

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BELDEN CANADA ULC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
COMMSCOPE, INC., COMMSCOPE, INC.	)	C.A. No. 23-810-RGA
OF NORTH CAROLINA, and COMMSCOPE	)	
TECHNOLOGIES LLC,	)	
	)	
Defendants.	)	

BELDEN'S OPENING CLAIM CONSTRUCTION BRIEF

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Belden's Preliminary Statement

Plaintiff Belden Canada ULC (“Belden”) and defendants CommScope, Inc., CommScope Inc. of North Carolina, and CommScope Technologies, LLC (collectively, “CommScope”) are competitors in the telecommunications and cable products industry. CommScope infringes Belden’s U.S. Patent Nos. 10,795,107 (the “’107 Patent”), 11,435,542 (the “’542 Patent”), 11,656,422 (the “’422 Patent”), and/or 11,740,423 (the “’423 Patent”) (collectively, the “Patents-in-Suit”), by selling various modular fiber connectivity products.

As set forth in the specification of the Patents-in-Suit, the invention disclosed and claimed, “relates to a fiber optic cassette comprising a width of one or more standard width units and such that fiber optic cassettes of different widths can be arranged on the same tray while optimizing the use of tray space.” (’107 Patent, Field of the Invention, 1:16-19.) The invention was intended to address drawbacks in the prior art, including “that cassettes which are used to terminate fiber optic cables comprising different numbers of optic fibers are generally incompatible with one another and additionally require trays with different spacing, securing mechanisms and the like.” (*Id.*, Background of the Invention, 1:30-34.)

To try to avoid infringement, CommScope now invites the Court to commit a host of factual and legal errors by proposing various claim construction theories that are contrary to how a person of ordinary skill in the art at the time of the claimed invention (“POSA”) would reasonably understand the meaning of such claim terms. By contrast, Belden’s constructions are supported by the intrinsic record and well-settled claim construction principles of patent law. CommScope also invites the Court to commit additional errors by proposing indefiniteness theories that are contrary to not only how a POSA would reasonably ascertain the meaning of the claim language at issue, but also well-settled principles of patent law. CommScope also cannot meet its burden to establish indefiniteness by clear and convincing evidence because the claim language at issue,

when read in light of the intrinsic and extrinsic evidence, reasonably informs a POSA about the scope of the invention with reasonable certainty.¹ Accordingly, the Court should reject CommScope's invitation to commit such legal and factual errors, and instead address the identified terms in accordance with Belden's proposed constructions to avoid committing such errors.

I. Disputed Constructions

A. Terms 1a-1b – The “Standard Width Unit” Terms

#	Term	Belden's Proposed Construction	CommScope's Proposed Construction
1a	“standard width unit” ’107 Patent (claims 1 and 8) ’542 Patent (claims 1 and 8) ’422 Patent (claims 1, 18, 40)	Not indefinite – “a unit of width that accommodates a single receptacle module, such as a LC Quad (SC Duplex) technology footprint comprising four connectors”	A standard width unit means an actual width that is standardized in the industry. For example, the width of an SC Duplex footprint. Otherwise, indefinite.
1b	“standard one width (1 W) unit” ’423 Patent (Claims 1, 9, 17)	“a unit of width that accommodates a single receptacle module, such as a LC Quad (SC Duplex) technology footprint comprising four connectors”	A standard width unit means an actual width that is standardized in the industry. For example, the width of an SC Duplex footprint. Otherwise, indefinite.
Why Resolution Matters		Belden's Position	CommScope's Position
		Construction of this term addresses CommScope's indefiniteness claim and may also impact infringement and/or validity.	CommScope's construction is dispositive of all asserted claims in all the asserted patents. Every asserted claim requires a version of Term 1.

¹ Pursuant to the Court's direction, the text of the asserted claims with the disputed terms italicized is attached hereto as Appendix 1.

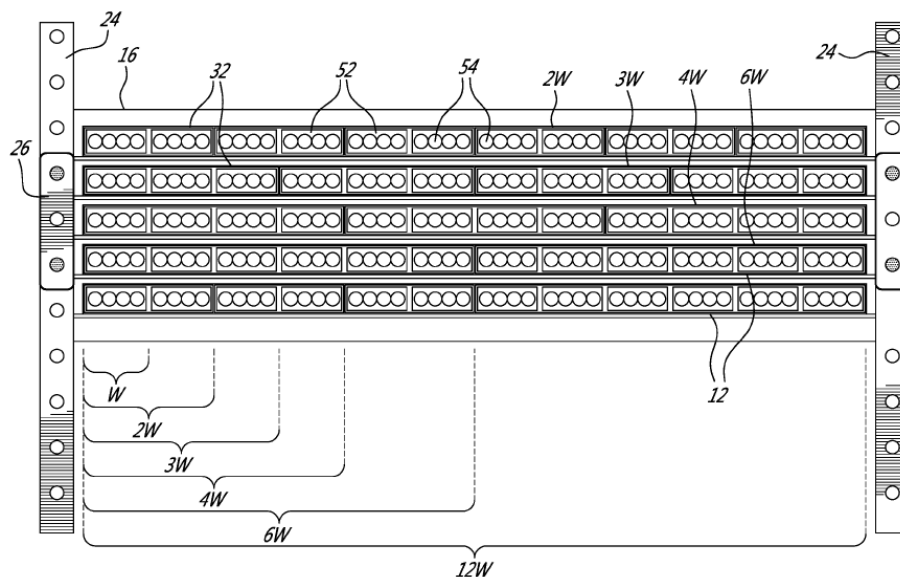
1. Belden's Opening Position

These terms are not indefinite. Instead, their meaning is readily apparent from the plain language of the identified claims in light of the specification. Belden's proposed construction should be adopted because it is based on the intrinsic evidence.

