

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

CONCURRENT VENTURES, LLC AND
XTREAMEDGE, INC.,

Plaintiffs,

v.

ADVANCED MICRO DEVICES, INC. AND
PENSANDO SYSTEMS, INC.,

Defendants.

Civil Action No. 1:24-cv-335-DII

**Defendants Advanced Micro Devices, Inc. and Pensando Systems, Inc.’s
Preliminary Proposed Claim Constructions and
Preliminary Identification of Extrinsic Evidence**

Pursuant to the Scheduling Order (Dkt. 52), Defendants Advanced Micro Devices, Inc. and Pensando Systems, Inc. hereby propose the following preliminary claim constructions and preliminary identification of extrinsic evidence for claim terms proposed for construction found in U.S. Patent Nos. 8,924,596 (“the ‘596 Patent”), 9,529,767 (“the ‘767 Patent”), 10,873,753 (“the ‘753 Patent”), 10,985,943 (“the ‘943 Patent”), and 10,944,634 (“the ‘634 Patent”) (collectively, the “Asserted Patents”).

Defendants received Plaintiffs Concurrent Ventures, LLC and XstreamEdge, Inc.’s Disclosure of Asserted Claims and Infringement Contentions (“Infringement Contentions”) on October 11, 2024, and supplemental contentions on December 20, 2024. Consequently, Defendants’ investigation is ongoing and discovery is in its early stages. Accordingly, Defendants base these constructions upon their current knowledge, understanding, and belief as to the facts and information available as of this date. As Defendants have not yet completed their investigation, collection of information, or discovery relating to this action, they expressly

reserve the right to supplement, amend, and/or otherwise modify their preliminary claim constructions and preliminary identification of extrinsic evidence, including arguing that one or more of the proposed terms do not require construction, including to the extent Plaintiffs provide any proposed terms for claim construction, amend or supplement their infringement allegations, and/or contentions.

Defendants expressly reserve the right to cite as evidence any information from any of the prosecution histories of the '596 patent, '767 patent, '753 patent, '943 patent, and '634 patent, and any related patents in the family.

Defendants expressly reserve the right to revise, amend, or supplement their preliminary proposed constructions set forth in Exhibit A at any time, including the right to offer separate constructions for claim terms that are construed as a phrase. Defendants also expressly reserve the right to propose claim constructions for any terms proposed by Plaintiffs.

Defendants reserve the right to identify additional extrinsic evidence pursuant to the scheduling order, including but not limited to dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses at least at the time of filing the Joint Claim Construction Statement or in rebuttal to any extrinsic evidence that Plaintiffs may offer to support its proposed claim constructions. By identifying extrinsic evidence, Defendants do not necessarily concede that extrinsic evidence is necessary to construe the claim terms at issue.

Defendants also expressly reserve the right to rely on extrinsic evidence that Plaintiffs rely upon. In addition to the extrinsic evidence identified herein and as set forth in Exhibit A, Defendants may rely upon one or more experts, including Drs. Kevin Jeffay, Bill Lin, Jacob Baker, and Darrell Long, to testify or provide a sworn declaration regarding the proposed constructions or to address disputes or constructions raised by Plaintiffs. Such testimony could

include, among other things, an explanation of the meaning of those terms in the context of the subject matter disclosed in the '596, '767, '753, '943, and '634 patents and related prosecution histories, a description of the state of the technology relating to the alleged invention claimed in the '596, '767, '753, '943, and '634 patents, how a person of ordinary skill in the art would interpret the identified claim terms or phrases at the time the applications for the '596, '767, '753, '943, and '634 patents were filed, and an explanation as to why certain terms or phrases are indefinite. Drs. Jeffay, Lin, Baker, and Long may also address any evidence that is offered by Plaintiffs on any of the disputed terms.

In particular, expert witness testimony may be used by Defendants in connection with its claim construction briefing and/or at the claim construction hearing, including, but not limited to, testimony concerning the meaning of the claim terms identified in Exhibit A, indefiniteness of certain claim terms, and the understanding of the intrinsic and extrinsic evidence from the perspective of a person of ordinary skill in the art at the time of the alleged invention.

