IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

SB IP HOLDINGS, LLC, Plaintiff, vs. VIVINT SMART HOME, INC. and VIVINT, INC., Defendant and counterclaim plaintiffs, vs. SKYBELL TECHNOLOGIES, INC and SB IP HOLDINGS, LLC Counterclaim defendants.	Civil No. 4:20-cv-00886-ALM **JURY TRIAL DEMANDED**

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1	U.S. Patent No. 9,432,638
2	U.S. Patent No. 9,485,478
3	U.S. Patent No. 9,516,284
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5	U.S. Patent No. 9,648,290
6	U.S. Patent No. 9,414,030
7	U.S. Patent No. 10,674,120
8	U.S. Patent No. 7,956,739
9	U.S. Patent No. 6,748,343
10	Definitions of "actuator," "declare," "hierarchical database," "key," "keypad," "redundancy," "replication," "sensor," "streaming," The New Penguin Dictionary of Computing: An A–Z of Computing Jargon and Concepts (1st ed. 2001) (VIVINT_SBIP002697–2720).
11	Day, Mark, A Model for Presence and Instant Messaging, RFC 2778 (Feb. 2000) (available at https://datatracker.ietf.org/doc/html/rfc2778) (VIVINT_SBIP002663–2696).
12	Prosecution History of U.S. Patent Application No. 16/225,979 (now U.S. Patent No. 10,674,120), Response to Office Action dated November 26, 2019, pp. 7–8.
13	Export Declaration of Dr. Matthew B. Shoemake Regarding Claim Construction.

A. INTRODUCTION

In accordance with Local Patent Rule 4-5 and the Order Granting Parties' Joint Stipulation for Extension to file Sur-Reply and Certain Case Deadlines (Dkt. No. 048), Vivint Smart Home, Inc. and Vivint, Inc. (collectively, "Vivint") submit their Opening Claim Construction Brief. SB IP Holdings, LLC ("SB IP") has asserted seven patents in this action[1] and Vivint has counterclaimed asserting two patents.[2]

Vivint has identified twenty-two terms from the 141 asserted claims from the Skybell Patents for construction including that two terms of the Skybell Patents are indefinite. Plaintiff and counterclaim defendants SB IP Holdings, LLC and SkyBell Technologies, Inc. (collectively, "SkyBell") have proposed seven terms of the Vivint Patents for construction and contends that five terms of the Vivint Patents are indefinite.

B. OVERVIEW OF PATENTS IN SUIT

1. The Skybell Patents

The Skybell Patents, all share the same specification.[3] *See* Exs. 1–7, generally. The Skybell Patents describe an audio-video communication system for "receiving a person at an entrance, such as an entrance to a home or business." Ex. 2 ('478 patent) at 2:2–3. The system includes a "wireless exterior module located proximate an entrance, a computerized controller running a software application, and a remote peripheral device." *Id*. at 2:7–10. The patentee acknowledges that "many types of systems for receiving a person by an occupant or resident" were known in the art. *See id*. at 1:50–53. The claimed system thus relates to a particular technique where a

[1] U.S. Patent Nos. 9,432,638 (the "'638 patent"), 9,485,478 (the "'478 patent"), 9,516,284 (the "'284 patent"), 9,635,323 (the "'323 patent"), 9,648,290 (the "'290 patent"), 9,414,030 (the "'030 patent"), and 10,674,120 (the "'120 patent") (the "Skybell Patents") (Exs. 1–7, respectively)

[2] U.S. Patent Nos. 7,956,739 (the "'739 patent") and 6,748,343 (the "'343 patent") asserted by Vivint (the "Vivint Patents") (Exs. 8–9, respectively).

[3] The Skybell Patents are all continuations in the same patent family and thus share the same specification. As such, Vivint cites only to the specification of the '478 patent rather than citing to each separate patent specification.

person with a remote device can communicate with a person at a door upon detection of "the presence of a . . .person at the entrance," and "real time audio-video communications between the . . . person at the entrance . . . using a wireless handheld device." *Id*. at 3:16–28. Further, information regarding the person at the entrance is transmitted "between both the camera and microphone located proximate the entrance and a computerized controller running a software application including a graphic user interface." *Id*. at 3:34–38

2. The Vivint Patents

The '739 patent, titled "Monitoring and entry system presence service," was filed on June 12, 2009 and claims priority to U.S. Patent Application No. 11/520,262 filed on September 13, 2006. The '739 patent relates to "products for facilitating integration of monitoring and entry systems with presence service." Ex. 8 ('739 patent) at 1:17–18 (emphasis added). The '739 patent discloses a monitoring and presence service which may provide notifications about a trigger event to a user and may perform actions based on user input. See Ex. 8 at claims 1, 8, and 12. The monitoring and presence service may be configured to receive an indication signal from an interface device in response to a trigger event. *Id*. The monitoring and presence service may be configured to determine a current location of a watcher and/or user. *Id*. The monitoring and presence service may be configured to provide the user a notification associated with the trigger event. *Id*. The monitoring and presence service may be configured to activate an application associated with the monitoring and entry system presence service. *Id*.

The '343 patent claims priority to U.S. Provisional Patent Application No. 23/628,200 which was filed on September 28, 2000. The '343 patent generally relates to a method and process for configuring a premises for the installation of monitoring devices. Ex. 9 ('343 patent) at 1:20–22 (emphasis added). The '343 patent discloses a system for configuring an integrated information system through a common user interface. *See id*. at Abstract. The integrated information system may include one or more monitoring devices operable to obtain and transmit monitoring data corresponding to a specified premises. *See id*. at claim 1. The integrated information system may

include at least one processing server operable to communicate with the one or more monitoring devices. *Id*. The processing server may be further operable to configure each monitoring device. *Id*. The integrated information system may include a computer display operable to generate a user interface for obtaining a user selection of client, premises, location, monitoring device, and processing rule data and to transmit the client, premises, location, monitoring device, and processing rule data to the processing server. *Id*. The processing server may configure the monitoring devices according to the client premises, location, monitoring device and processing rule data obtained from the user interface. *Id*.

C. LEGAL PRINCIPLES OF CLAIM CONSTRUCTION

The standards for claim construction are well-established: "[W]ords of a claim are generally given their ordinary and customary meaning," which is "the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, *i.e.*, as of the effective filing date of the patent application." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (*en banc*) (internal quotation marks omitted). This analysis focuses on the intrinsic evidence, which includes the claims themselves, the specification and the prosecution history. *Id.* at 1314–17. If the specification reveals "[a] special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess . . . the inventor's lexicography governs." *Id*. at 1316. The "specification's consistent focus" can compel a particular construction of a term. *Arista Networks, Inc. v. Cisco Sys.*, 908 F.3d 792, 798 (Fed. Cir. 2018); *see also Homeland Housewares, LLC v. Whirlpool Corp.*, 865 F.3d 1372, 1377 (Fed. Cir. 2017) ("[w]hen a patentee uses a claim term throughout the entire patent specification, in a manner consistent with only a single meaning, he has defined that term 'by implication'") (quoting *Bell Atl. Network Servs., Inc. v. Covad Comm'ns Grp., Inc.*, 262 F.3d 1258, 1271 (Fed. Cir. 2001)).

Courts may also consider extrinsic evidence, which "consists of all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treaties." *Phillips*, 415 F.3d at 1317; *see also id*. at 1322 ("Dictionaries or comparable sources are

often useful to assist in understanding the commonly understood meaning of words."). Where the intrinsic evidence fails to define a term explicitly or implicitly, "it is appropriate . . . to look to the dictionary definitions of the terms." *Mass. Institute of Tech. and Elecs. For Imaging v. Abacus Software*, 462 F.3d 1344, 1351 (Fed. Cir. 2006). "[E]xtrinsic evidence can shed useful light on the relevant art . . . [but] it is less significant than the intrinsic record in determining the legally operative meaning of claim language." *Phillips*, 415 F.3d at 1317 (internal quotations omitted).

