

United States District Court,
W.D. Michigan, Southern Division.

GRAND HAVEN STAMPED PRODUCTS COMPANY, a division of JSJ Corp,
Plaintiff and Counter-Defendant.

v.

DURA AUTOMOTIVE SYSTEM, INC,
Defendant and Counter-Plaintiff.

Dura Operating Corp,
Plaintiff and Counter-Defendant.

v.

Grand Haven Stamped Products Company, a division of JSJ Corp,
Defendant and Counter-Plaintiff.

Nos. 1:02-CV-420, 1:03-CV-95

Feb. 12, 2004.

Matthew Gipson, Steven L. Underwood, Price Heneveld Cooper Dewitt & Litton, Grand Rapids, MI, for
Plaintiff/Plaintiff and Counter-Defendant.

Dale A. Malone, James M. McKenzie, Banner & Witcoff, Ltd., Boston, MA, for Defendant and Counter-
Plaintiff.

Peter D. McDermott, for Defendant and Counter-Plaintiff/Plaintiff and Counter-Defendant.

Randall G. Litton, Price Heneveld Cooper Dewitt & Litton, Grand Rapids, MI, for Defendant and Counter-
Plaintiff.

Steven L. Underwood, Price Heneveld Cooper Dewitt & Litton, Grand Rapids, MI, for Plaintiff/Plaintiff and
Counter-Defendant/Defendant and Counter-Plaintiff.

ORDER

RICHARD ALAN ENSLEN, District Judge.

IT IS HEREBY ORDERED that the Court adopts the legal construction contained in the Opinion of this
date of the terms in claims 1, 2 and 8 of U.S. Patent No. 5,309,783 as the binding interpretations in these
cases.

OPINION

This matter is before the Court to consider legal claim constructions of patent claims in two consolidated

cases-Case No. 1:02-CV-420 and Case No. 1:03-CV-95. The first case was filed in this Court on June 10, 2002. The latter case was filed in the Eastern District of Michigan on or about late October 2002 and was transferred to this District by Order of February 6, 2003. The two cases were then consolidated by Order of March 13, 2003. In the lead case, Plaintiff Grand Haven Stamped Products Company has sued Defendant Dura Automotive System, Inc. for a declaratory judgment of non-infringement regarding Defendant' U.S. Patent No. 5,309,783 ("the '783 patent"), which is a patent covering particular kinds of automobile automatic transmission shifters and shifter housings. Defendant has counter-claimed for infringement in the lead case and sued for infringement in the consolidated case. FN1 Plaintiff has also counter-claimed for a declaratory judgment of non-infringement in the consolidated case. According to the parties' claim construction charts, statements and briefs, the claims at issue are claims 1, 2 and 8 of the ' 783 patent. In connection with the claim construction, the parties have not requested any evidentiary hearing nor have they requested the Court to consider any extrinsic evidence. Therefore, the Court will make its claim construction without hearing based on the parties' written submissions.

FN1. Actually, the Plaintiff in the second suit (Dura Operating Corp .) is the subsidiary of Defendant Dura Automotive System, Inc. (the Defendant in the first suit); nevertheless, they represent the same legal interests as to the patent.

CLAIM CONSTRUCTION LEGAL STANDARDS

As part of the case management of these two cases, the parties were ordered to submit claim construction charts, statements and briefs for the purpose of determining the legal construction of the pertinent patent claims. The Court has now read and analyzed those papers. In doing so, the Court has concluded that a hearing on claim construction is unnecessary since the claim construction may be readily made from the pertinent claim language and the intrinsic evidence filed by the parties. The papers themselves are clear and do not need further comment. The United States Supreme Court's decision in *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996) made clear that patent construction is an essential aspect of patent adjudication, but took no position on the process to be used in claim construction. *See Ballard Med. Prods. v. Allegiance Healthcare Corp.*, 268 F.3d 1352, 1358 (Fed.Cir.2001). In the Court's judgment, the process used in this case is sufficient to fairly adjudicate the legal construction of the claims and to allow the parties a fair opportunity to be heard prior to the construction.

