

United States District Court,  
D. Utah, Central Division.

**LEVITON MANUFACTURING COMPANY, INC,**  
Plaintiff.

v.

**GRANDWAY U.S.A. CORPORATION, d/b/a Cheetah U.S.A. Corporation,**  
Defendant.

No. 2:04-CV-00347 PGC

**Dec. 15, 2005.**

Milo Steven Marsden, Patricia C. Staible, Dorsey & Whitney, Salt Lake City, UT, Paul J. Sutton, Barry G. Magidoff, Brad S. Needleman, Joseph G. Lee, Joseph M. Manak, Michael A. Nicodema, Greenberg Traurig, New York, NY, for Plaintiff.

Robyn L. Phillips, L. David Griffin, Matthew A. Barlow, Workman Nydegger, Salt Lake City, UT, for Defendant.

**ORDER SETTING FORTH CLAIMS CONSTRUCTION OF U.S. PATENT NO. 5,950,812**

**PAUL G. CASSELL, District Judge.**

This patent infringement case concerns seven patents issued by the United States Patent and Trademark Office. On November 14, 2005, the court stayed these proceedings as to the first six patents listed in Leviton's complaint because a case involving the same patents is proceeding the United States District Court for the District of Maryland. Due to the stay, only the seventh of the seven patents in Leviton's complaint-U.S. Patent No. 5,950,812 (the '812 patent)-is it issue here.

Grandway's initial Markman brief says this in reference to the '812 patent:

As noted above, the '812 patent is directed towards rocker switch technology. On March 25, 2005, Grandway asked Leviton, by way of its Interrogatory No. 1, to state the entire basis for its claim of infringement of the '812 patent and to identify each asserted claim of the '812 patent and state with specificity how each element should be construed. Leviton has provided no substantive response to this interrogatory, and as such, Grandway is uncertain as to whether any real dispute even exists on the question of claim construction.

To this end, Grandway will respond within two weeks of receiving Leviton's claim construction brief regarding the '812 patent, if any of Leviton's constructions are unacceptable to Grandway. FN1

As of the date of this order, Grandway has yet to file a response to Leviton's proposed construction of the

'812 patent, which also was filed on October 6, 2005. Because Leviton's proposed construction is not challenged, the court hereby ADOPTS Leviton's proposed construction of the '812 patent as set forth in pages thirty-four to forty-four of Exhibit B to Leviton's initial Markman brief. FN2 As stated in Leviton's proposed constructions, the "limitation" of each claim and dependent claim of the ' 812 patent "is clear on its face."

SO ORDERED.

FN1. Def. Grandway U.S.A. Corp.'s Initial Markman Br. [Docket No. 30], at 2-3, *Leviton Mfg. Co. v. Grandway U.S.A. Corp.*, Case No. 2:04-CV-00347 PGC (D. Utah filed Oct. 6, 2005).

FN2. Leviton Mfg. Co.'s Initial Mem. of Law on Claim Construction [Docket No. 31], Ex. B, at 34-44, *Leviton Mfg. Co. v. Grandway U.S . A. Corp.*, Case No. 2:04-CV-00347 PGC (D. Utah filed Oct. 6, 2005).

D.Utah,2005.

Leviton Mfg. Co., Inc. v. Grandway U.S.A. Corp.

Produced by Sans Paper, LLC.