

# Litigation Search Report CRU 3999

**Reexamination Control No. 90/019,781**

<b>To:</b> EXAMINER	<b>From:</b> SALDANA
<b>Location:</b> CRU	<b>Location:</b> CRU
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## Search Notes

(CLOSED) 8:23cv1968, Vdpp Llc V. Epson America Inc.  
(OPEN) 8:24cv2456, Tp-Link Systems Inc. V. Vdpp Llc

(CLOSED) 5:23cv4241, Vdpp, Llc V. Vivo, Inc.

(CLOSED) 4:23cv4241, Vdpp, Llc V. Vivo, Inc.

1. Performed a KeyCite Search in Westlaw, which retrieves all history on the patent including any litigation.
2. Performed a search on the patent in Lexis CourtLink for any open dockets or closed cases.
3. Performed a search in Lexis in the Federal Courts and Administrative Materials databases for any cases found.
4. Performed a search in Lexis in the IP Journal and Periodicals database for any articles on the patent.
5. Performed a search in Lexis in the news databases for any articles about the patent or any articles about litigation on this patent.



**User Name:** Manuel Saldana

**Date and Time:** Thursday, December 19, 2024 12:51:00 PM EST

**Job Number:** 241228826

## Documents (4)

1. VDPP LLC v. Volkswagen Grp. of Am., Inc.

**Client/Matter:** -None-

**Search Terms:** 10,021,380

**Search Type:** Natural Language

**Narrowed by:**

**Content Type**

**Narrowed by**

-None-

2. VDPP LLC v. Vizio, Inc.

**Client/Matter:** -None-

**Search Terms:** 10,021,380

**Search Type:** Natural Language

**Narrowed by:**

**Content Type**

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3. VDPP LLC v. Vizio, Inc.

**Client/Matter:** -None-

**Search Terms:** 10,021,380

**Search Type:** Natural Language

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**Content Type**

**Narrowed by**

-None-

4. VDPP LLC v. Vizio, Inc.

**Client/Matter:** -None-

**Search Terms:** 10,021,380

**Search Type:** Natural Language

**Narrowed by:**

**Content Type**

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-None-

VDPP, LLC v. Volkswagen Grp. of Am., Inc.

United States District Court for the Southern District of Texas, Houston Division

July 11, 2024, Decided; July 11, 2024, Entered, Filed

CIVIL ACTION NO. H-23-2961

**Reporter**

2024 U.S. Dist. LEXIS 121754 \*; 2024 WL 3378456

VDPP, LLC, Plaintiff, v. VOLKSWAGEN GROUP OF AMERICA, INC., Defendant.

**Subsequent History:** Appeal filed, 08/16/2024

**Prior History:** VDPP, LLC v. Volkswagen Grp. of Am., Inc., 2024 U.S. Dist. LEXIS 54703, 2024 WL 1313899 (S.D. Tex., Mar. 27, 2024)

**Counsel:** [\*1] For VDPP, LLC, Plaintiff: Jeffrey E Kubiak, Ramey LLP, Ramey LLP, Houston, TX; William P Ramey, III, Ramey LLP, Houston, TX.

For Volkswagen Group of America, Inc., Defendant: Thomas Christopher Trent, LEAD ATTORNEY, Trent & Taylor, LLP, Houston, TX; Elliot C. Cook, Joseph M. Schaffner, Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, Reston, VA.

**Judges:** Lee H. Rosenthal, United States District Judge.

**Opinion by:** Lee H. Rosenthal

**Opinion**

**MEMORANDUM AND ORDER**

VDPP, LLC, a nonpracticing entity, sued Volkswagen Group of America, alleging that Volkswagen's 2020 Backup Camera System infringed Patent '452, which VDPP had acquired by assignment. Volkswagen moved to dismiss, identifying a number of flaws in VDPP's claims, and the court granted dismissal. (Docket Entry No. 33). VDPP has moved to alter the judgment and for reconsideration, (Docket Entry No. 37), and Volkswagen has moved for a finding that this is an exceptional case entitling Volkswagen to attorney's fees. (Docket Entry No. 35). Volkswagen has identified, and the court finds, a number of flaws in VDPP's complaint, its response to Volkswagen's motion to dismiss, and its motion for reconsideration. These flaws include:

- The patent that VDPP asserted had expired on January [\*2] 2, 2022, making VDPP's claims for a permanent injunction and damages for future infringement impossible. Lans v. Digit. Equip. Corp., 252 F.3d 1320, 1328 (Fed. Cir. 2001).

- VDPP's claim for pre-suit damages could not succeed because VDPP could not claim marking compliance under 35 U.S.C. § 287. VDPP had previously accused multiple devices of infringing the '452 patent. Those cases settled and the defendants continued to sell the patented products, but VDPP produced no evidence that these entities marked the accused products. VDPP argued that as a nonpracticing entity, it was not required to comply with § 287. The law is clear, however, that licensees as well as patent holders must comply with the marking requirements. Arctic Cat Inc. v. Bombardier Recreational Prods., Inc., 876 F.3d 1350, 1366 (Fed. Cir. 2017).

- VDPP served initial disclosures omitting its prior settlement agreements. VDPP represented that there were no settlement agreements, only "agreements in principle." This was a lie. In fact, there were 11 settlement agreements licensing the '452 patent, all executed before VDDP said that it had no settlement agreements to disclose. (Docket Entry Nos. 35-7, 35-8). In fact, seven of the eleven settlement agreements were signed by Ronald S. Karpf, President of VDPP. None of the settlement agreements required VDPP's licensees to mark under § 287. (Docket Entry No. 36).

- Dr. Karpf [\*3] signed a declaration as part of VDPP's opposition to the motion for attorney's fees, which did not mention, much less explain, his denial that settlement agreements licensing the '452 patent existed when he had signed seven out of the eleven. (Docket Entry No. 44-9).

- VDPP's failure to identify any evidence of compliance with § 287, along with the 11 settlement

agreements that did not require licensees to comply with marking requirements, demonstrates that VDPP knew or should have known before suing Volkswagen that it could not allege marking compliance. VDPP's insistence that it could recover damages meant either that VDPP did not do any meaningful presuit investigation, or that VDPP knowingly asserted claims that had no merit. (Docket Entry No. 35 at 12).

- VDPP's initial disclosures addressed patents not at issue in this case, patents that pertained to a different plaintiff. (Docket Entry No. 35-7).

- VDPP had unsuccessfully presented similar allegations in other cases before leveling them against Volkswagen. See *VDPP, LLC v. Mazda Motor of Am., Inc.*, No. 8:24-cv-00571 (C.D. Cal.); *VDPP LLC v. NEC Corp. of Am.*, No. 3:24-cv-00566 (N.D. Tex.). VDPP's litigation strategy appears to be one of throwing [\*4] mud against several walls and hoping some sticks.

- VDPP renews arguments unsupported by the case law and the record in its motion to amend and for reconsideration. The arguments fail, for the reasons stated in the court's opinion granting Volkswagen's motion to dismiss. (Docket Entry No. 33).

- Volkswagen pointed out the futility of VDPP's allegations early in the case and gave VDPP an opportunity to withdraw the allegations. VDPP persisted.

- In moving for amendment of the judgment and for reconsideration, VDPP doubled down, continuing to make the unsupported arguments it had made in earlier briefs. (Docket Entry Nos. 37, 44). None of VDPP's arguments overcame or cast into doubt the conclusion that it could not plausibly allege marking.

- In its motion for amendment, VDPP asserted policy arguments regarding settlement that are inconsistent with the clear requirement imposed by § 287. VDPP quoted language from *Rude v. Westcott*, 130 U.S. 152, 9 S. Ct. 463, 32 L. Ed. 888, 1889 Dec. Comm'r. Pat. 543 (1889) that is not actually in the case, and *Rude* does not discuss marking at all. (Docket Entry No. 37)

- In seeking relief under *Rule 59(e)*, VDPP sought leave to assert a different patent (U.S. Patent No. **10,021,380**), the '380 Patent. This is not proper under *Rule 59(e)*; this is a request to assert a new cause of action.

- One final point, small but [\*5] indicative. VDPP was so sloppy in its preparation of the case that it alleged that Volkswagen was a Delaware corporation; it is a New Jersey corporation with a principal place of business in Virginia. VDPP claimed that Volkswagen had a place of business at a specific address in "San Antomio [sic]," in the Southern District of Texas. That address is of a Toyota location, not Volkswagen. And San Antonio is in the Western District of Texas, not the Southern. (See Docket Entry No. 33 at 5).

This is only a partial list of the flaws in VDPP's claims, flaws that VDPP knew or should have known. Perhaps the most egregious is the misstatement that there were no settlement agreements, when there were 11, most signed by VDPP's president, who nonetheless denied their existence. Counsel's failure to know the facts and present them accurately at a minimum shows a failure to conduct an adequate investigation either before or after filing suit. VDPP's insistence on doubling down on its positions after Volkswagen exposed their flaws adds to what makes VDPP's litigation positions offensive.

## I. VDPP's Motion to Amend or for Reconsideration

Based on the points laid out above, the court denies VDPP's motion [\*6] to amend the judgment or for reconsideration under *Rule 59(e)*. VDPP has not shown that grant of Volkswagen's motion to dismiss was a manifest disregard for the law. VDPP's argument in seeking reconsideration that marking compliance is a fact question is, as Volkswagen points out, wrong. Courts can and do resolve disputes over patent marking on the pleadings. See, e.g., *Lans v. Digit. Equip. Corp.*, 252 F.3d 1320, 1328 (Fed. Cir. 2001). Clear case law requires a patentee to plausibly plead compliance with § 287. *Arctic Cat Inc. v. Bombardier Recreational Prods., Inc.*, 876 F.3d 1350, 1366 (Fed. Cir. 2017) ("*Arctic Cat I*"); *Arctic Cat Inc. v. Bombardier Recreational Prods., Inc.*, 950 F.3d 860, 864 (Fed. Cir. 2020) ("*Arctic Cat II*"). It goes without saying, or should, that the patentee must be able to plead compliance with the § 287 marking requirement within the limits of *Rule 11* and *Rule 26(g) of the Federal Rules of Civil Procedure*. VDPP did not do so. It attempted to plead compliance in a wholly conclusory way that Volkswagen readily exposed as inconsistent with the facts. The proposed amended complaint similarly failed to plausibly plead compliance with § 287, making the amendment futile.

The motion for amendment or reconsideration, (Docket

Entry No. 37), is denied. The court next turns to Volkswagen's motion to declare this case exceptional.

