

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

GODO KAISHA IP BRIDGE 1, §
v. § CASE NO. 2:16-CV-134-JRG-RSP
BROADCOM LIMITED, BROADCOM §
CORPORATION, AVAGO §
TECHNOLOGIES, LTD., AVAGO §
TECHNOLOGIES U.S., INC., and LSI §
CORPORATION §
§

CLAIM CONSTRUCTION
MEMORANDUM AND ORDER

On October 7, 2016, the Court held a hearing to determine the proper construction of disputed claim terms in United States Patents No. 6,197,696, 6,538,324, 7,126,174, 8,354,726, RE41,980, and RE43,729. Having reviewed the arguments made by the parties at the hearing and in their claim construction briefing (Dkt. Nos. 67, 73 & 77),¹ having considered the intrinsic evidence, and having made subsidiary factual findings about the extrinsic evidence, the Court hereby issues this Claim Construction Memorandum and Order. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005); *Teva Pharm. USA, Inc. v. Sandoz, Inc.*, 135 S. Ct. 831, 841 (2015).

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.

Table of Contents

I. BACKGROUND..... 4

II. LEGAL PRINCIPLES 4

III. THE PARTIES’ STIPULATED TERMS 7

IV. DISPUTED TERMS IN U.S. PATENT NO. 7,126,174..... 7

 A. “a trench isolation surrounding an active area of a semiconductor substrate” 8

 B. “composed of the same material” 10

V. DISPUTED TERMS IN U.S. PATENT NO. 8,354,726 11

 C. “formed on the side surface of the [first/second] gate electrode” 11

 D. “a stress-containing insulating film containing internal stress and formed to cover the first gate electrode, the first side-wall insulating film, the auxiliary pattern, and the second side-wall insulating film” 16

 E. “the first gate electrode is formed on the first active region through a gate insulating film including nitrogen” 17

 F. “an interlayer insulating film on the silicide layer through the stress-containing insulating film” 19

VI. DISPUTED TERMS IN U.S. PATENT NO. 6,197,696..... 20

 G. “using the [first resist pattern/second resist pattern and the mask pattern/patterned third insulating film] as a mask” 20

VII. DISPUTED TERMS IN U.S. PATENT NO. 6,538,324 22

 H. Preambles of Claims 1 and 5 of the ’324 Patent 22

 I. “film” 25

 J. “said first film being composed of crystalline metal containing nitrogen therein” 27

 K. “said second film being composed of amorphous metal nitride” 31

 L. “[said barrier film being constituted of] common metal atomic species” 32

VIII. DISPUTED TERMS IN U.S. PATENT NO. RE41,980 33

 M. “a surface protecting film” 33

 N. “interlayer insulating film” 35

 O. “small dielectric constant” 36

 P. “said bonding pad in said opening and said second dielectric film of said surface protecting film completely cover said first dielectric film so as not to expose said first dielectric film” 40

 Q. “wherein said bonding pad covers said opening” 42

IX. DISPUTED TERMS IN U.S. PATENT NO. RE43,729 43

 R. “performed within one cycle” 43

 S. “predetermined instruction” 46

T. “detecting / detecting unit” 47

X. CONCLUSION..... 47

APPENDIX A 49

I. BACKGROUND

Plaintiff has alleged infringement of United States Patents No. 6,197,696 (“the ’696 Patent”), 6,538,324 (“the ’324 Patent”), 7,126,174 (“the ’174 Patent”), 8,354,726 (“the ’726 Patent”), RE41,980 (“the ’980 Patent”), and RE43,729 (“the ’729 Patent”) (collectively, the “patents-in-suit”).

Below, the Court addresses the disputed terms on a patent-by-patent basis, as the parties have done in their briefing, and in the order set forth in the parties’ briefing.

Shortly before the start of the October 7, 2016 hearing, the Court provided the parties with preliminary constructions with the aim of focusing the parties’ arguments and facilitating discussion. Those preliminary constructions are set forth below within the discussion for each term.

II. 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)). 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). “In some cases, however, the district court will need to look beyond the patent’s intrinsic evidence and to consult extrinsic evidence in order to understand, for example, the background science or the meaning of a term in the relevant art during the relevant time period.” *Teva Pharms. USA, Inc. v. Sandoz, Inc.*, 135 S. Ct. 831, 841 (2015) (citation omitted). “In cases where those subsidiary facts are in dispute, courts will need to make subsidiary factual findings about that extrinsic evidence. These are the ‘evidentiary

underpinnings’ of claim construction that we discussed in *Markman*, and this subsidiary factfinding must be reviewed for clear error on appeal.” *Id.* (citing 517 U.S. 370).

To determine the meaning of the claims, courts start by considering the intrinsic evidence. *See Phillips*, 415 F.3d 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*, 52 F.3d at 979 (en banc)). “[T]he 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.’” *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.*

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.