

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

**PINN, INC.,
Plaintiff,**

vs.

**APPLE INC.,
Defendants.**

Case No.: SA CV 19-01805-DOC-JDE

**ORDER ADOPTING TECHNICAL
SPECIAL MASTER'S REPORT AND
RECOMMENDATION REGARDING
CLAIMS CONSTRUCTION**

Plaintiff Pinn, Inc. (“Plaintiff” or “Pinn”) has asserted United States Patents No. 9,807,491 (“the ’941 Patent”), 10,455,066 (“the ’066 Patent”), and 10,609,198 (“the ’198 Patent”) against Defendant Apple Inc. (“Defendant” or “Apple”). Pinn previously settled with Defendant Google LLC and Defendant Samsung Electronics America, Inc. The only remaining Defendant is Apple Inc. Plaintiff asserts Claims 1 and 9 of the ’491 Patent, Claims 4, 6, 9, 10, 14, 21, 30, 34, 36, and 38 of the ’066 Patent, and Claims 1, 3, 5, 12, 21, 25, 27, and 29 of the ’198 Patent (Dkt. 299 at 1.) against Defendant. Before the Court is the dispute over the proper definitions of numerous contested terms in the patents at issue. On March 16, 2020, the Court appointed David Keyzer to serve as the Technical Special Master for the Court in this case (Dkt. 47, 64, 77).

The parties submitted their respective Opening Claim Construction Briefs on April 28, 2020 (Dkts. 102, 103). The parties submitted their respective Responsive Claim Construction Briefs on May 15, 2020 (Dkts. 110, 111). Also before the Technical Special Master were the parties’ July 16, 2019 Second Amended Joint Claim Construction and Prehearing Statement (Dkt. 97) and Second Amended Joint Claim Construction Chart (Dkt. 97, Ex. A). The parties had not agreed on any constructions.

Pursuant to the Court’s March 26, 2020 Amended Order Appointing Technical Special Master (Dkt. 77) and Order Regarding Claim Construction Proceedings (Dkt. 78), the Technical Special Master, having reviewed numerous filings from the parties, as well as having conducted a full-day hearing on June 9, 2020, filed his Report and Recommendation (“R&R”) on June 29, 2020 (Dkt. 159). Both parties filed timely objections to the R&R. Dkt. 172 (Pl.’s Objections); Dkt. 171 (Defs.’ Objections). Plaintiff filed a response to Defendant’s Objections on July 31, 2020 (Dkt. 186). Defendant filed a response to Plaintiff’s Objections on July 31, 2020 (Dkt. 185). After conducting a *de novo* review including further argument on November 17, 2020, the Court **ADOPTS** the Report and Recommendation of the Technical Special Master as outlined below.

I. LEGAL STANDARD

When reviewing the Technical Special Master’s Report and Recommendation, the Court reviews *de novo* all objections to a Special Master’s report and recommendation, including legal conclusions and findings of fact. Fed. R. Civ. P. 53(f)(3), (4); *Seaman v. Sedgwick, Detert, Moran &*

1 2014). Accordingly, “[t]he court may ‘accept, reject, or modify, in whole or in part, the findings or
2 recommendations made by the [special master].’ The [court] may also receive further evidence or
3 recommit the matter to the [special master] with instructions.” *McDonnell Douglas Corp. v.*
4 *Commodore Bus. Machs., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981) (quoting 28 U.S.C. §
5 636(b)(1)(C)).

6 **II. THE DISPUTED TERMS**

7 **A. Adoptions of Report and Recommendation**

8 After conducting *de novo* review of the R&R, the Court adopts the following constructions as
9 recommended by the Technical Special Master for all the reasons described in the R&R (as noted in the
10 following chart, the Court does not construe certain terms because those terms appear in claims that
11 Plaintiff no longer asserts (*see* Dkt. 299)):

| <u>Term</u> | <u>Adopted Construction</u> |
|---|--|
| A.(1) “wirelessly pairing” | “establishing a trusted relationship between two devices that allows them to communicate wirelessly” (<i>See</i> R&R at 6–17.) |
| A.(2) “wireless pairing” | |
| A.(3) “wirelessly paired” | “a trusted relationship is established between two devices that allows them to communicate wirelessly” (<i>See</i> R&R at 6–17.) |
| B. “smartphone” | “mobile device that can communicate on a cellular network (and can do so without needing to communicate through another device), that can perform many of the functions of a computer, and that can be held by hand” (<i>See</i> R&R at 18–27.) |
| C. “mobile application” | “a software application installed on a mobile computing device” (<i>See</i> R&R at 27–35.) |
| D. “A method of operating the apparatus of claim 1, the method of comprising: initiating wireless pairing . . . in response to pressing of the user input button . . . turning off the wireless pairing . . .” | (The Court does not construe this term because this term appears in a claim that Plaintiff no longer asserts (<i>see</i> Dkt. 299).) |
| E. “in response to pressing of the user input button, the at least one processor is configured to execute computer program instructions stored in the at least one memory to initiate processing for the wireless pairing with the smartphone such that | “in response to pressing of the user input button, the at least one processor is configured to execute computer program instructions stored in the at least one memory to initiate processing for the wireless pairing with the smartphone to enable |

| | | |
|----|---|--|
| 1 | from the smartphone and plays audio using the | originated from the smartphone” (<i>See</i> R&R at |
| 2 | audio data from the smartphone” | 40–49.) |
| 3 | F. “information display” | (The Court does not construe this term because |
| 4 | | this term appears in a claim that Plaintiff no |
| 5 | | longer asserts (<i>see</i> Dkt. 299).) |
| 6 | | |
| 7 | G. “circuitry . . . configured to obtain | Construed to have its plain meaning. (<i>See</i> R&R at |
| 8 | characteristics of the wireless earbud and send the | 59–72.) |
| 9 | characteristics to the at least one processor” | |
| 10 | | |
| 11 | H. “communication module configured to | (The Court does not construe this term because |
| 12 | interface data communication with at least one of | this term appears in claims that Plaintiff no longer |
| 13 | the smartphone and the wireless earbud” | asserts (<i>see</i> Dkt. 299).) |
| 14 | I. “wherein the wireless earbud is not capable of | Construed to have their plain meaning. (<i>See</i> R&R |
| 15 | wirelessly sending data to the mobile base | at 83–95.) |
| 16 | station” (Term 17)/”wherein the wireless earbud | |
| 17 | is not capable of wirelessly sending data to the | |
| 18 | main body” (Term 18) | |

III. DISPOSITION

For the aforementioned reasons, the Court **ADOPTS** the Technical Special Master’s Report and Recommendation regarding claims construction.

DATED: November 24, 2020



DAVID O. CARTER
UNITED STATES DISTRICT JUDGE