UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of **CERTAIN LED LIGHTING DEVICES, LED POWER SUPPLIES, COMPONENTS THEREOF, AND PRODUCTS CONTAINING SAME**	**Inv. No. 337-TA-1379**

ORDER NO. 38: CONSTRUING CLAIM TERM

(April 16, 2024)

I. BACKGROUND

The Commission instituted this investigation to determine whether certain video capable electronic devices, including computers, streaming devices, televisions, cameras, and components and modules thereof infringe certain claims of U.S. Patent No. 7,532,808 and U.S. Patent No. 8,204,134. 88 Fed. Reg. 84832 (Dec. 6, 2023). The complainants are Nokia Technologies Oy and Nokia Corporation. The respondents are HP, Inc., Amazon.com, Inc., and Amazon.com Services LLC. The Commission Investigative Staff is a party to the investigation.

The private parties and the Staff filed a joint claim construction chart and the parties each filed claim construction briefs, after which a claim construction hearing was held. Joint Chart (EDIS Doc. ID 813868); Nokia Br. (EDIS Doc. ID 814056); Resp. Br. (EDIS Doc. ID 814060); Staff Br. (EDIS Doc. ID 814419); Nokia Reply (EDIS Doc. ID 814875); Resp. Reply (EDIS Doc. ID 814866); Staff Reply (EDIS Doc. ID 815073); and Tr. (EDIS Doc. ID 816142). This order addresses the claim construction issue raised by the parties.

II. RELEVANT LAW

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). "[T]here is no magic formula or catechism for conducting claim construction." *Id.* at 1324. Instead, weight may be attached to appropriate sources "in light of the statutes and policies that inform patent law." *Id.*

The terms of a claim are generally given their ordinary and customary meaning which is the meaning that the term would have to one of skill in the art at the time of the invention. *Id.* at 1312–13. The ordinary meaning of a claim term is its meaning to one of skill in the art after reading the entire patent. *Id.* at 1321. The patent 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." *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996).

A court "should also consider the patent's prosecution history, if it is in evidence." *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980 (Fed. Cir. 1995), *aff'd*, 517 U.S. 370 (1996). The prosecution history, which is intrinsic evidence, is "the complete record of the proceedings before the PTO and includes the prior art cited during the examination of the patent." *Phillips*, 415 F.3d at 1317. "[T]he 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." *Id.* "[B]ecause the prosecution history represents an ongoing negotiation between the PTO and the applicant, rather than the final product of that negotiation, it often lacks the clarity of the specification and thus is less useful for claim construction purposes." *Id.*

In some situations, a "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 Pharmaceuticals USA,*

Inc. v. Sandoz, Inc., 574 U.S. 318, 331 (2015). Extrinsic evidence is "all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises." *Markman*, 52 F.3d at 980. While expert testimony can be useful "to ensure that the court's understanding of the technical aspects of the patent is consistent with that of a person of skill in the art," such testimony is "generated at the time of and for the purpose of litigation and thus can suffer from bias that is not present in intrinsic evidence." *Phillips*, 415 F.3d at 1318–19. Further, while extrinsic evidence may be useful, it is less reliable than intrinsic evidence, and its consideration "is unlikely to result in a reliable interpretation of patent claim scope unless considered in the context of the intrinsic evidence." *Id*. Where the intrinsic record unambiguously describes the scope of the patented invention, reliance on extrinsic evidence is improper. *See Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1308 (Fed. Cir. 1999), *citing Vitronics*, 90 F.3d at 1583.

III. ANALYSIS

A. The '808 Patent Specification

The '808 patent is titled "Method for Coding Motion in a Video Sequence" and relates generally to motion compensation in video coding. The patent explains that in a typical video coding system, motion compensated prediction is performed on a macro-block basis. '808 patent at 10:23–25. The patent refers to "Joint Model Number 1" (JM1) of the Joint Video Team (JVT) of ISO/IEC MPEG (Motion Picture Expert Group) and ITU-T VCEG (Video Coding Experts Group), which assigned a coding mode depending on the characteristics of the macroblock and the motion in a video sequence. *Id*. at 10:27–50. There were eight such coding modes, with the eighth known as skip mode, which indicated that the macroblock was to be copied from the reference video frame without using motion compensated prediction. *Id*. at 10:50–67.

