IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

OZMO LICENSING LLC, *Plaintiff,*	§ § § § §	
		6:21-CV-1225-ADA
v.	§ §	
ACER INC. and ACER AMERICA CORP., *Defendants.*	§ § § § §	

CLAIM CONSTRUCTION ORDER AND MEMORANDUM

On September 2, 2022, the Court held a hearing to determine the proper construction of the disputed claim terms. Ozmo Licensing LLC ("Plaintiff") accuses Acer Inc. and Acer America Corp. (collectively "Defendants") of infringing five patents: U.S. Patent Nos. 8,599,814 ("the '814 Patent"), 9,264,991 ("the '991 Patent"), 10,873,906 ("the '906 Patent"), 11,012,934 ("the '934 Patent"), 11,122,504 ("the '504 Patent") (collectively "the patents-in-suit"). Before the Court are the parties' claim construction briefs. Defendants filed an opening claim construction brief (Dkt. No. 26), to which Plaintiff filed a responsive claim construction brief (Dkt. No. 29), to which Defendants filed a reply brief (Dkt. No. 31), to which Plaintiff filed a sur-reply brief (Dkt. No. 32). The parties additionally submitted a Joint Claim Construction Statement (Dkt. No. 33).[1]

The Court provided preliminary claim constructions in advance of the *Markman* hearing. Having considered the parties' arguments from the hearing and those presented in their claim

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[1] Citations to the parties' claim construction briefs and Joint Claim Construction Statement are to the Case Management/Electronic Case Files (Dkt. Nos.) and pin cites are to the pagination assigned through ECF.

construction briefs, the Court adopts its preliminary constructions to be its final constructions and enters those final constructions now.

I.   OVERVIEW OF THE PATENTS-IN-SUIT

The patents-in-suit are related, each claiming priority back to a provisional patent application filed in 2005.[2] The patents-in-suit are commonly titled "Apparatus And Method For Integrating Short-Range Wireless Personal Area Networks For A Wireless Local Area Network Infrastructure." The patents-in-suit share a common specification, and as their titles suggest, the patents relate to wireless network technology. As the parties did in their briefing, the Court refers to the '814 Patent when referencing the common specification.

At a high level, the patents-in-suit relate to wireless communication technology. '814 Patent at 1:25-26. More particularly, the patents-in-suit relate to integrating short-range wireless personal area networks ("WPANs") into longer-range wireless local area networks ("WLANs"). *Id*. at 1:26-29. As examples, the patents describe Wi-Fi as a standardized WLAN protocol and Bluetooth as a standardized WPAN protocol. *Id*. at 1:49-53 and 2:25-30. The patents-in-suit realized that problems arise when WLAN and WPAN protocols co-exist in the same wireless medium. *Id*. at 2:37-44. The patents explain that "[b]ecause they use different methods of accessing the wireless medium, and are not synchronized with one another, severe interference may result when devices conforming to such standards are made to co-exist and are positioned in the same physical vicinity." *Id*.

In response to these issues, the patents-in-suit disclose an apparatus (e.g., "wireless hub") that is "adapted to facilitate seamless communication between the WLAN and the WPAN." '814

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[2] Each of the patents-in-suit claims priority back to Provisional Application No. 60/661,763. All five patents-in-suit issued from a chain of continuation patent applications. Dkt. No. 26 at 6. The '814 Patent has the earliest filing date of the patents-in-suit.

Patent at 5:49-51; *see also* 4:30-33. As one example, FIG. 3 illustrates a WPAN **10** integrated

with WLAN **6** to form an integrated network **5**. *Id*. at 4:63-65.
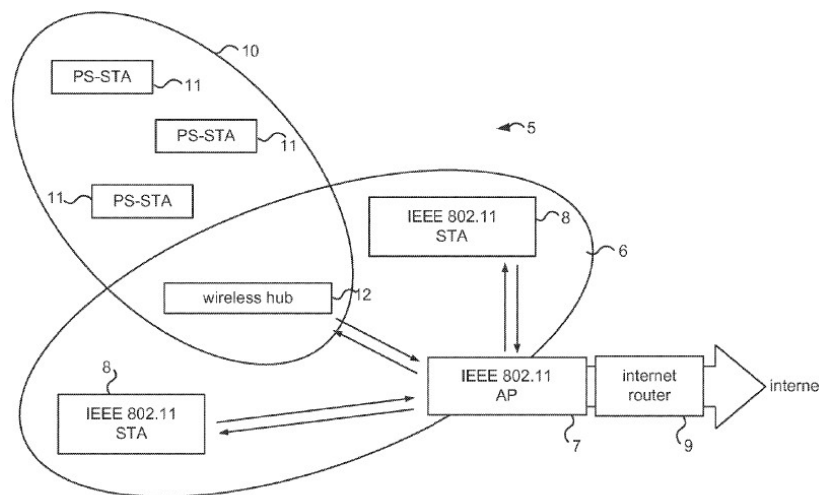

FIG. 3

The patents disclose that WLAN **6** is a conventional Wi-Fi network compliant with the 802.11x

specification. '814 Patent at 4:66–5:3. WPAN **10** is described as a short-range wireless network

with a typical range of about 30 feet. *Id*. at 6:3-4, 9:36-39.

