

United States District Court,
S.D. California.

SAFETY SYRINGES INC., a Delaware corporation,
Plaintiff.

v.

BECTON, DICKINSON AND COMPANY, a New Jersey Corporation,
Defendants.

Safety Syringes, Inc., a Delaware corporation,
Plaintiff.

v.

Aventis Pharmaceuticals, Inc., a Delaware corporation,
Defendants.

Civil Nos. 01CV2031-B(JMA), 02CV0229-B(JMA), 03CV1376-B(JMA)

Jan. 29, 2004.

James W. Geriak, Hope E. Melville, Orrick Herrington and Sutcliffe, Irvine, CA, for Plaintiff.

Robert S. Brewer, Jr., McKenna Long and Aldridge, Rochelle K. Seide, Robert Neuner, Kimberly J. McGraw, Betty J. Santohigashi, James J. Mittermiller, Sheppard Mullin Richter and Hampton, San Diego, CA, Timothy R. Jezek, William G. McElwain, Wilmer Cutler Pickering Hale and Dorr, Washington, DC, Wendy A. Haller, William F. Lee, Wilmer Cutler Pickering Hale and Dorr, Boston, MA, Walter M. Egbert, Baker Botts, New York, NY, for Defendants.

ORDER CONSTRUING CLAIMS OF U.S. PATENT NUMBER 6,344,032

RUDI M. BREWSTER, District Judge.

In the above identified cases, Safety Syringes, Inc. ("Safety Syringes") filed suit against Defendants Becton, Dickinson and Company ("Becton Dickinson") and Aventis Pharmaceuticals, Inc. ("Aventis"), for patent infringement of United States Patent Number 6,344,032 ("the '032 patent"). FN1

Pursuant to *Markman v. Westview Instruments*, 52 F.3d 967 (Fed.Cir.1995), this Court conducted a hearing on January 21, 2004 to construe the disputed claims of the '032 patent.FN2 At the January 21, 2004 hearing, Safety Syringes was represented by the law firm of Orrick, Herrington & Sutcliffe, LLP, Becton Dickinson was represented by McKenna, Long & Aldridge, LLP and Aventis was represented by the law firm of Baker Botts, LLP.

The Court, with the assistance of the parties, prepared jury instructions interpreting the pertinent claims for all claim terms at issue in the '032 patent. Additionally, a "Glossary" was prepared for terms found in the '032 patent considered to be technical in nature, and which a jury of laypersons would not understand

without a specific definition. As the case advances, the parties may request additional terms to be added to the glossary as may seem helpful to the jury.

After careful consideration of the parties' arguments and the applicable law, the Court **HEREBY CONSTRUES** all disputed claim terms in the '032 patent, attached as Exhibit A. Further, the Court **HEREBY DEFINES** all pertinent technical terms as written in exhibit B, attached hereto.

This claims construction order shall supercede any previous claims construction order issued in any of the above titled cases and control the legal construction of the claims at issue in these cases.

IT IS SO ORDERED.

EXHIBIT A TO ORDER CONSTRUING PATENT CLAIMS AND TERMS OF U.S. PATENT NO. 6,344,032 FOR JURY TRIAL

U.S. Patent No. 6,344,032-Claim 1	
Claim Language	Court Construction of Meaning of Claim Language
1. A guard for a medical cartridge comprising proximal and distal ends, the distal end having a needle extending therefrom, the guard comprising:	means "A guard for a medical cartridge comprising proximal and distal ends, the distal end having a needle extending therefrom, the guard comprising:" <i>[Same as claim language]</i>
<i>[a]</i> a substantially rigid body having a cavity for receiving the cartridge axially therein through an open proximal end of the body, and having a distal end including an opening through which the needle may extend when the cartridge is received within the cavity;	means "a substantially rigid body having a cavity for receiving the cartridge axially therein through an open proximal end of the body, and having a distal end including an opening through which the needle may extend when the cartridge is received within the cavity;" <i>[Same as claim language]</i>
<i>[b]</i> a finger grip on the proximal end of the body,	means " the portion of the body which extends proximally from and includes the finger ledges "
the finger grip comprising <i>[i]</i> lateral surfaces substantially enclosing a recess for receiving the proximal end of the cartridge therein when the cartridge is received in the cavity,	means " the finger grip portion of the body has sides which largely surround a three dimensional space for receiving the proximal end of the cartridge "
<i>[ii]</i> the lateral surfaces comprising locking detents defining slots in the lateral surfaces for engaging the proximal end of the cartridge received in the cavity, thereby locking the cartridge in the body;	means " the sides having locking detents outlining slots in the sides for engaging the proximal end of the cartridge received in the cavity, thereby locking the cartridge in the body; "
<i>[c]</i> a shield slidably attached to the body, and having open proximal and distal ends, the shield being slidable between an unguarded and a guarded position, thereby uncovering and covering, respectively, the needle on the cartridge; and	means "a shield slidably attached to the body, and having open proximal and distal ends, the shield being slidable between an unguarded and a guarded position, thereby uncovering and covering, respectively, the needle on the cartridge; and" <i>[Same as claim language]</i>
<i>[d]</i> cooperating detents on the body and the shield for mutually engaging to hold the shield in the guarded position.	means "cooperating detents on the body and the shield for mutually engaging to hold the shield in the guarded position." <i>[Same as claim language]</i>

EXHIBIT A TO ORDER CONSTRUING PATENT CLAIMS AND TERMS OF U.S. PATENT NO.