Finally, nothing stated herein shall be treated as an admission or suggestion that any of the Accused Instrumentalities meet any limitation of any Asserted Claim. Defendants deny that they infringe any and all claims of the Patents-in-Suit as set forth in the Complaint.

Dated: January 23, 2025

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendants' Preliminary Proposed Claim Constructions and Preliminary Identification of Extrinsic Evidence was served on Plaintiffs' counsel by email sent to the following recipients on January 23, 2025:

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EXHIBIT A

Ex. A – Defendants’ Preliminary Proposed Constructions and Preliminary Identification of Extrinsic Evidence

U.S. Patent No. 8,924,596

Claim No(s).	Claim Term/Phrase	Defendants’ Preliminary Proposed Construction	Extrinsic Evidence
1, 7, 13	“input queue implemented in hardware”	“input queue implemented in physical circuits without software intervention” Alternatively, this claim term is indefinite because a person of ordinary skill in the art would not have understood the scope or metes and bounds of the term under Plaintiffs’ infringement theories	Defendants may rely on the expert testimony of Dr. R. Jacob Baker, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood (or not understood) the meaning and/or scope of this term. In addition, Dr. Baker may also address any evidence on the construction of this term that is offered by Plaintiffs. Dr. Baker intends to explain why a person of ordinary skill in the art would have understood that an input queue implemented in hardware, as used in the ’596 patent, would refer to an input queue that is implemented in physical circuits without the use of software. Dr. Baker also intends to explain why the construction is needed in light of Plaintiffs’ infringement theories, and why Plaintiffs’ infringement theories render the claim term indefinite.

Ex. A – Defendants’ Preliminary Proposed Constructions and Preliminary Identification of Extrinsic Evidence

U.S. Patent No. 8,924,596

Claim No(s).	Claim Term/Phrase	Defendants’ Preliminary Proposed Construction	Extrinsic Evidence
1, 7, 13	“output queue implemented in hardware”	“output queue implemented in physical circuits without software intervention” Alternatively, this claim term is indefinite, because a person of ordinary skill in the art would not have understood the meaning and/or scope of the claim term under Plaintiffs’ infringement theories	Defendants may rely on the expert testimony of Dr. R. Jacob Baker, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood (or not understood) the meaning and/or scope of this term. In addition, Dr. Baker may also address any evidence on the construction of this term that is offered by Plaintiffs. Dr. Baker intends to explain why a person of ordinary skill in the art would have understood that an output queue implemented in hardware, as used in the ’596 patent, would refer to an output queue that is implemented in physical circuits without the use of software. Dr. Baker also intends to explain why the construction is needed in light of Plaintiffs’ infringement theories, and why Plaintiffs’ infringement theories render the claim term indefinite.

Ex. A – Defendants’ Preliminary Proposed Constructions and Preliminary Identification of Extrinsic Evidence

U.S. Patent No. 8,924,596

Claim No(s).	Claim Term/Phrase	Defendants’ Preliminary Proposed Construction	Extrinsic Evidence
1, 7, 13	“register”	“set of flip-flops that store a set of related bits”	Defendants may rely on the expert testimony of Dr. R. Jacob Baker, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood the meaning and scope of this term. In addition, Dr. Baker may also address any evidence on the construction of this term that is offered by Plaintiffs. Dr. Baker intends to explain the known meaning of registers, as used in computers for decades, and why “register” as used in the claims would refer to a set of flip-flops that store a set of related bits to a person of ordinary skill in the art. He also intends to explain why the construction is needed in light of Plaintiffs’ infringement theories. Textbooks and dictionary definitions at: AMD-CV-0008590-AMD-CV-0008602; AMD-CV-0008603-AMD-CV-0008627; AMD-CV-0008628-AMD-CV-0008639; AMD-CV-0008640-AMD-CV-0008651; AMD-CV-0008652-AMD-CV-0008677; AMD-CV-0008678-AMD-CV-0008685.

