

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

PETTER INVESTMENTS, INC,
Plaintiff.

v.

HYDRO ENGINEERING, INC., and Hydro Engineering Equipment & Supply Co., LLP,
Defendants.

Feb. 5, 2009.

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PROPOSED CONSTRUCTION OF DISPUTED TERMS

GORDON J. QUIST, District Judge.

Plaintiff Petter Investments, Inc. (Petter) and Defendants Hydro Engineering, Inc., and Hydro Engineering Equipment & Supply Co., LLP (collectively, "Hydro") have agreed that several of the disputed terms of Hydro's patents are most likely to be dispositive of Hydro's counterclaim. In response to the Court's December 17, 2008 order, the parties enumerated those terms in their Joint Statement of Disputed Claim Terms (docket no. 138). To assist the parties in their preparation for their upcoming Markman hearing, the Court offers the following proposed construction of those terms.

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Background

I. Procedural History

Petter sued Hydro for allegedly infringing Petter's patent, U.S. Patent No. 6,021,792 (the "'792 patent"), and seeks a declaratory judgment that it has not infringed Hydro's patents, U.S. Patent Nos. 6,799,591 and 7,258,749 (the "'591" and "'749" patents, respectively). Hydro counterclaimed for alleged infringement of the '591 patent and induced infringement of the '749 patent. Hydro subsequently filed a Motion for Summary Judgment of Equitable Estoppel and Non-Infringement. The Court granted Hydro's motion on the basis of non-infringement. Hydro's counterclaims and Petter's request for a declaratory judgment remain before the Court.

II. Facts

Petter and Hydro sell wash fluid containment systems for pressure washing large equipment such as automobiles and bulldozers. Wastewater is captured, filtered, and recirculated through the pressure washer or discarded. Petter informed Hydro in 1998 that it would infringe several claims of its pending patent. Hydro responded that it "has been manufacturing pressure washers, water filtration systems and cleaning containment systems since 1980.... [I]f you feel that your pending patent is retroactive to 1980, feel free to contact our attorneys." (Docket no. 97-3 at 2.)

Petter received the '792 patent on February 8, 2000. (Docket no. 96-2 at 2.) In March 2000, Petter informed Hydro it had received the '792 patent. Petter intimated that Hydro had infringed that patent, provided a copy of the patent, and suggested it would consider granting Hydro a license. (Docket no. 97-4 at 2.) Hydro informed Petter that it been selling its products for 20 years and was protected by U.S. Patent No. 2,808,237, which "included our first edition of our containment system." (Docket no. 97-7 at 2.)

Communication stopped shortly thereafter. In the interim, Hydro received the patents underlying their counterclaim. Hydro received the '591 patent on Oct. 5, 2004. The '749 patent was issued August 21, 2007. On September 7, 2007, Hydro's attorney wrote Riveer Environmental, a name under which Petter does business. The attorney informed Riveer that it was infringing the '749 patent and demanded that it stop. Petter responded by initiating this action.

Principles of Claim Construction

Construction of patent claims is a matter of law. *See* Cybor Corp. v. FAS Techs., Inc., 138 F.3d 1448, 1454-56 (Fed.Cir.1998) (en banc). When the parties dispute the meaning of language used in a claim, the court must ascertain the scope of the exclusive rights claimed in the patent. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979 (Fed.Cir.1995) (en banc), *aff'd* 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996). Four categories of evidence elucidate the meaning and scope of the claim: 1) the language of the claim; 2) the remainder of the specification; 3) the prosecution history; and 4) extrinsic evidence-"all

evidence external to the patent [itself] and [its] prosecution history, including expert and inventor testimony, dictionaries, and learned treatises." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312-13 (Fed.Cir.2005) (en banc).

