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1. *Cypress Semiconductor Corp. v. GSI Tech., Inc., 2014 U.S. Dist. LEXIS 105363*

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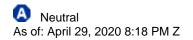   **Search Terms:** 6,651,134

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Cases	-None-

Cypress Semiconductor Corp. v. GSI Tech., Inc.

United States District Court for the Northern District of California

July 29, 2014, Decided; July 29, 2014, Filed

13-cv-02013-JST; 13-cv-3757-JST

Reporter

2014 U.S. Dist. LEXIS 105363 *; 2014 WL 3735903

CYPRESS SEMICONDUCTOR CORPORATION, Plaintiff, v. GSI TECHNOLOGY, INC., Defendant.

Prior History: *Cypress Semiconductor Corp. v. GSI Tech., Inc., 2014 U.S. Dist. LEXIS 31462 (N.D. Cal., Mar. 9, 2014)*

Core Terms

Patent, detecting, memory, amplifying, sending, specification, signal, storage, terms, construe, parties, includes, argues, path, comprising, skill, configured, intrinsic, words, disputed claim, Dictionary, customary, plurality, patentee, array, read and write, plain meaning, concurrent, extrinsic, invention

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Judges: JON S. TIGAR, United States District Judge.

Opinion by: JON S. TIGAR

Opinion

ORDER CONSTRUING CLAIMS OF U.S. PATENT NOS. *6,651,134* AND 7,142,477

Re: ECF No. 74 (Case No. 13-cv-2013)

I. INTRODUCTION

On May 20, 2014, the Court held a hearing for the purpose of construing disputed terms in the claims of United States Patent Nos. *6,651,134* ("the '134 Patent") and 7,142,477 ("the '477 Patent"). **[*2]** Now, after consideration of the arguments and evidence presented by the parties, and the relevant portions of the record, the Court construes the terms as set forth below.

II. BACKGROUND

A. Procedural History

In these now-consolidated action, Plaintiff Cypress

Semiconductor Corporation ("Cypress") accuses Defendant GSI Technology Inc.'s ("GSI") of infringing seven patents (the "Patents-in-Suit"), including the '134 and '477 Patents, which relate to computer memory, and in particular to systems and methods for making faster Static Random Access Memory ("SRAM"). Consolidated Amended Complaint for Patent Infringement, ECF No. 96. Cypress alleges that, by manufacturing and selling GSI's SigmaQuad product line, among other Cypress products, GSI has directly infringed the Patents-in-Suit. Complaint ¶ 21.

GSI denies infringement. GSI Technology, Inc.'s Answer to Consolidated Amended Complaint ¶ 4. Pursuant to *Patent Local Rule 4-3(c)*, the parties have identified, and briefed the construction of, ten terms in the Patents-in-Suit that are most significant to the resolution of this case. ECF No. 88. However, GSI has also sought *inter partes* review of five of the Patents-in-Suit. GSI has moved to **[*3]** stay this action against two of the Patents-in-Suit, and expects to move to stay the action against three more patents in August. Therefore, pursuant to the Court's May 6 order, ECF No. 102, the Court proceeds now to construe only those terms contained in the '134 and '477 Patents, the two patents for which GSI has not sought *inter partes* review.

B. Legal Standard

The construction of terms found in patent claims is a question of law to be determined by the Court. *Markman v. Westview Instruments, Inc., 52 F.3d 967, 979 (Fed. Cir. 1995)* (en banc), aff'd, *517 U.S. 370, 116 S. Ct. 1384, 134 L. Ed. 2d 577 (1996)*. "[T]he interpretation to be given a term can only be determined and confirmed with a full understanding of what the inventors actually invented and intended to envelop with the claim." *Phillips v. AWH Corp., 415 F.3d 1303, 1316 (Fed. Cir. 2005)* (quoting *Renishaw PLC v. Marposs Societa' per Azioni, 158 F.3d 1243, 1250 (Fed. Cir. 1998))*. Consequently, courts construe claims in the manner that "most naturally aligns with the patent's description of the invention." Id.

The first step in claim construction is to look to the language of the claims themselves. "It is a 'bedrock principle' of patent law that 'the claims of **[*4]** a patent define the invention to which the patentee is entitled the right to exclude.'" *Phillips, 415 F.3d at 1312* (quoting *Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc., 381 F.3d 1111, 1115 (Fed. Cir. 2004))*. A disputed claim term should be construed in light of its "ordinary and customary meaning," which is "the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application." *Phillips, 415 F.3d at 1312*. In some cases, the ordinary meaning of a disputed term to a person of skill in the art is readily apparent, and claim construction involves "little more than the application of the widely accepted meaning of commonly understood words." *Id. at 1314*. Claim construction may deviate from the ordinary and customary meaning of a disputed term only if (1) a patentee sets out a definition and acts as his own lexicographer, or (2) the patentee disavows the full scope of a claim term either in the specification or during prosecution. *Thorner v. Sony Computer Entm't Am. LLC, 669 F.3d 1362, 1365 (Fed. Cir. 2012)*.

