

Exhibit Q

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. 2:20-CV-06339-JAK-GJS

Date June 15, 2022

Title One-E-Way, Inc. v. Apple Inc.

Present: The Honorable JOHN A. KRONSTADT, UNITED STATES DISTRICT JUDGE

T. Jackson-Terrell

Not Reported

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (IN CHAMBERS) ORDER RE MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT (DKT. 95)

I. Introduction

On July 16, 2020, One-E-Way, Inc. (“Plaintiff” or “OEW”) brought this action against Apple Inc. (“Defendant” or “Apple”). Complaint (Dkt. 1). On September 15, 2020, Plaintiff filed the Second Amended Complaint (“SAC”), which is the operative one, alleging that Defendant has infringed U.S. Patent Nos. 10,129,627 (“the ’627 Patent”) and 10,468,047 (“the ’047 Patent”) (collectively, “the Patents-in-Suit”). Dkt. 22.¹ Defendant has moved for summary judgment as to non-infringement of the Patents-in-Suit. (“Motion” (Dkt. 149)); Dkt. 192 (sealed version). Plaintiff filed an opposition to the Motion. (“Opposition” (Dkt. 207)); Dkt. 265-1 (sealed version). Defendant filed a reply. (“Reply” (Dkt. 221)); Dkt. 274-1 (sealed version).

A hearing on the Motion was conducted on June 2, 2022, and it was taken under submission. Dkt. 101.

For the reasons stated in this Order, the Motion is **GRANTED**.

II. Background

The Patents-in-Suit are all titled “Wireless Digital Audio Music System,” share a common specification, and claim priority to U.S. Patent App. No. 10/027,391, filed on December 21, 2001, and published as U.S. Patent App. Pub. No. 2003/0118196 (“the ’196 Publication”). The ’627 Patent issued on November 13, 2018 and the ’047 Patent issued on November 5, 2019. The named inventor on each of the Patents-in-Suit is C. Earl Woolfork, and the listed assignee is OEW.

¹ The parties agreed to dismiss Plaintiff’s claim of infringement of U.S. Patent No. 8,131,391 (“the ’391 Patent”) with prejudice on January 25, 2022. Dkt. 82.

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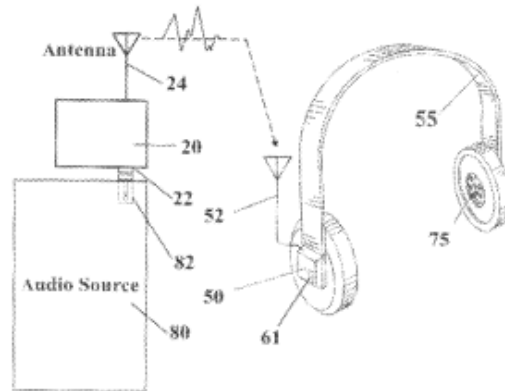
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The Patents-in-Suit relate “to audio player devices and more particularly to systems that include headphone listening devices,” and are “generally directed to a wireless digital audio system for coded digital transmission of an audio signal from any audio player with an analog headphone jack to a receiver headphone located away from the audio player.” 627 Patent at 1:26–28; 1:67–2:3. The Patents-in-Suit disclose that prior art devices did “not allow use of a simple plug in (i.e., plug in to the existing analog audio headphone jack) battery powered transmitter for connection to any music audio player device jack ... by headphones of audio music for private listening without interference where multiple users occupying the same space are operating wireless transmission devices,” and state that there was a need for such a system. *Id.* at 1:36–62. According to the specification, “The wireless digital audio music system provides private listening without interference from other users or wireless devices and without the use of conventional cable connections.” *Id.* at 2:10–13. For example, Figure 1 of the Patents-in-Suit “schematically illustrates a wireless digital audio system in accordance with the present invention”:



See *id.* at 2:23–24, Fig. 1.

