

**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),<sup>1</sup> 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.

---

<sup>1</sup> 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.

**Table of Contents**

**I. BACKGROUND ..... 4**

**II. LEGAL PRINCIPLES ..... 5**

A. Claim Construction ..... 5

B. Departing from the Ordinary Meaning of a Claim Term ..... 8

C. Functional Claiming and 35 U.S.C. § 112, ¶ 6 (pre-AIA) / § 112(f) (AIA) ..... 9

D. Definiteness Under 35 U.S.C. § 112, ¶ 2 (pre-AIA) / § 112(b) (AIA)..... 11

**III. CONSTRUCTION OF AGREED TERMS ..... 12**

**IV. CONSTRUCTION OF DISPUTED TERMS ..... 13**

A. The '631 Patent ..... 13

A-1. “model specific information” ..... 15

A-2. “object-oriented interface layer” ..... 18

A-3. The First Party and Third Party Terms..... 21

A-4. “performing an executable operation, configured using said model specific information, by a telephony software interface” ..... 27

B. The '191 Patent ..... 30

B-1. “text message” ..... 31

B-2. “attachment” ..... 33

B-3. The Server Terms: “adding information to the text message that identifies a server,” “sending the attachment to a server,” and “transmitting the text message to the receiving terminal’s phone number based address” ..... 36

B-4. “means for querying a user of the mobile station regarding whether the attachment is to be transmitted with the text message” ..... 44

C. The '919 Patent ..... 48

C-1. “determination unit” ..... 51

C-2. “[to determine / determining] a resource of downlink, to which a response signal transmitted from the base station is mapped, from an index of the allocated resource block” ..... 56

C-3. “response signal” .....	58
C-4. “and the response signal is mapped to the subcarrier group” .....	60
D. The ’792 Patent: “with [an/the] orthogonal sequence” and “which is associated with [the/an] orthogonal sequence” .....	65
E. The ’557 Patent .....	73
E-1. “receiving unit” and “control information” .....	76
E-2. “selecting unit” .....	82
E-3. “which are respectively associated with different amounts of data or reception qualities” .....	87
E-4. “different amounts of data or reception qualities” .....	91
<b>V. CONCLUSION .....</b>	<b>93</b>

## 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*,

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.