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21 UNITED STATES DISTRICT COURT
22 NORTHERN DISTRICT OF CALIFORNIA
23 OAKLAND DIVISION

24 Everlight Electronics Co., Ltd.,

25 Plaintiff,

26 v.

27 Bridgelux, Inc.,

28 Defendant.

Case No. 4:17-cv-03363-JSW

**DEFENDANT AND
COUNTERCLAIMANT BRIDGELUX,
INC.'s CLAIM CONSTRUCTION REPLY
BRIEF**

Complaint Filed: June 10, 2017

Answer/Counterclaim Filed: July 6, 2017

Judge: Hon. Jeffrey S. White, Courtroom 5

Bridgelux, Inc.,

Counterclaimant,

v.

Everlight Electronics Co., Ltd., and
Everlight Americas, Inc.,

Counterdefendants.

1 **I. INTRODUCTION**

2 The proposed constructions by Counterclaim defendants Everlight Electronics Co., Ltd.
3 (“Everlight”) and Everlight Americas, Inc. (“Everlight Americas”) (collectively, “Everlight”), are
4 not only incorrect, but purely litigation-driven and manufactured to broaden the claim terms at issue
5 in order for them to read on prior art. Everlight’s claim construction analysis lacks fidelity to the
6 canons of claim construction; instead, Everlight relies on illogical arguments unsupported by
7 evidence and/or only extrinsic evidence – such as irrelevant constructions of similar terms,
8 dictionary definitions that provide out-of-context meaning, and statements from another litigation
9 – without referencing intrinsic evidence.

10 Bridgelux, Inc.’s (“Bridgelux”) constructions are rooted in the claims, as informed by the
11 specification, and should be adopted.

12 **II. DISPUTED CLAIM CONSTRUCTIONS AT ISSUE**

13 1. **“the aspect ratio of the active area is between approximately 1.5 to 1**
14 **and approximately 10 to 1” (’812 Patent/Claim 3 of the ’812 Patent)**

Everlight’s Proposed Construction	Bridgelux’s Proposed Construction
“The ratio of length to width (of the active area) is within the range of ratios from slightly less than 1.5 to 1 to slightly greater than 10 to 1; the endpoints 1.5 to 1 and 10 to 1 are included within the range.”	No construction necessary.

15 First, Everlight offers no reason for the Court to construe the term other than to aid its
16 invalidity arguments. While it originally contended that the term “the aspect ratio of the active area
17 is between approximately 1.5 to 1 and approximately 10 to 1” required construction, Everlight’s
18 briefing shows that the only term it wishes to be construed is “approximately.” Everlight explains
19 that its proposed construction is purely litigation driven rather than to add clarity: “But *primarily*,
20 the framed issue is that certain prior art references read directly on the asserted claims [*sic*] of the
21 ‘812 patent, and these references disclose an aspect ratio of 10 to 1.” (Everlight’s Responsive Claim
22 Construction Brief (“Everlight’s Responsive Brief”) at 2 (emphasis added)).

1 Second, Everlight's proposed construction is contrary to basic claim construction
2 principles. A fundamental tenet of claim construction is that a court's "claim construction analysis
3 must begin and remain centered on the claim language itself." *Phillips v. AWH Corp.*, 415 F.3d
4 1303, 1312 (Fed. Cir. 2005) (*en banc*). Furthermore, a court may turn to extrinsic evidence when
5 the intrinsic evidence fails to resolve an ambiguity in the claim language. *Id.* at 1321-22.

6
7 Everlight's proposed construction is based on neither the claim language nor specification.
8 Furthermore, Everlight fails to rebut Bridgelux's position that nothing in the intrinsic record
9 suggests that this claim term is different from its plain and ordinary meaning. Nor does Everlight
10 offer any reasoning or authority for overcoming the "heavy presumption" that a claim term carries
11 its "ordinary and customary meaning." See *Johnson Worldwide Assocs., Inc. v. Zebco Corp.*, 175
12 F.3d 985, 989 (Fed. Cir. 1999) (A party seeking to convince a court that a term has some other
13 meaning "must, at the very least, point to a term or terms in the claim with which to draw in
14 [statements in the written description that affect the patent's scope]." (internal quotations and
15 citations omitted). Instead, Everlight relies exclusively on extrinsic evidence and tellingly devotes
16 no discussion to analyzing the claim language or specification, or responding to Bridgelux's
17 argument that Everlight's proposed construction substituting "approximately" with "slightly less /
18 slightly greater" only introduces ambiguity where none exists.

