

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

Agilent Technologies, Inc. v. Axion Biosystems, Inc.

Agilent v. Axion · No. Civil Action No. 23-198-CJB · Decided January 6, 2026

SUMMARY

The United States District Court for the District of Delaware addresses cross-motions for summary judgment concerning whether patent claims reciting “cell index” terms are indefinite. The court grants Agilent Technologies’ motion, adopts its proposed constructions, and denies Axion Biosystems’ indefiniteness motion. The opinion concludes that the intrinsic evidence provides reasonable certainty regarding the meaning and scope of the coined claim terms.

CASE DETAILS

COURT	United States District Court for the District of Delaware
WRITING FOR THE COURT	Christopher J. Burke
JURISDICTION	United States District Court for the District of Delaware
DECIDED	January 6, 2026
DOCKET	Civil Action No. 23-198-CJB
DISPOSITION	other
PROCEDURAL POSTURE	The parties filed competing motions for summary judgment concerning whether patent claims reciting cell-index terminology were indefinite. Agilent also sought construction of the disputed claim terms.
STANDARD OF REVIEW	Summary judgment is governed by the standard incorporated from the court's prior memorandum opinion. Indefiniteness is a question of law, and any fact critical to an indefiniteness holding must be proven by clear and convincing evidence. Claim construction is also a question of law.
PRECEDENTIAL VALUE	unknown

TOPICS

- patent infringement
- patent law
- commercial litigation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the asserted patent claims reciting "calculating cell index values," "calculating a cell index," and "cell index" are indefinite under 35 U.S.C. § 112(b).
2. How the disputed cell-index terms should be construed.

HOLDINGS

1. The terms "calculating cell index values," "calculating a cell index," and "cell index" are not indefinite because the intrinsic record informs a person of ordinary skill in the art, with reasonable certainty, that the terms concern parameters derived from measured impedance values and reflecting a change in impedance values.
2. "Calculating cell index values" means "calculating parameters derived from measured impedance values that reflect a change in impedance values."
3. "Calculating a cell index" means "calculating a parameter derived from measured impedance values that reflects a change in impedance values," and "cell index" means "a parameter derived from measured impedance values that reflects a change in impedance values."

KEY QUOTATIONS

"For these reasons, Axion's assertions of indefiniteness do not establish that the cell index terms fail to inform, with reasonable certainty, those skilled in the art about the scope of the invention." (at 15)

"The cell index terms shall be construed as follows:" (at 16-17)

FACTUAL BACKGROUND

Agilent asserted claims from U.S. Patent Nos. 7,192,752, 7,468,255, and 8,026,080 against Axion in a patent-infringement action. The asserted claims used the terms "calculating cell index values," "calculating a cell index," and "cell index," which the parties agreed were coined terms created by the inventors. The patents' specifications described cell indexes as parameters derived from measured impedance values and used to reflect changes in impedance values, and disclosed multiple methods for calculating them.

PROCEDURAL HISTORY

Agilent commenced the patent-infringement action on February 23, 2023, asserting infringement of three patents and a false-advertising claim. The parties filed the relevant motions on July 10, 2025. The court granted Agilent's motion for claim construction and summary judgment of no indefiniteness, denied Axion's motion for summary judgment of indefiniteness, and indicated that an order would issue.

