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

OPTIS WIRELESS TECHNOLOGY LLC & PANOPTIS PATENT MANAGEMENT, LLC, Plaintiffs, v. ZTE CORPORATION & ZTE (USA) INC., Defendants.	Case No. 2:15-cv-300-JRG-RSP

MEMORANDUM OPINION AND ORDER

Before the Court is the opening claim construction brief of Plaintiffs Optis Wireless Technology, LLC and PanOptis Patent Management, LLC ("Plaintiffs") (Dkt. No. 66, filed on December 22, 2015),[1] the response of ZTE Corporation and ZTE (USA) Inc. ("Defendants") (Dkt. No. 78, filed on January 19, 2016), the reply of Plaintiffs (Dkt. No. 83, filed on January 27, 2016), and the sur-reply of Defendants (Dkt. No. 92, filed on February 9, 2016). The Court held a hearing on claim construction and definiteness on February 17, 2016. Having considered the arguments and evidence presented by the parties at the hearing and in their briefing, the Court issues this Order.

[1] Citations to the parties' filings are to the filing's number in the docket (Dkt. No.) and pin cites are to the page numbers assigned through ECF.

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I. BACKGROUND

Plaintiffs allege infringement of U.S. Patents No. 6,356,631 (the "'631 Patent"), No. 6,865,191 (the "'191 Patent"), No. 8,064,919 (the "'919 Patent"), No. 8,199,792 (the "'792 Patent"), and No. 8,411,557 (the "'557 Patent") (collectively, the "Asserted Patents"). Generally, the Asserted Patents are directed to computer- and radio-implemented telecommunications.

The '631 Patent is entitled "Multi-Client Object-Oriented Interface Layer." The application leading to the '631 Patent was filed on September 24, 1998 and the patent issued on March 12, 2002.

The '191 Patent is entitled "System and Method for Sending Multimedia Attachments to Text Messages in Radiocommunication Systems." The application leading to the '191 Patent claims priority to a provisional application filed on August 12, 1999 and the patent issued on March 8, 2005.

The '919 Patent is entitled "Radio Communication Base Station Device and Control Channel Arrangement Method." The application leading to the '919 Patent claims priority to a number of Japanese patent applications through a series of continuation applications. The earliest Japanese application was filed on March 23, 2007 and the '919 Patent issued on November 22, 2011.

The '792 Patent is entitled "Radio Communication Apparatus and Response Signal Spreading Method." The application leading to the '792 Patent claims priority to a number of Japanese patent applications through a series of continuation applications. The earliest Japanese application was filed on June 15, 2007 and the '792 Patent issued on June 12, 2012.

The '557 Patent is entitled "Mobile Station Apparatus and Random Access Method." The application leading to the '557 Patent claims priority to a Japanese patent application through a

series of continuation applications. The Japanese application was filed on March 20, 2006 and the '557 Patent issued on April 2, 2013.

II. LEGAL PRINCIPLES

A. Claim Construction

"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 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)). First, a term's context in the asserted claim can be instructive. *Phillips*,

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