term to the jury, they can move in limine.

C. '713 Patent and '660 Patent

1. "Address register file" ('713 pat., cl. 1) and "register file" ('713 pat., cl. 11)

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Surrounding Claim Language	Plaintiff's Proposed Construction	Defendants' Proposed Construction
wherein said controller includes an *address register file*, and is such as to allow a host logical address from said host system to be converted to a physical address of said nonvolatile semiconductor flash memory based on data stored in said address register file, ['713—1] wherein said controller includes a *register file* to store defect mapping data; ['713—11]	An "address register file" is a memory structure within the controller having data that allows a host logical address from said host system to be converted to a physical address of said nonvolatile semiconductor flash memory The "register file" is a memory within the controller used to store defect mapping data.	the controller includes a file that can be loaded into a register and is sufficient to map the logical addresses corresponding to a defective memory location to the physical address of a replacement good memory location

For these terms, the parties' principal disputes are (1) whether "address register file" from claim 1 and "register file" from claim 11 of the '713 patent mean the same thing (and thus whether claim 1's "address register file" must be used to store defect mapping data and claim 11's "register file" must allow a logical address from a host system to be converted to a physical flash address); (2) whether the "address register file" from claim 1 must include all the information needed to map the logical address corresponding to a defective location to a physical address of a replacement location; and (3) whether the "register file" from claim 11 must contain a defect map. Defendants seek all of these limitations.

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