IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TQ DELTA, LLC, Plaintiff, v. 2WIRE, INC., Defendant.	Civil Action No. 1:13-cv-01835-RGA
TQ DELTA, LLC, Plaintiff, v. ZYXEL COMMUNICATIONS, INC and ZYXEL COMMUNICATIONS CORPORATION, Defendants.	Civil Action No. 1:13-cv-02013-RGA
TQ DELTA, LLC, Plaintiff, v. ADTRAN, INC., Defendant.	Civil Action No. 1:14-cv-00954-RGA

ADTRAN, INC.,

Plaintiff,

v.

TQ DELTA, LLC,

Defendant.

Civil Action No. 1:15-cv-00121-RGA

MEMORANDUM OPINION

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December 18, 2017

Richard G. Andrews

ANDREWS, U.S. DISTRICT JUDGE:

Presently before the Court is the issue of claim construction of multiple terms in U.S. Patent Nos. 7,831,890 ("the '890 patent"), 7,836,381 ("the '381 patent"), 7,844,882 ("the '882 patent"), 8,276,048 ("the'048 patent"), 8,495,473 ("the '473 patent"), and 8,607,126 ("the '126 patent"). The Court has considered the Parties' Joint Claim Construction Brief. (Civ. Act. No. 13-01835-RGA, D.I. 353; Civ. Act. No. 13-01836-RGA, D.I. 320; Civ. Act. No. 13-02013-RGA, D.I. 339; Civ. Act. No. 14-00954-RGA, D.I. 194; Civ. Act. No. 15-00121-RGA; D.I. 196).[1] The Court heard oral argument on November 13, 2017. (D.I. 430 ("Tr.")). After argument, the parties agreed to dismissal of the case against Zhone. (Civ. Act. No. 13-1836-RGA; D.I. 373).

I. BACKGROUND

The patents-in-suit represent "Family 3" of the patents that Plaintiff has asserted against Defendants, and they all share a common specification. (D.I. 353 at 1 n.1). The parties divide the contested patents into ten patent families. (*e.g.* D.I. 280). The Family 3 patents, at issue here, relate to allocating shared memory used by a digital subscriber line ("DSL") transceiver, or more specifically, allocating shared memory between an interleaver and deinterleaver of a DSL transceiver.

II. LEGAL STANDARD

"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 v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (internal quotation marks omitted). "'[T]here is no magic formula or catechism for conducting claim construction.' Instead, the court is free to attach the appropriate weight to appropriate sources 'in light of the statutes and policies that inform patent law.'"

[1] Unless otherwise specifically noted, all references to the docket refer to Civil Action No. 13-1835-RGA.

SoftView LLC v. Apple Inc., 2013 WL 4758195, at *1 (D. Del. Sept. 4, 2013) (quoting *Phillips*, 415 F.3d at 1324) (alteration in original). When construing patent claims, a court considers the literal language of the claim, the patent specification, and the prosecution history. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 977–80 (Fed. Cir. 1995) (en banc), *aff'd*, 517 U.S. 370 (1996). Of these sources, "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 (internal quotation marks omitted).

"[T]he words of a claim are generally given their 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." *Id.* at 1312–13 (citations and internal quotation marks omitted). "[T]he ordinary meaning of a claim term is its meaning to [an] ordinary artisan after reading the entire patent." *Id.* at 1321 (internal quotation marks omitted). "In some cases, the ordinary meaning of claim language as understood by a person of skill in the art may be readily apparent even to lay judges, and claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words." *Id.* at 1314.

When a court relies solely upon the intrinsic evidence—the patent claims, the specification, and the prosecution history—the court's construction is a determination of law. *See Teva Pharm. USA, Inc. v. Sandoz, Inc.*, 135 S. Ct. 831, 841 (2015). The court may also make factual findings based upon consideration of extrinsic evidence, which "consists of all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises." *Phillips*, 415 F.3d at 1317–19. Extrinsic evidence may assist the court in understanding the underlying technology, the meaning of terms to one skilled in the

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