## II. An Exceptional Case under 35 U.S.C. § 285

The patent statute, 35 U.S.C. § 285, provides that a party can recover attorney's fees as a sanction for litigation in "exceptional" cases—cases based on [\*7] positions that are weak on the law and facts or conducted in an unreasonable manner. This case presents both grounds for finding it "exceptional" under 35 U.S.C. § 285 and for awarding Volkswagen the reasonable fees it incurred in the defense.

Courts asked to find a patent case exceptional consider the following factors: "frivolousness, motivation, objective unreasonableness (both in the factual and legal components of the case) and the need in particular circumstances to advance considerations of compensation and deterrence." In re Rembrandt Techs. LP Patent Litigation, 899 F.3d 1254, 1277 (Fed. Cir. 2018) (internal citation omitted). The partial list of VDPP's litigation offenses set out above are ample justification for finding this case exceptional.

Many of the positions VDPP took were frivolous and objectively unreasonable. VDPP filed suit seeking future damages and an injunction for an expired patent. VDPP sought past damages knowing that under the settled law, it could not plausibly and in good faith allege marking compliance. VDPP sought relief that was clearly precluded—future damages and a permanent injunction on a patent that had expired a year before, and past damages despite an inability to allege patent marking. VDPP failed to properly disclose the 11 settlement agreements [\*8] covering the '452 patent that failed to require marking by its licensees. VDPP prolonged the litigation with false statements about its settlement agreements, despite the fact that many had been signed by VDPP's president.

VDPP's legal theories were also flawed. It responded to Volkswagen's arguments by claiming that as a nonpracticing entity, it did not need to comply with the marking requirement by taking reasonable steps to enforce marking by its licensees. The law is to the contrary. Arctic Cat I, 876 F.3d at 1366-68; Arctic Cat II, 950 F.3d at 863. VDPP had 11 settlement agreements that granted licenses to the '452 patent with no marking obligation. VDPP could not plead marking compliance with § 287(e), and it did not. VDPP also attempted to respond to Volkswagen's arguments by contending that

VDPP's licensees did not admit to making an infringing product. That is both irrelevant and inconsistent with VDPP's allegations that these licensees had settled VDPP's accusations of infringement.

The list goes on. VDPP made sloppy errors, over and over, from obviously incorrect venue allegations, to initial disclosures about an unrelated patent, to serving discovery despite an agreed-upon and court-ordered stay pending resolution of the motion to dismiss. These and other errors [\*9] made the case even more cumbersome and difficult to handle. Such errors further support a finding of exceptionality. See, e.g., Iris Connex, LLC v. Dell, Inc., 235 F. Supp. 3d 826 (E.D. Tex. 2017).

Courts have also identified repeat litigation filed by a patentee as one indication of exceptionality, especially when, as here, the plaintiff made repeated settlement demands far less than the costs of defense and unrelated to any damages theory. See, e.g., Rothschild Connected Devices Innovations, LLC v. Guardian Protection Servs., Inc., 858 F.3d 1383, 1389 (Fed. Cir. 2017). VDPP has asserted the '452 patent in 21 cases, across a number of different technologies. If cases involving the '452 patent are added, the number rises to 58 cases. Most settled early, without any merits examination. And on March 18, 2024, shortly before Volkswagen asked this court to find VDPP's litigation conduct in this case exceptional, Unified Patents filed an *ex parte* reexamination proceeding against the '452 patent.

Volkswagen has shown by a preponderance of the evidence that this case is exceptional. There is a strong need for deterrence, not only of VDPP, but of its counsel. This is not the first time a court has found that VDPP's counsel filed exceptional lawsuits under section 285. Volkswagen has pointed out a number of cases in which courts have awarded attorneys' fees against the patent clients of VDPP's clients. (Docket Entry No. [\*10] 35 at 18). The grounds ranged from deficient pre-suit investigations, ignoring pleading deficiencies for months after being informed of the error, and inaccurately citing a document either knowingly or without reviewing it. (*Id.*).

In sum, both VDPP and its counsel have made this case exceptional. Their repeated misconduct underscores the need for meaningful deterrence. The remaining issue is the consequence of that finding.

### III. The Sanction

Section 285 authorizes an award of attorney's fees against the patentee in an exceptional case. This court also has authority to impose sanctions on counsel for the abusive litigation conduct that enabled VDPP to file and pursue this exceptional case. See 28 U.S.C. § 1927; Chambers v. NASCO, Inc., 501 U.S. 32, 111 S. Ct. 2123, 115 L. Ed. 2d 27 (1991).

The court finds VDPP and its counsel, William P. Ramey, III of Ramey LLP, jointly and severally liable for the reasonable attorneys' fees that Volkswagen incurred in defending this case. No later than July 29, 2024, Volkswagen must submit proof of the amount and reasonableness of the fees it incurred in support of its request for fees. VDPP and its counsel may respond no later than August 19, 2024.

SIGNED on July 11, 2024, at Houston, Texas.

/s/ Lee H. Rosenthal

Lee H. Rosenthal

United States District Judge

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VDPP LLC v. Vizio, Inc.

United States Court of Appeals for the Federal Circuit

March 25, 2022, Decided

2021-2040

**Reporter**

2022 U.S. App. LEXIS 7857 \*; 2022 U.S.P.Q.2D (BNA) 281; 2022 WL 885771

VDPP LLC, Plaintiff-Appellant v. VIZIO, INC.,  
Defendant-Appellee

**Notice:** THIS DECISION WAS ISSUED AS UNPUBLISHED OR NONPRECEDENTIAL AND MAY NOT BE CITED AS PRECEDENT. PLEASE REFER TO *FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1* GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.

**Prior History:** [\*1] Appeal from the United States District Court for the Central District of California in No. 8:20-cv-00030-JVS-KES, Judge James V. Selna.

VDPP LLC v. Vizio, Inc., 2021 U.S. Dist. LEXIS 67869, 2021 WL 3621887 (C.D. Cal., Apr. 5, 2021)

**Disposition:** REVERSED AND REMANDED.

**Counsel:** MATTHEW MICHAEL WAWRZYN, Wawrzyn LLC, Chicago, IL, argued for plaintiff-appellant.

CHARLES SHELDON BARQUIST, Maschoff Brennan, Los Angeles, CA, argued for defendant-appellee. Also represented by ERYNN EMBREE, Irvine, CA.

**Judges:** Before NEWMAN, LOURIE, and TARANTO, Circuit Judges.

**Opinion by:** LOURIE

**Opinion**

LOURIE, *Circuit Judge*.

VDPP LLC appeals from the judgment of the United States District Court for the Central District of California holding that claims 1 and 27 of U.S. Patent 9,699,444 ("the '444 patent"); claim 2 of U.S. Patent 9,948,922 ("the '922 patent"); and claim 6 of U.S. Patent 10,021,380 ("the '380 patent") are invalid as indefinite.

2021 U.S. Dist. LEXIS 67869, 2021 WL 3621887 (C.D. Cal., Apr. 5, 2021) ("Decision"). The district court's judgment was based on its determination that certain claim limitations are drafted in means-plus-function format under § 112(f), and they have no disclosed corresponding structures. Because we conclude that the district court erred in holding that the limitations are drafted in means-plus-function format, we *reverse* its judgment of invalidity and *remand* for further proceedings.

**BACKGROUND**

VDPP owns the '444, '922, and '380 patents ("the patents-in-suit").<sup>1</sup> The patents-in-suit are directed to an apparatus that purports to create an "illusion [\*2] of continuous movement." '380 patent, col. 46 ll. 38-42. To create that illusion, the apparatus repetitively presents to the viewer "at least two substantially similar" images and a third dissimilar "bridging picture." *Id.*, col. 46 ll. 6-10. As a result, the images appear to have "seamless and sustained directional movement." *Id.*, col. 46 ll. 11-12. For example, the alternating images can "create the optical illusion of a door forever cracking open." *Id.*, col. 54 l. 22. In one embodiment, the apparatus includes a "processor" and "storage." *Id.*, col. 14 ll. 34-38.

This appeal primarily centers on one aspect of the claimed invention: whether the limitations "processor" and "storage," as recited in the claims, are drafted in means-plus-function format under § 112(f).

Claim 1 of the '444 patent is representative and reads as follows:

1. An apparatus comprising:

a **storage** adapted to:

store one or more image frames; and

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<sup>1</sup> The '922 and '380 patents are continuations-in-part of the '444 patent. Because the specifications of these three patents are similar, we cite the '380 patent specification unless

a **processor** adapted to:

obtain a first image frame from a first video stream;

expand the first image frame to generate a modified image frame, wherein the modified image frame is different from the first image frame;

generate a bridge frame, wherein the bridge frame is a non-solid color, wherein the bridge frame [\*3] is different from the first image frame and different from the modified image frame;

blend the modified image frame with the bridge frame to generate a blended modified image frame; and display the blended modified image frame.

'444 patent, col. 47 ll. 40-54 (emphases added).

The remaining asserted claims are substantially similar to claim 1 of the '444 patent but recite different functions for the processor. For example, claim 27 of the '444 patent recites that the processor is adapted to "shrink[]" or "remov[e] a portion of the first image frame" and that the "bridge frame is black." *Id.*, col. 50 ll. 37-57. Claim 2 of the '922 patent recites that the processor is adapted to display a "first modified image frame," a black "bridge frame," and a "second modified image frame." '922 patent, col. 113 ll. 27-48. Claim 6 of the '380 patent recites that the processor is "communicably coupled to the storage" and adapted to combine a "modified first image frame" and "modified second image frame" to "generate a modified combined image frame." '380 patent, col. 113 ll. 28-51.

On January 7, 2020, VDPP sued Vizio, Inc., a company that manufactures and sells television sets. In its complaint, VDPP alleged that Vizio's "P-series" television sets infringe claims 1 and 27 of the [\*4] '444 patent, claim 2 of the '922 patent, and claim 6 of the '380 patent. Complaint, *VDPP LLC v. Vizio, Inc.*, No. SACV 20-00030 (JVS) (C.D. Cal. Jan. 7, 2020), ECF No. 1.

In response, Vizio asserted an affirmative defense of invalidity. According to Vizio, the limitations "storage" and "processor" are drafted in means-plus-function format under § 112(f), and the specifications do not disclose structures that correspond to the recited functions of those limitations.