Plaintiff asserts that Defendant infringes Claims 1–6, and 10–12 of the '627 Patent and Claims 1–6, 8–15, and 17–20 of the '047 Patent (“the Asserted Claims”). Dkt. 24-2 at 1. The SAC alleges that Defendant has infringed Claims 1 and 17 of the '047 Patent and Claims 1 and 5 of the '627 Patent. Dkt. 22 ¶¶ 36, 51, 58, 59, 77, 78. Claims 1 and 17 of the '047 Patent recite:

1. A portable spread spectrum audio receiver configured to receive and store a **unique user code**, said portable spread spectrum receiver configured to receive wireless modulation transmissions from a spread spectrum transmitter coupled to a music audio source, said wireless modulation transmissions representative of an audio signal representation, said portable spread spectrum audio receiver comprising:
 - a direct conversion module configured to receive wireless modulation transmissions representative of said audio signal representation and which have been processed to reduce intersymbol interference, and wherein said portable spread spectrum audio receiver further processes said received wireless modulation transmissions for reduction

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of intersymbol interference;
a digital-to-analog converter (DAC) configured to provide an analog audio output signal corresponding to said audio signal representation;
a speaker configured to generate an audio signal corresponding to said analog audio output signal, wherein said generated audio signal does not include audible audio content originating from any audio signals transmitted in a spectrum used by said spread spectrum transmitter that do not originate from said spread spectrum transmitter;
wherein said portable spread spectrum audio receiver is configured to use independent code division multiple access communication and to use said **unique user code** to communicate with only said spread spectrum transmitter during a wireless connection;
wherein said portable spread spectrum audio receiver is further configured to perform at least one of a plurality of demodulations on at least one of said received wireless modulation transmissions, wherein said plurality of demodulations includes a differential phase shift keying (DPSK) demodulation and a non-DPSK demodulation; and
wherein said further processing for reduction of intersymbol interference is separate from said performance of at least one of said plurality of demodulations.

17. A portable spread spectrum audio transmitter coupled to a music audio source, said transmitter configured to transmit a **unique user code** and wireless modulation transmissions representative of an audio signal representation, said portable spread spectrum audio transmitter configured to:
encode a first representation of an audio signal to reduce intersymbol interference associated with a transmitted representation of the audio signal;
perform at least one of a plurality of modulations on the first representation of the audio signal;
generate a modulated signal based on the performance of at least one of the plurality of modulations, wherein the plurality of modulations includes a differential phase shift keying (DPSK) modulation and a non-DPSK modulation; and
use the modulated signal and independent code division multiple access communication to wirelessly transmit a transmitted representation of the audio signal.

'047 Patent, Claims 1, 17 (emphasis added).

Claims 1 and 5 of the '627 Patent recite:

1. A wireless digital audio spread spectrum receiver, capable of mobile operation, configured to receive a **unique user code** and a high quality audio signal representation with a frequency range of 20 Hz to 20 kHz from a digital audio spread spectrum transmitter, said audio signal representation representative of audio from a portable audio source, said digital audio spread spectrum receiver operative to communicate wirelessly with said digital audio spread spectrum transmitter, said digital audio spread spectrum receiver comprising:
a direct conversion module configured to receive wireless spread spectrum signal transmissions

