

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION**

PROCON ANALYTICS, LLC,)	
)	
Plaintiff,)	
)	
vs.)	3:19-cv-00201
)	
SPIREON, INC.,)	
)	
Defendant.)	

CLAIM CONSTRUCTION ORDER

The case is before the Court for claim construction pursuant to Markman v. Westview Instruments, Inc., 52 F.3d 967, 979 (Fed. Cir. 1995), aff'd, 517 U.S. 370, (1996). A Markman hearing was held on November 9, 2020. (ECF No. 54.) Present were Seth Ogden and Ed Lanquist, Jr., counsel for Plaintiff, and Matthew Google and Taylor Williams, counsel for Defendant.

I. BACKGROUND

A. Procedural Background

On April 2, 2019, Plaintiff Procon Analytics, LLC (“Procon”) was served with a letter from Defendant Spireon, Inc. (“Spireon”), accusing it of infringement of U.S. Patent No. 10,089,598 (the “’598 Patent”). (ECF No. 1-1.) On April 25, 2019, Spireon followed up its first letter with a cease and desist demand with respect to any products that allegedly infringe the ’598 Patent. On June 3, 2019, Procon brought this claim for declaratory judgement of noninfringement and invalidity of the ’598 Patent, and filed an Amended Complaint on August 6, 2019. (ECF No. 9.) Spireon filed an Answer and Counterclaims on August 26, 2019. (ECF No. 10.)

Procon is a Tennessee limited liability company with a principal place of business in Irvine, California (ECF No. 9 ¶ 1), and Defendant Spireon is a Tennessee corporation with offices in Irvine, California and Knoxville, Tennessee (ECF No. 9 ¶ 2). Both parties are competitors in the connected car and vehicle management fields. Procon “offers a suite of connected-car products and services, including vehicle inventory management and service retention products, fleet-management tools, and other aftermarket solutions packaged for automotive retailers.” These products include both hardware and software solutions. (ECF No. 9 ¶¶ 22–26.) One such product is a software that helps new car automotive dealerships manage their inventory. (Id. ¶ 23.) Another product that Procon sells is a device that connects to the “on-board diagnostics (OBDII) port (or a panel attached thereto) of a vehicle.” (Id. ¶ 25.) This device is enabled to “transmit information to the cloud over a wireless network.” (Id.) Similarly, Spireon purports to be an “industry leader in Mobile Resource Management, offering lot management solutions to [the] automotive dealer industry.” (ECF No.1-1 at PageID 9.) Spireon asserts that it is a “leader in the field of connected vehicle intelligence” and sells products that “facilitate[] the tracking, management, and protection of vehicles in various commercial applications and industries.” (ECF No. 10 at PageID 197.) It is Spireon’s contention that Procon continues “making, selling, and offering for sale products and services for managing vehicle inventory for dealerships that infringe on certain claims of the ’598 Patent[.]” (ECF No. 10 at PageID 198.)

B. Post-Grant Proceeding

Procon filed a Petition requesting Post-Grant Review of Claims 1–14 of the ’598 Patent on May 30, 2019. (ECF No. 12 ¶ 5). On November 22, 2019, the Patent Trial and Appeal Board (“PTAB”) declined to institute proceedings against the challenged claims. (ECF No. 17-1.) The parties did not dispute the meaning of any claim terms of the ’598 Patent in front of the PTAB and did not propose specific constructions for any of the claim terms. (ECF No. 17-1 at PageID 239.)

The PTAB gave “the claim terms of the ’598 patent their ordinary and customary meaning, as understood by one of ordinary skill in the art, and in view of the prosecution history of the ’598 patent.” (Id.) One of the key points in the PTAB’s decision was that the prior art failed to disclose location devices “owned by the auto dealer,” and thus this is a key point of contention in the current claim construction briefing. (ECF No. 38-6 at PageID 471.)

C. The ’598 Patent

The ’598 patent is entitled “Methods and Apparatus for Monitoring and Control of Electronic Devices” and it primarily discloses a method for machine to machine telemetry. The patent defines “telemetry” as “a technology that allows the remote measurement and reporting of information of interest to the system designer or operator.” (’598 patent, col. 1 l. 19–21.)