On April 5, 2021, the district court issued a decision concluding that the asserted claims are invalid as indefinite. First, the court determined that the limitations

"processor" and "storage" are subject to § 112(f) because the "asserted claims do not describe how [they] carry out the recited functions—only that they do." *Decision*, 2021 U.S. Dist. LEXIS 67869, 2021 WL 3621887, at \*4. Thus, according to the court, the disputed limitations are merely "black box[es] for performance of a function." *Id.* Next, the court found that the disputed limitations have no corresponding structures in the specification. 2021 U.S. Dist. LEXIS 67869, [WLL] at \*5. Because of that lack of disclosure, the court concluded that the asserted claims are indefinite. *Id.* The parties then stipulated to a final judgment that the asserted claims are invalid as indefinite. J.A. 18.

VDPP appealed. We have [\*5] jurisdiction under 28 U.S.C. § 1295(a)(1).

## DISCUSSION

Indefiniteness is a question of law that we review de novo. See *MasterMine Software, Inc. v. Microsoft Corp.*, 874 F.3d 1307, 1313 (Fed. Cir. 2017). Whether claim language is subject to 35 U.S.C. § 112(f) is also a question of law that we review de novo. See *Rain Computing, Inc. v. Samsung Elecs. Am., Inc.*, 989 F.3d 1002, 1005 (Fed. Cir. 2021) (citing *Williamson v. Citrix Online, LLC*, 792 F.3d 1339, 1346 (Fed. Cir. 2015)).

Section 112(f) provides that a patent applicant may express "[a]n element in a claim" as "a means or step for performing a specified function without the recital of structure." But, recites the statute, the claim will be construed to cover only "the corresponding structure . . . described in the specification and equivalents thereof."

A § 112(f) analysis consists of two steps. See *Dyfan, LLC v. Target Corp.*, No. 2021-1725, F.4th 28 F.4th 1360, 2022 U.S. App. LEXIS 7752 (Fed. Cir. 2022). At step one, we determine whether, as a threshold matter, § 112(f) applies to the claim limitation. See *id.* In making that determination, we have "long recognized the importance of the presence or absence of the word 'means.'" *Williamson*, 792 F.3d at 1348. In the absence of the word means, we presume that a claim limitation is not subject to § 112(f). *Id.* To overcome that presumption, a challenger must "demonstrate[] that the [limitation] fails to 'recite sufficiently definite structure.'" *Dyfan*, 2022 U.S. App. LEXIS 7752 (quoting *Williamson*, 792 F.3d at 1349).

We have also recognized, however, that "the essential



inquiry is not merely the presence or absence of the word "means" but rather, whether the skilled artisan would understand [\*6] the limitation to "have a sufficiently definite meaning as the name for structure." Id., 2022 U.S. App. LEXIS 7752 (quoting Williamson, 792 F.3d at 1348). If we determine that the limitation fails to recite sufficiently definite structure, we then conclude that § 112(f) applies and move to step two of the analysis. At step two, we determine whether the specification discloses structure that "corresponds to the claimed function." Williamson, 792 F.3d at 1351.

VDPP argues that the district court erred in holding that the limitations "processor" and "storage" are subject to § 112(f). VDPP emphasizes that, because the disputed limitations lack the word "means," there is a rebuttable presumption that they are not subject to § 112(f). According to VDPP, the court failed to give that presumption any effect. VDPP adds that the limitations should be construed according to their plain and ordinary meaning. Vizio responds that the "processor" and "storage" limitations are subject to § 112(f) because they are "nothing more than nonce words." Appellee's Br. 5.

We agree with VDPP that the district court erred in holding that the limitations "processor" and "storage" are subject to § 112(f).

First, as VDPP points out, the district court failed to give effect to the presumption against the application of [\*7] § 112(f). Specifically, although the court *acknowledged* that the presumption against § 112(f) applied, it then immediately concluded, without evidence, that Vizio overcame the presumption. See Decision, 2021 U.S. Dist. LEXIS 67869, 2021 WL 3621887, at \*4 (Concluding that the terms "only stand to set up a black box for performance of a function without any description of how such a function is performed."). That was erroneous. To overcome this presumption, Vizio was required to provide at least some evidence that a person of ordinary skill would not have understood the limitations to "recite sufficiently definite structure[s]." Dyfan, 2022 U.S. App. LEXIS 7752 (citing Apex Inc. v. Raritan Comput., Inc., 325 F.3d 1364, 1372-73 (Fed. Cir. 2003)). The court pointed to no such evidence from Vizio, instead summarily concluding that the limitations are subject to § 112(f). See, e.g., Decision, 2021 U.S. Dist. LEXIS 67869, 2021 WL 3621887, at \*4 (The "terms are surrogates for means terms for the performance of their recited functions."); ("[T]he asserted claims do not describe how the 'storage' or 'processor' carry out the recited functions—only that they do.")

Moreover, the district court overlooked intrinsic evidence showing that the terms "processor" and "storage" *do* connote structure to a skilled artisan. For example, the specifications explain that "processors" and "storage" are "well-known." '380 patent, col. 62 ll. 48-52; '922 patent, col. 63 ll. 19-22 [\*8]<sup>2</sup>. In other words, contrary to the court's determination, a skilled artisan would not understand "processors" and "storage" to merely be "black box[es] for performance of a function." Decision, 2021 U.S. Dist. LEXIS 67869, 2021 WL 3621887, at \*4. Rather, they "exist[ed] in [the] prior art at the time of the invention[]." Zeroclick, LLC v. Apple Inc., 891 F.3d 1003, 1008 (Fed. Cir. 2018).

Still, Vizio insists that the district court's analysis was correct and supported by the evidence. Vizio, however, points to no such evidence on appeal. Instead, it simply repeats the court's conclusory statements that the limitations are "nothing more than generic words." Appellee's Br. 8. That is insufficient to overcome the presumption against application of § 112(f). Accordingly, the court erred in concluding that the limitations are subject to § 112(f).

Vizio makes several additional arguments, all unpersuasive.

First, Vizio emphasizes that the specifications fail to disclose structures capable of performing the claimed functions. According to Vizio, because of that lack of disclosure, the claims are invalid as indefinite. For example, Vizio contends that the specifications only disclose "generic computer diagrams" and no "algorithm for performance of the functions." Appellee's Br. 11-13.

Vizio's argument misses the mark. Whether the specifications [\*9] disclose adequate corresponding structures for the claimed functions is a question we review at step two of the § 112(f) analysis. As explained above, this appeal centers on step one. And, because we conclude at step one that § 112(f) does not apply to the disputed limitations, we need not address whether, at step two, the specifications adequately disclose structures for those functions.

Second, Vizio emphasizes that, because the limitations "processor" and "storage" inherently connote function, they are necessarily subject to § 112(f). We disagree.

"[T]he mere fact that the disputed limitations incorporate functional language does not automatically convert

[them] into means for performing such functions." Zerpolick, 891 F.3d at 1008. "Many devices take their names from the functions they perform. Examples are innumerable, such as 'filter,' 'brake,' 'clamp,' 'screwdriver,' or 'lock.'" *Id.* (quoting Greenberg v. Ethicon Endo—Surgery, Inc., 91 F.3d 1580, 1583 (Fed. Cir. 1996)). Accordingly, that the disputed limitations incorporate functional language—"processing" and "storing"—does not necessarily render them subject to § 112(f).

## REVERSED AND REMANDED

### COSTS

Costs to VDPP.

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Additionally, Vizio's arguments are particularly unpersuasive in view of our holding in *Dyfan*.<sup>3</sup> In *Dyfan*, the district court determined that the limitations "code" and "application" were subject [\*10] to § 112(f). *Dyfan*, 2022 U.S. App. LEXIS 7752. We reversed the district court's construction of those terms (among others), explaining that the court did not give effect to the presumption against § 112(f). *Id.*, slip. op. at 19. More specifically, we held that the defendant failed to show "that persons of ordinary skill in the art would not have understood the 'code'/'application' limitations to connote structure in light of the claim as a whole." *Id.*, 2022 U.S. App. LEXIS 7752 (citing *Apex*, 325 F.3d at 1372-73.) That same rationale applies here. As explained above, the court ignored that it was Vizio's burden to rebut the presumption against § 112(f), and Vizio failed to meet that burden.

In summary, we determine that the district court erred in holding that the disputed limitations are subject to § 112(f). And because the district court's conclusion of invalidity was premised on its erroneous application of § 112(f), we reverse its decision. Additionally, although in some portions of its decision, the court referred only to the "asserted claims," in other portions, it referred to all claims. To the extent that the court held all the patent claims invalid as indefinite (not just the asserted claims), we also reverse that determination.

## CONCLUSION

We have considered Vizio's remaining [\*11] arguments but find them unpersuasive. For the foregoing reasons, we reverse the district court's decision that the asserted claims are invalid as indefinite and remand for further proceedings consistent with this opinion.

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<sup>3</sup>Our decision in *Dyfan* issued after the district court's

VDPP LLC v. Vizio, Inc.

United States District Court for the Central District of California

May 8, 2021, Decided; May 8, 2021, Filed

Case No. 8:20-cv-00030-JVS-KES

**Reporter**

2021 U.S. Dist. LEXIS 113828 \*; 2021 WL 2425252

VDPP LLC, an Oregon limited liability company,  
Plaintiff, v. VIZIO, Inc., a California corporation,  
Defendant.

**Subsequent History:** Appeal filed, 06/11/2021

**Prior History:** VDPP LLC v. Vizio, Inc., 2021 U.S. Dist.  
LEXIS 34872 (C.D. Cal., Feb. 23, 2021)

**Counsel:** [\*1] For VDPP LLC, Plaintiff: Marc E. Hankin,  
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Wawrzyn LLC, Chicago, IL.

For VIZIO, Inc., Defendant: Lee Cheng, LEAD  
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Charles S Barquist, Maschoff Brennan, Los Angeles,  
CA; Jared J Braithwaite, Maschoff Brennan, Salt Lake  
City, UT.

**Judges:** Honorable James V. Selna, United States  
District Judge.

**Opinion by:** James V. Selna

**Opinion**

**JUDGMENT**

Pursuant to the stipulated motion of Plaintiff VDPP LLC  
and Defendant VIZIO, Inc.,

IT IS HEREBY ORDERED AND ADJUDGED that  
judgment is entered in favor of Vizio and against VDPP  
as follows:

1. VIZIO does not infringe and has not infringed  
either U.S. Patent No. 9,942,487 or U.S. Patent No.  
9,781,408;

2. The claims of U.S. Patent Nos. 10,021,380;  
9,699,444; and 9,948,922 are invalid as indefinite  
under 35 U.S.C. § 112; and

3. VDPP shall take nothing from VIZIO.

**IT IS SO ORDERED AND ADJUDGED.**

Dated: May 8, 2021

/s/ James V. Selna

Honorable James V. Selna

United States District Judge

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End of Document

VDPP LLC v. Vizio, Inc.

