

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CANON, INC.

Plaintiff,

vs.

TCL ELECTRONICS HOLDINGS LTD., ET
AL.,

Defendants.

CIVIL ACTION NO. 2:18-cv-00546

JURY TRIAL DEMANDED

PLAINTIFF CANON INC.'S CLAIM CONSTRUCTION REPLY BRIEF

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EXHIBIT LIST

Exhibit A	U.S. Pat. No. 7,810,130 (“130 Patent”)
Exhibit B	U.S. Pat. No. 7,746,413 (“413 Patent”)
Exhibit C	U.S. Pat. No. 8,078,767 (“767 Patent”)
Exhibit D	U.S. Pat. No. 8,346,986 (“986 Patent”)
Exhibit E	U.S. Pat. No. 8,713,206 (“206 Patent”)
Exhibit F	Declaration of Dr. Michael Shamos dated January 6, 2020 (“Shamos Decl.”)
Exhibit G	File History for U.S. App. No. 10/671,741 (“130 File History”)
Exhibit H	CANONTCL00009269 - CANONTCL00009271, Microsoft Computer Dictionary, Fifth Edition, 2002 – control unit (“Microsoft Computer Dictionary – control unit”)
Exhibit I	IPR 2020-00355, Petition
Exhibit J	IPR 2020-00355, Ex. 1004 (Porter Decl.)
Exhibit K	IPR 2020-00357, Petition
Exhibit L	IPR 2020-00357, Ex. 1004 (Porter Decl.)
Exhibit M	CANONTCL00009266 - CANONTCL00009268, The American Heritage Dictionary, 4th Ed. 2001 – periodic (“American Heritage Dictionary - periodic”)
Exhibit N	IPR2020-00341 Petition for <i>Inter Partes</i> Review of US 8,078,767
Exhibit O	IPR2020-00342 Petition for <i>Inter Partes</i> Review of US 8,346,986
Exhibit P	IPR2020-00343 Petition for <i>Inter Partes</i> Review of US 8,713,206
Exhibit Q	IPR2020-00358 Petition for <i>Inter Partes</i> Review of US 7,810,130
Exhibit R	IPR2020-00359 Petition for <i>Inter Partes</i> Review of US 7,810,130
Exhibit S	U.S. Patent No. 7,234,111
Exhibit T	U.S. Publication No. 2002/0174430

I. INTRODUCTION

Roku, in privity with TCL, filed related IPR petitions.¹ The petitions take claim construction positions that are not only inconsistent with those TCL takes in its brief, it largely adopts Canon's (e.g., plain and ordinary for most of the terms).² This fact alone provides the Court with sufficient basis to reject TCL's constructions. Additional bases are explained below.

II. DISPUTED TERMS FOR CONSTRUCTION – COMMONLY IDENTIFIED

A. “internet broadcasting content” (#1) (Res. at 5)

TCL argues that its construction “gives meaning to all words of this term and comports with the intrinsic evidence.” (Res. at 5). That's not the case. **First**, TCL fails to give meaning to all words (“internet broadcasting content”), instead focusing exclusively on a single word (“broadcasting”). *Id.* (“As confirmed by numerous contemporaneous dictionaries, the plain and ordinary meaning of ‘broadcast’...is to simultaneously transmit to a plurality of recipients.”). **Second**, TCL's construction not only fails to comport with, but contradicts the intrinsic evidence. Here, the patent expressly distinguishes two different types of broadcasting: (A) conventional television broadcast of a push type; and (2) internet content broadcasting. The specification explains that “streaming broadcast,” – which relates to the internet broadcasting of streaming content³ and “requires a user to access and obtain desired streaming contents (which is called a

¹ IPR 2020-00341, Petition at 3 (listing TCL as privies); *see also* IPR 2020-00342, -343, -355, -357, -358, -359.

² The IPR arguments largely apply the terms' plain and ordinary meaning, *including for terms that TCL alleges are MPFs*. For example, Roku adopted Canon's construction (plain and ordinary and not MPF) for “control unit.” *See, e.g.*, IPR 2020-00359, Petition at 15. In fact, the petition admitted that “control unit” is a “controller” that is used “to perform the claimed functions.” *See, e.g., id.* at 21. As briefed to this Court, TCL argues that the claimed control units are MPFs, while Roku (in privity with TCL) argued in IPR that the same control units are claimed “controller[s]” performing the claimed, requisite acts. Roku's position aligns with Canon's.

Roku also took similar positions (plain and ordinary) *for many non-MPF-alleged terms*, including: “internet broadcasting content,” “periodically repeat[ing] accessing,” “operation device,” “operation form,” “buffer” terms, “television broadcast program,” “[continue/end/stop],” “logically disconnect,” “USB [mass storage/imaging] class.” *See, e.g.*, IPR 2020-00341, Petition at 14-17; IPR 2020-00342, Petition at 15-19; IPR 2020-00343, Petition at 15-20; IPR 2020-00355, Petition at 13-20; IPR 2020-00357, Petition at 19-34; IPR 2020-00358, Petition at 16; IPR 2020-00359, Petition at 14-21 (Roku not construing the claim terms above). As Canon already made clear, these are terms that TCL is unilaterally raising for construction before this Court. (*See, e.g.*, Op. at 1.) Yet, Roku, in asserting its IPR invalidity arguments, didn't apply the narrower constructions that TCL is advocating to this Court. TCL and Roku are selectively construing terms in different forums only when doing so suit their needs. Such maneuvering is improper.

³ *See, e.g.*, '130 patent at 1:28-32 (“As a result, it is becoming widespread to use the Internet to provide . . . distribution of streaming contents (hereafter, referred to as ‘streaming broadcast’)”)

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