Under federal patent law, the patent claims define the patentee's property rights in the claimed invention similar to the manner in which a property description in a deed defines a land owner's right to possess real property. *In re Vamco Mach. & Tool, Inc.*, 752 F.2d 1564, 1577 n. 5 (Fed.Cir.1985). Construction of the patent claim language is a matter of law for the courts to explicate on the record. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 976 (Fed.Cir.1994) (*en banc*), *aff'd*, 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996); *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1581-82 (Fed.Cir.1996).

In *Vitronics*, the Federal Circuit explained claim construction as follows:

It is well-settled that, in interpreting an asserted claim, the court should look first to the intrinsic evidence of record, i.e., the patent itself, including the claims, the specification and, if in evidence, the prosecution history.... Such intrinsic evidence is the most significant source of the legally operative meaning of disputed claim language.

First, we look to the words of the claims themselves, both asserted and non-asserted, to define the scope of the patented invention.... Although words in a claim are generally given their ordinary and customary meaning, a patentee may choose to be his own lexicographer and use terms in a manner other than their ordinary meaning, as long as the special definition of the term is clearly stated in the patent specification or file history....

Thus, second, it is always necessary to review the specification to determine whether the inventor has used any terms in a manner inconsistent with their ordinary meaning. The specification acts as a dictionary when it expressly defines terms used in the claims or when it defines terms by implication.... As we have repeatedly stated, "[c]laims must be read in view of the specification, of which they are a part." ... The specification contains a written description of the invention which must be clear and complete enough to enable those of ordinary skill in the art to make and use it. Thus, the specification is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.

Third, the court may also consider the prosecution history of the patent, if in evidence.... This history contains the complete record of all the proceedings before the Patent and Trademark Office, including any express representations made by the applicant regarding the scope of the claims. As such, the record before the Patent and Trademark Office is often of critical significance in determining the meaning of the claims....

In most situations, an analysis of the intrinsic evidence alone will resolve any ambiguity in a disputed claim term. In such circumstances, it is improper to rely on extrinsic evidence.... In those cases where the public record unambiguously describes the scope of the patented invention, reliance on any extrinsic evidence is improper. The claims, specification, and file history, rather than extrinsic evidence, constitute the public record of the patentee's claim, a record on which the public is entitled to rely. In other words, competitors are entitled to review the public record, apply the established rules of claim construction, ascertain the scope of the patentee's claimed invention and, thus, design around the claimed invention.... Allowing the public record to be altered or changed by extrinsic evidence introduced at trial, such as expert testimony, would make this right meaningless.... The same holds true whether it is the patentee or the alleged infringer who seeks to alter the scope of the claims.

Vitronics, 90 F.3d at 1581-83 (citations omitted).

In the absence of an expressed intention to attach a novel meaning to claim terms, claim terms assume the full breadth of the ordinary and customary meanings usually attributed to them by those of ordinary skill in the art. *Ferguson Beauregard/Logic Controls, Div. of Dover Resources, Inc. v. Mega Syst. LLC*, 350 F.3d 1327, 1338 (Fed.Cir.2003). Customary meaning may be drawn from a variety of sources, including the claims themselves, dictionaries and treatises, the specification and drawings, and the prosecution history. *Id.* (citing cases). The use of dictionary definitions requires special care because those definitions, while reflecting common usage, sometimes do not reflect the context of the invention or the understandings of persons skilled in the art. *Id.* The claim language must be examined through the eyes of a person skilled in the art. *Id.*

Notwithstanding the above rules of construction, there are at least two common situations wherein the common usage of terms is improper when defining claim terms. One situation is where the patentee, acting as his or her own lexicographer, clearly adopts an alternate definition. *ACTV, Inc. v. Walt Disney Co.*, 346 F.3d 1082, 1091 (Fed.Cir.2003). Another situation is where the patentee has disavowed or disclaimed scope

of coverage, by using words or expressions of manifest exclusion or restriction, representing a clear disavowal of claim scope. *Id.*; *Teleflex, Inc. v. Ficosa N. Am. Corp.*, 299 F.3d 1313, 1324-26 (Fed.Cir.2002). The latter category includes circumstances in which the patentee during the prosecution history disclaimed or disavowed subject matter, narrowing the scope of the claim terms. *Id.*

CLAIM LANGUAGE

Claim 1 recites:

A housing for an automatic transmission shifter comprising a unitary piece of plastic having spaced upper, side and end walls and a bottom having an opening, said walls defining a housing interior surface, a straight-sided slot formed in the upper wall for receiving a shifter control level therethrough, a pair of aligned bosses formed in the side walls for mounting a shift level pivot pin, position control means defining a plurality of discrete transmission control positions formed on the interior surface of the housing, and flanges extending from the side and end walls for mounting the housing to vehicle structure wherein the shift control lever can only move unilinearly along said slot.