United States District Court for the Central District of California

April 5, 2021, Decided; April 5, 2021, Filed

SACV 20-00030 JVS (KESx)

**Reporter**

2021 U.S. Dist. LEXIS 67869 \*; 2021 WL 3621887

VDPP LLC v. Vizio, Inc.

**Subsequent History:** Reversed by, Remanded by

VDPP LLC v. Vizio, Inc., 2022 U.S. App. LEXIS 7857  
(Fed. Cir. Mar. 25, 2022)

**Prior History:** VDPP LLC v. Vizio, Inc., 2021 U.S. Dist.  
LEXIS 34872 (C.D. Cal., Feb. 23, 2021)

**Counsel:** [\*1] Attorneys for Plaintiffs: Not Present.

Attorneys for Defendants: Not Present.

**Judges:** James V. Selna, United States District Judge.

**Opinion by:** James V. Selna

**Opinion**

**CIVIL MINUTES - GENERAL**

**Proceedings: [IN CHAMBERS] Order Regarding**  
**Claim Construction**

Plaintiff VDPP LLC ("VDPP") and Defendant Vizio, Inc. ("Vizio") have submitted opening and responsive claim construction briefs for thirteen terms in three patents.<sup>1</sup> VDPP Opening Br., Dkt. No. 27; Vizio Opening Br., Dkt. No. 26; VDPP Resp. Br., Dkt. No. 31; Vizio Resp. Br., Dkt. No. 32. The parties also filed a joint claim construction and pre-hearing statement. Joint Statement, Dkt No. 23.

The Court construes the first ten claim terms identified herein.

**I. LEGAL STANDARD**

Claim construction is "exclusively within the province of the court." Markman v. W. Instruments, Inc., 517 U.S. 370, 372, 116 S. Ct. 1384, 134 L. Ed. 2d 577 (1996). Such construction "must begin and remain centered on" the claim language itself. Interactive Gift Express, Inc. v. Compuserve, Inc., 256 F.3d 1323, 1331 (Fed. Cir. 2001). But extrinsic evidence may also be consulted "if needed to assist in determining the meaning or scope of technical terms in the claims." Pall Corp. v. Micron Separations, Inc., 66 F.3d 1211, 1216 (Fed. Cir. 1995).

In construing the claim language, the Court begins with the principle that "the words of a claim are generally given their ordinary and customary meaning." Phillips v. AWH Corp., 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (internal quotation marks omitted). This ordinary [\*2] and customary meaning "is the meaning that the [claim] 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." Id. at 1313. "[T]he person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification." Id.

"In some cases, the ordinary meaning of claim language as understood by a person of skill in the art may be readily apparent even to lay judges, and claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words. In such circumstances general purpose dictionaries may be helpful." Id. at 1314 (internal citation omitted). In other cases, "determining the ordinary and customary meaning of the claim requires examination of terms that have a particular meaning in a field of art." Id. Then "the court looks to those sources available to the public that show what a person of skill in the art would have understood disputed claim language to mean." Id. (internal quotation marks

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<sup>1</sup> U.S. Patent No. 9,699,444 (the "444 patent"), U.S. Patent No. 9,948,922 (the "922 patent"), and U.S. Patent No. 10,021,380 (the "380 patent") (together, the "Patents at

omitted). [\*3] These sources include "the words of the claims themselves, the remainder of the specification, the prosecution history, and extrinsic evidence concerning relevant scientific principles, the meaning of technical terms, and the state of the art." Id. (internal quotation marks omitted). "The specification "is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term." Continental Circuits LLC v. Intel Corp., 915 F.3d 788, 796 (Fed. Cir. 2019) (quoting Phillips, 415 F.3d at 1312).

But it is improper to read limitations from the specification into the claim. Callicrate v. Wedsworth Mfg., Inc., 427 F.3d 1361, 1368 (Fed. Cir. 2005) ("[I]f we once begin to include elements not mentioned in the claim, in order to limit such claim . . . we should never know where to stop.") (quoting Phillips, 415 F.3d at 1312). A court does "not import limitations into claims from examples or embodiments appearing only in a patent's written description, even when a specification describes very specific embodiments of the invention or even describes only a single embodiment, unless the specification makes clear that 'the patentee . . . intends for the claims and the embodiments in the specification to be strictly coextensive.'" JVW Enters., Inc. v. Interact Accessories, Inc., 424 F.3d 1324, 1335 (Fed. Cir. 2005) (internal citations omitted) (emphasis added).

## II. THE PATENTS AT ISSUE

The three Patents [\*4] at Issue all relate to "a technique for creating sharper video images" and involve the insertion of "a blank image frame between a sequence of a first image." VDPP Opening Br., at 1. Specifically, the technique involves "the presentation of optical illusions such as the illusion of 3D images using different images provided to each eye of a viewer, or the illusion of continuous movement for stationary pictures using different images—an illusion that the Asserted Patents call an 'Eternalism'." Vizio Opening Br. at 1.

### A. The '444 Patent

The '444 Patent claims an electrically controlled spectacle including a spectacle frame and optoelectronic lenses housed in the frame. The lenses include a left lens and a right lens, each of the optoelectrical lenses having a plurality of states, wherein the state of the left lens is independent of the state of the right lens. The electrically controlled spectacle also

includes a control unit housed in the frame, the control unit being adapted to control the state of each of the lenses independently. See '444 Patent, Dkt. No. 26-1, at abstract.

The relevant claims are recited below. Claim 1 provides:

An apparatus comprising: a storage adapted to: store one or more image frames; and a processor [\*5] adapted to: obtain a first image frame from a first video stream; expand the first image frame to generate a modified image frame, wherein the modified image frame is different from the first image frame; generate a bridge frame, wherein the bridge frame is a non-solid color, wherein the bridge frame is different from the first image frame and different from the modified image frame; blend the modified image frame with the bridge frame to generate a blended modified image frame; and display the blended modified image frame.

Id. at 57.

Claim 26 provides:

An apparatus comprising: a storage adapted to: store one or more image frames; and a processor adapted to: obtain a first image frame from a first video stream; generate a modified image frame by performing at least one of expanding the first image frame, shrinking the first image frame, removing a portion of the first image frame, stitching together the first image frame with a second image frame, inserting a selected image into the first image frame, and reshaping the first image frame, wherein the modified image frame is different from the first image frame; generate a bridge frame, wherein the bridge frame is a solid color, wherein the bridge [\*6] frame is different from the first image frame and different from the modified image frame; display the modified image frame; and display the bridge frame.

Id. at 58.

Claim 27 provides: "The apparatus of claim 26, wherein the bridge frame is black." Id.

### B. The '922 Patent

The '922 Patent claims an electrically controlled spectacle including a spectacle frame and

optoelectronic lenses housed in the frame. The lenses include a left lens and a right lens, each of the optoelectrical lenses having a plurality of states, wherein the state of the left lens is independent of the state of the right lens. The electrically controlled spectacle also includes a control unit housed in the frame, the control unit being adapted to control the state of each of the lenses independently. '922 Patent, Dkt. No. 26-2, at abstract.

The relevant claims are recited below. Claim 1 provides:

An apparatus comprising: a storage adapted to: store one or more image frames; a processor adapted to: obtain a first image frame and a second image frame from a first video stream; generate a first modified image frame by expanding the first image frame, wherein the first modified image frame is different from the first image frame; generate a second modified image frame [\*7] by expanding the second image frame, wherein the second modified image frame is different from the second image frame; generate a bridge frame, wherein the bridge frame is a solid color, wherein the bridge frame is different from the first image frame and different from the second image frame; display the first modified image frame; display the bridge frame; and display the second modified image frame. Id., at 117.

Claim 2 provides: "The apparatus of claim 1, wherein the bridge frame is black." Id.

### C. The '380 Patent

Like the other two patents at issue, the '380 Patent claims an electrically controlled spectacle including a spectacle frame and optoelectronic lenses housed in the frame. The lenses include a left lens and a right lens, each of the optoelectrical lenses having a plurality of states, wherein the state of the left lens is independent of the state of the right lens. The electrically controlled spectacle also includes a control unit housed in the frame, the control unit being adapted to control the state of each of the lenses independently. '922 Patent, Dkt. No. 26-3, at abstract.

The relevant claim is recited below. Claim 6 provides:

An apparatus comprising: a storage adapted to: store a sequence of image frames; and a [\*8] processor communicably coupled to the storage and adapted to: obtain from said storage a first

image frame associated with a first chronological position in the sequence image frames and a second image frame associated with a second chronological position in the sequence of image frames; expand the first image frame to generate a modified first image frame, wherein the modified first image frame is different from the first image frame; expand the second image frame to generate a modified second image frame, wherein the modified second image frame is different from the second image frame; combine the modified first image frame and the modified second image frame to generate a modified combined image frame, the modified combined image frame having first and second opposing sides defining a first dimension and third and fourth opposing sides defining a second dimension; and display the modified combined image frame.

Id., at 118.

### III. DISCUSSION

The parties briefed thirteen terms for construction. "[I]t is well established that district courts have the authority only to construe those terms they deem likely to lead to a dispositive outcome." Eon Corp/P Holdings, LLC v. Aruba Networks LLC, 62 F. Supp. 3d 942, 953 (N.D. Cal. 2014). The parties have identified terms 1 through 10 as being [\*9] the most significant to resolution of the case. See Joint Statement, Dkt. No. 23, at 1.<sup>2</sup> The Court therefore will interpret Terms 1 through 10, and not interpret Terms 11, 12, or 13. The Court organizes its discussion of these ten terms into two categories. In the first category are terms 1-4, or the "processor" and "storage" terms. In the second category are the remainder of the terms.

#### A. Storage and Processor Terms

 Go to table 1

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<sup>2</sup>The Court acknowledges that Vizio filed a request to substitute Claim No. 12 for Claim No. 8, which Vizio states it no longer disputes. See Request, Dkt. No. 30, at 2. However, given that "VDPP has declined to agree to the VIZIO proposal or to the substitution of any remaining disputed term in place of term no. 8 . . .," the Court declines this request and will only construe the original 10 terms, including No. 8, that the parties

The parties' primary disagreement is whether these terms are means-plus-function terms, thus requiring construction, or whether they do not require construction such that their ordinary meanings govern.

