

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ST. JUDE MEDICAL, CARDIOLOGY
DIVISION, INC., ST. JUDE MEDICAL
SYSTEMS AB, and ST. JUDE MEDICAL
S.C., INC.,

Plaintiffs,

v.

VOLCANO CORPORATION,

Defendant.

Civil Action No. 12-441-RGA

ORDER


Volcano notified the Court of a perceived inconsistency in its construction of the “marking element” limitation found in claim 16 of the ’514 patent. (D.I. 181). The relevant language from claim 16 requires “a marking element, said marking element being capable of marking automatically, or manually by an operator/user, at least one interesting point or portion on the graph.” The Court largely adopted St. Jude’s proposed construction: “a computer program or computer software that can mark a point on the graphical display of interest to the user, chosen either automatically or by the user.” (D.I. 169, p. 10). An “interesting point or portion of the graph” was construed to mean “a point on the graph that can be used to calculate a new physiological variable.” (*Id.*). Volcano argued both terms were indefinite.

Volcano contends the Court’s inclusion of “graphical display” instead of “graph” in the claim construction was made in error. The Court was unaware of this distinction because the focus of both the briefing and oral argument centered on whether the term was indefinite. As a

result, after concluding that “marking element” was not indefinite, the Court accepted the bulk of St. Jude’s construction which included the disputed language.

It is now clear that “graphical display” should be replaced with “graph.” Volcano’s briefing advocated against the inclusion of “graphical display” as being inconsistent with the plain claim language. (D.I. 133, p. 43). This argument has merit because the claim limitation recites a “graph” instead of a “graphical display.” There is also no reason to deviate from the plain and ordinary meaning of graph—which is graph, not graphical display. The proper claim construction reads “a computer program or computer software that can mark a point on the graph of interest to the user, chosen either automatically or by the user.” This change is incorporated into the signed claim construction order.

Entered this 27th day of May, 2014.


United States District Judge