IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

3SHAPE A/S, *Plaintiff,*	§	
	§	**W-22-CV-00443-ADA-DTG**
v.	§	
MEDIT CORP., *Defendant.*	§	

ORDER

Before the Court are the Parties' claim construction briefs. The Court provided preliminary constructions for the disputed terms the day before the hearing. The Court issues this Order to memorialize the Court's final claim construction rulings for the parties, and to inform the parties that the Court plans to issue a more-detailed Order explaining its analysis in due course. The deadline to file any objections to the undersigned's claim construction rulings (pursuant to Federal Rules of Civil Procedure 59 and 72) do not need to be filed until 14 days after that more fulsome Order is entered upon the docket.

SIGNED this 2nd day of May, 2023.

DEREK T. GILLILAND
UNITED STATES MAGISTRATE JUDGE

AGREED CONSTRUCTIONS

Patent(s)	Claim Term	Agreed Upon Construction
’551/’553 Patents (’551 Cls. 1, 23, 25; ’553 Cls. 1, 22)	Preamble	Preamble is limiting; no further construction necessary
’151 Patent (Cls. 12, 13)	“determined one or more points on the tooth”	determined for one or more points on the tooth
’146/’667 Patents (’146 Cls. 1, 13, 15, 21, 27, 29; ’667 Cls. 1, 14, 26)	“time-varying illumination pattern”	light signal having an embedded spatial structure that varies in time

DISPUTED TERMS

’551 AND ’553 PATENTS:

Disputed Claim Term/ Asserted Claims where the Term Appears	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
“excluded volume in space where no surface can be present in both the first 3D representation and the second 3D representation” (’551 Cls. 1, 23, 25; ’553 Cls. 1, 22)	excluded volume in space that is common to both the first and second 3D representations where no surface from either of the 3D representations should be present	space common to both the first 3D representation and the second 3D representation in which no surface can be present	“excluded volume in space that is common to both the first and second 3D representations where no surface from either of the 3D representations should be present”

'151 PATENT:

Disputed Claim Term/ Asserted Claims where the Term Appears	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
"shape data" (Cls. 1, 13, 14)	Plain and ordinary meaning, no construction necessary.	spatial information that defines the contours of the tooth in three dimensions	Plain and ordinary meaning.
"determining a tooth shade value" (Cls. 1, 13, 14)	Plain and ordinary meaning, no construction necessary.	calculating a value for tooth shade expressed according to a tooth shade system	Plain and ordinary meaning.
"deriving a certainty score" (Cl. 1)	determining an accuracy value based on the tooth shade value, the texture data, and/or texture information	calculating how close the texture data of the corresponding point is to the known texture value of a reference tooth shade value	"determining an accuracy value based on the tooth shade value, the texture data, and/or texture information"
"the certainty measure" (Cl. 7)	measure of the certainty score	Indefinite	Indefinite
"the sub-scan texture information" (Cl. 7)	texture information (*e.g.*, color information or surface roughness information) of a sub-scan	Indefinite	Indefinite
"the amount of texture information" (Cl. 7)	an amount of texture information	Indefinite	Indefinite
"the texture information" (Cl. 11)	the texture data	Indefinite	Indefinite
"[tooth] shade profile for the tooth" (Cl. 12)	Plain and ordinary meaning, no construction necessary.	a description of variations in tooth shade over at least a portion of the surface of the tooth	Plain and ordinary meaning.

'146 AND '667 PATENTS:

Disputed Claim Term/ Asserted Claims where the Term Appears	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Construction
Preamble ('146 Cl. 1; '667 Cls. 1, 14, 26)	Preamble is not limiting; plain and ordinary meaning, no construction necessary.	Preamble is limiting	Preamble is not limiting; plain and ordinary meaning.
"switching on and off the at least three monochromatic light sources" ('146 Cl. 6; '667 Cls. 3, 20)	switching on and off one or more of the at least three monochromatic light sources	Plain and ordinary meaning	Plain and ordinary meaning.
"raw 3D data" ('146 Cls. 9, 10, 12, 23, 24; '667 Cls. 6-8, 14, 15, 29)	Plain and ordinary meaning, no construction necessary.	Indefinite	Plain and ordinary meaning.
"data for the 3D geometry" ('146 Cls. 12, 23, 24; '667 Cls. 8, 15)	the data for the 3D geometry	set of coordinates used to generate a 3D image	"the data for the 3D geometry"