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

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SIPCO, LLC	§	
	§	
Plaintiff,	§	
	§	
v.	§	**CIVIL ACTION NO.**
	§	**6:11-CV-0048 LED-JDL**
ABB, INC., et al,	§	
	§	**JURY TRIAL REQUESTED**
Defendants.	§	

MEMORANDUM OPINION AND ORDER

This claim construction opinion construes the disputed claim terms in the four asserted patents: U.S. Patent No. 7,103,511 (the "'511 patent) entitled "Wireless Communication Networks For Providing Remote Monitoring Devices;" and U.S. Patent Nos. 6,437,692 (the "'692 patent"); 7,697,492 (the "'492 patent"); 6,914,893 (the "'893 patent"); all entitled "System and Method for Monitoring and Controlling Remote Devices" (collectively, the "patents-in-suit"). The matter has been fully briefed.[1] For the reasons stated herein, the Court adopts the construction set forth below.

OVERVIEW OF THE PATENTS-IN-SUIT

The patents-in-suit are generally directed towards monitoring or controlling remote devices using wireless mesh communications technology. *See, e.g.,* '511 patent at Abstract; *id.*at

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[1] Plaintiff SIPCO, LLC ("SIPCO") filed an Opening Claim Construction Brief (Doc. No. 202) ("Sipco Brief"). Defendant SmartLabs, Inc. ("SmartLabs") filed a Responsive Claim Construction Brief (Doc. No. 215) ("SmartLabs Response") to which SIPCO replied (Doc. No. 225) ("Reply to SmartLabs"). The Schlage/Trane Defendants ("Schlage/Trane") also filed a Responsive Claim Construction Brief (Doc. No. 218) to which SIPCO replied (Doc. No. 227) ("Reply to Schlage/Trane"). Defendant Coulomb Technologies, Inc. ("Coulomb") also filed a Responsive Claim Construction Brief (Doc. No. 219) to which SIPCO replied (Doc. No. 226) ("Reply to Coulomb"). Also present at the Claim Construction hearing was SmartSynch, Inc. ("SmartSynch"), the last remaining defendant at the time of the hearing in *SIPCO LLC v. Energate, Inc. et al.*, 6:10-cv-533 ("the '533 action"). SmartSynch was dismissed from the '533 action after fully participating in the claim construction procedure. *See, e.g.,* '533 action (Doc. No. 176) ("SmartSynch Response"); *see also* (Doc. No. 182) ("Reply to SmartSynch"). Because SmartSynch has been dismissed from this action, the Court will only discuss its arguments if relevant to the remaining Defendants' position.

2:27-28. Figure 1 of the '511 patent, depicted below, shows an exemplary embodiment of the invention.   The exemplary embodiment includes   "sensors/actuators 130" integrated with transceivers 135 that transmit low-power radio-frequency ("RF") signals, transceiver/repeaters 125, site controllers 150 that manage and relay data between the transceivers and a wide area network. *Id.* at Fig. 1; *id.* at 2:47-3:39 (generally describing the preferred embodiments).

FIG. 1
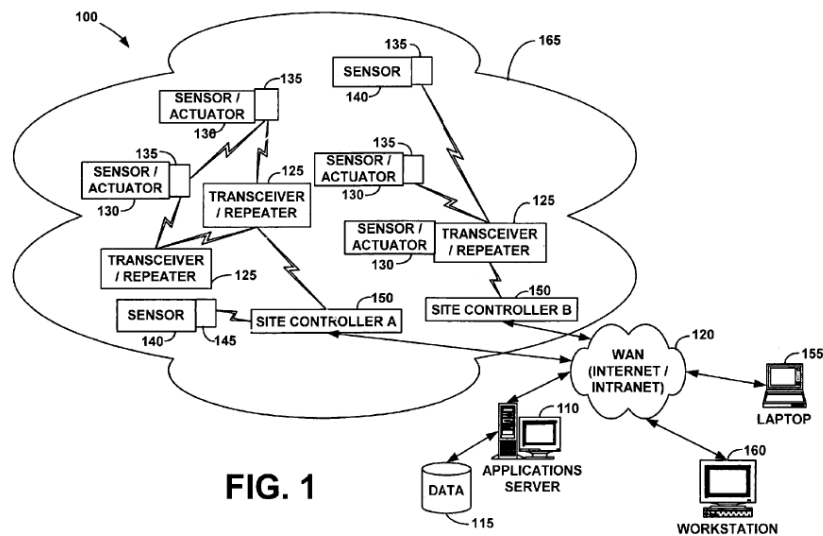
Further, a computer can send various control signals to the sensor/actuator and receive sensor data transmitted from transceivers integrated into sensors/actuators in response to which the integrated transceivers 135 can transmit sensor data. *See, e.g., id.* at 9:3-14; '692 patent at Abstract. Lastly, the patents-in-suit are no strangers to litigation. Several of the disputed claim terms have been previously construed by this Court or the Eastern District of Pennsylvania. *See Sipco LLC v. Toro Co.,* Civ. No. 08-0505, 2009 WL 330969 (E.D. Pa. Feb. 11, 2009); *Sipco, LLC v. Datamatic, Ltd.,* 6:09-cv-532-LED-JDL, 2011 WL 1742669 (E.D. Tex. May 6, 2011).

