

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ORANGE ELECTRONIC CO. LTD.

v.

AUTEL INTELLIGENT TECHNOLOGY
CORP., LTD

§
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Case No. 2:21-CV-0240-JRG

AGREED PROTECTIVE ORDER

WHEREAS, Plaintiff Orange Electronic Co. Ltd. and Defendant Autel Intelligent Technology Corp., Ltd, hereafter referred to as “the Parties,” believe that certain information that is or will be encompassed by discovery demands by the Parties involves the production or disclosure of trade secrets, confidential business information, or other proprietary information;

WHEREAS, the Parties seek a protective order limiting disclosure thereof in accordance with Federal Rule of Civil Procedure 26(c):

THEREFORE, it is hereby stipulated among the Parties and ORDERED that:

1. Each Party may designate as confidential for protection under this Order, in whole or in part, any document, information or material that constitutes or includes, in whole or in part, confidential or proprietary information or trade secrets of the Party or a Third Party to whom the Party reasonably believes it owes an obligation of confidentiality with respect to such document, information or material (“Protected Material”). Protected Material shall be designated by the Party producing it by affixing a legend or stamp on such document, information or material as follows: “CONFIDENTIAL.” The word “CONFIDENTIAL” shall be placed clearly on each page of the Protected Material (except deposition and hearing transcripts) for which such protection is sought. For deposition and hearing transcripts, the

word “CONFIDENTIAL” shall be placed on the cover page of the transcript (if not already present on the cover page of the transcript when received from the court reporter) by each attorney receiving a copy of the transcript after that attorney receives notice of the designation of some or all of that transcript as “CONFIDENTIAL.”

2. Any document produced under Patent Rules 2-2, 3-2, and/or 3-4 before issuance of this Order with the designation “Confidential” or “Confidential - Outside Attorneys’ Eyes Only” shall receive the same treatment as if designated “RESTRICTED - ATTORNEYS’ EYES ONLY” under this Order, unless and until such document is redesignated to have a different classification under this Order.
3. With respect to documents, information or material designated “CONFIDENTIAL,” “RESTRICTED - ATTORNEYS’ EYES ONLY,” or “RESTRICTED CONFIDENTIAL SOURCE CODE” (“DESIGNATED MATERIAL”),¹ subject to the provisions herein and unless otherwise stated, this Order governs, without limitation: (a) all documents, electronically stored information, and/or things as defined by the Federal Rules of Civil Procedure; (b) all pretrial, hearing or deposition testimony, or documents marked as exhibits or for identification in depositions and hearings; (c) pretrial pleadings, exhibits to pleadings and other court filings; (d) affidavits; and (e) stipulations. All copies, reproductions, extracts, digests and complete or partial summaries prepared from any DESIGNATED MATERIALS shall also be considered DESIGNATED MATERIAL and treated as such under this Order.

¹ The term DESIGNATED MATERIAL is used throughout this Protective Order to refer to the class of materials designated as “CONFIDENTIAL,” “RESTRICTED - ATTORNEYS’ EYES ONLY,” or “RESTRICTED CONFIDENTIAL SOURCE CODE,” both individually and collectively.

4. A designation of Protected Material (i.e., “CONFIDENTIAL,” “RESTRICTED - ATTORNEYS’ EYES ONLY,” or “RESTRICTED CONFIDENTIAL SOURCE CODE”) may be made at any time. Inadvertent or unintentional production of documents, information or material that has not been designated as DESIGNATED MATERIAL shall not be deemed a waiver in whole or in part of a claim for confidential treatment. Any party that inadvertently or unintentionally produces Protected Material without designating it as DESIGNATED MATERIAL may request destruction of that Protected Material by notifying the recipient(s), as soon as reasonably possible after the producing Party becomes aware of the inadvertent or unintentional disclosure, and providing replacement Protected Material that is properly designated. The recipient(s) shall then destroy all copies of the inadvertently or unintentionally produced Protected Materials and any documents, information or material derived from or based thereon.
5. “CONFIDENTIAL” documents, information and material may be disclosed only to the following persons, except upon receipt of the prior written consent of the designating party, upon order of the Court, or as set forth in paragraph 12 herein:
 - (a) outside counsel of record in this Action for the Parties;
 - (b) employees of such counsel assigned to and reasonably necessary to assist such counsel in the litigation of this Action;
 - (c) in-house counsel for the Parties who either have responsibility for making decisions dealing directly with the litigation of this Action, or who are assisting outside counsel in the litigation of this Action;
 - (d) up to and including three (3) designated representatives of each of the Parties to the extent reasonably necessary for the litigation of this Action, except that either party may in good faith request the other party’s consent to designate one or more additional representatives, the other party shall not unreasonably withhold such consent, and the requesting party may seek leave of Court to designate such additional representative(s) if the requesting party believes the other party has unreasonably withheld such consent;

- (e) outside consultants or experts (*i.e.*, not existing employees or affiliates of a Party or an affiliate of a Party) retained for the purpose of this litigation, provided that: (1) such consultants or experts are not presently employed by the Parties hereto for purposes other than this Action; (2) before access is given, the consultant or expert has completed the Undertaking attached as Exhibit A hereto and the same is served upon the producing Party with a current curriculum vitae of the consultant or expert at least ten (10) days before access to the Protected Material is to be given to that consultant or Undertaking to object to and notify the receiving Party in writing that it objects to disclosure of Protected Material to the consultant or expert. The Parties agree to promptly confer and use good faith to resolve any such objection. If the Parties are unable to resolve any objection, the objecting Party may file a motion with the Court within fifteen (15) days of the notice, or within such other time as the Parties may agree, seeking a protective order with respect to the proposed disclosure. The objecting Party shall have the burden of proving the need for a protective order. No disclosure shall occur until all such objections are resolved by agreement or Court order;
 - (f) independent litigation support services, including persons working for or as court reporters, graphics or design services, jury or trial consulting services, and photocopy, document imaging, and database services retained by counsel and reasonably necessary to assist counsel with the litigation of this Action; and
 - (g) the Court and its personnel.
6. A Party shall designate documents, information or material as “CONFIDENTIAL” only upon a good faith belief that the documents, information or material contains confidential or proprietary information or trade secrets of the Party or a Third Party to whom the Party reasonably believes it owes an obligation of confidentiality with respect to such documents, information or material.
7. Documents, information or material produced pursuant to any discovery request in this Action, including but not limited to Protected Material designated as DESIGNATED MATERIAL, shall be used by the Parties only in the litigation of this Action and shall not be used for any other purpose. Any person or entity who obtains access to DESIGNATED MATERIAL or the contents thereof pursuant to this Order shall not make any copies, duplicates, extracts, summaries or descriptions of such DESIGNATED MATERIAL or any

portion thereof except as may be reasonably necessary in the litigation of this Action. Any such copies, duplicates, extracts, summaries or descriptions shall be classified DESIGNATED MATERIALS and subject to all of the terms and conditions of this Order.

8. To the extent a producing Party believes that certain Protected Material qualifying to be designated CONFIDENTIAL is so sensitive that its dissemination deserves even further limitation, the producing Party may designate such Protected Material “RESTRICTED -- ATTORNEYS’ EYES ONLY,” or to the extent such Protected Material includes computer source code and/or live data (that is, data as it exists residing in a database or databases) (“Source Code Material”), the producing Party may designate such Protected Material as “RESTRICTED CONFIDENTIAL SOURCE CODE.”
9. For Protected Material designated RESTRICTED -- ATTORNEYS’ EYES ONLY, access to, and disclosure of, such Protected Material shall be limited to individuals listed in paragraphs 5(a-c) and (e-g); provided, however, that access by in-house counsel pursuant to paragraph 5(c) be limited to in-house counsel who exercise no competitive decision-making authority on behalf of the client. For Protected Material designated RESTRICTED CONFIDENTIAL SOURCE CODE, access to, and disclosure of, such Protected Material shall be limited to individuals listed in paragraphs 5(a-b) and (e-g).
10. For Protected Material designated RESTRICTED CONFIDENTIAL SOURCE CODE, the following additional restrictions apply:
 - (a) Access to a Party’s Source Code Material shall be provided only on “stand-alone” computer(s) (that is, the computer may not be linked to any network, including a local area network (“LAN”), an intranet or the Internet). The stand-alone computer(s) may be connected to (i) a printer, or (ii) a device capable of temporarily storing electronic copies solely for the limited purposes permitted pursuant to paragraphs 10 (h and k) below. Additionally, except as provided in paragraph 10(k) below, the stand-alone computer(s) may only be located at the offices of the producing Party’s outside counsel;

- (b) The receiving Party shall make reasonable efforts to restrict its requests for such access to the stand-alone computer(s) to normal business hours, which for purposes of this paragraph shall be 8:00 a.m. through 6:00 p.m. Monday through Friday (excluding federal holidays). However, upon reasonable notice from the receiving party, the producing Party shall make reasonable efforts to accommodate the receiving Party's request for access to the stand-alone computer(s) outside of normal business hours. The Parties agree to cooperate in good faith such that maintaining the producing Party's Source Code Material at the offices of its outside counsel shall not unreasonably hinder the receiving Party's ability to efficiently and effectively conduct the prosecution or defense of this Action;
- (c) The producing Party shall provide the receiving Party with information explaining how to start, log on to, and operate the stand-alone computer(s) in order to access the produced Source Code Material on the stand-alone computer(s);
- (d) The producing Party will produce Source Code Material in computer searchable format on the stand-alone computer(s) as described above;
- (e) Access to Protected Material designated RESTRICTED CONFIDENTIAL - SOURCE CODE shall be limited to outside counsel and up to three (3) outside consultants or experts² (*i.e.*, not existing employees or affiliates of a Party or an affiliate of a Party) retained for the purpose of this litigation and approved to access such Protected Materials pursuant to paragraph 5(e) above. A receiving Party may include excerpts of Source Code Material in a pleading, exhibit, expert report, discovery document, deposition transcript, other Court document, provided that the Source Code Documents are appropriately marked under this Order, restricted to those who are entitled to have access to them as specified herein, and, if filed with the Court, filed under seal in accordance with the Court's rules, procedures and orders;
- (f) To the extent portions of Source Code Material are quoted in a Source Code Document, either (1) the entire Source Code Document will be stamped and treated as RESTRICTED CONFIDENTIAL SOURCE CODE or (2) those pages containing quoted Source Code Material will be separately stamped and treated as RESTRICTED CONFIDENTIAL SOURCE CODE;
- (g) Except as set forth in paragraph 10(k) below, no electronic copies of Source Code Material shall be made without prior written consent of the producing Party, except as necessary to create documents which, pursuant to the Court's rules, procedures

² For the purposes of this paragraph, an outside consultant or expert is defined to include the outside consultant's or expert's direct reports and other support personnel, such that the disclosure to a consultant or expert who employs others within his or her firm to help in his or her analysis shall count as a disclosure to a single consultant or expert.

and order, must be filed or served electronically;

- (h) The receiving Party shall be permitted to make a reasonable number of printouts and photocopies of Source Code Material, all of which shall be designated and clearly labeled “RESTRICTED CONFIDENTIAL SOURCE CODE,” and the receiving Party shall maintain a log of all such files that are printed or photocopied. No recordable media or recordable devices, including without limitation sound recorders, computers (apart from those specific in paragraph 10(a)), cellular telephones, peripheral equipment, cameras, CDs, DVDs, or drives of any kind, shall be permitted into room in which Source Code Material is being reviewed pursuant to paragraph 10(a);
 - (i) Should such printouts or photocopies be transferred back to electronic media pursuant to paragraph 10(g), such media shall be labeled “RESTRICTED CONFIDENTIAL SOURCE CODE” and shall continue to be treated as such;
 - (j) If the receiving Party’s outside counsel, consultants, or experts obtain printouts or photocopies of Source Code Material, the receiving Party shall ensure that such outside counsel, consultants, or experts keep the printouts or photocopies in a secured locked area in the offices of such outside counsel, consultants, or expert. The receiving Party may also temporarily keep the printouts or photocopies at: (i) the Court for any proceedings(s) relating to the Source Code Material, for the dates associated with the proceeding(s); (ii) the sites where any deposition(s) relating to the Source Code Material are taken, for the dates associated with the deposition(s); and (iii) any intermediate location reasonably necessary to transport the printouts or photocopies (*e.g.*, a hotel prior to a Court proceeding or deposition); and
 - (k) A producing Party’s Source Code Material may only be transported by the receiving Party at the direction of a person authorized under paragraph 10(e) above to another person authorized under paragraph 10(e) above, on paper or removable electronic media (*e.g.*, a DVD, CD-ROM, or flash memory “stick”) via hand carry, Federal Express or other similarly reliable courier. Source Code Material may not be transported or transmitted electronically over a network of any kind, including a LAN, an intranet, or the Internet. Source Code Material may only be transported electronically for the purpose of Court proceeding(s) or deposition(s) as set forth in paragraph 10(j) above and is at all times subject to the transport restrictions set forth herein. But, for those purposes only, the Source Code Materials may be loaded onto a stand-alone computer.
11. Any attorney representing a Party, whether in-house or outside counsel, and any person associated with a Party and permitted to receive the other Party’s Protected Material that is designated RESTRICTED -- ATTORNEYS’ EYES ONLY and/or RESTRICTED

CONFIDENTIAL SOURCE CODE (collectively “HIGHLY SENSITIVE MATERIAL”), who obtains, receives, has access to, or otherwise learns, in whole or in part, the other Party’s HIGHLY SENSITIVE MATERIAL under this Order shall not prepare, prosecute, supervise, or assist in the preparation or prosecution of any patent application pertaining to the field of the invention of the patents-in-suit on behalf of the receiving Party or its acquirer, successor, predecessor, or other affiliate during the pendency of this Action and for one year after its conclusion, including any appeals. To ensure compliance with the purpose of this provision, each Party shall create an “Ethical Wall” between those persons with access to HIGHLY SENSITIVE MATERIAL and any individuals who, on behalf of the Party or its acquirer, successor, predecessor, or other affiliate, prepare, prosecute, supervise or assist in the preparation or prosecution of any patent application pertaining to the field of invention of the patent-in-suit.

12. Nothing in this Order shall require production of documents, information or other material that a Party contends is protected from disclosure by the attorney-client privilege, the work product doctrine, or other privilege, doctrine, or immunity. If documents, information or other material subject to a claim of attorney-client privilege, work product doctrine, or other privilege, doctrine, or immunity is inadvertently or unintentionally produced, such production shall in no way prejudice or otherwise constitute a waiver of, or estoppel as to, any such privilege, doctrine, or immunity. Any Party that inadvertently or unintentionally produces documents, information or other material it reasonably believes are protected under the attorney-client privilege, work product doctrine, or other privilege, doctrine, or immunity may obtain the return of such documents, information or other material by promptly notifying the recipient(s) and providing a privilege log for the inadvertently or

unintentionally produced documents, information or other material. The recipient(s) shall gather and return all copies of such documents, information or other material to the producing Party, except for any pages containing privileged or otherwise protected markings by the recipient(s), which pages shall instead be destroyed and certified as such to the producing Party.

13. There shall be no disclosure of any DESIGNATED MATERIAL by any person authorized to have access thereto to any person who is not authorized for such access under this Order. The Parties are hereby ORDERED to safeguard all such documents, information and material to protect against disclosure to any unauthorized persons or entities.
14. Nothing contained herein shall be construed to prejudice any Party's right to use any DESIGNATED MATERIAL in taking testimony at any deposition or hearing provided that the DESIGNATED MATERIAL is only disclosed to a person(s) who is: (i) eligible to have access to the DESIGNATED MATERIAL by virtue of his or her employment with the designating party, (ii) identified in the DESIGNATED MATERIAL as an author, addressee, or copy recipient of such information, (iii) although not identified as an author, addressee, or copy recipient of such DESIGNATED MATERIAL, has, in the ordinary course of business, seen such DESIGNATED MATERIAL, (iv) a current or former officer, director or employee of the producing Party or a current or former officer, director or employee of a company affiliated with the producing Party; (v) counsel for a Party, including outside counsel and in-house counsel (subject to paragraph 9 of this Order); (vi) an independent contractor, consultant, and/or expert retained for the purpose of this litigation; (vii) court reporters and videographers; (viii) the Court; or (ix) other persons entitled hereunder to access to DESIGNATED MATERIAL. DESIGNATED MATERIAL shall not be disclosed

to any other persons unless prior authorization is obtained from counsel representing the producing Party or from the Court.

15. Parties may, at the deposition or hearing or within thirty (30) days after receipt of a deposition or hearing transcript, designate the deposition or hearing transcript or any portion thereof as “CONFIDENTIAL,” “RESTRICTED - ATTORNEY’ EYES ONLY,” or “RESTRICTED CONFIDENTIAL SOURCE CODE” pursuant to this Order. Access to the deposition or hearing transcript so designated shall be limited in accordance with the terms of this Order. Until expiration of the 30-day period, the entire deposition or hearing transcript shall be treated as confidential.
16. Any DESIGNATED MATERIAL that is filed with the Court shall be filed under seal and shall remain under seal until further order of the Court. The filing party shall be responsible for informing the Clerk of the Court that the filing should be sealed and for placing the legend “FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER” above the caption and conspicuously on each page of the filing. Exhibits to a filing shall conform to the labeling requirements set forth in this Order. If a pretrial pleading filed with the Court, or an exhibit thereto, discloses or relies on confidential documents, information or material, such confidential portions shall be redacted to the extent necessary and the pleading or exhibit filed publicly with the Court.
17. The Order applies to pretrial discovery. Nothing in this Order shall be deemed to prevent the Parties from introducing any DESIGNATED MATERIAL into evidence at the trial of this Action, or from using any information contained in DESIGNATED MATERIAL at the trial of this Action, subject to any pretrial order issued by this Court.
18. A Party may request in writing to the other Party that the designation given to any

DESIGNATED MATERIAL be modified or withdrawn. If the designating Party does not agree to redesignation within ten (10) days of receipt of the written request, the requesting Party may apply to the Court for relief. Upon any such application to the Court, the burden shall be on the designating Party to show why its classification is proper. Such application shall be treated procedurally as a motion to compel pursuant to Federal Rules of Civil Procedure 37, subject to the Rule's provisions relating to sanctions. In making such application, the requirements of the Federal Rules of Civil Procedure and the Local Rules of the Court shall be met. Pending the Court's determination of the application, the designation of the designating Party shall be maintained.

19. Each outside consultant or expert to whom DESIGNATED MATERIAL is disclosed in accordance with the terms of this Order shall be advised by counsel of the terms of this Order, shall be informed that he or she is subject to the terms and conditions of this Order, and shall sign an acknowledgment that he or she has received a copy of, has read, and has agreed to be bound by this Order. A copy of the acknowledgment form is attached as Appendix A.
20. To the extent that any discovery is taken of persons who are not Parties to this Action ("Third Parties") and in the event that such Third Parties contended the discovery sought involves trade secrets, confidential business information, or other proprietary information, then such Third Parties may agree to be bound by this Order.
21. To the extent that discovery or testimony is taken of Third Parties, the Third Parties may designate as "CONFIDENTIAL" or "RESTRICTED -- ATTORNEYS' EYES ONLY" any documents, information or other material, in whole or in part, produced or given by such Third Parties. The Third Parties shall have ten (10) days after production of such


documents, information or other materials to make such a designation. Until that time period lapses or until such a designation has been made, whichever occurs sooner, all documents, information or other material so produced or given shall be treated as “CONFIDENTIAL” in accordance with this Order.

22. Within thirty (30) days of final termination of this Action, including any appeals, all DESIGNATED MATERIAL, including all copies, duplicates, abstracts, indexes, summaries, descriptions, and excerpts or extracts thereof (excluding excerpts or extracts incorporated into any privileged memoranda of the Parties and materials which have been admitted into evidence in this Action), shall at the producing Party’s election either be returned to the producing Party or be destroyed. The receiving Party shall verify the return or destruction by affidavit or declaration furnished to the producing Party, upon the producing Party’s request.
23. The failure to designate documents, information or material in accordance with this Order and the failure to object to a designation at a given time shall not preclude the filing of a motion at a later date seeking to impose such designation or challenging the propriety thereof. The entry of this Order and/or the production of documents, information and material hereunder shall in no way constitute a waiver of any objection to the furnishing thereof, all such objections being hereby preserved.
24. Any Party knowing or believing that any other party is in violation of or intends to violate this Order and has raised the question of violation or potential violation with the opposing party and has been unable to resolve the matter by agreement may move the Court for such relief as may be appropriate in the circumstances. Pending disposition of the motion by the Court, the Party alleged to be in violation of or intending to violate this Order shall

discontinue the performance of and/or shall not undertake the further performance of any action alleged to constitute a violation of this Order.

25. Production of DESIGNATED MATERIAL by each of the Parties shall not be deemed a publication of the documents, information and material (or the contents thereof) produced so as to void or make voidable whatever claim the Parties may have as to the proprietary and confidential nature of the documents, information or other material or its contents.
26. Nothing in this Order shall be construed to effect an abrogation, waiver or limitation of any kind on the rights of each of the Parties to assert any applicable discovery or trial privilege.
27. Each of the Parties shall also retain the right to file a motion with the Court (a) to modify this Order to allow disclosure of DESIGNATED MATERIAL to additional persons or entities if reasonably necessary to prepare and present this Action and (b) to apply for additional protection of DESIGNATED MATERIAL.

So ORDERED and SIGNED this 12th day of April, 2022.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ORANGE ELECTRONIC CO. LTD.

v.

AUTEL INTELLIGENT TECHNOLOGY
CORP., LTD

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Case No. 2:21-CV-0240-JRG

**APPENDIX A
UNDERTAKING OF EXPERTS OR CONSULTANTS REGARDING
PROTECTIVE ORDER**

I, _____, declare that:

1. My address is _____.
My current employer is _____.
My current occupation is _____.
2. I have received a copy of the Protective Order in this action. I have carefully read and understand the provisions of the Protective Order.
3. I will comply with all of the provisions of the Protective Order. I will hold in confidence, will not disclose to anyone not qualified under the Protective Order, and will use only for purposes of this action any information designated as “CONFIDENTIAL,” “RESTRICTED -- ATTORNEYS’ EYES ONLY,” or “RESTRICTED CONFIDENTIAL SOURCE CODE” that is disclosed to me.
4. Promptly upon termination of these actions, I will return all documents and things designated as “CONFIDENTIAL,” “RESTRICTED -- ATTORNEYS’ EYES ONLY,” or “RESTRICTED CONFIDENTIAL SOURCE CODE” that came into my possession, and all documents and things that I have prepared relating thereto, to the outside counsel

for the party by whom I am employed.

5. I hereby submit to the jurisdiction of this Court for the purpose of enforcement of the Protective Order in this action.

I declare under penalty of perjury that the foregoing is true and correct.

Signature _____

Date _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ORANGE ELECTRONIC CO. LTD.,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	CIVIL ACTION NO. 2:21-CV-00240-JRG
	§	
AUTEL INTELLIGENT TECHNOLOGY, CORP., LTD.,	§ § §	
<i>Defendant.</i>	§	

CLAIM CONSTRUCTION MEMORANDUM OPINION AND ORDER

Before the Court is the Opening Claim Construction Brief filed by Orange Electronic Co. Ltd. (“Orange”) (Dkt. No. 61), the Responsive Claim Construction Brief filed by Autel Intelligent Technology Corp., Ltd. (“Autel”) (Dkt. No. 69), and Orange’s Reply Claim Construction Brief (Dkt. No. 70). The Court held a hearing on December 16, 2022. (Dkt. No. 78).

On June 30, 2021, Orange filed a Complaint, asserting infringement against Autel Intelligent Technology Corp., Ltd. (“Autel”) of U.S. Patent No. 8,031,064 (the “’064 Patent”). Generally, the ’064 Patent relates to “an identification rewritable tire pressure detecting apparatus.” ’064 B1 Patent at 1:10–11. The parties dispute the scope of five terms from five claims, and Autel challenges two of the terms as indefinite.¹ Having considered the parties’ briefing and arguments of counsel at the hearing, the Court resolves the disputes as follows.

¹ The briefing addresses a sixth term (i.e., “identification”), but the parties advised the Court before the hearing that they resolved the dispute.

I. BACKGROUND

A. The Technology

FIG. 4 (below) of the '064 Patent shows a prior-art tire pressure detecting system and setting apparatus. '064 B1 Patent at 2:29–30. At the time of the application, tire pressure monitoring systems typically included a pressure detector (74) in each tire (82) and a monitoring apparatus (72) that receives wireless signals from the detectors (74). *See* '064 B1 Patent at 1:25–39. The detectors must sometimes be replaced, such as if a detector fails. *See id.* at 1:18–20 (noting the average lifetime of a detector is five years). If a detector fails, a setting apparatus (90) is used to inform the monitoring apparatus (72) of the replacement detector's identification. A receiving module (92)² receives wireless signals from the new detector (74D) and sends the signal to the controller (94), which provides the necessary information to the monitoring apparatus (72). *See id.* at 1:39–51.

² The text identifies (92) as a “receiving module,” but FIG. 4 labels (92) as a “low frequency transmitter.” This appears to be a drafting mistake given that (a) the connected antenna is receiving a signal from (74D) and (b) the presence of a “low-frequency transmitter” with its own antenna to the left of (92).

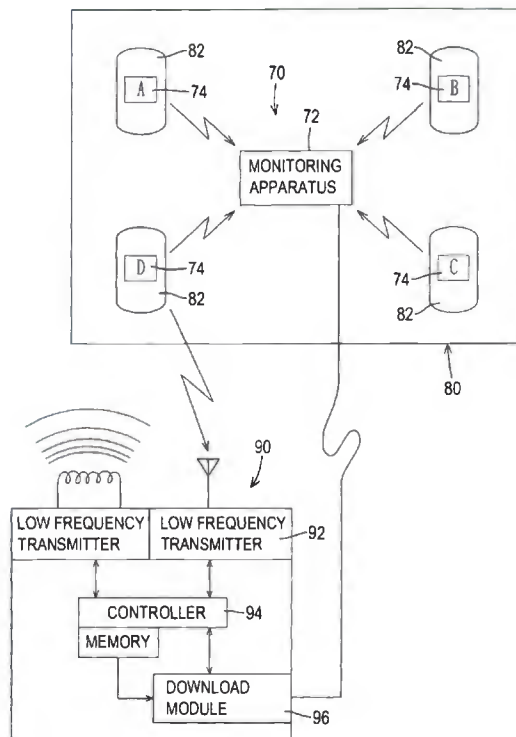


FIG.4

According to the '064 Patent, prior-art setting devices are specific to the manufacturer of the detector, which is inconvenient. *Id.* at 1:52–57. The '064 Patent addresses that problem by teaching a detector to which can be written the identification of the detector to be replaced. *Id.* at 1:65–2:2. While the prior art of FIG. 4 teaches reconfiguring the monitoring apparatus, the '064 Patent teaches configuring the new detector with the replaced detector's information.

B. The Prosecution History

The prosecution history of the '064 Patent includes three reexaminations and a petition for *inter partes* review (“IPR”). In October 2011, the '064 Patent issued with 13 claims. '064 B1 Patent at 4:61–6:42. Over the next three years, the United States Patent and Trademark Office (the “PTO”) issued first and second reexamination certificates cancelling, adding, and amending claims. '064

C1 Patent at 1:1–2:59³; ⁴; '064 C2 Patent at 1:1–4:52.⁵ In May 2020, the PTO issued a third reexamination certificate with the claims now at issue. '064 C3 Patent at 1:1–8:35.⁶ Finally, in September 2021, Autel petitioned for IPR, but the Patent Trial and Appeal Board (the “PTAB”) denied institution. (*See generally* Dkt. No. 66-10, Decision Denying Institution of *Inter Partes* Review (Apr. 8, 2022)).

C. The Claims at Issue

The disputed terms and phrases appear in Claim 23 and Claims 26–29 as found in the third reexamination certificate. Claims 23, 28, and 29 are directed to “[a] tire pressure detector identification updating method,” with each generally reciting the steps used by a setting apparatus to update the identification of a new detector. *See, e.g.*, '064 C3 Patent at 4:4–64 (Claim 23); *see also id.* at 7:19–8:29 (Claim 28). Claims 26–27 recite the structure of a tire pressure detector and a portable setting apparatus. *See id.* at 5:3–6:7 (Claim 26); *id.* at 6:8–18 (Claim 27).

The parties dispute the scope of five terms or phrases from these claims:

- “judging, by the setting apparatus, consistency of the update identification” in Claim 23;
- “transmitting module” and “receiving module” in Claims 26–27, which Autel challenges as indefinite; and

³ Exhibit A to Orange’s opening brief includes the '064 Patent as issued and each of the three reexamination certificates. To differentiate between the patent as issued and the certificates, this Opinion will include the kind codes (e.g., B1, C1, C2, C3) in citations.

⁴ (Dkt. No. 61-1 at 10–11).

⁵ (*Id.* at 12–14).

⁶ (*Id.* at 15–19).

- “RF signal” and “records”/“recorded” in Claims 23 and Claims 26–29.

II. GENERAL LEGAL STANDARDS

“[T]he 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) (en banc). As such, if the parties dispute the scope of the claims, the court must determine their meaning. *See, e.g., Verizon Servs. Corp. v. Vonage Holdings Corp.*, 503 F.3d 1295, 1317 (Fed. Cir. 2007); *see also Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 390 (1996), *aff’d*, 52 F.3d 967, 976 (Fed. Cir. 1995) (en banc).

Claim construction, however, “is not an obligatory exercise in redundancy.” *U.S. Surgical Corp. v. Ethicon, Inc.*, 103 F.3d 1554, 1568 (Fed. Cir. 1997). Rather, “[c]laim construction is a matter of [resolving] [] disputed meanings and technical scope, to clarify and when necessary to explain what the patentee covered by the claims” *Id.* A court need not “repeat or restate every claim term in order to comply with the ruling that claim construction is for the court.” *Id.*

When construing claims, “[t]here is a heavy presumption that claim terms are to be given their ordinary and customary meaning.” *Aventis Pharm. Inc. v. Amino Chems. Ltd.*, 715 F.3d 1363, 1373 (Fed. Cir. 2013) (citing *Phillips*, 415 F.3d at 1312–13). Courts must therefore “look to the words of the claims themselves . . . to define the scope of the patented invention.” *Id.* (citations omitted). The “ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application.” *Phillips*, 415 F.3d at 1313. This “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.*

Intrinsic evidence is the primary resource for claim construction. *See Power-One, Inc. v. Artesyn Techs., Inc.*, 599 F.3d 1343, 1348 (Fed. Cir. 2010) (citing *Phillips*, 415 F.3d at 1312). For certain claim terms, “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.” *Phillips*, 415 F.3d at 1314; *see also Medrad, Inc. v. MRI Devices Corp.*, 401 F.3d 1313, 1319 (Fed. Cir. 2005) (“We cannot look at the ordinary meaning of the term . . . in a vacuum. Rather, we must look at the ordinary meaning in the context of the written description and the prosecution history.”). For claim terms with less-apparent meanings, courts consider “those sources available to the public that show what a person of skill in the art would have understood disputed claim language to mean . . . [including] 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.*

III. THE LEVEL OF ORDINARY SKILL IN THE ART

The level of ordinary skill in the art is the skill level of a hypothetical person who is presumed to have known the relevant art at the time of the invention. *In re GFAC*, 57 F.3d 1573, 1579 (Fed. Cir. 1995). In resolving the appropriate level of ordinary skill, courts consider the types of and solutions to problems encountered in the art, the speed of innovation, the sophistication of the technology, and the education of workers active in the field. *Id.* Importantly, “[a] person of ordinary skill in the art is also a person of ordinary creativity, not an automaton.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 421 (2007).

Here, only Autel proffers a level of ordinary skill for claim-construction analysis, which Orange does not dispute. Specifically, Autel contends that a skilled artisan “would have had at

least a bachelor’s degree in electrical engineering, computer engineering, or a related subject, as well as two or more years of experience in the field.” (Dkt. No. 69 at 5). The Court adopts Autel’s proposed level of ordinary skill for purposes of construing the disputed terms and phrases.

IV. THE DISPUTED TERMS

A. “judging, by the setting apparatus, consistency of the update identification” (Claims 23, 29)

Orange’s Construction	Autel’s Construction
Plain and ordinary meaning. Alternatively, “the setting apparatus determines if the identification stored into the new tire pressure detector is consistent with the old identification read from the old tire pressure detector”	“comparing, by the setting apparatus, the update identification newly recorded in the rewritable memory unit with the old identification of the old tire pressure detector and determining whether they are the same”

This phrase is the last limitation of Claim 23. ’064 C3 Patent at 4:57–60. It is part of an earlier-recited “verifying” step, whereby after recording “update information” in the new detector the setting apparatus receives a wireless signal from the new detector and then “judges . . . consistency” of the new information and the old. *Id.* at 4:52–60.

The specification references this concept in connection with FIG. 3.

[A]fter the external identification of the old tire pressure detector has been memorized in the new identification rewriteable tire pressure detector, the serviceman may use the setting apparatus (20) to receive wireless signals from the new . . . detector. The setting apparatus (20) judges the consistence [sic] of the identifications acquired from the old tire pressure detector and the new [detector]. When the identifications is not consistence [sic], the setting apparatus performs the step of writing the old identification into a new identification rewriteable tire pressure detector (62) again.

’064 B2 Patent at 4:33–44.

The dispute centers on the meanings of “judging” and “consistency.” According to Autel,

Orange “intends to argue that the device doing the judging (i.e.,] the ‘setting apparatus’) does not itself need to compare (i.e.,] ‘judge’) the relevant information to come to a conclusion on consistency.” (Dkt. No. 69 at 6). Autel asserts that, for example, Orange might argue that the setting device could obtain information about consistency from another device and still meet this limitation. (*Id.*). Autel also argues that “consistency” should be construed as “the same” to avoid confusion and provide a “logical limit” on the phrase’s scope. (*Id.* at 8 n.4). Orange contends that Autel’s construction imports “comparing” and “the same” into the claim and runs contrary to the position that it took in its petition for IPR. (Dkt. No. 61 at 15). Also, during the hearing, Orange informed the Court that Orange does not contend something other than that the setting device does the “judging.” (Trial Tr. 12/16/2022 at 2:13–16).

The Court agrees with Orange. Regarding “consistency,” the plain meaning of that term is not “the same.” Autel concedes as much by contending that the term should be construed to avoid indefiniteness. Here, “consistency” only means “compatibility,” and Autel points to nothing in the record that changes that meaning.⁷ In fact, during the hearing, Autel suggested the proper construction might be “the same or similar enough” so that the new detector is seen as the old detector. (Trial Tr. 12/16/2022 at 7:13–23).

The Court finds no reason to construe “judging” as “comparing.” The applicable meaning of “judging” is “to form an opinion.” Comparing the old identification with the new identification may be one way to “judge the consistency,” but the Court is not persuaded that it is the *only* way. Autel correctly concludes that the setting apparatus must do the “judging.” Each of Claim 23’s recited steps requires that it be performed “by the setting apparatus.” Thus, the setting apparatus

⁷ Autel does not argue lexicography.

cannot simply obtain the judgment or determination about consistency from another device.

The Court accordingly construes this term to have its plain and ordinary meaning.

B. “transmitting module” (Claims 26, 27)

Orange’s Construction	Autel’s Construction
<p>35 U.S.C. § 112(f) does not apply.</p> <p>Plain and ordinary meaning. In the alternative, “transmitter circuit.”</p>	<p>Indefinite.</p> <p>This term should be construed in accordance with 35 U.S.C. § 112(f) and is indefinite under 35 U.S.C. § 112(b).</p> <p>Function: transmitting a radio frequency (RF) signal</p> <p>Structure: No corresponding structure disclosed in the specification, and therefore indefinite.</p>

1. Whether “transmitting module” is governed by § 112 ¶ 6⁸

A patent claim may be expressed using functional language. *See* 35 U.S.C. § 112 ¶ 6 (pre-AIA); *Williamson v. Citrix Online, LLC*, 792 F.3d 1339, 1347–49 & n.3 (Fed. Cir. 2015) (en banc in relevant portion). Under 35 U.S.C. § 112 ¶ 6, a structure may be claimed as a “means . . . for performing a specified function,” and an act may be claimed as a “step for performing a specified function.” *Masco Corp. v. United States*, 303 F.3d 1316, 1326 (Fed. Cir. 2002). When it applies, § 112 ¶ 6 limits the scope of the functional term “to only the structure, materials, or acts described in the specification as corresponding to the claimed function and equivalents thereof.” *Williamson*, 792 F.3d at 1347.

Section 112 ¶ 6 does not apply to all functional claim language. There is a rebuttable

⁸ Autel references 35 U.S.C § 112(f). Given that the patent has an effective filing date before March 16, 2013, the Court references the pre-AIA version of the statute.

presumption that § 112 ¶ 6 applies when the claim language includes “means” or “step for” terms, and a rebuttable presumption that it does *not* apply in the absence of those terms. *Masco Corp.*, 303 F.3d at 1326; *Williamson*, 792 F.3d at 1348. These presumptions stand or fall according to whether one of ordinary skill in the art would understand the claim with the functional language, in the context of the entire specification, to denote sufficiently definite structure or acts for performing the function. *See Media Rights Techs., Inc. v. Capital One Fin. Corp.*, 800 F.3d 1366, 1372 (Fed. Cir. 2015) (noting that § 112 ¶ 6 does not apply when “the claim language, read in light of the specification, recites sufficiently definite structure” (quotation marks omitted) (citing *Williamson*, 792 F.3d at 1349; *Robert Bosch, LLC v. Snap-On Inc.*, 769 F.3d 1094, 1099 (Fed. Cir. 2014))); *Williamson*, 792 F.3d at 1349 (noting that § 112 ¶ 6 does not apply when “the words of the claim are understood by persons of ordinary skill in the art to have sufficiently definite meaning as the name for structure”); *Masco Corp.*, 303 F.3d at 1326 (observing that § 112 ¶ 6 does not apply when the claim includes an “act” corresponding to “how the function is performed”); *Personalized Media Commc’ns, LLC v. I.T.C.*, 161 F.3d 696, 704 (Fed. Cir. 1998) (highlighting that § 112 ¶ 6 does not apply when the claim includes “sufficient structure, material, or acts within the claim itself to perform entirely the recited function . . . even if the claim uses the term means.” (internal quotation marks and citation omitted)). *See also Williamson*, 792 F.3d at 1350 (noting that “[m]odule’ is a well-known nonce word that can operate as a substitute for ‘means’ in the context of § 112, para. 6”).

Here, Orange contends, “[T]he transmitting module would have been understood by a person of ordinary skill in the art to have definite meaning as the name for structure.” (Dkt. No. 61 at 15). Notably, Orange does not identify that structure in its briefing. Instead, Orange argues that, during prosecution and reexamination proceedings, the examiners, PTAB, and requestors all

understood the structure of the “transmitting module.” (*Id.* at 15–16). Further, Orange emphasizes that Autel failed to argue that the term is a means-plus-function limitation during the previous proceedings. (*Id.* at 16).

Autel responds that “‘transmitting module’ is nothing more than a verbal construct devoid of structure” and is shown in the patent “only as a nondescript black box.” (Dkt. No. 69 at 10–11 (citing ’064 B1 Patent at 2:65–3:1, fig. 2)). With respect to Orange’s arguments, Autel counters that the PTO had no reason to address whether the term was governed by § 112(f) and that it did not seek a construction of the term in its petition for IPR. (*Id.* at 12).

The Court finds that Autel’s position is more persuasive. Under *Williamson*, the question is whether a skilled artisan would understand “transmitting module” not just as structure, but as *the name* for structure. See *Williamson*, 792 F.3d at 1349 (noting that § 112 ¶ 6 does not apply when “the words of the claim are understood by persons of ordinary skill in the art *to have sufficiently definite meaning as the name for structure*” (emphasis added)). In this case, Orange proffers no evidence of how such a person would understand “transmitting module.” Instead, Orange points to the *absence* of evidence for support, noting that during the various proceedings no stakeholder suggested this term was a means-plus-function term.

Regarding its alternative construction of “transmitter circuit,” Orange provides no basis for that construction either from the specification or the prosecution history. Orange appears to rely on U.S. Published Application 2007/0055411 (Nihei), which Autel cited in its petition for IPR, but Orange fails to explain why a skilled artisan would understand “transmitting module” that way. Accordingly, given that Orange has not shown this term would be understood by a skilled artisan as having sufficiently definite meaning as *the name for structure*, “transmitter module” must be considered a means-plus-function limitation.

2. *Whether the specification clearly links or associates structure with the recited function*

a. The recited function

Construing a means-plus-function limitation involves two steps. “The first step . . . is a determination of the function of the means-plus-function limitation.” *Medtronic, Inc. v. Advanced Cardiovascular Sys., Inc.*, 248 F.3d 1303, 1311 (Fed. Cir. 2001). Based on the express words of the claims at issue, the recited function is “transmitting a radio frequency (RF) signal, wherein the RF signal comprises the detection result and the identification of the identification rewritable tire pressure detector.” *See, e.g.*, ’064 C3 Patent at 5:13–17; *see also id.* at 6:18–23 (same).

b. The corresponding structure

“[T]he next step is to determine the corresponding structure disclosed in the specification and equivalents thereof.” *Medtronic*, 248 F.3d at 1311. A “structure disclosed in the specification is ‘corresponding’ structure only if the specification or prosecution history clearly links or associates that structure to the function recited in the claim.” *Id.* The focus of the “corresponding structure” inquiry is not merely whether a structure is capable of performing the recited function, but whether the corresponding structure is “clearly linked or associated” with that function. *Id.* The corresponding structure “must include all structure that actually performs the recited function.” *Default Procf Credit Card Sys. v. Home Depot U.S.A., Inc.*, 412 F.3d 1291, 1298 (Fed. Cir. 2005). Section 112 does not permit “incorporation of structure from the written description beyond that necessary to perform the claimed function.” *Micro Chem., Inc. v. Great Plains Chem. Co.*, 194 F.3d 1250, 1258 (Fed. Cir. 1999).

The disclosure of corresponding structure need not be express. *See, e.g.*, M.P.E.P. § 2185 (June 2019) (noting that “[u]nder certain limited circumstances, the written description does not

never “identifies” any structure for performing the function. However, as noted in *In re Dossel*, the question is disclosure to a skilled artisan. 115 F.3d at 946.

Although it is not clear why the written description does not simply state “transmitter” or “antenna,” based on the intrinsic record, a skilled artisan would understand the “transmitting module” as a transmitter with a control and data interface and a connected antenna. As a result, the term is not indefinite because the specification adequately discloses that structure to a person of ordinary skill in the art.

C. “receiving module” (Claims 26–27)

Orange’s Construction	Autel’s Construction
Plain and ordinary meaning: in the alternative, “receiver circuit” In addition, this element is not a means-plus-function element or indefinite	This term should be construed in accordance with 35 U.S.C. § 112(f) and is indefinite under 35 U.S.C. § 112(b). Function: receiving radio frequency (RF) signals Structure: No corresponding structure disclosed in the specification, and therefore indefinite.

The parties’ arguments concerning this term track those made for “transmitting module,” and the Court reaches a similar conclusion. First, Orange provides no evidence or argument as to how a skilled artisan would understand “receiving module” as having sufficiently definite meaning as the name for structure. Accordingly, under *Williamson*, this term is governed by 35 U.S.C. § 112 ¶ 6.

Second, the specification adequately discloses to a skilled artisan that the receiving module is a receiver with a connected antenna and an interface. For example, “[t]he receiving module (23) is electronically connected to the control module (21),” ’064 B1 Patent at 3:35–36, which requires

a control interface. Further, the module “receives the RF signal from the . . . tire pressure detector (10) [and] sends the received RF signal to the control module (21),” *id.* at 3:39–40, which a skilled artisan as defined by Autel would understand requires an RF receiver and an antenna.

Finally, this inherently disclosed structure is clearly associated with the recited function of “receiv[ing] the RF signal . . . and send[ing] the RF signal to the control module.” *Id.* at 5:35–38 (Claim 26); *see also id.* at 6:41–44 (Claim 27). Accordingly, the term is not indefinite.

D. “RF signal” (Claims 23, 26–29)

Orange’s Construction	Autel’s Construction
Plain meaning applies and no construction necessary. Alternatively, “a signal in the radio frequency range.”	“wireless signal using radio frequencies”

This term appears in all five claims. Claim 23, for example, recites “receiving [a] radio frequency (RF) signal from [an old detector] by the receiving module and retrieving the old identification . . . from the RF signal, and storing the old identification in the setting apparatus.” ’064 C3 Patent at 4:13–17. Similarly, Claims 26 and 27 require a tire-pressure detector with a transmitting module to transmit an RF signal comprising a detection result and the identification of the detector. *Id.* at 5:13–17; *see also id.* at 6:19–23. These claims also require a setting apparatus with a receiving module to receive the RF signal from the detector and send the RF signal to a control module. *Id.* at 5:35–38; *see also id.* at 6:41–44. Autel contends that, according to the claim language, sending the RF signal from the receiving module to the control module must happen wirelessly.

The Court rejects Autel’s contention. A skilled artisan would understand from the context of the claims and the specification that “send[ing] the RF signal to the control module” concerns

the usable data transferred from the detector to the setting device—that is, the “detection result” and the “identification” of the detector. *See, e.g.*, ’064 B1 Patent at 3:39–42 (noting “[t]he receiving module (23) sends the received RF signal to the control module (21) thereby the control module (21) has the preset identification of the . . . tire detector”). The RF signal itself is not useful to the control module, which is not described as having an RF receiver nor is the receiving module disclosed as having an RF transmitter to *send* the signal to the control module. Finally, nothing in the specification suggests that the communication link between the receiving module and control module is wireless.

The Court construes “send the RF signal to the control module” in Claims 26–27 as “send the detection result and the identification of the identification rewritable tire pressure detector to the control module.” Otherwise, the Court construes “RF signal” to have its plain and ordinary meaning.

