IN THE UNITED STATES DISTRICT COURT
FOR THE 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., HISENSE CO., LTD. and HISENSE VISUAL TECHNOLOGY CO., LTD. (F/K/A QINGDAO HISENSE ELECTRONICS CO.), LTD. and HISENSE ELECTRIC CO., LTD. Defendants.	Case No. 6:20-cv-00945-ADA Case No. 6:20-cv-00870-ADA JURY TRIAL DEMANDED

PARKERVISION, INC.'S SUR-REPLY CLAIM CONSTRUCTION BRIEF

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

I. "Low impedance load" is *not* indefinite and should be given its plain and ordinary meaning ('736 patent, claims 26, 27; '673 patent, claim 5).

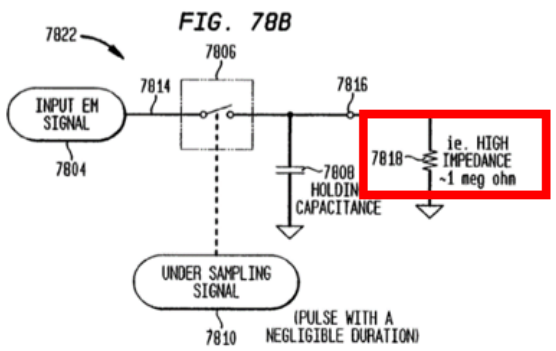
The term "low impedance load" is not indefinite. Defendants are wrong when they argue that the absence of a specific numerical boundary in the specification between low and high impedance loads constitutes a lack of construability, so as to render the term "low impedance load" indefinite. Defendants' Reply Claim Construction Brief ("Defs. Reply Br.") at 1-2. That is simply not the law. The law requires only that the specification provides *guidance* (and *objective bounds*) to a skilled person (who can impart his/her own knowledge of circuits) as to what constitutes a low impedance load. *See Nautilus, Inc. v. Biosig Instruments, Inc.,* 572 U.S. 898, 910 (2014).[1] The degree may be determined by looking to the functionality obtained by the invention. *See Medrad, Inc. v. MRI Devices Corp*., 401 F.3d 1313, 1320 (Fed. Cir. 2005).

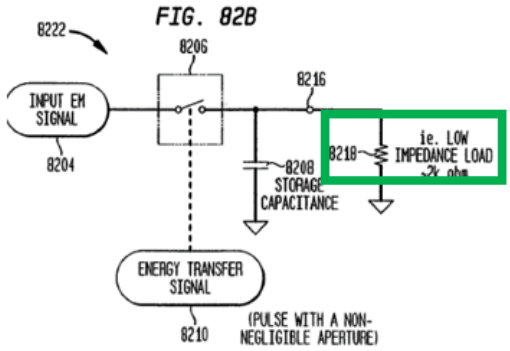
Indeed, on several occasions, district courts have held the claim term "low" – the same term that is at issue here – not to be indefinite. *See Freeny v. Apple Inc.,* 2014 U.S. Dist. LEXIS 120446, at *15-*19 (E.D. Tex. Aug. 28, 2014) (finding "low power communication signals" not indefinite); *CardioFocus, Inc. v. Cardiogenesis Corp*., 827 F. Supp. 2d 36, 43-44 (D. Mass. 2011) (finding "low hydroxyl ion content" not indefinite); *Input/Output, Inc. v. Sercel, Inc*., No. 5:06CV236, 2007 U.S. Dist. LEXIS 98316, 2007 WL 6196070, at *30 (E.D. Tex. Dec. 19, 2007) (finding "low mechanical spring constant" not indefinite).

And here, the patents are not silent on what constitutes a low impedance load. Importantly, the specification provides an express standard against which to measure "low": the

[1] The Supreme Court cites with approval *Eibel Process Co. v. Minn. & Ontario Paper Co*., 261 U.S. 45, 58, 65-66 (1923), where the Court upheld claim language requiring a wire to be placed at a "high" or "substantial" elevation because "readers . . . skilled in the art of paper making and versed in the use of the . . . machine" would have "no difficulty . . . in determining . . . the substantial [elevation] needed" for the machine to operate as specified. *Nautilus*, 572 U.S. at 910 n.5.

"low impedance load" must be low enough to allow for "non-negligible amounts of energy" to be transferred and become part of the down-converted signal in an energy transfer system. *See, e.g.,* '673 patent, 66:29-36; 70:40-49; 100:28-31. In fact, Defendants concede that "non-negligible amounts of energy" is not indefinite because Defendants specifically include the term "non-negligible amounts of energy" in its construction of storage module/element/device. As such, the patent provides a standard by which a "low impedance load" can be determined.





In particular, the specification discloses two types of systems – (1) energy transfer (energy sampling) system and (2) sample-and-hold (voltage sampling) system. An energy transfer system uses a low impedance load, and a sample-and-hold system uses a high impedance load. *See* '673 patent, 70:34-50. A low impedance load has an impedance value that allows for

DOCKET ALARM

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.