Proper claim construction begins with the language of the claims themselves. *See Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed.Cir.1996). "In construing claims, the analytical focus must begin and remain centered on the language of the claims themselves, for it is that language that the patentee chose to use to "particularly point[] out and distinctly claim[] the subject matter which the patentee regards as his invention." 35 U.S.C. s. 112, para. 2." *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 (Fed.Cir.2003) (quoting *Interactive Gift Express, Inc. v. Compuserve, Inc.*, 256 F.3d 1323, 1331 (Fed.Cir.2001)). Claim terms should be given their ordinary and customary meaning as they would be understood by "a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application." *Phillips*, 415 F.3d at 1313. This "starting point is based on the well-settled understanding that inventors are typically persons skilled in the field of the invention and that patents are addressed to and intended to be read by others of skill in the pertinent art." *Id.*

Claim terms do not import their ordinary meaning, however, in four circumstances: when the patentee 1) "act[s] as his own lexicographer and clearly set[s] forth a definition of the disputed claim term in either the specification or prosecution history;" 2) "describes a particular embodiment as important to the invention" or "distinguish[e]s th[e] term from prior art on the basis of a particular embodiment or expressly disclaimed subject matter;" 3) deprives the claim of clarity with the selected term; or 4) "phrases the claim in step- or means-plus-function format." 35 U.S.C. s. 112; *Watts v. XL Sys., Inc.*, 232 F.3d 877, 880-81 (Fed.Cir.2000).

A court should also examine the remaining specification, "not only to aid in the claim construction analysis, but also to determine if the presumption of ordinary and customary meaning is rebutted." *Brookhill-Wilk 1*, 334 F.3d at 1298. In fact, the specification is usually "the single best guide to the meaning of a disputed term." *Vitronics*, 90 F.3d at 1582. The prosecution history may also be relevant because it may "inform the meaning of the claim language by demonstrating how the inventor understood the invention and whether the inventor limited the invention in the course of prosecution, making the claim scope narrower than it would otherwise be." *Phillips*, 415 F.3d at 1317.

A court may also resort to extrinsic evidence, such as dictionaries, treatises, and expert or inventor testimony. *See id.* Technical dictionaries may be helpful in providing an understanding "of particular terminology to those of skill in the art of the invention." *Id.* at 1318. Likewise, expert testimony is useful for explaining the technology at issue and how the particular invention works, to ensure that the court's understanding of the technical aspects of the patent is consistent with that of a person of ordinary skill in the art, or to establish that a particular claim in the patent or in prior art has a particular meaning in the pertinent field. *See id.* However, unlike extrinsic evidence, intrinsic evidence, i.e., the specification and prosecution history, is created contemporaneously with the claims and is generally more reliable and thus entitled to greater weight. *See id.* at 1320-21.

Although both intrinsic and extrinsic evidence facilitate the correct construction, in the end, "the court's focus [must] remain[] on understanding how a person of ordinary skill in the art would understand the claim terms." *Id.* at 1323. This means that the court should resist the temptation to import limitations from the specification into the claims. *Id.* Thus, "[t]he construction that stays true to the claim language and most naturally aligns with the patent's description of the invention will be, in the end, the correct construction." "

Id. at 1316 (quoting *Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1250 (Fed.Cir.1995)).

Analysis

I. Disputed Claim Terms of Hydro's '591 patent

Hydro alleges infringement of claims 1, 15, 16 and 17 of its '591 patent. Claim 1 provides:

1. A low profile pad upon which vehicles having weight, including heavy vehicles, and other items are positioned and supported to remove debris from any desired external location thereof:

the pad comprising an impervious undulating top comprising ridges and sloped grooves;

the ridges structurally supporting the weight of vehicles and other items to be cleaned and the sloped grooves accommodating immediate flow of cleaning liquid and debris removed from the vehicle along the slope in the grooves to prevent accumulation of debris on the pad;

at least one trough at an edge of the pad into which the cleaning liquid and debris collectively flow and are temporarily stored, and from which stored cleaning liquid and debris are selectively removed, at one or more sites offset from without interference with any cleaning taking place on the pad.

A. First Disputed Term- "Ridges and Sloped Grooves"

The first disputed term is "**ridges and sloped grooves.**" This term appears in claim 1. Petter proposes the following construction:

raised narrow sections, with narrow furrows in between them that are not horizontal.