As informative context, the “invention relates to a fiber optic cassette comprising a width of one or more standard width units and such that ***fiber optic cassettes of different widths can be arranged on the same tray while optimizing the use of tray space.***”² (’107 Patent, Field of the Invention, 1:16-19.) The invention was intended to address drawbacks in the prior art, including “that cassettes which are used to terminate fiber optic cables comprising different numbers of optic fibers are generally incompatible with one another and additionally require trays with different spacing, securing mechanisms and the like.” (*Id.*, Background of the Invention, 1:30-34.) In other words, the invention provides for the optimized arrangement and use of modular cassettes of different sizes that accommodate different quantities of optical fibers on a single tray of a fiber optic system. (*See id.* at 4:23-26 (“cassettes of different widths can be used in the same tray system or in some cases on the same tray without modification or changing the density of the receptacles 54 for terminating optic fibers”).)

The specification teaches this, including in Figure 3, reproduced below:

² Unless otherwise indicated, all emphasis is added.

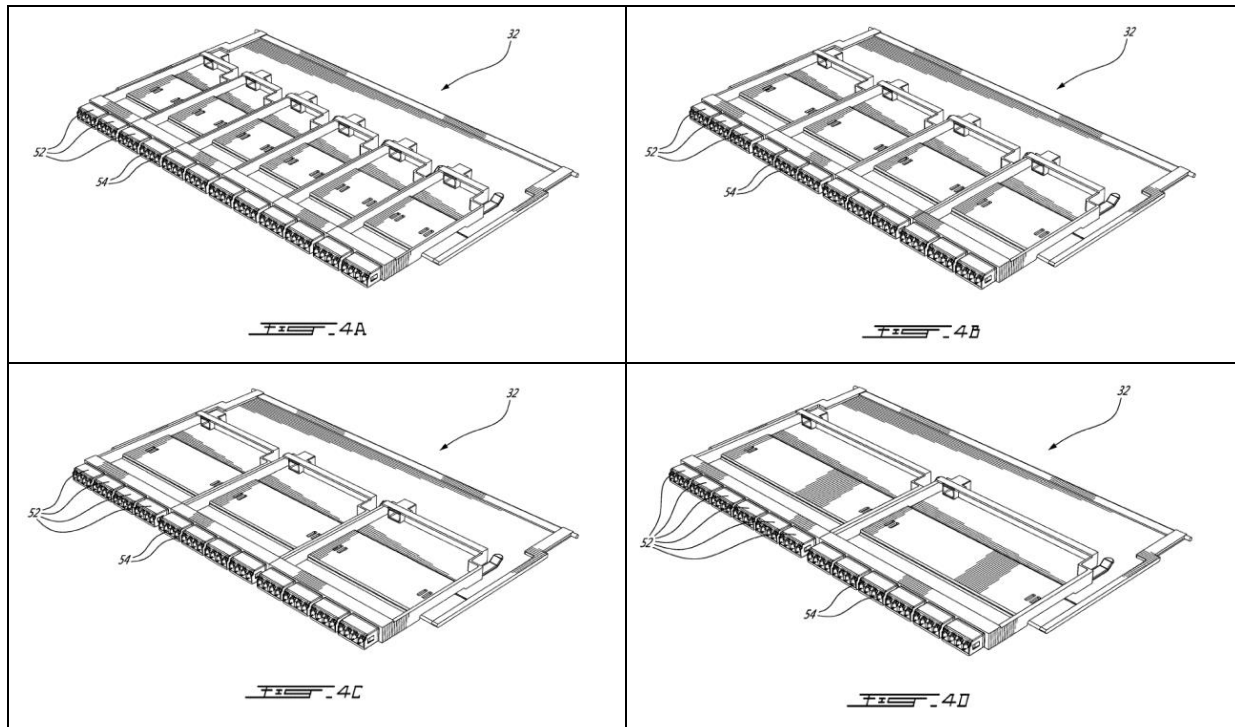


This figure depicts “a modular fiber optic cassette system mounted in a rack in accordance with an illustrative embodiment of the present invention.” (’107 Patent, 2:25-27.) “[E]ach cassette 32 illustratively comprises a plurality of receptacle modules 52 each comprising four (4) receptacles 54.” (*Id.* at 3:36-39.)

The specification further teaches that:

Each of the different cassette sizes of the set is based on an integer multiple of a standardised pitch or width unit *W* **wherein one standardized width unit accommodates a single receptacle module 52 comprising four (4) receptacles 54.** Illustratively, a 2 *W* cassette 32 comprising two (2) modules 52 accommodating eight (8) optic fibers (FIG. 4A) is provided, a 3 *W* cassette 32 comprising three (3) modules 52 accommodating twelve (12) optic fibers (FIG. 4B) is provided, a 4 *W* cassette 32 comprising four (4) modules 52 accommodating sixteen (16) optic fibers (FIG. 4C) is provided and a 6 *W* cassette 32 comprising six (6) modules 52 accommodating twenty-four (24) optic fibers (FIG. 4D) is provided for.

