

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C.**

**Before the Honorable Bryan F. Moore  
Administrative Law Judge**

In the Matter of

CERTAIN SMART TELEVISIONS

Investigation No. 337-TA-1338

**RESPONDENT VIZIO INC.'S RESPONSIVE CLAIM CONSTRUCTION BRIEF**

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## I. INTRODUCTION

VIZIO's constructions provide clarity and guidance for both the Court and the public as to the scope of the asserted claims.

In contrast, Maxell's proposed constructions foster a "zone of uncertainty" that the Supreme Court has long cautioned against. *See Markman v. Westview Instruments*, 517 U.S. 370, 390 (1996). Maxell proposes "plain and ordinary meaning" for nearly every disputed term.<sup>1</sup> However, Maxell's arguments in its Opening Brief ("Maxell Br.") only demonstrate that these terms lack any meaningful metes and bounds. For the four terms that it argues are not MPF, Maxell demonstrates a fundamental misunderstanding of the corresponding law.<sup>2</sup> For these terms, Maxell ignores the critical "sufficient structure for performing [the claimed] function" requirement. *See Williamson v. Citrix Online, LLC*, 792 F.3d 1339, 1348-49 (Fed. Cir. 2015)); *see* Maxell Br. 8-16, 19-24, 29-34, 43-47; VIZIO Opening Brief ("VIZIO Br.") 7-15, 19-22, 32-37, 42-45; *Markman*, 517 U.S. at 373; *Egenera, Inc. v. Cisco Sys.*, 972 F.3d 1367, 1375 (Fed. Cir. 2020).

Maxell also recycles arguments that have been repeatedly rejected by the Federal Circuit. *See Egenera*, 972 F.3d at 1375; *EON Corp. IP Holdings LLC v. AT&T Mobility LLC*, 785 F.3d 616, 623-24 (Fed. Cir. 2015). For example, the argument that "*processor*" and "*controller*" are not MPF because a POSITA would have known how to program a general-purpose process to perform the recited functions has been "repeatedly and unequivocally rejected." *EON*, 785 F.3d at 623;

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<sup>1</sup> The only term for which Maxell proposes a different construction is "*control unit*" in the '109 Patent, which the parties agree is a means-plus-function ("MPF") term subject to 35 U.S.C. § 112, ¶ 6. As discussed below, however, Maxell's proposed structure still falls far short of the standard set in *Williamson*. *See infra* § III.B.

<sup>2</sup> The parties dispute whether "*input unit*" ('109 Patent), "*controller*" ('394 Patent), and the "*processor*" terms ('971 and '815 Patents) are MPF terms.

*Williamson* 792 F.3d at 1351. Indeed, *Williamson* expressly rejected the testimony of Maxell’s expert, Dr. Sourì, on this exact point. 792 F.3d at 1351.

For the remaining terms, also through guise of plain and ordinary meaning, Maxell seeks to improperly expand the scope of the terms well beyond what is supported by the intrinsic and extrinsic record.

## II. MAXELL MISAPPLIES § 112, ¶ 6 LAW

The parties dispute whether “*input unit*,” “*controller*,” and the “*processor*” terms are MPF. In *Williamson*, the Federal Circuit established the following framework:

When a claim term lacks the word “means,” the presumption can be overcome and § 112, para. 6 will apply if the challenger demonstrates that the claim term fails to “recite sufficiently definite structure” or else recites “function without reciting sufficient structure for performing that function.”

792 F.3d at 1349 (emphasis added)<sup>3</sup>. As the disjunctive “or else” expressly indicates, *Williamson* identifies **two separate inquiries** by which a challenger can overcome the presumption against the application of § 112, ¶ 6 to a non-“means” term: (1) by showing that the claim term “fails to recite ‘sufficiently definite structure’” or (2) by showing that the claim recites “function without reciting sufficient structure for performing that function” *Id.*

### A. The first *Williamson* factor, “sufficiently definite structure,” alone is not sufficient to avoid § 112, ¶ 6 for non-“means” terms

In view of *Williamson* and its progeny, the first inquiry can be satisfied by a showing that the claim term uses, *e.g.*, a “nonce” word (as in *Williamson*) or a term coined by the patentee. *See id.* at 1349-51 (“distributed learning control module” to be MPF because “module” is “a well-known nonce word” and “distributed learning control” did not “provide any structural significance to the term”); *Advanced Ground Info. Sys. v. Life360, Inc.*, 830 F.3d 1341, 1346-48 (Fed. Cir. 2016)

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<sup>3</sup> Throughout, emphasis added unless otherwise indicated.

(finding “symbol generator” MPF because it was “a term coined for the purposes of the patents-in-suit”).

The *Williamson* analysis, however, **does not** start and end with determining whether the claim term recites “sufficiently definite structure.”<sup>4</sup> Instead, the analysis must **also** consider whether the claim recites “sufficient structure for performing the claimed function.” *See, e.g., Egenera*, 972 F.3d at 1374; *Konami Gaming, Inc. v. High 5 Games, LLC*, No. 2:14-cv-01483, 2018 U.S. Dist. LEXIS 28337, at \*44-45 (D. Nev. Feb. 21, 2018), *aff’d* 756 Fed. Appx. 994 (Fed. Cir. 2019); *GoDaddy.com, LLC v. RPost Commc’ns Ltd.*, No. CV-14-00126, 2016 WL 212676, at \*55-56 (D. Ariz. Jan. 19, 2016).

In other words, even if the claim at issue connotes *some* structure to a POSITA, the term can still fall within the ambit of § 112, ¶ 6 when considered in view of the recited function:

The question is not whether a claim term recites *any* structure but whether it recites *sufficient* structure—a claim term is subject to [§ 112, ¶ 6] if it recites “function without reciting sufficient structure *for performing that function.*”

*Egenera*, 972 F.3d at 1374 (emphasis in original) (citing *Williamson*, 792 F.3d at 1348).<sup>5</sup> For example, in *Velocity Patent LLC v. Mercedes-Benz USA, LLC*, the court construed “a processor subsystem” as MPF, even though it found the term itself connoted “sufficiently definite structure” in the form of a “microprocessor or microcontroller.” No. 13-cv-8413, 2016 U.S. Dist. LEXIS

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<sup>4</sup> As this inquiry was the dispositive issue in *Williamson*, it is not surprising that both litigants and courts frequently (and incorrectly) stop the threshold § 112, ¶ 6 here. Indeed, this is the persistent flaw in Maxell’s arguments.

<sup>5</sup> As the court noted in *Konami*, “**there is some tension and overlap between the initial inquiry as to whether means-plus-function applies to the construction of the claims and the subsequent inquiry as to whether the claims and/or specification disclose sufficient structure** to avoid a finding of indefiniteness. For this reason, the [c]ourt’s determinations and reasoning on both inquiries should be considered conjunctively and not discreetly.” 2018 U.S. Dist. LEXIS 28337, at \*45 n.3.