(783 patent, col. 5, lines 15-28.)

Claim 2 recites:

The housing of claim 1, wherein the position control means comprise a position control plate having a series of downwardly-open notches formed on the interior surface of a housing side wall.

(*Id.* at col. 5., lines 29-32.)

Claim 8 recites:

The housing of claim 1, wherein the position control means comprise a pair of spaced, aligned position control plates incorporating a series of downwardly-open notches formed on the interior surface of the side walls.

(*Id.* at col. 5, lines 53-57.)

SPECIFICATION LANGUAGE

The patent describes the background of the invention as follows:

This invention relates generally to vehicle transmission control shifters and, more particularly, to a shifter for controlling an automatic transmission....

[C]onventional shifters are unduly complex and expensive to manufacture, comprising 20 to 50 or more separate component pieces which must be manually assembled.

Accordingly, it is desirable to provide a simpler automatic transmission shifter mechanism that comprises fewer component pieces and is simpler and less expensive to manufacture.

(*Id.*, col. 1, at lines 6-8, 27-34.)

The patent summarizes the invention as follows:

It is therefore an object of this invention to provide a simpler automatic transmission shifter mechanism that comprises fewer component pieces and is simpler and less expensive to manufacture.

This invention accomplishes this object by combining many of the component parts into a single, plastic housing that is injection molded in one piece.

In one aspect, this invention features a housing for an automatic transmission shifter comprising a unitary piece of plastic open at the bottom and having spaced upper, side and end walls, a slot formed in the upper wall for receiving a shifter control lever therethrough, a pair of aligned bosses formed in the side walls for mounting a shift lever pivot pin, and flanges extending from the side and end walls for mounting the housing to vehicle structure....

(*Id.*, col. 1, at lines 37-52.)

As is typical of patents, the specification language also includes a detailed description of a preferred embodiment of the invention, which embodiment is explained by reference to technical drawings of the embodiment. (*Id.* at col. 3, line 5 to col. 5, line 13; drawing sheets 1-3.)

CLAIM CONSTRUCTION

In consideration of the law and the parties' arguments, the Court determines to adopt the below described claim constructions of disputed terms in claims 1, 2 and 8. Of course, claims 2 and 8 are dependent claims whose meaning depends on the elements of claim 1. Claim 1 is an independent claim whose meaning does not borrow limitations from the later dependent claims.

1. Claim 1

a. "a housing"

The term "housing" means a mounting assembly for securing and enclosing the transmission shifter for its use in shifting. Plaintiff urged that the term "housing" be defined to include additional limitations including its use in "protecting" the enclosed parts. However, such limitations are not consistent with the claim language nor the expressed intention of the inventor.

b. "unitary piece of plastic"

The term "unitary piece of plastic" means a single piece of molded plastic.

c. "spaced upper, side and end walls"

The term "wall" means a "barrier." Thus, the housing is formed to include upper, side and end barriers which are spaced to fulfill its function as a housing.

d. "a bottom having an opening"

The term "bottom" means the surface of the housing facing the base of the shifter. The term "opening" means that the bottom surface of the housing is open so as to accommodate the function of the housing to enclose the shifter and allow shifting.

e. "a housing interior surface"

The term "housing interior surface" means the surface of the housing facing the shifter and includes an upper, side and end walls.

f. "a straight-sided slot formed in the upper wall"

The term "slot" means a narrow opening. The opening is "straight-sided" meaning it opens for unilinear movement as opposed to serpentine movement, though the ends of the slot need not be squared off. The opening is "formed in the upper wall" meaning that the opening extends through the top and exterior surface of the housing to accommodate the shifter.