(*Id.* at 3:42-54.) The referenced Figures 4A through 4D are reproduced below:



The specification also teaches that:

Although [in] the present illustrative embodiment the pitch/width W is based on a LC Quad (SC Duplex) technology footprint comprising four (4) connectors, in an alternative embodiment the pitch/width W could be based on a different technology footprint, including SC Duplex comprising two (2) connectors and MPO type connectors comprising inter alia multiple optic fibers such as MPO-12, MPO-16 and MPO-24.

(*Id.* at 3:60-67.)

Consistent with this teaching, and in fact incorporating specific language used in the specification, Belden respectfully submits that these terms should be construed as “a unit of width that accommodates a single receptacle module, such as a LC Quad (SC Duplex) technology footprint comprising four connectors.” See *Grace Instrument Indus., LLC v. Chandler Instruments Co., LLC*, 57 F. 4th 1001, 1010 (Fed. Cir. 2023) (“Where the specification instructs as to the meaning of a claim term, the inventor’s lexicography governs.” (cleaned up)); *Linear Tech. Corp.*

v. *Int'l Trade Comm'n*, 566 F. 3d 1049, 1054 (Fed. Cir. 2009) (affirming construction of a limitation according to the definition in the specification).

By contrast, CommScope's proposed construction erroneously seeks to artificially narrow the scope of these terms to "an **actual** width that is standardized in the industry." But not only is "actual width" never referenced or even alluded to in the specification, the very concept of an "actual" width is wholly inconsistent with the teaching of the specification. Indeed, as previously discussed, the specification explicitly teaches that a standard width unit "***accommodates*** a single receptacle module 52," not that it ***is*** the actual width of such a module, and that is how these terms should be construed. (*Id.* at 3:44-45.) See *Grace Instrument Indus., LLC*, 57 F. 4th at 1010; *Linear Tech. Corp.*, 566 F. 3d at 1054.

B. Terms 2a-2e – The “Cassette Width” Terms

#	Term	Belden's Proposed Construction	CommScope's Proposed Construction
2a	“cassette width of [one of] two, three, four, [and] six standard width units” '107 Patent (Claim 1)	“cassette width that accommodates one of one, two, three, four, or six receptacle modules”	“The cassette width equals one, two, three, four, or six times the standard width unit, without an additional amount. This means the cassette width must be evenly divisible by the standard width unit.”
2b	“cassette width as measured between outer side edges thereof of one of one, two, three, four and six standard width units” '542 Patent (Claim 1)	“cassette width as measured between outer side edges thereof that accommodates one of one, two, three, four, or six receptacle modules”	“The cassette width as measured between outer side edges thereof equals one, two, three, four, or six times the standard width unit, without an additional amount. This means the cassette width must be evenly divisible by the standard width unit.”

#	Term	Belden's Proposed Construction	CommScope's Proposed Construction
2c	"cassette width, as measured between outer side edges thereof, of two, three, four, or six standard width units" '422 Patent, (Claim 1)	"cassette width as measured between outer side edges thereof that accommodates one of one, two, three, four, or six receptacle modules"	"The cassette width, as measured between outer side edges thereof, equals two, three, four, or six times the standard width unit, without an additional amount. This means the cassette width must be evenly divisible by the standard width unit."
2d	"each of the modular fiber optic cassettes ... defining a standard cassette width unit ... that comprises a standard two width (2 W) unit, a standard three width (3 W) unit, a standard four width (4 W) unit, or a standard a standard six width (6 W) unit relative to the standard one width (1 W) unit" (CommScope) / "each of the modular fiber optic cassettes includes a first cassette side end portion and a second cassette side end portion defining a standard cassette width unit extending between the first cassette side end portion and the second cassette side end portion that comprises a standard two width (2 W) unit, a standard three width (3 W) unit, a standard four width (4 W) unit, or a standard a standard six width (6 W) unit relative to the standard one width (1 W) unit" (Belden) '423 Patent, (Claim 1)	"each of the modular fiber optic cassettes includes a first cassette side end portion and a second cassette side end portion defining a standard cassette width unit extending between the first cassette side end portion and the second cassette side end portion that comprises a unit that accommodates two receptacle modules, a unit that accommodates three receptacle modules, a unit that accommodates four receptacle modules, or a unit that accommodates six receptacle modules, relative to a unit that accommodates one receptacle module"	"Each of the modular fiber optic cassettes has a cassette width that equals two, three, four, or six times the standard one width unit, without an additional amount. This means the cassette widths must be evenly divisible by the standard width unit."

#	Term	Belden's Proposed Construction	CommScope's Proposed Construction
2e	“cassettes include a 2 W cassette size that is configured to fit a standard two width (2 W) unit relative to the standard one width (1 W) unit, a 3 W cassette size that is configured to fit a standard three width (3 W) unit relative to the standard one width (1 W) unit, a 4 W cassette size that is configured to fit a standard four width (4 W) unit relative to the standard one width (1 W) unit, and a 6 W cassette size that is configured to fit a standard six width (6 W) unit relative to the standard one width (1 W) unit” ’423 Patent, (Claims 9 and 17)	“cassettes include a size that is configured to accommodate two receptacle modules relative to the unit that accommodates one receptacle module, a size that is configured to accommodate three receptacle modules relative to the unit that accommodates one receptacle module, a size that is configured to accommodate four receptacle modules relative to the unit that accommodates one receptacle module, and a size that is configured to accommodate six receptacle modules relative to the unit that accommodates one receptacle module”	“Each of the recited cassette sizes has a cassette width that equals two, three, four, or six times the standard one width unit, without an additional amount. This means the cassette widths must be evenly divisible by the standard width unit.”
Why Resolution Matters	Belden's Position	CommScope's Position	
	Construction of this term may impact infringement and/or validity.	CommScope's construction is dispositive of infringement for all asserted claims in all the asserted patents. Every asserted claim requires a version of Term 2.	

