UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS WACO DIVISION

PARKERVISION, INC., Plaintiff,	
v.	
TCL INDUSTRIES HOLDINGS CO., LTD., TCL ELECTRONICS HOLDINGS LTD., SHENZHEN TCL NEW TECHNOLOGY CO., LTD., TCL KING ELECTRICAL APPLIANCES (HUIZHOU) CO., LTD., TCL MOKA INT'L LTD., and TCL MOKA MANUFACTURING S.A. DE C.V.;	Case No. 6:20-cv-00945-ADA
HISENSE CO., LTD. and HISENSE VISUAL TECHNOLOGY CO., LTD. (F/K/A QINGDAO HISENSE ELECTRONICS CO.),	Case No. 6:20-cv-00870-ADA
LTD. and HISENSE ELECTRIC CO., LTD. Defendants.	JURY TRIAL DEMANDED

DEFENDANTS' REPLY CLAIM CONSTRUCTION BRIEF

DOCKET

TABLE OF CONTENTS

I.	DISPUTED CLAIM TERMS 1
A.	ParkerVision's Response Fails To Identify an Objective Boundary for Determining What Constitutes a "Low" Impedance Load
В.	"Said Energy Discharged From Said Capacitor Provides Sufficient Power to Drive the Low Impedance Load"
C.	"Storage" Terms
	1. This Court Already Rejected ParkerVision's Attempt to Read in "For Driving a Low Impedance Load"
	2. There is No Basis To Import Limitations from the Specification in the Manner Suggested by ParkerVision
	3. ParkerVision's Construction Is Barred by Collateral Estoppel
	4. ParkerVision's Claim Differentiation Argument Fails 11
	5. ParkerVision's Proposed Construction Renders Claims Indefinite
D.	"Voltage of the Input Modulated Carrier Signal is Not Reproduced or Approximated at the Capacitor During the Apertures or Outside of the Apertures"
E.	Other Indefinite Terms
F.	Claim Terms Using Nonce Words
G.	"Means For" Terms
Η.	Terms That Should Be Given Plain and Ordinary Meaning14
I.	"Under-Sample" / "Under-Samples" / "Under-Sampling" 15
J.	"Harmonic" / "Harmonics"
K.	"[Wherein Said Storage Elements Comprise] a Capacitor That Reduces a DC Offset Voltage in Said First-Down Converted Signal and Second Down Converted Signal" 15
L.	"Sampling Aperture"
M.	"A Down-Converted Signal Being Generated From Said Sampled Energy" 15
II.	CONCLUSION

TABLE OF AUTHORITIES

Page(s)

Cases

Baldwin Graphic Sys., Inc. v. Siebert, Inc., 512 F.3d 1338 (Fed. Cir. 2008)16
Berkheimer v. HP Inc., 881 F.3d 1360 (Fed. Cir. 2018)
<i>Felix v. Am. Honda Motor Co.</i> , 562 F.3d 1167 (Fed. Cir. 2009)
Intervet Am., Inc. v. Kee-Vet Lab'ys, Inc., 887 F.2d 1050 (Fed. Cir. 1989)7
<i>Karsten Mfg. Corp. v. Cleveland Golf Co.</i> , 242 F.3d 1376 (Fed. Cir. 2001)6
Nautilus, Inc. v. Biosig Instruments, Inc., 572 U.S. 898 (2014)4
Nestle USA, Inc. v. Steuben Foods, Inc., 884 F.3d 1350 (Fed. Cir. 2018)10, 11
ParkerVision, Inc. v. Qualcomm Inc., 621 F. App'x 1009 (Fed. Cir. 2015)11, 16
Princeton Digit. Image Corp. v. Amazon.com, Inc., No. 13-237-LPS, 2019 WL 351258 (D. Del. Jan. 29, 2019)2
Semcon IP Inc. v. Huawei Device USA Inc., No. 2:16-cv-00437-JRG-RSP, 2017 WL 2972193 (E.D. Tex. July 12, 2017)
<i>Signal IP v. Am. Honda Motor Co.</i> , No. LA CV-14-02454-JAK, 2015 WL 5768344 (C.D. Cal. Apr. 17, 2015)2, 13
Warsaw Orthopedic, Inc. v. NuVasive, Inc., 824 F.3d 1344 (Fed. Cir. 2016)16
<i>Williamson v. Citrix Online, LLC,</i> 792 F.3d 1339 (Fed. Cir. 2015) (<i>en banc</i>)14
Statutes
35 U.S.C. § 112, ¶ 614

DOCKET ALARM Find authenticated court documents without watermarks at <u>docketalarm.com</u>.

