

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MYPORT, INC.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	CIVIL ACTION NO. 2:22-CV-00114-JRG
SAMSUNG ELECTRONICS CO., LTD.,	§	
and SAMSUNG ELECTRONICS	§	
AMERICA, INC.,	§	
	§	
Defendants.	§	

CLAIM CONSTRUCTION ORDER

MyPort, Inc., alleges infringement by Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc., (together, “Samsung”) of claims from related U.S. Patents 9,832,017, 10,237,067, and 10,721,066.¹ Each of the patents “relates to the storage and search retrieval of all types of digital media files, whether music or other audio, still photographs, videos, movies or other types of media.” ’017 Patent at 2:15–18; *see also* ’067 Patent at 2:24–27 (same); ’066 Patent at 2:35–38 (same).

The parties present six claim-construction disputes to the Court. Having considered the parties’ briefing and arguments of counsel during an August 18, 2023 hearing, the Court resolves the disputes as follows.

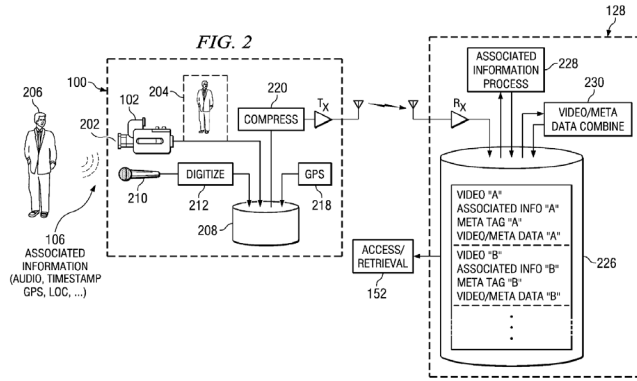
¹ The applications underlying both the ’067 Patent and the ’066 Patent claim priority to the application from which the ’017 Patent issued. *See* ’067 Patent at [63]; ’066 Patent at [63].

I. BACKGROUND

The patents relate to the rising popularity of digital media at the turn of the century.² *See* '017 Patent at 2:22–30 (noting the “exploding” popularity of digital media devices like digital cameras, smart phones, and portable music devices). They explain the “new ability to store virtually unlimited numbers of media files introduces new problems.” *Id.* at 2:31–32. For one, the large number of files makes it difficult to keep them organized. *Id.* at 2:32–38. And given the frequency with which users upgrade their computers, the accumulated media files must be transferred to the new machines. *Id.* at 2:39–43; *see also id.* at 2:44–59 (noting that sending files to others might result in tags being removed from the file, thereby preventing the receiving party from sorting the files); *id.* at 2:60–62 (recognizing the need for content creators to prove they own the copyright in works).

To address these shortcomings, the patents teach interposing a “capture device” between content-creation devices (e.g., microphones and digital cameras) and the file storage. As shown in FIG. 2 (below), the capture device (100) includes a digital camera (102), which outputs a digitized image (204) to a database (208). The capture device (100) also includes a microphone (210) that digitizes captured information using an analog-to-digital converter to a particular audio format (e.g., a WAV file) and stores it in the database (210). Other information related to the captured image, like a timestamp or GPS location, may also be stored in the database (210). A compression module (220) compresses the information, which the capture device (100) then transmits to a storage facility (128) for storage in a database (226). *See generally* '017 Patent at 6:32–7:24.

² The '017 Patent has a September 2002 effective filing date. '017 Patent at [60].



The storage facility (128) then processes the stored information to relate the various data to one another. The facility extracts the audio information from the audio file using, for example, an audio-to-text converter. After extracting that text, the facility converts the text to a format that can be embedded within the video file or an image file, perhaps with the other information such as the timestamp or GPS data. Once embedded, the facility (128) stores the information in the database (226) with the original video and audio files for searching. *See generally* '017 Patent at 7:25–61.

Claim 6 of the '017 Patent, which is representative of the claims at issue, recites:

6. A system for capturing image and audio information for storage, comprising:
 - a capture device having:
 - internal storage;
 - a microphone interfaced with and external audio information source that generates external audio information and a first data converter for capturing the first external audio information from the microphone,
 - a camera interfacing with and external image source to capture an image therefrom;
 - the first data converter processing the captured external audio information and storing it in a first digital audio format as stored digital audio in internal storage within the

capture device, the camera for processing the captured image and storing it as a stored digital image in internal storage and a combiner for generating an association between the stored digital audio and the stored digital image,

a media data converter for converting the received set of captured information to convert the received digital audio to a text based searchable file as a text context tag and creating an image recognition searchable context tag with image recognition of at least a portion of the digital image and associating the text and image recognition context tags with the digital image, and

the internal storage storing the digital image in association with the text and image recognition context tags.

