

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

The Honorable Doris Johnson Hines
Administrative Law Judge

In the Matter of

Certain Video Capable Electronic Devices,
Including Computers, Streaming Devices,
Televisions, Cameras, and Components and
Modules Thereof

Investigation No. 337-TA-1379

COMMISSION INVESTIGATIVE STAFF'S RESPONSIVE CLAIM
CONSTRUCTION BRIEF

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I. INTRODUCTION

The only issue for the ALJ to decide is whether the construction of “skip coding mode” should explicitly include the language “wherein no residual information is provided for the first segment in the encoded bitstream.” All parties agree that the construction should include “A coding mode in which a zero (non-active) motion vector or a non-zero (active) motion vector is associated with each skip mode macroblock, depending on the characteristics of the motion in image segments surrounding the macroblock in question.” As explained below and in Staff’s Opening Claim Construction Brief, the language should not be included.

II. ARGUMENT

A. THE INTRINSIC RECORD DOES NOT REQUIRE THE ADDITION OF “WHEREIN NO RESIDUAL INFORMATION IS PROVIDED FOR THE FIRST SEGMENT IN THE ENCODED BITSTREAM” TO THE CONSTRUCTION OF BIT CODING MODE

Respondents are correct that claim construction always begins with the claim language. *Tate Access Floors, Inc. v. Interface Architectural Res., Inc.*, 279 F.3d 1357, 1370 (Fed. Cir. 2002). RRB at 1-2. But what Respondents fail to explain, is *why* residual information has to be explicitly mentioned in the independent claims to be permissible. And this is because residual information *does not* have to be mentioned. It is not a claimed element and therefore, not a requirement. *Crystal Semiconductor Corp. v. TriTech Microelectronics Int’l Inc.*, 246 F.3d 1336, 1348 (Fed. Cir. 2001).

Respondents mis-apply the case law regarding the transitional term “comprising” in their reply. RRB at 11. Indeed, unlike Respondents’ argument, this is not a case of trying to modify limitations already in the claim. As Respondents’ observe, “the term ‘comprising’ in a preamble raises a presumption that the list of claim limitations is nonexclusive.” *Id.*

That is precisely the case here. The independent claims identify a number of limitations, but *do not* identify “residual information.” The Staff is therefore not trying to eliminate any limitations, but rather permitting the use (or non-use) of “residual information.”

As Respondents observe in footnote 1 of their reply brief, the “patentee knew how to specify that information would not be sent in independent claims. For example, in claim 1, the patentee expressly stated that ‘no further motion vector information . . . is coded in the . . . bitstream.’ No such limitation exists as to ‘skip coding mode.’” RRB at 2. The fact that the patentee chose to claim how motion vector information should be used, but was silent as to residual information, is further evidence that “residual information is an unclaimed element that may or may not be used in conjunction with the other limitations in the claim. *Crystal Semiconductor Corp.*, 246 F.3d at 1348 (Fed. Cir. 2001).

The *Dippin’ Dots* case does not support Respondents’ argument in this case. In *Dippin’ Dots*, the Federal Circuit reviewed the construction of the term “beads,” which the District Court construed as “small frozen droplets . . . which have a smooth, spherical (round or ball shaped) appearance.” *Dippin’ Dots v. Mosey*, 476 F.3d 1337, 1342-43 (Fed. Cir. 2007). In that case, the term “beads” was narrowed by the patentee to exclude “popcorn” style beads. *Id.* Therefore, the plaintiff was effectively trying to use the “comprising” term to argue that the specification is broader than it really is. *Id.* But in that case, the patentee had claimed the term “beads” that it was trying to broaden. Here, the patentee did not claim “residual information.” The Staff is not arguing for broadening a construction –

residual information is not claimed *at all* in the independent claims. It is an additional nonexclusive limitation that may or may not be used.¹

B. THE INDEPENDENT CLAIMS ARE SILENT ON “RESIDUAL INFORMATION” AND THEREFORE, DO NOT PRECLUDE THE USE OF “RESIDUAL INFORMATION” EVEN IN CONJUNCTION WITH SKIP CODING MODE”

The arguments present an interesting dynamic. Respondents argue that the additional language is necessary to breath life into the dependent claims, while simultaneously arguing that the patent discloses multiple embodiments that allow for the use of residual information. Respondents’ Responsive Claim Construction Brief (“RRB”) at 1. The Complainants, on the other hand, argue the language is not necessary while simultaneously arguing that skip mode *cannot* use residual information at all. Complainants’ Reply Claim Construction Brief (“CRB”) at 2. In their Reply Brief, Respondents specifically address this dynamic and in footnote 2 request that the ALJ address this dispute: “If the ALJ adopts Complainants’ position, it should modify Complainants’ construction to make clear that “skip coding mode” “cannot include residual information” because there is a claim construction dispute that requires resolution and Complainants’ construction, as written, does not resolve that dispute.”

The Staff agrees with Complainants that the embodiments described in the specification do not explicitly demonstrate the use of residual information in conjunction with skip coding mode. CRB at 17-20. But the Staff disagrees with Complainants that this automatically means that residual information *cannot* be used in conjunction with the elements of the independent claims. As Respondents observe, the specification includes a

¹ If Respondents’ argument is correct, then every claim construction offered would necessarily exclude any unclaimed elements unless explicitly identified as offered by Respondents.

number of embodiments where residual information is permitted for use with other coding modes. RRB at 8-9. As Staff has offered, the claims use the open language, “comprising,” which means unclaimed limitations are not requirements of the claims. *Crystal Semiconductor Corp.* 246 F.3d at 1348 (Fed. Cir. 2001). The Staff also disagrees with Respondents that the language needs to be modified to say that residual information cannot be used. That is axiomatic in the fact that the patentee did not claim residual information in the independent claims. *Id.*

III. CONCLUSION

Thus, for the reasons set out above, the ALJ should adopt the Staff’s and Complainants’ proposed construction for the term “skip coding mode.”

Respectfully submitted,

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February 28, 2024

CERTIFICATE OF SERVICE

The undersigned certifies that on February 28, 2024, she caused the foregoing

COMMISSION INVESTIGATIVE STAFF'S RESPONSIVE CLAIM CONSTRUCTION BRIEF

to be served upon the Administrative Law Judge at JohnsonHines1379@usitc.gov with courtesy
copies uploaded to Box in accordance with Ground Rule 1.10.2.1, and serving the same upon the
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