Case 6:20-cv-00945-ADA Document 40 Filed 10/04/21 Page 4 of 22

Defendants TCL Industries Holdings Co., Ltd., TCL Electronics Holdings Ltd., Shenzhen TCL New Technology Co., Ltd., TCL King Electrical Appliances (Huizhou) Co., Ltd., TCL Moka Int'l Ltd., and Moka Manufacturing S.A. De C.V. (collectively "TCL") and

Defendants Hisense Co., Ltd. and Hisense Visual Technology Co., Ltd. (f/k/a Qingdao Hisense Electronics Co., Ltd. and Hisense Electric Co., Ltd.) (collectively "Hisense") (TCL and Hisense are collectively referred to as "Defendants") submit their reply claim construction brief.

As an initial matter, ParkerVision states in a footnote that "it appears" that Defendants' expert "is not a POSITA." ParkerVision Brief ("PV Br.") at 6 n.3 (citing Steer Decl. ¶¶ 12-18). This is a puzzling allegation, as Dr. Shoemake has *a Ph.D. in Electrical Engineering* from Cornell University. Further, the accused technology in this case concerns Wi-Fi chips in smart TVs—subject matter in which Dr. Shoemake is a pioneer, having invented various aspects of the IEEE 802.11 (Wi-Fi) standards, and even organized and chaired various IEEE 802.11 committees. Shoemake Decl. at ¶¶ 8-24. As such, Dr. Shoemake is not only a "POSITA," but unquestionably a person of extraordinary skill in the relevant art. As such, Plaintiff's odd footnote criticism of Dr. Shoemake should be disregarded.

I. DISPUTED CLAIM TERMS

OCKE.

A. ParkerVision's Response Fails To Identify an Objective Boundary for Determining What Constitutes a "Low" Impedance Load

In its Responsive Brief, ParkerVision failed to show that the patents provide an objective boundary for determining what is a "low" impedance load. Quite the opposite, in fact, as ParkerVision itself confirmed that the patents describe this claim term in purely subjective terms. The Court should therefore find this term indefinite.

ParkerVision itself recognizes, "it is a binary choice – it is either high or low impedance." PV Br. at 3. Yet nowhere in its brief does ParkerVision identify the dividing line between these

Case 6:20-cv-00945-ADA Document 40 Filed 10/04/21 Page 5 of 22

"binary" possibilities. ParkerVision places heavy emphasis on Figures 78B and 82B of the '518 patent (*see* PV Br. at 3, 4, 6, 12; Steer Decl. ¶¶ 33, 34, 37, 42, 43, 46, 54, 63, 66), but those figures do not provide an objective boundary for determining what is a "*low* impedance load." Rather, they merely provide anecdotal examples where, on the one hand, a massive 1 M Ω load (1,000,000 ohms) is deemed a "high impedance load" while, on the other hand, a 500-timessmaller 2 kohm load (2,000 ohms) is deemed to be a "low impedance load."



PV Br. at 3. Such extreme cases, however, provide no guidance as to whether values between those two ends of the spectrum would be considered "high" or "low" impedance. Would 900,000 ohms be a "low" impedance? 500,000 ohms? 100,000 ohms? 50,000 ohms? The figures upon which ParkerVision relies do not answer these questions, and the patents otherwise provide no guidance. Therefore, the term is indefinite. *Signal IP v. Am. Honda Motor Co.*, No. LA CV-14-02454-JAK (JEMx), 2015 WL 5768344, at *55 (C.D. Cal. Apr. 17, 2015) (finding indefinite "relatively low vehicle torque demand" where examples in specification "describe positions at the extremely high and extremely low ends of the spectrum, but do not help define the boundaries of 'relatively high' and 'relatively low" (citation omitted)); *Princeton Digit*.

DOCKET



Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