129342, at \*16-18 (N.D. Ill. Sept. 21, 2016), *aff'd sub nom. Velocity Patent LLC v. FCA US LLC*, 784 F. App'x 787 (Fed. Cir. 2019). As the court explained, “**the presumption** against application of [§ 112, ¶ 6] **may also be overcome** if the claim recites function without reciting sufficient structure for performing that function.” *Id.* at 16-17 (internal citation omitted).

**B. Maxell ignores the second aspect of the *Williamson* analysis, “sufficient structure for performing [the claimed] function”**

The parties agree that “*control unit*,” “*controller*,” and the “*processor*” terms call for a general-purpose processor. The parties also agree that such a general-purpose processor requires special programming to accomplish the recited functions. VIZIO Br. 19-21, 33-35, 42-44. In such instances, Federal Circuit law requires such terms be construed as MPF, and limited to the corresponding structure, if any, that the specification “clearly links” to the recited function(s). *Id.* at 3, 19-21, 33-35, 42-44 (providing the relevant case law); *see also, e.g., Triton Tech. of Tex., LLC v. Nintendo of Am., Inc.*, 753 F.3d 1375, 1378 (Fed. Cir. 2014).

For a computer-implemented MPF term whose recited function(s) is not “coextensive with ... a general-purpose processor,” the corresponding structure requires a **disclosed** algorithm that is “**adequate** ... to perform **all** of the claimed functions” associated with the term. VIZIO Br. at 3-4; *Williamson*, 792 F.3d at 1351-52; *Aristocrat Techs. Austl. Pty Ltd. v. Int’l Game Tech.*, 521 F.3d 1328, 1333 (Fed. Cir. 2008); *WMS Gaming Inc. v. Int’l Game Tech.*, 184 F.3d 1339, 1348-49 (Fed. Cir. 1999).<sup>6</sup>

The Federal Circuit has clarified a “narrow exception” to the algorithm requirement applies when the claimed function(s) “can be achieved by any general purpose computer without special

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<sup>6</sup> If no such algorithm(s) is disclosed, the term is indefinite. *Williamson*, 792 F.3d at 1354; *see also Aristocrat*, 521 F.3d at 1337-38; *Noah Sys., Inc. v. Intuit Inc.*, 675 F.3d 1302, 1319 (Fed. Cir. 2012).

programming.”<sup>7</sup> See, e.g., *Ergo Licensing, LLC v. CareFusion 303, Inc.*, 673 F.3d 1361, 1364-65 (Fed. Cir. 2012) (quoting *In re Katz Interactive Call Processing Patent Litig.*, 639 F.3d 1303, 1314-18 (Fed. Cir. 2011)). In *Katz*, the Federal Circuit explained that certain functions such as general “processing,” “receiving,” and “storing” data did not necessarily require the disclosure of an algorithm because they were “coextensive” with the abilities of “a general purpose computer without special programming” and thus were not MPF.<sup>8</sup> 639 F.3d 1316-18 (vacating and remanding for consideration in the context of the claims and specification); *but see, Konami* 2018 U.S. Dist. LEXIS 28337, at \*38-39, 43-44 (“processor” terms were MPF where the parties admitted special programming would be required for the recited functions); *Velocity Patent*, 2016 U.S. Dist. LEXIS 129342, at \*16-18; *Parity*, 2020 U.S. Dist. LEXIS 250481, at \*31.

For “control unit,” Maxell agrees the term is MPF, but proposes an algorithm as corresponding structure that is woefully insufficient to perform **all** of the recited functions. For the “controller” and “processor” terms, Maxell seeks overbroad “plain and ordinary meaning” constructions that would cover **any** software algorithm that could perform the recited functions.

To the extent Maxell and its experts argue that an algorithm is not necessary because a POSITA would have been able to imagine how to program a general-purpose process to perform the recited functions, these arguments, however, are both meritless and legally irrelevant. *EON*, 785 F.3d at 623-24. Indeed, Maxell—and its expert, Dr. Sourì, in particular—should have been

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<sup>7</sup> Because Maxell has admitted that a general-purpose processor would require special programming to accomplish every recited function of the “control unit,” “controller,” and the “processor” terms, this exception does not apply here.

<sup>8</sup> Notably, *Katz* leaves open the possibility that an algorithm may still be required if, on remand, the court determines the recited functions (e.g., “means for processing at least certain of said answer data signals relating to select ones of said individual callers”) would require special programming. *Id.* at 1316-17.

aware that this argument is unavailing as it has already been expressly rejected by the Federal Circuit:

**Williamson also points to the declaration of Dr. Shukri Sourì to show that one of ordinary skill in the art would understand the term “distributed learning control module” to connote structure.... We have considered it but do not find it persuasive.... Dr. Sourì also testified that, “as one of ordinary skill in the art, reading the specification, I would know exactly how to program” a computer to perform the recited functions and further testified that structure “could be in software or it could be in hardware.” But the fact that one of skill in the art could program a computer to perform the recited functions cannot create structure where none otherwise is disclosed.**

*Williamson*, 792 F.3d at 1351.

**C. Maxell’s arguments are contrary to public policy.**

Instead of limiting the computer-implemented terms to algorithms disclosed in the specification, Maxell seeks constructions that would allow these terms to cover: (1) **any** processor implementing **any** algorithm—whether disclosed in the specification or not, and whether known at the time of the invention or not—or (2) in the case of “*control unit*” in the ’109 Patent, **any** processor performing **unrecited functions** instead of a disclosed algorithm adequate to perform the recited functions. Indeed, Maxell does not argue otherwise. For “*processor*,” Maxell argues that no algorithm for the recited functions is necessary because the “general public” would have understood the term from science fiction. Maxell Br. 22.

Maxell’s constructions are not only contrary to law, they are contrary to the extensive judicial and legislative history that supports providing the public with certainty concerning the metes and bounds of the claimed invention. See *Egenera*, 972 F.3d at 1375; *Williamson*, 792 F.3d at 1339, 1347 (“Congress struck a balance ... placing specific constraints on how [a § 112, ¶ 6 limitation] is to be construed”); *Aristocrat*, 521 F.3d at 1333 (“...disclos[ing] only a general

purpose computer as the structure designed to perform [a computer-implemented] function amounts to **pure functional claiming**”).

Indeed, the importance of fair notice has been a point of emphasis of the Supreme Court since the invention of the telegraph. In *O’Reilly v. Morse*, the Court held ineligible claims that recited the use of electromagnetism to print intelligible characters (*i.e.*, telegraphy) without reciting any structure to accomplish that task. 56 U.S. 62, 129-22 (1854).

