

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

PRAGMATUS MOBILE, LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 14-436-LPS
	:	
AMAZON.COM, INC.,	:	
	:	
Defendant.	:	
	:	

PRAGMATUS MOBILE, LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 14-440-LPS
	:	
LENOVO HOLDING COMPANY, INC., <i>et</i>	:	
<i>al.</i> ,	:	
	:	
Defendants.	:	
	:	

Brian E. Farnan, FARNAN LLP, Wilmington, DE

Elizabeth Day, David L. Alberti, Marc Belloli, Yakov Zolotorev, Nickolas Bohl, FEINBERG DAY ALBERTI & THOMPSON LLP, Menlo Park, CA

Dmitriy Andreyev, Aaron Buckler, Karen Heart, FLAGSHIP IP, P.C., Boston, MA

Attorneys for Plaintiff Pragmatus Mobile, LLC

Steven J. Balick, Andrew C. Mayo, ASHBY & GEDDES, Wilmington, DE

Roderick M. Thompson, Alex Reese, FARELLA BRAUN + MARTEL LLP, San Francisco, CA

Attorneys for Defendant Amazon.com, Inc.

Richard L. Horwitz, David E. Moore, Bindu A. Palapura, POTTER ANDERSON &
CORROON, Wilmington, DE

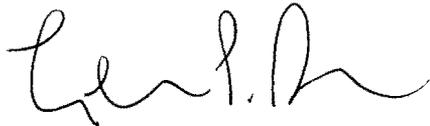
Fred I. Williams, AKIN GUMP STRAUSS HAUER & FELD LLP, Austin, TX

Eric J. Klein, AKIN GUMP STRAUSS HAUER & FELD LLP, Dallas, TX

Attorneys for Defendants Lenovo (United States) Inc. and Lenovo Holding Co., Inc.

MEMORANDUM OPINION

October 16, 2015
Wilmington, Delaware



STARK, U.S. District Judge:

Pending before the Court are claim construction disputes related to U.S. Patent No. 8,466,795 (the “’795 patent”).¹ On April 7, 2014, Plaintiff Pragmatus Mobile, LLC (“Plaintiff”) filed suit against Lenovo (United States) Inc., Lenovo Holding Co., Inc. (collectively, “Lenovo”), and Amazon.com, Inc. (“Amazon”) (collectively with Lenovo, “Defendants”) for infringement of the ’795 patent. (D.I. 1 at 2-4)² Amazon filed an Answer on May 16, 2014. (D.I. 7) Lenovo filed an Answer on June 16, 2014. (C.A. No. 14-440 D.I. 5) The Court issued a Scheduling Order on November 20, 2014. (D.I. 27) The parties submitted technology tutorials on June 26, 2015 (*see* D.I. 70, 71) and completed claim construction briefing on July 17, 2015 (*see* D.I. 43, 66, 68, 75, 76). The Court conducted a hearing on August 25, 2015. (*See* Transcript (“Tr.”))

The ’795 patent generally relates to “a signaling system that enables an individual in distress to initiate an alarm to alert appropriate personnel combined with a locating and tracking system that enables the alerted personnel to monitor the location of the individual in distress.” (’795 patent at 1:28-29) The specification characterizes “the invention” as “a personal security and tracking system.” (*See id.* at 5:65-66) In one embodiment, the ’795 patent describes a personal security and tracking system that includes a “remote alarm switch unit,” a “portable signaling unit,” and a “central dispatch station,” as depicted in Figure 1 below:

¹ A copy of the ’795 patent can be found at C.A. No. 14-436 D.I. 1 Ex. A.

² All docket citations in this Opinion are to C.A. No. 14-436, unless otherwise specified. On October 15, the parties in 14-436 filed a stipulation of dismissal (D.I. 86), which the Court signed and docketed earlier today (D.I. 87).