Ordinary and customary meaning is not the same as **[*5]** a dictionary definition. "Properly viewed, the 'ordinary meaning' of a claim term is its meaning to the ordinary artisan after reading the entire patent. Yet heavy reliance on the dictionary divorced from the intrinsic evidence risks transforming the meaning of the claim term to the artisan into the meaning of the term in the abstract, out of its particular context, which is the specification." *Id. at 1321*. Typically, the specification "is the single best guide to the meaning of a disputed term." *Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1582 (Fed. Cir. 1996)*. It is therefore "entirely appropriate for a court, when conducting claim construction, to rely heavily on the written description for guidance as to the meaning of claims." *Phillips, 415 F.3d at 1315*. However, while the specification may describe a preferred embodiment, the claims are not necessarily limited only to that embodiment. Id.

Finally, courts may consider extrinsic evidence in construing claims, such as "expert and inventor testimony, dictionaries, and learned treatises." *Markman, 52 F.3d at 980*. Expert testimony may be useful to "provide background on the technology at issue, to explain how an invention works, **[*6]** to ensure that the court's understanding of the technical aspects of the patent is consistent with that of a person of skill in the art, or to establish that a particular term in the patent or the prior art has a particular meaning in the pertinent field." *Phillips, 415 F.3d at 1318*. However, extrinsic evidence is "less reliable than the patent and its prosecution history in determining how to read claim terms." Id. If intrinsic evidence mandates the definition of a term that is at odds with extrinsic evidence, courts must defer to the definition supplied by the former. Id.

C. Jurisdiction

Since this is an action "relating to patents," the Court has jurisdiction pursuant to U.S.C. *§ 1338(a)*. **III. ANALYSIS**

A. "Memory" (claims 1, 7, 15 & 17 of the '134 Patent)

⊞*Go to table1*

Claim 1 recites "a circuit comprising" two elements, the first of which is "a memory comprising a plurality of storage elements each configured to read and write data in response to an internal address signal[.]" '134 Patent 5:23-26, Exh. F to Declaration of David M. Hoffman ("Hoffman Decl."), ECF **[*7]** No. 68-7. GSI argues that the "memory" claimed by this language is a specific type of memory — "addressable storage" — while Cypress contends that the memory claimed in this part of the patent extends to the broadest possible use of the term "memory."

Unless the patentee has acted as her own lexicographer, or clearly disavowed the full scope of a claim term, she is entitled to the broadest possible scope of a term's ordinary and customary meaning. *Thorner, 669 F.3d at 1365*. But that only begs, rather than answers, the question of what the ordinary and customary meaning of this term is. The Court must seek the meaning that a person of ordinary skill in the art would attribute to the term in the context of the intrinsic and extrinsic record, *id.*, rather the meaning the term might carry when divorced from the context of the patent.[1]

Here, the surrounding claim language supports GSI's construction. Cypress and GSI both argue that the "memory" term should with construed with reference to the language following the words "a memory comprising."[2] Cypress argues that "claim 1 expressly

sets forth the requirements for the claim [sic] memory — namely that it must be a plurality of storage elements with a particular configuration." Cypress's Opening Claim Construction Brief ("Open. Br.") 15:19-22. Cypress argues that the post-"comprising" language "sets forth the requirements" of the claimed memory. But when applying that language, Cypress acknowledges that the claimed memory must be a plurality of storage elements, and then descends abruptly into generality by admitting only that the plurality must have some undefined "particular configuration."

The "particular configuration" is defined specifically in the claim language. The plurality of storage elements must each be "configured to read and write data in response to an internal address signal." '134 Patent 5:24-26. GSI's construction gives meaning to this claim language, and makes clear that the memory claimed in claim 1 does not include any elements that **[*10]** are used to store data, but only storage elements that are "addressable," meaning they are configured to read and write data in response to an internal address label. By declining to give meaning to this portion of the claim language, Cypress's view of claim scope is too broad. The Court is persuaded that one of ordinary skill of the art would understand this language to require "addressable storage," rather than encompass any circuit elements that store data. See Declaration of Robert Murphy ("Murphy Decl.") ¶¶ 19-23, ECF No. 74-1; cf. Declaration of Vivek Subramanian ¶ 27, ECF No. 80-4 (in which Cypress's expert never commits to a specific understanding of what the "plain meaning" of the claimed "memory" is in the specific context of the patent).

