

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

ICPILLAR LLC,

Plaintiff,

v.

ARM LIMITED and ARM, INC.,

Defendants.

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Case No. 1:23-CV-00282-ADA

Jury Trial Requested

**DEFENDANTS' REPLY CLAIM CONSTRUCTION BRIEF**

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## I. INTRODUCTION

Lacking any support (either from intrinsic or extrinsic evidence) for its proposed constructions, ICPillar’s Responsive Brief (Dkt. 33) (“Response”) instead seeks to shift the applicable burden to Arm to show that ICPillar’s affirmative constructions are *not* the “plain and ordinary meaning” of the disputed claim terms. Indeed, from the very first page of its Response, ICPillar claims that Arm is guilty of “importing limitations from the specification and misstating the plain and ordinary meaning of the claim language.” Response, at 1. Yet for all but one disputed term, it is Arm that proposes the terms receive their “plain and ordinary meaning.” ICPillar, by comparison, seeks affirmative constructions that inject superfluous verbiage and otherwise depart from the plain meaning of the disputed claim terms. ICPillar’s misguided approach to claim construction should be rejected in favor of the proper constructions, as proposed by Arm.

## II. DISPUTED TERMS

### A. “categorized input and output characteristics of [a/an] [electronic] device” (’899 Patent, Claims 1, 8) (All Parties)

| Plaintiff’s Proposed Construction                                                            | Arm’s Proposed Construction                                                                                         |
|----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| “categorized characteristics or qualities of the inputs and outputs of an electronic device” | “input and output characteristics of [an/the] electronic device selected from a hierarchal classification database” |
| “categorized characteristics or qualities of inputs and/or outputs”                          |                                                                                                                     |

#### 1. ICPillar’s proposed construction is improper and unhelpful

As detailed in Arm’s Opening Brief (Dkt. 32 at 4-5), ICPillar’s proposed construction seeks to inject language into the claims found nowhere in the Asserted Patents or their file histories. ICPillar does not dispute that its proposal of adding the phrase “or qualities” to the claims is essentially pulled from whole cloth. Instead, ICPillar claims that “‘characteristics’ and ‘qualities’

are synonyms,”<sup>1</sup> and that adding a synonym to the claims “*may* aid” the jury’s understanding. *See* Response, at 2 (emphasis added). Noticeably absent from ICPillar’s argument, however, is a citation to any authority—case law or otherwise—that justifies inserting a synonym for the disputed term into the claim language.<sup>2</sup> ICPillar’s argument that inserting “or qualities” into the claims “does not change or expand the scope of the claim term” (*id.*), a point that Arm disputes, is likewise without any support. Yet even accepting ICPillar’s attorney argument only serves to further demonstrate the point; the phrase “or qualities” is meaningless at best, and thus there is no basis for adding that redundant language to the claims.

## 2. Arm’s construction is consistent with the specification and the law

In stark contrast to ICPillar’s proposal, Arm’s construction properly accounts for the plain claim language requiring that the “input and output characteristics” of the electronic device be “categorized.” *See* Opening Brief, at 3-4. ICPillar claims there “is no plausible argument that the plain and ordinary meaning of ‘categorized’ means or requires that the objects that are categorized...be ‘selected from a hierarchal classification database.’” Response, at 3. In doing so, ICPillar ignores the clear teaching from the specification of the ’899 Patent. When viewed in light of the written description, as is required, Arm’s proposed construction is unquestionably correct. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (“Importantly, the person of

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<sup>1</sup> Notably, ICPillar did not disclose the dictionary definition that it relies upon in support of this claim as required by the Court’s Local Rules and Scheduling Order. Moreover, ICPillar’s proposal is inconsistent even with its newly disclosed extrinsic evidence. Specifically, the dictionary defines “characteristic” as “a *distinguishing* trait, quality, or property.” *See* Response at 2 n.1. Conspicuously absent from ICPillar’s proposed construction, however, is the term “distinguishing.”

<sup>2</sup> ICPillar also fails to explain why the Court should insert “qualities” into this claim term but omit the two other synonyms identified in its previously undisclosed extrinsic evidence.

ordinary skill in 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.”); *see also Medrad, Inc. v. MRI Devices Corp.*, 401 F.3d 1313, 1319 (Fed. Cir. 2005) (“We cannot look at the ordinary meaning of the term...in a vacuum. Rather, we must look at the ordinary meaning in the context of the written description and the prosecution history.”).

Because the ’899 Patent repeatedly and exclusively describes “categorized” in relation to the “hierarchal classification database,”<sup>3</sup> which Arm’s construction accounts for, the Court should adopt Arm’s proposed construction, and reject that of Plaintiff.