g. "a pair of aligned bosses formed in the side walls"

The term "side walls" refers to the walls between the end walls of the housing. The term "bosses" refers to two small holes in the side walls fabricated to receive and hold a pivot pin. The bosses are "aligned" in the sense that they are positioned across one another in order to mount a single pivot pin extending through both bosses.

h. "position control means defining a plurality of discrete transmission control positions"

The term "position control means" refers to the manner in which the housing controls movement of the shifter between automatic transmission gear positions (*e.g.*, PRNDL). A "position control means" is distinguished from a "rooster comb" -the prior art method of regulating shifting by a series of uniform detent notches and a cooperating spring-based follower. A "position control means" may or may not be used together with a "rooster comb." The "position control means" depicted in the drawings operates through a series of different height notches corresponding to the different transmission gear positions. (*Id.* at Figures 3 and 4, 122a and 122b). Since the term "means" is used, there is a rebuttable presumption that 35 U.S.C. s. 112 para. 6 applies. *Watts v. XL Syst., Inc.*, 232 F.3d 877, 880-81 (Fed.Cir.2000); *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1369 (Fed.Cir.2002). In other words, the "means-plus-function" clause serves to limit the claim to the disclosed structures in the specification and their equivalents unless the rebuttable presumption is overcome by the use of claim language which recites a sufficiently definite structure. *Id.* In this case, the claim language does not recite a sufficiently definite structure, so the term "means" is limited to the disclosed structures in the specification and their equivalents. That is, the "control means" is one or more control plates (or equivalent means) formed on the interior wall of the housing. The control means does not include control plates tooled through the exterior wall of the housing.

This conclusion follows from not only the claim language and the law of its interpretation, but also the purpose of the invention. The invention intended a unitary housing. To allow the housing to be constructed with control means extending through the exterior wall of the housing would necessitate additional slide pins, which would be contrary to the stated purpose of the invention in simplifying and making a cheaper housing shifter assembly. It would also require a costlier process for fabricating the control means since the control means could not be constructed by use of simple bottom and top tool dies *without additional tooling for the control means* (which is not depicted in the specification). ('783 patent, at col.4, lines 58-65.)

i. "formed on the interior surface of the housing"

The term "formed on the interior surface of the housing" refers to the enclosed, inner surface of the housing, as opposed to control means formed through the housing. During the prosecution history, Defendant distinguished its invention from prior art (Suzuki and Rosenthal) because its shifter moved unilaterally and was controlled by a control means on the interior of the housing. (Dkt. No. 46, Ex. H at 3-4.) Without this distinction, claim 1 (and the dependent claims) would not have been allowed, nor would the invention have accomplished its stated purpose of saving time and cost in manufacture. Defendant's interpretation of the term "in" as including the term "on" is not persuasive, notwithstanding the case of *Inverness Med. Switzerland GmbH v. Warner Lambert Co.*, 309 F.3d 1373 (Fed.Cir.2002). As is typical, the application of claim language from a different patent approved on unrelated prosecution history is unhelpful in addressing this case.

2. Claims 2 and 8

Claims 2 and 8 are dependent on claim 1. Thus, they each must be read with the limitations described above-which limit them to the use of control means on the interior of the shifter housing. *See Wahpeton Canvas Co., Inc. v. Frontier, Inc.*, 870 F.2d 1546, 1552 n. 9 (Fed.Cir.1989) (stating that a dependent claim contains all the limitations of the claim on which it depends). Furthermore, the language used in describing the "control plates" in claims 2 and 8 is similar to that used in claim 1 and must be read, together with the specification, as limiting the claims to the use of "control plates" and a "pair of control plates" (respectively) which are employed on the interior of the shifter housing. As stated above, a contrary interpretation would undermine the function of the invention.

CONCLUSION

For the reasons set forth above, an Order shall enter approving the interpretations set forth in this Opinion as the binding legal interpretations controlling the interpretation of claims 1, 2 and 8 of the '783 patent.

W.D.Mich.,2004.

Grand Haven Stamped Products Co. v. Dura Automotive System, Inc.

Produced by Sans Paper, LLC.