D. DISPUTED TERMS WITH PROPOSED CONSTRUCTIONS

Vivint proposes constructions for the following terms of the Skybell Patents and the Vivint Patents that reflect the plain meaning of the terms and are rooted in the intrinsic evidence—including the patentees' unambiguous disclaimers and definitions—and well-understood extrinsic evidence. In contrast, Skybell uniformly opposes any constructions for any terms of the Skybell Patents to leave room to stretch the claims of the Skybell Patents far beyond the scope of what allegedly was invented and the subject matter described in the specification. Skybell also erroneously claims that the majority of the terms it has identified from the claims of the Vivint Patents are indefinite. Because Vivint's constructions stay true to the intrinsic and extrinsic evidence, the Court should therefore adopt Vivint's constructions for the Skybell Patents and the Vivint Patents.

1. "keypad" ('638 patent, claims 1, 6, 13; '478 patent, claims 1, 9, 21; '284 patent, claims 1, 6, 9, 13; '323 patent, claims 1, 13; '290 patent, claim 1; '030 patent, claims 1, 6, 13; '120 patent, claims 5, 7, 8)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"keypad"	"a set of keys (finger operated switches employed to enter characters and commands into a computer)" "a set of keys (finger operated switches employed to enter	No construction necessary, plain and ordinary meaning.

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"keypad comprising one or more buttons" "keypad having one or more buttons"	characters and commands into a computer) comprising one or more buttons" "a set of keys (finger operated switches employed to enter characters and commands into a computer) having one or more buttons"	

Vivint's construction reflects the plain and ordinary meaning of "keypad" to a person skilled in the art and is consistent with how the term is used in the Skybell Patents and is supported by The New Penguin Dictionary of Computing ("Dictionary of Computing") (Ex. 10).

"Keypad" must define structure separate and apart from buttons. Some claims simply require a "keypad" (*e.g.* '290 cl. 1); others require a "keypad comprising one or more buttons" (*e.g.* '638 cl. 1); and others require simply "one or more buttons" without any reference to a keypad (*e.g.* U.S. Pat. No. 10,200,660 cl. 9). The claims in the patent family show that the term "keypad" must add a limitation separate and apart from "one or more buttons."

The specification demonstrates that a keypad is distinct from a button in that a keypad is consistently described as providing a selection for the visitor to enter characters and commands into the device. For example, one use of the keypad is a means for a visitor to enter information and interact with the resident as shown in Figure 2 which depicts a DVMS module (10) with a keypad (14) containing a set of alphanumeric keys for entering information:

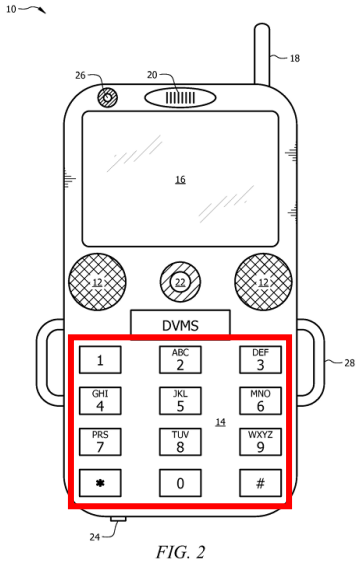


FIG. 2

Ex. 2 at Fig. 2 (annotation added). Referring to Figure 2, the specification describe using the keypad to send/receive text messages: "DVMS module 10 enables text messaging by a person at the exterior, which in turn enables a private non-audible conversation to be had and eliminates risks of eavesdropping by a passerby." *Id*. at 8:31–34. Similarly, the specification describes the function of a touchscreen to send and receive text as "similar to a keypad." *Id*. at 8:27–29; 9:7–9.

As another example, the specification describes the keypad as a means for inputting information relating to the identification of the occupant a visitor is visiting: "The DVMS module 10 issues a greeting to the visitor and instructs the visitor to select a number from the keypad 14 of the DVMS module 10 in order to designate the occupant being visited." *Id*. at 10:49–52. Likewise, Figure 4 depicts the flow of a visitor's interaction with a DVMS module where the DVMS application prompts the visitor to identify who they wish to visit using the keypad (*i.e.*, by entering a number), and the "entered number" is transmitted to a database application that confirms the corresponding occupant. *Id*. at Fig. 4. In addition, the specification describes a keypad for entering a numeric door lock code. *See id.* at 12:46–51; Fig. 5. Thus, the specification teaches selection from a plurality of keys to enter commands and characters using the set of keys in the keypad, which requires more than a singular button.

Vivint's construction is also supported by the definitions of "key" and "keypad" from the Dictionary of Computing: A key is "[a] finger-operated switch employed to enter characters and commands into the computer" and a keypad is "[a] small set of keys arranged for a particular task, which may form part of a larger keyboard or constitute a separate device. Keypads are typically used for rapid entry of numeric data . . ." Ex. 10 at VIVINT_SBIP0002708–2709. The common thread in the recitations from the specification and the dictionary is that keypads include a set of keys used for entry of alphanumeric or numeric data.

As noted above, some of the claims require in addition to a "keypad", "one or more buttons." Vivint's proposed construction preserves the separate meaning of "keypad" as described above with the additional limitation of "one or more buttons." Figure 3 depicts a DVMS transceiver (10) with a keypad (64) including a set of alphanumeric keys for entering information and a mute switch (61):

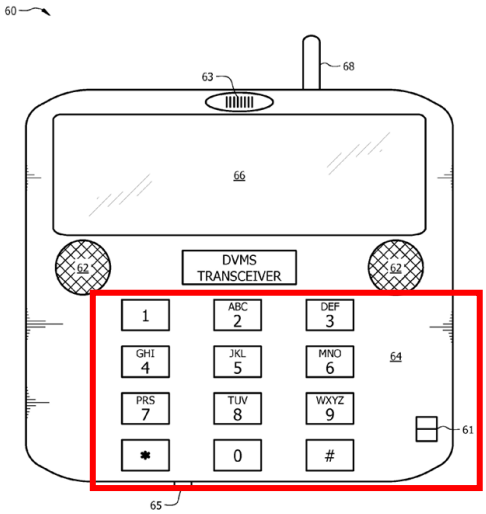


FIG. 3

Id. at Fig. 2 (annotation added). Thus, Figure 3 is representative of the term "keypad with one or more buttons" with the 0–9, *, and # keys comprising keys of the "keypad" and mute switch (61) comprising the additional limitation of "one or more buttons" of the "keypad."

Vivint's construction preserves the limitations articulated by the claims and gives meaning to the words of the claims.

2. "database" ('638 patent, claims 2, 9, 11, 20; '478 patent, claims 19; '284 patent, claims 2, 3, 11, 12, 18, 19; '323 patent, claims 13, 16; '290 patent, claims 1, 13; '030 patent, claims 2, 7, 9, 11; '120 patent, claims 1, 6, 16, 19)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"database"	"a collection of data stored with a plurality of criteria used for organizing and locating the stored data"	No construction necessary, plain and ordinary meaning.

Vivint's construction reflects the plain and ordinary meaning of "database" to a person skilled in the art and is consistent with how the term is used in the Skybell Patents.