**B. “a memory of a processor programmed by software commands to design a hardware integrated circuit and associated operating software” (’899 Patent, Claim 1; ’657 Patent, Claim 1) (Plaintiff)**

| Plaintiff’s Proposed Construction                                                                                                                                                           | Arm’s Proposed Construction |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| “one or more instances of memory associated with one or more processors that are programmed by software commands to design a hardware integrated circuit and associated operating software” | Plain and ordinary meaning  |

Despite devoting over five pages to this claim term, ICPillar (i) misses the point of Arm’s *Salazar*-based argument and (ii) fails to justify adoption of its construction.

**1. ICPillar largely ignores the point of Arm’s *Salazar*-based argument**

The point of Arm’s *Salazar*-based argument is simple: regardless of whether the claims recite only one “processor” (as is the case here) or multiple processors, *Salazar* requires that the *same processor* is required to perform *each step* of the claimed methods. *See* Opening Brief, at 7-8 (citing *Salazar v. AT&T Mobility LLC*, 64 F.4th 1311, 1317 (Fed. Cir. 2023)) (additional cases

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<sup>3</sup> *See* ’899 Patent at 8:17-9:18, 10:23-28, 14:19-37, Figs. 2-4.

omitted). While going to great lengths to try to distinguish *Salazar*, ICPillar appears to agree with this requirement. *See* Response, at 5 (“...there is no dispute...that at least one processor be capable of performing each of the claimed functions.”). However, ICPillar’s insistence that the Court add language to the claims that is (at best) superfluous raises legitimate questions about ICPillar’s motives. This is particularly so given the case law cited in Arm’s Opening Brief,<sup>4</sup> the patentee’s use of the very language ICPillar seeks to inject here in other independent claims of the Asserted Patents, and the statements made by the applicant during prosecution of the ’899 Patent. *See* Opening Brief, at 7-8. The Court accordingly should decline to adopt ICPillar’s strained construction, which seemingly is an attempted end-run around *Salazar*.

## 2. ICPillar’s proposal is not the “plain and ordinary meaning”

As previously detailed by Arm, ICPillar improperly attempts to construe the term “memory of a processor” as “*instances* of memory *associated with*” a processor. *See* Opening Brief, at 6-7. With respect to “instances of memory,” ICPillar admits that it “could have used ‘one or more memories’ instead,” but claims, without any support, that such phrasing “may be less clear to a jury.” Response, at 8. But the bald *ipse dixit* of ICPillar’s attorneys does not justify injecting language into the claims found nowhere in the Asserted Patents or their file histories. As such, ICPillar’s attempt to add the word “instances” to this claim term is improper and inconsistent with the term’s plain meaning. *See Merck & Co. v. Teva Pharm. USA, Inc.*, 347 F.3d 1367, 1371 (Fed. Cir. 2003) (“A fundamental rule of claim construction is that terms in a patent document are construed with the meaning with which they are presented in the patent document.”).

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<sup>4</sup> Tellingly, while ICPillar attempts to distinguish two of the cases cited by Arm, ICPillar fails to mention, much less distinguish, Arm’s third case—*Traxcell Techs., LLC v. Nokia Sols. & Networks Oy*, 15 F.4th 1136 (Fed. Cir. 2021).

With respect to “associated with,” ICPillar claims, again without any support, that its proposal “is no broader than ...‘memory of a processor.’” *See* Response, at 8. Yet ICPillar is apparently unwilling to declare that these terms are interchangeable. *See id.* at 9 (“...the terms ‘associated with’ and ‘of’ are both broad and have **significantly overlapping if not identical meaning** in the context of the claims.”) (emphasis added). Nor can ICPillar legitimately do so, as the patentee clearly intended for there to be a difference between these two phrases. *See Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111, 1119 (Fed. Cir. 2004); *Southwest EFuel Network, LLC v. Transaction Tracking Techs., Inc.*, No. 2:07-cv-311, 2009 WL 3460265, at \*13 (E.D. Tex. Oct. 23, 2009).<sup>5</sup> Despite acknowledging the differing verbiage used by the patentee, ICPillar asks the Court to ignore claim differentiation and instead adopt ICPillar’s proposal based on pure *ipse dixit*. The Court should reject ICPillar’s improper attempt to inject language into this claim term.