1. Belden's Opening Position

These terms incorporate Terms 1a and 1b – “standard width unit” and “standard one width (1 W) unit” – into broader terms that concern the width of the claimed cassettes. As such, for the reasons previously discussed in the context of those terms, these terms should also be construed in a similar manner. As a representative example, Term 2a, which is, “cassette width of one of two, three, four, and six standard width units” should be construed as “cassette width that *accommodates* one of one, two, three, four, or six receptacle modules.” This proposed construction, as well as the others for Terms 2b through 2e, is consistent with the intrinsic

evidence, and should therefore be adopted.

To the contrary, CommScope once again proposes constructions that would artificially (and erroneously) narrow the scope of these terms, including that “the cassette width must be evenly divisible by the standard width unit.” This extent of mathematical precision is neither taught by the specification nor required by the claims. Indeed, although the specification teaches that “[e]ach of the different cassette sizes of the set is **based on** an integer multiple of a standardized pitch or width unit W,” that in no way limits cassette widths to just exact multiples of a standard width unit. (’107 Patent, 3:42-43.) Yet, CommScope seek to impose such a limitation by virtue of its proposed constructions – *e.g.*, with respect to Term 2a, “cassette width equals one, two, three, four, or six **times the standard width unit, without an additional amount.**” Such constructions are improper and should be rejected.

C. Term 3 - “cassette width, as measured between the outer side edges thereof, of two, three, four, and six standard width units”

#	Term	Belden’s Proposed Construction	CommScope’s Proposed Construction
3	“cassette width, as measured between the outer side edges thereof, of two, three, four, and six standard width units” ’422 Patent (Claims 18 and 40)	“cassette width, as measured between the outer side edges thereof, of two, three, four, or six standard width units”	The term “and” has its plain and ordinary meaning, which does not mean “or.”
Why Resolution Matters	Belden’s Position		CommScope’s Position
	Construction of this term may impact infringement and/or validity.		CommScope’s construction is dispositive of infringement of these claims.

1. Belden’s Opening Position

CommScope’s proposed construction creates a nonsensical, physical impossibility whereby a single cassette must simultaneously have four different widths, each corresponding to

a multiple of a standard width. For this reason alone, the Court should reject CommScope's proposed construction, and instead adopt Belden's proposed construction.

The absurdity of CommScope's position is illustrated by a review of the relevant portions of Claim 18, which is representative of Claim 40:

A fiber optic cassette tray for providing a plurality of different modular fiber optic cassette configurations in a fiber optic management system comprising:

...

wherein the plurality of different modular fiber optic cassette configurations includes a selected plurality of fiber optic cassettes that are each configured to be arranged side by side along the cassette engaging portion of the tray such that an outer side edge of each of the selected plurality of fiber optic cassettes adjacently faces an outer edge of at least one other fiber optic cassette;

...

wherein a first of the selected plurality of fiber optic cassettes comprises a first cassette width, as measured between outer side edges thereof, of two, three, four, and six standard width units;

wherein a second of the selected plurality of fiber optic cassettes comprises a second cassette width, as measured between outer side edges thereof, of two, three, four, and six standard width units; and

wherein the second cassette width is different from the first cassette width.

Indeed, as emphasized, the plain language of the claim repeatedly recites the singular form of "width," including the final claim limitation that also recites that the second cassette has a "width" and that this "width" is different from the "first cassette width." Thus, just from the context of the claim language, a POSA would understand that the use of "and" in this context is being used in its disjunctive sense to mean that any one of the listed group – "two, three, four, and six standard width units" – is being claimed. In other words, in this context, "and" means "or." Indeed, for the identified claims, "and" simply "links alternatives" for what the width of the cassettes can be in terms of being a multiple of a standard width unit and thus "conjoins mutually

exclusive possibilities.” *Ortho-McNeil Pharm., Inc. v. Mylan Labs., Inc.*, 520 F.3d 1358, 1361-63 (Fed. Cir. 2008) (construing “and” as having a conjunctive meaning (i.e., “or”)). Accordingly, “[i]n the circumstances of this case, the use of and to express alternatives was chosen and adequately expressed by the applicant.” *Id.* “Giving and its most common dictionary meaning [as CommScope erroneously urges] would produce in this case the nonsensical result.” *Id.*

While the specification shows that in comparison to each other a first and second modular cassette can have different widths, nothing in the specification discloses that a single modular cassette has any appreciable variation in width along its length. (See, e.g., ’422 Patent, Figs. 3-5C.) As a result, there is no intrinsic evidence to support CommScope’s position that the term should be construed in a manner that results in a nonsensical, physical impossibility.