A database requires both data and structure. Vivint's construction captures this meaning and is consistent with the use of "database" in the specification. The term "database" appears multiple times in the specification of the Skybell Patents. Specifically, the specification discuss storing images and video in a database in association with a timestamp and state, for example: "The proximity sensor 26 activates the camera 22 upon detection of movement, which in turn relays an image or streaming video to the personal computer 80 where it is saved by the personal computer 80 in a database in association with a timestamp." Ex. 2 at 8:16–20. The specification also discuss storing messages or calls in a database in association with timestamps and an occupant identifier and state, for example: "The message or call is stored in computer readable medium, such as database, by the personal computer 80 in association with a beginning timestamp and an ending timestamp along with the occupant's mailbox number." *Id*. at 11:31–34. The common thread in these recitations is that a database includes a data which is stored with associated criteria (*e.g.*, timestamps, occupant identifier, *etc*.) used for organizing and locating the stored data. Vivint's construction reflects the descriptions of "database" from the specification.

Skybell has not provided a construction for this limitation. Nor has Skybell clearly articulated how it contends Vivint's construction purportedly diverges from the plain meaning of the term.

3. "actuating the camera" ('638 patent, claim 5; '478 patent, claim 8)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"actuating the camera"	"mechanically move a part of the camera"	No construction necessary, plain and ordinary meaning.

Vivint's construction reflects the plain and ordinary meaning of "actuating the camera" to a person skilled in the art and is consistent with how the term is used in the Skybell Patents and is also supported by the Dictionary of Computing.

The term "actuating" appears multiple times in the specification of the Skybell Patents. Specifically, the specification discuss remotely actuating a camera by zooming or panning, the camera both of which require mechanical movement through gears that move the position of the camera or by moving lenses to zoom:

> In yet another feature, the method further comprises remotely actuating the camera located proximate the entrance using the wireless handheld device. In still further features, the step of remotely **actuating the camera includes zooming an image** of the first person at the entrance and **remotely moving the camera** to change the view of the camera.
>
> . . .
>
> In addition to displaying the video and audio on the camera's webpage, the website application 246 of the camera 210 displays graphic **controls for actuating the camera** 210, **such as panning right and left, up and down, zoom in and zoom out, and adjustments for the amount of ambient light**.

Id. at 4:10–16; 16:11–16 (emphasis added). The specification also discuss the term "actuated" in the context of remotely actuating a mechanical lock and state, for example:

> An occupant preferably has the option of remotely entering the access code, thereby **actuating the electronically actuated lock**, or instructing the GUI database application to go to a new high security level, wherein the lock cannot be accessed and notifying the visitor that the access code is not operational.

Id. at patent at 11:62–67 (emphasis added).

Further, Vivint's construction is supported by the definition of "actuator" from the Dictionary of Computing: "An electrical device that turns an electrical current into motion, for example to

close a door or turn a valve." Ex. 10 at VIVINT_SBIP0002701. As set forth in the specification and supported by the Dictionary of Computing actuating means mechanically moving a part of the camera.

Skybell has not provided a construction for this limitation. Nor has Skybell articulated how it contends Vivint's construction purportedly diverges from the plain meaning of the term.

4. "associated with respective user" ('638 patent, claim 6; '478 patent, claim 9; '284 patent, claim 6; '323 patent, claim 1; '030 patent, claim 6)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"associated with a respective user"	"linking one unique device to one unique user"	No construction necessary, plain and ordinary meaning.

Vivint's construction reflects the meaning of "associated with respective user" to a person skilled in the art and is consistent with the specification of the Skybell Patents. Construing this phrase will help the jury understand what is meant by the term.

This phrase appears in the claims in the following context: "a Software application running on at least one peripheral device, wherein each of said at least one peripheral device is associated with a respective user." While the term "associated with a respective user" does not appear explicitly in the specification, the specification discuss association of peripheral devices with users. For example:

> In a third aspect of the invention, a method for receiving a person at an entrance comprises the steps of . . . (c) providing, with the application software running at the computerized controller, **a graphic user interface to a remote peripheral device by which a user of the remote peripheral device may view the video of the person at the entrance**.
>
> . . .
>
> As mentioned above, the personal computer 80 runs a software application that includes a DVMS Database Application 82 and graphic user interfaces (GUIs). The software application is configured and maintained **by an administrator, who defines users thereof**. The users in the system 100 are referred to as "occupants' reflecting their relation to the home or office.

> Preferably, the occupants have various levels of access to the software application, depending on the privileges set by the administrator. The administrator may also set a level of security under which the system is to operate, particularly with respect to connections made using remote peripheral devices.

Ex. 2 at 4:11–22; 9:26–38 (emphasis added). As set forth in the specification, peripheral devices are linked with specific users and the associated contact information of those users. Consistent with the specification, this term should be construed as such.

5. "hierarchy of storage" or "storage hierarchy" ('638 patent, claim 9, 11, 20; '478 patent, claim 19; '284 patent, claims 3, 11, 19; '323 patent, claims 1, 3, 13; '290 patent, claim 1; '030 patent, claims 7, 9, 11; '120 patent, claims 1, 16)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"hierarchy of storage" or "storage hierarchy"	"an organization scheme that links records into a family tree, where parent records own child records, so that any record type has only a single owner"	No construction necessary, plain and ordinary meaning.

The term "hierarchy of storage" appears exactly once in the specification. Specifically, the specification state:

> The administrator also preferably defines a **preferred hierarchy of storage of audio and video data**, the location and number of backup devices, and whether replications of the database are to be kept.

Id. at 9:46–50. The specification do not define, or otherwise provide guidance as to the meaning of "hierarchy of storage" or "storage hierarchy." The Dictionary of Computing defines "hierarchical database" as: "A kind of DATABASE MANAGEMENT SYSTEM that links records into a family tree, where parent records own child records, so that any record type has only a single owner." Ex. 10 at VIVINT_SBIP0002706. One of skill in the art would understand that a hierarchical storage structure would require that each record has only a single owner.

A defined hierarchy connotes a specific type of data storage. Consistent with the name of this type of structure, the hierarchical data structure includes various hierarchical layers for storage.

This structure is commonly seen in computer file folders, where each folder is another layer to the hierarchy and each file belongs to a specific file. Skybell has not offered a construction for the specific file structure identified by the claim limitation.

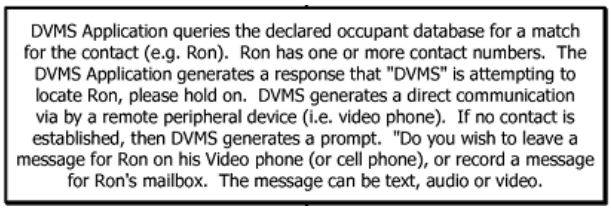
6. "declared occupant" ('638 patent, claims 9, 20; '284 patent, claim 3)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"declared occupant"	"a user designated in source code as occupying the structure"	No construction necessary, plain and ordinary meaning.

The specification discuss attributes (*e.g.*, aliases, access codes, *etc*.) known to the software application that are associated with a "declared occupant" consistent with Vivint's proposed construction. For example:

> In the method, upon the entering of a **valid access code assigned to a declared occupant**, the software application optionally notifies the administrator or his designated representative that the **declared occupant** has now entered the home or office. The administrator would know who the individual should be. The administrator thus can **confirm**, by remotely viewing the recorded video, **that the actual person who entered the access code is the declared occupant**, and/or make a follow-up telephone call to the home or office.
>
> . . .
>
> Other examples of configuration settings of the software application that are determined by the administrator include: aliases for a **declared occupant** such as, e.g., "Daddy" or "Momma"; passwords to access the software application; access codes to actuate the electronic lock controlled by the computerized controller; a number or other identifier that corresponds to an occupant's name; and at least one telephone number by which an occupant can be reached.

Ex. 2 at 12:1–5; 9:39–46 (emphasis added). Figure 5 of the '478 patent also supports that a "declared occupant" is the person designated in source code as occupying the structure:



See id. at Fig. 5.

Vivint's construction is also supported by the definition of "declare" from the Dictionary of Computing: "To specify the type and other properties of some object such as a VARIABLE, DATA STRUCTURE OR PROCEDURE in the SOURCE CODE of a program." Ex. 10 at VIVINT_SBIP0002703. Consistent with the specification and intrinsic evidence, the term "declared occupant" should be construed in accordance with Vivint's proposed construction.