U.S. Patent No. 6,344,032-Claim 9

Claim Language	Court Construction of Meaning of Claim Language
9. A syringe comprising:	means "A syringe comprising:" [Same as claim language]
[a] a cartridge for holding medication having proximal and distal ends, and having a needle extending from the distal end and a lip on the proximal end;	means "a cartridge for holding medication having proximal and distal ends, and having a needle extending from the distal end and a lip on the proximal end;" [Same as claim language]
[b] a substantially rigid body having a cavity into which the cartridge is received,	means "a substantially rigid body having a cavity into which the cartridge is received," [Same as claim language]
a finger grip on a proximal end of the body	means " the portion of the body which extends proximally from and includes the finger ledges "
having lateral surfaces substantially enclosing a recess for receiving the lip therein when the cartridge is received in the cavity,	means " the finger grip portion of the body has sides which largely surround a three dimensional space for receiving the proximal end of the cartridge. "
and a locking mechanism defining slots in the lateral surfaces for engaging the lip to substantially permanently encapsulate the cartridge in the cavity, thereby restraining the cartridge from moving proximally from the cavity,	means " a locking mechanism consisting of slots in the sides for interlocking the lip to substantially permanently enclose the cartridge in the cavity, thereby restraining the cartridge from moving from the cavity towards the user, "
the body having a distal opening through which the needle extends;	means "the body having a distal opening through which the needle extends;" [Same as claim language]
[c] a shield slidably attached to the body, the shield being slidable distally in relation to the body from an unguarded position where the needle extends beyond a distal end of the shield to a guarded position where the shield substantially covers the needle;	means "a shield slidably attached to the body, the shield being slidable distally in relation to the body from an unguarded position where the needle extends beyond a distal end of the shield to a guarded position where the shield substantially covers the needle;" [Same as claim language]
[d] cooperating detents on the shield and body for locking the shield in the guarded position.	means "cooperating detents on the shield and body for locking the shield in the guarded position." [Same as claim language]

EXHIBIT A TO ORDER CONSTRUING PATENT CLAIMS AND TERMS OF U.S. PATENT NO. 6,344,032 FOR JURY TRIAL

U.S. Patent No. 6,344,032-Claim 12

Claim Language	Court Construction of Meaning of Claim Language
12. A guard for a medical cartridge having a proximal and a distal end, and having its own needle extending from the distal end, the guard comprising	means "A guard for a medical cartridge having a proximal and a distal end, and having its own needle extending from the distal end, the guard comprising" [Same as claim language]
[a] a body having a cavity adapted to receive the	means "a body having a cavity adapted to receive the

cartridge axially therein through an open proximal end of the body, and having a distal end including an opening through which the needle may extend when the cartridge is received within the cavity;	cartridge axially therein through an open proximal end of the body, and having a distal end including an opening through which the needle may extend when the cartridge is received within the cavity;" <i>[Same as claim language]</i>
[b] lateral surfaces on the proximal end of the body	means " sides on the proximal end of the body "
[i] substantially enclosing a recess for receiving the proximal end of the medical cartridge,	means " the sides largely surround a three dimensional space for receiving the proximal end of the cartridge "
[ii] the lateral surfaces comprising locking detents defining slots in the lateral surfaces	means " the sides having locking detents outlining slots in the sides "
for substantially permanently engaging the proximal end of the cartridge received in the cavity;	means "for substantially permanently engaging the proximal end of the cartridge received in the cavity;" <i>[Same as claim language]</i>
[c] a shield slidably attached to the body, and having open proximal and distal ends, the shield being slidable between an unguarded and a guarded position, thereby uncovering and covering, respectively, the needle on the cartridge;	means "a shield slidably attached to the body, and having open proximal and distal ends, the shield being slidable between an unguarded and a guarded position, thereby uncovering and covering, respectively, the needle on the cartridge;" <i>[Same as claim language]</i>
[d] a finger grip on one of the body and the shield; and	means " the portion of the body or the shield which extends proximally from and includes the finger ledges "
[e] cooperating detents on the shield and body for holding the shield in the unguarded and guarded positions.	means "cooperating detents on the shield and body for holding the shield in the unguarded and guarded positions." <i>[Same as claim language]</i>

EXHIBIT B TO ORDER CONSTRUING PATENT CLAIMS AND TERMS OF U.S. PATENT NO. 6,344,032 FOR JURY TRIAL

Glossary Terms

"axially" means along the length of the body

"distal" means "further from the user"

"engaging" means "interlocking"

"lateral surfaces" means "sides"

"locking detents" mean "catches that hold a part in place"

"locking mechanism" means "a mechanism that restrains one part from moving in relationship to another"

"proximal" means "closer to the user"

"slots" mean "narrow openings into which something can be inserted"

Exhibit B

Case Glossary

Patent Terms	Definitions
Axially	Along the length of the body.
Distal	Further from the user.
Engaging	Interlocking.
Lateral Surfaces	Side surfaces.
Locking Detent	A catch that holds a part in place.
Locking Mechanism	A mechanism that restrains one part from moving in relationship to another.
Proximal	Closer to the user.

Slot A narrow opening into which something can be inserted.

FN1. The '032 patent issued on February 5, 2002 and contains 17 claims.

FN2. The January 21, 2004 hearing was the second claims construction hearing regarding the '032 patent conducted in cases 01CV2031 and 02CV0229. The Court had previously issued a claims construction order regarding the '032 patent in those two cases. However, Safety Syringes filed suit against Aventis (03CV1376) after the Court issued the Markman Order in cases 01CV2031 and 02CV0229. For reasons of due process, the Court conducted a Markman hearing in case 03CV1376 to give Aventis an opportunity to litigate construction of the claims at issue in the '032 patent. Counsel for Becton Dickinson were also permitted to appear at the January 21, 2004 hearing to ensure one consistent claims construction order for all cases pending before this court which involve the '032 patent.

S.D.Cal.,2004.

Safety Syringes Inc. v. Becton, Dickinson and Co.

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