Indeed, the sole case relied upon by ICPillar in its Response actually supports Arm’s position. *See* Response, at 6-7 (citing *Curtiss-Wright Flow Control Corp. v. Velan, Inc.*, 438 F.3d 1374 (Fed. Cir. 2006)). In that case, the Federal Circuit made a case-specific finding that claim differentiation did not apply to independent claims using the terms “adjustable” and “adjustment mechanism” to describe the de-heading system for coke drums because the terms were used essentially interchangeably. *See generally* *Curtiss-Wright*, 438 F.3d at 1374-81. But in doing so, the Court noted that claim differentiation **does apply** in situations such as this. *See id.* at 1381 (“[C]laim differentiation takes on relevance in the context of a claim construction that would

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<sup>5</sup> As detailed in Arm’s Opening Brief, the patentee used the language ICPillar now seeks to inject into this claim term in other claims of both the ’899 Patent and the ’657 Patent (but chose not to do so here). *See* Opening Brief at 7.

render additional, or different, language in another independent claim superfluous...” (citation omitted). Here, the construction advanced by ICPillar would render the “one or more” language in independent claims 8 of the ’899 Patent and 9 of the ’657 Patent superfluous. For this additional reason, the Court should reject ICPillar’s construction and instead adopt the plain and ordinary meaning for this term, as proposed by Arm.

**C. “control type parameter associated with an electronic device” / “control type parameter” (’657 Patent, Claims 1, 9) (All Parties)**

| Plaintiff’s Proposed Construction <sup>6</sup>                                                                                                    | Arm’s Proposed Construction |
|---------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| “one or more parameters associated with an electronic device relating to the control <del>of</del> <del>operation</del> of the electronic device” | Plain and ordinary meaning  |

ICPillar does not contend that either of the two exceptions to the “general rule” of claim construction apply, so this term should be given its plain and ordinary meaning. *See Phillips*, 432 F.3d at 1312; *BCS Software, LLC v. Open Text, Inc.*, No. 6:21-cv-00050-ADA, 2021 WL 8202515, at \*2 (W.D. Tex. Oct. 20, 2021). ICPillar nevertheless continues to advance an affirmative construction that rewrites “control type” as “*relating* to the control of.” Rather than offering a justification for rewriting this claim term or explaining how its proposal is the plain and ordinary meaning (other than stating that “[t]he phrase ‘relating to’ is about as basic as the English language gets,”),<sup>7</sup> ICPillar instead tries to flip the burden to Arm to demonstrate how the affirmative

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<sup>6</sup> In view of Arm’s Opening Brief, ICPillar has refined several of its proposed constructions. Words removed from ICPillar’s proposed constructions are identified in strikethrough, while words added by ICPillar are identified with double brackets.

<sup>7</sup> ICPillar’s unsupported *ipse dixit* claim that its construction is the plain meaning should be given no weight. Simply adding words to the claim language and then calling it the plain meaning does not make it so.

construction proposed by ICPillar is **not** the plain and ordinary meaning. *See* Response, at 11. But it is ICPillar that seeks to offer an affirmative construction (one that is unequivocally subjective and not based on anything in the intrinsic record), so it is ICPillar’s burden to justify departing from the “general rule.” Here, ICPillar offers no such justification, so the plain and ordinary meaning, as proposed by Arm, should control.

**D. “display type parameter associated with the electronic device” / “display type parameter” (’657 Patent, Claims 1, 9) (All Parties)**

| Plaintiff’s Proposed Construction                                                                                                                              | Arm’s Proposed Construction |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| “one or more parameters associated with <del>an</del> <del>[[the]]</del> electronic device relating to a display <del>property</del> of the electronic device” | Plain and ordinary meaning  |

Here too, ICPillar seeks an affirmative construction that rewrites the plain language “display type” as the subjective phrase “**relating to** a display,” even though no exception to the “general rule” applies. ICPillar again attempts to distract from the merits of the dispute by arguing that “relating to” is a “basic English word[.]” Response, at 11. But the issue is not whether “relating to” can be understood in some contexts; the issue is whether there is any legitimate basis for inserting that phrase into this term, and by extension the claims of the Asserted Patents. There is none, and ICPillar tellingly fails to offer any. As such, there is no reason to deviate from the general rule of claim construction, so the plain and ordinary meaning of “display type parameter,” as proposed by Arm, should apply.

**E. “input type parameter for the electronic device” / “input type parameter” (’657 Patent, Claims 1, 9) (All Parties)**

| Plaintiff’s Proposed Construction                                                                                                             | Arm’s Proposed Construction |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| “one or more parameters <del>associated with an</del> <del>[[for the]]</del> electronic device relating to an input of the electronic device” | Plain and ordinary meaning  |

Yet again, ICPillar seeks an affirmative construction that vitiates “input type” and substitutes it with “*relating to* an input,” even though no exception to the “general rule” applies. And once again, ICPillar makes no attempt to justify rewriting this claim term, instead criticizing Arm’s reference to the plain meaning of this term, which is informed by the specification of the ’657 Patent, as it must be. ICPillar’s attempt to expand this term beyond its plain meaning through claim construction, by contrast, is wholly unjustified.