Additionally, the declared occupant must be an "occupant" of the premises. The specification teaches "[t]he users in the system 100 are referred to as 'occupants' reflecting their relation to the home or office." Thus a declared occupant must be identified in the system as a user that occupies the home or office.

7. "streaming video" or "streaming digital video" ('638 patent, claims 1, 2, 3, 6, 12; '478 patent, claims 1, 5, 9, 20, 21; '284 patent, claims 1, 6, 8, 13; '323 patent, claims 1, 4, 5, 13, 14; '290 patent, claims 1, 19; '030 patent, claims 1, 6, 7, 12, 13; '120 patent, claims 1, 2, 16, 20)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"streaming video" or "streaming digital video"	"video data that is played before the entire video data file is downloaded onto a viewing device"	No construction necessary, plain and ordinary meaning.

The specification support Vivint's proposed definition for "streaming video" as video that played before the entire video file is downloaded:

> The proximity sensor 26 activates the camera 22 upon detection of movement, which in turn **relays an image** or **streaming video** to the personal computer 80 **where it is saved by the personal computer** 80 in a database in association with a timestamp.

Ex. 2 at 8:16–20. Furthermore, the Dictionary of Computing supports Vivint's definition: "Streaming: The ability to play sound or video files in REAL TIME as they are received from a website, rather than having to download the whole file to a local disk before playing it." Ex. 10 at VIVINT_SBIP0002713.

Skybell has not provided a construction for this limitation. Nor has Skybell clearly articulated how it contends Vivint's construction purportedly diverges from the plain meaning of the term.

8. "motion sensor" ('120 patent, claims 1, 4, 5, 10, 15, 17)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"motion sensor"	"a piece of computer hardware that detects physical movements of objects and converts the physical movements into electrical signals"	No construction necessary, plain and ordinary meaning.

The term "motion sensor" appears multiple times in the specification of the Skybell Patents.[4] The specification discuss attributes of a motion sensor and identify the motion sensor as a piece of hardware which detects physical movements of persons or objects. For example, the specification describes thresholds for both a motion sensor and (separately) a motion detector:

> The set of digital video operating parameters may include parameters selected from the group of a default **camera** position; a number of frames per second; sensitivity and threshold of a **motion sensor**; length of a session; frequency of motion detection; and sensitivity and threshold of the **motion detector**.
>
> The recording further can be transmitted to the personal computer 240 for saving for later viewing. In an alternative embodiment, the camera does not include a **motion sensor 220 in the form of an additional piece of hardware but, instead, detects motion via a software application that analyzes the video images**.

Id. at 14:46–52 (emphasis added). More directly, the specification notes that the device may not include hardware that is a motion sensor, but may instead include software that detects motion:

> The recording further can be transmitted to the personal computer 240 for saving for later viewing. In an alternative embodiment, the camera does not include **a motion sensor 220 in the form of an additional piece of hardware**

[4] The 2003 version of the specification to which the Skybell Patents all claim priority, does not mention "motion" or "motion detection" at all. Rather the 2003 version of the specification refers variously to a proximity sensor 26. The later 2006 version of the specification, namely the specification for the '478 patent, introduces the idea of a motion detector.

> but, instead, detects motion via a software application that analyzes the video images.

Id. at 14:46–52; 16:17–21, 34–39 (emphasis added). This distinction in the specification emphasizes that the use of the term "sensor" connotes hardware components.

Furthermore, the patent claims themselves differentiate between "detector" and "sensor." Claim 6 of the '638 patent requires "a proximity detector." But dependent claim 7 further requires "a proximity sensor." The narrowing effect of a dependent claim confirms that a detector (software or hardware) is broader than a sensor (hardware only).

This distinction between sensor and detector is further supported by Vivint's construction is supported by the definition of "sensor" from the Dictionary of Computing: "An electronic device that converts into an electrical signal some physical property of its environment." Ex. 10 at VIVINT_SBIP0002712. In the context of a "motion sensor", the hardware device would detect motion and convert that motion into an electric signal.

9. "proximity sensor" ('638 patent, claims 1, 7, 13, 14; '478 patent, claims 1, 11, 20, 22; '284 patent, claims 13, 14, 18, 19; '290 patent, claim 1; '030 patent claims 13, 14)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"proximity sensor"	"a piece of computer hardware that detects the distance of an object to the hardware within a fixed range of the hardware"	No construction necessary, plain and ordinary meaning.

For the same reasons described in section D.9 above, the term "sensor" connotes a hardware component. However, instead of motion this component detects proximity. The specification identify the proximity sensor as a piece of hardware, distinct from a motion sensor. The proximity sensor detects objects within a fixed range of the proximity sensor hardware. For example:

> In accordance with the method, the presence of a visitor is detected via the **proximity sensor 26** of the DVMS module 10, where the DVMS module 10 is mounted at or near an entrance to the business or residence.
>
> . . .
>
> When the visitor departs, and is **out of the range of the proximity sensor 26**, all recording is stopped and saved in the database record, along with an ending timestamp. The occupant "y" can selectively sort to view the entire recorded visit, or just the message. If the **proximity sensor 26** indicates that there is another visitor, the method cycles back to the greeting step.

Ex. 2 at 10:35–38; 11:38–44; (emphasis added.) As set forth above the specification list the proximity sensor has a piece of hardware, along with the other hardware that exists in the DVMS module (such as cameras, speakers, microphones, etc.). The proximity sensor's purpose is to detect a person that is within range of the piece of hardware. As identified in the specification, the proximity sensor has a defined range to detect objects proximate to the sensor.

The claims also indicate that the proximity sensor is a piece of hardware: "wherein detecting step (a) comprises using the wireless device comprising a proximity sensor, a microphone, a speaker, a video camera, a keypad having one or more buttons, and playing component . . . ." All of these structures listed in the claim are pieces of hardware.

Further, Figure 2 of the '478 patent depicts proximity sensor 26 as piece of hardware on the DVMS module 10:

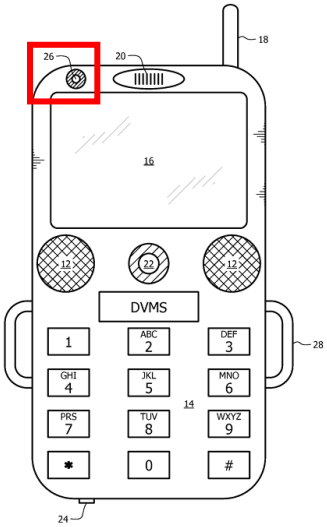


FIG. 2

Id. at Fig. 2 (annotation added). Consistent with the specification and claims, the proximity sensor is a piece of hardware that is used to detect the distance of object from the hardware that is within range of the piece of hardware.

Skybell has not provided a construction for this limitation. Nor has Skybell clearly articulated how it contends Vivint's construction purportedly diverges from the plain meaning of the term.

10. "proximity detector" ('638 patent, claim 6; '478 patent, claim 21; '284 patent, claims 1, 4, 6; '323 patent, claims 1, 13, 14; '290 patent, claims 4, 6; '030 patent, claims 1, 6)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"proximity detector"	"the ability to detect the distance of an object within a fixed range"	No construction necessary, plain and ordinary meaning.

For the same reasons described in section 11, "proximity detector" should have the same meaning as "proximity sensor" absent the hardware component restriction imposed by the term "sensor."

11. "redundant system" ('638 patent, claim 20; '284 patent, claims 3, 19; '323 patent, claims 1,15; '290 patent, claim 1)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"redundant system"	"duplication of the hardware and software components of the system"	No construction necessary, plain and ordinary meaning.

