

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

IPA TECHNOLOGIES INC.,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 18-00001-RGA

MEMORANDUM ORDER

This Memorandum Order addresses the issue of claim construction of two terms in U.S. Patent No. 6,851,115 (“the ’115 patent”), U.S. Patent No. 7,069,560 (“the ’560 patent”), and U.S. Patent No. 7,036,128 (“the ’128 patent”) (“the Asserted Patents”). The parties submitted a Joint Claim Construction Brief (D.I. 131), and I heard oral argument on April 18, 2023.¹

IPA brought this case against Microsoft in 2018. (D.I. 1). IPA also brought a companion case against Amazon. *IPA Techs. Inc. v. Amazon.com, Inc.*, No. 1:16-cv-1266 (“the Amazon case”). The cases have proceeded on different timetables. I long ago issued a claim construction order in the Amazon case. (Amazon case, D.I. 128).

I. LEGAL STANDARD

“It is a bedrock principle of patent law that the claims of a patent define the invention to which the patentee is entitled the right to exclude.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (internal quotation marks omitted). “[T]here is no magic formula or catechism for conducting claim construction.’ Instead, the court is free to attach the appropriate

¹ Citations to the transcript, which is not yet docketed, are in the format “Tr. ___.”

weight to appropriate sources ‘in light of the statutes and policies that inform patent law.’” *SoftView LLC v. Apple Inc.*, 2013 WL 4758195, at *1 (D. Del. Sept. 4, 2013) (alteration in original) (quoting *Phillips*, 415 F.3d at 1324). When construing patent claims, a court considers the literal language of the claim, the patent specification, and the prosecution history. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 977–80 (Fed. Cir. 1995) (en banc), *aff’d*, 517 U.S. 370 (1996). Of these sources, “the specification is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.” *Phillips*, 415 F.3d at 1315 (internal quotation marks omitted).

“[T]he words of a claim are generally given their ordinary and customary meaning. . . . [Which is] the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application.” *Id.* at 1312–13 (citations and internal quotation marks omitted). “[T]he ordinary meaning of a claim term is its meaning to [an] ordinary artisan after reading the entire patent.” *Id.* at 1321 (internal quotation marks omitted). “In some cases, the ordinary meaning of claim language as understood by a person of skill in the art may be readily apparent even to lay judges, and claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words.” *Id.* at 1314.

When a court relies solely upon the intrinsic evidence—the patent claims, the specification, and the prosecution history—the court’s construction is a determination of law. *See Teva Pharms. USA, Inc. v. Sandoz, Inc.*, 574 U.S. 318, 331 (2015). The court may also make factual findings based upon consideration of extrinsic evidence, which “consists of all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises.” *Phillips*, 415 F.3d at 1317–19 (quoting *Markman*, 52 F.3d at 980). Extrinsic evidence

may assist the court in understanding the underlying technology, the meaning of terms to one skilled in the art, and how the invention works. *Id.* Extrinsic evidence, however, is less reliable and less useful in claim construction than the patent and its prosecution history. *Id.*

II. PATENTS AT ISSUE

The parties agree that, for claim construction purposes, claim 29 of the '115 patent is representative. (D.I. 131 at 1). That claim reads as follows:

29. A computer program stored on a computer readable medium, the computer program executable to facilitate cooperative task completion within a distributed computing environment, the distributed computing environment including a plurality of autonomous electronic agents, the distributed computing environment supporting an Interagent Communication Language, the computer program comprising computer executable instructions for:

providing an agent registry that declares capabilities of service-providing electronic agents currently active within the distributed computing environment;

interpreting a service request in order to determine a base goal that may be a compound, arbitrarily complex base goal, the service request adhering to an Interagent Communication Language (ICL), where in the ICL includes:

a layer of conversational protocol defined by event types and parameter lists associated with one or more of the events, wherein the parameter lists further refine the one or more events; and

a content layer comprising one or more of goals, triggers and data elements associated with the events;

