

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TECHNO VIEW IP, INC.,)
)
 Plaintiff,)
)
 v.) Civil Action No. 17-386-CFC-CJB
)
 FACEBOOK TECHNOLOGIES, LLC and)
 FACEBOOK, INC.,)
)
 Defendants.)

REPORT AND RECOMMENDATION

In this action filed by Plaintiff Techno View IP, Inc. (“Plaintiff”) against Facebook Technologies, LLC and Facebook, Inc. (collectively, “Defendants”), Plaintiff alleges infringement of United States Patent Nos. 7,666,096 (the “096 patent”) and 8,206,218 (the “218 patent”). Presently before the Court is the matter of claim construction. The Court recommends that the District Court adopt the constructions as set forth below.

I. BACKGROUND AND STANDARD OF REVIEW

The Court hereby incorporates by reference the summary of the factual and procedural background of this matter set out in its August 15, 2018 Report and Recommendation (“August 15 R&R”). (D.I. 74 at 1-3) It additionally incorporates by reference the legal principles regarding claim construction set out in the August 15 R&R. (*Id.* at 3-5)

II. DISCUSSION

The parties had disputes regarding eight terms or sets of terms (hereafter, “terms”). The August 15 R&R addressed the first four terms. On August 30, 2018, the Court issued a Report and Recommendation that addressed terms five and six. (D.I. 76) The final two terms are addressed herein.

A. The various “coordinates” terms

Claims 1, 4, 5, 8, 12 and 16 of the '096 patent and claims 1, 3, 4, 5, 7, 9, 10, 13 and 14 of the '218 patent contain various “coordinates” terms—specifically, “spatial coordinates,” “spatial coordinates (x,y,x),” “position coordinates” and “coordinates of [a/the] . . . view position.”¹

Claims 7 and 9 of the '218 patent are exemplary with respect to usage of these terms, reproduced below:

7. A method in a videogame system for displaying three-dimensional images, comprising the computer implemented steps of:
providing first and second buffers;
calculating first *position coordinates* of a first eye view;
storing a first eye view image captured virtually from the calculated first position of the first eye view of a virtual object in the videogame into the first buffer;
calculating, with a processor of the videogame system, second *spatial coordinates* of a second eye view of the virtual object in the videogame in three dimensional space by coordinate transformation equations using the calculated first *position coordinates* of the first eye view and the position of the virtual object in the videogame;
determining a second eye view image of the virtual object based on the calculated second *spatial coordinates*;
storing the second eye view image in the second buffer; and
outputting the first eye view image from the first buffer and the second eye view image from the second buffer to a display to provide a three dimensional perspective of the virtual object from the videogame system to a user.

('218 patent, col. 14:18-38 (emphasis added))

9. The method according to claim 7, wherein calculating the second *spatial coordinates* comprises calculating the x and z coordinates only so that there is no deviation in the height of the second eye view of the virtual object with respect to the first eye view of the virtual object.

¹ There are no coordinates terms found in the actual text of claims 8, 12 and 16 of the '096 patent, but both parties assert that the coordinates terms relate to those claims too. (D.I. 52 at ii; D.I. 53 at 11)

(*Id.*, col. 14:43-47 (emphasis added))

According to Defendants, in each of the claims at issue, the various coordinates terms are referring to the coordinates of the second camera. (D.I. 73 (hereinafter, “Tr.”) at 109) With respect to the '096 patent, that seems correct, as all of the claims at issue do appear focused on calculating the coordinates of a second camera view position (sometimes by calculating some other set of coordinates), as set out below:

Claim 1: “wherein when the image is in a three-dimensional format, calculating the coordinates of a second view position of the image[,]” ('096 patent, col. 13:47-49);

Claim 4: “wherein calculating the coordinates of the second view position comprises calculating the coordinates of a right eye camera view position[,]” (*id.*, col. 13:63-65);

Claim 5: “wherein calculating the coordinates of the second view position comprises obtaining spatial coordinates (x,y,z) by coordinate transformation[,]” (*id.*, cols. 13:66-14:2);

Claim 8: “calculating a second camera position view image from the videogame system[,]” (*id.*, col. 14:26-27);

Claim 12: “wherein calculating a second camera position view image comprises determining a first virtual camera position[,]” (*id.*, col. 14:44-45);

Claim 16: “calculating a second camera position view image from the videogame system[,]” (*id.*, col. 16:3-4).