The same motivation—limiting the metes and bounds of functional claims to only what the patentee fairly disclosed—applies equally to modern claims reciting computer-implemented MPF terms. In *WMS Gaming*, the Federal Circuit borrowed language from the prevailing § 101 jurisprudence when requiring the patentee to disclose a sufficient algorithm to change a general-purpose processor into “a special purpose computer” to perform the recited function. 184 F.3d 1339, 1348-49 (Fed. Cir. 1999) (quoting *In re Alappat*, 33 F.3d 1526, 1545 (Fed. Cir. 1994) (en banc)). At bottom, Maxell’s arguments that the “*controller*” and “*processor*” terms cover virtually **any** possible hardware and/or software only highlight why § 112, ¶ 6 should apply.

### **III. U.S. PATENT 8,549,109**

#### **A. “input unit”**

##### **1. “input unit” is means-plus-function**

Maxell agrees that the terms “*communication unit*” and “*control unit*” in the ’109 Patent are MPF terms, but inexplicably does not agree for “*input unit*.” “*Input unit*” is MPF because the term itself is not “sufficiently definite structure,” and certainly does not connote sufficient structure for performing the recited function. VIZIO Br. 7-9; *see Williamson*, 792 F.3d at 1348.

**a) A POSITA would not have understood an “input unit” as having a “sufficiently definite structure.”**

In the context of claim 4 of the '109 Patent, a POSITA would **not** have understood “input unit” to connote “sufficiently definite structure.” Maxell, through its expert, admits that “many types of input units can be used,” and the “input unit” is **not** “limited to a specific type of structure.” Gray Decl. ¶ 62. Since the claimed “input unit” can be **any** structure, according to Maxell, § 112, ¶ 6 should apply. *See* VIZIO Br. 9; *Egenera*, 972 F.3d at 1375.

Maxell’s cited district court cases are inapposite. *See, e.g., Alcatel USA Res. Inc. v. Microsoft Corp.*, 2008 WL 2625852, at \*17-18 (E.D. Tex. Jun 27, 2008); *Maxell Ltd. v. Apple Inc.*, 2020 U.S. Dist. LEXIS 257272, at \*44-48 (E.D. Tex. Mar. 18, 2020). In *Alcatel*, the “input unit” referred to a “computer” “I/O unit” that “obtain[ed] navigational commands from [an] input device,” which the specification disclosed “is a mouse, a remote control pointing device, or the like.” 2008 WL 2625852, at \*17-19; *see* U.S. Patent No. 5,731,844, 4:43-45. Similarly, in the *Apple* case, “input unit” “refer[red] to various known structures such as a ‘mouse, keyboard, touch screen, touch-pen, [and] voice activated inputs’” for receiving user input. 2020 U.S. Dist. LEXIS 257272, at \*44-48. Thus, in both cases, the “input unit” was associated with standard **user-input** functions and components (*e.g.*, mouse, pointer, etc.). These cases are not on point here, as the recited video-input function is not associated with any such standard user-input functions or components.<sup>9</sup> Houh 109 Decl. ¶¶ 74, 79.

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<sup>9</sup> Similarly, *TiVo Inc. v. EchoStar Commc’ns Corp.*, No. 2:04-CV-1, 2005 U.S. Dist. LEXIS 46879 (E.D. Tex. Aug. 18, 2005), concerned a different claim term, “Input Section,” which the court construed to have significantly different functionality than what Maxell argues here is applicable to an “input unit.” *See id.* at \*26 (a “portion of a device ... [that] converts said specified frequency range to an Moving Picture Experts Group (MPEG) formatted stream”).

In contrast to Maxell's cases, *LG Electronics, Inc. v. Quanta Computer, Inc.* concerned an "input unit" that "receiv[ed] digital **video** data." 2008 U.S. Dist. LEXIS 16669, \*4-9 (W.D. Wis. Mar. 4, 2008). There, the court held that § 112, ¶ 6 did apply. *Id.* The court reasoned:

**Context is key. A term that may connote an adequate structure in one patent may not be sufficient in another patent.** The question is whether one of ordinary skill in the relevant art would know what the structure is rather than view it as simply a nonce word or a verbal construct that is not recognized as the name of structure and is simply a substitute for the term "means for."

*Id.* at \*4 (internal quotations and citations omitted). Indeed, *LG Electronics* was a pre-*Williamson* case, and the court still found that § 112, ¶ 6 applied even under the prior "high" presumption standard. *See id.* at \*4-5; *see also Invensys Sys., Inc. v. Emerson Elec. Co.*, 63 F. Supp. 3d 663, 672 (E.D. Tex. 2014). Similarly, § 112, ¶ 6 should apply here, particularly given that the Federal Circuit since overruled the characterization of a "strong" presumption against § 112, ¶ 6. VIZIO Br. 2-3.<sup>10</sup>

The '109 Patent specification disclosure of various "units" do not provide support for avoiding deeming "*input unit*" a MPF term. Houh 109 Decl. ¶¶ 74, 79. As Dr. Houh testified, "input unit 102," "network communication unit 207" and "data transmitting and receiving unit 210" do not perform the recited function "*input[ting] video content*."<sup>11</sup> Houh 109 Decl. ¶¶ 62-66,

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<sup>10</sup> Maxell also cites *Cypress Lake Software, Inc. v. Samsung Elecs. Am., Inc.*, 382 F. Supp. 3d 586, 658, 667 (E.D. Tex. 2019), but the court did not construe "input device," as Maxell suggests. The question of whether "input device" was a MPF term was not a dispute in that case. *See id.* Instead, the court construed different claims terms that happened to refer to an "input device" (e.g., "code configured to..."). *See id.*

<sup>11</sup> Relatedly, Maxell argues that the "exemplary video content that input unit is arranged to input is not limited to an internet site but may also include other content such as a TV program." Maxell Br. 10. Maxell's argument, however, is unsupported because the specification does not disclose any component of "apparatus 100" (i.e., the "*information processing apparatus*") receiving "*video content*" from the internet. Houh Decl. ¶¶ 62-66, 87. An "internet site" is **not** "*input[ted] video content*." *Id.* Moreover, the '109 specification does not disclose any "*input unit*" that inputs a TV program from the internet. *See* '109 Patent, 12:51-55. The citation that Maxell identifies is not

78, 87-88. Moreover, a POSITA would have understood that the “digital broadcast receiving unit 200” is the “unit” associated with the recited function of “*input[ting] video content*” largely because it is the only component so associated. See VIZIO Br. 9-10; Houh 109 Decl. ¶¶ 78-79, 84; see also, *MTD Prods. Inc. v. Iancu*, 933 F.3d 1336, 1343-44 (Fed. Cir. 2019) (“a preferred embodiment disclosed in the specification cannot impart structure to a term that otherwise has none”).<sup>12</sup>