Ex. A – Defendants’ Preliminary Proposed Constructions and Preliminary Identification of Extrinsic Evidence

U.S. Patent No. 9,529,767

Claim No(s).	Claim Term/Phrase	Defendants’ Preliminary Proposed Construction	Extrinsic Evidence
1, 2, 4, 6, 16, 17	“abstraction protocol,” “abstract protocol messages,” “abstract protocol packets”	The term is subject to § 112(f) because it does not connote sufficiently definite structure for one of ordinary skill in the art. The claimed function is abstracting communication of commands between master controllers and edge controllers. There is no corresponding structure and therefore indefinite. Alternatively, if not subject to § 112(f), term is indefinite, because a person of ordinary skill in the art would not have understood the meaning and/or scope of the term.	Defendants may rely on the expert testimony of Dr. Darrell Long, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood (or not understood) the meaning and/or scope of this term. In addition, Dr. Long may also address any evidence on the construction of this term that is offered by Plaintiffs. Dr. Long intends to explain the use and meaning of abstractions and protocols in the relevant field, why the claim term does not connote sufficiently definite structure to one of ordinary skill in the art, the claimed function, the absence of a corresponding structure, and is indefinite. Literature and dictionary definitions at: AMD-CV-0008714-AMD-CV-0008716; AMD-CV-0008721-AMD-CV-0008730; AMD-CV-0008734-AMD-CV-0008740; AMD-CV-0008744-AMD-CV-0008746; AMD-CV-0008990-AMD-CV-0008995.

Ex. A – Defendants’ Preliminary Proposed Constructions and Preliminary Identification of Extrinsic Evidence

U.S. Patent No. 9,529,767

Claim No(s).	Claim Term/Phrase	Defendants’ Preliminary Proposed Construction	Extrinsic Evidence
1, 16	“storage media device interface”	“a physical interface for transmitting and receiving commands and data between the edge controller and the storage media device”	Defendants may rely on the expert testimony of Dr. Darrell Long, Ph.D. as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood the meaning and scope of this term. In addition, Dr. Long may also address any evidence on the construction of this term that is offered by Plaintiffs. Dr. Long intends to explain why “storage media device interface” as used in the claims would refer to a physical interface for transmitting and receiving commands and data between the edge controller and the storage media device to a person of ordinary skill in the art and why the construction is needed, including in light of Plaintiffs’ infringement positions. Literature and dictionary definitions at: AMD-CV-0008711-AMD-CV-0008713; AMD-CV-0008717-AMD-CV-0008720; AMD-CV-0008731-AMD-CV-0008733; AMD-CV-0008741-AMD-CV-0008743.
8, 9, 11, 13-15, 19	“the master controller”	This term is indefinite, because a person of ordinary skill in the art would not have understood the meaning and/or scope of the term.	Defendants may rely on the expert testimony of Dr. Darrell Long, Ph.D. as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood (or not understood) the meaning and/or scope of this term. In addition, Dr. Long may also address any evidence on the construction of this term that is offered by Plaintiffs.

Ex. A – Defendants’ Preliminary Proposed Constructions and Preliminary Identification of Extrinsic Evidence

U.S. Patent No. 9,529,767

Claim No(s).	Claim Term/Phrase	Defendants’ Preliminary Proposed Construction	Extrinsic Evidence
8, 9, 11, 13-15, 19	“the edge controller”	This term is indefinite, because a person of ordinary skill in the art would not have understood the meaning and/or scope of the term.	Defendants may rely on the expert testimony of Dr. Darrell Long, Ph.D. as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood (or not understood) the meaning and/or scope of this term. In addition, Dr. Long may also address any evidence on the construction of this term that is offered by Plaintiffs.