VDPP argues that the storage and processor terms are definite and that they communicate [\*10] reasonable certainty to one of ordinary skill in the art such that the ordinary meaning governs. See VDPP Opening Br., Dkt. No. 27, at 9-13. VDPP asserts that Figures 4 and 8, which are preferred embodiments of the claimed apparatus, show "precisely how the storage works" allowing one of ordinary skill to "build the claimed apparatus after obtaining a license from VDPP" or "improve on the patents-in-suit rather than taking a license from VDPP. Id., at 11. VDPP further argues that the intrinsic record supports an ordinary meaning interpretation of the "processor" terms, because the asserted claims decline to use the word "means," requiring the Court to presume that means-plus-function claiming has not been invoked. Id., at 12. VDPP accordingly argues that the case at hand is similar to Zeroclick, in which the Federal Circuit reversed the district court's invalidation of claims including the terms "program" and "user interface code." Id., at 13 (citing Zeroclick, LLC v. Apple Inc., 891 F.3d 1003, 1006 (Fed. Cir. 2018)). The Federal Circuit found that "a person of ordinary skill in the art could reasonably discern from the claim language that the words 'program,' . . . and 'user interface code,' . . . are used not as generic terms or black box recitations of structure or abstractions, [\*11] but rather as specific references to conventional graphical user interface programs or code, existing in prior art at the time of the inventions." Zeroclick, 891 F.3d at 1008.

Use of the words "means for" or "step for" create a presumption of functional claiming and that § 112(f) applies. See Williamson v. Citrix Online, LLC, 792 F.3d 1339, 1348 (Fed. Cir. 2015). However, "the essential inquiry is not merely the presence or absence of the word 'means' but whether the words of the claim are understood by persons of ordinary skill in the art to have a sufficiently definite meaning as the name for structure." Id. (citing Greenberg v. Ethicon Endo-Surgery, Inc., 91 F.3d 1580, 1583 (Fed. Cir. 1996)). "When a claim term lacks the word 'means,' the presumption can be overcome and [§ 112(f)] will apply if the challenger demonstrates that the claim term fails to 'recite sufficiently definite structure' or else recites 'function without reciting sufficient structure for performing that function.'" Williamson, 792 F.3d at 1349 (quoting Mette v. Yi Systems, Inc., 232 F.3d 877, 880

(Fed. Cir. 2000)).


Vizio argues that the "processor" and "storage" terms are means-plus-function terms that lack disclosed structure for performance of the recited functions and are therefore indefinite. See Vizio Opening Br., Dkt. No. 26, at 10-13.

The terms at issue do not use the word "means," so there is a rebuttable presumption that they are not means-plus-function terms. However, the Court [\*12] agrees with Vizio that the asserted claims do not describe how the "storage" or "processor" carry out the recited functions—only that they do. Thus, they only stand to set up a black box for performance of a function without any description of how such a function is performed. Accordingly, the terms are surrogates for means terms for the performance of their recited functions.

What is more, the Court finds that the case that VDPP relies on, Zeroclick, is inapposite. In Zeroclick, the Federal Circuit found that "the court's analysis removed the terms from their context," which provided specific enough information that a person of ordinary skill in the art would understand its meaning. Zeroclick, 891 F.3d at 1008 ("Claims 2 and 52 of the '691 patent, for example, recite '[a] graphical user interface,' which their preambles make clear, may comprise 'an update of an existing program' using a two-step method . . . Claim 19 of the '443 patent similarly tethers 'user interface code'—code meant to be updated using two configuration changes recited in the claim—to the code 'stored in a memory connected to the processor.'" No such context is present in the case at hand. Because the claimed functions of the Asserted Patents lack sufficient [\*13] disclosure of structure for performance of the claimed methods, the Court finds that they are invalid as they are indefinite. Furthermore, VDPP offers no expert evidence regarding what the ordinary meaning is. Accordingly, the Court adopts Vizio's proposed construction of the storage and processor terms as indefinite.

## B. Remaining Terms

### 1. Term 5: "image frame"

 [Go to table 2](#)

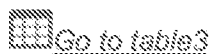
VDPP requests that the Court interpret the term "image frame" according to its ordinary meaning. See VDPP Opening Br., Dkt. No. 27, at 14. By contrast, Vizio asks

the Court to construe the term as meaning "perceptible and complete image[s] of the full span of the entire frame." Vizio Opening Br., Dkt. No. 26, at 12. Specifically, Vizio argues that "[a]n image or picture 'frame' is a familiar term in lay usage and connotes an entire or complete image or picture," and cites to the specification for the asserted patents to show that this is the manner in which the term "frame" is used. Id., at 13.

VDPP, by contrast, argues that Vizio's proposed construction violates the fundamental [\*14] principal of claim construction that claim terms are generally to be given their ordinary meaning. See VDPP Opening Br., Dkt. No. 27, at 14. More to the point, VDPP states that there is no basis for importing a "perceptibility" requirement into the claims where no such limitation exists in the patent claims. Id., at 15.

The Court agrees with VDPP that the intrinsic record provides an ordinary meaning to the term "image frame," and that there is no reason to read an additional requirement of perceptibility into the patents. Vizio's proposed construction would require the Court to unreasonably limit the patents to an example from the specification. Personalized Media Communications, LLC v. Apple Inc., 952 F.3d 1336, 1343 (Fed. Cir. 2020) ("Embodiments described in a specification can certainly inform the meaning of disputed claim term, but 'a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.'"). Here, to import a perceptibility requirement would improperly conflate an embodiment from the specification with a requirement that an image frame be "perceptible" where no such requirement can be located in the applicable patents. Accordingly, the Court will read "image frame" according to its ordinary [\*15] meaning.

## 2. Term 6: "bridge frame"



[Go to table3](#)

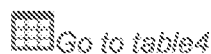
The parties have a similar disagreement regarding the proper construction of the term "bridge frame" to the disagreement about regarding the construction of the term "image frame." Vizio asks the Court to construe "bridge frame" to mean a "perceptible and complete image of the full span of the entire frame between two other perceptive and complete images of the full span of the entire frame." Vizio Opening Br., Dkt. No. 26, at 14. Just as it did with its argument regarding "image frame," Vizio asserts that "the meaning of 'frame' in ordinary

usage and in the specification refers to an entire or complete image," because "one of skill in the art would understand that the bridge frame is perceptible and 'is' a solid or non-solid color as opposed to merely an [\*16] unlit screen, because the claims require that the 'bridge frame' be displayed." Id., at 14, 15.

In response, VDPP makes precisely the same argument regarding perceptibility that it did regarding the "image frame" issue. See VDPP Opening Br., Dkt. No. 27, at 14.

For the reasons discussed above, the Court will once again refuse to read in a perceptibility requirement where such language is conspicuously absent from the patent. However, the Court also finds that VDPP's proposed interpretation as "gap or interval" improperly reads out the ordinary meaning of the word "frame." Accordingly, the Court will adopt Vizio's construction of the term "bridge frame" but omit the additional language regarding perceptibility, such that it the term shall be construed to mean "a complete image of the full span of the entire frame between two other complete images of the full span of the entire frame."

## 3. Term 7: "is different from"



[Go to table4](#)

Vizio asks the Court to construe the phrase "is different from" as meaning "has dissimilar image elements or repositioned [\*17] image elements." Vizio Opening Br., Dkt. No. 26, at 16. Put another way, Vizio reads "different" to mean "different in appearance or content." Id. VDPP, on the other hand, asks the Court to construe "is different from" according to its ordinary meaning.

Vizio argues that to interpret "different" as potentially encompassing a situation in which two frames have the same image but are separate instances of a frame with the same image, whether or not the instances are the same size, is contrary to the language of the claims the meaning of "different" in the context of the patents. Id. As an example, Vizio points to claim 1 of the '444 patent, which recites the function of "expand[ing] the first image frame to generate a modified image frame, wherein the modified image frame is different from the first image frame." Id. If "different" could mean separate instances of the same image, Vizio argues, then the requirement that the first image frame be different from the modified image frame would be redundant, because the first image frame and modified image frame are

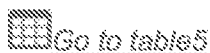


already described as having two separate sizes: the "first" size and an "expanded" size. Id.

VDPP, by contrast, seeks an ordinary meaning construction [\*18] of the term "is different from." VDPP Opening Br., Dkt. No. 27, at 14.

The Court once again agrees with VDPP's construction, as it finds that Vizio has not shown that a departure from the ordinary meaning of "different" is warranted based on the an alternative definition in the specification. See, e.g., Duncan Parking Technologies, Inc. v. IPS Group, Inc., 914 F.3d 1347, 1364 (Fed. Cir. 2019) ("A patentee is normally entitled to the full scope of its claim language . . . and a departure from this general rule may be warranted only where the patentee either clearly sets forth a different definition of a claim term in the specification or disavows the full scope of the claim term during prosecution."). There is a readily accessible ordinary meaning of the phrase "is different from," and the Court declines to apply Vizio's more limited definition of the term absent a clear showing that the specification contains a definition of the claim term that is not ordinary. Vizio has not made a showing sufficient to convince the Court that "is different from" was intended to mean "has dissimilar image elements or repositioned image elements." Accordingly, the Court adopts VDPP's construction and will interpret "is different from" using its ordinary and customary meaning.

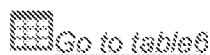
**4. Term 8: "generate [\*19] a bridge frame/ blended modified image frame/ modified combined image frame"**



[Go to table5](#)

The parties' Joint Claim Construction Statement identified the phrase "generate a bridge frame/blended modified image frame/modified combined image frame" as in need of construction. Joint Statement, Dkt No. 23. However, in its opening brief, Vizio withdrew its request for the Court to construe this claim term. Vizio Opening Br., Dkt. No. 26, at 18. As such, both VDPP and Vizio appear to agree that the phrase is not in need of construction by the Court and that it should be read according to its ordinary meaning. Id. Accordingly, the Court will construe this term according to its ordinary meaning.