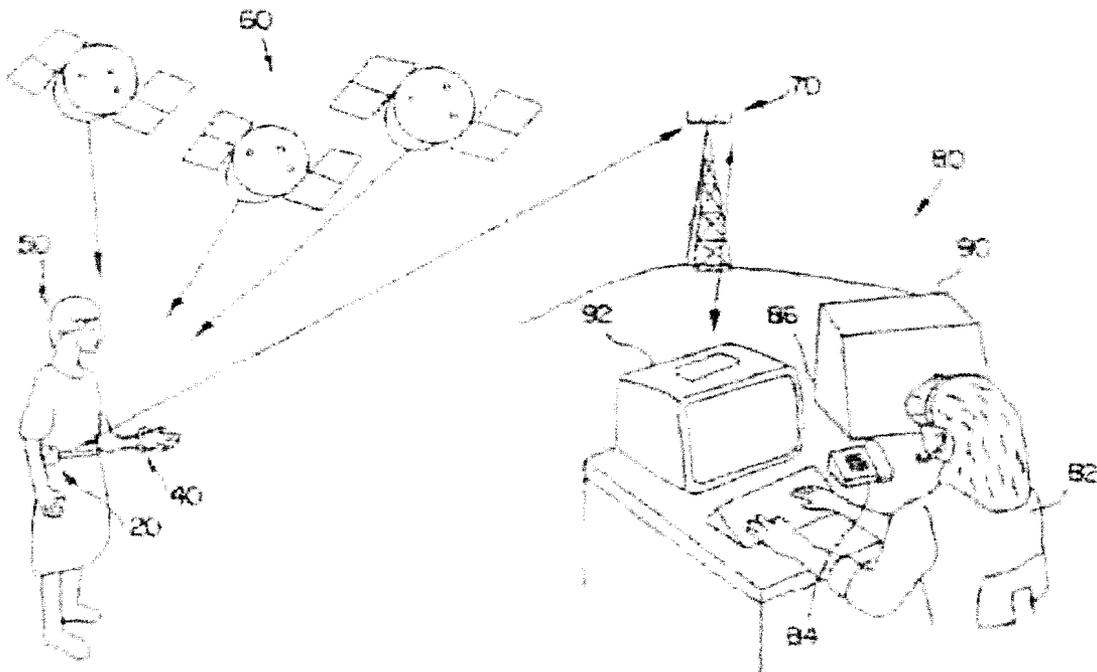


FIG. 1

(See '795 patent at Fig.1, 6:54-64) Regarding Figure 1, the specification describes: "A cellular telephone system 70 provides a means for data and voice communications between the portable signaling unit 20 and a central dispatch station 80." (*Id.* at 8:21-23) "In a preferred embodiment, display console 92 [in the central dispatch station] displays the alarm signal origination location, the user identification, and an alarm code." (*Id.* at 8:44-46) Figure 1 depicts a "remote alarm switch," labeled "40," which may be worn by an individual in addition to the portable signaling unit and, when separated from the portable signaling unit by more than a predetermined distance, may generate an alarm automatically. (*See id.* at Fig. 5, 9:15-35, 11:17-43) The claims of the '795 patent are directed primarily to the "portable signaling unit" (or "cellular device"), labeled "20" in Figure 1. (*See generally id.* at 14:53-18:30)

Figure 5 in the '795 patent depicts a functional block diagram of an embodiment of the

portable signaling unit:

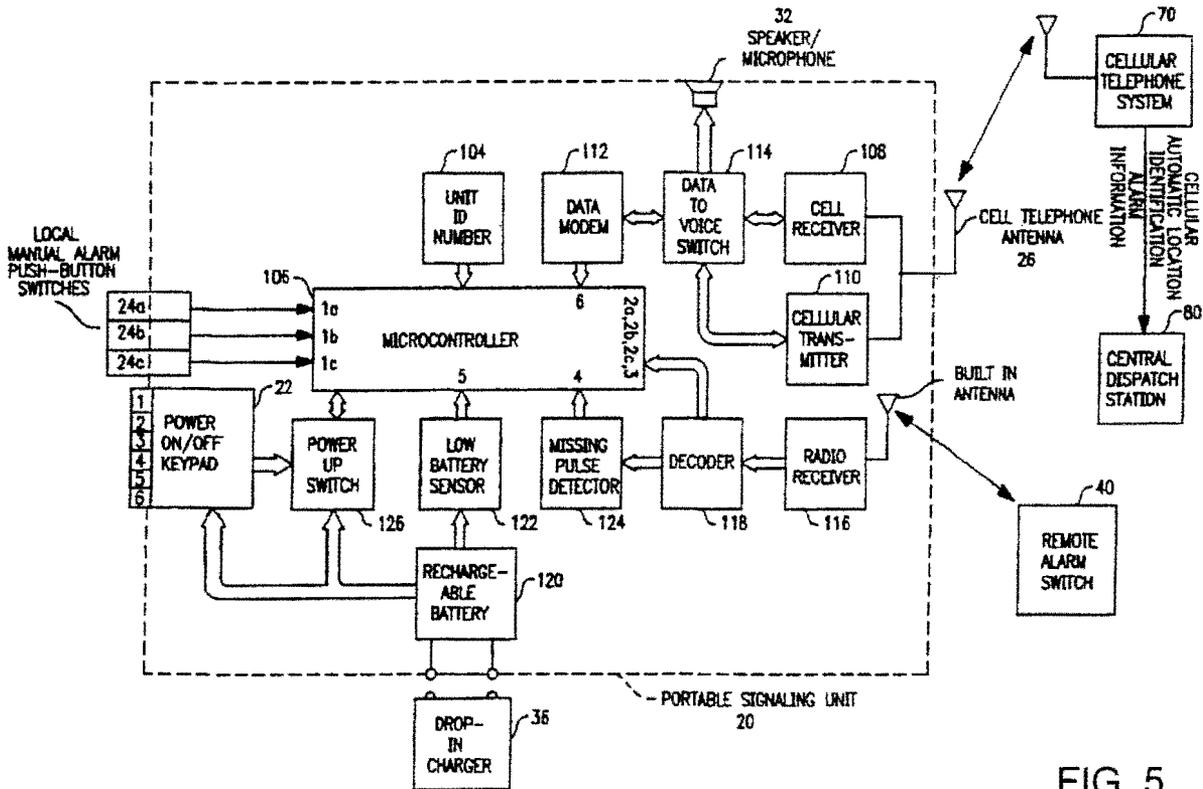


FIG. 5

(’795 patent at Fig. 5) The ’795 patent describes that the “remote alarm switch unit 40” may be “in the form of a wristband assembly . . . [or] any other object, such as a brooch, pendant, or keychain.” (*Id.* at 9:5-8) “Local alarm push-button switches 24a, 24b, 24c, etc. [on the portable signaling unit] allow the use of the portable signaling unit 20 by campers, hikers, or skiers, etc., when the additional features of the remote alarm switch unit 40 may not be required.” (*Id.* 8:51-55)

In an emergency situation, the user can depress the push-button switches on the portable signaling unit or similar buttons on the remote alarm switch, which correspond to different alarm conditions, from “just checking in” to “I am in need of medical assistance” or “help, my life is in

danger!” (*Id.* at 10:55-67) There are also alarm conditions for low battery or when the central dispatch operator needs to locate the portable signaling unit remotely. (*Id.* at 12:3-24) Alarm signals may be received by a central dispatch station where “[t]he location of portable signaling unit 20 is displayed on . . . a digitized map on a computer monitor screen 92 at a position which corresponds to the location of the portable signaling unit 20.” (*Id.* at 13:50-57) The operator can then talk with the person in distress and dial the proper authorities, providing them with the person’s location. (*Id.* at 13:59-67)

I. LEGAL STANDARDS

The ultimate question of the proper construction of a patent is a question of law. *See Teva Pharm. USA, Inc. v. Sandoz, Inc.*, 135 S. Ct. 831, 837 (2015) (citing *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 388-91 (1996)). “It is a bedrock principle of patent law that the claims of a patent define the invention to which the patentee is entitled the right to exclude.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (internal quotation marks omitted). “[T]here is no magic formula or catechism for conducting claim construction.” *Id.* at 1324. Instead, the court is free to attach the appropriate weight to appropriate sources “in light of the statutes and policies that inform patent law.” *Id.*

“[T]he words 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.” *Id.* at 1312-13 (internal citations and quotation marks omitted). “[T]he ordinary meaning of a claim term is its meaning to the ordinary artisan after reading the entire patent.” *Id.* at 1321 (internal quotation marks omitted). The patent 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.” *Vitronics Corp. v. Conceptoronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996).

While “the claims themselves provide substantial guidance as to the meaning of particular claim terms,” the context of the surrounding words of the claim also must be considered.

Phillips, 415 F.3d at 1314. Furthermore, “[o]ther claims of the patent in question, both asserted and unasserted, can also be valuable sources of enlightenment . . . [b]ecause claim terms are normally used consistently throughout the patent” *Id.* (internal citation omitted).

It is likewise true that “[d]ifferences among claims can also be a useful guide For example, the presence of a dependent claim that adds a particular limitation gives rise to a presumption that the limitation in question is not present in the independent claim.” *Id.* at 1314-15 (internal citation omitted). This “presumption is especially strong when the limitation in dispute is the only meaningful difference between an independent and dependent claim, and one party is urging that the limitation in the dependent claim should be read into the independent claim.” *SunRace Roots Enter. Co., Ltd. v. SRAM Corp.*, 336 F.3d 1298, 1303 (Fed. Cir. 2003).

It is also possible that “the specification may reveal a special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess. In such cases, the inventor’s lexicography governs.” *Phillips*, 415 F.3d at 1316. It bears emphasis that “[e]ven when the specification describes only a single embodiment, the claims of the patent will not be read restrictively unless the patentee has demonstrated a clear intention to limit the claim scope using words or expressions of manifest exclusion or restriction.” *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 906 (Fed. Cir. 2004) (internal quotation marks omitted), *aff’d*, 481 F.3d 1371 (Fed. Cir. 2007).

In addition to the specification, a court “should also consider the patent’s prosecution history, if it is in evidence.” *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980 (Fed. Cir. 1995), *aff’d*, 517 U.S. 370 (1996). The prosecution history, which is “intrinsic evidence,” “consists of the complete record of the proceedings before the PTO [Patent and Trademark Office] and includes the prior art cited during the examination of the patent.” *Phillips*, 415 F.3d at 1317. “[T]he prosecution history can often inform the meaning of the claim language by demonstrating how the inventor understood the invention and whether the inventor limited the invention in the course of prosecution, making the claim scope narrower than it would otherwise be.” *Id.*

In some cases, “the district court will need to look beyond the patent’s intrinsic evidence and to consult extrinsic evidence in order to understand, for example, the background science or the meaning of a term in the relevant art during the relevant time period.” *Teva*, 135 S. Ct. at 841. Extrinsic evidence “consists of all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises.” *Markman*, 52 F.3d at 980. For instance, technical dictionaries can assist the court in determining the meaning of a term to those of skill in the relevant art because such dictionaries “endeavor to collect the accepted meanings of terms used in various fields of science and technology.” *Phillips*, 415 F.3d at 1318. In addition, expert testimony can be useful “to ensure that the court’s understanding of the technical aspects of the patent is consistent with that of a person of skill in the art, or to establish that a particular term in the patent or the prior art has a particular meaning in the pertinent field.” *Id.* Nonetheless, courts must not lose sight of the fact that “expert reports and testimony [are] generated at the time of and for the purpose of litigation and thus can suffer from

bias that is not present in intrinsic evidence.” *Id.* Overall, while extrinsic evidence “may be useful” to the court, it is “less reliable” than intrinsic evidence, and its consideration “is unlikely to result in a reliable interpretation of patent claim scope unless considered in the context of the intrinsic evidence.” *Id.* at 1318-19. Where the intrinsic record unambiguously describes the scope of the patented invention, reliance on any extrinsic evidence is improper. *See Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1308 (Fed. Cir. 1999) (citing *Vitronics*, 90 F.3d at 1583).

Finally, “[t]he construction that stays true to the claim language and most naturally aligns with the patent’s description of the invention will be, in the end, the correct construction.” *Renishaw PLC v. Marposs Societa’ per Azioni*, 158 F.3d 1243, 1250 (Fed. Cir. 1998). It follows that “a claim interpretation that would exclude the inventor’s device is rarely the correct interpretation.” *Osram GmbH v. Int’l Trade Comm’n*, 505 F.3d 1351, 1358 (Fed. Cir. 2007) (quoting *Modine Mfg. Co. v. U.S. Int’l Trade Comm’n*, 75 F.3d 1545, 1550 (Fed. Cir. 1996)).

II. CONSTRUCTION OF DISPUTED TERMS³

“portable signaling unit”⁴

Plaintiff Plain meaning or “A signaling unit capable of being carried or moved about.”
Defendants “A device worn or carried by an individual that is part of a personal security and tracking system.”
Court “a signaling unit capable of being carried or moved about that is part of a personal security and tracking system”

“cellular device”⁵

Plaintiff Plain meaning or “a device with cellular functionality.”
Defendants “A device worn or carried by an individual that is part of a personal security and tracking system.”
Court “a device with cellular functionality that is part of a personal security and tracking system”

All of the claims of the '795 patent include one of the above two terms in their preambles.

(’795 patent at 14:54-18:29) “When limitations in the body of the claim rely upon and derive antecedent basis from the preamble, then the preamble may act as a necessary component of the

³ The parties stipulated to constructions of certain terms in their Amended Joint Claim Construction Chart. (D.I. 83 at 2-3) The Court will adopt the parties’ stipulated constructions for these terms. In addition, the parties agreed at the hearing to construe the term “a periodic signal,” as used in claim 12, according to its “plain and ordinary meaning.” (See Tr. at 4-5) The Court will construe the term “a periodic signal” to have its plain and ordinary meaning.

⁴ This term appears in claims 1-22.

⁵ This term appears in claims 23-33.

claimed invention.” *Pacing Technologies, LLC v. Garmin Int’l, Inc.*, 778 F.3d 1021, 1024 (Fed. Cir. 2015). In this case, both sides appear to agree that the preambles of the ’795 patent’s claims are limiting, since both sides propose constructions for these terms. Indeed, either “portable signaling unit” or “cellular device” provides antecedent basis for limitations in all four of the ’795 patent’s independent claims – claims 1, 23, 27, and 30. (See ’795 patent at 14:54-18:29) Thus, the Court finds that the above two terms are limiting and will construe them as such.

“[T]he words of a claim are generally given their ordinary and customary meaning.” *Phillips*, 415 F.3d at 1312-13 (internal quotation marks omitted). Defendants’ proposed constructions, which are identical for both terms, read the words “signaling” and “cellular” out of “portable signaling unit” and “cellular device,” respectively. This is improper, because the terms “signaling” and “cellular” have plain and ordinary meanings that should be included in the constructions adopted for these terms, since there is no lexicography or clear disclaimer in the specification (or any other evidence) that would oblige otherwise. See *Thorner v. Sony Computer Entm’t Am. LLC*, 669 F.3d 1362, 1366-67 (Fed. Cir. 2012). The “device” in Defendants’ proposed constructions would be too broad (in that it would not need to be “signaling” in the case of a “portable signaling unit” or “cellular” in the case of a “cellular device”). Therefore, the Court rejects Defendants’ proposed constructions.

Plaintiff’s proposed constructions align with the plain and ordinary meaning of the claim language, and the Court will include Plaintiff’s proposed constructions in the Court’s constructions for these terms. However, the Court will also include a limitation proposed by Defendants – “that is part of a personal security and tracking system” – in its constructions, because the Court finds that this limitation is supported by the intrinsic evidence in the record.

The Federal Circuit has instructed:

[I]n construing a claim there are two limiting factors – what was *invented*, and what exactly was *claimed*. To determine the former – what was invented – we look at the entire patent, with particular attention to the specification (the written description of the invention and the several claims made). To determine the latter – what exactly was claimed – the focus is on the precise words of the particular claim or claims at issue; the written description and preferred embodiments are aids in understanding those words. In the case before us, proper claim construction requires that we understand what the invention encompasses as well as how the claims are stated.

MySpace, Inc. v. GraphOn Corp., 672 F.3d 1250, 1256 (Fed. Cir. 2012) (emphasis added). Here, the Court’s consideration of “what was invented” strongly supports including the “that is part of a personal security and tracking system” limitation.

First, the specification defines what the invention is: “The present invention is a personal security and tracking system.” (’795 patent at 5:65-66) This definition is echoed throughout the specification. (*See, e.g., id.* at 3:47-48, 6:12-13, 8:3-4) Second, there is nothing in the specification that would indicate that the claimed invention of the ’795 patent is related to anything *other than* a personal security and tracking system. “When a patent thus describes the features of the ‘present invention’ as a whole, this description limits the scope of the invention.” *Regents of Univ. of Minnesota v. AGA Med. Corp.*, 717 F.3d 929, 936 (Fed. Cir. 2013). Third, the specification disparages numerous prior art systems as being inappropriate for applications relating to personal security and tracking. (*See generally id.* at 1:37-4:23) For example, the specification distinguishes prior art systems that are not *personal* systems. (*See, e.g., id.* at 3:46-48 (distinguishing prior art system designed to “provide routing information to *vehicles*, rather than to provide a *personal* security and tracking system for *individuals*”) (emphasis added); *see*

also id. at 1:64-66, 2:29-30 (criticizing prior art systems for not allowing **individuals** to manually activate alarms).⁶ The specification also disparages prior art systems that are not targeted at providing **security**. (*See id.* at 2:10-11) (stating that prior art system was “not intended for use as a personal security system, nor [was] it capable of being so used” since it was intended to be used for generating “terrain maps”) In fact, the specification criticizes the entirety of the prior art with respect to its deficiency for addressing personal security: “Current available technology does not address the case of an individual who is helpless in an emergency situation where information is required so that the appropriate authorities can respond quickly and efficiently to a distress signal generated by the individual.” (*Id.* at 3:61-65)⁷

Additionally, and importantly, the claims of the ’795 patent recite apparatuses comprising generic computer components that, individually and as a whole, convey very little information about what the claimed inventions actually do. In this context, a person of ordinary skill in the art would have to look to the specification to have any kind of meaningful understanding as to

⁶ However, the specification does not limit the invention to security and tracking of a **human being**; it can also be used to protect animals or inanimate objects. (’795 patent at 7:24-29) Therefore, the word “personal” in the Court’s construction addresses who the system is primarily designed for – a person – rather than who or what may wear the portable signaling unit or cellular device.

⁷ *See generally Pacing Technologies*, 778 F.3d at 1024-25 (“We have found disavowal or disclaimer based on clear and unmistakable statements by the patentee that limit the claims, such as ‘the present invention includes . . .’ or ‘the present invention is . . .’ or ‘all embodiments of the present invention are . . .’ . . . We also have found disclaimer when the patent repeatedly disparaged an embodiment as ‘antiquated,’ having ‘inherent inadequacies,’ and then detailed the ‘deficiencies [that] make it difficult’ to use.”) (internal citations omitted). While the Court is not concluding that any singular statement in the specification of the ’795 patent rises to the level of a disavowal or disclaimer, the statements in the specification taken as a whole strongly support the Court’s decision to include the “that is part of a personal security and tracking” limitation in the two claim terms discussed in this section.

what the claims are directed to. *See generally Vitronics*, 90 F.3d at 1582 (stating 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.”). Hence, for all of these reasons, the Court concludes that the “portable signaling unit” and “cellular device” of the claims are, as consistently described in the specification, “part of a personal security and tracking system.”

Regarding “tracking,” the specification notes that prior art cellular networks and the 911 telephone number already provided means for *security*, in that one could always call 911 if in trouble, but the specification makes clear that the ’795 patent is directed to security *and tracking*: “[T]hese [prior art] services fall short in the case of a young child, a mentally incompetent or medically incapacitated person, someone lost in the woods, or the victim of an abduction or kidnapping. These situations necessitate a security system that *travels with the individual . . . and identifies the individual’s location.*” (*Id.* at 1:50-57) (emphasis added) In light of the foregoing clear and unmistakable statements, the Court finds that the “personal security and tracking system” limitation must be included in the constructions for these terms.