The specification discuss "redundant systems" as being duplications of the hardware and software of the system:

> The software application also is configured to send voice, text, and video messages via email. The administrator can further set up **redundant subsystems of the system 100**.

Ex. 2 at 10:21–23 (emphasis added). The Dictionary of Computing states: "Redundancy: The duplication of the hardware or software components of a system to improve is reliability, the

principle being that if one component fails, another can take over its function." Ex. 10 at VIVINT_SBIP0002710. This definition confirms that a redundant system would include duplication of the software and hardware components of a system. Vivint's proposed construction, is consistent with the intrinsic and extrinsic evidence and should therefore be adopted.

12. "replications of a database" ('030 patent, claim 9); "database is replicated" ('284 patent, claim 12; '120 patent, claims 6, 19); "replicating the video" ('638 patent, claim 20)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"replications of a database" "database is replicated" "replicating the video"	"copies of the data of a database and the structure of the data of the database" "copies of the data of a database and the structure of the data of the database" "copying the video data and structure of the video data"	No construction necessary, plain and ordinary meaning.

The three terms at issue all deal with the meaning of "replication," which Vivint has proposed to mean making copies of the relevant data, as discussed in more detail below.

The Skybell Patents discuss replicating as follows:

> The administrator also preferably defines a preferred hierarchy of storage of audio and video data, the location and number of backup devices, and whether **replications of the database** are to be kept.

Ex. 2 at 9:46–50 (emphasis added). In the context of the specification, replicating means duplicating or copying. This is confirmed by the Dictionary of Computing: "Replication: The copying of all or part of a server-based database on a remote client computer." Ex. 10 at

VIVINT_SBIP0002711. Vivint's construction is consistent with intrinsic and extrinsic evidence and should therefore be adopted.

Accordingly, Vivint's constructions reflect the plain and ordinary meaning of "replicate" which requires making a copy of the video and database. This is consistent with how the term is used in the Skybell Patents and is supported by the Dictionary of Computing.

13. "control settings" ('290 patent, claim 9); "control parameters associated with the device" ('120 patent, claims 1, 16)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"control settings"	"options to enact physical changes"	No construction necessary, plain and ordinary meaning.
"control parameters associated with the device"	"options to enact physical changes to the device"	

While the term "control settings" does not appear in the specification of the Skybell Patents, the specification discuss a "camera control screen," a system "to control many cameras," and "graphic controls for actuating the camera" and state, for example:

> The monitoring application 244 includes a **camera control screen** that displays the camera webpage; and an operating screen that displays a set of operating parameters.
>
> . . .
>
> Additionally the webpage has **graphic controls for remotely positioning the camera, adjusting brightness and automatic panning**. The cross-shaped icon on the side has left arrow 2319 for turning the lens left, a right arrow 2317 for turning the lens right, an up arrow 2318 for turning the lens up, a down arrow 2320 for turning the lens down, and a center button 2321, which returns the camera to its default position. On the bottom of the webpage is an icon 2310a for increasing the brightness when the light is low, and icon 2310b for decreasing the brightness when the light is high. Icon 2312 sets the brightness to the default position, and icon 2316 is a reset button that returns all parameters to the factory settings. The camera automatically pans back and forth when button 2313 is clicked, and pans up and down when button 2315 is

clicked. Panning is stopped by re-clicking the pan icons. The double curved arrow icon 2316 refreshes the **camera controls**.

Ex. 2 at 14:53–55; 17:62–18:12; 19:45–54 (emphasis added). Figure 11 of the '478 patent illustrates the graphic controls for actuating the camera:

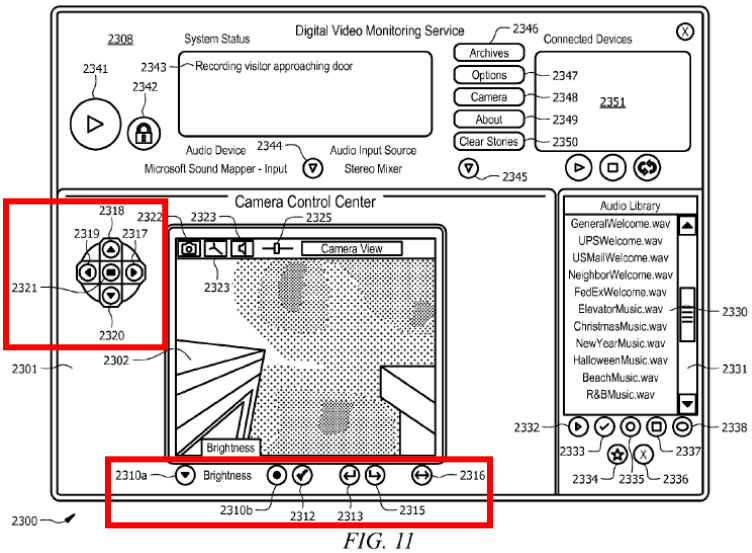


FIG. 11

Id. at Fig. 11 (annotations added).

The "control" aspect of the claim language, consistent with the specification, as shown above, indicate that the "control settings" include are "options to enact physical changes." Thus as used in the specification, control means being able to enact physical changes to the device.

Similar to "control settings" the "control" aspect of "control parameters" implicates physical changes to the device as described by the specification.

14. "encrypting the digital streaming video" ('120 patent, claims 1, 16)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"encrypting the digital streaming video"	"encoding the audio and video data of the digital streaming video so that it may be read only by authorized parties"	No construction necessary, plain and ordinary meaning.

Vivint's construction reflects the plain and ordinary meaning of "encrypting the digital streaming video" to a person skilled in the art and is consistent with how the term is used in the

Skybell Patents and prosecution history of the U.S. Patent Application No. 16/225,979 (which matured into the '120 patent) (Ex. 12).[5]

The term "encrypt" appears only once in the specification of the Skybell Patents in context of encrypted video: "Communications via the wireless camera 210 also preferably are **encrypted**. *Id*. at 15:52–53 (emphasis added). In the prosecution history of the '120 patent, encryption is described as "transforming data in such a way that only specific individuals can reverse the transformation . . ." and ". . .using an algorithm in conjunction with one or more keys to produce a ciphertext." *See* Ex. 12, p. 8. In making this argument, the applicant distinguished between encoding data for encryption and encoding data for transmission of data packets. Consistent with the above, Vivint has proposed that As the above-described evidence demonstrates, "encrypting" includes "encoding the audio and video data of the digital streaming video so that it may be read only by authorized parties."

Skybell has not provided a construction for this limitation. Nor has Skybell clearly articulated how it contend Vivint's construction purportedly diverges from the plain meaning of the term. To the extent Skybell contends that "encrypting the digital streaming video" does not include the transformation of video data so that it may only be read by authorized individuals Skybell's interpretation fails to capture the term's plain and ordinary meaning. Vivint's construction should therefore be adopted.

15. "wireless device" ('478 patent, claims 1, 9, 10, 11, 15, 18, 20, 21, 23)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"wireless device"	"a device that operates without external wires"	No construction necessary, plain and ordinary meaning.

[5] Vivint addressed the construction for "streaming digital video" in section D9 above which Vivint contends has the same construction as "digital streaming video."

Vivint's construction reflects the plain and ordinary meaning of "wireless device." The word "wireless" itself meaning a device less wires support this construction. The term "wireless" appears numerous times in the specification of the Skybell Patents. Specifically, the specification discuss the DVMS module is a wireless device that is portable and disposed to communicate wirelessly, for example:

> The system 100 also includes a DVMS module 10 located on the exterior of the home or office proximate the door 114. The DVMS module 10 is configured for use in the exterior of the home or office, which may include outdoor use in external residential or commercial locations. The DVMS module 10 is disposed in **wireless** communication with the wireless network, including the personal computer 80, via the wireless router 42.
>
> . . .
>
> The DVMS module 10 optionally includes a small portable energy source, such as a battery that is rechargeable via the quick connect electrical receptacle 24, **for portable use** as well as for use in the event of a power failure.