Claim construction that results in a nonsensical construction should be avoided. See *K-2 Corp. v. Salomon S.A.*, 191 F.3d 1356, 1365 (Fed. Cir. 1999) (“claim construction is firmly anchored in reality by the understanding of those of ordinary skill in the art”). That applies here. CommScope’s proposed construction should, therefore, be rejected, and Belden’s proposed construction should instead be adopted. See *Aptiv Techs. Ltd. v. Microchip Tech., Inc.*, No. 23-307-JDW, 2024 WL 3400109, *5 (D. Del. July 12, 2024) (“Where the claim is susceptible of both an absurd construction and a reasonable construction, courts should attempt to construe the claims to preserve their validity reading them in light of the specification.” (cleaned up)).

D. Term 4 - “a width of the front edge is substantially evenly divisible by said standard width unit”

#	Term	Belden’s Proposed Construction	CommScope’s Proposed Construction
4	“a width of the front edge is substantially evenly divisible by said standard width unit” ’107 Patent (Claim 8) ’542 Patent (Claims 8 and 13)	Not indefinite – “a width of the front edge of the tray is evenly divisible by the unit of width that accommodates a single receptacle module, such as a LC Quad (SC Duplex) technology footprint comprising four connectors. ‘Substantially,’ in this context, means that there may be some excess space between a cassette and an end of the front edge of the tray.”	Indefinite.
Why Resolution Matters	Belden’s Position		CommScope’s Position
	Construction of this term addresses CommScope’s indefiniteness claim and may also impact infringement and/or validity.		CommScope’s construction is dispositive of validity for these claims.

1. Belden’s Opening Position

It is CommScope’s burden to prove indefiniteness by clear and convincing evidence. *See Microsoft Corp. v. i4i Ltd.*, 131 S. Ct. 2238, 2242 (2011); *Dow Chem. Co. v. NOVA Chems. Corp. (Can.)*, 809 F.3d 1223, 1224 (Fed. Cir. 2015). CommScope cannot meet its burden because the scope of the claims in which this term is found is capable of being understood by a POSA with reasonable certainty. *See Nautilus, Inc. v. Biosig Instruments, Inc.*, 134 S. Ct. 2120, 2124 (2014). Once CommScope attempts to do so and explains its proposed indefiniteness theory, Belden will respond in greater detail regarding why this term is not indefinite and why Belden’s proposed construction should be adopted, including possibly with expert testimony.

E. Terms 5a-5e – The “Directly Adjacent” Terms

#	Term	Belden’s Proposed Construction	CommScope’s Proposed Construction
5a	“directly adjacent” (CommScope) / “an outer side edge of each of said selected cassettes is directly adjacent an outer side edge of at least one other selected cassette” (Belden) ’542 Patent (Claims 1 and 8)	“an outer side edge of each of said selected cassettes is almost touching or touching, without any intervening structure, an outer side edge of at least one other selected cassette”	“an outer side edge of each of said selected cassettes is almost touching or touching an outer side edge of at least one other selected cassette. This excludes arrangements with any intervening structure such as a rail between an outer side edge of a cassette and an outer side edge of at least one other selected cassette”
5b	“directly adjacent” (CommScope) / “an outer side edge of each of the selected plurality of fiber optic cassettes is directly adjacent to an outer edge of at least one other fiber optic cassette” (Belden) ’422 Patent (Claim 1)	“an outer side edge of each of the selected plurality of fiber optic cassettes is almost touching or touching, without any intervening structure, an outer edge of at least one other fiber optic cassette”	“an outer side edge of each of the selected plurality of fiber optic cassettes is almost touching or touching an outer edge of at least one other fiber optic cassette. This excludes arrangements with any intervening structure such as a rail between an outer side edge of a cassette and an outer edge of at least one other selected cassette”
5c	“directly adjacent” (CommScope) / “an outer side edge portion of each of the selected plurality of the set of fiber optic cassettes faces a directly adjacent outside edge portion of at least one other selected fiber optic cassette” (Belden) ’422 Patent (Claim 10)	“an outer side edge portion of each of the selected plurality of the set of fiber optic cassettes almost touches or touches, without any intervening structure, an outside edge portion of at least one other selected fiber optic cassette”	“an outer side edge portion of each of the selected plurality of fiber optic cassettes faces and is almost touching or touching an outside edge portion of at least one other selected fiber optic cassette. This excludes arrangements with any intervening structure such as a rail between an outer side edge portion of a cassette and an outside edge portion of at least one other selected fiber optic cassette”

#	Term	Belden's Proposed Construction	CommScope's Proposed Construction
5d	“directly adjacent” (CommScope) / “the outer side edge of each of the selected plurality of fiber optic cassettes is directly adjacent to the outer edge of at least one other fiber optic cassette” (“Belden”) '422 Patent (Claims 20 and 45)	“the outer side edge of each of the selected plurality of fiber optic cassettes almost touches or touches, without any intervening structure, the outer edge of at least one other fiber optic cassette”	“the outer side edge of each of the selected plurality of fiber optic cassettes is almost touching or touching the outer edge of at least one other fiber optic cassette. This excludes arrangements with any intervening structure such as a rail between the outer side edge of a cassette and the outer edge of at least one other fiber optic cassette”
5e	“directly adjacent” (CommScope) / “a cassette side end portion that is directly adjacent to a cassette side end portion of another module fiber optic cassette” (Belden) '423 Patent (Claims 5, 13, and 23)	“a cassette side end portion that almost touches or touches, without any intervening structure, a cassette side end portion of another module fiber optic cassette”	“a cassette side end portion that is almost touching or touching a cassette side end portion of another module fiber optic cassette. This excludes arrangements with any intervening structure such as a rail between a cassette side end portion and a cassette side end portion of another module fiber optic cassette”
Why Resolution Matters	Belden's Position		CommScope's Position
	Construction of this term may impact infringement and/or validity.		There is a disclaimer in the prosecution history that limits the meaning of “directly adjacent.” The scope of a disclaimer is a question of law for the Court. CommScope asserts non-infringement based on the disclaimer.