'017 Patent at 11:6–35.

II. GENERAL LEGAL STANDARDS

A. Generally

“[T]he 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). As such, if the parties dispute the scope of the claims, the court must determine their meaning. *See, e.g., Verizon Servs. Corp. v. Vonage Holdings Corp.*, 503 F.3d 1295, 1317 (Fed. Cir. 2007); *see also Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 390 (1996), *aff’g*, 52 F.3d 967, 976 (Fed. Cir. 1995) (en banc).

Claim construction, however, “is not an obligatory exercise in redundancy.” *U.S. Surgical Corp. v. Ethicon, Inc.*, 103 F.3d 1554, 1568 (Fed. Cir. 1997). Rather, “[c]laim construction is a matter of [resolving] disputed meanings and technical scope, to clarify and when necessary to explain what the patentee covered by the claims” *Id.* A court need not “repeat or restate every claim term in order to comply with the ruling that claim construction is for the court.” *Id.*

When construing claims, “[t]here is a heavy presumption that claim terms are to be given their ordinary and customary meaning.” *Aventis Pharm. Inc. v. Amino Chems. Ltd.*, 715 F.3d 1363, 1373 (Fed. Cir. 2013) (citing *Phillips*, 415 F.3d at 1312–13). Courts must therefore “look to the words of the claims themselves . . . to define the scope of the patented invention.” *Id.* (citations omitted). The “ordinary and customary meaning of a claim term 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.” *Phillips*, 415 F.3d at 1313. This “person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification.” *Id.*

Intrinsic evidence is the primary resource for claim construction. *See Power-One, Inc. v. Artesyn Techs., Inc.*, 599 F.3d 1343, 1348 (Fed. Cir. 2010) (citing *Phillips*, 415 F.3d at 1312). For certain claim terms, “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.” *Phillips*, 415 F.3d at 1314; *see also Medrad, Inc. v. MRI Devices Corp.*, 401 F.3d 1313, 1319 (Fed. Cir. 2005) (“We cannot look at the ordinary meaning of the term . . . in a vacuum. Rather, we must look at the ordinary meaning in the context of the written description and the prosecution history.”). But for claim terms with less-apparent meanings, courts consider “those sources available to the public that show what a person of skill in the art would have understood disputed claim language to mean . . . [including] 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.” *Phillips*, 415 F.3d at 1314 (quoting *Innova*, 381 F.3d

at 1116).

B. Indefiniteness

“[A] patent is invalid for indefiniteness if its claims, read in light of the specification delineating the patent, and the prosecution history, fail to inform, with reasonable certainty, those skilled in the art about the scope of the invention.” *Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898, 901 (2014). The claims “must be precise enough to afford clear notice of what is claimed,” but that consideration must be made while accounting for the inherent limitations of language. *Id.* at 908. “Indefiniteness must be proven by clear and convincing evidence.” *Sonix Tech. Co. v. Publ’ns Int’l, Ltd.*, 844 F.3d 1370, 1377 (Fed. Cir. 2017).

III. THE LEVEL OF ORDINARY SKILL IN THE ART

The level of ordinary skill in the art is the skill level of a hypothetical person who is presumed to have known the relevant art at the time of the invention. *In re GPAC*, 57 F.3d 1573, 1579 (Fed. Cir. 1995). In resolving the appropriate level of ordinary skill, courts consider the types of and solutions to problems encountered in the art, the speed of innovation, the sophistication of the technology, and the education of workers active in the field. *Id.* Importantly, “[a] person of ordinary skill in the art is also a person of ordinary creativity, not an automaton.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 421 (2007).

Here, MyPort’s expert declares a skilled artisan “would possess a bachelor’s degree in computer science, electrical engineering, or similar discipline, and have had two years of relevant professional experience in user interfaces and image processing.” Balakrishnan Decl., Dkt. No. 79-8 ¶ 35. Similarly, Samsung’s expert concludes a skilled artisan would have had “a bachelor’s in computer science, or an equivalent field, and at least two years of experience writing software to manage libraries of digital media files, including digital photographs or video.” Greenspun

Decl., Dkt. No. 83-7 ¶ 30. Samsung calls the differences in the experts’ opinions “inconsequential,” Dkt. No. 83 at 5, and MyPort does not challenge that characterization. Accordingly, the Court adopts MyPort’s level of skill in the art, and agrees that resolving the differences in the skill levels used by the experts need not be resolved to arrive at the correct constructions of the disputed terms.