**5. Term 9: "display the modified image frame/ bridge frame/ modified combined image frame"**

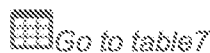


[Go to table6](#)

Vizio asks the Court to construe the term "[d]isplay the blended modified image frame/ bridge frame/ modified combined image frame" as meaning "presentation of the [blended modified image frame/ bridge frame/ modified combined image frame] for perception by a viewer." Vizio Opening Br., Dkt. No. 26, at 19. To support this construction, Vizio points to the specification of the '444 Patent, which notes that the use of "shutters" on old movie projection equipment is used to "interrupt the display" of each movie frame, which was known as "flicker" when the interruption was too long. Id. Accordingly, Vizio argues, the "display" of a bridge frame is actually presented (e.g., projected) as opposed to being a mere interruption of a display, and the display of the bridge frame is meant to be perceived as a subtle flicker-effect as opposed to imperceptible interruptions of display caused by a projection shutter. Id.

With respect to this claim term, VDPP seeks an ordinary meaning reading and offers the same argument regarding perceptibility that it did regarding the "image frame" and "bridge frame" issues. See VDPP Opening Br., Dkt. [\*21] No. 27, at 14. For the reasons discussed above, the Court will once again refuse to read in a perceptibility requirement where such language is absent from the patent claims. Accordingly, the Court will adopt VDPP's proposed construction and interpret "[d]isplay the blended modified image frame/ bridge frame/ modified combined image frame" according to its plain and ordinary meaning.

**6. Term 10: "obtain a first image frame from a first video stream"**




[Go to table7](#)

Vizio asks the Court to construe the tenth claim term, "obtain a first image frame from a first video stream," as "obtain a first image frame from a collected sequence of image frames." Vizio Opening Br., Dkt. No. 26, at 20. The difference between the parties' interpretations is whether "obtain[ing] a first image frame" involves obtaining the frame from a video stream or whether it includes obtaining something other than a frame, such as [\*22] an image within the frame, from the sequence of image frames comprising a video stream. Id.

Given that "a court must presume that the terms in the claim mean what they say, and, unless otherwise compelled, give full effect to the ordinary and

accustomed meaning of claim terms," the Court finds that VDPP's construction more appropriately conforms to the ordinarily understood meaning of the words in this claim term. See Johnson Worldwide Assocs., Inc. v. Zebco Corp., 175 F.3d 985, 989 (Fed. Cir. 1999). Once again, the Court does not find sufficient evidence to justify reading in the limitation that Vizio's proposed construction would require. Accordingly, the Court construes the term to mean "obtain a first image frame from a sequence of moving visual images."

#### IV. CONCLUSION

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IT IS SO ORDERED.

**Table1** ([Return to related document text](#))

Term	VDPP's Construction	Vizio's Construction	Court's Construction
1. "a storage adapted to store one or more image frames"	Ordinary meaning	Indefinite	Indefinite
2. "a storage adapted to store a sequence of image frames"	Ordinary meaning	Indefinite	Indefinite
3. "a processor adapted to [perform the recited functional limitations]"	Ordinary meaning	Indefinite	Indefinite
4. "A processor communicably coupled to the storage and adapted to [perform the recited functional limitations]"	Ordinary meaning	Indefinite	Indefinite

**Table1** ([Return to related document text](#))**Table2** ([Return to related document text](#))

Term	VDPP's Construction	Vizio's Construction	Court's Construction
"image frame"	Ordinary meaning	"perceptible and complete image[s] of the full span of the entire frame"	Ordinary meaning

**Table2** ([Return to related document text](#))**Table3** ([Return to related document text](#))

Term	VDPP's Construction	Vizio's Construction	Court's Construction
"bridge frame"	"a gap or interval between image frames including an unlit screen"	"perceptible and complete image of the full span of the entire frame between two other perceptive and complete images of the full span of the entire frame"	"a complete image of the full span of the entire frame between two other complete images of the full span of the entire frame"

**Table3** ([Return to related document text](#))**Table4** ([Return to related document text](#))

Term	VDPP's Construction	Vizio's Construction	Court's Construction
"is different from"	Ordinary meaning	"has dissimilar image elements or repositioned image"	Ordinary meaning

Term	VDPP's Construction	Vizio's Construction elements"	Court's Construction
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**Table4** ([Return to related document text](#))**Table5** ([Return to related document text](#))

Term	VDPP's Construction	Vizio's Construction	Court's Construction
"generate a bridge frame/ blended modified image frame/ modified combined image frame"	Ordinary meaning	Plain and ordinary meaning as written in the claims	Ordinary meaning

**Table5** ([Return to related document text](#))**Table6** ([Return to related document text](#))

Term	VDPP's Construction	Vizio's Construction	Court's Construction
"Display the blended modified image frame/ bridge frame/ modified [*20] combined image frame"	Ordinary meaning	"presentation of the [blended modified image frame/ bridge frame/ modified combined image frame] for perception by a viewer"	Ordinary meaning

**Table6** ([Return to related document text](#))**Table7** ([Return to related document text](#))

Term	VDPP's Construction	Vizio's Construction	Court's Construction
"obtain a first image frame from a first video stream"	"obtain a first image frame from a sequence of moving visual images"	"obtain a first image frame from a collected sequence of image frames"	"obtain a first image frame from a sequence of moving visual images"

**Table7** ([Return to related document text](#))**Table8** ([Return to related document text](#))

Term	Court's Construction
"A storage adapted to store one or more image frames"	Indefinite
"A storage adapted to	Indefinite

<b>Term</b>	<b>Court's Construction</b>
store a sequence of image frames"	
"A processor adapted to [perform the recited functional limitations"	Indefinite
"A processor communicably coupled to the storage and adapted to [perform the recited functional limitations]"	Indefinite
"image frame"	Ordinary meaning (no construction necessary)
"bridge frame"	"a complete image of the full span of the entire frame between two other complete images of the [*23] full span of the entire frame"
"is different from"	Ordinary meaning (no construction necessary)
"generate a bridge frame/ blended modified image frame/ modified combined image frame"	Ordinary meaning (no construction necessary)
"Display the blended modified image frame/ bridge frame/ modified combined image frame"	Ordinary meaning (no construction necessary)
"obtain a first image frame from a first video stream"	"obtain a first image frame from a sequence of moving visual images"

**Table8** ([Return to related document text](#))



**User Name:** Manuel Saldana

**Date and Time:** Thursday, December 19, 2024 1:03:00 PM EST

**Job Number:** 241230027

## Document (1)

1. 5:23cv4241\_Vdpp\_Llc V. Vivo\_Inc.

**Client/Matter:** -None-

**Search Terms:** number(5:23CV4241)

**Search Type:** Natural Language

**Narrowed by:**

**Content Type**  
Dockets

**Narrowed by**  
Case Status: Open,Unknown,Closed

5:23cv4241, Vdpp, Llc V. Vivo, Inc.

US District Court Docket

United States District Court, California Northern

(San Jose)

This case was retrieved on 12/18/2024

## Header

**Case Number:** 5:23cv4241

**Date Filed:** 08/18/2023

**Assigned To:** Magistrate Judge Nathanael M. Cousins

**Nature of Suit:** Patent (830)

**Cause:** Patent Infringement

**Lead Docket:** None

**Other Docket:** None

**Jurisdiction:** Federal Question

**Class Code:** Closed

**Closed:** 01/23/2024

**Statute:** 15:1126

**Jury Demand:** Plaintiff

**Demand Amount:** \$0

**NOS Description:** Patent

## Participants

### Litigants

VDPP, LLC  
an Oregon corporation |  
**Plaintiff**

Vivo, Inc.  
a Delaware corporation |  
**Defendant**

### Attorneys

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## Proceedings

#	Date	Proceeding Text	Source
1	08/18/2023	COMPLAINT for Patent Infringement (Jury Trial Demanded) against Vivo, Inc. ( Filing fee \$ 402, receipt number ACANDC-18563024.). Filed byVDPP, LLC. (Attachments: # 1 Exhibit A - U.S. Patent No. 10,021,380, # 2 Exhibit B - Chart, # 3 Exhibit C - U.S. Patent No. 9,948,922, # 4 Exhibit D - Chart, # 5 Civil Cover	

5:23cv4241, Vdpp, Llc V. Vivo, Inc.

#	Date	Proceeding Text	Source
		Sheet)(Kalra, Susan) (Filed on 8/18/2023) (Entered: 08/18/2023)	
2	08/18/2023	Proposed Summons. (Kalra, Susan) (Filed on 8/18/2023) (Entered: 08/18/2023)	
3	08/18/2023	REPORT on the filing or determination of an action regarding patent (cc: form mailed to register). (Kalra, Susan) (Filed on 8/18/2023) (Entered: 08/18/2023)	
4	08/18/2023	Certificate of Interested Entities by VDPP, LLC. (Kalra, Susan) (Filed on 8/18/2023) Modified on 8/21/2023 (cjl, COURT STAFF). (Entered: 08/18/2023)	
5	08/21/2023	Case assigned to Magistrate Judge Nathanael M. Cousins. Counsel for plaintiff or the removing party is responsible for serving the Complaint or Notice of Removal, Summons and the assigned judge's standing orders and all other new case documents upon the opposing parties. For information, visit E-Filing A New Civil Case at <a href="http://cand.uscourts.gov/ecf/caseopening">http://cand.uscourts.gov/ecf/caseopening</a> . Standing orders can be downloaded from the court's web page at <a href="http://www.cand.uscourts.gov/judges">www.cand.uscourts.gov/judges</a> . Upon receipt, the summons will be issued and returned electronically. A scheduling order will be sent by Notice of Electronic Filing (NEF) within two business days. Consent/Declination due by 9/5/2023. (bar, COURT STAFF) (Filed on 8/21/2023) (Entered: 08/21/2023)	
6	08/21/2023	Summons Issued as to Vivo, Inc. (cjl, COURT STAFF) (Filed on 8/21/2023) (Entered: 08/21/2023)	
	08/21/2023	Electronic filing error. Filer did not add all interested parties when prompted. Re-file this document in its entirety and when prompted, enter all affiliates or corporate parents Re: 4 Certificate of Interested Entities filed by VDPP, LLC. (cjl, COURT STAFF) (Filed on 8/21/2023) (Entered: 08/21/2023)	
7	08/21/2023	Initial Case Management Scheduling Order with ADR Deadlines: Case Management Statement due by 11/15/2023. Initial Case Management Conference set for 11/22/2023 10:00 AM in San Jose, Courtroom 5, 4th Floor. (cjl, COURT STAFF) (Filed on 8/21/2023) (Entered: 08/21/2023)	
8	09/01/2023	CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by VDPP, LLC.. (Ramey, William) (Filed on 9/1/2023) (Entered: 09/01/2023)	
9	09/01/2023	CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by VDPP, LLC.. (Ramey, William) (Filed on 9/1/2023) (Entered: 09/01/2023)	
10	11/03/2023	CLERK'S NOTICE continuing Initial Case Management Conference set for 11/22/2023 to 11/29/2023, at 10:00 AM by telephone. Case Management Statement due by 11/22/2023. (This is a text-only entry generated by the court. There is no document associated with this entry.) (lmh, COURT STAFF) (Filed on 11/3/2023) (Entered: 11/03/2023)	
11	11/07/2023	SUMMONS Returned Executed by VDPP, LLC. Vivo, Inc. served on 11/3/2023, answer due 11/24/2023. (Ramey, William) (Filed on 11/7/2023) (Entered: 11/07/2023)	
12	11/22/2023	Motion to Continue Initial Case Management Conference and Related Deadlines filed by VDPP, LLC. (Attachments: # 1 Proposed Order)(Kalra, Susan) (Filed on 11/22/2023) Modified on 11/22/2023 (cjl, COURT STAFF). (Entered: 11/22/2023)	
13	11/22/2023	ORDER GRANTING 12 Plaintiff's Administrative Motion to Continue Case Management Conference and Related Deadlines. Initial Case Management Conference set for 11/29/2023, is continued to 1/31/2024, at 10:00 AM by telephone. Case Management Statement due by 1/24/2024. Signed by Judge Nathanael M. Cousins. (lmh, COURT STAFF) (Filed on	



5:23cv4241, Vdpp, Llc V. Vivo, Inc.