1. Belden's Opening Position

The parties are largely in agreement concerning the proper construction of these terms. However, the parties disagree regarding how the aspect of “without any intervening structure” should be addressed in the construction. Belden's proposed construction appropriately uses the precise language utilized by prosecution counsel that CommScope contends constitutes a

disclaimer. CommScope improperly twists that language in a manner that broadens the impact of prosecution counsel's statement – *i.e.*, there cannot be intervening structure between **any** “outer side edges” or “cassette side end portions” of two cassettes, as opposed to excluding intervening structure between **the** “outer side edge” or “cassette side end portions” of two cassettes that are identified as “almost touching or touching” in satisfaction of the limitation of the identified claims. Therefore, CommScope's proposed construction should be rejected, and Belden's proposed construction should be adopted. *See Genuine Enabling Tech. LLC v. Nintendo Co.*, 29 F. 4th 1365, 1374-76 (Fed. Cir. 2022) (rejecting accused infringer's broad scope of disclaimer where only a narrow scope was supported by the evidence).

During prosecution of the '542 Patent, original Claim 1 stated, in pertinent part:

wherein when arranged on the tray each of said selected cassettes is directly adjacent at least one other selected cassette.

(D.I. 56-1 at 510.) The Examiner rejected this claim under 35 U.S.C. § 102(a)(2) as being anticipated by U.S. Patent No. 10,215,944 (“Sedor”). (*See id.* at 572-574.) In response, Belden's prosecution counsel stated:

Applicant also submits that a person of ordinary skill in the art would clearly understand that the modification of adjacent by “directly” was clearly intended to exclude any intervening structure, and such that, although the cassettes may be separated by a relatively small gap, cassettes which are “directly adjacent” are ***almost touching or touching without any intervening structure***.

(*Id.* at 602.)

The Examiner maintained the rejection, Belden's prosecution counsel repeated the statement above, and the Examiner maintained the rejection once again. (*See id.* at 608-610, 627, 632.) Thereafter, Belden amended original Claim 1 to state, in pertinent part:

wherein when arranged on the tray ***an outer side edge of*** each of said selected cassettes is directly adjacent ***an outer side edge of*** at least one other selected cassette.

(*Id.* at 638.) With that amendment, the Examiner allowed the claim, which issued and is asserted in this case. (*See id.* at 652-654.)

As this prosecution history demonstrates, Belden’s prosecution counsel defined “directly adjacent” as “almost touching or touching without any intervening structure.” Therefore, in view of CommScope’s position that this statement constitutes a disclaimer, that is how the term should be construed in the context of the identified terms. More specifically, it is an “outer side edge” or “cassette side end portion” of one cassette that “almost touches or touches without any intervening structure” an “outer side edge” or “cassette side end portion” of another cassette. The claims do not require that there be no intervening structure between all “outer side edges” or “cassette side end portions” of one cassette and all “outer side edges” or “cassette side end portions” of another cassette. Yet, if adopted, that is a new limitation that CommScope’s proposed construction would impose. As a result, it should be rejected.

F. Term 6 - “wherein each of the plurality of different modular fiber optic cassette configurations includes a plurality of different sizes of modular fiber optic cassettes”

#	Term	Belden’s Proposed Construction	CommScope’s Proposed Construction
6	“wherein each of the plurality of different modular fiber optic cassette configurations includes a plurality of different sizes of modular fiber optic cassettes” '423 Patent (Claim 9)	“Each of the plurality of different modular fiber optic cassette configurations includes a plurality of different sizes of modular fiber optic cassettes, such as the fifth modular fiber optic cassette configuration, which includes three modular 2 W standard width size cassettes and one modular 6 W standard width size cassettes.”	“This requires each of the first, second, third, fourth, and fifth modular fiber optic cassette configurations includes a plurality of different sizes of modular fiber optic cassettes.”
Why Resolution Matters	Belden’s Position		CommScope’s Position
	This term does not require construction.		CommScope’s construction is dispositive of infringement of these claims.

1. Belden's Opening Position

Claim 9 of the '423 Patent requires “each of the plurality of different modular fiber optic cassette configurations includes a plurality of different sizes of modular fiber optic cassettes.” This is a term for which no construction is necessary.³ Indeed, it immediately follows another term that provides its antecedent basis: “a tray configured to fit in a standard U-space and support **a plurality of different modular fiber optic cassette configurations** in the standard U-space.” (*Id.* at 12:37-39.) Therefore, the jury will readily understand what the term means in the context of the claim. *See IGT v. Bally Gaming Int'l, Inc.*, 659 F.3d 1109, 1117 (Fed. Cir. 2011) (“Claim language must be construed in the claim in which it appears.”); *Intel Corp. v. Qualcomm Inc.*, 21 F.4th 784, 792 (Fed. Cir. 2021) (“In any event, and decisively, our inquiry is not limited to an analysis of the phrase in isolation.”).