IV. THE DISPUTED TERMS

A. “context tag” (’017 Patent, Claims 6, 10, 12, 13; ’067 Patent, Claims 6, 13; ’066 Patent, Claims 6, 13)

MyPort’s Construction	Samsung’s Construction
“a searchable element derived from either a data element itself or from the context description element”	Plain meaning, <i>i.e.</i> , “a tag representing context of [the received digital audio/at least a portion of the digital image]”

This dispute concerns lexicography. MyPort contends the specification defines “context tags” as “searchable elements derived from either a data element itself or from the context description element.” Dkt. No. 79 at 6 (quoting ’017 Patent at 5:39–41). This definition, says MyPort, is “supported and confirmed by the specification.” *Id.* at 6–7 (citing ’017 Patent at 4:4–9, 4:24–32, 5:41–46, 5:51–55, 6:24–31, 7:51–55). Samsung, however, questions whether this term needs construction, “as it does not implicate either party’s infringement or invalidity positions.” Dkt. No. 83 at 6. Nonetheless, it attacks MyPort’s construction as inconsistent with the claim language, arguing the claim already specifies from what the context tag must be derived. *Id.* at 6–7. Samsung also notes the claims already describe context tags as searchable. *Id.* at 8.

As between the parties’ constructions, MyPort’s is better. The patent states:

Context tags 146 are searchable elements derived from either the data element 104 itself or from the context description element 110. For example, if the data element 104 is a still photograph or video, the storage facility may create context tags that describe elements of the scene or image(s), such as “animal,” or “dog,” or “Spot,” depending on the mechanism that converts the information in the data element or

the context description element into a tag.

'017 Patent at 5:39–46 (emphasis added). Notably, although the excerpt appears in the Detailed Description, it relates to FIG. 1, which the patent characterizes as “a block diagram of the overall operation of the system” rather than a specific embodiment. *Id.* at 3:37–38. This further supports its definitional nature.³

Samsung makes three arguments against finding this language definitional, but none of them are persuasive. First, says Samsung, the claim already specifies what the context tag must “[be] derive[d] from with far more precision than the vague ‘data element’ and ‘context description element.’” Dkt. No. 83 at 8. That may be true, but that does not mean the definitional language doesn’t apply—only that the claims effectively further limit the scope of “context tag” with other surrounding language. Regardless, the Court disagrees that “data element” and “context description element” are vague in light of the specification. *See, e.g.*, '017 Patent at 4:24–32 (explaining audio describing the image or audio from just-captured video is a “context description element”).

Second, Samsung says MyPort’s construction is inconsistent with how the claims say the “text based searchable file as a context tag” is created. Specifically, MyPort’s construction uses “derived from,” but the claim language uses “converting” and “convert.” Dkt. No. 83 at 8. But “derived from” in MyPort’s construction and “converting” in the claim language are not inconsistent with one another. That “received digital audio” may be converted to a “text based searchable file as a text context tag” is one way of “deriving” a searchable element “from either a data element itself or from the context description element.”

³ In contrast, the patent characterizes FIGS. 2–3 as block diagrams of embodiments. *See* '017 Patent at 3:39–44.

Finally, Samsung accuses MyPort’s construction of unnecessary redundancy by including the word “searchable.” Dkt. No. 83 at 8–9. According to Samsung, “that the patentee chose to explicitly require context tags to be ‘searchable’ in the claim language shows that the term ‘context tag’ was not understood by the patentee to require searchability.” *Id.* at 9. Thus, requiring “searchability” “undermines the precision the patentee used to define the first recited context tag.” *Id.* The Court, however, sees no confusion or lack of precision resulting from adoption of a clear definition from the disclosure, even if there might be some redundancy in the wording.

The Court construes “context tag” as “a searchable element derived from either a data element itself or from the context description element.”