#	Date	Proceeding Text	Source
		11/22/2023) (Entered: 11/22/2023)	
14	01/23/2024	NOTICE of Voluntary Dismissal by VDPP, LLC (Kalra, Susan) (Filed on 1/23/2024) (Entered: 01/23/2024)	
15	01/24/2024	REPORT on the determination of an action regarding Patent (cc: form mailed to register). (Attachments: # 1 Notice of Dismissal)(cjl, COURT STAFF) (Filed on 1/24/2024) (Entered: 01/24/2024)	

## Patents

---

Number	Title	Issued	Class	Subclass
9,948,922	Faster state transitioning for continuous adjustable 3Deeps filter spectacles using multi-layered variable tint materials	04/17/2018	1	1

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 End of Document



**User Name:** Manuel Saldana

**Date and Time:** Thursday, December 19, 2024 1:05:00 PM EST

**Job Number:** 241230177

## Document (1)

1. 4:23cv4241\_Vdpp\_Llc V\_Vivo\_Inc.

**Client/Matter:** -None-

**Search Terms:** number(4:23CV4241)

**Search Type:** Natural Language

**Narrowed by:**

**Content Type**  
Dockets

**Narrowed by**  
Case Status: Open,Unknown,Closed

4:23cv4241, Vdpp, Llc V. Vivo, Inc.

US District Court Docket

United States District Court, California Northern  
(Oakland)

This case was retrieved on 08/20/2023

## Header

**Case Number:** 4:23cv4241  
**Date Filed:** 08/18/2023  
**Nature of Suit:** Patent (830)  
**Cause:** Patent Infringement  
**Lead Docket:** None  
**Other Docket:** None  
**Jurisdiction:** Federal Question

**Class Code:** Open  
**Statute:** 15:1126  
**Jury Demand:** Plaintiff  
**Demand Amount:** \$0  
**NOS Description:** Patent

## Participants

### Litigants

VDPP, LLC  
Plaintiff

Vivo, Inc.  
Defendant

### Attorneys

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## Proceedings

#	Date	Proceeding Text	Source
1	08/18/2023	COMPLAINT for Patent Infringement (Jury Trial Demanded) against Vivo, Inc. ( Filing fee \$ 402, receipt number ACANDC-18563024.). Filed byVDPP, LLC. (Attachments: # 1 Exhibit A - U.S. Patent No. 10,021,380, # 2 Exhibit B - Chart, # 3 Exhibit C - U.S. Patent No. 9,948,922, # 4 Exhibit D - Chart, # 5 Civil Cover Sheet)(Kalra, Susan) (Filed on 8/18/2023) (Entered: 08/18/2023)	Events since last full update
2	08/18/2023	Proposed Summons. (Kalra, Susan) (Filed on 8/18/2023) (Entered: 08/18/2023)	Events since last full update
3	08/18/2023	REPORT on the filing or determination of an action regarding patent (cc: form mailed to register). (Kalra, Susan) (Filed on 8/18/2023) (Entered: 08/18/2023)	Events since last full update
4	08/18/2023	Certificate of Interested Entities by VDPP, LLC - Certification Of Conflicts and Interested Entities Or Persons (Kalra, Susan) (Filed on 8/18/2023) (Entered: 08/18/2023)	Events since last full update
5	08/21/2023	Case assigned to Magistrate Judge Nathanael M. Cousins. Counsel for plaintiff or the removing party is responsible for	Events since last full update

4:23cv4241, Vdpp, Llc V. Vivo, Inc.

#	Date	Proceeding Text	Source
		serving the Complaint or Notice of Removal, Summons and the assigned judge's standing orders and all other new case documents upon the opposing parties. For information, visit E-Filing A New Civil Case at <a href="http://cand.uscourts.gov/ecf/caseopening">http://cand.uscourts.gov/ecf/caseopening</a> . Standing orders can be downloaded from the court's web page at <a href="http://www.cand.uscourts.gov/judges">www.cand.uscourts.gov/judges</a> . Upon receipt, the summons will be issued and returned electronically. A scheduling order will be sent by Notice of Electronic Filing (NEF) within two business days. Consent/Declination due by 9/5/2023. (bar, COURT STAFF) (Filed on 8/21/2023) (Entered: 08/21/2023)	

## Patents

---

Number	Title	Issued	Class	Subclass
9,948,922	Faster state transitioning for continuous adjustable 3Deeps filter spectacles using multi-layered variable tint materials	04/17/2018	1	1

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**User Name:** Manuel Saldana

**Date and Time:** Thursday, December 19, 2024 1:02:00 PM EST

**Job Number:** 241229873

## Document (1)

1. 8:24cv2456, Tp-Link Systems, Inc. V. Vdpp, Llc

**Client/Matter:** -None-

**Search Terms:** number(8:24CV2456)

**Search Type:** Natural Language

**Narrowed by:**

**Content Type**  
Dockets

**Narrowed by**  
Case Status: Open,Unknown,Closed

## 8:24cv2456, Tp-Link Systems Inc. V. Vdpp Llc

US District Court Docket

United States District Court, California Central

(Southern Division - Santa Ana)

This case was retrieved on 11/13/2024

### Header

**Case Number:** 8:24cv2456

**Date Filed:** 11/08/2024

**Assigned To:** Judge Christina A. Snyder

**Referred To:** Magistrate Judge Autumn D. Spaeth

**Nature of Suit:** Patent (830)

**Cause:** Patent Infringement

**Lead Docket:** None

**Other Docket:** None

**Jurisdiction:** Federal Question

**Class Code:** Open

**Statute:** 35:271

**Jury Demand:** Plaintiff

**Demand Amount:** \$0

**NOS Description:** Patent

### Participants

#### Litigants

TP-Link Systems Inc.  
**Plaintiff**

VDPP LLC  
**Defendant**

#### Attorneys

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### Proceedings

#	Date	Proceeding Text	Source
1	11/08/2024	COMPLAINT Receipt No: ACACDC-38556902 - Fee: \$405, filed by Plaintiff TP-Link Systems Inc.. (Attachments: # 1 Exhibit 1 - US 10,021,380, # 2 Exhibit 2 - 24cv1663 Complaint, # 3 Exhibit 3 - SDTX 4:23-cv-02961-33) (Attorney Kristopher L Reed added to party TP-Link Systems Inc.(pty:pla))(Reed, Kristopher) (Entered:	

8:24cv2456, Tp-Link Systems Inc. V. Vdpp Llc

#	Date	Proceeding Text	Source
		11/08/2024)	
2	11/08/2024	CIVIL COVER SHEET filed by Plaintiff TP-Link Systems Inc.. (Reed, Kristopher) (Entered: 11/08/2024)	
3	11/08/2024	REPORT ON THE FILING OF AN ACTION Regarding a Patent or a Trademark (Initial Notification) filed by TP-Link Systems Inc.. (Reed, Kristopher) (Entered: 11/08/2024)	
4	11/08/2024	Request for Clerk to Issue Summons on Complaint (Attorney Civil Case Opening), 1 filed by Plaintiff TP-Link Systems Inc.. (Reed, Kristopher) (Entered: 11/08/2024)	
5	11/08/2024	CORPORATE DISCLOSURE STATEMENT filed by Plaintiff TP-Link Systems Inc. identifying Diamond Creek Corporation as Corporate Parent. (Reed, Kristopher) (Entered: 11/08/2024)	
6	11/12/2024	NOTICE OF ASSIGNMENT to District Judge Christina A. Snyder and Magistrate Judge Autumn D. Spaeth. (et) (Entered: 11/12/2024)	
7	11/12/2024	NOTICE TO PARTIES OF COURT-DIRECTED ADR PROGRAM filed. (et) (Entered: 11/12/2024)	
8	11/12/2024	Notice to Counsel Re Consent to Proceed Before a United States Magistrate Judge. (et) (Entered: 11/12/2024)	
9	11/12/2024	21 DAY Summons Issued re Complaint (Attorney Civil Case Opening) 1 as to Defendant VDPP LLC. (et) (Entered: 11/12/2024)	
10	11/13/2024	ORDER RE TRANSFER PURSUANT to this Court's General Order in the Matter of Assignment of Cases and Duties to the District Judges. Related Case- filed. Related Case No: 8:23-cv-01968 JWH(ADSx). Case transferred from Judge Christina A. Snyder to Judge John W. Holcomb for all further proceedings. The case number will now reflect the initials of the transferee Judge 8:24-cv-02456 JWH(ADSx). Signed by Judge John W. Holcomb (rn) (Entered: 11/13/2024)	Events since last full update
11	11/14/2024	STANDING ORDER by Judge John W. Holcomb. (cla) (Entered: 11/14/2024)	Events since last full update

## Patents

Number	Title	Issued	Class	Subclass
9,833,855	Method for manufacturing power module substrate	12/05/2017	1	1

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**User Name:** Manuel Saldana

**Date and Time:** Thursday, December 19, 2024 1:00:00 PM EST

**Job Number:** 241229661

## Document (1)

1. 8:23cv1968, Vdpp Lic V. Epson America Inc.