**b) The term “*input unit*” also does not recite sufficient structure for performing the recited function.**

Maxell also fails to address the second *Williamson* inquiry. Maxell, as discussed above, argues that the “*input unit*” “refers to a broad, but known, class of structures” (*e.g.*, a keypad, touch screen, mouse, etc.). Maxell does not argue, much less explain **how**, such structures are sufficient to “*input video content.*” See *Williamson*, 792 F.3d at 1348; Maxell Br. 8-12. They are not. For example, as Dr. Houh testified, a POSITA would have understood that the keypad “input unit 102,” disclosed in the ’109 Patent specification, which Maxell points to as a purported example of the purported “class of structures,” was incapable of “*input[ting] video content.*” Houh 109 Decl. ¶¶ 78, 87-88. Similarly, the “mouse,” “remote control pointing device,” “keyboard,” “touch screen,” “touch-pen,” and “voice activated inputs,” discussed in Maxell’s cited cases also would not “*input video content.*” See *supra* § III.A.1.a. Thus, for this additional reason, § 112, ¶ 6 should apply.

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referring to “*input video content,*” but to examples of “*first information,*” which is a different concept. See *id.* A correct reading of this citation is that, in this embodiment, the “*first information*” includes an “information indicating such content as a TV program is also available.” *Id.* This information would be used by the “digital broadcast receiving unit 200” to access the TV Program from “receive[d] desired broadcast data **via an antenna or a cable,**” not the internet. See ’109 Patent, 4:58-62, 7:50-67, 8:17-19; Houh 109 Decl. ¶ 58.

<sup>12</sup> Maxell also argues that the ’109 Patent does not contain lexicography or a disavowal regarding “input unit.” See Maxell Br. 10. However, this argument is fundamentally not relevant.

## 2. MPF Corresponding structure

As explained in VIZIO Opening Brief, the corresponding structure for “*input unit*” is “a circuit which receives antenna/cable broadcast video content and restores the broadcast video content into video content to be digitally processed.” VIZIO Br. 9-10. This is the only structure the ’109 Patent associates with the recited function of “*input[ing] video content.*” *Id.* Maxell neither addresses VIZIO’s construction nor proposes an alternative. *See* Maxell Br. 8-12.

### B. “*control unit*”

The parties agree that “*control unit*” is a special purpose computer-implemented MPF term, but disagree on the recited functions and corresponding structure. VIZIO Br. 11-15.

#### 1. Recited functions

Claim 4 recites four functions (F4.1-F4.4) that the “*control unit*” performs. VIZIO Br. 11-12. Maxell does not identify functions F4.2-F4.4 as part of the recited functions, but argues that its “proposed function encompasses all of VIZIO’s proposed functions.” Maxell Br. 14. Maxell’s argument is legally and factually wrong.

When “identify[ing] the claimed function,” “[t]he court must construe the function of a means-plus-function limitation to include the limitations contained in the claim language, and ... **[i]t is improper to ... broaden the scope of the claimed function by ignoring clear limitations in the claim language.**” *Cardiac Pacemakers, Inc. v. St. Jude Med., Inc.*, 296 F.3d 1106, 1113 (Fed. Cir. 2002). “Where there are multiple claimed functions, as we have here, the patentee must disclose **adequate corresponding structure to perform all of the claimed functions.**” *Williamson*, 792 F.3d at 1351-52.

Contrary to Maxell’s argument, the first function (F4.1) does not “encompass,” and is not a sufficient proxy for, the remaining functions (F4.2-F4.4). Houh 109 Decl. ¶¶ 145-49. The first recited function (F4.1) merely states that the “*control unit*” is “*arranged to control the input unit,*

*the communication unit and the display unit.*” Houh 109 Decl. ¶¶ 71, 145-47. The second, third, and fourth functions (F4.2-F4.4) recite further material limitations about, *e.g.*, (1) functional results that “*control unit*” must be “*arranged to*” effectuate; (2) different “*information*” that must be communicated; and (3) which different functional results must be triggered when different “*information*” is communicated. Houh 109 Decl. ¶¶ 145-49; *see* ’109 Patent, 11:62-12:2. Maxell’s failure to include recited functions (F4.2-F4.4) in its proposed construction of “*control unit*” runs afoul of Federal Circuit precedent because it “improper[ly] ... broaden[s] the scope of the claimed function by ignoring clear limitations.” *Cardiac Pacemakers*, 296 F.3d at 1113.

## 2. MPF Corresponding structure

“*Control unit*” is indefinite because the ’109 Patent specification fails to disclose adequate or sufficient corresponding structure to perform ***all*** the recited functions. VIZIO Br. 12-14; *see Aristocrat*, 521 F.3d at 1333; *Noah Sys.*, 675 F.3d at 1319; *Williamson*, 792 F.3d at 1351-52. To determine an algorithm’s adequacy, courts look for disclosure of ***how*** the algorithm sufficiently achieves the recited functional results. *See Konami*, 2018 U.S. Dist. LEXIS 28337, at \*48-49. In *Konami*, the court found that a POSITA would ***not*** have understood “the specifications to disclose sufficient or adequate structure” because they failed to contain sufficient “flowcharts” and “program[s]” and “[t]he few intimations of structure in the patents [were] insufficient to ***completely address all of the disclosed functions.***” *Id.* at \*48-50. The court held that the term was indefinite under § 112, ¶ 6 because the “inventor claimed a specific process ... yet he never actually disclosed the process or algorithm” to achieve it. *Id.* at \*52-53, 56-57.

Here, as explained in VIZIO Opening Brief, the patent does not disclose any algorithm to achieve the recited functions or results. VIZIO Br. 12-15; Houh Decl. ¶ 147. For example, the ’109 Patent specification fails to disclose an algorithm that a “*control unit*” would use to control an “*input unit*” or the “*display unit*” to achieve the recited functional results (F4.1-F4.3). *Id.* Indeed,

the specification does not even disclose all of the recited functions (*e.g.*, F4.2 and F4.3), let alone algorithms to perform them. VIZIO Br. 13-14.

Maxell blames VIZIO for referring to “limited portions of the specification,” but Maxell itself fails to identify **any** algorithm, or argue **how** its proposed corresponding structure is sufficient to perform the recited functions. *See* Maxell Br. 15-16. For example, Maxell argues that Dr. Houh’s testimony did not include “network communication unit 207,”<sup>13</sup> yet if Maxell believes the “network communication unit 207” is the “*input unit*,” Maxell fails to identify an associated algorithm. *See id.* Indeed, even assuming *arguendo* that an “internet site” is “*video content*,”<sup>14</sup> as Maxell argues, Maxell fails to identify an algorithm in its proposed corresponding structure that is adequate for the “*control unit*” to, *e.g.*,:

- (1) control the “network communication unit 207” to “*input the [internet site]*” into the “*information processing apparatus*” (F4.1),
- (2) control the “*display unit*” to “*resume[]*” displaying the “internet site” from a “*stopped position*” when “*first information*” is received (F4.2), and
- (3) control the operational display of the “internet site” based on received “*second information*” (F4.3).