Ex. 2 at 8:4–11, 22–25 (emphasis added). As the above-described evidence demonstrates, wireless device is a device that operates without external wires, such that the wireless device can be portable.

Skybell has not provided a construction for this limitation. Nor has Skybell clearly articulated how it contend Vivint's construction purportedly diverges from the plain meaning of the term. To the extent Skybell contends that a "wireless device" does not include a device that operates without external wires, Skybell's interpretation fails to capture the term's plain and ordinary meaning. Vivint's construction should therefore be adopted.

16. "watcher" ('739 patent, claims 1, 2, 3, 4, 7, 10, 12, 14, 17)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"watcher"	"an entity that receives presence information from a presence service"	"a person"

Vivint's construction reflects the plain and ordinary meaning of "watcher" to a person skilled in the art and is consistent with how the term is used in the Skybell Patents, is perceived by Vivint's expert witness (Ex. 13), and is used in publications available at the time of the invention (Ex. 11).

The term "watcher" appears numerous times in the specification of the Skybell Patents in the context of a watcher client application 104 and states, for example:

> Device with watcher client application 104 is used to provide the user with notification of the trigger event, present a selection of actions, and forward the user's selection to an application for execution of tasks associated with the selected action. . . . Interface device 102 and **device with watcher client application 104 may include or may be part of a computing device** . . . .

Ex. 8 ('739 patent) at 3:19–23, 53–54. Figure 1 of the '739 patent depicts the device with watcher client application 104:

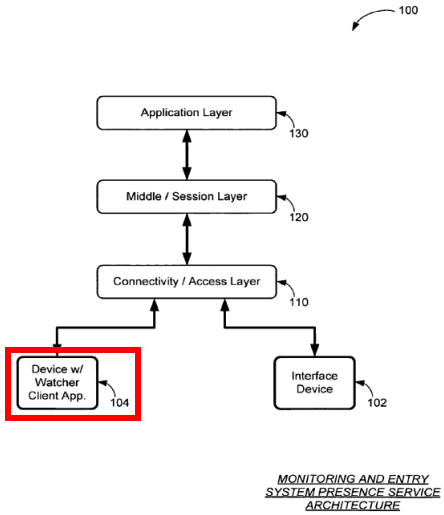


FIG. 1

Ex. 8, Fig. 1 (annotation added).

Vivint's construction is supported by a publication issued by the Network Working Group of The Internet Society in February 2000 ("RFC 2778") and expert testimony. *See, e.g.*, Shoemake Decl., Ex. 13 at ¶¶ 37–50; Ex. 11 at VIVINT_SBIP0002663. RFC 2778 illustrates that a presence service involves the interaction of a "presentity" with a "watcher." RFC 2778 further describes

two types of watchers: "fetchers" and "subscribers." *Id*. RFC 2778 defines a watcher as an entity which requests or "receives presence information about a presentity . . . from the presence service." *Id*.

Skybell argues that the term "watcher" means "a person." While a user (*i.e.*, at person) *may* be a watcher, it is incorrect that a user must always be a watcher as proposed by Skybell: "Device with **watcher client application** 104 is used to provide the user with notification of the trigger event, present a selection of actions, **and forward the user's selection** to an application for execution of tasks associated with the selected action. In other embodiments, the **user may be notified** through one device and select actions to be performed through another device." *See, e.g.*, Shoemake Decl., Ex. 13 at ¶¶ 37–50; Ex. 8 at 3:19–25. As described in the specification, a watcher application provides a notification to the user. This description is inconsistent with Skybell's proposal as a person application would be providing a notification to the person.

Furthermore, Skybell's proposal ignores the dependent claims. Claim 8 requires "a user." But dependent claim 9 provides the further limitation of "wherein the user is a watcher." Skybell's proposal would read out the further limitation required by the claim as a user is a person.

Vivint's proposed construction captures what one of ordinary skill in the art understands a watcher to be, which is supported by the specification of the patents. Skybell's interpretation fails to capture the term's plain and ordinary meaning as it is too broad. Therefore, Vivint's construction should be adopted.

17. "user selection of client, premises, location, monitoring device" ('343 patent, claim 1, 10)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"user selection of client, premises, location, monitoring device"	Plain and ordinary meaning.	"selection by a user from a list of clients, list of premises, list of locations, and list of monitoring devices"

A person skilled in the art would understand what is meant by "user selection of client, premises, location, monitoring device" with reasonable certainty standing alone and when viewed in light of the specification.

These terms in the context of the patents and are sufficiently clear so as to not require construction. Each of the phrases here involves words that are used as understood in view of the specification: "user," "selection," "client," "premises," "location," and "monitoring device." The specification of the '343 patent provides evidence that each of the aforementioned phrases are normally understood and describes a user selection of client, premises, location, monitoring device. *See, e.g.*, Shoemake Decl., Ex. 13 at ¶¶ 63–73; Ex. 9 ('343 patent) at 4:30–33; 11:21–51; 13:42–55; 14: 28–31, 42–45; 15:33–47; 19:23–28.

Skybell's proposal impermissibly imports the additional limitation of "a list" into the claim language. Nothing in the claim language requires that the user selection must be from a defined list. While a list would certainly be within the scope of the claimed selection, the claim language should not be limited only to selection from a list. In doing so, Skybell commits "one of the cardinal sins of patent law—reading a limitation from the written description into the claims." *See Phillips*, 415 F.3d at 1319–20 (quoting *SciMed Life Sys., Inc. v. Advanced Cardiovascular Sys., Inc.*, 242 F.3d 1337, 1340 (Fed. Cir. 2001)). In the context of the specification, a person skilled in the art would understand what a "user selection of client, premises, location, monitoring device" is, and apply its ordinary meaning.

E. DISPUTED TERMS THAT THE PARTIES CONTEND ARE INDEFINITE

The definiteness requirement of 35 U.S.C. § 112 ensures that patent claims particularly point out and distinctly claim the subject matter that the patentee regards to be the invention. See 35 U.S.C. § 112(b); *Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, 370 F.3d 1354, 1366 (Fed. Cir. 2004). If a claim's legal scope is not clear enough so that a person of ordinary skill in the art could determine whether or not a particular product infringes, the claim is indefinite, and is, therefore, invalid. *Geneva Pharm., Inc. v. GlaxoSmithKline PLC*, 349 F.3d 1373, 1384 (Fed. Cir.

2003); *Nautilus, Inc. v. Biosig Instruments, Inc.*, 134 S. Ct. 2120, 2124 (2014) ("a patent is invalid for indefiniteness if its claims, read in light of the specification delineating the patent, and the prosecution history, fail to inform, with reasonable certainty, those skilled in the art about the scope of the invention."). When a word of degree is used in a claim, it is incumbent upon the applicant to provide some standard for measuring that degree. *Seattle Box Co., Inc. v. Industrial Crating & Packaging, Inc.*, 731 F.2d 818, 826 (Fed. Cir. 1984).

1. Two Terms from the Skybell Patents are Indefinite

The following terms from the Skybell Patents are indefinite because these patent claims fail to particularly point out and distinctly claim the subject matter of the invention.

a. "irregular activity" and "irregular visitor activity" ('323 patent, claims 2, 11, 12)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"irregular activity" and "irregular visitor activity"	Indefinite.	Definite.

The terms "irregular activity" and "irregular visitor activity" are indefinite as undefined terms of degree and provide no standard for determining what would and would not constitute "irregular activity" and "irregular visitor activity." *See Seattle Box Co.,* 731 F.2d at 826.