Petter argues that this comports with the ordinary meaning of "ridge" and "groove." It relies on several dictionaries which variously define "ridge" as "[t]he long, narrow upper section or crest of something" or "the long, narrow top or crest of something ." Hydro suggests:

a portion of the impervious top structurally supporting the weight of a vehicle and other items to be cleaned and a portion accommodating immediate flow of cleaning liquid and debris removed from the vehicle along the slope in the grooves to prevent accumulation of debris on the pad.

Petter emphasizes the specification, which refers to "supporting rails" and "fluid flow channels." Petter claims that these structures are the "ridges and sloped grooves" claimed in the patent. Petter also notes that the diagrams depict "ridges and grooves" that "are narrow relative to the size of a vehicle or the entire pad." Pl.'s Claim Construction Br. at 13. (Docket no. 117 at 13.) Petter also states the parties have agreed that "undulating" means "wave-like" and that this restriction supports its interpretation.

Hydro construes this term by reference to the functions the claim states it performs. Hydro specifically objects to Petter's proposed requirement that the ridges and grooves be "narrow." Petter's construction imposes a limitation on a broad claim term based on the description of the preferred embodiment. This is improper unless the patentee has made an explicit disavowal, *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 906 (Fed.Cir.2004), or the limitation is an "inescapable conclusion" of the patent's functional requirements. *Whirlpool Corp. v. LG Elecs. Inc.*, 423 F.Supp.2d 730, 744 (W.D.Mich.2004). Hydro has not

so limited the width of the ridges and grooves, nor do the functional requirements of the invention impose such a restriction.

The Oxford English Dictionary (2nd ed.1989), provides several definitions, the most applicable of which is "the top, upper part, or crest of anything, especially when long and narrow." "Narrow" is not a requisite imposed by the extrinsic evidence and should be rejected.

"Groove" is defined as "a channel or hollow, cut by artificial means." Oxford English Dictionary, *supra* at 6. "Sloped" is defined as "deviating from the horizontal or perpendicular." *Id* . The context reveals that "sloped" refers to deviation from the horizontal. The Court thus determines that the appropriate construction of "ridges" is: **the top, upper, or crest portions of the impervious top**, and "sloped grooves" is: **channels or hollows in the impervious top deviating from the horizontal**.

B. Second Disputed Term- "Vehicle Support Areas"

The parties also dispute the construction of "**vehicle support areas**," which appears in claim 16. Claim 16 provides:

16. A washing apparatus for vehicles and other items encumbered by exterior debris comprising:

an impervious low profile pad having a gentle slope to at least one edge thereof, the pad comprising vehicle support areas and slightly lower liquid flow path-defining channels, by which essentially all debris washed from the vehicle or other item using wash liquid is carried off the pad with the wash liquid to the at least one edge;

at least one drainage storage trough disposed directly adjacent to and below the at least one edge of the pad into which essentially all of the debris and all of the used wash liquid run from the flow path-defining channels and are accumulated, store and subsequent selective segregated and removed.

Petter proposes it be construed as:

areas at one part of the pad that can carry or bear the weight of a vehicle by themselves, and that are comparable to the width of the liquid flow path defining channels.

Hydro asserts that this term is plain on its face, harmonizes with the intrinsic record and requires no construction. Def.'s Resp. Claim Construction Br. at 21. (Docket no. 128 at 21.)

Taken alone, "vehicle support areas" is vague. Any surface of sufficient strength might suffice. However, the meaning and scope of patent claims is determined by reading the entire patent holistically and in light of the prosecution history. *V-Formation, Inc., v. Benetton Group SpA*, 401 F.3d 1307, 1310 (Fed.Cir.2005). The context of the surrounding claim language provides detail in this case. The pad comprises "vehicle support areas and slight lower liquid flow path-defining channels." The vehicle support areas are thus raised above these channels. The channels direct the flow of wastewater and thus serve a purpose similar to the "sloped grooves" in claim 1 and the "sloped drainage corridors" in claim 15. Whether the vehicle support areas or path-defining channels lie parallel to the plane of the pad itself is not specified.

