THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

GESTURE TECHNOLOGY PARTNERS, LLC,	§	
	§	
	§	CASE NO. 2:21-CV-40-JRG
v.	§	(LEAD CASE)
	§	
HUAWEI DEVICE CO., LTD. and HUAWEI DEVICE USA, INC.	§	
	§	
	§	
	§	
GESTURE TECHNOLOGY PARTNERS, LLC,	§	
	§	
	§	CASE NO. 2:21-CV-41-JRG
v.	§	(MEMBER CASE)
	§	
SAMSUNG ELECTRONICS CO., LTD. and SAMSUNG ELECTRONICS AMERICA, INC.	§	
	§	
	§	

CLAIM CONSTRUCTION
MEMORANDUM AND ORDER

Before the Court is the Opening Claim Construction Brief (Dkt. No. 64) filed by Plaintiff Gesture Technology Partners, LLC ("Plaintiff" or "GTP"). Also before the Court is the Responsive Claim Construction Brief (Dkt. No. 70) filed by Defendants Huawei Device Co., Ltd., Huawei Device USA, Inc. (collectively, "Huawei"), Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc. (collectively, "Samsung") (all, collectively, "Defendants") as well as Plaintiff's reply (Dkt. No. 72).

The Court held a hearing on September 21, 2021.

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I. BACKGROUND

Plaintiff alleges infringement of United States Patent Nos. 7,933,431 (the "'431 Patent"), 8,194,924 (the "'924 Patent"), 8,553,079 (the "'079 Patent"), and 8,878,949 (the "'949 Patent") (collectively, "the patents-in-suit" or "the asserted patents"). (Dkt. No. 64, Exs. A–D.) Plaintiff submits that "[t]he Asserted Patents are generally directed to innovations in using mobile-device cameras to assist a user to interact with their device, for example including, but not limited to, unlocking the device, taking and using photos or videos, and providing other functions." (Dkt. No. 64, at 1.)

The '431 Patent, titled "Camera Based Sensing in Handheld, Mobile, Gaming, or Other Devices," issued on April 26, 2011, and bears an earliest priority date of July 8, 1999. The Abstract of the '431 Patent states:

> Method and apparatus are disclosed to enable rapid TV camera and computer based sensing in many practical applications, including, but not limited to,

> handheld devices, cars, and video games. Several unique forms of social video games are disclosed.

The '924 Patent resulted from a continuation of the '431 Patent.

The '079 Patent, titled "More Useful Man Machine Interfaces and Applications," issued on October 8, 2013, and bears an earliest priority date of November 9, 1998. The Abstract of the '079 Patent states:

> A method for determining a gesture illuminated by a light source utilizes the light source to provide illumination through a work volume above the light source. A camera is positioned to observe and determine the gesture performed in the work volume.

The '949 Patent, titled "Camera Based Interaction and Instruction," issued on November 4, 2014, and bears an earliest priority date of May 11, 1999. The Abstract of the '949 Patent states:

> Disclosed are methods and apparatus for instructing persons using computer based programs and/or remote instructors. One or more video cameras obtain images of the student or other participant. In addition images are analyzed by a computer to determine the locations or motions of one or more points on the student. This location data is fed to computer program which compares the motions to known desired movements, or alternatively provides such movement data to an instructor, typically located remotely, who can aid in analyzing student performance. The invention preferably is used with a substantially life-size display, such as a projection display can provide, in order to make the information displayed a realistic partner or instructor for the student. In addition, other applications are disclosed to sports training, dance, and remote dating.

II. LEGAL PRINCIPLES

It is understood that "[a] claim in a patent provides the metes and bounds of the right which the patent confers on the patentee to exclude others from making, using or selling the protected invention." *Burke, Inc. v. Bruno Indep. Living Aids, Inc.*, 183 F.3d 1334, 1340 (Fed. Cir. 1999). Claim construction is an issue of law for the court to decide. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 970–71 (Fed. Cir. 1995) (en banc), *aff'd*, 517 U.S. 370 (1996).

"In some cases, however, the district court will need to look beyond the patent's intrinsic evidence and to consult extrinsic evidence in order to understand, for example, the background science or the meaning of a term in the relevant art during the relevant time period." *Teva Pharm. USA, Inc. v. Sandoz, Inc.*, 135 S. Ct. 831, 841 (2015) (citation omitted). "In cases where those subsidiary facts are in dispute, courts will need to make subsidiary factual findings about that extrinsic evidence. These are the 'evidentiary underpinnings' of claim construction that we discussed in *Markman*, and this subsidiary factfinding must be reviewed for clear error on appeal." *Id.* (citing 517 U.S. 370).

To ascertain the meaning of claims, courts look to three primary sources: the claims, the specification, and the prosecution history. *Markman*, 52 F.3d at 979. The specification must contain a written description of the invention that enables one of ordinary skill in the art to make and use the invention. *Id.* A patent's claims must be read in view of the specification, of which they are a part. *Id.* For claim construction purposes, the description may act as a sort of dictionary, which explains the invention and may define terms used in the claims. *Id.* "One purpose for examining the specification is to determine if the patentee has limited the scope of the claims." *Watts v. XL Sys., Inc.*, 232 F.3d 877, 882 (Fed. Cir. 2000).

Nonetheless, it is the function of the claims, not the specification, to set forth the limits of the patentee's invention. Otherwise, there would be no need for claims. *SRI Int'l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc). The patentee is free to be his own lexicographer, but any special definition given to a word must be clearly set forth in the specification. *Intellicall, Inc. v. Phonometrics, Inc.*, 952 F.2d 1384, 1388 (Fed. Cir. 1992). Although the specification may indicate that certain embodiments are preferred, particular embodiments appearing in the specification will not be read into the claims when the claim

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