19
20 Third, the cases Everlight cites do not stand for the propositions for which Everlight cites
21 them. Everlight contends that "[c]ourts construe the term 'approximately' (and the similar term
22 'about'), they routinely include the end points of a range and slightly beyond." (Everlight's
23 Responsive Brief at 3.) However, the case Everlight cites does not even involve claim construction.
24 Instead, in *Quantum Corp. v. Rodime, PLC*, the Federal Circuit affirmed the district court's grant
25 of summary judgment, reasoning that the patentee's amendment during reexamination from "at
26 least 600" tpi to "at least approximately 600" tpi impermissibly broadened the scope of the claims
27
28

As Bridgelux indicated in its Opening Brief, the claim term “transparent” should be given its plain and ordinary meaning. However, if this Court adopts the interpretation promulgated by the court in Eastern District of Texas in the Cree litigation, the Court should find that “allowing light to pass through almost undisturbed, such that one can see through it clearly” is the construction for “substantially transparent” rather than only “transparent.”

3. **“mounted directly to the reflective surface” / “mounting . . . directly to the reflective surface” (’929 and ’051 Patents/Claims 1, 3, and 5 of the ’929 Patent and Claims 1 and 5 of the ’051 Patent)**

Everlight’s Proposed Construction	Bridgelux’s Proposed Construction
“Mounted to the reflective surface with no intervening elements present.”	“mounted / mounting directly to the reflective surface by adhesive or other means with no intervening elements present”

Bridgelux’s proposed construction is correct. LED chips may be directly mounted to the reflective surface by adhesion or other means, provided no intervening elements are present, which means that an adhesive cannot be an intervening element. Everlight admits that an adhesive is not an intervening layer if it does not interfere with efficient heat transfer. (*See* Everlight’s Responsive Brief at 9 (“It is the case that some adhesive layers have qualities that result in an efficient thermal path. They are not ‘intervening layers’ that interfere with efficient heat transfer, and therefore fall within the scope of the ‘mounted directly’ claim element.”).) At the same time, Everlight argues that “[i]f an adhesive layer obstructs or interferes with efficient thermal transfer, it would be considered an intervening element, ...” (*Id.*)

While it admits that an adhesive is not an intervening element, at least when the thermal resistance of the adhesive does not interfere with efficient heat transfer, Everlight’s proposed construction assumes that adhesives for mounting an LED to a reflective surface in this technology field have varying thermal resistances ranging from low to high thermal resistances with the higher thermal resistance adhesives interfering with efficient heat transfer. (*See id.*) However, Everlight fails to submit any evidence of this assertion in the form of an expert declaration or otherwise. Its

1 assertion is nothing more than unsupported attorney argument and, therefore, should be given no
2 weight.

3 Everlight's strained interpretation is also at odds with the specification. First, the
4 specification makes clear that an LED chip may be mounted directly to the reflective surface
5 without any intervening elements using an adhesive. (*See, e.g., '929 Patent, Specification at Col.*
6 *3, ll. 19-24, ll. 32-35, Col. 4, ll. 46-47.*) It would be entirely inconsistent to allow an LED chip to
7 be directly mounted to the reflective surface using an adhesive without any intervening elements
8 or layers and still consider the adhesive as an element or layer. An adhesive is neither an element
9 nor a layer; nor is it a section or a substrate. Instead, an adhesive is a way to directly mount an LED
10 chip.
11

