

## Intrinsic, not Extrinsic, Evidence Rule in Claim Construction

### Seabed Geosolutions (US) Inc., No. 2020-1237 (Fed. Cir. August 11, 2021)

By: Reid Huefner & Victoria Hanson | August 13, 2021

On August 11, 2021, the Court of Appeals for the Federal Circuit (“CAFC”) held that the Patent Trial and Appeal Board (“PTAB”) erred in construing a key term—“fixed”—in the patent claims too narrowly. After construing the term to have special meaning, and relying on extrinsic evidence to support that finding, the PTAB determined that Seabed Geosolutions (US) Inc. (“Seabed”) failed to show that Magseis FF LLC’s (“Magseis”) RE45,268 patent (“’268 Patent”) was invalid as anticipated or obvious in an *inter partes review*. However, the Federal Circuit rejected that reasoning, finding the PTAB’s use of extrinsic evidence to be improper, and held that the term, “fixed,” should be construed to have its ordinary meaning.

The ’268 Patent covers oil and gas seismic exploration using seismometers, which involves sending a signal into the earth and using geophones to detect seismic reflections. Each claim included that the “geophone internally [was] fixed within” either a “housing” or “internal compartment” of a seismometer.

On April 27, 2018, Seabed petitioned for *inter partes review* of the ’268 Patent on multiple grounds, including obviousness. The PTAB construed the phrasing “geophone internally fixed within [the] housing” to require a non-gimbaled geophone. This finding was based on extrinsic evidence that, according to the PTAB, supported the conclusion that “fixed” had a special meaning in the relevant art at the time of the invention—i.e., “not gimbaled”—rather than an ordinary meaning. In light of this narrow construction, the PTAB held that the cited prior art did not disclose the “fixed” geophone limitation.

The CAFC declined to follow the PTAB’s reasoning. The CAFC noted that the PTAB was required to use the broadest reasonable interpretation standard to construe claim terms (as this case predated November 13, 2018 when the standard was changed); but, more important, the CAFC also noted that intrinsic evidence—which includes considering the patent claims, specification, and prosecution history—should be given primacy in any claim construction analysis. Extrinsic evidence should only be considered if it is consistent with the intrinsic evidence. If the meaning of a term is clear from the intrinsic evidence, there is no reason to use extrinsic evidence to interpret a term.

The CAFC found that the PTAB erred in relying on extrinsic evidence to alter the meaning of the word “fixed” when it was clear from intrinsic evidence that “fixed” merely meant “mounted or fastened inside.” The specifications disclosed that a geophone was “internally mounted within” the seismometer housing and did not mention gimbaled geophones. Further, the prosecution history supported this interpretation. As such, the intrinsic evidence as a whole supported an interpretation of “geophone internally fixed within [the] housing” that did not include gimbaled geophones.

This case demonstrates how the outcome of a patentability analysis can hinge on a single term. And because claim construction “begin[s] with the intrinsic evidence,” it is important to consistently elucidate in a patent’s specification what is (and what is not) within the meaning of the terms used in the patent and its claims.