- B. “associating the text and image recognition context tags with the digital image” (’017 Patent, Claims 6, 13; ’067 Patent, Claims 6, 13; ’066 Patent, Claims 6, 13);**
- “storing the digital image in association with the text and image recognition context tags” (’017 Patent, Claims 6, 13; ’067 Patent, Claims 6, 13; ’066 Patent, Claims 6, 13);**
- “[transmitting / transmits] the associated stored digital image in association with the text and image recognition context tags” (’017 Patent, Claims 10, 12)**

MyPort’s Construction	Samsung’s Construction
<p>No construction necessary/plain and ordinary meaning.</p> <p>Alternatively, “relating the text and image recognition context tags with the digital image / storing [. . .] the digital image such that there is a relationship with the text and image recognition context tags.</p>	<p>“associating the image recognition searchable context tag with the digital image”</p> <p>“storing the digital image in association with the text based searchable file as the text context tag and storing the digital image in association with the image recognition searchable context tag”</p> <p>The associated stored digital image, the text based searchable file as the text context tag, and the image recognition searchable context tag are transmitted in association with one another.</p>

The parties’ dispute, to the extent there is one, relates to whether the claims’ later references to “the text . . . context tag[]” refers to the “text-based searchable file as a text context tag” recited earlier in the claims. Samsung suggests there is no real dispute, but that MyPort simply does not want the Court to reflect the parties’ agreement as to the meaning of the term. Dkt. No. 83 at 13. It urges the Court to adopt its constructions to ensure the jury is aware of the antecedent basis for “the text . . . context tag[]” because the claim itself uses cumbersome and confusing wording to refer back to “the text based searchable file as a text context tag.” *Id.* at 15.

At the hearing, MyPort explained its issue with Samsung’s construction as inserting “text based searchable file as the text context tag” into the claim language, which it said was redundant and unnecessary. But it agreed “text and image recognition context tags” refers separately to “text context tags” and “image recognition context tags,” and that each is associated with the recited digital image. Given the parties’ agreement on the issue presented by Samsung, which is also how the Court understands the disputed phrase, this term will be given a “plain and ordinary meaning” construction.

C. “an [the] image source” (’017 Patent, Claims 13, 16; ’067 Patent, Claims 13, 16; ’066 Patent, Claims 13, 16)

MyPort’s Construction	Samsung’s Construction
No construction necessary / plain and ordinary meaning. Alternatively, “[a / the] scene or object to be captured.”	“an internal or an external image source”

Here, too, the parties agree on the scope of the term. MyPort states “Claim 13’s ‘an image source’ inherently encompasses image sources that could be either internal or external” and no construction is required. Dkt. No. 79 at 16. MyPort also confirmed its agreement about scope at the hearing. Pointing to Chief Judge Gilstrap’s “Standing Order on Motions in Limine,” Samsung

argues without a construction it cannot inform the jury about MyPort’s representations in its claim construction brief, and those representations “drive to the heart” of its § 112 defenses. Dkt. No. 83 at 16.

The Court finds Samsung’s construction would be helpful to a jury’s understanding of the relationship between the independent and dependent claims for these patents. Accordingly, the Court construes this term as “an internal or an external image source.”

D. “a first digital audio format” (’017 Patent, Claims 13, 16; ’067 Patent, Claims 13, 16; ’066 Patent, Claims 13, 16)

MyPort’s Construction	Samsung’s Construction
No construction necessary/plain and ordinary meaning. Alternatively, “a digital format compatible with audio information.”	“digital audio with a format other than a sequence of samples”

Samsung argues disclaimer. According to Samsung, “MyPort made clear and unmistakable statements narrowing the claimed ‘first digital audio format’ in a manner that excludes ‘a sequence of samples’ in an effort to avoid IPR.” Dkt. No. 83 at 17. But according to MyPort, it only argued the asserted reference stores captured audio as a “sequence of samples, sans any format.” Dkt. No. 84 at 7.

Samsung’s disclaimer argument concerns U.S. Patent No. 6,833,865 (Fuller), entitled “Embedded Metadata Engines in Digital Capture Devices.” In its preliminary response to Samsung’s Petition for *Inter Partes* Review of the ’017 Patent, MyPort asserted the petition failed to establish Fuller was reasonably likely to disclose “processing the captured external audio information and storing it in a first digital audio format as stored digital audio” as recited in Claims 6 and 13:

While Fuller notes that his digitizing results in “a sequence of 8-bit or 16-bit waveform samples at a suitable sampling frequency, such as 44.1 kHz (for CD quality audio),” that is not a disclosure of “a first digital audio format.” Quite to the contrary, such a sequence of samples is just that—a sequence of samples, sans any

format. To be clear, a sequence of samples that can provide CD quality audio is not a particular digital audio format, it is just a characteristic of the data. And, Fuller does not describe this sequence of samples as being in any digital audio format. In fact, Fuller does not convert the audio into anything like a “format” until the formatting unit 500/503.