12 Second, the specification is also clear that "when an element is referred to as being 'directly
13 on' another element, there are no intervening elements present." (*See, e.g., '929 Patent,*
14 *Specification at Col. 3, ll. 36-37.*) Everlight's arguments suggest that a layer between the LED chip
15 and the reflective surface that does not interfere with efficient heat transfer is not an intervening
16 element. However, the specification does not exclude from "intervening element" any elements,
17 layers, sections, regions, etc. that do not "interfere with efficient heat transfer"; this is an exception
18 that Everlight spun from whole cloth with the obvious intention of construing the claim to read on
19 prior art. Indeed, neither the intrinsic record nor Everlight provides any guidance as to what
20 qualities result in an adhesive that interferes with efficient heat transfer.
21

22 Everlight's reliance on the prosecution history in support of its tortured claim construction
23 is equally unpersuasive. To the extent that Everlight is arguing that Bridgelux disavowed or
24 surrendered scope during the prosecution of the '812 Patent, and thereby limited to the claim term
25 to an LED chip adhesively (or otherwise) mounted to the reflective surface that does not obstruct
26 efficient heat transfer, the prosecution history must be consulted to determine what exactly was
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1 disavowed or surrendered. Turning to the prosecution history, Bridgelux distinguished the claim
2 language at issue from the prior art by arguing:

3 Based on the foregoing, it appears that a *high reflective material* with *insulation*
4 *properties* [sic] is applied on the metallic base of the substrate and an additional
5 electrical insulator is applied on the high reflective material.

6 This interpretation signifies the fact that the LED chips are *not mounted directly* to
7 the reflective surface of the metal substrate as the term is defined, because of the
8 presence of an *intervening insulating* materials [sic] applied to the metallic base
9 substrate.

10 (Amendment dated July 20, 2012, at 6, 8, attached to the Leung Decl. as Exhibit 4.)

11 Accordingly, disavowed claim scope, if any, would be limited to an adhesive electrical
12 insulator. *See Conoco, Inc. v. Energy & Environmental Intern., L.C.*, 460 F.3d 1349, 1364 (Fed.
13 Cir. 2006) (“Unlike amendment-based estoppel, we do not presume a patentee's arguments to
14 surrender an entire field of equivalents through simple arguments and explanations to the patent
15 examiner. Though arguments to the examiner may have the same effect, they do not always
16 evidence the same clear disavowal of scope that a formal amendment to the claim would have.”).

17 Third, there is no intrinsic evidence supporting Everlight’s assertion than “adhesive may be
18 used to directly mount an LED chip to a substrate, ***provided that an efficient thermal path***
19 ***maintained.***” (See Everlight Responsive Brief at 9 (emphasis added).) Instead, the specification
20 explains that “[b]y mounting the LED chip 100 directly on a metal substrate, an efficient thermal
21 path is created” (See, e.g., ’929 Patent, Specification at Col. 4, ll. 53-55.) In arguing that an
22 adhesive must maintain an efficient thermal path, Everlight conflates a requirement with a result.

23 Furthermore, the claim term “mounted” or “mounting” is not limited to an adhesive. The
24 plain and ordinary meaning of claim term includes not only adhesives, but other means of mounting
25 the LED chip to the reflective surface using adhesive or other means. “By adhesive or other means”
26 is consistent with what the specification teaches for how an LED chip is mounted directly to the
27 reflective surface. The specification explains that “it can be seen that the LED chip 100 comprises
28

1 a bottom mounting surface 112 that can be used to mount the LED chip 100 to a substrate. For
2 example, any suitable adhesive may be used to mount the LED chip 100 to the substrate.” (See,
3 e.g., ’929 Patent, Specification at Col. 4, ll. 43-47.) The specification’s discussion of an adhesive
4 as an example demonstrates that “mounted / mounting” is not limited to adhesives and, therefore,
5 other means refers to the alternative ways in which an LED chip can be mounted directly to the
6 reflective surface. Thus, the specification confirms that an adhesive informs the interpretation of
7 “mounted / mounting” rather than arbitrarily create a an exception to the term “intervening element”
8 or “intervening layer” as Everlight argues.

10 **III. CONCLUSION**

11 Based on the foregoing, Bridgelux respectfully submits that its proposed constructions
12 should be adopted and Everlight’s proposed constructions should be rejected.

13 Dated: August 24, 2018

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