

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNILOC 2017 LLC

Plaintiff,

v.

MOTOROLA MOBILITY, LLC,

Defendant.

Civil Action No. 18-cv-01841-RGA

CONSOLIDATED

MEMORANDUM OPINION

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ANDREWS, U.S. DISTRICT JUDGE:

Before the Court is the issue of claim construction of multiple terms in U.S. Patent No. 6,836,654 (“the ’654 patent”). The Court has considered the Parties’ Joint Claim Construction Brief. (D.I. 67). The Court issued proposed constructions (D.I. 70) prior to hearing oral argument (D.I. 71).

I. BACKGROUND

Plaintiff Uniloc filed the instant action on November 20, 2018, alleging infringement of the ’654 patent by Defendant Motorola. (D.I. 1). The ’654 patent claims a mobile radiotelephony device that offers anti-theft protection. (D.I. 67 at 1).

II. LEGAL STANDARD

“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) (internal quotation marks omitted). “[T]here is no magic formula or catechism for conducting claim construction.’ Instead, the court is free to attach the appropriate weight to appropriate sources ‘in light of the statutes and policies that inform patent law.’” *SoftView LLC v. Apple Inc.*, 2013 WL 4758195, at *1 (D. Del. Sept. 4, 2013) (quoting *Phillips*, 415 F.3d at 1324) (alteration in original). When construing patent claims, a court considers the literal language of the claim, the patent specification, and the prosecution history. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 977–80 (Fed. Cir. 1995) (en banc), *aff’d*, 517 U.S. 370 (1996). Of these sources, “the 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 (internal quotation marks omitted).

“[T]he words of a claim are generally given their ordinary and customary meaning. . . . [Which is] the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application.” *Id.* at 1312–13 (citations and internal quotation marks omitted). “[T]he ordinary meaning of a claim term is its meaning to [an] ordinary artisan after reading the entire patent.” *Id.* at 1321 (internal quotation marks omitted). “In some cases, the ordinary meaning of claim language as understood by a person of skill in the art may be readily apparent even to lay judges, and claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words.” *Id.* at 1314.

When a court relies solely upon the intrinsic evidence—the patent claims, the specification, and the prosecution history—the court’s construction is a determination of law. *See Teva Pharm. USA, Inc. v. Sandoz, Inc.*, 135 S. Ct. 831, 841 (2015). The court may also make factual findings based upon consideration of extrinsic evidence, which “consists of all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises.” *Phillips*, 415 F.3d at 1317–19 (internal quotation marks omitted). Extrinsic evidence may assist the court in understanding the underlying technology, the meaning of terms to one skilled in the art, and how the invention works. *Id.* Extrinsic evidence, however, is less reliable and less useful in claim construction than the patent and its prosecution history. *Id.*

“A claim construction is persuasive, not because it follows a certain rule, but because it defines terms in the context of the whole patent.” *Renishaw PLC v. Marposs Societa’ per Azioni*, 158 F.3d 1243, 1250 (Fed. Cir. 1998). It follows that “a claim interpretation that would

exclude the inventor's device is rarely the correct interpretation." *Osram GMBH v. Int'l Trade Comm'n*, 505 F.3d 1351, 1358 (Fed. Cir. 2007) (citation and internal quotation marks omitted).

III. CONSTRUCTION OF DISPUTED TERMS

1. "linked user identification module" (all claims)
 - a. *Plaintiff's proposed construction*: ordinary meaning. Alternatively, "a user identification module linked to the device"
 - b. *Defendant's proposed construction*: "a user identification module whose data has been read by, and stored on, the mobile radio telephony device for the purpose of blocking the normal operation of the device with another user identification module"
 - c. *Court's construction*: "an authorized user identification module that permits the normal operation of the device"

My proposed constructions included the construction of "linked user identification module" to mean "an authorized user identification module that permits the normal operation of the device." (D.I. 70 at 1). At oral argument, Plaintiff agreed to this construction. (D.I. 71 at 7:4-7). Defendant argued that the construction should include language stating that the linked user identification module is the "only one" that will permit the normal operation of the device. (*Id.* at 12:14-18). Plaintiff countered that not all embodiments require that the linked user identification module is the only one able to permit the normal operation of the device. (*Id.* at 22:12-19). I agree with Plaintiff. There is nothing in the patent that requires that only one linked user identification module will permit the normal operation of the device for all embodiments. Thus, the patent is not limited to only one linked user identification module for all embodiments. I therefore construe "linked user identification module" to mean "an authorized user identification module that permits the normal operation of the device."

2. “blocking means for preventing a normal operation of the mobile radiotelephony device” (claims 1-9)
- a. *Plaintiff’s proposed construction:*
Function: “preventing a normal operation of the mobile radiotelephony device”
Structure: “a microprocessor assembly capable of entering any of the three disclosed blocking states to prevent a normal operation of the device, and equivalents thereof”
- b. *Defendant’s proposed construction:*
Function: “preventing a normal operation of the mobile radiotelephony device”
Structure: Indefinite under 35 U.S.C. § 112. Or, in the alternative: “a microprocessor (e.g., μ P 22) programmed to execute the algorithm corresponding to the second blocking state indicated in box K11, which prevents normal operation of the radiotelephony device by preventing one or more calling functions of the mobile radiotelephony device.”
- c. *Court’s construction:*
Function: “preventing a normal operation of the mobile radiotelephony device”
Structure: “the hardware programmed to (i) disconnect from the network if an identification module that is not linked to the device is placed inside the device (col. 3:14-20); (ii) prevent all outgoing calls, except possibly emergency calls, if the device has remained in a state of availability longer than a predetermined threshold of time (col. 3:33-46); and (iii) prevent all calls if an incorrect deblocking code is entered above a threshold amount (col. 3:52-60)”¹

In the Joint Claim Construction Brief, the parties agreed to the function of this term, which is “preventing a normal operation of the mobile radiotelephony device.” (D.I. 67 at 31). At oral argument, the parties agreed to my proposed structure. (D.I. 71 at 28:21-22, 29:24-30:1). Thus, the structure is “the hardware programmed to (i) disconnect from the network if an identification module that is not linked to the device is placed inside the device (col. 3:14-20); (ii) prevent all outgoing calls, except possibly emergency calls, if the device has remained in a state of availability longer than a predetermined threshold of time (col. 3:33-46); and (iii) prevent all calls if an incorrect deblocking code is entered above a threshold amount (col. 3:52-60).”

¹ Under 35 U.S.C. § 112 ¶ 6, means-plus-function claims are “construed to cover the corresponding structure . . . described in the specification and equivalents thereof.” My constructions will not recite “and equivalents thereof” but the jury will be instructed to consider equivalents pursuant to § 112 ¶ 6.

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