ICPillar’s attempted justification of its infringement contentions is instructive. Whether ICPillar contends an “input type parameter” is a “memory” (as it claimed in its infringement contentions) or a “memory input” (as it now claims in its Response, at 13), the outcome is the same. There simply is nothing in the claims or the specification of the ’657 Patent that suggests “memory” or a “memory input” are a form of “input type parameter.” Nor would such an interpretation make sense. The claims plainly state that the “input type parameter” is “for the electronic device” itself, not for an optional sub-component of the device (e.g., “a memory”).

As evidenced by its infringement contentions and its Response, ICPillar is attempting to insert subjective words of degree (e.g., “*relating to* an input of the electronic device”) into this disputed term to try to capture subject matter outside the scope of the plain meaning of the claims. Because there is no reason to deviate from the general rule of claim construction, however, the plain and ordinary meaning of “input type parameter,” as proposed by Arm, should apply.

**F. “output type parameter for the electronic device” / “output type parameter” (’657 Patent, Claims 1, 9) (All Parties)**

| <b>Plaintiff’s Proposed Construction</b>                                                                                            | <b>Arm’s Proposed Construction</b> |
|-------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|
| “one or more parameters <del>associated with an</del> [[for the]] electronic device relating to an output of the electronic device” | Plain and ordinary meaning         |

Once more, ICPillar seeks an affirmative construction that rewrites “output type” as “*relating to* an output,” even though no exception to the “general rule” applies. Notably, ICPillar does not claim its proposal is the plain meaning, nor can it, as there is no support (intrinsic or extrinsic) for its construction. Instead, as with other terms, ICPillar attempts to flip the burden to Arm to prove ICPillar’s affirmative construction is not the plain and ordinary meaning. But as the party seeking a construction, it is ICPillar’s burden to demonstrate a reasoned basis for deviating from the claim language. ICPillar has failed to do so. Because no exceptions to the “general rule” apply here, the plain and ordinary meaning of this term, as proposed by Arm, should control.

**G. “fabless development kit” (’657 Patent, Claim 8) (Plaintiff)**

| Plaintiff’s Proposed Construction                                                                                                                                      | Arm’s Proposed Construction |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| “a collection of software applications or programs for creating an integrated circuit design and its software separate from the manufacture of the integrated circuit” | Plain and ordinary meaning  |

ICPillar’s argument confusingly flip-flops between claiming this term was coined by the patentee and claiming that this term has an “ordinary meaning.” *See* Response, at 14-16. Either way, ICPillar’s proposed construction is erroneous.

While claiming that “[t]he patent is the first to use the specific phrase ‘fabless development kit,’” (*id.* at 15), ICPillar conversely contends that “the constituent terms of the phrase” have an “ordinary meaning.” *Id.* at 15-16. Specifically, ICPillar argues that the patent “uses the term ‘development kit’ according to its ordinary meaning” and “uses the term ‘fabless’ according to its ordinary meaning.” *Id.* at 14-15. In view of these concessions and the unequivocal statement that “[f]abless design of ICs and MCUs is *well known in the art*” (*see* ’657 Patent at 10:9) (emphasis added), the Court should construe “fabless development kit” to have its plain and ordinary

meaning, as proposed by Arm. But even if a construction of this disputed term was justified (it is not), ICPillar’s proposed construction misses the mark.

For the first portion of its proposed construction (“a collection of software applications or programs for creating an integrated circuit design and its software”), ICPillar claims to rely on a definition for a different term—“software development kit”—from the specification. *See* Response, at 14-15. Doing so is improper. *See Int’l Rectifier Corp. v. IXYS Corp.*, 361 F.3d 1363, 1374 (Fed. Cir. 2004) (rejecting a district court’s construction that replaced a claim term with the definition of a related term). Moreover, ICPillar does not actually adopt the definition of “software development kit” from the specification (defined therein as “a set of software development tools that allows for the creation of applications for a certain software package, software framework, hardware platform, computer system, video game console, operating system, or similar development platform” (’657 Patent at 10:30-34)), but instead modifies it arbitrarily. And as explained in the Opening Brief, the language of ICPillar’s proposed construction (“a *collection* of software applications”) even appears to foreclose a single piece of software as the claimed “fabless development kit.” *See* Opening Brief, at 16-17.

Because ICPillar admits that the disputed term is based on the “ordinary meaning” of its constituent parts, and its proposed construction deviates from that meaning as set forth in the intrinsic record, the Court should reject ICPillar’s proposed construction, and adopt the plain and ordinary meaning for this term, as proposed by Arm.

### III. CONCLUSION

For all the reasons set forth above and in the Opening Brief, Arm respectfully requests that the Court adopt Arm’s proposed constructions for the disputed claim terms.

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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on January 30, 2024.

/s/ Matthew W. Cornelia  
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