*See id.* This is not surprising, as the specification fails to disclose any corresponding structure. *See Williamson*, 792 F.3d at 1351-52; *Aristocrat*, 521 F.3d at 1333. “*Control unit*” therefore should be found indefinite.<sup>15</sup>

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<sup>13</sup> Maxell mischaracterizes Dr. Houh’s testimony. Maxell Br. 15-16. Dr. Houh’s testimony was not limited to “digital broadcast receiving unit 200.” *See* Houh 109 Decl. ¶ 109.

<sup>14</sup> As Dr. Houh explained, it is not. Houh 109 Decl. ¶¶ 63-64.

<sup>15</sup> Maxell argues that VIZIO is importing limitations from the specification into “*first information*” (*see* Maxell Br. 16), but VIZIO’s alternative construction merely incorporates the claim language “*first information ... to permit displaying of the video content on the display unit*” and provides examples of such “*first information*.” VIZIO Br. 10. Thus, Maxell’s argument is baseless.

#### IV. U.S. Patent 8,170,394

##### A. “controller”

##### 1. “controller” is means-plus-function

The parties agree that the claimed “controller” is a general-purpose processor. VIZIO Br. 19-21. And, as discussed above, Maxell admits that a general-purpose processor would require special programming to accomplish the recited functions. *Id.* (citing Sourì Tr. 161:23-25, 240:14-18, 249:9-251:14 (“you would have to write a program to program the processor to meet the claim requirements”)). These undisputed facts alone compel a finding that § 112, ¶ 6 applies. *See supra* § II; *EON*, 785 F.3d at 620-23 (citing *Katz*, 639 F.3d at 1316); *Velocity Patent*, 2016 U.S. Dist. LEXIS 129342, at \*16-18; *Parity Networks, LLC v. ZyXEL Commc’ns, Inc.*, 2020 U.S. Dist. LEXIS 250481, at \*32-33 (C.D. Cal. Dec. 22, 2020); *Verint Sys. Inc. v. Red Box Recorders, Ltd.*, 166 F. Supp. 3d 364, 378 (S.D.N.Y. 2016).

Moreover, Maxell’s arguments ignore the “sufficient ... to perform the claimed function” *Williamson* inquiry.<sup>16</sup> *See* Maxell Br. 29-34; *supra* § II. Instead, Maxell argues that the recited functions themselves “show that this term has sufficiently definite structure.” Maxell Br. 33 (citing recited functions). Like the claims in *Konami*, the claimed “controller” function here recites only the “output or manner of display” of the “controller” and does not “disclos[e] the underlying programming or algorithms which create the structure for the [claimed] ‘process.’” 2018 U.S. Dist. LEXIS 28337, at \*38.

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<sup>16</sup> Maxell’s citations to dictionary definitions of “controller” and “processor” further demonstrate the applicability of § 112, ¶ 6 as they define these terms using recognized “nonce” words. *See* Maxell Br. 32, 45; Sourì Decl. ¶ 41-42, 54 (a “controller” is a “component,” “element,” or “device” and a “processor” is one or more “units,” a “device,” or an “element”); *Williamson*, 792 F.3d at 1350; MPEP 2181.IA (collecting cases).

Effectively, Maxell argues that the “*controller*” is defined by its function. However, courts have found terms to be MPF where they were “defined by the function that it performs.”<sup>17</sup> *Parity*, 2020 U.S. Dist. LEXIS 250481, at \*31 (citing *Syneron Med. Ltd. v. Invasix, Inc.*, No. 8:16-cv-00143, 2018 WL 4696971, at \*12-14 (C.D. Cal. Sept. 5, 2018)); *GoDaddy.com*, 2016 WL 212676, at \*56-57. Accordingly, § 112, ¶ 6 applies.

## 2. MPF Corresponding structure

Maxell did not address VIZIO’s proposal or propose any other corresponding structure for this term. See Maxell Br. 29-34. If the ALJ finds that § 112, ¶ 6 applies, VIZIO’s unopposed construction should be adopted. VIZIO Br. 21-22; see *Velocity Patent*, 2016 U.S. Dist. LEXIS 129342, at \*18-19 (“Plaintiff provides no alternate [...] means-plus-function construction”).

### B. “*distinct panels*” / “*mutually different*” / “*buttons...mutually differing*”

The patentee’s prosecution arguments distinguishing the prior art of record clearly and unambiguously disclaimed GUI panels having shared buttons or functionality. VIZIO Br. 22-25. Not only are Maxell’s arguments unavailing, they highlight precisely why a “plain and ordinary meaning” construction should **not** be adopted. See Maxell Br. 34-37; see, e.g., *Markman*, 517 U.S. at 390. Maxell attempts to downplay the effect of the prosecution disclaimer by arguing that the patentee’s statements “[a]t best [...] clarifie[d] that [...] panels are not ‘distinct’ when one panel **merely has a subset** of the buttons of another panel” and that, “the key point is that each panel has **at least some buttons** that are different from the other panel.” Maxell Br. 36-37. However, as explained in VIZIO’s Opening Brief, there are no disclosed embodiments where two “*panels*” have

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<sup>17</sup> In the event Maxell attempts to argue that the claim limitations themselves impart “sufficiently definite structure” (i.e., by reciting a specific algorithm), this argument should be rejected. As in *Williamson* and *Konami*, the limitations here are “drafted in the same format as a traditional means-plus-function limitation,” simply “replac[ing] the term ‘means’ with the term [‘controller’] and recit[ing] [the] function[] performed by the [‘controller’].” 792 F.3d at 1350; *Konami*, 2018 U.S. Dist. LEXIS 28337, at \*38-39, 43-44.

**any** buttons and/or functionality in common. VIZIO Br. 22-23. Thus, even if there is no disclaimer (which VIZIO disputes), there is no support in the patent for Maxell’s argument. *Id.*

Additionally, Maxell’s reliance on claim differentiation is also unavailing. VIZIO Br. 24 n.8. Claim differentiation is a guide, not a rule, and the Federal Circuit has held, “the presumption can be overcome by a contrary construction required by the specification or prosecution history, such as via a disclaimer.” *Tippmann Eng'g, LLC v. Innovative Refrigeration Sys., Inc.*, 2023 U.S. App. LEXIS 5, at \*12 (Fed. Cir. Jan. 3, 2023) (quoting *GE Lighting Sols., LLC v. AgiLight, Inc.*, 750 F.3d 1304, 1310 (Fed. Cir. 2014)).