Petter's construction imposes the "comparable width" limitation the Court rejected in the construction of

"ridge portions" and "sloped drainage corridors." The Court rejects it here for the reasons given previously. The specification describes a preferred embodiment with vehicle support structures called "rails" that appear much like the ridges described in claim 1. Nothing indicates the claim is so constrained, however. Construing the term in light of the remaining claim language and the specification, the Court concludes "vehicle support areas" are: **the top or upper parts of the impervious pad which are separated by the liquid flow path-defining channels and able to bear the weight of the vehicle or other item.**

II. Disputed Claim Terms of Hydro's '749 patent

The disputed terms of the '749 patent are found in claims 1 and 5. Claim 1 specifies:

1. A low profile method by which vehicle wash liquid and debris are directed across an impervious surface to a perimeter containment trough, comprising the acts of:

providing a flat wash pad which comprises lower support structure which rests upon a ground or floor level surface and top structure spaced above the lower support structure, the top structure comprising an exposed liquid impervious top surface slight above the ground or floor level spanning continuous to at least one perimeter non-central edge of the impervious top surface;

positioning a debris-carrying vehicle or other item to be washed upon the impervious top surface;

washing the vehicle while on the impervious top surface causing spent wash liquid and debris to be displaced onto the impervious top surface;

continuously directing spent wash liquid and debris during washing to and over the non-central perimeter edge of the impervious top surface to prevent buildup of debris on the top impervious surface;

disposing an opening at a top of perimeter containment trough vertically below the perimeter edge and immediately above the ground or floor level surface;

causing the spent wash liquid and debris to fall directly over the perimeter edge off the impervious top surface and thereafter vertical directly through the opening into the perimeter containment trough such that vehicle washing can continue while debris is simultaneously removed from the containment trough.

A. First Disputed Term- "Flat"

The first disputed term in claim 1 is "**flat.**" Petter proposes the following construction:

having a horizontal, uppermost surface.

Hydro suggests:

having a relatively broad surface in relation to thickness or depth.

Petter relies on two definitions of flat. The first is "having a horizontal surface without a slope, tilt or curvature." American Heritage Dictionary, Second College Edition (1991). The second is "having a smooth,

level surface; having little or no depression or elevation." Webster's New World College Dictionary (4th ed.2000). Petter asserts that the claim language and specification reveal that "the patentee meant 'flat' to be 'horizontal' and that 'flat' is a modifier that describes the uppermost surface of the wash pad of claim 1." Pl.'s Claim Construction Br. at 25. (Docket no. 117 at 25.) Hydro argues that numerous references to structures at various elevations in claim 1 foreclose equating "flat" with "horizontal." (Docket no. 27.) The claim describes a "lower support structure which rests upon a ground or floor level surface," a "top structure spaced above the lower support structure" and "above the ground or floor level," and a "perimeter containment trough ... below the perimeter edge ... immediately above the ground or floor level."

Hydro also notes that claims 2 and 3 recite a flat wash pad. "The usage of a term in one claim can often illuminate the meaning of the same term in other claims." Phillips, 415 F.3d at 1314. Claim 2 recites a method utilizing a wash pad whose top is "at a slight slope." (Docket no. 117-3 at 13, col. 7, lines 5-7.) Claim 3 recites a method of liquid containment utilizing a "flat wash pad" which displaces spent wash liquid "substantially horizontally across ... the impervious flat wash pad." (Docket no. 117-3 at 13, col. 7, line 29-col. 8, lines 1-2.) The Federal Circuit has denounced constructions that render language in a claim superfluous. *Stumbo v. Eastman Outdoors, Inc.*, 508 F.3d 1358, 1362 (Fed.Cir.2007) (citing *Merck & Co. v. Teva Pharms. USA, Inc.*, 395 F.3d 1364, 1372 (Fed.Cir.2005)). Construing "flat" to mean "horizontal" would render "substantially horizontally" in claim 3 redundant. This, however, is not the chief difficulty with such a construction.

"Horizontal" means "parallel to the plane of the horizon." Oxford English Dictionary, *supra* at 6. The Court rejects Hydro's contention that the description of a wash pad with structures at three separate elevations forecloses equating "flat" with "horizontal." Each structure could be higher or lower than the others, yet all could have surfaces parallel to the plane of the horizon. Petter emphasizes that the preferred embodiment describes a wash pad "preferably built so the surface is level on a flat supporting surface. Sloping of the surface is done in the field." (Docket no. 117-3 at 11, col. 4, lines 60-62.) Petter concludes that "because the pad is built without a sloping surface, 'flat' as used in this passage means 'horizontal' and because the uppermost surface is what is needed to eventually be sloped, the top surface is formed horizontal." Pl.'s Claim Construction Br. at 26. (Docket no. 117 at 26.) This interpretation imports a limitation from the preferred embodiment into the claim. The intrinsic evidence does not *require* such a limitation. The preferred embodiment is merely *preferred*. Furthermore, even the preferred embodiment states that the pad is "preferably" built with a level surface. (Docket no. 117-3 at 11, col. 4, lines 60.) The summary reveals that "the surface may be sloped slightly." (Docket no. 117-3 at 10, col. 2, lines 35-36.) It does not specify whether the surface itself is sloped, or if it is inherently horizontal and inclined in the field. This is true of the "slight slope" recited in claim 2 as well. (Docket no. 117-3 at 13, col. 7, line 7.)

The wash pad clearly contains surfaces at several elevations. Although the preferred embodiment describes an inherently horizontal pad which is sloped at the installation site, neither the language of the claim nor the functional constraints of the invention requires this. The Court concludes that it is contextually improper to define "flat" as "horizontal" or "having a smooth, level surface; having little or no depression or elevation." Of its many definitions, the one most consistent with its usage throughout the patent is **having a relatively broad surface in relation to thickness or depth.**

B. Second Disputed Term- "Top"

The next disputed term is "**top**." It appears in claim 1 in the phrase "disposing an opening at a top of perimeter containment trough." (Docket no. 117-3 at 12, col. 6, lines 59-60.) Petter proposes it be construed

as:

a structural component of the trough that at least partially covers the trough.

Hydro does not propose a specific construction but argues that "top" is a directional limitation.

Petter provides two definitions of "top": "the upper most part, point, surface, or end," and "something, as a lid or cap, that covers or forms the uppermost part." Petter contends that "at the top" would imply a directional limitation and that "in a top" would imply a structural limitation, but that "at a top" is ambiguous.

Petter discusses the specification, which describes a trough containing an "openable top cover" and states that the "top is opened." (Docket no. 117-3 at 11, col. 4, lines 64-65; *id.* at 12, col. 5, lines 15-16.) Petter also refers to Hydro's attempts to distinguish its invention during prosecution from that claimed in U.S. Patent No. 4,246,982 (the "Pretnick patent"). Hydro stated that "Pretnick teaches a topless container." Petter contends that "topless" referred to a structural component and claims that this reveals Hydro also intended "top" to refer to a structural component.

Perusing Hydro's discussion of the Pretnick patent reveals that Hydro distinguished Pretnick on the basis of the function of the invention of the Pretnick patent (to catch oil and other fluid drippings beneath a parked automobile) and the means by which it accomplished it, not whether it or Hydro's invention contained a cover. (Docket no. 12 at 89-99.) The Court does not agree with Petter's assertion that one who uses "topless" to refer to a structural component necessarily uses "top" in identical fashion.

Hydro discusses several claims withdrawn during prosecution which recited a cover overtop the trough. (Docket no. 118-2 at 32, 63.) These, Hydro contends, reveal that it referred to a structure covering the trough as a "cover." Hydro acknowledges, however, that the specification of the '749 patent refers once to such a cover as a "top." (Docket no. 117-3 at 12, col. 5, lines 15-16.) Hydro also discusses an Examiner's Amendment in which the examiner limited claim 1 to specify the direction from which liquid entered the trough. (Docket no. 120-2 at 13.) This was necessary because prior art (the New patent, U.S. Patent No. 6,106,712) claimed an invention that collected waste through an opening in the side of a trough.

