

**FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

P&RO SOLUTIONS GROUP, INC.,

Plaintiff,

v.

CIM MAINTENANCE, INC.,

Defendant.

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CIVIL ACTION NO. 6:16-CV-00095-RWS

MEMORANDUM AND ORDER

This Memorandum Opinion construes the disputed claim terms in United States Patent No. 8,209,205 (“the ’205 Patent”). Also before the Court is Defendant CiM Maintenance, Inc.’s (“CiM”) Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) and 35 U.S.C. § 101 (Docket No. 7). The Court held a *Markman* hearing on February 14, 2017 (Docket No. 60), and heard argument on CiM’s motion to dismiss on March 6, 2017 (Docket No. 72). For the reasons discussed below, the Court resolves the claim-construction disputes as stated below and **GRANTS** CiM’s Motion to Dismiss (Docket No. 7).

BACKGROUND

Plaintiff P&RO Solutions Group, Inc. (“P&RO”) alleges that CiM infringes the ’205 Patent. Docket No. 1 at 4. The ’205 Patent, entitled “Planning and Scheduling Tool Assistant Assuring High Utilization of Resources,” issued on June 26, 2012 from an application filed May 24, 2004, which claims priority to provisional applications dated May 22, 2003 and June 30, 2003. The ’205 Patent generally relates to computerized planning and scheduling programs. The Abstract provides:

Schedulers, Planners, and Maintenance Supervisors in an Industrial facility can use the user interface of the present invention to extremely quickly move work order schedules, status planning, and manage resources. Additionally, key performance indicators or metrics on performance on how well the organization is doing is also cumbersome if not impossible in the current practice in these industrial organizations. The variables of this management include worker, crew, Work Order, Dates, Planning Status, planner, dates, etc. (see tech manual and summary sheets). The invention operates by interfacing with the Computerized Maintenance Management System (CMMS) database in a thoroughly interactive process. The local program constructs a parallel database and reads and feedbacks to the CMMS database frequently to stay current and accurate.

'205 Patent Abstract.

The specification describes a scheduling system in which a computerized user interface is provided for a user to schedule work orders, such as “repair pump.” *Id.* at Figures 1–2, 5:50–56, 1:20–34. Scheduled jobs and unscheduled jobs are provided in lists that are grouped by work week. *Id.* at 2:53–55. A user may use a mouse to drag and drop unscheduled jobs to a desired work week. *Id.* The system is described as allowing quick movement of work orders, status planning and management of resources. *Id.* at 2:25–30. As work orders are moved, real-time indication of resource loading is visible so that the schedulers will know they have not overloaded a particular work group. *Id.* at 2:53–63. Performance indicators and metrics for the organization are also provided. *Id.* at 2:31–35.

The '205 Patent also explains that, in the prior art, Computerized Maintenance Management Systems (“CMMS”) were used to implement work orders in an industrial environment, but those prior art CMMS systems were inefficient. '205 Patent at 1:35–41.

CLAIM CONSTRUCTION

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) (en banc) (quoting *Innova/Pure Water Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111, 1115 (Fed. Cir. 2004)). To determine the meaning of the claims, courts first consider the intrinsic evidence. *Id.* at 1313; *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. *Phillips*, 415 F.3d at 1314; *C.R. Bard, Inc.*, 388 F.3d at 861. The general rule is that each claim term is construed according to its 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 patent. *Phillips*, 415 F.3d at 1312–13; *Alloc, Inc. v. Int'l Trade Comm'n*, 342 F.3d 1361, 1368 (Fed. Cir. 2003); *Azure Networks, LLC v. CSR PLC*, 771 F.3d 1336, 1347 (Fed. Cir. 2014) (“There is a heavy presumption that claim terms carry their accustomed meaning in the relevant community at the relevant time.”) (vacated on other grounds).

“The claim construction inquiry . . . begins and ends in all cases with the actual words of the claim.” *Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1248 (Fed. Cir. 1998). “[I]n all aspects of claim construction, ‘the name of the game is the claim.’ ” *Apple Inc. v. Motorola, Inc.*, 757 F.3d 1286, 1298 (Fed. Cir. 2014) (quoting *In re Hiniker Co.*, 150 F.3d 1362, 1369 (Fed. Cir. 1998)). A term’s context in the asserted claim can be instructive. *Phillips*, 415 F.3d at 1314. Other asserted or unasserted claims can also 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.* (quoting *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979 (Fed. Cir. 1995) (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.’ ” *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). But, “[a]lthough the specification may aid the court in interpreting the meaning of disputed claim language, particular embodiments and examples appearing in the specification will not generally be read into the claims.” *Comark Commc’ns, Inc. v. Harris Corp.*, 156 F.3d 1182, 1187 (Fed. Cir. 1998) (quoting *Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 1571 (Fed. Cir. 1988)); *see also Phillips*, 415 F.3d at 1323. “[I]t is improper to read limitations from a preferred embodiment described in the specification—even if it is the only embodiment—into the claims absent a clear indication in the intrinsic record that the patentee intended the claims to be so limited.” *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 913 (Fed. Cir. 2004).

Although extrinsic evidence can also be useful, it is “‘less significant than the intrinsic record in determining the legally operative meaning of claim language.’ ” *Phillips*, 415 F.3d at 1317 (quoting *C.R. Bard, Inc.*, 388 F.3d at 862). Technical dictionaries and treatises may help a court understand the underlying technology and the manner in which one skilled in the art might use claim terms, but technical dictionaries and treatises may provide definitions that are too broad or may not be indicative of how the term is used in the patent. *Id.* at 1318. Similarly, expert testimony may aid a court in understanding the underlying technology and determining the particular meaning of a term in the pertinent field, but an expert’s conclusory, unsupported assertions as to a term’s definition are entirely unhelpful to a court. *Id.* Generally, extrinsic

evidence is “less reliable than the patent and its prosecution history in determining how to read claim terms.” *Id.* The Supreme Court recently explained the role of extrinsic evidence in claim construction:

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. *See, e.g., Seymour v. Osborne*, 11 Wall. 516, 546 (1871) (a patent may be “so interspersed with technical terms and terms of art that the testimony of scientific witnesses is indispensable to a correct understanding of its meaning”). 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.

Teva Pharm. USA, Inc. v. Sandoz, Inc., 135 S. Ct. 831, 841 (2015).

ANALYSIS

At issue are claim terms from claim 1 of the ’205 Patent. On February 14, 2017, prior to the claim-construction hearing, the Court circulated preliminary claim constructions indicating where it stood after considering the claim-construction briefing. The Court instructed the parties that it might change its constructions based upon the parties’ arguments at the hearing. Docket No. 64 at 2:24–3:10 (“*Markman* Hr’g Tr.”).

I. Agreed Term

Based on the Court’s preliminary claim constructions, the parties reached an agreement with respect to the term “work week sections.” *Markman* Hr’g Tr. at 6:14–2, 12:1–13:17.

Claim Terms	Agreed Claim Construction
“work week sections”	“a plurality of portions of a user interface, each portion being a grouping of the days of a given week during which work takes place”

In view of the parties’ agreement on the proper construction of this term, the Court **ADOPTS** this construction.

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