CommScope contends that this term should be construed as “requir[ing] each of the first, second, third, fourth, and fifth modular fiber optic cassette configurations includes a plurality of different sizes of modular fiber optic cassettes.” This is premised on the inclusion of, elsewhere in Claim 9, some of the “different modular fiber optic cassette configurations” that are identified as “first” through “fifth” configurations. ('423 Patent 12:60-13:39.) Each of these identified configurations exactly specify the size and quantity of cassettes included in the particular configuration. (*See id.*) The “first” through “fourth” configurations only include a single size of cassette (*e.g.*, the “first” configuration “includes six modular two standard width unit (2 W) cassettes”). (*Id.* at 12:60-13:24.). The “fifth” configuration “includes three modular 2 W standard

³ As noted, it is Belden's position that this term does not require construction. Belden's proposed construction is only provided in the alternative should the Court that the term should be construed.

width unit size cassettes” and “one modular 6 W standard width unit size cassette” (i.e., it “includes a plurality of different sizes of modular fiber optic cassettes.” (*Id.* at 13:25-39.)

CommScope’s proposed construction is directly contrary to the claim language because it would require the “first” through “fourth” configurations to include different sizes of cassettes, but in reality, the claim recites that they only include cassettes of the same size. Construing one term in a claim in a manner that reads out a preferred embodiment and is arguably contrary to what the claim recites elsewhere is rarely, if ever, correct. *See, e.g., Accent Packaging, Inc. v. Leggett & Platt, Inc.*, 707 F.3d 1318, 1326 (Fed. Cir. 2013) (holding that “a claim interpretation that excludes a preferred embodiment from the scope of the claim is rarely, if ever, correct.”); *Summit 6, LLC v. Samsung Elecs. Co.*, 802 F.3d 1283, 1290 (Fed. Cir. 2015) (recognizing “the surrounding language of the claim is instructive”); *On Demand Mach. Corp. v. Ingram Indus.*, 442 F.3d 1331, 1344 (Fed. Cir. 2006) (“Care must be taken lest word-by-word definition, removed from the context of the invention, leads to an overall result that departs significantly from the patented invention.”). And it is **not** correct here, because it results in a physical impossibility - the “first” through “fourth” configurations cannot include different sizes of cassettes, when the same claim recites that they only include cassettes of the same size.

Therefore, the Court should reject CommScope’s proposed construction and determine that no construction is necessary for this claim term. *See U.S. Surgical Corp. v. Ethicon, Inc.*, 103 F.3d 1554, 1568 (Fed. Cir. 1997) (holding that where the proper scope and meaning of a particular claim term is clear and understandable to the jury without explanation, no claim construction is necessary and none should be given); *Biotec Biologische Naturverpackungen GmbH v. Biocorp, Inc.*, 249 F.3d 1341, 1349 (Fed. Cir. 2001) (explaining how a court may properly decline to construe a term further if the ordinary meaning of the term is apparent).

G. Term 7 – “when each of the modular fiber optic cassettes are in the plurality of the plurality of different modular fiber optic cassette configurations”

#	Term	Belden’s Proposed Construction	CommScope’s Proposed Construction
7	“when each of the modular fiber optic cassettes are in the plurality of the plurality of different modular fiber optic cassette configurations” '423 Patent (Claims 5, 13, and 23)	Not indefinite – “when each of the modular fiber optic cassettes are in the plurality of different modular fiber optic cassette configurations”	Indefinite.
Why Resolution Matters	Belden’s Position		CommScope’s Position
	Judicial correction of error resolves CommScope’s indefiniteness claim and impacts infringement.		The claim is not amenable to Belden’s proposed correction and therefore indefinite.

1. Belden’s Opening Position

Claims 5, 13 and 23 in the '423 Patent contain an obvious typographical error. Specifically, the phrase “the plurality of” was erroneously repeated two times in a row in the identified claims.

Belden seeks judicial correction of this obvious typographical error in the claim language. Indeed, a court may judicially correct an “obvious minor typographical or clerical error” in a claim where: (1) the error is evident on the face of the patent; and (2) the intrinsic evidence shows that the proposed correction is not subject to reasonable debate. *Pavo Solutions LLC v. Kingston Tech. Co., Inc.*, 35 F.4th 1367, 1373-78 (Fed. Cir. 2022); *see also Ultimax Cement Mfg. Corp. v. CTS Cement Mfg. Corp.*, 587 F.3d 1339, 1353 (Fed. Cir. 2009) (“[I]f the correction is not subject to reasonable debate to one of ordinary skill in the art, namely, through claim language and the specification, and the prosecution history does not suggest a different interpretation, then a court can correct an obvious typographical error.”).

First, the error is evident on the face of the patent because the typographical error at issue constitutes the repeated inclusion of the same phrase, and there is only antecedent basis for a single

inclusion of the phrase. Representative of the three instances where this error exists, Claim 5 states:

The tray of claim 1, wherein each of the modular fiber optic cassettes includes a cassette side end portion that is directly adjacent to a cassette side end portion of another module fiber optic cassette when each of the modular fiber optic cassettes are in ***the plurality of the plurality of*** different modular fiber optic cassette configurations.

