

As discussed above, the phrases “EDTA sodium salt” and “sodium edetate”⁶ mean a sodium salt of ethylenediaminetetraacetic acid. These phrases encompass, for example, the disodium salt of ethylenediaminetetraacetic acid. This is the plain and ordinary meaning of these phrases based on the claim language itself.

Plaintiffs’ proposed construction of the ordinary and customary meaning of the phrases “EDTA sodium salt” and “sodium edetate” is consistent with and supported by the specification of the patents-in-suit and prosecution history. The specification refers to sodium edetate throughout and nowhere restricts this phrase to the tetrasodium salt, as Defendants arbitrarily propose. (*See, e.g.*, Ex. 1 at 6:26-28, Table 2, Examples 1-3; Ex. 32 at ¶ 141.) In fact, the patented commercial embodiment Prolensa[®] contains the disodium salt, [-----
-----REDACTED-----]. (Ex. 6 at “Description”; [REDACTED].)

During prosecution, the Patent Examiner made clear that “sodium edetate” and “EDTA sodium salt” encompass disodium edetate. (Ex. 40 at 5; Ex. 32 at ¶ 142.) The Examiner initially rejected claims reciting “sodium edetate” and “EDTA sodium salt” based on the Yanni reference’s disclosure of disodium EDTA, stating that Yanni teaches incorporation of “EDTA sodium salt (disodium EDTA).”⁷ (Ex. 40 at 5; Ex. 41; Ex. 32 at ¶ 143.) Additionally, as part of the record of the patents-in-suit before the Patent Office, and therefore part of the intrinsic record, *Vitronics*, 90 F.3d at 1582, three separate experts, in declarations accompanying *inter partes*

⁶ During prosecution of the ’431 patent, the applicants made clear that sodium edetate and EDTA sodium salt are equivalent, stating that “EDTA sodium salt is also known as sodium edetate.” (Ex. 38 at 7; Ex. 32 at ¶ 142.) Defendants have not disputed that these phrases are equivalent.

⁷ The Applicants overcame this rejection during prosecution.