

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

HANSHOW TECHNOLOGY CO., LTD.,

Plaintiff,

v.

SES-IMAGOTAG SA AND SES-
IMAGOTAG GMBH,

Defendants.

Case No. 2:23-cv-174-RWS-RSP

JURY TRIAL DEMANDED

**PLAINTIFF HANSHOW TECHNOLOGY CO., LTD.'S OBJECTIONS TO
MAGISTRATE JUDGE'S CLAIM CONSTRUCTION ORDER**

TABLE OF EXHIBITS

Exhibit A	Magistrate Judge Payne's Preliminary Claim Constructions
Exhibit B	Excerpts from the Official Transcript of Proceedings – Markman Hearing Before Magistrate Roy S. Payne, December 13, 2024, 1:30 p.m., Marshall, Texas
Exhibit C	Excerpts from the Expert Declaration of Shukri Souri, Ph.D.

Pursuant to Local Rule CV-72(b), Plaintiff respectfully objects to certain constructions in Magistrate Judge Payne's Claim Construction Order ("Order"). Dkt. 129.

I. OBJECTIONS

A. "normal monitoring mode" and "fast monitoring mode"

The Order construes "normal monitoring mode" as "a normal mode that is configured to wake-up the tag for a duration that is shorter than the duration of the wake-up period of the fast monitoring mode" and "fast monitoring mode" as "a mode configured to wake-up the tag for a duration that is longer than the duration of the wake-up period of the normal monitoring mode, which increases power consumption when compared to the normal monitoring mode." *Id.* at 19.

In the Court's preliminary construction, the terms were construed as "a normal mode that has a longer monitoring period than the monitoring period of the fast monitoring mode" and "a mode that has a shorter monitoring period than the monitoring period of the normal monitoring mode", respectively. Ex. A at 1. The parties largely agree upon the meaning of "monitoring period" as a period including a non-monitoring interval plus a monitoring interval (*see* Order at 16 n.4) and Plaintiff agreed with these constructions. Ex. B at 6:19-22. Defendants argued against these constructions on the basis that a shorter monitoring period is not necessarily "faster" or more energy-efficient. *Id.* at 36:9-40:19. Defendants admit that if "everything else has to stay the same in monitoring period, but the monitoring period gets shorter," then that will result in a "faster" response, but argues that these constructions fail because they do not keep everything else constant when the monitoring period gets shorter in the fast monitoring mode. *Id.* at 37:12-38:14.

The Order seeks to resolve the issue by construing the wake-up period instead of the monitoring period (Order at 16 n.4), but adopts an interpretation of the '216 Patent that is unsupported in the specification. *See id.* (citing '216 Patent at 1:61-67). The cited portion of the '216 Patent refers only to differences in monitoring periods, and is amenable to an interpretation

where everything else stays the same with only the monitoring period getting shorter—an interpretation that Defendants would apparently accept as resulting in a “faster” response time. Yet the Order discusses the issue in terms of differences in the “wake-up period,” a term that does not appear in the specification (or any evidence relied upon by either party), and was never raised or discussed by either party. The resulting construction is thus one that neither party argued for (or even discussed), and one that lacks support in the intrinsic and extrinsic evidence. Therefore, Plaintiff objects to this construction and adheres to its agreement to the preliminary construction.

B. “the base station comprises two wake-up modes: a normal wake-up mode and a[/the] fast wake-up mode”

The Order construes “the base station comprises two wake-up modes: a normal wake-up mode and a[/the] fast wake-up mode” as “the base station comprises two wake-up modes, a normal wake-up mode wherein the base station is configured to have a wake-up duration that is at least longer than a wake-up duration of the normal monitoring mode of the electronic tag device, and a[/the] fast wake-up mode wherein the base station is configured to have a wake-up duration that is at least longer than a wake-up duration of the fast monitoring mode of the electronic tag device.” Order at 21-22. This construction is unduly influenced by the introduction of the term “wake-up duration” (a term that is only associated with the base station and apparently used here as a synonym of “wake-up period” that the Order introduced for the constructions of the monitoring modes) into the construction of the monitoring modes, which, as discussed above, has no support in the intrinsic or extrinsic evidence. Therefore, Plaintiff objects to this construction and adheres to its proposed construction at the *Markman* hearing based on the preliminary construction, which is “the base station comprises two wake-up modes for waking up an electronic tag device, a normal wake-up mode wherein the base station sets a wake-up duration that is longer than the monitoring

period of the normal monitoring mode, and a[/the] fast wake-up mode sets a wake-up duration.”
See Ex. A at 1; Ex. B at 6:23-7:19.

C. “fast wake-up instruction”

The Order construes “fast wake-up instruction” as “instruction from the base station to the electronic tag device requiring the electronic tag device to wake-up for a period that is longer than the wake-up period of the fast-monitoring mode.” Order at 23-24. This construction is unduly influenced by the improper introduction of the term “wake-up period,” which, as discussed above, has no support in the intrinsic or extrinsic evidence. Therefore, Plaintiff objects to this construction and adheres to its agreement to the preliminary construction. See Ex. A at 2; Ex. B at 6:19-22.