Defendants’ assertion appears mostly true for the claims at issue in the '218 patent as well, although some claims also include reference to calculating first position coordinates of a first eye view, and claim 13 is directed to “getting coordinates of a new perspective” of the virtual object.²

The pertinent portions of these claims from the '218 patent are set out below:

² That said, claim 13 depends from claim 7, and thus one following the method of claim 13 would still be calculating first position coordinates of a first eye view and second

Claim 1: “calculating first position coordinates of a first eye view . . . calculating, with a processor of the videogame system, second position coordinates of a second eye view of the object in three dimensional space using the calculated first position coordinates of the first eye view[.]” (’218 patent, col. 13:48-55);

Claim 3: “wherein calculating the second position coordinates comprises calculating the x and z coordinates of the second eye view[.]” (*id.*, col. 14:1-3);

Claim 4: “wherein calculating the second position coordinates of the second view image comprises calculating the coordinates of a right eye camera view position[.]” (*id.*, col. 14:6-9);

Claim 5: “wherein calculating the second position coordinates of the second eye view comprises obtaining spatial coordinates by coordinate transformation equations given the location of a first virtual camera corresponding to the first eye view[.]” (*id.*, col. 14:10-14);

Claim 7: “calculating first position coordinates of a first eye view . . . calculating, with a processor of the videogame system, second spatial coordinates of a second eye view . . . [.]” (*id.*, col. 14:22-27);

Claim 9: “wherein calculating the second spatial coordinates comprises calculating the x and z coordinates . . . [.]” (*id.*, col. 14:43-45);

Claim 10: “wherein calculating the second spatial coordinates of the second view image of the virtual object comprises calculating the spatial coordinates of a right eye camera view position[.]” (*id.*, col. 14:48-51);

Claim 13: “[t]he method according to claim 7, further comprising . . . getting coordinates of a new perspective of the virtual object . . . [.]” (*id.*, col. 14:63-64);

Claim 14: “wherein the calculation of the second spatial coordinates of the second eye view comprises placing the second eye view at a virtual position that is 6.5 to 7.0 cm apart from the

spatial coordinates of a second eye view of the virtual object. (’218 patent, col. 14:21, 27-28, 59, 63-64)

calculated portion coordinates of the first eye view[.]” (*id.*, cols. 14:66-15:3).

The Court now turns to the parties’ current competing proposed constructions for the various “coordinates” terms. They are as follows:

Term	Plaintiff’s Construction	Defendants’ Construction
coordinates terms	the set(s) of values calculated for each claimed coordinate type (“spatial,” “position,” “view position,” etc.)	the point(s) in space calculated for each claimed coordinate type (“spatial,” “position,” “view position,” etc.)

(June 18 e-mail) The parties’ dispute with respect to the “coordinates” terms boils down to whether each claimed coordinate type refers to set(s) of values, or to point(s) in space. (*See Tr.* at 108-09)

Defendants take the latter view. And while their original proposed construction reflected that the coordinate terms should be construed to mean “[p]oints in space *that are located by their positions in relation to intersecting x, y, and z axes*”—in other words, limiting the term to coordinates in a Cartesian coordinate system that take the form of (x, y) for two dimensions and (x, y, z) for 3 dimensions, (D.I. 53 at 11-12 (emphasis added))—their revised proposed construction is “not specifically tied to [C]artesian coordinates[.]” (*Tr.* at 110; *see also id.* at 109).³

³ Defendants explained the reason why they altered their proposed construction. They noted that Plaintiff’s originally proposed construction for the coordinates terms was “[c]oordinates are the set of values in an (x, y, z) coordinate system.” (D.I. 52 at 10-11; *see also* D.I. 53 at 12 (Defendants stating in their opening brief that as for the term “coordinates” itself, “the parties do not appear to have any material dispute. The term refers to Cartesian coordinates”)) But then, after seeing that Plaintiff thereafter seemed to have second thoughts about proffering a construction that included “strict[.]” reference to “cartesian coordinates[.]” Defendants simply left out “XYZ from [their own prior] proposal for a broader definition of points in space[.]” (*Tr.* at 109-10) Defendants suggest this new compromise should be

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