However, Claim 1, upon which Claim 5 depends, does not provide antecedent basis for the claim as erroneously drafted:

A tray for providing a plurality of different modular fiber optic cassette configurations in a standard U-space fiber optic management system comprising:

a tray having a first tray side end portion and a second tray side end portion defining a tray width portion that extends between the first tray side end portion and the second tray side end portion;

...

wherein the tray is configured to fit ***a plurality of different modular fiber optic cassette configurations*** in the tray width portion in a standard U-space fiber management system;

wherein each of ***the plurality of different modular fiber optic cassette configurations*** include a modular fiber optic cassette that is configured to support a receptable module having a first module side end portion and a second module side end portion defining a module width portion that extends between the first tray side end portion and second tray side end portion;

...

wherein ***the plurality of different modular fiber optic cassette configurations*** comprise:

....

Rather, it only provides antecedent basis for “***the plurality of*** different modular fiber optic cassette configurations,” not a plurality of that plurality is erroneously reflected in the identified claims.

Therefore, the error is evident from the face of the claims. (See Declaration of Charles A. Eldering, Ph.D. dated July 19, 2024 (“Eldering Decl.”), ¶¶18-22.)

Indeed, CommScope contends that that the repeated use of this phrase renders the claims indefinite, and therefore invalid. (See Initial Invalidity Contentions, p. 69.) Belden’s proposed judicial correction corrects this typographical error and preserves the validity of the identified claims by removing the second instance of the phrase – *i.e.*, “when each of the modular fiber optic cassettes are in the plurality of ~~the plurality of~~ different modular fiber optic cassette configurations.” The Court can, and respectfully should, correct this error in the proposed manner.

Courts construe claims with an eye towards preserving their validity. See *Rhine v. Casio, Inc.*, 183 F.3d 1342, 1345 (Fed. Cir. 1999). While CommScope alleges that this term is indefinite, it does so only based on the claim that “there is no antecedent basis, and a POSITA would not have reasonable certainty regarding the scope of ‘the’ plurality of ‘the’ plurality refers to and covers. The claims never introduce or explain this further plurality.” (Initial Invalidity Contentions, p. 69.) As previously discussed, the identified claims lack antecedent basis. However, this does not render the claims indefinite; rather this confirms that the error is evident from the face of the patent.

Moreover, the proposed correction is not subject to reasonable debate. As there is no antecedent basis for the first use of “the plurality of,” it was included in error, and should be removed. The intrinsic evidence does not support a contrary result. (Eldering Decl., ¶¶18-24.) Therefore, Belden respectfully requests that the Court construe the claims in the manner proposed to correct this obvious typographical error. See *Aptiv Techs. Ltd.*, 2024 WL 3400109, at *3 (holding that “the claim language and specification make clear on the face of the patent that I should revise the claim language”).

H. Term 8 – “claim 40”

#	Term	Belden’s Proposed Construction	CommScope’s Proposed Construction
8	“claim 40” '422 Patent, (Claim 42)	“claim 41”	“claim 40”
Why Resolution Matters		Belden’s Position	CommScope’s Position
		Judicial correction of error resolves CommScope’s indefiniteness claim and impacts infringement.	The claim is not amenable to Belden’s proposed correction and therefore indefinite.

1. Belden’s Opening Position

Belden also seeks judicial correction of an obvious typographical error in Claim 42 of the '422 Patent – the claim erroneously references “claim 40,” when it should reference “claim 41.” This error is evident from the face of the patent, and the intrinsic evidence shows that the proposed correction is not subject to reasonable debate:

41. The tray of claim 40, wherein each of the selected plurality of fiber optic cassettes are configured to be arranged side by side along *a cassette engaging portion* of the tray.
42. The tray of claim 40, wherein *the cassette engaging portion* comprises a shoulder and each of the selected plurality of fiber optic cassettes comprises a channel that is configured to receive the shoulder.

CommScope contends that that this erroneous reference renders the claim indefinite because “claim 40 never recited a cassette engaging portion. A POSA would not have reasonable certainty regarding what the claim is referring to by the phrase ‘the cassette engaging portion . . .’” (Initial Invalidity Contentions, pp. 68-69.) Belden agrees the Claim 40 does not provide antecedent basis for “the cassette engaging portion” – this is what renders the error evident from the face of the patent. However, Claim 41, which immediately precedes Claim 42 and follows Claim 40, does explicitly provided that antecedent basis. (Eldering Decl., ¶¶26-27.)

Belden’s proposed judicial correction corrects this typographical error and preserves the validity of the identified claims by correctly referring to the claim upon which Claim 42 depends (*i.e.*, Claim 41). Moreover, the intrinsic evidence shows that the proposed correction is not subject to reasonable debate because Claim 41 provides the antecedent basis that is missing from Claim 40. (Eldering Decl., ¶¶28-30.) Therefore, the Court can, and respectfully should, correct this error in the manner proposed by Belden (*i.e.*, replacing “claim 40” with “claim 41”). *See Aptiv Techs. Ltd.*, 2024 WL 3400109, at *3; *Pavo Solutions LLC*, 35 F.4th at 1373-78; *Ultimax Cement Mfg. Corp.*, 587 F.3d at 1353; *Rhine*, 183 F.3d at 1345.

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CERTIFICATE OF COMPLIANCE

In accordance with the Court's Scheduling Order (D.I. 19, ¶8 n.2), The undersigned hereby certifies that the foregoing document contains 4,410 words, exclusive of caption, tables of competing proposals, figures or illustrations, and signature block, counted using Microsoft Word's word count feature.

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CERTIFICATE OF SERVICE

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