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

SEVEN NETWORKS, LLC,	§	
	§	
v.	§	CASE NO. 2:19-CV-115-JRG
	§	
APPLE INC.	§	
	§	

CLAIM CONSTRUCTION
MEMORANDUM AND ORDER

Before the Court is the Opening Claim Construction Brief (Dkt. No. 97) filed by Plaintiff SEVEN Networks, LLC ("Plaintiff" or "SEVEN"). Also before the Court are the Responsive Claim Construction Brief (Dkt. No. 100) filed by Defendant Apple Inc. ("Defendant" or "Apple") as well as Plaintiff's reply (Dkt. No. 102).

The Court held a hearing on March 13, 2020.

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I. BACKGROUND

Plaintiff alleges infringement of United States Patents No. 7,426,730, 9,369,539, 9,438,550, 9,473,914, 9,516,127, 9,603,056, 9,608,968, 9,648,557, 9,712,476, 9,712,986, 9,769,176, 10,027,619, 10,039,029, 10,091,734, 10,110,534, 10,135,771, and 10,243,962 (collectively, "the patents-in-suit"; individually, each patent-in-suit is referred to by its last three digits, such as "the '730 Patent"). (Dkt. No. 97, Exs. A–P).

Herein, the Court addresses the patents-in-suit as to which the parties submit claim construction disputes. The parties note that they submit no disputed terms as to the '968 Patent and the '557 Patent. (Dkt. No. 82, Ex. B, at 27.)

The Court previously construed disputed terms in the '127 Patent in *SEVEN Networks, LLC v. Google LLC, et al.*, No. 2:17-CV-442, Dkt. No. 342, 2018 WL 5263271 (E.D. Tex. Oct. 23, 2018) ("*Google*," also sometimes referred to as "*Google/Samsung*").

II. LEGAL PRINCIPLES

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 Corporation*, 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

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