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- representative of the **unique user code** and the high quality audio signal representation, wherein the received transmissions are encoded to reduce intersymbol interference, wherein the wireless digital audio spread spectrum receiver is capable of processing the high quality audio signal having a frequency range of 20 Hz to 20 kHz;
- a digital-to-analog converter (DAC) configured to generate an audio output from said receiver audio signal representation; and
- a speaker configured to reproduce said generated audio output, wherein said reproduction does not include audible audio content originating from any transmitted audio signals in the wireless digital audio spread spectrum transmitter spectrum that do not originate from said digital audio spread spectrum transmitter;
- wherein the wireless digital audio spread spectrum receiver is configured to use independent code division multiple access communication and to use the received **unique user code** to communicate with only said wireless digital audio spread spectrum transmitter for the duration of a wireless connection; and
- wherein the wireless digital audio spread spectrum receiver is further configured to: demodulate a received modulated transmission, and generate a demodulated signal based on the received modulated transmission by performing at least one of a plurality of demodulations, wherein the plurality of demodulations includes a differential phase shift keying (DPSK) demodulation and also includes a non-DPSK demodulation.
5. A wireless digital coded audio spread spectrum transmitter operatively coupled to a portable audio player and configured to transmit a **unique user code** and a representation of an audio signal with a frequency range of 20 Hz to 20 Khz, wherein said digital coded audio spread spectrum transmitter is configured to wirelessly communicate with a digital audio spread spectrum receiver and is configured to be moved in any direction during operation, said wireless digital coded audio spread spectrum transmitter comprising:
- an encoder operative to encode a first representation of an audio signal to reduce intersymbol interference associated with a transmitted representation of the audio signal, said encoder configured to process signals in the frequency range of 20 Hz to 20 kHz for representation in said first representation of an audio signal;
- wherein the wireless digital coded audio spread spectrum transmitter is further configured to perform at least one of a plurality of modulations on the first representation of the audio signal and generate a modulated signal based on the performance of the plurality of modulations, wherein the plurality of modulations includes a differential phase shift keying (DPSK) modulation and a non-DPSK modulation;
- wherein said plurality of modulations are separate from the encoding and processing by the encoder; and
- wherein the wireless digital coded audio spread spectrum transmitter is further configured to use the modulated signal and to use independent code division multiple access communication to wirelessly transmit a transmitted representation of the audio signal, and wherein the transmitted **unique user code** distinguishes the transmitted representation

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of the audio signal from other transmitted audio signals in the spread spectrum transmitter spectrum, said other transmitted audio signals not originating from said wireless digital coded audio spread spectrum transmitter.

'627 Patent, Claims 1, 5 (emphasis added).

III. Analysis

A. Legal Standards

1. Summary Judgment

Summary judgment is appropriate when, viewing the evidence and drawing all reasonable inferences in the light most favorable to the nonmoving party, there are no genuine issues of material fact, and the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23 (1986). In considering a motion for summary judgment, a court “does not assess credibility or weigh the evidence, but simply determines whether there is a genuine factual issue for trial.” *House v. Bell*, 547 U.S. 518, 559–60 (2006). A fact is “material” if it “might affect the outcome of the suit under the governing law,” such as those necessary to the proof of a defense or a claim; a dispute as to a material fact is “genuine” if there is sufficient evidence for a reasonable trier of fact to decide in favor of the nonmoving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). “If the evidence is merely colorable, or is not significantly probative, summary judgment may be granted.” *Id.* at 249–50 (internal citations omitted).

“Summary judgment is as appropriate in a patent case as in any other.” *Barmag Barmer Maschinenfabrik AG v. Murata Mach., Ltd.*, 731 F.2d 831, 835 (Fed. Cir. 1984). The moving party bears the initial burden of identifying those portions of the pleadings, discovery, and affidavits that demonstrate the absence of a genuine issue of material fact. *Celotex Corp.*, 477 U.S. at 323. Once the moving party meets its initial burden, the nonmoving party must set forth, by affidavit or as otherwise provided in Fed. R. Civ. P. 56, “specific facts showing that there is a genuine issue for trial.” *Anderson*, 477 U.S. at 250 (internal quotation marks omitted). If the non-moving party fails to produce evidence sufficient to show a genuine issue of material fact, “the moving party is entitled to a judgment as a matter of law.” *Celotex Corp.*, 477 U.S. at 322–23.

Mere allegations or denials do not defeat a moving party’s assertions. *Gasaway v. Nw. Mut. Life Ins. Co.*, 26 F.3d 957, 959–60 (9th Cir. 1994). Thus, a nonmoving party cannot defeat a motion for summary judgment simply by proffering a conclusory opinion from an expert. *See, e.g., Soremekun v. Thrifty Payless, Inc.*, 509 F.3d 978, 984 (9th Cir. 2007) (“Conclusory, speculative testimony in affidavits and moving papers is insufficient to raise genuine issues of fact to defeat summary judgment.”); *Arthur A Collins, Inc. v. Northern Telecom Ltd.*, 216 F.3d 1042, 1047–48 (Fed. Cir. 2000).

