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

PROXENSE, LLC, ***Plaintiff,***	§	
	§	
	§	**W-23-CV-00320-ADA**
v.	§	
	§	
GOOGLE LLC, ***Defendants.***	§	
	§	
	§	

Order

Before the Court are the parties' claim construction briefs. Plaintiff Proxense, LLC filed its complaint for patent infringement on May 2, 2023. ECF No 1. Defendant Google, LLC submitted the opening *Markman* Brief on November 6, 2023, and the Reply *Markman* Brief on December 20, 2023. ECF Nos. 40, 48, respectively. Proxense submitted its response on December 1, 2023 and its sur-reply brief on January, 5, 2024. ECF Nos. 45, 50, respectively. The parties also submitted their Joint Claim Construction Statement on January 10, 2024. ECF No 51. The Court held the *Markman* hearing on January 19, 2024. This Order informs the parties of the Court's final constructions of the disputed terms. Further, the Court adopts the agreed constructions from the Joint Claim Construction Statement. ECF No. 51 at 2.

I. Legal Standard

Generally, courts construe claim terms according to their plain and ordinary meaning. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc). The Federal Circuit applies a "heavy presumption" in favor of construing terms according to their plain and ordinary meaning, that is, the "meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention." *Azure Networks, LLC v. CSR PLC*, 771 F.3d 1336, 1347 (Fed. Cir.

2014) (vacated on other grounds); *Phillips*, 415 F.3d at 1313. The "only two exceptions to [the] general rule" that claim terms are construed according to their plain and ordinary meaning are when the patentee acts as his own lexicographer or disavows the full scope of the claim term either in the specification or during prosecution. *Thorner v. Sony Computer Entm't Am. LLC*, 669 F.3d 1362, 1365 (Fed. Cir. 2012). To act as his own lexicographer, the patentee must "clearly set forth a definition of the disputed claim term," and "clearly express an intent to define the term." Id. at 1365. To disavow the full scope of a claim term, the patentee's statements in the specification or prosecution history must represent "a clear disavowal of claim scope." Id. at 1366. Accordingly, when "an applicant's statements are amenable to multiple reasonable interpretations, they cannot be deemed clear and unmistakable." *3M Innovative Props. Co. v. Tredegar Corp.*, 725 F.3d 1315, 1326 (Fed. Cir. 2013). While the specification "may aid the court" in analyzing disputed language in a claim, "particular embodiments and examples appearing in the specification will not generally be read into the claims." *Comark Commc'ns, Inc. v. Harris Corp.*, 156 F.3d 1182, 1187 (Fed. Cir. 1998) (internal citations omitted). Absent a "clear indication in the intrinsic record that the patentee intended the claims to be…limited," courts do not read limitations found in the specification into the claims. *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 913 (Fed. Cir. 2004).

II. The Court's Constructions of Disputed Terms

Claim Term	Google's Proposed Construction	Proxense's Proposed Construction	Court's Final Construction
"integrated device" ('730 Patent, claims 1, 15)	Indefinite	Plain and ordinary meaning. No Construction necessary.	No Construction necessary. Plain and Ordinary meaning.

"persistently storing biometric data of [a/the] user and a plurality of codes and other data values comprising a device ID code uniquely identifying [an/the] integrated device and a secret decryption value" ('730 Patent, claim 1; '954 Patent, claim 1)	Indefinite	Plain and ordinary meaning. No construction necessary.	Plain and ordinary meaning wherein the meaning is: " persistently storing biometric data of [a/the] user and a plurality of codes and other data values are stored; within this storage is also (1) a device ID code uniquely identifying an integrated device and (2) a secret decryption value."
"an access message … [allowing / allows] the user [access to an application / to access an application / to complete a financial transaction]" across all patents ('730 Patent claims 1, 15; '954 Patent claims 1, 22; '905 Patent claims 1, 13)	<u>730 and 954 Patents</u> a signal or notification allowing the user to access an application <u>905 Patent</u> a signal or notification allowing the user to complete a financial transaction	Plain and ordinary meaning. No construction necessary.	No construction necessary. Plain and ordinary meaning.
"The method of claim 1, wherein the biometric data and the scan data are both based on a fingerprint scan by the user."	Indefinite or invalid under 35 U.S.C. § 112, ¶ 4 alternatively: wherein the biometric data and the scan data of claim 1	Plain and ordinary meaning. No construction necessary.	No construction necessary. Plain and ordinary meaning.

('730 Patent, claim 5)	consists of a single fingerprint		
"receiver-decoder circuit" ('042 Patent, claim 10; '289 Patent, claim 14)	a collection of circuit components capable of wirelessly receiving data in an encrypted format and decoding the encrypted data for processing	A component or collection of components, capable of wirelessly receiving data in an encrypted format and decoding the encrypted data for processing.	A component or collection of components, capable of wirelessly receiving data in an encrypted format and decoding the encrypted data for processing
"personal digital key" ('042 Patent, claim 10)	a collection of circuit components that includes an antenna, a transceiver, and a controller and memory for storing information particular to a user	An operably connected collection of elements including an antenna and a transceiver for communicating with a RDC and a controller and memory for storing information particular to a user.	An operably connected collection of elements including an antenna and a transceiver for communicating with a RDC and a controller and memory for storing information particular to a user

SIGNED this 23rd Day of January, 2024.

ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE