

United States District Court,  
W.D. Texas, San Antonio Division.

**CURTISS-WRIGHT FLOW CONTROL CORP,**  
Plaintiff.

v.  
**VELAN, INC,**  
Defendant.

Civil No. SA-04-CA-1157-OG

**June 23, 2006.**

Mark M. Supko, Crowell & Moring LLP, Mark H. Neblett, Washington, DC, Richard William Espey, Espey & Associates, PC, San Antonio, TX, for Plaintiff.

Joseph Daniel Gray, Willem G. Schuurman, Vinson & Elkins, LLP, Austin, TX, Michael J. Smith, Law Office of Michael J. Smith, Austin, TX, for Defendant.

### ***CLARIFICATION ORDER***

**JOHN W. PRIMOMO, United States Magistrate Judge.**

It has been called to the Court's attention that the Memorandum and Recommendation issued on June 20, 2006 contained two discrepancies that need clarification. Both discrepancies involve the summary recommendation (appearing on page 34) regarding the Court's proposed construction of the disputed claim terms.

The first discrepancy involves the Court's recommended construction of the term "Live-Loaded Seat Adjustment Mechanism". The construction given on page 34 in the Court's final summary recommendation does not comport with the Court's proposed construction set forth following its discussion of this disputed claim term that appears on pages 17 and 29. The construction that appears on pages 17 and 29 of the Memorandum and Recommendation is the Court's proposed construction of "live-loaded seat adjustment mechanism": a mechanism consisting of an arrangement of connected parts coupled to the main valve body that externally adjusts and controls the magnitude of the biasing force exerted by the live loaded seat against the blind while the de-heading valve system is in use, or in its operative position.

The next noted discrepancy involves the Court's recommended construction of the listed component parts of "Live-Loaded Seat Assembly". In the summary recommendation that appears on page 34, the Court organized and listed its construction as follows:

#### **B. Live-Loaded Seat Assembly**

##### **1. Dynamic, Live-Loaded Seat**

##### **2. Live-Loaded Seat Adjustment Mechanism**

The Court organized its construction in this way because the parties disputed only construction of the claim terms, "Dynamic, Live-Loaded Seat" and "Live-Loaded Seat Adjustment Mechanism" as they appeared in Claims 1 and 36 of the ' 714 patent as follows:

**'714, Claim 1:**

A coke drum de-heading system comprising: ... a live loaded seat assembly having at least one dynamic, live loaded seat and a corresponding live loaded seat adjustment mechanism to control the exertable force of said dynamic, live-loaded seat;

**'714, Claim 36;**

A coke drum de-heading valve attachable to a coke drum, said coke drum de-heading valve comprising: ... a live loaded seat assembly comprising a dynamic, live-loaded seat and a live seat adjustment mechanism for controlling the amount of exertable force of said dynamic, live-loaded seat; FN1

FN1. There is no dispute that "live loaded seat adjustment mechanism" and "live seat adjustment mechanism" have the same meaning. Also, there is no dispute that "to control the exertable force for said dynamic, live loaded seat" and "for controlling the amount of exertable force of said dynamic, live loaded seat" have the same meaning. **See Velan brief, Docket no. 51, p. 16, n. 5 .**

**See Docket no. 51, exh. A, col. 16 ll. 37-44; col. 20 ll. 45-46, 50-53.** The parties agreed the subject phrase, as it appears in claims 1 and 36, connotes the live loaded seat assembly is comprised of a combination of *at least* two general elements: a dynamic, live-loaded seat and a live-loaded seat adjustment mechanism. **See docket no. 51, p. 27; docket no. 56, p. 12; docket no. 56, p. 15.** However, the parties disputed only the construction to be given each of these two named elements. Because the parties disputed only the two claim terms "dynamic, live-loaded seat" and "live-loaded seat adjustment mechanism" as they appear in claims 1 and 36, this Court only construed those two claim terms. Because the parties did not dispute the construction of the term "live-loaded seat assembly" nor did they dispute any other terms related to this term, the Court did not include any other proposed constructions or potential components of "Live-Loaded Seat Assembly".

It is also noted that in the Court's summary recommendation that appears on page 34, it listed the proposed construction of the disputed claim term "Dynamic, Live-Loaded Seat Assembly". This disputed claim term should have appeared as "Dynamic, Live-Loaded Seat".

It is **SO ORDERED.**

W.D.Tex.,2006.

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