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2. Claim Construction Principles

Claim construction is the process of determining the meaning and scope of the patent claims. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 976 (Fed. Cir. 1995) (en banc), *aff'd*, 517 U.S. 370 (1996). It is a matter that is addressed by the court. *Teva Pharms. USA, Inc. v. Sandoz, Inc.*, 574 U.S. 318, 331 (2015).

“[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.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (internal citations and quotations 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. “In such circumstances, general purpose dictionaries may be helpful. In many cases that give rise to litigation, however, determining the ordinary and customary meaning of the claim requires examination of terms that have a particular meaning in a field of art.” *Id.*

“Because the meaning of a claim term as understood by persons of skill in the art is often not immediately apparent, and because patentees frequently use terms idiosyncratically, the court looks to ‘those sources available to the public that show what a person of skill in the art would have understood disputed claim language to mean.’” *Id.* (quoting *Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111, 1116 (Fed. Cir. 2004)). “Those sources include ‘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.*

Claim construction “begins and ends” with the words of the claims. *Renishaw PLC v. Marposs Societa’ per Azioni*, 158 F.3d 1243, 1248 (Fed. Cir. 1998). “Quite apart from the written description and the prosecution history, the claims themselves provide substantial guidance as to the meaning of particular claim terms.” *Phillips*, 415 F.3d at 1314. “[T]he context in which a term is used in the asserted claim can be highly instructive.” *Id.* In addition to the words of the claim(s) being construed, “[o]ther claims of the patent in question, both asserted and unasserted, can also be valuable sources of enlightenment as to the meaning of a claim term. Because claim terms are normally used consistently throughout the patent, the usage of a term in one claim can often illuminate the meaning of the same term in other claims.” *Id.* (citations omitted). “Differences among claims can also be a useful guide in understanding the meaning of particular claim terms.” *Id.* “For example, the presence of a dependent claim that adds a particular limitation gives rise to a presumption that the limitation in question is not present in the independent claim.” *Id.* at 1314–15. However, “[c]laim differentiation is a guide, not a rigid rule. If a claim will bear only one interpretation, similarity will have to be tolerated.” *Laitram Corp. v. Rexnord, Inc.*, 939 F.2d 1533, 1538 (Fed. Cir. 1991) (quoting *Autogiro Co. of Am. v. United States*, 384 F.2d 391, 404 (Ct. Cl. 1967)). “[C]laims must be construed so as to be consistent with the specification, of which they are a part.” *Merck & Co. v. Teva Pharms. USA, Inc.*, 347 F.3d 1367, 1371 (Fed. Cir. 2003). “[T]he person of ordinary skill in

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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.” *Phillips*, 415 F.3d at 1313. “[T]he 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.’” *Id.* at 1315 (quoting *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)).

“[T]he specification may reveal a special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess. In such cases, the inventor’s lexicography governs.” *Phillips*, 415 F.3d at 1316. To be a lexicographer, the inventor must “clearly express an intent to redefine the term.” *Thorner v. Sony Computer Entertainment America, LLC*, 669 F.3d 1362, 1365 (Fed. Cir. 2012). “In other cases, the specification may reveal an intentional disclaimer, or disavowal, of claim scope by the inventor. In that instance as well, the inventor has dictated the correct claim scope, and the inventor’s intention, as expressed in the specification, is regarded as dispositive.” *Phillips*, 415 F.3d at 1316. The inventor must demonstrate intent by “representing a clear disavowal of claim scope” in the specification. *Thorner*, 669 F.3d at 1366.

Despite the importance of a specification, limitations of the described embodiments of the invention must not be read into the claims. The Federal Circuit “expressly rejected the contention that if a patent describes only a single embodiment, the claims of the patent must be construed as being limited to that embodiment.” *Phillips* at 1323. Conversely, “an interpretation [which excludes a preferred embodiment] is rarely, if ever, correct and would require highly persuasive evidentiary support.” *Vitronics*, 90 F.3d at 1583. Overall, limitations from the specification should not be read into claims. *Thorner*, 669 F.3d at 1366–67.