## **V. U.S. Patent 10,958,971**

### **A. “processor”**

#### **1. “processor” is means-plus-function**

As with “*controller*” above, this term is MPF because without special programming it is insufficient structure for performing the recited function. VIZIO Br. 33-35. There is no dispute that: (1) the claimed “*processor*” is a general-purpose processor; and (2) a general-purpose processor, alone, is **not** sufficient to perform the recited function of “*control[ing] the radio modem ...*” *Id.* Based on these undisputed facts, “*processor*” must be construed as MPF. *Id.*

Here again, Maxell errs by addressing only the “sufficiently definite structure” *Williamson* inquiry and ignoring the “sufficient ... to perform the claimed function” *Williamson* inquiry. *Supra* § II. In addition, Maxell and its expert again ***misapply*** law by arguing that “a POSITA [would] understand how to arrange and/or program the ‘processor.’” Maxell Br. 23. The second *Williamson* inquiry, however, is directed to whether the “*processor*” is sufficient to perform the recited function—**not** whether a POSITA would have known how to program the processor to accomplish the recited function. *See EON*, 785 F.3d at 624 (stating the § 112, ¶ 6 question is “not whether a person of skill in the art could devise some means to carry out the recited function”).

In addition, none of the district court cases Maxell cites (Maxell Br. 20) substantively address the “sufficient [...] for performing” requirement for a function analogous to the “*control*” function here. **None** of these cases held that § 112, ¶ 6 does not apply to claim terms reciting functions that a general-purpose “*processor*” could perform only with special programming. Indeed, Maxell does not even attempt to argue otherwise. *See id.*

Nor can it. *See, e.g., EON*, 785 F.3d at 620-23 (citing *Katz*, 639 F.3d at 1316) (applying § 112, ¶ 6 where the recited function was not “coextensive” with basic functions of the microprocessor itself); *accord Velocity Patent*, 2016 U.S. Dist. LEXIS 129342, at \*16-18 (the recited **function “requires additional programming of the processor”**); *Parity Networks*, LEXIS 250481, at \*32-33 (“referring to a ‘processor’ does not tell a person with ordinary skill in the art what programming would be necessary to perform the [recited functions]”); *Verint*, 166 F. Supp. 3d at 378 (“all of the claim terms discussed below [...] are plainly not of the sort allowed by the ‘narrow’ exception for general purpose computers, and Verint does not contest this point in its briefs”).

When, as Maxell admits, a “processor” is insufficient to perform the recited function, courts have found that it is MPF. VIZIO Br. 34 (citing *Egenera*, 972 F.3d at 1374-75; *Williamson*, 792 F.3d at 1351-52; *GoDaddy.com*, 2016 WL 212676, at \*56-57; *Konami Gaming*, 2018 WL 1020120, at \*14). Maxell quotes discussions of “processor” in the specification and from its expert, Mr. Gray, but they only confirm that the claimed “*processor*” is a generic processor that **cannot** perform the recited function without special programming. Maxell Br. 21-23; Gray Decl. ¶¶ 19, 35-38. Indeed, Mr. Gray admits that the claimed “*processor*” requires programming to perform the claimed “*control*” function. VIZIO Br. 34 (quoting Gray Tr. 161:16-162:11).

## 2. MPF corresponding structure

The “*processor*” term is indefinite because the ’971 Patent specification fails to disclose adequate corresponding structure to perform the recited function. *Williamson*, 972 F.3d at 1351-52; *VIZIO* Br. 35-37. As explained, the disclosed structure must be an algorithm or step-by-step process that converts a general-purpose processor into the structure needed to perform the recited function. *Id.*; *supra* § II.B. Maxell generally argues against indefiniteness, but never disputes that the ’971 Patent specification fails to disclose an algorithm a “*processor*” would use to perform the recited function. *Maxell* Br. 19-24.

Instead, Maxell argues that “*processor*” is not indefinite because, based on the science fiction movie *Terminator 2*, the “general public” would have understood what it is and because “[t]he claim context is already enough information for a POSITA to understand how to arrange and/or program the ‘*processor*’ ... in the manner claimed.” *Maxell* Br. 23. These arguments, however, are both meritless and legally irrelevant. *EON*, 785 F.3d at 623-24. The Federal Circuit dictates that corresponding structure must be disclosed in the **specification**—not based on what a POSITA, or the general public, may understand. *See Williamson*, 792 F.3d at 1351-52; *EON*, 785 F.3d at 623. And the disclosed corresponding structure—*i.e.*, a special purpose computer programmed to perform a disclosed algorithm—must be clearly linked to and sufficient to achieve the recited function. *VIZIO* Br. 3-4. Otherwise, the claim term is indefinite. *Id.* Maxell never addresses this legally dispositive question.

### B. “*radio modem*”

The ’971 Patent specification makes clear that “*radio modem*” has multiple radio modem circuits to simultaneously connect with multiple devices. *VIZIO* Br. 37-38; *see, e.g.*, ’971 Patent, FIG. 2 (“radio modem circuit 2016” and “radio modem circuit 2015”). Maxell does not dispute this—arguing, “the inventors realized that there was a need for **simultaneous** video transmission

and connection to the Internet or a home network,” and “[t]hus, the inventors ... **disclosed and claimed ... multiple radio communication circuits.**” Maxell Br. 16-17. The multiple radio modem circuits allow the “*radio modem*” to simultaneously “modulate[] or demodulate[] multiple carrier signals,” as required by VIZIO’s construction. *See Wang Labs., Inc. v. Am. Online, Inc.*, 197 F.3d 1377, 1383 (Fed. Cir. 1999); VIZIO Br. 37-38. VIZIO’s construction is proper because it is consistent with the specification and undisputed by Maxell.

**C. “the radio modem establishes a wireless communication with the cellular phone while being connected to the Internet or the local area network”**

The claims call for, and the specification discloses, multiple **simultaneous and direct** connections. *See* VIZIO Br. 28-32, 37-38. Shrouding its true intentions behind plain and ordinary meaning, Maxell seeks to exploit ambiguity regarding “*establishing*” a “*connection*”/“*communication*” to improperly expand the scope of the term. *See* Maxell Br. 28-32. This is evident from the complaint, where Maxell accuses **indirect** communications from a “*cellular phone*” sent through a single preexisting local area network connection. *See* VIZIO Br. 28-32. Such an overly broad expansion of claim scope finds no support in the specification. *See CenTrak, Inc. v. Sonitor Techs., Inc.*, 915 F.3d 1360, 1367 (Fed. Cir. 2019); *Wang Labs.*, 197 F.3d at 1383; *Phillips v. AWH Corp.*, 415 F.3d 1303, 1321 (Fed. Cir. 2005).