D. “service management request”

The Order construes “service management request” as “a request that identifies a service and identification of the user.” Order at 29-39. While the Order correctly rejects Defendants’ attempt to import the *optional* “other information” (’210 Patent at 6:51) into the construction, this construction is unduly influenced by the specification language “[t]he service management request, for instance, includes information such as the requested service and identification of the user.” (’210 Patent, at 6:48-50). The Order erroneously treats this language—which only describes exemplary embodiments—as defining the term. See Order at 29; ’210 Patent at 6:10. In fact, the phrase “for instance” shows that information such as the requested service and identification of the user are not required components of the service management request. Therefore, Plaintiff objects to this construction and adheres to its position that the term should be given its plain and ordinary meaning.

E. The “services platform” terms

The Order finds the “services platform” terms to be governed by 35 U.S.C. § 112, ¶ 6 and accordingly construes their functions and corresponding structures. Order at 36-37.

Plaintiff objects to the finding that the terms are governed by § 112, ¶ 6. The Order relies on excerpts of Dr. Souris's deposition testimony but does not adequately address Dr. Souris's opinion that a services platform in the context of the '210 and '994 Patents would have been known to a POSITA as a known type of device, component, or some combination of hardware and software for managing services corresponding to bearer tags. Ex. C at ¶105. Further, the Order overlooks the facts that the services platform describes a class of structures (*e.g.*, services portal) and thus the claim term recites sufficiently definite structure so to not invoke § 112 ¶ 6 (*see e.g.*, '210 Patent at 6:66-7:65). *See Dyfan, LLC v. Target Corp.*, 28 F.4th 1360, 1366 (Fed. Cir. 2022). Thus, the finding that "Defendants have overcome the presumption that § 112 ¶ 6, does not apply" (Order at 35) is erroneous, because Defendants fail to "demonstrate[] that the claim term fails to 'recite sufficiently definite structure' or else recites 'function without reciting sufficient structure for performing that function.'" *Williamson v. Citrix Online, LLC*, 792 F.3d 1339, 1349 (Fed. Cir. 2015).¹

F. "A non-transitory computer-readable storage medium carrying one or more sequences of one or more instructions which, when executed by one or more processors, cause the one or more processors to at least perform the following"

The Order finds the preamble to be limiting as to the claims 1 and 15 of the '210 Patent. Order, at 38-39. The Order erroneously concludes that the preamble is necessary to give life, meaning and vitality to claims 1 and 15. *See* Order at 38-39. While the preamble provides context for these two claims, the body of the claims, as the Order finds, "recite a number of steps that are performed when the instructions are executed" without referring in any way to the storage medium, the instructions, or the processors. *See* Order at 39. Thus, the preamble is not a necessary limitation.

¹ The Order's reliance on *Ibormeith IP, LLC v. Mercedes-Benz USA, LLC*, 732 F.3d 1376 (Fed. Cir. 2013) is erroneous because in that case, the relevant term employed the nonce word "means" and there was no dispute about whether § 112 ¶ 6 applied. *See id.* at 1379-81.

See *Symantec Corp. v. Comput. Assocs. Int'l, Inc.*, 522 F.3d 1279, 1285 (Fed. Cir. 2008). Plaintiff therefore objects to this construction and adheres to its position that the preamble is not limiting as to claims 1 and 15.²

G. “wherein managing the one or more services comprises activating, modifying, discovering, accessing, or setting up the one or more services, and the management of the one or more services comprises activation, modification, discovery, accessing, and setting up of the one or more services”

The Order finds “and” to be conjunctive and erroneously dismissed the cases cited by Plaintiff as “inapplicable” because they deal with the use of “at least one of,” not “one or more.” See Order at 41-42. However, the Federal Circuit has held that “at least one of” is equivalent to “one or more.” *SuperGuide Corp. v. DirecTV Enters.*, 358 F.3d 870, 886 (Fed. Cir. 2004). In addition, although here “one or more” is not directly describing “management,” the cited cases are still informative because they show that “and” can be conjunctive even when directly used in conjunction with “at least one of.” The Order erroneously ignores the legal principles embodied in these cases and opted for an overly literal reading of the word “and” alone. Plaintiff therefore objects to this construction and adheres to its position that “and” is disjunctive.

II. CONCLUSION

For the reasons explained above, Plaintiff respectfully objects to the above constructions.

² Plaintiff does not object to the finding that the preamble is limiting as to Claim 4.

Dated: January 27, 2025

By: /s/ Gary M. Hnath

Gary M. Hnath (DC Bar No. 388896)
Wm. Brady Nash (*Pro Hac Vice*)
MAYER BROWN LLP
1999 K Street, NW
Washington, D.C. 200006
Phone: 202-263-3040 (Hnath)
Fax: 202-263-5323
Email: Ghnath@mayerbrown.com

Hao Tan (IL Bar No. 6314119)
Shen Wang (IL Bar No. 6314224)
Peter J. Curtin (IL Bar No. 6332596)
ARCH & LAKE LLP
203 N. LaSalle St., Ste. 2100
Chicago, IL 60601
Phone: 312-558-1369
Fax: 312-614-1873
HaoTan@archlakelaw.com
ShenWang@archlakelaw.com
Pete_curtin@archlakelaw.com

Geoffrey Culbertson
TX Bar No. 24045732
PATTON, TIDWELL & CULBERTSON,
LLP
2800 Texas Boulevard
Texarkana, TX 75503
Telephone: (903) 792-5859
Facsimile: (903) 792-8233
gpc@texarkanalaw.com

*Counsel for Plaintiff Hanshow
Technology Co., Ltd.*

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this 27th day of January, 2025, with a copy of this document via the Court's CM/ECF system.

/s/ Gary M. Hnath
Gary M. Hnath