The prosecution history is also relevant intrinsic evidence. “[T]he prosecution history represents an ongoing negotiation between the PTO and the applicant, rather than the final product of that negotiation” and for this reason “often lacks the clarity of the specification.” *Phillips*, 415 F.3d at 1317. However, it can nonetheless “often inform the meaning of the claim language by demonstrating how the inventor understood the invention and whether the inventor limited the invention in the course of prosecution, making the claim scope narrower than it would otherwise be.” *Id.*

“Although [the Federal Circuit has] emphasized the importance of intrinsic evidence in claim construction, [it has] also authorized district courts to rely on extrinsic evidence, which ‘consists of all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises.’” *Id.* (quoting *Markman*, 52 F.3d at 980). The use of “technical words or phrases not commonly understood” may give rise to a factual dispute, the determination of which will precede the ultimate construction. *Teva*, 574 U.S. at 326.

3. Direct Infringement

Determining patent infringement is a two-step process. *Cybor Corp. v. FAS Techs., Inc.*, 138 F.3d 1448, 1454 (Fed. Cir. 1998). “First, the court determines the scope and meaning of the patent claims asserted,

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and then the properly construed claims are compared to the allegedly infringing device.” *Id.* (citations omitted). “Whether an accused device or method infringes a claim either literally or under the doctrine of equivalents is a question of fact.” *Schoell v. Regal Marine Indus., Inc.*, 247 F.3d 1202, 1207 (Fed. Cir. 2001). Because the ultimate burden of proving infringement rests with the patentee, an accused infringer may establish that summary judgment is proper “either by providing evidence that would preclude a finding of infringement, or by showing that the evidence on file fails to establish a material issue of fact essential to the patentee’s case.” *Novartis Corp. v. Ben Venue Labs., Inc.*, 271 F.3d 1043, 1046 (Fed. Cir. 2001). Once again, if the moving party meets this initial requirement, the burden shifts to the party asserting infringement to set forth, by declaration or as otherwise permitted under Fed. R. Civ. P. 56, “specific facts showing that there is a genuine issue for trial.” *Anderson*, 477 U.S. at 248.

The patentee also bears the burden of proving infringement under the doctrine of equivalents. *Am. Calcar, Inc. v. Am. Honda Motor Co.*, 651 F.3d 1318, 1338–39 (Fed. Cir. 2011). The equivalence of a proposed substitute for a missing element is a question of fact. See *Warner-Jenkinson Co. v. Hilton Davis Chem. Co.*, 520 U.S. 17, 38–39 (1997).

B. Application

The Motion seeks a determination that Defendant’s accused products do not infringe the Asserted Claims. See *generally* Dkt. 95; see *also* Dkt. 95-1 ¶ 8 (listing accused products). Specifically, Defendant contends that the accused products do not have a “unique user code” as required by the Asserted Claims. The parties previously agreed that the construction of the term “unique user code” is “fixed code (bit sequence) specifically associated with one user of a device(s).” See Dkt. 86 at 9. The crux of the parties’ present dispute is whether the phrase “associated with one user of a device(s)” means “to distinguish between different humans operating the audio system” or “to distinguish the audio system’s private listening channel from other nearby systems[.]” Dkt. 96 at 10 (emphasis removed).

Both parties spend a substantial portion of their briefs discussing the administrative law judge’s (“ALJ”) analysis and construction for the term “unique user code” during a previous international trade commission (“ITC”) proceeding involving two patents that share a common specification with the Patents-in-Suit. See Dkt. 95 at 2–4; Dkt. 96 at 5–18; Dkt. 100 at 7–9. The parties also discuss the Patent and Trademark Office’s (“PTO”) reliance on the ALJ’s construction during the *inter partes* review (“IPR”) proceeding involving the Patents-in-Suit. See Dkt. 95 at 3–4, 13–14, 16; Dkt. 96 at 18; Dkt. 100 at 1–3. Neither decision is binding, however. See *Hytera Commc’ns Co. v. Motorola Sols., Inc.*, 841 F. App’x 210, 216 (Fed. Cir. 2021) (“opinions from the Board are not binding on this court”); *Powertech Technology Inc. v. Tessera, Inc.*, 660 F.3d 1301, 1308 (Fed. Cir. 2011) (“the resolution of the ITC action will not have preclusive effect on either the district court in Texas or the district court in this case”); *Virginia Innovation Sciences, Inc. v. Samsung Electronics Co., Ltd.*, 2014 WL 1775573, *14 (E.D. Va. 2014) (“while the Court has the discretion to consider the recent PTAB rulings, they are not ‘controlling authority’ reaching a decision contrary to this Court’s decision, and the Court is therefore certainly not required to overturn its prior decision based on the analysis in a decision by the PTAB granting or denying institution of IPR”). Rather, the proper interpretation of the term “unique user code” must find support in the intrinsic evidence.