E. “records” and “recorded” (Claim 23, 26–29)

Orange’s Construction	Autel’s Construction
Plain and ordinary meaning. Alternatively, “records” means “stores or saves information,” and “recorded” means “having been stored or saved”	“recording information without replacing other information”

The parties dispute whether the scope of “recording” information includes overwriting old information with new information. According to Autel, “record” and “overwrite” do not overlap. (Dkt. No. 69 at 27). Orange, however, contends “without replacing other information” improperly narrows the meaning of the term. (Dkt. No. 61 at 25 (arguing that Autel’s construction “would read words into the claim”)).

By using “recording” in its construction, Autel implicitly acknowledges that the plain and

ordinary meaning of “record” does not include “without replacing other information.” Otherwise, there would be no need to include a variation of the disputed term in the construction itself. *See also Overwrite*, YOURDICTIONARY, <https://www.yourdictionary.com/overwrite> (last visited Dec. 22, 2022) (“To record (data) in a file, on a disk, etc. in such a way as to replace data that is already there.”). Thus, Autel’s position must be based on disavowal or lexicography, which it must show clearly and unambiguously. *See Thorner v. Sony Comput. Entm’t Am. LLC*, 669 F.3d 1362, 1365 (Fed. Cir. 2012) (noting that the only exceptions to words of claims having their plain and ordinary meaning are “1) when a patentee sets out a definition and acts as his own lexicographer, or 2) when the patentee disavows the full scope of a claim term either in the specification or during prosecution,” and “[b]oth exceptions require a clear and explicit statement by the patentee”).

Autel relies on the claims and prosecution history. Regarding the claims, Autel points to the uses of “record” and “overwrite” in Claims 16 and 18. Claim 16 requires the detector to either (1) *record* the updated information in memory or (2) *overwrite* the preset identification in the memory. (Dkt. No. 69 at 28 (citing ’064 C3 Patent at 2:16–23)). Similarly, Claim 18 recites either (1) *overwriting* the preset identification in the memory unit or (2) *recording* the updated information. (*Id.* (citing ’064 C3 Patent at 3:36–45)). Autel argues that the foregoing shows that these terms have distinct meanings without any overlap. *Id.*

As to the prosecution history, Autel points to Orange’s addition of conditional statements to claim language in an August 14, 2014 amendment to overcome an obviousness rejection. (Dkt. No. 69 at 29). According to Autel, adopting Orange’s construction would lose meaning and “fly in the face of the argument Orange used to save its patent during reexamination.” (*Id.*).

Autel does not show clear and unambiguous disavowal or redefinition of the terms. Contrary to Autel’s assertion, Orange’s position does not render any claim limitations superfluous.

For example, in Claim 18, if “the preset identification” is “stored therein,” it must be overwritten and will no longer exist. Yet, if “the preset identification” is not “stored therein,” there is no requirement to overwrite anything and the information may be recorded *anywhere* in the apparatus. Although these may be minor distinctions, such does not make these limitations superfluous.

Autel’s prosecution-history argument is not persuasive. Such argument is merely duplicative of its Claims 16/18 argument, which focuses on the conditional language added during the amendment. Autel makes no attempt to explain the substance of the referenced obviousness rejection or why Orange’s amendments and accompanying remarks give rise to disavowal or redefinition or how those amendments “saved the patent.” (*See* Dkt. No. 69 at 29).

Autel notes that “record” and “overwrite” presumptively have different meanings (Dkt. No. 69 at 30 (citing *Innova*, 381 F.3d at 1119 (Fed. Cir. 2004))), but that alone does not require the scope of one term to exclude the other. The Court rejects Autel’s construction as Autel has not shown clear and unambiguous disavowal or redefinition of the disputed terms. The Court construes this term to have its plain and ordinary meaning.


V. CONCLUSION

Disputed Term	The Court's Construction
“judging, by the setting apparatus, consistency of the update identification” (Claims 23, 29)	plain and ordinary meaning
“transmitting module” (Claims 26, 27)	<p>Governed by 35 U.S.C. § 112 ¶ 6 (pre-AIA)</p> <p>Function: transmitting a radio frequency (RF) signal, wherein the RF signal comprises the detection result and the identification of the detector</p> <p>Structure: a transmitter with a control and data interface, and an antenna connected to the transmitter</p>
“receiving module” (Claims 26, 27)	<p>Governed by 35 U.S.C. § 112 ¶ 6 (pre-AIA)</p> <p>Function: receiving the RF signal and sending the RF signal to the control module</p> <p>Structure: a receiver with a control and data interface, and an antenna connected to the receiver</p>
“send the RF signal to the control module” (Claims 26–27)	“send the detection result and the identification of the identification rewritable tire pressure detector to the control module”
“RF signal” (Claims 23, 26–29)	plain and ordinary meaning
“records” / “recorded” (Claims 23, 26–29)	plain and ordinary meaning

The Court **ORDERS** each party not to refer, directly or indirectly, to its own or any other party's claim-construction positions in the presence of the jury. Likewise, the Court **ORDERS** the parties to refrain from mentioning any part of this opinion, other than the actual positions adopted by the Court, in the presence of the jury. Neither party may take a position before the jury that

contradicts the Court's reasoning in this opinion. Any reference to claim construction proceedings is limited to informing the jury of the positions adopted by the Court.

So ORDERED and SIGNED this 18th day of January, 2023.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE

Appx22-56 REMOVED DUE TO CONFIDENTIAL MATERIAL

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

ORANGE ELECTRONIC CO. LTD.,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	CIVIL ACTION NO. 2:21-CV-00240-JRG
	§	
AUTEL INTELLIGENT TECHNOLOGY	§	
CORP., LTD.,	§	
	§	
<i>Defendant.</i>	§	

FINAL JUDGMENT

A jury trial commenced in the above-captioned case on June 5, 2023. On June 8, 2023, the jury reached and returned its unanimous verdict finding that (1) Plaintiff Orange Electronic Co. Ltd. (“Plaintiff”) proved by a preponderance of the evidence that Defendant Autel Intelligent Technology Corp., Ltd. (“Defendant”) infringed claims 26 and 27 of U.S. Patent No. 8,031,064; (2) Defendant did not prove by clear and convincing evidence that claims 26 and 27 of U.S. Patent No. 8,031,064 are invalid as obvious; (3) Defendant did not prove by clear and convincing evidence that the claim elements of U.S. Patent No. 8,031,064, both individually and as an ordered combination, involve only technology that was well-understood, routine, and conventional at the time of the alleged invention; and (4) Plaintiff proved by a preponderance of the evidence that Defendant willfully infringed U.S. Patent No. 8,031,064. (Dkt. No. 159 at 4–7.) The jury ultimately found that Plaintiff proved by a preponderance of the evidence that \$6,616,397 would compensate it for its damages for infringement from May 15, 2020 through April 30, 2023. (*Id.* at 8.)

However, subsequent to the trial, the Court granted Defendant’s Rule 50(b) Post-Trial Motion concerning infringement. (Dkt. No. 215.) There, the Court held that there is no legally

