

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN TOUCH-CONTROLLED
MOBILE DEVICES, COMPUTERS, AND
COMPONENTS THEREOF**

Inv. No. 337-TA-1162

**ORDER NO. 15: CONSTRUING THE TERMS OF THE ASSERTED CLAIMS OF
THE PATENTS AT ISSUE**

(November 25, 2019)

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I. INTRODUCTION

This Investigation was instituted by the Commission on June 24, 2019 to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of touch-controlled mobile devices, including smartphone and tablet devices, computers, including notebook and laptop computers, and associated components thereof by reason of infringement of one or more of claims 1-19 of U.S. Patent No. 8,432,173 ("the '173 patent"); claims 1-37 of U.S. Patent No. 8,791,910 ("the '910 patent"); claims 1, 4-8, 10-14, and 16-24 of U.S. Patent No. 9,024,790 ("the '790 patent"); and claims 1-12 of U.S. Patent No. 9,372,580 ("the '580 patent"). *See* 84 Fed. Reg. 29545 (June 24, 2019). The Complainant is Neodron Ltd. ("Neodron"). The Respondents are Amazon.com, Inc. ("Amazon"), Dell Technologies, Inc. ("Dell"), Lenovo Group Ltd. ("Lenovo"), Motorola Mobility LLC ("Motorola"), Microsoft Corporation ("Microsoft"), HP Inc. ("HP"), and Samsung Electronics, Co., Ltd. and Samsung Electronics America, Inc. ("Samsung") (together, "the Respondents").

Pursuant to Ground Rule 6, a *Markman* hearing was held October 22, 2019. Prior to the hearing, the Parties filed joint proposed claim construction charts setting forth a limited set of terms to be construed, and after the hearing, the Parties filed an updated joint claim construction chart. The Parties also filed initial and reply claim construction briefs, wherein each party offered its construction for the claim terms in dispute, along with support for its proposed interpretation.¹

¹ For convenience, the briefs and amended chart submitted by the Parties are referred to hereafter as:

| | |
|----------|--|
| CIMB | Complainant's Initial <i>Markman</i> Brief |
| CRMB | Complainant's Reply <i>Markman</i> Brief |
| RIMB | Respondents' Initial <i>Markman</i> Brief |
| RRMB | Respondents' Reply <i>Markman</i> Brief |
| JC | Updated Joint Claim Construction Chart |
| Hr'g Tr. | <i>Markman</i> hearing transcript |

II. IN GENERAL

The claim terms are construed for the purposes of this section 337 Investigation. Those terms not in dispute need not be construed. *See Vanderlande Indus. Nederland BV v. Int'l Trade Comm'n*, 366 F.3d 1311, 1323 (Fed. Cir. 2004) (noting that the administrative law judge need only construe disputed claim terms).

III. RELEVANT LAW

“An infringement analysis entails two steps. The first step is determining the meaning and scope of the patent claims asserted to be infringed. The second step is comparing the properly construed claims to the device accused of infringing.” *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 976 (Fed. Cir. 1995) (*en banc*) (internal citations omitted), *aff'd*, 517 U.S. 370 (1996). Claim construction is a “matter of law exclusively for the court.” *Id.* at 970-71. “The construction of claims is simply a way of elaborating the normally terse claim language in order to understand and explain, but not to change, the scope of the claims.” *Embrex, Inc. v. Serv. Eng'g Corp.*, 216 F.3d 1343, 1347 (Fed. Cir. 2000).

Claim construction focuses on the intrinsic evidence, which consists of the claims themselves, the specification, and the prosecution history. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005) (*en banc*), *cert. denied*, 546 U.S. 1170 (2006); *see also Markman*, 52 F.3d at 979. As the Federal Circuit in *Phillips* explained, courts must analyze each of these components to determine the “ordinary and customary meaning of a claim term” as understood by a person of ordinary skill in art at the time of the invention. 415 F.3d at 1313. “Such intrinsic evidence is the most significant source of the legally operative meaning of disputed claim language.” *Bell Atl. Network Servs., Inc. v. Covad Commc'ns Grp., Inc.*, 262 F.3d 1258, 1267 (Fed. Cir. 2001)(quoting *Vitronic Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)).

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