Here, the term "irregular" fails to inform, with reasonable certainty, those skilled in the art about what constitutes irregular activity, how activity is determined to be irregular, or the amount of irregularity that is required the meet the claim limitation. Nor does the specification explain or provide a baseline for what activity could be considered "regular" activity by which the system can determine what constitutes "irregular" activity. For example, if an occupant returns home every day, but at a different time, is this "irregular?" Or if a person who has never visited the home rings the doorbell, is this "irregular" because it is an unknown person, or is it "regular" because it is generally expected that new visitors ring a doorbell?

Because "irregular" is an imprecise, relative term, a person of ordinary skill in the art would not understand what type of activity is irregular, how to determine the activities' irregularity, or how much irregularity the activity is required to contain without some sort of guidance from the specification. Yet the specification never provide any standard a person of ordinary skill in the art can use to measure whether a certain condition constitutes "irregular activity," nor does it provide any examples of what a "irregular activity" is. Without any guidance from the specification, it is impossible to determine the proper scope of the claims. The specification also never explain what it means for an event to be associated with "irregular activity" or what it means to take an action based on "irregular activity." In fact, the '323 patent never even mentions the term "irregular" outside of the claims. This is insufficient as a matter of law to satisfy the definiteness requirement. *Seattle Box Co.*, 731 F.2d at 826. Because the term "irregular" as claimed in the '323 patent is a word of degree without any specificity to what "irregular" is, the claims cannot inform those of skill in the art about the scope of the invention. As such, claims 2, 11, and 12 of the '323 patent should be held invalid.

b. "coordinating multiple devices to define responses to events" ('290 patent, claim 16)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"coordinating multiple devices to define responses to events"	Indefinite.	Definite.

The term "coordinating multiple devices to define responses to events" fails to describe the scope of the claims with reasonable certainty and is, thus, indefinite.

The term "coordinating multiple devices to define responses to events" appears in the specification once but fails to inform, with reasonable certainty, those skilled in the art about what "coordinating multiple devices to define responses to events" means. For example, the specification states, "[T]he personal computer 80, in accordance with the software application,

controls communication in the system 100, coordinates multiple communication devices in the system 100, and is used to define responses to prompts and events in the system 100." Ex. 2 at 7:58–62. The conclusory statement in the specification does nothing to describe to one of ordinary skill in the art what "coordinating multiple devices to define responses to events" means. What multiple devices are being coordinated to define responses to the events? And what events need responses? And what responses are needed for certain events? Does the limitation require that the response to an event is defined by the devices themselves (*e.g.* multiple devices collaborate to create a rule in response to an event)? There is no clarity or standard for a person of ordinary skill in the art to determine what it means to coordinate communication devices to define responses to events. Thus, the term "is indefinite.

2. The Vivint Patents Are Not Indefinite

The following terms of the Vivint Patents are not indefinite because the following claims of the Vivint Patents particularly point out and distinctly claim the subject matter that the patentee regards to be the invention. *See* 35 U.S.C. § 112(b). Skybell has not put forward an expert declaration to support its position. Skybell has not articulated its position with respect to the challenged terms in its invalidity contentions or in its other disclosures.

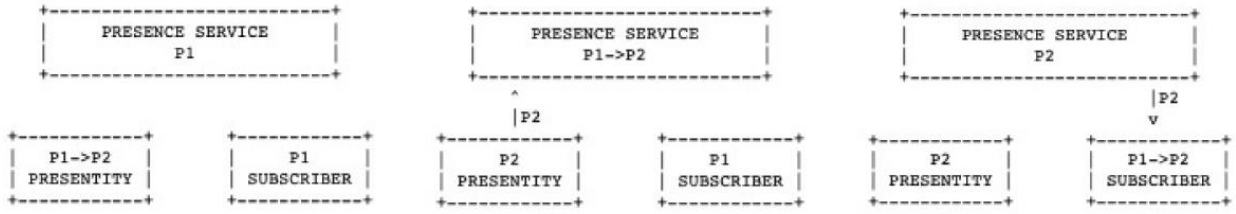
a. "personal presentity" ('739 patent, claims 1, 3, 6, 10, 11, 12, 13, 17)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"personal presentity"	"an entity that provides presence information to a presence service"	Indefinite.

Skybell argues that "the term 'personal presentity' is indefinite as, besides the claims, this term has been given no meaning in the patent and to extent functions are claimed involving the term 'personal presentity' those functions are indefinite as there is no meaning attributed to the term in the patent or the prosecution history." Dkt. No. 50 at p. 3. However, a person skilled in the art would understand what is meant by "personal presentity" with reasonable certainty

standing alone, when viewed in light of the specification, as evidenced by publications available at the time of the invention (Ex. 11). *See* Shoemake Decl., Ex. 13 ¶¶ 44–50.

As described in section D.21 above, RFC 2778 illustrates that a presence service involves the interaction of a "presentity" with a "watcher." Figs. 3a, 3b, and 3c of RFC 2778 illustrate the operation of a presence service with a subscriber watcher operates as follows, as "a piece of presence information is changed from P1 to P2":



RFC 2778 defines presentity (or present entity) as an entity which "provides presence information to a presence service." Ex. 11 at VIVINT_SBIP0002686. The use of presentity and the presence service architecture in RFC 2778 was understood in the context of instant messaging, but was not known for use with an entry service at the time of the '739 patent. Shoemake Decl., Ex. 13 ¶ 47. The specification of the '739 patent describes using a presentity store in a novel way within the context of an entry service: "Doorbell presence application 532 may optionally determine a location of the resident using location service 236 and provide aggregate presence service 534 with the user's location and the notification. Aggregate presence service 534 updates a presentity store 528 and enables watcher client application 504 to provide the notification to the user." '739 patent at 7:20–26.

One of skill in the art would understand the term "presentity" as defined in the RFC 2778. Shoemake Decl., Ex. 13 ¶ 46. Based on the definitions provided in the RFC 2778, one of skill in the art would understand that a "personal presentity" is "an entity that provides presence information to a presence service." Thus, a person skilled in the art would understand what is meant by "personal presentity" with reasonable certainty and, thus, the term is not indefinite.

b. "determining a current location of the watcher" or "determine a current location of the watcher" ('739 patent, claims 1, 12)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"determining a current location of the watcher" or "determine a current location of the watcher"	Plain and ordinary meaning.	Indefinite.

While Skybell has not yet provided grounds for its claim that the phrase "determining (or determine) a current location of the watcher" is indefinite, a person skilled in the art would understand what is meant by "determining a current location of the watcher" with reasonable certainty standing alone and when viewed in light of the specification.

Dr. Shoemake has testified as a person of at least ordinary skill in the art that determining a current location of a watcher is well understood in the industry and is not indefinite. *See e.g.,* Shoemake Decl., Ex. 13 at ¶¶ 37–50. As Dr. Shoemake testifies [EXPAND].

Further, the specification outlines various techniques for determining a location of a watcher:

> Doorbell presence application 532 may optionally *determine a location* of the resident using location service 236 and provide aggregate presence service 534 with the user's location and the notification. Aggregate presence service 534 updates a presentity store 528 and enables watcher client application 504 to provide the notification to the user.

Ex. 8 at 7:20–26 (emphasis added). Dr. Shoemake also opines that a person skilled in the art would also understand that the location of a watcher and/or user could be determined using various location services and techniques such as a Global Positioning System (GPS), Wi-fi, cellular network data, etc. *See e.g.,* Shoemake Decl., Ex. 13 at ¶¶ 41, 58. Thus, a person skilled in the art would understand what is meant by "determining (or determine) a current location of the watcher" with reasonable certainty and, thus, the term is not indefinite.

c. "trigger event" ('739 patent, claims 8, 12)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"trigger event"	Plain and ordinary meaning.	Indefinite.