“device in proximity”⁸

<p>Plaintiff “Device within a preset location range of another device consistent with each device being worn or carried by an individual.”</p>
<p>Defendants “A remote alarm switch/trigger unit.”</p>
<p>Court “device within a preset location range of another device consistent with each device being worn or carried by an individual”</p>

⁸ This term appears in claims 21, 23, 27, and 30.

“transmitting device”⁹

Plaintiff Plain meaning or “A device capable of transmitting.”
Defendants “A remote alarm switch/trigger unit.”
Court “a device capable of transmitting”

Defendants argue that each of these terms “must be a remote alarm switch/trigger unit” because the specification indicates that the “remote alarm switch unit” is an element of “the present invention” and because “the system cannot *automatically* generate alarms” – a key aspect of the invention – without the remote alarm switch/trigger unit. (*See* D.I. 66 at 8-9) (emphasis added) The Court disagrees. The specification does not show a “clear intention to limit the claim scope” of these terms to the sole embodiment of a remote alarm switch/trigger unit. *Liebel-Flarsheim*, 358 F.3d at 906. To the contrary, the specification discloses an embodiment of the portable signaling unit that does not appear to require use of a remote alarm switch/trigger unit:

FIG. 2 shows a portable signaling unit 20 that includes a main power on-off keypad 22. Local alarm push-button switches 24a, 24b, 24c, etc. allow the use of the portable signaling unit 20 by campers, hikers, or skiers, etc., *when the additional features of the remote alarm switch unit 40 may not be required. . . .* Another variation of the configuration could incorporate *a sensor* to detect if the portable signaling unit 20 was involuntarily removed from the individual and *would automatically trigger an alarm* signal to the central dispatch station.

(’795 patent at 8:50-9:4) (emphasis added) Because the features of the remote alarm switch unit

⁹ This term appears in claims 3, 11, and 12.

are not always required, and because a sensor could be used instead of a remote alarm switch/trigger unit to automatically generate alarms, the above terms are not limited to the remote alarm switch/trigger unit embodiment disclosed in the '795 patent.

Plaintiff's proposed construction for the "device in proximity" term aligns with the plain and ordinary meaning of the claim language when read in light of the specification.¹⁰ The specification makes clear that all potential embodiments of the "device in proximity" must be within a "preset location range" relative to the portable signaling unit (or cellular device). (*See id.* at 5:1-5, 6:50-53, 9:29-35, 11:48-51, 11:66-12:2) In addition, the specification makes clear that the "proximity" spoken of is a relatively close proximity, in the sense that the device in proximity and portable signaling unit (or cellular device) are designed to be used together on the same individual (where the "individual" could be a person or animal or inanimate object). (*See id.* at 7:24-29, 9:29-35)

Regarding the "transmitting device" term, the Court first notes that this term is only used in claims directed to a "portable signaling unit" (claims 3, 11, and 12). As already discussed, the specification includes an embodiment of a portable signaling unit that is *not* required to include a transmitting device that is a remote alarm switch/trigger unit. Therefore, the Court will reject Defendants' proposed construction.

Furthermore, the Court will decline to construe "transmitting device" identically to

¹⁰ The parties stipulated to constructions of the larger phrases "device in proximity to the cellular device" and "device in proximity to the portable signaling unit" as "a device within a preset location range of the cellular device consistent with each device being worn or carried by an individual" and "a device within a preset location range of the portable signaling unit consistent with each device being worn or carried by an individual," respectively. (D.I. 83 at 2) The Court's construction of "device in proximity" is consistent with these stipulated constructions.

“device in proximity.” The plain and ordinary meaning of “transmitting device” conveys no information one way or another about whether the “transmitting device” is relatively near or far away from the portable signaling unit (or whether it is being carried by the same individual, animal, or object). Also, the clear and unmistakable statements in the specification that limit the “device in proximity” term (which by its own words must be in *proximity* to something) do not clearly limit the “transmitting device” term, because the “transmitting device” is not as clearly tethered to the remote alarm switch/trigger unit (and similar embodiments) in the specification. For example, the portable signaling unit could be used without a remote alarm switch/trigger unit and could receive signals from the “transmitting device” at relatively longer distances than it could from a remote alarm switch/trigger unit.

Moreover, the doctrine of claim differentiation supports the Court’s conclusion to omit from its construction of “transmitting device” the “preset location range” and “each device being worn or carried by an individual” limitations found in the construction of “device in proximity.” Dependent claim 11 explicitly includes a limitation that the “transmitting device” is “within a predetermined range of the portable signaling unit,” whereas claim 3, from which claim 11 depends and which also includes the term “transmitting device,” does not.

“display”¹¹

Plaintiff Plain meaning or “An electronic device that temporarily presents information in visual form, <i>e.g.</i> , an LCD screen or a video monitor.”
Defendants “A small LCD screen for displaying messages from a central dispatch station.”
Court “an electronic device that temporarily presents information in visual form, <i>e.g.</i> , an LCD screen or a video monitor”

Defendants argue that their proposed construction, which is narrower than the plain and ordinary meaning of “display,” is based on “the entire scope of what the specification teaches as a display on the portable signaling unit.” (*See* D.I. 75 at 14) But it is “not enough that the only embodiments, or all of the embodiments, contain a particular limitation. We do not read limitations from the specification into claims; we do not redefine words. Only the patentee can do that. To constitute disclaimer, there must be a clear and unmistakable disclaimer.” *Thorner*, 669 F.3d at 1366-67. For this term, Defendants have not identified any clear and unmistakable disclaimer in the specification that would persuade the Court to adopt Defendants’ proposed construction.

The Court will construe “display” according to its plain and ordinary meaning in the relevant art, as reflected in Plaintiff’s proposed construction (which comports with dictionary definitions that are indicative of the term’s plain and ordinary meaning). (*See* D.I. 69 Ex. 2) (citing IEEE dictionary’s definitions of “display,” including, *e.g.*, “[a] visual presentation of graphics or other data such as text”)

¹¹ This term appears in claims 1, 24, 29, and 30.

“user interface”¹²

Plaintiff Plain meaning or “A physical interface between an operator and a device.”
Defendants “An ON/OFF keypad or manual push-button switch.”
Court “a physical interface between an operator and a device”

This term does not appear anywhere in the specification of the '795 patent; nor does the term “interface” by itself. Defendants argue that their proposed construction “covers the only two means disclosed in the specification for the user to interact with the system: through the on/off keypad and through manual push-button switches.” (D.I. 66 at 19) For the same reasons discussed above for the “display” term, Defendants’ arguments do not persuade the Court to adopt Defendants’ proposed construction. Defendants have pointed to no clear disclaimer in the specification that would require this term to be limited to embodiments described in the specification. *See Thorner*, 669 F.3d at 1366-67.

Instead, the Court will construe “user interface” according to its plain and ordinary meaning in the relevant art, as reflected in Plaintiff’s proposed construction (which comports with dictionary definitions that are indicative of the term’s plain and ordinary meaning). (*See* D.I. 69 Ex. 4) (citing IEEE dictionary’s definitions of “user interface,” including, e.g., “[a] physical interface between the operator and the system equipment”)

¹² This term appears in claims 1, 16, 23, 27, and 30.

“signal”¹³

Plaintiff Plain meaning or “An electromagnetic wave used to convey information.”
Defendants “An electromagnetic wave used to convey an alarm or a message related to an alarm.”
Court “an electromagnetic wave used to convey information”

Defendants argue that the term “signal” is exclusively used in the specification to refer to “an alarm or a message related to an alarm.” (D.I. 75 at 11) For the same reasons discussed above for the “display” term, Defendants’ arguments do not persuade the Court to adopt Defendants’ proposed construction. Defendants have pointed to no clear disclaimer in the specification that would require this term to be limited to embodiments described in the specification. *See Thorner*, 669 F.3d at 1366-67. Moreover, the Court does not agree with Defendants that the term “signal” is clearly used in an alarm context every time it is referenced in the specification. (*See, e.g.*, ’795 patent at 4:19-24) (discussing “signal source” in location-tracking context, which may be unrelated to alarm/security context)

The Court will construe “signal” according to its plain and ordinary meaning in the relevant art, as reflected in Plaintiff’s proposed construction (which comports with dictionary definitions that are indicative of the term’s plain and ordinary meaning).¹⁴ (*See* D.I. 69 Ex. 4) (citing Newton’s Telecom Dictionary’s definition of “signal” as “[a]n electrical wave used to convey information”)

¹³ This term appears in claims 1, 3, 5, 8, 10, 11, 12, 15, 21, 22, 23, 27, 30, and 33.

¹⁴ Furthermore, “Defendants agree with Pragmatus Mobile that a signal is ‘an electromagnetic wave used to convey’ something.” (D.I. 66 at 14)

“third signal”¹⁵

Plaintiff Plain meaning or “Third electromagnetic wave used to convey information.”
Defendants “A [signal] generated by a remote alarm switch unit.”
Court “third electromagnetic wave used to convey information”

Defendants argue that the “third signal” must always be generated by “a remote alarm switch unit” because the remote alarm switch unit is the only embodiment disclosed in the specification that could generate a “third signal.” (D.I. 66 at 15-16) Once again, Defendants have pointed to no clear disclaimer that would require this term to be limited to embodiments described in the specification. *See Thorner*, 669 F.3d at 1366-67. For the reasons discussed above for the “display” term, the Court will construe this term according to its plain and ordinary meaning in the relevant art, as reflected in Plaintiff’s proposed construction.