Maxell’s cited district court cases are inapposite and/or support VIZIO’s position. For example, in *Z-Man Fishing Products v. Queen*, the defendant’s proposed construction “limit[ted] the claims to a single embodiment.” *See* 2020 U.S. Dist. LEXIS 233374, at \*30 n.6 (W.D.N.C. Dec. 10, 2020). That is not so here. Every embodiment of the “present invention” in the ’971 Patent specification discloses multiple modem circuits supporting multiple **simultaneous and direct** connections, and Maxell’s implicit claim interpretation goes way beyond those disclosures. *See* VIZIO Br. 28-32; *see* Maxell Br. 16-18. *Synqor, Inc. v. Cisco Systems* is inapposite because there

“the parties did not articulate that a dispute remain[ed]” regarding the proper scope of the term. *Synqor, Inc. v. Cisco Sys.*, 2014 U.S. Dist. LEXIS 44067, at \*39-40 (E.D. Tex., Jan. 2, 2014). Again, that is not so here. Finally, *Dogleg Right Partners, LP. v. Taylor Made Golf Co.* supports VIZIO, because there the court declined to construe a term beyond the specification’s disclosures because “the patents nowhere describe[d]” defendant’s proposed construction. 2011 U.S. Dist. LEXIS 29474, at \*35-36 (E.D. Tex., Mar. 22, 2011). In contrast here, as explained, the ’971 Patent exclusively describes this term consistent with VIZIO’s proposed construction.

VIZIO’s proposed construction is appropriate because it is based on the meaning a POSITA would have understood in view of the specification and it is fully supported. VIZIO Br. 25-32. To establish a simultaneous connection, the ’971 Patent specification discloses that the “*radio modem*” sets applicable transmission parameters for the radio modem circuit and initiates a connection with the modem of another device. *Id.* Thus, VIZIO’s construction should be adopted.

**D. “carrier frequency”**

VIZIO’s construction should be adopted. Maxell’s expert does not “necessarily disagree” with VIZIO’s proposed construction, and Maxell fails to articulate any reason as to why VIZIO’s construction is incorrect. *See* VIZIO Br. 32. Thus, it is proper.

**VI. U.S. Patent 11,017,815**

**A. “processor”**

Maxell’s arguments are flawed for the same reasons as its arguments regarding “*controller*” in the ’394 Patent and “*processor*” in the ’971 Patent. *See supra* §§ IV.A, V.A. Again, Maxell ignores the *Williamson* “sufficient structure to perform the recited function” requirement. VIZIO Br. 42-44; Maxell Br. 43-46 (“by reciting the term ‘processor,’ the claim itself shows that this term has sufficiently definite and known structure”). Maxell again concedes that the term is “defined by the function[s] that it performs.” *Compare* Maxell Br. 44 with *Parity Networks*, 2020 U.S. Dist.

LEXIS 250481, at \*31 (finding “processor” to be MPF) (citing *Syneron*, 2018 WL 4696971, at \*12-14).

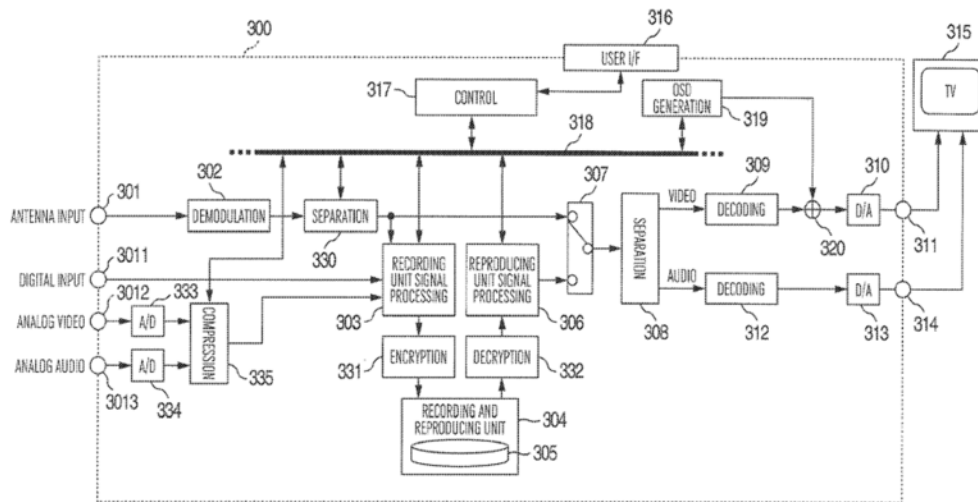
**1. “processor” is means-plus-function**

As explained, there is no dispute that: (1) the claims call for a general-purpose processor and (2) that such a processor would require special programming to perform the recited functions. VIZIO Br. 42-44; Souri Decl. ¶¶ 41-44; Souri Tr. 142:5-146:19, 161:2-25 (“you would have to write a program to program the processor to meet the claim requirements”). This admission alone is dispositive. *See EON*, 785 F.3d at 620-23 (citing *Katz*, 639 F.3d at 1316); *Velocity Patent*, 2016 U.S. Dist. LEXIS 129342, at \*16-18; *Parity Networks*, 2020 U.S. Dist. LEXIS 250481, at \*32-33; *Verint*, 166 F. Supp. 3d at 378.

Maxell again attempts (incorrectly) to rely on claim language that simply recites the “output or manner of display” produced by algorithms that are neither claimed nor disclosed. *See* Maxell Br. 44 (“controlling the display,” “removing one video information from the first group of video information [...],” and “decrypt[ing] second video information corresponding to a selected thumbnail [...]”); *Konami*, 2018 U.S. Dist. LEXIS 28337, at \*43-44. As discussed above, this is not sufficient to impart structure where there is no explanation of **how** the results (outcomes) are achieved. *Konami*, 2018 U.S. Dist. LEXIS 28337, at \*38-39, 43-44; *supra* § IV.A.1.

Maxell’s citations to the specification regarding “control unit 317” (shown in Figure 3, below) as disclosing structure are similarly unavailing. *See* Maxell Br. 44-45.

FIG.3



'815 Patent, Fig. 3. Aside from an empty box labeled “CONTROL,” the specification provides no details of the structure of control unit 317. VIZIO Br. 43-45; Wolfe Decl. ¶ 118. The only two sentences Maxell relies on (see Maxell Br. 45) simply describe the function of control unit 317 in the most high-level terms:

The control unit 317 **controls various components** in the recording and reproducing device 300 via the system bus 318. Furthermore, the control unit 317 **controls the whole device to cause operation** based on the user's order input which is inputted via the user I/F 316 to be conducted.

'815 Patent, 5:47-56. Nothing in this passage “clearly links or associates” control unit 317 with the recited functions, much less constitutes anything resembling an algorithm sufficient to achieve them. See *Williamson* at 1351-52.

