

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

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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).

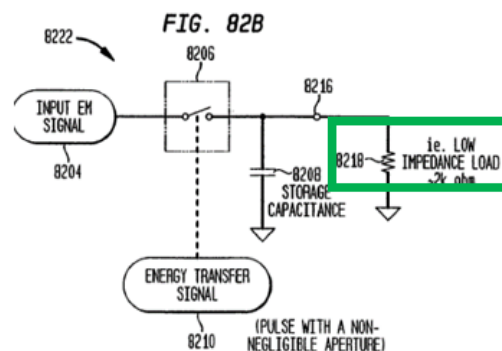
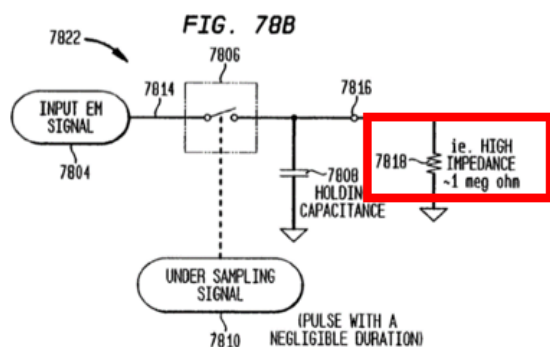
The term “low impedance load” is not indefinite. Defendants are wrong when they argue that the absence of a specific numerical boundary in the specification between low and high impedance loads constitutes a lack of construability, so as to render the term “low impedance load” indefinite. Defendants’ 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

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