The ’808 patent recognizes a problem with an assumption made by JM1 of JVT that skip mode is statistically the most likely coding mode for a macroblock because, if the video sequence contains global motion (panning or zooming, etc.) skip mode is not used, causing degradation of compression efficiency. *Id*. at 12:18–47. Though solutions to this problem were proposed, the specification states that “it should be appreciated that there exists a significant unresolved technical problem relating to the coding of a digital video sequence in the presence of global motion, such as translation, panning or zooming of the camera.” *Id*. at 13:45–49. To address these problems, “the present invention is based on a redefinition of the skip mode concept used in JM1 of the JVT codec.” *Id*. at 14:16–18. In particular, “[a]ccording to the invention, the skip mode concept is redefined in such a way that a macroblock assigned to skip mode is either associated with a zero (non-active) motion vector, in which case it is treated in the same way as a conventional skip mode macroblock and copied directly from the reference frame, or it is associated with a non-zero (active) motion vector.” *Id*. at 14:23–29.

B. Level of Ordinary Skill in the Art

Nokia argues that one of ordinary skill in the art would “have at least a bachelor’s degree in electrical engineering, computer engineering, or a related field, with about two years of experience in video decoding or encoding technologies. More work or practical experience may qualify one not having the requisite education as a person with ordinary skill in the art while a higher level of education could offset less experience.” Nokia Br. at 2. Respondents argue that one of ordinary skill in the art “would have had a (1) Bachelor’s degree in electrical engineering, computer science, or a comparable field of study, and (2) approximately two to three years of practical experience with video and/or image processing or coding. Additional experience can substitute for the level of education, and vice versa.” Resp. Br. at 15–16; *see also* Havlicek Decl.

at ¶ 14.[1] The Staff contends that one of ordinary skill in the art "would have a bachelor's degree in electrical engineering, computer engineering, computer science, or a comparable field of study, with about two years of experience with video coding or related technologies. More experience can substitute for less education, and vice versa." Staff Br. at 5. There does not appear to be a meaningful difference between the parties' proposals and no party argued that there was.

The Staff agrees that the parties' different proposals on the level of skill in the art do not impact claim construction, Tr. at 174:7–23, as does Nokia, Tr. at 184:15–20, and Respondents, Tr. at 192:11–17. *See also* Resp. Reply at 3, n.3. To the extent a finding is required at this stage, I adopt the Staff's proposed level of ordinary skill in the art for purposes of this Order. *Cf. Genzyme Therapeutic Prods. Ltd. P'ship v. Biomarin Pharm. Inc.*, 825 F.3d 1360, 1371–72 (Fed. Cir. 2016) (failure to make a specific finding about the required level of skill in the art is not reversible error where the record did not show any meaningful differences in proposed definitions or that the outcome of the case would have been different based on which definition was selected). If a dispute arises that depends on the level of ordinary skill in the art, the parties should be prepared to address this issue later in the investigation.

C. The Disputed Claim Term

The parties raised a single claim construction dispute regarding the meaning of "skip coding mode" in various claims of the '808 patent. The parties propose:

Claim Term and Asserted Claims	Nokia and the Staff's Construction	Respondents' Construction
skip coding mode	a coding mode in which a zero (non-active) motion vector or a non-	a coding mode in which a zero (non-active) motion vector or a nonzero (active)

[1] Respondents provided two declarations from Dr. Havlicek. The first, provided with their opening claim construction brief, is referenced as "Havlicek Decl." and the second, provided with their responsive claim construction brief, is referenced as "Havlicek Suppl. Decl."

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