While Skybell has not yet provided grounds for its claim that the phrase "trigger event" is indefinite, a person skilled in the art would understand what is meant by "trigger event" with reasonable certainty standing alone and when viewed in light of the specification.

Dr. Shoemake has opined that a person skilled in the art would be familiar with triggers and events and would understand a trigger event to be an event that triggers something to occur. *See e.g.,* Shoemake Decl., Ex. 13 ¶¶ 33, 51–55. The specification also informs this understanding and states:

> With reference to FIG. 1, a diagram of a monitoring and entry system presence service architecture is shown. Architecture 100 includes at a base level two kinds of physical devices: interface device 102 and device with watcher client application 104. Interface device is typically a component of a monitoring or entry system configured to provide the **triggering event(s)**. For example, interface device 102 may include a doorbell integrated with additional functionality or an alarm monitor device also integrated with additional functionality. Device with watcher client application 104 is used to provide the user with notification of the **trigger event**, present a selection of actions, and forward the user's selection to an application for execution of tasks associated with the selected action. In other embodiments, the user may be notified through one device and select actions to be performed through another device.

Ex. 8 at 3:10–25 (emphasis added). As stated above, an event may be the occurrence of the doorbell being pressed, an alarm monitor being triggered, etc. *See id*. at 1:53–56. The event may trigger the occurrence of other events including providing the user with notifications of the event, presenting a selection of actions related to the event, forwarding a user's selection to an application for execution of tasks associated with the selected action, etc. *Id*. at 1:56–62. Thus, a person skilled in the art would understand what is meant by "trigger event" with reasonable certainty and, thus, the term is not indefinite.

d. "wherein the processing server configures the monitoring devices according to the client, premises, location, monitoring device and processing rule data obtained from the user interface" ('343 patent, claim 1)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"wherein the processing server configures the monitoring devices according to the client, premises, location, monitoring device and processing rule data obtained from the user interface"	Plain and ordinary meaning.	Indefinite.

Skybell argues that "the term 'wherein the processing server configures the monitoring devices according to the client, premises, location, monitoring device and processing rule data obtained from the user interface' is indefinite. Skybell argues that "while this term is mentioned in the specification there is no explanation regarding what it means to 'configure' a monitoring device 'according to the client, premises, location, monitoring device and processing rule data obtained from the user interface.' Such an operation is clearly indefinite as 'configures' has no meaning ascribed to it nor is there any technique discussed in the patent that a person having ordinary skill in the art would not have clear notice of what is claimed." Dkt. No. 50 at pp. 3–4.

A person skilled in the art would also understand what is meant by "the processing server" and what it means to configure a monitoring device. For example, the specification describes that the processing server communicates with and configures one or more monitoring devices within a system. *See* Ex. 9 at Abstract; 3:25–28; 4:21–33.

One of skill in the art would understand the concept of configuration based on user-selected data. Shoemake Decl., Ex. 13, ¶ 61. "For example, the device may be configured with values appropriate for operation of the device based on data from the user's selection." *Id.* This is shown in greater detail in the specification:

> FIG. 9 is a flow diagram of a process client data entry sub-routine 900 implemented by the central server 210 in accordance with the present

> invention. At block 902, the central server 210 attempts to obtain the stored client data. At decision block 904, a test is conducted to determine whether the client data is available. If the data is available, the central server 210 retrieves the client data values at block 906. If the client data is not previously stored, or once the client has been retrieved, at block 908, the user interface 414 application of the central server 210 obtains client data values inputs from the user. For example, the user interface application 414 may import data files, obtain keyboard or computer mouse entries, obtain voice inputs, and the like. In one aspect, the user data entry can include data modifying an existing user data record. In another aspect, the user data entry can include data defining new user data records.

Ex. 9, '343 patent 13:40–55. Figure 9 details the logic flow described in the specification:

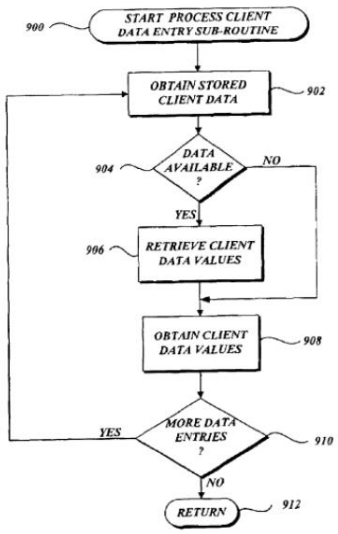


Fig.9.

From the specification and the figure, one of skill in the art would understand the plain meaning of "configure" and how one would configure devices based on selected data from the user. In one example a user may select data values appropriate for operation of the device. The device would be configured with the selected values and operate in a manner consistent with the selected values. Accordingly, one of skill in the art would understand how a remote server "configures" according to received data.

e. "the data" ('343 patent, claim 1)

Term	Vivint's Proposed Construction	Skybell's Proposed Construction
"the data"	Plain and ordinary meaning.	Indefinite.

It appears that Skybell argues the phrase "the data" is indefinite as lacking proper antecedent basis. However, this argument is wrong both legally and factually. Legally, even a true lack of antecedent basis alone would not render the claims indefinite if "the scope of a claim would be reasonably ascertainable by those skilled in the art." *Bose Corp. v. JBL, Inc.*, 274 F.3d 1354, 1359 (Fed. Cir. 2001); *see also Halliburton Energy Servs. v. M-I LLC*, 514 F.3d 1244, 1249 (Fed. Cir. 2008) ("a claim could be indefinite if a term does not have proper antecedent basis where such basis is not otherwise present by implication or the meaning is not reasonably ascertainable"); *Messerschmidt v. U.S.*, 29 Fed. Cl. 1, 41–42 (Fed. Cl. 1993) ("claims rendered initially indefinite for lack of antecedent basis may nevertheless remain definite when read in light of the specification").

Factually, the claim language itself, including dependent claims and corresponding claims in the patent, establishes that a person skilled in the art would understand that "the data" refers to the data selected by the user from the client, premises, location, monitoring device, and processing rule data. *See e.g.*, Shoemake Decl., Ex. 13, ¶¶ 63–73; '343 patent at claim 1 (". . . a computer display operable to generate a user interface for obtaining **a user selection of client, premises, location, monitoring device, and processing rule data** and to transmit **the data** to the processing server; . . ." (emphases added)). One of skill in the art "would find 'the data' reasonably clear. The claim outlines obtaining selection data from the user interface and transmitting 'the data,' i.e. the selected data." Shoemake Decl., Ex. 13 at ¶ 65. The specification is rife with examples of the server receiving selected data related to each of client, premises, location, monitoring device, and processing rule data. *See* Shoemake Decl., Ex. 13 at ¶¶ 66–71. Thus the system obtains user selection data that is transmitted to the processing server. Once the user makes a selection, the data regarding that selection is transmitted to the processing server.

The specification is consistent with the claims in transmitting selection data from the user:

> Returning to FIG. 5B, at block 522, the central server 210 configures the integrated information system 200 in accordance with the user inputs. In an illustrative embodiment of the present invention, the premises interface application 412 of the central server 210 may transmit the necessary configuration data for each monitoring device 206.

Id. at 19:23–28.

In the context of the specification, a person skilled in the art would understand what "the data" is and apply its ordinary meaning in light of the antecedent basis on the claims and the specification's teaching regarding the different types of data. *See* Shoemake Decl., Ex. 13 at ¶ 73. Thus, a person skilled in the art would understand what is meant by "the data" with reasonable certainty and, thus, the term is not indefinite.

F. CONCLUSION

For the reasons stated above, Vivint's constructions are proper and should be adopted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing document is being served via ECF filing to counsel of record on October 19, 2021 on all counsel of record who consent to electronic service per Local Rule CV-5(a)(3) or, otherwise, as required by local and federal rules.

/s/ Andy Tindel

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