At its heart, the ’598 Patent discloses an “inventory management system” that “may be configured to provide machine-to-machine network connectivity” and “may be used in conjunction with a location device configured to transmit a vehicle identification number (VIN) and a device identifier of the location device.” ’598 Patent at Abstract. The technology in the ’598 Patent boils down to methods of communicating and gathering information from vehicles. As described in the abstract of the patent, “the inventory management system may be configured to: (1) track whether the location device is located within a predetermined perimeter; (2) provide current inventory and ownership status associated [with] the location device; and/or (3) place the location device in a sleep and/or passive state with periodic check-ins.” ’598 Patent at Abstract. The disclosure and claims also provide additional capabilities, such as receiving signals if the car’s battery is depleted or storing additional information about the vehicle in the database. (See generally, ’598 patent at 15:28–32, 16:43–48.)

In this case, all of the independent claims begin with “[a] method for managing a vehicle inventory.” (’598 patent, col. 27–28.) Claim 1 is the basis for most discussion on claim terms and provides as follows:

1. A method for managing a vehicle inventory for a dealer implemented by a computer having a processor and a memory, the method comprising:

while a location device is not communicatively coupled with a vehicle, associating the location device with a dealer’s group of available location devices in the memory, wherein the dealer’s group of available location devices comprises location devices owned by the dealer that are not coupled with any vehicle;

communicatively coupling the location device with a vehicle;

in response to the location device becoming communicatively coupled with the vehicle, the location device transmitting a connection notice over a network, the connection notice comprising a vehicle identifier and a location device identifier;

receiving, by the computer, the connection notice from the location device over the network;

in response to the connection notice received by the computer, the processor:

associating the location device identifier with the vehicle identifier in the memory; and

disassociating the location device from the dealer’s group of available location devices in the memory; and

receiving, by the computer, current location information from the location device.

II. APPLICABLE 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) (quoting Innova/Pure Water, Inc. v. Safari Water Filtration Systems, Inc., 381 F.3d 1111, 1115 (Fed. Cir. 2004)). Courts, as a matter of law, must construe the claims of a patent in order to ascertain precisely what it is that is patented. See id.; see also Markman v. Westview Instruments, Inc., 517 U.S. 370, 387 (1996).

In engaging in that exercise, the words in the claims are “generally given their ordinary and customary meaning,” that 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.” Phillips, 415 F.3d at 1312-13 (internal citations and quotation marks omitted). This ordinary and customary meaning “may be readily apparent even to lay judges,” and where that is the case, claim construction involves “little more than the application of the widely accepted meaning of commonly understood words.” Id. at 1314 (citing Brown v. 3M, 265 F.3d 1349, 1352 (Fed. Cir. 2001)).

However, as the ordinary and customary meaning is often not immediately apparent, courts must look to other sources of evidence—“the words of the claims themselves, the remainder of the specification, the prosecution history, and extrinsic evidence concerning relevant scientific principles, the meaning of technical terms, and the state of the art.” Id. (citing Innova, 381 F.3d at 1116). In Phillips, the United States Court of Appeals for the Federal Circuit provided guidance on the relative weight given to evidence from these various sources. Id.

First, “the claims themselves provide substantial guidance as to the meaning of particular claim terms,” particularly the “context in which a term is used in the asserted claim.” Id. at 1314. But because claims are also part of a “fully integrated written instrument,” they must “be read in view of the specification, of which they are a part.” Markman, 52 F.3d at 978, 979 (citations omitted). As the Federal Circuit has stressed, “[a] patent’s specification provides necessary context for understanding the claims, and ‘is always highly relevant to the claim construction analysis.’” Abbott Labs. v. Sandoz, Inc., 566 F.3d 1282, 1288 (Fed. Cir. 2009) (en banc in part) (quoting Phillips, 415 F.3d at 1315). Further, “sometimes the specification offers practically incontrovertible directions about claim meaning,” as when inventors “act as their own lexicographers and give a specialized definition of claim terms,” or “intentionally disclaim, or disavow, subject matter that would otherwise fall within the scope of the claim.” Id. (internal citations and quotation marks omitted). But the Court must take care neither “to import limitations

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