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Defendant’s argument that the term “unique user code” means that the code must be unique to the user rather than the device is based on the plain meaning of the term “user,” the parties’ stipulated construction, the distinction in the specification between “user” and “device,” and the applicant’s statements during the prosecution history of the Patents-in-Suit. See Dkt. 95 at 2 (citing Dkt. 95-1 ¶ 11). Defendant’s position is persuasive. The clear meaning of “user code,” as reflected in the parties’ agreed upon construction, means that the code is “associated with *one user* of a device(s),” and not the device itself. The specification states that “[t]he unique user code generated is specifically associated with one wireless digital audio system user, and it is the only code recognized by the battery powered headphone receiver **50** operated by a *particular user*.” ’627 Patent at 2:66–3:3 (emphasis added); see also *id.* at 3:23–26. The specification also identifies “provid[ing] private listening without interference from other users or wireless devices[.]” ’627 Patent at 2:10–13 (emphasis added). Finally, during the prosecution history of a parent patent application to the Patents-in-Suit, the applicant distinguished the prior art “Schotz” “device code” from the claimed invention’s “user code.” See Dkt. 95-1 ¶ 11. Specifically, the applicant argued that the prior art “Schotz” codes “are assigned to specific devices for a single household—not individual users.” *Id.* Thus, to the extent there was any ambiguity as to the plain meaning of the term “user code”, those statements clearly disclaim from the scope of the term “unique user code” codes associated with only a device rather than a user.

A comparison of exemplary embodiments of the system claimed in the Asserted Claims and the prior art Schotz system confirms this analysis. According to the applicant’s comments in the prosecution history, the system of Schotz prevents interference between other systems or users by assigning each system’s transmitter and receiver a “PN [or pseudonoise] sequence” device code. Dkt. 95-5 at 15. To operate, the system’s transmitter and receiver must be set to the same code. Thus, there would be no interference between two systems in a shared space with different device codes because each system would recognize only signals from devices with the same code. The code is a “device” code because it is associated with a particular device or devices. For example, the Schotz transmitter and receiver may be manufactured with corresponding “device” code generators that “pair” the two. Alternatively, a user can choose to pair two devices by manually ensuring that the codes generated by each device are the same. In the Bluetooth example discussed by the parties, a user can choose to pair two devices together by having them search for each other’s signals and then synchronizing the devices together.

By contrast, the claimed system prevents interference in a shared space by recognizing codes associated with a particular user rather than a device. For example, a user “pairs” the transmitter and receiver of the claimed system only when the user provides identifying information to both the receiver and transmitter. This may be implemented using a username and password associated with a particular user. This would cause the system to generate a “unique user code” based on that information. Thus, the claimed system would recognize signals only from devices where the user has provided that identifying information, and block interference from all other devices.

Plaintiff’s arguments that the phrase “associated with one user of a device(s)” means that the code does not need to be associated with the identity of the user are unavailing. Specifically, Plaintiff argues that a device code may still be associated with “one user of a device(s)” because only one user would be using

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the device at any time. Plaintiff argues that the specification discloses preventing interference from other users and devices generally and does not address having to identify the user to generate the “user code.” See ’627 Patent at 3:42–45 (“Each receiver headphone **50** user may be able to listen (privately) to high fidelity audio music, using any of the audio devices listed previously, without the use of wires, and without interference from any other receiver headphone **50** user, even when operated within a shared space.”). The specification does not address how the system generates the “user code” at all, however. Additionally, although the claimed invention could work to prevent interference from both other users and other devices, the specification distinguishes between users and devices, and the applicant’s statements in the prosecution history clearly disclaim codes associated with only the device rather than the user.

