

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

SOLAS OLED LTD.,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	CIVIL ACTION NO. 2:19-CV-00152-JRG
	§	
SAMSUNG DISPLAY CO., LTD.,	§	
SAMSUNG ELECTRONICS CO., LTD.,	§	
SAMSUNG ELECTRONICS AMERICA,	§	
INC.,	§	
	§	
<i>Defendants.</i>	§	

SUPPLEMENTAL CLAIM CONSTRUCTION ORDER

Before the Court is Solas’s Brief Regarding Disputed Constructions in the ’450 Patent (Dkt. No. 250) and Defendants’ Supplemental Claim Construction Brief Regarding the Terms “said active elements” and “cover” in Claim 1 of U.S. Patent No. 6,072,450 Patent (Dkt. No. 251). Having considered the briefing and the Parties’ arguments at the Pretrial Conference, the Court is of the opinion that “**said active elements**” does not need construction and that “**cover**” is hereby construed as “**lie over the surface of.**”

I. BACKGROUND

Plaintiff Solas OLED Ltd. (“Solas”) alleges infringement of U.S. Patent No. 6,072,450 (the “’450 Patent”), as well as U.S. Patent Nos. 7,446,338 and 9,256,311. The disputed terms at issue relate only to the ’450 Patent.

Claim 1 of the ’450 Patent recites:

A display apparatus comprising:

- a substrate;
- active elements formed over said substrate and driven by an externally supplied signal;

an insulation film formed over said substrate so as to cover said active elements, said insulation having at least one contact hole;
at least one first electrode formed on said insulation film so as to cover said active elements, and connected to said active elements through said at least one contact hole, said at least one first electrode being made of a material which shields visible light;
an organic electroluminescent layer having an organic electroluminescent material formed on said at least one first electrode so as to cover said active elements and including at least one layer which emits light in accordance with a voltage applied to said at least one layer; and
at least one second electrode formed on said organic electroluminescent layer which covers said active elements.

'450 Patent at 17:50-18:3.

Defendants Samsung Display Co., Ltd., Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc. (together, "Samsung") filed a Motion for Summary Judgment of Noninfringement and Invalidity of the '450 Patent (the "Motion"). (Dkt. No. 140). In the Motion, Defendants partially based their noninfringement arguments on assertions that (1) the accused products do not contain a "first electrode that covers said active elements in the display" (*Id.* at 4-13); and (2) Solas did not provide evidence that the alleged electroluminescent layer covers the active elements (*Id.* at 13-17).

Prior to the September 8, 2020 pretrial conference, Solas only briefly raised any claim construction issue, and the issue that was raised was only in response to Samsung's Motion. (*See* Dkt. Nos. 169, 211).

However, at the September 8, 2020 pretrial conference with the Parties, the Court heard argument on Samsung's Motion, and during the hearing, Solas raised the claim construction issue, citing *O2 Micro Intern., Ltd., v. Beyond Innovation Tech., Co.*, 521 F.3d 1351 (Fed. Cir. 2008). In fact, both parties at the September 8, 2020 pretrial conference told the Court they believed additional claim construction in the case was necessary. In response, the Court ordered the Parties to submit supplemental briefing on the claim construction of disputed terms "said active elements"

and “cover,” and heard argument on the construction of said terms at the September 9, 2020 pretrial conference.

II. LEGAL PRINCIPLES

“When the parties raise an actual dispute regarding the proper scope of [patent] claims, the court, not the jury, must resolve that dispute.” *O2 Micro*, 521 F.3d at 1360.

It is understood that “[a] claim in a patent provides the metes and bounds of the right which the patent confers on the patentee to exclude others from making, using or selling the protected invention.” *Burke, Inc. v. Bruno Indep. Living Aids, Inc.*, 183 F.3d 1334, 1340 (Fed. Cir. 1999). 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 Pharm. 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 ascertain the meaning of claims, courts look to three primary sources: the claims, the specification, and the prosecution history. *Markman*, 52 F.3d at 979. The specification must contain a written description of the invention that enables one of ordinary skill in the art to make and use the invention. *Id.* A patent’s claims must be read in view of the specification, of which they are a part. *Id.* For claim construction purposes, the description may act as a sort of dictionary,

which explains the invention and may define terms used in the claims. *Id.* “One purpose for examining the specification is to determine if the patentee has limited the scope of the claims.” *Watts v. XL Sys., Inc.*, 232 F.3d 877, 882 (Fed. Cir. 2000).

Nonetheless, it is the function of the claims, not the specification, to set forth the limits of the patentee’s invention. Otherwise, there would be no need for claims. *SRI Int’l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc). The patentee is free to be his own lexicographer, but any special definition given to a word must be clearly set forth in the specification. *Intellicall, Inc. v. Phonometrics, Inc.*, 952 F.2d 1384, 1388 (Fed. Cir. 1992). Although the specification may indicate that certain embodiments are preferred, particular embodiments appearing in the specification will not be read into the claims when the claim language is broader than the embodiments. *Electro Med. Sys., S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 1054 (Fed. Cir. 1994).

This Court’s claim construction analysis is substantially guided by the Federal Circuit’s decision in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc). In *Phillips*, the court set forth several guideposts that courts should follow when construing claims. In particular, the court reiterated that “the claims of a patent define the invention to which the patentee is entitled the right to exclude.” *Id.* at 1312 (quoting *Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111, 1115 (Fed. Cir. 2004)). To that end, the words used in a claim are generally given their ordinary and customary meaning. *Id.* The ordinary and customary meaning of a claim term “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 1313. This principle of patent law flows naturally from the recognition that inventors are usually persons

who are skilled in the field of the invention and that patents are addressed to, and intended to be read by, others skilled in the particular art. *Id.*

Despite the importance of claim terms, *Phillips* made clear that “the person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification.” *Id.* Although the claims themselves may provide guidance as to the meaning of particular terms, those terms are part of “a fully integrated written instrument.” *Id.* at 1315 (quoting *Markman*, 52 F.3d at 978). Thus, the *Phillips* court emphasized the specification as being the primary basis for construing the claims. *Id.* at 1314–17. As the Supreme Court stated long ago, “in case of doubt or ambiguity it is proper in all cases to refer back to the descriptive portions of the specification to aid in solving the doubt or in ascertaining the true intent and meaning of the language employed in the claims.” *Bates v. Coe*, 98 U.S. 31, 38 (1878). In addressing the role of the specification, the *Phillips* court quoted with approval its earlier observations from *Renishaw PLC v. Marposs Societa’ per Azioni*, 158 F.3d 1243, 1250 (Fed. Cir. 1998):

Ultimately, the interpretation to be given a term can only be determined and confirmed with a full understanding of what the inventors actually invented and intended to envelop with the claim. The construction that stays true to the claim language and most naturally aligns with the patent’s description of the invention will be, in the end, the correct construction.

Phillips, 415 F.3d at 1316. Consequently, *Phillips* emphasized the important role the specification plays in the claim construction process.

The prosecution history also continues to play an important role in claim interpretation. Like the specification, the prosecution history helps to demonstrate how the inventor and the

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