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[2] That is to say, Cypress pointedly does *not* argue that the language following the words "memory comprising" is merely exemplary; it acknowledges the language is limiting. **[*9]** This concession is a little surprising because "[t]he term 'comprising' is well understood to mean 'including but not limited to.'" *CIAS, Inc. v. Alliance Gaming Corp., 504 F.3d 1356, 1360 (Fed. Cir. 2007)* (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc., 200 F.3d 795, 811 (Fed. Cir. 1999))*. But what CIAS and other cases generally mean by this is that "the claims do not exclude the presence in the accused device or method of factors in addition to those explicitly recited." *CIAS, 504 F.3d at 1360* (quoting In *Georgia—Pacific Corp. v. United States Gypsum Co., 195 F.3d 1322, 1327-28 (Fed.Cir.1999))*. Here, the "comprising" language is "open" in the sense that the claimed memory might conceivably include elements other than the two identified limiting elements. But they still cannot *fail* to include those limiting elements.

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[1] For this reason, the court does not endorse the approach urged by Cypress's counsel at the hearing. Counsel urged a narrower approach to construction, arguing that the only relevant term is "memory" itself. Counsel argued that GSI's construction arguments were off-point because "if [the term] is further limited by other language, that's fine," but irrelevant **[*8]** to claim construction. Neighboring claim language must be relevant to the task of construction, since the task is to determine the plain and ordinary meaning of the language in the context of the intrinsic record.
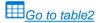
GSI also points out that the specification refers to claimed memory as comprising "storage elements each configured to read and write data in response to an internal address signal," '134 Patent 1:47-50, and describes a process of reading and writing data using addresses. Id. 1:11-14, 3:2-4. The Court does not limit the claim language to specific embodiments in the specification. But the specification fails to indicate that the patentee's **[*11]** view of the claimed memory includes elements that are not addressable storage.

Cypress's arguments from the specification, on the other hand, are unpersuasive. Open. Br. 15:24-16:6. Cypress points to standard language of non-exclusivity, such as the statement that the memory array may be implemented by "other appropriate memory to meet the design criteria of a particular implementation." '134 Patent 2:33-38. However open this language might be, it cannot be open enough to include elements not contained within the claim language. The claim language requires addressable storage.

The Court finds GSI's construction warranted by the intrinsic record alone. But it is worth noting that, even if the Court were to set aside the context of the surrounding claim language, GSI's construction is consistent with the concept of "memory" as it would be understood by a person of ordinary skill in the art. "Memory" is commonly defined in technical dictionaries as "addressable storage." IEEE Dictionary of Electrical and Electronics Terms (6th ed. 1996)) at 645; The Authoritative Dictionary of IEEE Standards Terms (7th ed. 2000)) at 684 (Exhs. L & N to Schwartz Decl., ECF Nos. 75-12 & 75-14).

The Court adopts **[*12]** GSI's construction.

B. "Address Signal" (claims 1, 2, 12 & 16 of the '134 Patent)

Go to table2

The parties appear to agree that the claimed "address signal" is limited to being one that determines the "address location in the memory array" - that is to say, whether the claim requires an addressable memory array.

Again, the language of the claim terms supports GSI's construction. The specification uses the terms "memory" and "memory array" interchangeably. '134 Patent at 2:30-38, 3:2-4. Given this, the surrounding claim

language in both limitations is most plausibly read as requiring that the address signal determine the address location in the memory array. Cypress's construction, on the other hand, would read out of the claims the requirement that the plurality of storage elements, and the logic circuit, respond to "an internal address signal," and "an external address signal." '134 Patent 5:24-26, 5:28-29. Cypress's construction gives meaning to the term **[*13]** "address," a term understood to have a particular meaning by one of ordinary skill in the art, and adapts it to apply in the context of the claim language.

The Court adopts GSI's construction.

C. "sensing read data" (claims 1, 8, 15, 18, 24, 35 & 43 of the '477 Patent)

Go to table3

This dispute over claim scope has evolved over the course of briefing. The parties agree that the process of "sensing" can be understood as "detecting." At least from the briefing, the parties appeared to dispute whether the "detecting" process claimed in these patent claims necessarily also involves amplifying. Open. Br. 18:12-19:2; GSI's Responsive Claim Construction Brief ("Resp. Br.") 30:4-6, ECF No. 74. Cypress, proposing a limitation on its own patent's scope, **[*14]** argues that amplifying is an essential requirement of the claimed process of "detecting." See Plaintiff Cypress's Reply Claim Construction Brief at 16:21-22, n. 4 ("Cypress would not oppose the adoption of [GSI's] construction with the additional guidance that 'detecting read data includes amplifying'").

Cypress's strongest argument comes not from the use of the term "detecting," but rather from the fact that, in the fifth element of claim 1, the entity performing the "detecting" is a "sense amplifier." The specification also notes at numerous places that it is a sense amplifier that performs the detecting function. '477 Patent at 4:1-3, 4:6-7, 6:48, 7:7-9, 8:57-60.

In English, if a person said "I used a chisel to hammer that nail," we would not assume that the person actually chiseled the nail. To the contrary, the fact that the person used the verb "hammer" implies that she probably did *not* use the chisel for its customary function; she probably used the chisel in a manner more befitting a hammer. Since any solid, hand-held object is capable of being used as a hammer, we would understand that the person probably gave the chisel a

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