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

PAPST LICENSING GMBH & CO. KG,	§	
	§	
Plaintiff,	§	
	§	**CASE NO. 6:15-cv-01095**
vs.	§	
	§	**[LEAD CASE]**
	§	
APPLE INC., et al.,	§	
	§	
Defendants.	§	

MEMORANDUM OPINION AND ORDER

This Memorandum Opinion construes disputed claim terms in U.S. Patent Nos. 6,470,399 ("the '399 Patent"), 6,895,449 ("the '449 Patent"), 8,504,746 ("the '746 Patent"), 8,966,144 ("the '144 Patent"), and 9,189,437 ("the '437 Patent") (collectively, the "patents-in-suit") asserted by Plaintiff Papst Licensing GmbH & Co., KG ("Plaintiff") against Defendants Apple Inc. ("Apple"), Lenovo (United States) Inc. ("Lenovo"), Motorola Mobility LLC ("Motorola"), LG Electronics, Inc., LG Electronics U.S.A., Inc., LG Electronics MobileComm U.S.A., Inc., ("LG"), Huawei Technologies Co., Ltd., Huawei Technologies USA, Inc. ("Huawei"), Samsung Electronics Co., Ltd., Samsung Electronics America, Inc. ("Samsung"), and ZTE (USA) Inc. ("ZTE") (collectively "Defendants"). On January 5, 2017, the parties presented oral arguments on the disputed claim terms at a *Markman* hearing. For the reasons stated below, the Court **ADOPTS** the following constructions.[1]

[1] For ease of reference, the Court's constructions are reproduced in Appendix A.

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BACKGROUND

"The five asserted patents share a common specification." Dkt. No. 185 at 1 n.1. "The Patents generally relate to a unique method for achieving high data transfer rates for data acquisition systems (e.g., still pictures, videos, voice recordings) to a general-purpose computer, without requiring an end user to purchase, install, and/or run specialized software for each system." Dkt. No. 175 at 1 (citing '399 Patent at 4:23–27).

Terms in the '399 and '449 Patents have been construed in a Multi-District Litigation proceeding: *In re Papst Licensing GmbH & Co. KG Patent Litig.*, MDL No. 1880, Misc. Action No. 07-493 (D.D.C.) ("*Papst MDL*"). Claim constructions reached in the *Papst MDL* have been addressed by the Federal Circuit. *See In re Papst Licensing Digital Camera Patent Litig.*, 778 F.3d 1255, 1261–70 (Fed. Cir. 2015) ("*Papst Opinion*").

APPLICABLE LAW

"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 1313–14; *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)); *see 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 than 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. Elan 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.

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.*

Section 112(b): Indefiniteness

Patent claims must particularly point out and distinctly claim the subject matter regarded as the invention. 35 U.S.C. § 112(b). "A claim is invalid for indefiniteness if its language, when read in light of the specification and the prosecution history, 'fail[s] to inform, with reasonable certainty, those skilled in the art about the scope of the invention.'" *Biosig Instruments, Inc. v. Nautilus, Inc.*, 783 F.3d 1374, 1377 (Fed. Cir. 2015) (quoting *Nautilus, Inc. v. Biosig Instruments, Inc.*, 134 S. Ct. 2120, 2124 (2014)). Whether a claim meets this definiteness requirement is a matter of law. *Young v. Lumenis, Inc.*, 492 F.3d 1336, 1344 (Fed. Cir. 2007). A party seeking to

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