DISPOSITION

other

CASES CITED

- Glaxo SmithKline LLC v. Glenmark Pharms. Inc., USA, Civil Action Nos. 14-877-LPS-CJB, 14-878-LPS-CJB, 2017 WL 8948972, at *3-4 (D. Del. May 24, 2017), report and recommendation adopted, 2017 WL 2493786 (D. Del. June 9, 2017)
- Nautilus, Inc. v. Biosig Instruments, Inc., 572 U.S. 898 (2014)
- All Dental Prodx, LLC v. Advantage Dental Prods., Inc., 309 F.3d 774, 779-80 (Fed. Cir. 2002)
- H-W Tech., L.C. v. Overstock.com, Inc., 758 F.3d 1329, 1332 (Fed. Cir. 2014)
- Intel Corp. v. VIA Techs., Inc., 319 F.3d 1357, 1366 (Fed. Cir. 2003)
- Tech. Licensing Corp. v. Videotek, Inc., 545 F.3d 1316, 1338 (Fed. Cir. 2008)
- Iridescent Networks, Inc. v. AT&T Mobility, LLC, 933 F.3d 1345, 1353 (Fed. Cir. 2019)
- IQASR LLC v. Wendt Corp., 825 F. App'x 900, 904 (Fed. Cir. 2020)
- Indacon, Inc. v. Facebook, Inc., 824 F.3d 1352, 1357 (Fed. Cir. 2016)
- Irdeto Access, Inc. v. Echostar Satellite Corp., 383 F.3d 1295, 1300 (Fed. Cir. 2004)
- Integra LifeScis. Corp. v. HyperBranch Med. Tech., Inc., Civil Action No. 15-819-LPS-CJB, 2017 WL 3336274, at *5 (D. Del. July 27, 2017), report and recommendation adopted, 2017 WL 5172396 (D. Del. Nov. 8, 2017)
- Microsoft Corp. v. Multi-Tech Sys., Inc., 357 F.3d 1340, 1349-50 (Fed. Cir. 2004)
- Baxter Healthcare Corp. v. Mylan Lab'ys Ltd., 346 F. Supp. 3d 643, 658 (D.N.J. 2016)
- Cummins-Allison Corp. v. Glory Ltd., 457 F. Supp. 2d 843, 850 (N.D. Ill. 2006)
- Nanoco Techs. Ltd. v. Samsung Elecs. Co., Case No. 2:20-cv-00038-JRG, 2021 WL 1890453, at *1, *6-7 (E.D. Tex. May 11, 2021)
- Cree, Inc. v. SemiLEDs Corp., Civil Action No. 10-866-RGA, 2012 WL 975697, at *6 (D. Del. Mar. 21, 2012)
- Virco Mfg. Corp. v. SSI Liquidating, Inc., Civil Action No. 20-906-LPS-CJB, 2022 WL 1184060, at *5 n.3 (D. Del. Apr. 21, 2022), report and recommendation adopted, 2022 WL 2235840 (D. Del. June 22, 2022)
- Kaifi LLC v. AT&T Corp., Case No. 2:19-CV-00138-JRG, 2020 WL 1905358, at *11-12 (E.D. Tex. Apr. 17, 2020)
- FMC Corp. v. Sharda USA, LLC, 145 F.4th 1326, 1332 (Fed. Cir. 2025)
- Dow Chem. Co. v. Nova Chems. Corp. (Can.), 803 F.3d 620, 624-25, 631-35 (Fed. Cir. 2015)
- Phillips v. AWH Corp., 415 F.3d 1303, 1323 (Fed. Cir. 2005)
- RSB Spine, LLC v. Depuy Synthes Sales, Inc., Civil Action No. 19-01515-RGA, 2025 WL 40843, at *8-9 (D. Del. Jan. 7, 2025)
- Vstream Techs., LLC v. PLR Holdings, LLC, Case No. 6:15cv974-JRG-JDL, 2016 WL 6211550, at *5-6, *8 (E.D. Tex. Sept. 27, 2016), report and recommendation adopted, 2016 WL 6159624 (E.D. Tex. Oct. 24, 2016)
- Procter & Gamble Co. v. Team Techs., Inc., 46 F. Supp. 3d 764, 774-75 (S.D. Ohio 2014)
- Niazi Licensing Corp. v. St. Jude Med. S.C., Inc., 30 F.4th 1339, 1347 (Fed. Cir. 2022)
- Nichia Corp. v. VIZIO, Inc., Case No. SA CV16-00545 SJO (MRW), 2018 WL 11350040, at *10-12 (C.D. Cal. May 29, 2018)

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