Ex. A – Defendants’ Preliminary Proposed Constructions and Preliminary Identification of Extrinsic Evidence

U.S. Patent No. 10,873,753

Claim No(s).	Claim Term/Phrase	Defendants’ Preliminary Proposed Construction	Extrinsic Evidence
1, 2, 3, 4	“One or more swappable pods or cards” / “the plurality of swappable pods or cards”	These terms are indefinite because a person of ordinary skill in the art would not have understood the scope of the claims, e.g., whether the claims can be satisfied by one swappable pod or card in view of the inconsistencies between the claim terms.	Defendants may rely on the expert testimony of Dr. Bill Lin, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood (or not understood) the scope of this claim. In addition, Dr. Lin may also address any evidence on the construction of this term that is offered by Plaintiffs.
4, 7, 15	“interleaved memory”	“arrangement of different types of memory that are alternately accessed to achieve an average access bandwidth” Alternatively, this claim term is indefinite because a person of ordinary skill in the art would not have understood its meaning or scope under Plaintiffs’ infringement theories.	Defendants may rely on the expert testimony of Dr. Bill Lin, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood (or not understood) the meaning and/or scope of this term. In addition, Dr. Lin may also address any evidence on the construction of this term that is offered by Plaintiffs. Dr. Lin intends to explain why “interleaved memory” as used in the claims would refer to arrangement of different types of memory that are alternately accessed to achieve an average access bandwidth, consistent with the intrinsic and extrinsic evidence, and why the construction is needed in light of Plaintiffs’ infringement positions.

Ex. A – Defendants’ Preliminary Proposed Constructions and Preliminary Identification of Extrinsic Evidence

U.S. Patent No. 10,873,753

Claim No(s).	Claim Term/Phrase	Defendants’ Preliminary Proposed Construction	Extrinsic Evidence
4, 7, 15	“swapped memory over a specified address range”	“memory with a specified address range where information is moved between the memory and non-volatile storage” Alternatively, this claim term is indefinite because a person of ordinary skill in the art would not have understood its meaning or scope under Plaintiffs’ infringement theories.	Defendants may rely on the expert testimony of Dr. Bill Lin, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood (or not understood) the meaning and/or scope of this term. In addition, Dr. Lin may also address any evidence on the construction of this term that is offered by Plaintiffs. Dr. Lin intends to explain why “swapped memory over a specified address range” as used in the claims refers to memory with a specified address range where information is moved between the memory and non-volatile storage, consistent with intrinsic and extrinsic evidence, and why the construction is needed in light of Plaintiffs’ infringement positions. Dictionary definitions at: AMD-CV-0008702- AMD-CV-0008704 and AMD-CV-0008706-AMD-CV-0008708.

Ex. A – Defendants’ Preliminary Proposed Constructions and Preliminary Identification of Extrinsic Evidence

U.S. Patent No. 10,873,753

Claim No(s).	Claim Term/Phrase	Defendants’ Preliminary Proposed Construction	Extrinsic Evidence
4, 7, 15	“memory allocated to specified address ranges according to parameterized task needs”	“different types of memory allocated to specified address ranges according to parameters for task needs” Alternatively, this claim term is indefinite because a person of ordinary skill in the art would not have understood its meaning or scope under Plaintiffs’ infringement theories.	Defendants may rely on the expert testimony of Dr. Bill Lin, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood (or not understood) the meaning and/or scope of this term. In addition, Dr. Lin may also address any evidence on the construction of this term that is offered by Plaintiffs. Dr. Lin intends to explain why “memory allocated to specified address ranges according to parameterized task needs” as used in the claims refers to different types of memory allocated to specified address ranges according to parameters for task needs, and why the construction is needed in light of Plaintiffs’ infringement positions.

Ex. A – Defendants’ Preliminary Proposed Constructions and Preliminary Identification of Extrinsic Evidence

U.S. Patent No. 10,985,943

Claim No(s).	Claim Term/Phrase	Defendants’ Preliminary Proposed Construction	Extrinsic Evidence
1, 10	“programmable logic device”	“an integrated circuit where the user can alter the connection pattern of the circuits”	Defendants may rely on the expert testimony of Bill Lin, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood the meaning and scope of this term. In addition, Dr. Lin may also address any evidence on the construction of this term that is offered by Plaintiffs. Dr. Lin intends to explain why “programmable logic device” as used in the claims would refer to a PLD as conventionally used in the art and described in the ’943 patent, and why this would mean an integrated circuit where the user can alter the connection pattern of the circuits. He also intends to explain why the construction is needed in light of Plaintiffs’ infringement positions. Dictionary and textbook definitions at: AMD-CV-0008747- AMD-CV-0008989.

