IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

MARSHALL DIVISION

OPTIS CELLULAR TECHNOLOGY, LLC and PANOPTIS PATENT MANAGEMENT, LLC, Plaintiffs, vs.	§ § § § § § §	
KYOCERA CORPORATION, et al.,	§ § § §	2:16-cv-0059-JRG-RSP Lead Case
BLACKBERRY CORPORATION, et al., Defendants.	§ § § § §	2:16-cv-0060-JRG-RSP Consolidated

CLAIM CONSTRUCTION
MEMORANDUM AND ORDER

On January 10, 2017, the Court held an oral hearing to determine the proper construction of the disputed claim terms in U.S. Patent Nos. 8,019,332 (the "'332 Patent"), 8,102,833 (the "'833 Patent") 8,174,506 (the "'506 Patent"), and 8,437,293 (the "'293 Patent") (collectively the "Asserted Patents"). The Court has considered the parties' claim construction briefing (Dkt. Nos. 99, 100, and 101) and arguments. Based on the intrinsic and extrinsic evidence, the Court construes the disputed terms in this Memorandum Opinion and Order. *See Phillips v. AWH Corp.*, 415 F.3d

1303 (Fed. Cir. 2005); *Teva Pharm. USA, Inc. v. Sandoz, Inc.*, 135 S. Ct. 831 (2015).

BACKGROUND

Plaintiffs Optis Cellular Technology, LLC and PanOptis Patent Management, LLC ("Plaintiffs") assert the Asserted Patents against Defendants Blackberry Limited and Blackberry Corporation, ("Defendants"). Plaintiffs contend that three of the Asserted Patents, the '332 Patent, the '833 Patent and the '293 Patent, are essential to the LTE standard for wireless communications. The '506 Patent relates to the use of touch screens.

The '332 Patent relates to use of the Physical Downlink Control Channel (PDCCH) for communications between user equipment (UE) such as a mobile station and a base station in a cellular communication network. The Abstract of the '332 Patent recites:

> A method for efficiently transmitting and receiving control information through a Physical Downlink Control Channel (PDCCH) is provided. When a User Equipment (UE) receives control information through a PDCCH, the received control information is set to be decoded in units of search spaces, each having a specific start position in the specific subframe. Here, a modulo operation according to a predetermined first constant value (D) is performed on an input value to calculate a first result value, and a modulo operation according to a predetermined first variable value (C) corresponding to the number of candidate start positions that can be used as the specific start position is performed on the calculated first result value to calculate a second result value and an index position corresponding to the second result value is used as the specific start position. Transmitting control information in this manner enables a plurality of UEs to efficiently receive PDCCHs without collisions.

'332 Patent Abstract. More particularly, the '332 Patent describes UE receiving control information through the PDCCH. Multiple UEs may utilize the PDCCH of a base station. A particular UE is provided with a search space of the PDCCH. A particular UE need not decode all possible PDCCH positions to receive its PDCCH information, but rather just the UE's particular positions of the PDCCH provided in the UE's search space. '332 Patent Abstract, 2:18-31.

The '833 Patent relates to a method of transmitting uplink control signals, in particular transmission acknowledgement (ACK) and not acknowledged (NACK) signals which indicate the receipt status of transmissions. The Abstract of the '833 Patent recites:

> A method for transmitting uplink signals, which include ACK/NACK signals, control signals other than the ACK/NACK signals, and data signals, is disclosed. The method comprises serially multiplexing the control signals and the data signals; sequentially mapping the multiplexed signals within a specific resource region in accordance with a time-first mapping method, the specific resource region including a plurality of symbols and a plurality of virtual subcarriers; and arranging the ACK/NACK signals at both symbols near symbols to which a reference signal of the plurality of symbols is transmitted. Thus, the uplink signals can be transmitted to improve receiving reliability of signals having high priority.

'833 Patent Abstract. More particularly, the '833 Patent relates to multiplexing control signals (including ACK/NACK control signals and control signals other than ACK/NACK) and data signals. The multiplexed signals are mapped to a resource region. The ACK/NACK signals are mapped in a particular manner. '833 Patent Abstract, 2:14-27.

The '293 Patent relates to scheduling uplink requests between a mobile terminal and a base station. The Abstract of the '293 Patent recites:

> Aspects of the present invention relate to the scheduling of resources in a telecommunication system that includes a mobile terminal and base station. In one embodiment, the mobile terminal sends an initial scheduling request to a base station. Subsequently, the mobile terminal does not transmit a scheduling request to the base station unless and until a scheduling request triggering event is detected.

'293 Patent Abstract. More particularly, the '293 Patent relates to a method for transmitting scheduling requests from the mobile terminal to the base station to allocate resources of the base station. A mobile terminal may transmit a first scheduling request to the base station. The mobile terminal may then receive a scheduling grant from the base station and data may correspondingly be transmitted to the base station. A scheduling request triggering event may subsequently occur,

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in which case the mobile station may transmit a second scheduling request to the base station. '293 Patent Abstract, 3:1-22.

The '506 Patent relates to touch screens and the movement of objects, such as icons, on touch screens. The Abstract of the '293 Patent recites:

> A method of displaying an object and a terminal capable of implementing the same. The method includes displaying an object movable on a touchscreen of a terminal at a first position on the touchscreen; and if a first touch action is carried out on the object, fixing the object to the first position.

'506 Patent Abstract. More particularly, a user may move an icon to a particular positon of the screen in response to a first touch action, such as a drag and drop action. '506 Patent 4:41-54, Figure 4. A second touch action releases the icon allowing the icon to be moved to another position on the screen. *Id*. at 5:57-61.

LEGAL PRINCIPLES

"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 start by considering 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—subject to certain specific exceptions discussed *infra*—is that each claim term is construed according to its ordinary and accustomed meaning as understood by one of

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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.*

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