## 2. “processor” is indefinite

As discussed above, Maxell’s argument that the '815 Patent need not disclose an algorithm because a POSITA would have understood how to program a process to accomplish the recited functions is “meritless” and has been “repeatedly and unequivocally rejected” by the Federal Circuit. *EON*, 785 F.3d at 624 (internal citations omitted); *Williamson*, 792 F.3d at 1351 (rejecting

Dr. Sourì’s testimony regarding POSITA knowledge). Additionally, the facts here are virtually indistinguishable from *EON*, where the Federal Circuit affirmed the indefiniteness of the asserted claims where:

**EON cite[d] to testimony from its expert that a person skilled in the art would need to consult algorithms outside the specification to implement the claimed functions [...] based on expert testimony, the district court found that “special code would have to be written in order to accomplish the claimed functionality.” As discussed above, this finding proves more than is necessary, as the defendants must only show by clear and convincing evidence that the terms at issue do not recite basic functions of a microprocessor.**

*Id.* Here, Dr. Sourì testified that a POSITA would have consulted unidentified “well-known tools for [controlling] graphical displays” and “open source libraries” (*i.e.*, *EON*’s “algorithms outside the specification”) that existed “back from the days of the patent or the timeframe of the filing of the patents” to implement the recited functions. Sourì Tr. 162. Importantly, Dr. Sourì admitted that none of these “tools” or “libraries” are disclosed in the ’815 Patent. *Id.* Nor are the off-the-shelf, general-purpose processors discussed in his declaration. Sourì Tr. 142-43 (discussing Sourì Decl. ¶¶ 42-43).

As explained above, the ’815 Patent only discloses what control unit 317 does at a high level and “fails to reveal a sufficiently-detailed step-by-step procedure.” *Compare* Maxell Br. 45 (quoting ’815 Patent, 5:47-56) *with Verint*, 166 F. Supp. 3d at 382-83. Likewise, the only discussion of the recited functionality in the specification “amount[s] to nothing more than a basic explanation of what the [claimed apparatus] could do.” *Compare* ’815 Patent at 5:28-35, 47-56 *with Verint*, 166 F. Supp. 3d at 382-83; *see* VIZIO Br. 45.

## **B. “video information”**

VIZIO’s construction simply adopts the same position that Maxell successfully advanced in prior litigation regarding a parent of the ’815 Patent. VIZIO Br. 46-47. Claims in related patents

must be interpreted “consistently” when they “derive from the same parent application and share many common terms.” *Trustees of Columbia Univ.*, 811 F.3d at 1369 (quoting *NTP, Inc. v. Research in Motion, Ltd.*, 418 F.3d 1282, 1293 (Fed. Cir. 2005), *abrogated on other grounds recognized in Avid Tech., Inc. v. Harmonic, Inc.*, 812 F.3d 1040, 1047 (Fed. Cir. 2016)); *see AbTox, Inc. v. Exitron Corp.*, 122 F.3d 1019 (Fed. Cir. 1997), *modified on reh’g*, 131 F.3d 1009, 1010 (Fed. Cir. 1997) (“Although these claims have since issued in separate patents, it would be improper to construe this term differently in one patent than another, given their common ancestry”).

Maxell offers no basis for its attempt to disavow its previous arguments to another tribunal regarding the meaning of this term. *See* Maxell Br. 48. Nor can it. *See Interactive Gift Express, Inc. v. CompuServe Inc.*, 256 F.3d 1323, 1349 (Fed. Cir. 2001) (judicial estoppel applies to any claim construction positions that a party “successfully advanced at the district court”); *Intel Corp. v. Xmtt, Inc.*, No. 2021-2127, 2022 U.S. App. LEXIS 10467, at \*2 (Fed. Cir. Apr. 19, 2022); *see Egenera*, 972 F.3d at 1378 (stating factors for judicial estoppel); *SkyHawke Techs., LLC v. DECA Int’l Corp.*, 828 F.3d 1373, 1376 (Fed. Cir. 2016) (preclusion in district courts can arise from “administrative decisions by the U.S. Patent and Trademark Office”).

As discussed, Maxell previously agreed – and the district court adopted – that “*video information*” should be construed as “video data represented by digital or analog signal.” VIZIO Br. 46-47 (citing *Maxell, Ltd. v. Fandango Media, LLC*, 2:17-cv-07534 (C.D. Cal. 2017)). In related proceedings before the PTAB, Maxell argued, and the Board agreed, that “*video information*” is “AV data.” VIZIO Br. 46-47. Accordingly, Maxell should be estopped from advocating for a clearly inconsistent position here. *See Egenera*, 972 F.3d at 1378; *SkyHawke*, 828 F.3d at 1376.

Dated: February 14, 2023

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing Respondent VIZIO, Inc.'s RESPONSIVE CLAIM CONSTRUCTION BRIEF was served this 14th day of February, 2023 on the following parties in the manner so indicated:

|                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The Honorable Katherine M. Hiner<br>Acting Secretary<br><b>U.S. International Trade Commission</b><br>500 E Street, S.W.<br>Washington, DC 20436                                                                                              | <input checked="" type="checkbox"/> Via Electronic Filing<br><input type="checkbox"/> Via First Class Mail<br><input type="checkbox"/> Via Hand Delivery<br><input type="checkbox"/> Via Overnight Mail<br><input type="checkbox"/> Via Electronic Mail                                                |
| The Honorable Bryan F. Moore<br>Administrative Law Judge<br><b>U.S. International Trade Commission</b><br>500 E Street, S.W.<br>Washington, DC 20436<br>Email: Moore337@usitc.gov                                                             | <input checked="" type="checkbox"/> Via Electronic Filing<br><input type="checkbox"/> Via First Class Mail<br><input type="checkbox"/> Via Hand Delivery<br><input type="checkbox"/> Via Overnight Mail<br><input type="checkbox"/> Via Electronic Mail<br><input checked="" type="checkbox"/> Via Box |
| Jamie B. Beaber<br><b>Mayer Brown LLP</b><br>1999 K St. NW<br>Washington, DC 20006<br>Telephone: (202) 263-3000<br>Facsimile: (202) 263-3302<br>Email: Maxell-Vizio-Service@mayerbrown.com<br><br><i>Counsel for Complainant Maxell, Ltd.</i> | <input type="checkbox"/> Via Electronic Filing<br><input type="checkbox"/> Via First Class Mail<br><input type="checkbox"/> Via Hand Delivery<br><input type="checkbox"/> Via Overnight Mail<br><input checked="" type="checkbox"/> Via Electronic Mail                                                |

/s/ Melanie Langford

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**Akin Gump Strauss Hauer & Feld LLP**