The patents describe wireless hub **12** as having a wireless 802.11x-compliant circuit that

can communicate with an access point (AP **7**) disposed in WLAN **6** as well as with power

sensitive stations (PS-STAs **11**) disposed in WPAN **10**. '814 Patent at 5:51-54. That is, the

wireless hub **12** is adapted to connect to both networks to facilitate seamless communication

between WLAN **6** and WPAN **10**. *Id*. at 5:49-51, 7:3-5. In one implementation, the wireless

hub **12** connects to the WPAN without losing connectivity to the WLAN. *Id*. at 3:49-52, 7:5-9.

In another implementation, the wireless hub **12** connects to the WLAN and WPAN alternately.

Id. at 3:52-54, 7:9-11.

Representative independent claim 1 of the '814 Patent is reproduced below with its

disputed terms emphasized in italics:

> 1.   A network-enabled hub, usable for facilitating data
> communications between two or more wireless devices that are
> configured to communicate indirectly with each other via the
> network-enabled hub, comprising:
> an interface to a wireless radio circuit that can send and receive
>   data wirelessly, providing the hub with bi-directional wireless
>   data communication capability;
> *logic for processing data received via the wireless radio circuit*;
> *logic for generating data to be transmitted by the wireless radio
>   circuit*;
> *logic for initiating and maintaining wireless network connections
>   with nodes of a wireless network external to the network-
>   enabled hub, maintaining at least a first wireless network
>   connection using a first wireless network protocol and a
>   second wireless network connection using a second wireless
>   network protocol, that can be maintained, at times,
>   simultaneously with each other in a common wireless space,*
>   wherein the second wireless network protocol is an *overlay
>   protocol* with respect to the first wireless network protocol in
>   that communications using the second wireless network
>   protocol are *partially consistent* with the first wireless network
>   protocol and at least some of the communications using the
>   second wireless network protocol impinge on at least some
>   antennae used for the first wireless network; and
> *data forwarding logic*, implemented in the network-enabled hub
>   using hardware and/or software, that forwards data between an
>   originating node and a destination node, wherein the
>   originating node is a node in one of the *first and second
>   wireless networks* and the destination node is a node in the
>   other of the *first and second wireless networks*.

'814 Patent at 14:45–15:10 (claim 1, emphasis added).

II.   LEGAL PRINCIPLES

A.   Claim Construction

"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) (quoting *Innova/Pure Water Inc. v. Safari Water Filtration Sys.*,

Inc., 381 F.3d 1111, 1115 (Fed. Cir. 2004)). To determine the meaning of the claims, courts start by considering the intrinsic evidence. *Id.* at 1313; *C.R. Bard, Inc. v. U.S. Surgical Corp.*, 388 F.3d 858, 861 (Fed. Cir. 2004); *Bell Atl. Network Servs., Inc. v. Covad Commc'ns Grp., Inc.*, 262 F.3d 1258, 1267 (Fed. Cir. 2001). The intrinsic evidence includes the claims themselves, the specification, and the prosecution history. *Phillips*, 415 F.3d at 1314; *C.R. Bard, Inc.*, 388 F.3d at 861. The general rule—subject to certain specific exceptions discussed *infra*—is that each claim term is construed according to its ordinary and accustomed meaning as understood by one of ordinary skill in the art at the time of the invention in the context of the patent. *Phillips*, 415 F.3d at 1312-13; *Alloc, Inc. v. Int'l Trade Comm'n*, 342 F.3d 1361, 1368 (Fed. Cir. 2003); *Azure Networks, LLC v. CSR PLC*, 771 F.3d 1336, 1347 (Fed. Cir. 2014) (quotation marks omitted) ("There is a heavy presumption that claim terms carry their accustomed meaning in the relevant community at the relevant time.") *cert. granted, judgment vacated,* 135 S. Ct. 1846 (2015).

   "The claim construction inquiry . . . begins and ends in all cases with the actual words of the claim." *Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1248 (Fed. Cir. 1998). "[I]n all aspects of claim construction, 'the name of the game is the claim.'" *Apple Inc. v. Motorola, Inc.*, 757 F.3d 1286, 1298 (Fed. Cir. 2014) (quoting *In re Hiniker Co.*, 150 F.3d 1362, 1369 (Fed. Cir. 1998)) *overruled on other grounds by Williamson v. Citrix Online, LLC*, 792 F.3d 1339 (Fed. Cir. 2015). First, a term's context in the asserted claim can be instructive. *Phillips*, 415 F.3d at 1314. Other asserted or unasserted claims can also aid in determining the claim's meaning, because claim terms are typically used consistently throughout the patent. *Id.* Differences among the claim terms can also assist in understanding a term's meaning. *Id.* For example, when a dependent claim adds a limitation to an independent claim, it is presumed that the independent claim does not include the limitation. *Id*. at 1314-15.

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