Patent Owner’s Prelim. Resp., Dkt. No. 83-1 at 47–48 (citations omitted); *see also id.* at 3 (“[T]he petition overlooks the fact that the claimed invention stores the audio . . . in ‘a first digital audio format.’ Fuller merely stores a sequence of samples and does not introduce notions of formatting until much later.”).

The Court sees no disclaimer here. MyPort did not argue a “sequence of samples” could not be stored in “a first digital audio format,” but only that a “sequence of samples” by itself is not a format. That is clear from MyPort’s statement that “a sequence of samples is just that—a sequence of samples, sans any format.” If anything, Samsung’s construction wrongly suggests a “sequence of samples” itself *could* be a type of format. Because that is not what MyPort argued, the Court rejects any disclaimer and will give this term a “plain and ordinary meaning” construction.

E. “the internal storage storing the digital image in association with the text and image recognition context tags” (’017 Patent, Claim 6; ’067 Patent, Claim 6; ’066 Patent, Claim 6)

MyPort’s Construction	Samsung’s Construction
Not indefinite. No construction necessary/plain and ordinary meaning.	Indefinite.

Claim 6 of the ’017 Patent recites:

6. A system for capturing image and audio information for storage, comprising:
 - a capture device having:
 - internal storage;*
 - ...

the first data converter processing the captured external audio information and storing it in a first digital audio format as stored digital audio in *internal storage* within the capture device, the camera for processing the captured image and storing it as a stored digital image in *internal storage* and a combiner for generating an association between the stored digital audio and the stored digital image,

...

the *internal storage* storing the digital image in association with the text and image recognition context tags.

'017 Patent at 11:6–35. Claim 6 of the '067 Patent and Claim 6 of the '066 Patent have similar references to “internal storage.” See '067 Patent at 11:37–67; '066 Patent at 11:48–12:12.

Samsung complains the claim language does not indicate which previously recited “internal storage” is “the internal storage” referred to in the claims’ last limitation, nor does it indicate all “internal storage” is the same “internal storage.” According to Samsung, each of the first three references could be different “internal storage.” Dkt. No. 83 at 25. MyPort, however, argues the references to “internal storage” reference the same storage—that is, each instance of “internal storage” refers back to the initial use of “internal storage” following the preamble. Dkt. No. 79 at 25.

The Court agrees with MyPort. Claim 6 of the '017 Patent initially refers only to “internal storage.” The next reference to “internal storage” requires storing the captured external audio information and storing it as digital audio in internal storage within the capture device. Samsung does not explain why a skilled artisan would not understand the second reference to “internal storage” as a reference back to the first. The same holds true for the third reference, which again simply requires storing the captured image in internal storage. Moreover, nothing limits the capture device to only one internal storage. This term is not indefinite and will be given a “plain and ordinary meaning” construction.

V. CONCLUSION

Disputed Term	The Court's Construction
<p>“context tag” ('017 Patent, Claims 6, 10, 12, 13; '067 Patent, Claims 6, 13; '066 Patent, Claims 6, 13)</p>	<p>“a searchable element derived from either a data element itself or from the context description element”</p>
<p>“associating the text and image recognition context tags with the digital image” “storing [. . .] the digital image in association with the text and image recognition context tags” ('017 Patent, Claims 6, 13; '067 Patent, Claims 6, 13; '066 Patent, Claims 6, 13)</p>	<p>Plain and ordinary meaning</p>
<p>“transmitting [transmits] the associated stored digital image in association with the text and image recognition context tags” ('017 Patent, Claims 10, 12)</p>	<p>Plain and ordinary meaning</p>
<p>“an [the] image source” ('017 Patent, Claims 13, 16; '067 Patent, Claims 13, 16; '066 Patent, Claims 13, 16)</p>	<p>“an internal or an external image source”</p>
<p>“a first digital audio format” ('017 Patent, Claims 13, 16; '067 Patent, Claims 13, 16; '066 Patent, Claims 13, 16)</p>	<p>Plain and ordinary meaning</p>
<p>“the internal storage storing the digital image in association with the text and image recognition context tags” ('017 Patent, Claims 6; '067 Patent, Claims 6; '066 Patent, Claims 6)</p>	<p>Plain and ordinary meaning</p>

The Court **ORDERS** each party not to refer, directly or indirectly, to its own or any other

party's claim-construction positions in the presence of the jury. Likewise, the Court **ORDERS** the parties to refrain from mentioning any part of this opinion, other than the actual positions adopted by the Court, in the presence of the jury. Neither party may take a position before the jury that contradicts the Court's reasoning in this opinion. Any reference to claim construction proceedings is limited to informing the jury of the positions adopted by the Court.