Plaintiff asserts that the applicant also equated users with devices when referring to the same prior art reference. See Dkt. 96 at 20 (citing Dkt. 98 ¶¶ 62 (“Accordingly, Schotz does not design his system to function with multiple users (i.e., multiple stereos) in the same space.”), 63). Multiple users would necessarily use multiple devices, however, and in certain instances there would be no need to distinguish between the user and the device when describing interference. Additionally, Plaintiff cites other portions of the prosecution history that limit the term “unique user code” to codes that “uniquely match a transmitter with a receiver to aid in preventing interference from another similar transmitter,” but those separate statements do not contradict or affect the clear import of the statements disclaiming codes associated only with a device. See Dkt. 96 at 19–20 (citing Dkt. 98 ¶ 61).

The ALJ’s comments about the term “unique user code” during the ITC proceedings do not lead to a different conclusion. For instance, at least initially, the ALJ and the ITC staff attorney agreed that construing the phrase “unique user code” to be tied to the identity of the user would “disclaim any relationship to the device.” See Dkt. 98 ¶ 58. Although there is no dispute that the device generates the code as the ALJ and the ITC staff attorney found, a user would still need to provide their identity to the device through, for example, a username and password before the device could generate the unique user code. The issue is not whether the user or device generates the code, but whether the generated code is associated with the user rather than simply the device. Thus, a construction that ties the unique user code to the identity of the user rather than the specific device would still comport with the teachings of the Patents-in-Suit.

There is no genuine dispute that the accused products do not infringe under that construction. At the hearing, the parties agreed that the only remaining dispute is a legal question regarding the construction of the term “unique user code.” Plaintiff asserts that all of the accused products are Bluetooth compliant. See Dkts. 96 at 22, 98 ¶ 64. According to Plaintiff, all Bluetooth devices use a “channel access code” (“CAC”) in connection with the “logical transport address” (“LT_ADDR”), which it asserts satisfies the “unique user code” limitation. Dkt. 96 at 22–23. Defendant contends that those codes “are associated with *devices* in a Bluetooth piconet,” not particular users. Dkt. 95 at 6 (emphasis in original).² As

² Defendant provides the following explanation of what a “piconet” is according to the Bluetooth specification: “During typical operation a physical radio channel is shared by a group of devices that are synchronized to a common clock and frequency hopping pattern. One device provides the synchronization reference and is known

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Defendant explains, “the CAC is derived from the Bluetooth device address (BD_ADDR) of the master device,” “and is used to identify communications on a particular physical channel.” *Id.* at 7 (citing Dkt. 95-1 ¶¶ 29, 30), 9; *see also* Dkt. 98 ¶¶ 71, 72. “The LT_ADDR is assigned by the master device to each slave device in the piconet, and is used for addressing and routing packets transmitted between devices.” *Id.* at 8–9 (citing Dkt. 95-1 ¶¶ 34, 35); *see also* Dkt 98 ¶ 75 (“This field indicates the destination slave (or slaves in the case of a broadcast) for a packet in a master-to-slave transmission slot and indicates the source slave for a slave-to-master transmission slot.”). Because the two codes are user-agnostic, Defendant argues that neither can be the claimed “unique user code.” Plaintiff responds that those codes would still be user-specific if there was only one user on the system, but that argument is unpersuasive given that the codes are still only device-specific. *See* Dkt. 96 at 24. Thus, there is no genuine dispute that the accused products do not infringe the “unique user code” limitation found in the Asserted Claims.

IV. Conclusion

For the reasons stated in this Order, the Motion is **GRANTED**. Defendant shall file a proposed judgment within 14 days of the issuance of this order for this case.

IT IS SO ORDERED.

Initials of Preparer _____ : _____
tj _____

as the master. All other devices synchronized to a master’s clock and frequency hopping pattern are known as slaves. A group of devices synchronized in this fashion form a piconet.”