Ex. A – Defendants’ Preliminary Proposed Constructions and Preliminary Identification of Extrinsic Evidence

U.S. Patent No. 10,944,634

Claim No(s).	Claim Term/Phrase	Defendants’ Preliminary Proposed Construction	Extrinsic Evidence
1, 8, 15	“geographical area”	“a physical place such as an apartment complex, neighborhood, city, or state”	Defendants may rely on the expert testimony of Dr. Kevin Jeffay, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood the meaning and scope of this term. In addition, Dr. Jeffay may also address any evidence on the construction of this term that is offered by Plaintiffs. Dr. Jeffay intends to explain why “geographical area” as used in the claims would refer to a physical place to a person of ordinary skill in the art and why the construction is needed, including in light of Plaintiffs’ infringement positions. Dictionary definitions at: AMD-CV-0008686- AMD-CV-0008701.
1, 2, 6, 7, 8, 9, 13, 15, 16	“tuner server”	Defendants do not have a proposed construction for this term, but note that the parties have differing views of the term in connection with Defendants’ motion to dismiss the ’634 patent under 35 U.S.C. § 101. <i>See, e.g.</i> , Dkts. 23, 31, 32.	Defendants may rely on the expert testimony of Dr. Kevin Jeffay, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood the meaning and scope of this term. In addition, Dr. Jeffay may also address any evidence on the construction of this term that is offered by Plaintiffs.

Ex. A – Defendants’ Preliminary Proposed Constructions and Preliminary Identification of Extrinsic Evidence

U.S. Patent No. 10,944,634

Claim No(s).	Claim Term/Phrase	Defendants’ Preliminary Proposed Construction	Extrinsic Evidence
16	“The network connected device of claim 15, wherein the one or more processors are configurable to: send the parameter values for determination of bandwidth, from the first endpoint device, to the tuner server that is configured to receive further parameter values for determination of bandwidth of network connections from a plurality of endpoint devices; send, from the first endpoint device to the tuner server, connection information for the next network connection, wherein the tuner server performs the determining and derives one or more parameter values for the transmission bandwidth; and receive, at the first endpoint device, from the tuner server, the one or more parameter values for the transmission bandwidth.”	This claim is indefinite, because a person of ordinary skill in the art would not have understood the meaning and/or scope of the claim.	Defendants may rely on the expert testimony of Dr. Kevin Jeffay, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood (or not understood) the meaning and/or scope of this claim. In addition, Dr. Jeffay may also address any evidence on the construction of this term that is offered by Plaintiffs.

Ex. A – Defendants’ Preliminary Proposed Constructions and Preliminary Identification of Extrinsic Evidence

U.S. Patent No. 10,944,634

Claim No(s).	Claim Term/Phrase	Defendants’ Preliminary Proposed Construction	Extrinsic Evidence
20	“The network connected device of claim 15, further comprising the network connected device configurable to: monitor network traffic between the first endpoint device and the second endpoint device; transmit data associated with the network traffic from the first endpoint to the network connected device; determine, at the network connected device, an adjustment to the transmission bandwidth is desired; receive data for adjusting the transmission bandwidth from the network connected device; and adjust the transmission bandwidth responsive to the receiving.”	This claim is indefinite, because a person of ordinary skill in the art would not have understood the meaning and/or scope of the claim.	Defendants may rely on the expert testimony of Dr. Kevin Jeffay, Ph.D., as to how one of ordinary skill in the art at the time of the invention, having reviewed the relevant intrinsic and extrinsic evidence, would have understood (or not understood) the meaning and/or scope of this claim. In addition, Dr. Jeffay may also address any evidence on the construction of this term that is offered by Plaintiffs.