CLAIM CONSTRUCTION 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) (quoting *Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111, 1115 (Fed. Cir. 2004)). The Court examines a patent's intrinsic evidence to define the patented invention's scope. *Id.* at 1313-1314; *Bell Atl. Network Servs., Inc. v. Covad Commc'ns Group, Inc.*, 262 F.3d 1258, 1267 (Fed. Cir. 2001). Intrinsic evidence includes the claims, the rest of the specification and the prosecution history. *Phillips*, 415 F.3d at 1312-13; *Bell Atl. Network Servs.*, 262 F.3d at 1267. The Court gives claim terms their ordinary and customary meaning as understood by one of ordinary skill in the art at the time of the invention. *Phillips*, 415 F.3d at 1312-13; *Alloc, Inc. v. Int'l Trade Comm'n*, 342 F.3d 1361, 1368 (Fed. Cir. 2003).

Claim language guides the Court's construction of claim terms. *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.*

"[C]laims 'must be read in view of the specification, of which they are a part.'" *Id.* (quoting *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979 (Fed. Cir. 1995)). "[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.'" *Id.* (quoting *Vitronics Corp.v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)); *Teleflex. Inc. v. Ficosa N. Am. Corp.*, 299 F.3d 1313, 1325 (Fed. Cir. 2002). In the specification, a patentee may define his own terms, give a claim term a different meaning that it would otherwise possess, or disclaim

or disavow some claim scope.   *Phillips*, 415 F.3d at 1316.   Although the Court generally presumes terms possess their ordinary meaning, this presumption can be overcome by statements of clear disclaimer.   *See SciMed Life Sys., Inc. v. Advanced Cardiovascular Sys., Inc.*, 242 F.3d 1337, 1343-44 (Fed. Cir. 2001).   This presumption does not arise when the patentee acts as his own lexicographer.   *See Irdeto Access, Inc. v. EchoStar Satellite Corp.*, 383 F.3d 1295, 1301 (Fed. Cir. 2004).

The specification may also resolve 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, Inc.*, 299 F.3d at 1325. For example, "[a] claim interpretation that excludes a preferred embodiment from the scope of the claim 'is rarely, if ever, correct." *Globetrotter Software, Inc. v. Elam Computer Group Inc.*, 362 F.3d 1367, 1381 (Fed. Cir. 2004) (quoting *Vitronics Corp.*, 90 F.3d at 1583). But, "[a]lthough the specification may aid the court in interpreting the meaning of disputed language in the claims, particular embodiments and examples appearing in the specification will not generally be read into the claims." *Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 1571 (Fed. Cir. 1988); *see also Phillips*, 415 F.3d at 1323.

The prosecution history is another tool to supply the proper context for claim construction because a patentee may define a term during prosecution of 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").   The well-established doctrine of prosecution disclaimer "preclud[es] patentees from recapturing through claim interpretation specific meanings disclaimed during prosecution." *Omega Eng'g Inc. v. Raytek Corp.*, 334 F.3d 1314, 1323 (Fed. Cir. 2003). The prosecution history must show that the

patentee clearly and unambiguously disclaimed or disavowed the proposed interpretation during prosecution to obtain claim allowance. *Middleton Inc. v. 3M Co.*, 311 F.3d 1384, 1388 (Fed. Cir. 2002). "Indeed, by distinguishing the claimed invention over the prior art, an applicant is indicating what the claims do not cover." *Spectrum Int'l v. Sterilite Corp.*, 164 F.3d 1372, 1378-79 (Fed. Cir. 1988) (quotation omitted). "As a basic principle of claim interpretation, prosecution disclaimer promotes the public notice function of the intrinsic evidence and protects the public's reliance on definitive statements made during prosecution." *Omega Eng'g, Inc.*, 334 F.3d at 1324.

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 claim terms, but such sources may also provide overly broad definitions or may not be indicative of how terms are 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.*

The patents-in-suit may contain means-plus-function limitations that require construction. Where a claim limitation is expressed in means-plus-function language and does not recite definite structure in support of its function, the limitation is subject to 35 U.S.C. § 112 ¶ 6. *Braun Med., Inc. v. Abbott Labs.*, 124 F.3d 1419, 1424 (Fed. Cir. 1997). In relevant part, § 112 mandates that "such a claim limitation be construed to cover the corresponding structure . . .

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