

"PLAIN MEANING" REFERS TO THE ORDINARY AND CUSTOMARY MEANING GIVEN TO THE TERM BY THOSE OF ORDINARY SKILL IN THE ART

"[T]he 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 v. AWH Corp.*, 415 F.3d 1303, 1313, 75 USPQ2d 1321>, 1326< (Fed. Cir. 2005) (*en banc*). *Sunrace Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir. 2003); *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d 1132, 1136 (Fed. Cir. 2003)("In the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art"). It is the use of the words in the context of the written description and customarily by those skilled in the relevant art that accurately reflects both the "ordinary" and the "customary" meaning of the terms in the claims. *Ferguson Beauregard/Logic Controls v. Mega Systems*, 350 F.3d 1327, 1338, 69 USPQ2d 1001, 1009 (Fed. Cir. 2003) (Dictionary definitions were used to determine the ordinary and customary meaning of the words "normal" and "predetermine" to those skilled in the art. In construing claim terms, the general meanings gleaned from reference sources, such as dictionaries, must always be compared against the use of the terms in context, and the intrinsic record must always be consulted to identify which of the different possible dictionary meanings is most consistent with the use of the words by the inventor.); *ACTV, Inc. v. The Walt Disney Company*, 346 F.3d 1082, 1092, 68 USPQ2d 1516, 1524 (Fed. Cir. 2003) (Since there was no express definition given for the term "URL" in the specification, the term should be given its broadest reasonable interpretation consistent with the intrinsic record and take on

the ordinary and customary meaning attributed to it by those of ordinary skill in the art; thus, the term "URL" was held to encompass both relative and absolute URLs); and *E-Pass Technologies, Inc. v. 3Com Corporation*, 343 F.3d 1364, 1368, 67 USPQ2d 1947, 1949 (Fed. Cir. 2003) (Where no explicit definition for the term "electronic multi-function card" was given in the specification, this term should be given its ordinary meaning and broadest reasonable interpretation; the term should not be limited to the industry standard definition of credit card where there is no suggestion that this definition applies to the electronic multi-function card as claimed, and should not be limited to preferred embodiments in the specification.).

The ordinary and customary meaning of a term may be evidenced by a variety of sources, >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."< *Phillips v. AWH Corp.*, 415 F.3d at 1314, 75 USPQ2d at 1327. If extrinsic reference sources, such as dictionaries, evidence more than one definition for the term, the intrinsic record must be consulted to identify which of the different possible definitions is most consistent with applicant's use of the terms. *Brookhill-Wilk 1*, 334 F. 3d at 1300, 67 USPQ2d at 1137; see also *Renishaw PLC v. Marposs Societa" per Azioni*, 158 F.3d 1243, 1250, 48 USPQ2d 1117, 1122 (Fed. Cir. 1998) ("Where there are several common meanings for a claim term, the patent disclosure serves to point away from the improper meanings and toward the proper meanings") and *Vitronics Corp. v. Conceptronic Inc.*, 90 F.3d 1576, 1583, 39 USPQ2d 1573, 1577 (Fed. Cir. 1996) (construing the term "solder reflow temperature" to mean "peak reflow temperature" of solder rather than the "liquidus temperature" of solder in order to remain consistent with the specification.). If more than one extrinsic definition is consistent with the use of the words in the

intrinsic record, the claim terms may be construed to encompass all consistent meanings. See e.g., *Rexnord Corp. v. Laitram Corp.*, 274 F.3d 1336, 1342, 60 USPQ2d 1851, 1854 (Fed. Cir. 2001) (explaining the court's analytical process for determining the meaning of disputed claim terms); *Toro Co. v. White Consol. Indus., Inc.*, 199 F.3d 1295, 1299, 53 USPQ2d 1065, 1067 (Fed. Cir. 1999) ("[W]ords in patent claims are given their ordinary meaning in the usage of the field of the invention, unless the text of the patent makes clear that a word was used with a special meaning."). Compare *MSM Investments Co. v. Carolwood Corp.*, 259 F.3d 1335, 1339-40, 59 USPQ2d 1856, 1859-60 (Fed. Cir. 2001) (Claims directed to a method of feeding an animal a beneficial amount of methylsulfonylmethane (MSM) to enhance the animal's diet were held anticipated by prior oral administration of MSM to human patients to relieve pain. Although the ordinary meaning of "feeding" is limited to provision of food or nourishment, the broad definition of "food" in the written description warranted finding that the claimed method encompasses the use of MSM for both nutritional and pharmacological purposes.); and *Rapoport v. Dement*, 254 F.3d 1053, 1059-60, 59 USPQ2d 1215, 1219-20 (Fed. Cir. 2001) (Both intrinsic evidence and the plain meaning of the term "method for treatment of sleep apnea" supported construction of the term as being limited to treatment of the underlying sleep apnea disorder itself, and not encompassing treatment of anxiety and other secondary symptoms related to sleep apnea.).