the act of interpreting including the sub-acts of:

determining any task completion advice provided by the base goal, and

determining any task completion constraints provided by the base goal;

constructing a base *goal satisfaction plan* including the sub-acts of:

determining whether the request service is available,

determining *sub-goals* required in completing the base goal by using reasoning that includes one or more of domain-independent coordination strategies, domain-specific reasoning, and application-specific reasoning comprising rules and learning algorithms,

selecting service-providing electronic agents from the agent registry suitable for performing the determined *sub-goals*, and

ordering a delegation of *sub-goal* requests complete the requested service; and

implementing the base *goal satisfaction plan*.

(’115 patent, claim 29) (disputed terms italicized).

III. CONSTRUCTION OF AGREED-UPON TERMS

I adopt the following agreed-upon constructions:

CLAIM TERM	CLAIMS	CONSTRUCTION
“layer”	’115 patent: claim 29 ’560 patent: claims 50, 53 ’128 patent: claim 22	“a set of rules that are a part of the ICL”
“layer of conversational protocol”	’115 patent: claim 29 ’560 patent: claims 50, 53 ’128 patent: claim 22	“a layer which governs the structure of interagent communications”
“task completion advice”	’115 patent: claim 29	“one or more parameters containing advice on how to execute a task”
“task completion constraints”	’115 patent: claim 29	“one or more parameters containing constraints on how to execute a task”
“capability”	’115 patent: claims 29, 30	“a function an agent can perform”
“symbolic name”	’115 patent: claim 33	“a name that is used to identify an agent and need not be unique.”
“task declaration”	’115 patent: claim 33	“a statement of an agent task”
“request for a service” / “service request”	’115 patent: claim 29, 34-36 ’560 patent: claims 50, 51, 53	“The ‘request for a service’/‘service request’ must be recited in the claimed ICL and must meet every requirement of the claimed ICL”
“base goal”	’115 patent: claims 29, 38 ’560 patent: claim 50, 53	“starting goal”
“cooperative task completion / cooperative completion of the base goal”	’115 patent: claim 29 ’560 patent: claims 50, 53	plain and ordinary meaning

“inter-agent language” / “inter-agent communication language” / “ICL”	’115 patent: claim 29, 35, 36 ’560 patent: claims 50, 53 ’128 patent: claim 22	“an interface, communication, and task coordination language”
“a content layer”	’115 patent: claim 29	“a layer, which specifies the content of interagent messages”
“event”	’115 patent: claims 29, 39-41 ’560 patent: claims 50, 53 ’128 patent: claim 22	“a message between agents or between an agent and a facilitator”
“non-syntactic decomposition”	’560 patent: claims 50, 53	“separating or resolving into constituent parts based on factors other than syntax”
“agent registry” / “registry of capabilities of the service-providing electronic agents”	’115 patent: claims 29, 30, 32, 33 ’560 patent: claims 50, 51, 53-55	plain and ordinary meaning
“compound goal” / “complex goal”	’115 patent: claim 29	“a single-goal expression comprising multiple sub-goals”
“arbitrarily complex goal expression” / “arbitrarily complex base goal” / “arbitrarily complex goal”	’115 patent: claims 29	“a single goal expression expressed in a language or syntax that allows multiple sub-goals and potentially includes more than one type of logical connector (e.g., AND, OR, NOT), and/or more than one level of logical nesting (e.g., use of parentheses), or the substantive equivalent”
“trigger”	’115 patent: claims 29, 33, 38-44 ’128 patent: claim 2	“a settable mechanism for taking or requesting action when a condition or set of conditions is met”
“event type(s)”	’115 patent: claim 29 ’560 patent: claims 50, 53 ’128 patent: claim 22	“type of event”
“ICL goal(s)”	’128 patent: claim 22	“goal(s) formulated in ICL”
“parameter lists associated with one or more events” / “wherein the parameter lists further refine the one or more events”	’115 patent: claim 29 ’128 patent: claim 22	“lists of parameters that refine associated events”

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