“security code”¹⁶

Plaintiff Plain and ordinary meaning (<i>i.e.</i> , “a code that allows an authorized person to access the device”).
Defendants “Code entered to place the portable signaling unit or cellular device in a standby mode.”
Court “a code that allows an authorized person to access the device”

In arguing that security code be construed narrowly as only a code used to place the

¹⁵ This term appears in claims 1, 3, 5, 10, 11, 12, 15, and 21.

¹⁶ This term appears in claims 1, 23, 27, and 30.

portable signaling unit or cellular device in “standby mode,” Defendants cite the only part of the specification that mentions the term “security code.” (D.I. 66 at 17) However, nothing in the specification or other intrinsic evidence indicates that the embodiment cited by Defendants was intended to be limiting. The sentence on which Defendants rely contains no words of manifest exclusion, but instead describes an exemplary embodiment as shown in one figure of the patent. (*See* ’795 patent at 10:21-24) (“As shown in FIG. 5, the portable signaling unit 20 is first put into service by an authorized person, parent, or guardian who enters a security code at the main power on/off key pad 22.”) There is no disclaimer of the fuller scope of the plain and ordinary meaning of the term “security code.” *See Thorner*, 669 F.3d at 1366-67.

Plaintiff proposes a construction that was adopted during an investigation before the U.S. International Trade Commission (“ITC”) involving the ’795 patent. (*See* D.I. 43 Ex. U at 36-39) The Court agrees with the ITC’s analysis and construction of this term, which aligns with the term’s plain and ordinary meaning, because there is no novel definition or disavowal of plain meaning in the specification that would require the Court to construe this term as having anything other than its plain and ordinary meaning. (*See id.*; D.I. 69 Ex. 6)

III. CONCLUSION

The Court construes the disputed terms as explained above. An appropriate Order follows.

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

PRAGMATUS MOBILE, LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 14-436-LPS
	:	
AMAZON.COM INC.,	:	
	:	
Defendant.	:	
	:	

PRAGMATUS MOBILE, LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	C.A. No. 14-440-LPS
	:	
LENOVO HOLDING COMPANY INC., <i>et</i>	:	
<i>al.</i> ,	:	
	:	
Defendants.	:	
	:	

ORDER

At Wilmington, this **16th** day of **October, 2015**:

For the reasons set forth in the Memorandum Opinion issued this date,

IT IS HEREBY ORDERED that the disputed claim terms of U.S. Patent No. 8,466,795 are construed as follows:

Claim Term	Court's Construction
standby mode [claims 8, 17–19, 23, 30, 33]	“a mode where only essential circuits are powered on, the essential circuits being only those circuits necessary to sense the conditions for leaving the standby mode”
leave[s] the standby mode [claims 8, 18, 19, 23]	“power[s] on the non-essential circuits, the essential circuits being only those circuits necessary to sense the conditions for leaving the standby mode”
device in proximity to the cellular device [claims 23, 27, 30]	“a device within a preset location range of the cellular device consistent with each device being worn or carried by an individual”
device in proximity to the portable signaling unit [claim 21]	“a device within a preset location range of the portable signaling unit consistent with each device being worn or carried by an individual”
data [claims 1, 3–9, 15, 23, 27, 30]	“information other than voice”
a predetermined range [claim 11]	“a preset location range consistent with each device being worn or carried by an individual”
second receiver adapted to receive a third signal [claims 1, 8, 10, 12, 19]	“a second receiver designed to receive a third signal”
second receiver adapted to receive a nearby signal [claims 23, 27, 30]	“a second receiver designed to receive a nearby signal, where ‘nearby’ is read in the context of the ‘device in proximity to the cellular device’ limitation construction”
second receiver [claims 1, 8, 10, 12, 19, 23, 26, 27, 30, 33]	“a radio receiver different from the first receiver”

a periodic signal [claim 12]	Plain and ordinary meaning
portable signaling unit [claims 1, 3, 5, 8, 10, 11, 12, 15, 16, 21, 22]	“a signaling unit capable of being carried or moved about that is part of a personal security and tracking system”
cellular device [claims 23-33]	“a device with cellular functionality that is part of a personal security and tracking system”
device in proximity [claims 21, 23, 27, 30]	“device within a preset location range of another device consistent with each device being worn or carried by an individual”
transmitting device [claims 3, 11, 12]	“a device capable of transmitting”
display [claims 1, 24, 29, 30]	“an electronic device that temporarily presents information in visual form, <i>e.g.</i> , an LCD screen or a video monitor”
user interface [claims 1, 16, 23, 27, 30]	“a physical interface between an operator and a device”
signal [claims 1, 3, 5, 8, 10, 11, 12, 15, 21, 22, 23, 27, 30, 33]	“an electromagnetic wave used to convey information”
third signal [claims 1, 3, 5, 10, 11, 12, 15, 21]	“third electromagnetic wave used to convey information”
security code [claims 1, 23, 27, 30]	“a code that allows an authorized person to access the device”


 UNITED STATES DISTRICT COURT