**Client/Matter:** -None-

**Search Terms:** 10021380

**Search Type:** Natural Language

**Narrowed by:**

**Content Type**  
Dockets

**Narrowed by**  
Case Status: Open,Unknown,Closed



8:23cv1968, Vdpp Llc V. Epson America Inc.

US District Court Docket

United States District Court, California Central

(Southern Division - Santa Ana)

**This case was retrieved on 12/18/2024**

## Header

---

**Case Number:** 8:23cv1968  
**Date Filed:** 10/19/2023  
**Assigned To:** Judge John W. Holcomb  
**Referred To:** Magistrate Judge Autumn D. Spaeth  
**Nature of Suit:** Patent (830)  
**Cause:** Patent Infringement  
**Lead Docket:** None  
**Other Docket:** [2:24cv00241](#), [2:24cv01501](#), [2:24cv01681](#),  
[2:24cv04778](#), [2:24cv04880](#), [2:24cv05237](#), [2:24cv06443](#),  
[5:24cv00435](#), [5:24cv01176](#), [8:24cv00571](#), [8:24cv00616](#),  
[8:24cv01663](#), [8:24cv01758](#), [8:24cv02456](#)  
**Jurisdiction:** Federal Question

**Class Code:** Closed  
**Closed:** 03/04/2024  
**Statute:** 15:1126  
**Jury Demand:** Plaintiff  
**Demand Amount:** \$0  
**NOS Description:** Patent

## Participants

---

### Litigants

---

VDPP LLC  
an Oregon Corporation |  
**Plaintiff**

Epson America Inc.  
a California Corporation |  
**Defendant**

### Attorneys

---

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## Proceedings

#	Date	Proceeding Text	Source
1	10/19/2023	COMPLAINT Receipt No: ACACDC-36259252 - Fee: \$402, filed by VDPP, LLC VDPP, LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit B) (Attorney Susan S. Q. Kalra added to party VDPP, LLC(pty:pla))(Kalra, Susan) (Entered: 10/19/2023)	
2	10/19/2023	CIVIL COVER SHEET filed by Plaintiff VDPP, LLC. (Kalra, Susan) (Entered: 10/19/2023)	
3	10/19/2023	REPORT ON THE FILING OF AN ACTION Regarding a Patent or a Trademark (Initial Notification) filed by VDPP, LLC. (Kalra, Susan) (Entered: 10/19/2023)	
4	10/19/2023	Request for Clerk to Issue Summons on Complaint (Attorney Civil Case Opening) 1 filed by VDPP, LLC VDPP, LLC. (Kalra, Susan) (Entered: 10/19/2023)	
5	10/19/2023	CORPORATE DISCLOSURE STATEMENT filed by Plaintiff VDPP, LLC (Kalra, Susan) (Entered: 10/19/2023)	
6	10/20/2023	NOTICE OF ASSIGNMENT to District Judge Cormac J. Carney and Magistrate Judge Autumn D. Spaeth. (sh) (Entered: 10/20/2023)	
7	10/20/2023	NOTICE TO PARTIES OF COURT-DIRECTED ADR PROGRAM filed. (sh) (Entered: 10/20/2023)	
8	10/20/2023	Notice to Counsel Re Consent to Proceed Before a United States Magistrate Judge. (sh) (Entered: 10/20/2023)	
9	10/20/2023	21 DAY Summons Issued re Complaint (Attorney Civil Case Opening) 1 as to Defendant Epson America Inc.. (sh) (Entered: 10/20/2023)	
10	10/20/2023	NOTICE OF PRO HAC VICE APPLICATION DUE for Non-Resident Attorney William P. Ramey, III. A document recently filed in this case lists you as an out-of-state attorney of record. However, the Court has not been able to locate any record that you are admitted to the Bar of this Court, and you have not filed an application to appear Pro Hac Vice in this case. Accordingly, within 5 business days of the date of this notice, you must either (1) have your local counsel file an application to appear Pro Hac Vice (Form G-64) and pay the applicable fee, or (2) complete the next section of this form and return it to the court at <a href="mailto:cacd_attyadm@cacd.uscourts.gov">cacd_attyadm@cacd.uscourts.gov</a> . You have been removed as counsel of record from the docket in this case, and you will not be added back to the docket until your Pro Hac Vice status has been resolved. (sh) (Entered: 10/20/2023)	
11	11/03/2023	STATEMENT OF CONSENT TO PROCEED before the assigned Magistrate Judge (Attorney William P. Ramey, III added to party VDPP LLC(pty:pla))(Ramey, William) (Entered: 11/03/2023)	
12	11/21/2023	PROOF OF SERVICE Executed by Plaintiff VDPP LLC, upon Defendant Epson America Inc. served on 11/6/2023, answer due 11/27/2023. Service of the Summons and Complaint were executed upon Registered Agent in compliance with Federal Rules of Civil Procedure by method of service not specified (Kalra, Susan) (Entered: 11/21/2023)	
13	11/21/2023	Notice of Appearance or Withdrawal of Counsel: for attorney Laura M. Burson counsel for Defendant Epson America Inc.. Adding Laura Burson as counsel of record for Epson America, Inc. for the reason indicated in the G-123 Notice. Filed by Defendant Epson America, Inc.. (Attorney Laura M. Burson added to party Epson America Inc.(pty:dft))(Burson, Laura) (Entered: 11/21/2023)	
14	11/22/2023	Joint STIPULATION Extending Time to Answer the complaint as to Epson America Inc. answer now due 12/19/2023, re Complaint	

8:23cv1968, Vdpp Llc V. Epson America Inc.

#	Date	Proceeding Text	Source
		(Attorney Civil Case Opening) 1 filed by Defendant Epson America Inc..(Burson, Laura) (Entered: 11/22/2023)	
15	12/18/2023	Joint NOTICE OF MOTION AND MOTION for Extension of Time to File /Respond to Complaint filed by Defendant Epson America Inc.. (Attachments: # 1 Proposed Order Granting Joint Motion for Extension of Time to Respond to Complaint) (Burson, Laura) (Entered: 12/18/2023)	
16	12/19/2023	ORDER by Judge Cormac J. Carney Granting Joint Motion for Extension of time to Respond to Complaint (30 days or less) 14 . Defendant Epson America Inc. answer due 1/18/2024. (twdb) (Entered: 12/19/2023)	
20	12/19/2023	FOR COURT USE ONLY: STATISTICAL CORRECTION: ORDER by Judge Cormac J. Carney: Granting 15 MOTION for Extension of Time to Respond to Complaint. (twdb) (Entered: 01/23/2024)	
17	01/16/2024	Joint NOTICE OF MOTION AND MOTION for Extension of Time to File /Respond to Complaint filed by Defendant Epson America Inc.. (Attachments: # 1 Proposed Order Granting Joint Motion for Extension of Time to Respond to Complaint) (Burson, Laura) (Entered: 01/16/2024)	
18	01/17/2024	ORDER by Judge Cormac J. Carney: Granting 17 Joint MOTION for Extension of Time to Respond to Complaint. Defendant Epson America, Inc. may file its responsive pleading up to and including 3/18/24. (twdb) (Entered: 01/17/2024)	
19	01/18/2024	ORDER TRANSFERRING CIVIL ACTION pursuant to this Court's General Order in the Matter of Assignment of Cases and Duties to the District Judges. ORDER case transferred from Judge Cormac J. Carney to the calendar of Judge John W. Holcomb for all further proceedings. The case number will now reflect the initials of the transferee Judge 8:23-cv-01968-JWH-(ADSx). Signed by Judge Cormac J. Carney and John W. Holcomb. (dve) (Entered: 01/18/2024)	
21	01/23/2024	STANDING ORDER by Judge John W. Holcomb. (cla) (Entered: 01/23/2024)	
22	03/04/2024	NOTICE of Voluntary Dismissal filed by Plaintiff VDPP LLC. Dismissal is With Prejudice. (Kalra, Susan) (Entered: 03/04/2024)	
23	03/13/2024	STIPULATION to Dismiss Case pursuant to Federal Rule 41(a)(1)(A)(i) filed by Plaintiff VDPP LLC.(Kalra, Susan) (Entered: 03/13/2024)	

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End of Document



**User Name:** Manuel Saldana

**Date and Time:** Thursday, December 19, 2024 12:53:00 PM EST

**Job Number:** 241229016

## Document (1)

1. US Patent Issued to VISUAL EFFECT INNOVATIONS on July 10 for "Faster state transitioning for continuous adjustable 3Deep's filter spectacles using multi-layered variable tint materials" ( Texas Inventor)

**Client/Matter:** -None-

**Search Terms:** 10,021,380

**Search Type:** Natural Language

**Narrowed by:**

**Content Type**

**Narrowed by**

-None-

**US Patent Issued to VISUAL EFFECT INNOVATIONS on July 10 for "Faster state transitioning for continuous adjustable 3Deeps filter spectacles using multi-layered variable tint materials" (Texas Inventor)**

US Fed News

July 10, 2018 Tuesday 2:15 PM EST

Copyright 2018 HT Media Ltd. All Rights Reserved

**Length:** 232 words

**Dateline:** ALEXANDRIA, Va.

## **Body**

ALEXANDRIA, Va., July 10 -- United States Patent no. **10,021,380**, issued on July 10, was assigned to VISUAL EFFECT INNOVATIONS LLC (Plano, Texas).

"Faster state transitioning for continuous adjustable 3Deeps filter spectacles using multi-layered variable tint materials" was invented by VISUAL EFFECT INNOVATIONS, LLC (Plano, Texas). According to the abstract\* released by the U.S. Patent & Trademark Office: "An electrically controlled spectacle includes a spectacle frame and optoelectronic lenses housed in the frame. The lenses include a left lens and a right lens, each of the optoelectrical lenses having a plurality of states, wherein the state of the left lens is independent of the state of the right lens. The electrically controlled spectacle also includes a control unit housed in the frame, the control unit being adapted to control the state of each of the lenses independently." The patent was filed on Feb. 28, 2018, under Application No. 15/907,614. \*For further information, including images, charts and tables, please visit:

<http://patft.uspto.gov/netaqi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetah.html%2FPTO%2Fsearch-bool.html&r=1&f=G&i=50&po1=AND&d=PTXT&s1=10021380&OS=10021380&RS=10021380> For any query with respect to this article or any other content requirement, please contact Editor at [content.services@htlive.com](mailto:content.services@htlive.com)

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