UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of **CERTAIN ACTIVE MATRIX OLED DISPLAY DEVICES AND COMPONENTS THEREOF**	**Inv. No. 337-TA-1243**

ORDER NO. 14: CONSTRUING TERMS OF THE ASSERTED CLAIMS

(August 4, 2021)

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I. INTRODUCTION

This investigation was instituted by the Commission on February 2, 2021 to determine whether certain electronic devices containing active matrix OLED displays and components thereof infringe U.S. Patent Nos. 7,573,068 ("the 068 patent") and 7,868,880 ("the 880 patent"). *See* 86 Fed. Reg. 7878 (Feb. 2, 2021). The complainant is Solas OLED Ltd. ("Solas"). The named respondents are BOE Technology Group Co. Ltd., Beijing BOE Display Technology Co., Ltd., BOE Technology America Inc. (altogether, "BOE"), Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Display Co., Ltd. (altogether, "Samsung"). The Commission Investigative Staff ("Staff") is also a party to the investigation. On July 26, 2021, Solas and BOE moved to terminate the investigation with respect to BOE based on settlement under 19 C.F.R. § 210.21(b), which remains pending.

Pursuant to the procedural schedule, the parties filed a joint claim construction chart setting forth a limited set of terms to be construed, and initial and rebuttal claim construction briefs,[1] wherein each offered a construction for the claim terms in dispute, along with support for that proposed interpretation. On June 1, 2021, the videoconference Markman hearing scheduled for June 9-10 was cancelled, and the parties were informed their disputes would be resolved on the briefs. Order No. 11. On June 15, 2021, the parties submitted an updated joint claim construction chart.

[1] The briefs and amended chart submitted by the parties are hereafter referred to as:

CIMB	Complainant's Initial *Markman* Brief
CRMB	Complainant's Rebuttal *Markman* Brief
RIMB	Respondents' Initial *Markman* Brief
RRMB	Respondents' Rebuttal *Markman* Brief
SIMB	Staff's Initial *Markman* Brief
SRMB	Staff's Rebuttal *Markman* Brief
JC	Updated Joint Claim Construction Chart

II. 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); *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 the 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).

"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*, 415 F.3d at 1312 (quoting *Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111, 1115 (Fed. Cir. 2004)). "Quite apart from the written description and the prosecution history, the claims themselves provide substantial guidance as to the meaning of particular claims terms." *Id.* at 1314; *see also Interactive Gift Express, Inc. v. Compuserve Inc.*, 256 F.3d 1323, 1331 (Fed. Cir. 2001) ("In construing claims, the analytical focus must begin and remain centered on the language of the claims themselves, for it is

that language that the patentee chose to use to 'particularly point [ ] out and distinctly claim [ ] the subject matter which the patentee regards as his invention."). The context in which a term is used in an asserted claim can be "highly instructive." *Phillips*, 415 F.3d at 1314. Additionally, other claims in the same patent, asserted or unasserted, may also provide guidance as to the meaning of a claim term. *Id*. "Courts do not rewrite claims; instead, we give effect to the terms chosen by the patentee." *K-2 Corp. v. Salomon S.A.*, 191 F.3d 1356, 1364 (Fed. Cir. 1999).

The specification "is always highly relevant to the claim construction analysis. Usually it is dispositive; it is the single best guide to the meaning of a disputed term." *Phillips*, 415 F.3d at 1315 (quoting *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)). "[T]he specification may reveal a special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess. In such cases, the inventor's lexicography governs." *Id.* at 1316. "In other cases, the specification may reveal an intentional disclaimer, or disavowal, of claim scope by the inventor." *Id.* As a general rule, however, the particular examples or embodiments discussed in the specification are not to be read into the claims as limitations. *Id.* at 1323. In the end, "[t]he construction that stays true to the claim language and most naturally aligns with the patent's description of the invention will be ... the correct construction." *Id.* at 1316 (quoting *Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1250 (Fed. Cir. 1998)).

In addition to the claims and the specification, the prosecution history should be examined, if in evidence. *Phillips* at 1317; *see Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 913 (Fed. Cir. 2004). The prosecution history can "often inform the meaning of the claim language by demonstrating how the inventor understood the invention and whether the inventor limited the invention in the course of prosecution, making the claim scope narrower than it would otherwise be." *Phillips*, 415 F.3d at 1317; *see Chimie v. PPG Indus. Inc.*, 402 F.3d 1371, 1384 (Fed. Cir.

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