

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IRONBURG INVENTIONS LTD.,

Plaintiff,

v.

COLLECTIVE MINDS GAMING CO.
LTD., a Canadian Limited Company,

Defendant.

CIVIL ACTION FILE
NO. 1:16-CV-4110-TWT

OPINION AND ORDER

This is a patent infringement action. It is before the Court for a Claims Construction Order regarding eight disputed claim terms in U.S. Patent Nos. 8,641,525 (“the ‘525 Patent”), 9,089,770 (“the ‘770 patent”), 9,289,688 (“the ‘688 Patent”), 9,352,229 (“the ‘229 Patent”), and 9,308,450 (“the ‘450 Patent”).

I. Background

The Plaintiff, Ironburg Inventions LTD., is a British company that manufactures and sells custom video game equipment and accessories through its American partner Scuf Gaming International, LLC, which is based in Georgia. It is seeking to enforce its rights under a series of patents for a video game controller. In particular, Ironburg’s patents describe controllers which have been modified from the standard gaming controller in two ways: through the addition of controls onto the back of the controller, and through the added

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ability to adjust the throw of a trigger control. The Defendant, Collective Minds Gaming Co. Ltd., is a Canadian company that also manufactures and sells video game equipment, including video game controllers. Collective Minds now seeks construction of a number of terms in Ironburg's patents.

II. Legal Standard

The construction of claims in a patent case is a matter of law for the Court.¹ In construing patent claims, the Court looks first to the intrinsic evidence. The intrinsic evidence consists of the patent itself, the claim terms, the specification (or written description), and the patent prosecution history, if in evidence.² However, not all intrinsic evidence is equal.³ First among intrinsic evidence is the claim language.⁴ A “bedrock principle” of patent law is that the claims of the patent define the patentee's invention.⁵ Thus, the Court's focus must “begin and remain centered on the language of the claims themselves, for it is that language that the patentee chose to use to particularly point out and distinctly claim the subject matter which the patentee regards as his

¹ *Markman v. Westview Instruments, Inc.*, 517 U.S. 370 (1996).

² *Microsoft Corp. v. Multi-Tech Sys., Inc.*, 357 F.3d 1340, 1346 (Fed. Cir. 2004).

³ *Digital Biometrics, Inc. v. Identix, Inc.*, 149 F.3d 1335, 1344 (Fed. Cir. 1998).

⁴ *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305 (Fed. Cir. 1999).

⁵ *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc).

invention.”⁶ When reading claim language, terms 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 at the time of the invention.⁷

As a result, an objective baseline from which to begin claims construction is to determine how a person of ordinary skill in the relevant art would understand the terms.⁸ Although “the claims of the patent, not its specifications, measure the invention,”⁹ the person of ordinary skill in the art is deemed to read the claim terms in the context of the entire patent, including the specification, rather than solely in the context of the particular claim in which the disputed term appears.¹⁰ For instance, the patentee may act as his own lexicographer and set forth a special definition for a claim term.¹¹

⁶ *Gillette Co. v. Energizer Holdings, Inc.*, 405 F.3d 1367, 1370 (Fed. Cir. 2005) (quoting *Interactive Gift Express, Inc. v. Compuserve Inc.*, 256 F.3d 1323, 1331 (Fed. Cir. 2001)); see also *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980 (Fed. Cir. 1995) (“The written description part of the specification itself does not delimit the right to exclude. That is the function and purpose of claims.”).

⁷ *Phillips*, 415 F.3d at 1313-14.

⁸ *Id.* at 1313.

⁹ *Smith v. Snow*, 294 U.S. 1, 11 (1935).

¹⁰ *Phillips*, 415 F.3d at 1313.

¹¹ *Id.* at 1316.

Claims are part of a “fully integrated written instrument” and, therefore, “must be read in view of the specification, of which they are a part.”¹² In fact, the specification is “the single best guide to the meaning of a disputed term” and is often dispositive.¹³ “It is therefore entirely appropriate for a court, when conducting claim construction, to rely heavily on the written description for guidance as to the meaning of the claims.”¹⁴ Nevertheless, the Court must be careful not to read a limitation into a claim from the specification.¹⁵ In particular, the Court cannot limit the invention to the specific examples or preferred embodiments found in the specification.¹⁶ In addition to the specification, the prosecution history may be used to determine if the patentee limited the scope of the claims during the patent prosecution.¹⁷ The prosecution history helps to demonstrate how the patentee and the Patent and Trademark Office

¹² *Id.* at 1315.

¹³ *Id.* (quoting *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)).

¹⁴ *Id.* at 1317.

¹⁵ *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 904 (Fed. Cir. 2004).

¹⁶ *Phillips*, 415 F.3d at 1323; see also *Resonate Inc. v. Alteon Websystems, Inc.*, 338 F.3d 1360, 1364-65 (Fed. Cir. 2003) (“[A] particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.”).

¹⁷ *Southwall Techs., Inc. v. Cardinal IG Co.*, 54 F.3d 1570, 1576 (Fed. Cir. 1995).

(“PTO”) understood the patent.¹⁸ However, because the prosecution history represents the ongoing negotiations between the PTO and the patentee, rather than a final product, it is not as useful as the specification for claim construction purposes.¹⁹

Extrinsic evidence – such as expert and inventor testimony, dictionaries, and learned treatises – is only considered when the claim language remains genuinely ambiguous after considering all of the patent’s intrinsic evidence.²⁰ Although less reliable than the patent and prosecution history in determining construction of claim terms, extrinsic evidence may be used to help the Court understand the technology or educate itself about the invention.²¹ In particular, because technical dictionaries collect accepted meanings for terms in various scientific and technical fields, they can be useful in claim construction by providing a better understanding of the underlying technology and the way in which one skilled in the art might use the claim terms.²² But extrinsic evidence,

¹⁸ *Phillips*, 415 F.3d at 1317.

¹⁹ *Id.*

²⁰ *Tegal Corp. v. Tokyo Electron America, Inc.*, 257 F.3d 1331, 1342 (Fed. Cir. 2001).

²¹ *Phillips*, 415 F.3d at 1317; *Vitronics Corp.*, 90 F.3d at 1584.

²² *Phillips*, 415 F.3d at 1318.

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