

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

TECHNO VIEW IP, INC.,

Plaintiff,

v.

OCULUS VR, LLC, and  
FACEBOOK, INC.,

Defendants.

Case No. 17-cv-386-VAC-CJB

**PLAINTIFF TECHNO VIEW IP INC.'S OBJECTIONS TO THE  
AUGUST 15, 2018 REPORT AND RECOMMENDATION  
CONSTRUING DISPUTED CLAIM TERMS**

**O'KELLY ERNST & JOYCE, LLC**

Sean T. O'Kelly (No. 4349)

Daniel P. Murray (No. 5785)

901 N. Market Street, Suite 1000

Wilmington, DE 19801

(302) 778-4000

(302) 295-2873 (facsimile)

sokelly@oelegal.com

dmurray@oelegal.com

*Attorneys for Plaintiff Techno View IP, Inc.*

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**TABLE OF AUTHORITIES**

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Pursuant to Fed. R. Civ. P. 72(b)(2) and (b)(3) and D. Del. LR 72.1(a)(3) and (b), plaintiff Techno View IP, Inc. (“TVIP”) respectfully objects to Magistrate Judge Burke’s August 15, 2018 Report and Recommendation (D.I. 74)<sup>1</sup> construing several disputed claim terms (Terms 1–4) of TVIP’s U.S. Patent Nos. 7,666,096 (the “’096 patent”) and 8,206,218 (the “’218 patent”).<sup>2</sup>

**Term: “buffer” (Claims 8-11, 13, 14, and 16-19 of the '096 patent; claims 7, 8, and 11-13 of the '218 patent)**

TVIP objects to the ruling of the Report and Recommendation that Term 1 (“buffer”) should be construed as "memory location for temporary storage of image-related data." *See* D.I. 74 at 6-10. The Report and Recommendation incorrectly interprets the Specification when stating that the specification does not “support the notion that the buffer recited in the claims stores something other than image-related data.” *Id.* at 10. To the contrary, the Specification clearly lays out that although what is sent to the display are images, the buffers can contain non-image data as well. As seen in Fig. 5A, memory 52 (i.e., the buffer) provides information not only to the monitor 59, but also to other components of the video game system, e.g., speaker 54 and disk port 56. As stated in the Specification, the buffer, or the “extended memory (52) feeds the audio driver (53) and the speakers (54). Also the input and output driver (55) which in turn control the disk ports (56) and the interactive elements with the user (57) as the mouse, keyboard, gamepad and joystick.” ‘096 Patent, 9:26-30. Each of these functions involves the storage of data that is not image-related. Taken in their full context, nothing in the claims, or in

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<sup>1</sup> Unless otherwise noted, the docket entries referred to in these objections are those in Case No.: 17-cv-386-VAC-CJB

<sup>2</sup> Pursuant to *D. Del.* LR 72.1(b), TVIP’s objections should be reviewed by the Court *de novo*.

the specifications, limits “buffer” to containing only image-related data. Accordingly, TVIP proposes that the Court adopt TVIP’s construction of the term “buffer” to mean “memory location for temporary storage of data.”

**Terms: “left backbuffer” and “right backbuffer” (Claims 1-3, 6, and 7 of the '096 patent; claims 1 and 6 of the '218 patent)**

TVIP objects to the ruling of the Report and Recommendation that “left backbuffer” should be construed as a “memory location where the left image is temporarily stored, and that, at a given point in time, stores a separate image from any stored in the right backbuffer.” *See* D.I. 74 at 14-17. The Report and Recommendation does not consider the claim language itself when construing the term as requiring storing “a separate image from any stored in the *right backbuffer*.” *Id.* at 17 (emphasis added). That is, representative claim 1 of the ‘096 patent requires that when the image is in a 3D format, an image is stored in the left backbuffer, a slightly different image is stored in the right backbuffer, and then both images are eventually displayed. However, when the image is in a 2D rather than a 3D format, the image is stored in the left buffer and the image contents of the left buffer are eventually displayed. In this instance, there is no requirement that the image be sent to a right backbuffer. Only in the instance of a 3D image is the right backbuffer necessarily implicated. Therefore, at any given point in time, there may be no image in the right backbuffer and, therefore, the construction set forth in the Report and Recommendation cannot be correct.

Thus, TVIP objects to the construction because it does not recognize that no image may be present in the right backbuffer. Accordingly, TVIP proposes that the construction for “left backbuffer” therefore be modified to read a “memory location where the left image is

temporarily stored, and that, at a given point in time, stores a separate image from one stored in the right backbuffer, *if any*.”

The Report and Recommendation also construed “right backbuffer” using very similar language, stating that it is a “memory location where the right image is temporarily stored, and that, at a given point in time, stores a separate image from any stored in the left backbuffer.” *Id.* at 17. While this construction is not objected to by TVIP, TVIP proposes that the construction be modified such that the constructions for left and right backbuffers continue to be analogous. Thus, TVIP recommends that the Court construe “right backbuffer” as a “memory location where the right image is temporarily stored, and that, at a given point in time, stores a separate image from one stored in the left backbuffer, if any.”

**Term: “frontbuffer” (Claim 14 of the '096 patent)**

TVIP objects to the ruling of the Report and Recommendation that “frontbuffer” should be construed as a “memory location for temporary storage of an image received from the backbuffer to be displayed.” *See* D.I. 74 at 17-18. The Report and Recommendation improperly reads a claim term “buffer” out of dependent claim 14. Specifically, the Report and Recommendation appears to use the terms “buffer” and “backbuffer” interchangeably when construing “frontbuffer.” Claim 14 requires, in part, “storing the images in the first and second *buffers* to first and second *frontbuffers* ....” Contrary to the construction in the Report and Recommendation, however, the frontbuffer in claim 14 does not receive an image from a *backbuffer*. Instead, it is received from a *buffer*, as that term is specifically called out in *independent claim 8*.

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