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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TABLE OF CONTENTS

I. INTRODUCTION 1

II. IN GENERAL 2

III. RELEVANT LAW 2

IV. LEVEL OF ORDINARY SKILL 7

V. THE ASSERTED PATENTS 8

- A. The `173 Patent 8
- B. The `910 Patent 11
- C. The `790 Patent 13
- D. The `580 Patent 14

VI. CLAIM CONSTRUCTION 18

- A. Construction of the Agreed-Upon Claim Terms 18
- B. Construction of the Disputed Claim Terms 19
  1. `173 Patent – "A sensing element that comprises a sensing path that comprises a length" 19
  2. `173 Patent – "sensing path" 20
  3. `173 Patent – "the range of parameter values being associated with the length of the sensing path" 22
  4. `173 Patent – "the sensing path comprises a closed loop" 24
  5. `910 Patent – "the particular one of the sensing areas selected based on a predefined ranking scheme that prioritizes the two or more sensing areas based on the positions of the two or more sensing areas with the sensing region" 25
  6. '790 Patent – "respective [first/second] [sensor/signal] values of [the/a] plurality [of] keys" 27
  7. `790 Patent – "[analyze/analyzing], to determine a second active key, respective second signal values of the plurality of keys, the analysis, to determine the second active key, of the respective second signal values of the plurality of keys being biased in favor of the first key" 28
  8. `580 Patent - "signals" 30

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9. `580 Patent - "measured values corresponding to the [second/fourth] set of signals" 32

10. `580 Patent - "adjusting the second set of measured values corresponding to the second set of signals with the fourth set of measured values corresponding to the fourth set of signals" 34

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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]

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

CIMB	Complainant's Initial *Markman* Brief
CRMB	Complainant's Reply *Markman* Brief
RIMB	Respondents' Initial *Markman* Brief
RRMB	Respondents' Reply *Markman* Brief
JC	Updated Joint Claim Construction Chart
Hr'g Tr.	*Markman* hearing transcript

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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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