"Top" is used throughout the '749 patent to refer to spatial location. That use suggests the same usage here. Phillips, 415 F.3d at 1314 (citing *Rexnord Corp. v. Laitram Corp.*, 274 F.3d 1336, 1342 (Fed.Cir.2001)). The prosecution history reveals that claim 1 was amended to distinguish the direction from which the liquid enters the trough from prior art in which the liquid enters through the side. This also suggests spatial connotations. The specification describes a trough with a "top cover." However, this limitation should not be imported from the preferred embodiment unless the preferred embodiment provides a clear disclaimer or the intrinsic evidence dictates it as an "inescapable conclusion." *Whirlpool*, 423 F.Supp.2d at 744. An opening located spatially at the upper part of the trough encompasses both topless troughs and covered troughs having an opening in the cover. Both are consistent with the claimed functionality of the invention. Accordingly, the Court finds that "top" is **"the upper, higher or highest part, section, point or surface."**

III. Indefiniteness

The claims must "particularly and distinctly claim the subject matter" of the invention. 35 U.S.C. s. 112, para. 2. This is commonly known as the "definiteness" requirement. Indefiniteness is a question of validity

and does not require an explicit construction. It requires the Court to decide whether the disputed term is "insolubly ambiguous," defying construction. *Exxon Research and Eng'g Co. v. United States*, 265 F.3d 1371, 1375 (Fed.Cir.2001). Consequently, it is a question of law. *Performance Media Commc'ns, LLC v. Int'l Trade Comm'n*, 161 F.3d 696, 705 (Fed.Cir.1998). A claim is not indefinite merely because construction is "formidable and the conclusion may be one over which reasonable persons will disagree." *Exxon*, 265 F.3d at 1375.

A. First Allegedly Indefinite Term- "Successive Higher Rails Separated by Lower Flow Channels"

Petter contends that three terms of the '591 patent are indefinite. The first is "**successive higher rails separated by lower flow channels.**" This appears in claim 8-11. Hydro has withdrawn its claim of infringement of claims 8-11. Any construction of these claims is thus moot.

B. Second Allegedly Indefinite Term- "Discharged from the Covering"

Petter also contends that "discharged from the covering" is indefinite. This term appears in claim 15. Petter suggests that if it is not indefinite, the Court should construe it as:

emitted from the trough top cover.

Hydro contends the use of the word "cover" is a clerical error the Patent Office made while implementing an Examiner's Amendment. Hydro has requested a certificate of correction and asks the Court to construe "discharged from the covering" as:

discharged from the top.

The Examiner's Amendment shows the substitution of the word "top" for "covering" in line 2 of claim 15. (Docket no. 118-3 at 21.) Hydro contends this change should have been made to the second occurrence of "covering" as well. Regardless, the context of the entire patent makes clear that the "cleaning liquid and debris" are discharged from the impervious top into the trough. (Docket no. 117-2 at 13, col. 7, line 29.) This terminology is used throughout the claims. The term is not ambiguous. The only evidence supporting Petter's contention that the term refers to the "trough top cover" is the use of the word "covering." However, the context does not support Petter's contention. In light of the context of the patent itself and the other intrinsic evidence, one of ordinary skill in the art would understand "covering" to refer to the impervious top of the pad. Accordingly, the appropriate construction of "discharged from the covering" is **discharged from the top.**

C. Third Allegedly Indefinite Term- "Selective Segregated"

The final term Petter contends is indefinite is "**selective segregated.**" This appears in claim 16 as part of the phrase, "accumulated, stored, and subsequent selective segregated and removed." Petter and Hydro agree that "subsequent" and "selective" mean "subsequently" and "selectively," respectively. Petter suggests that if the Court does not find the term indefinite, it should construe it as:

essentially all of the debris and all of the wash liquid is separated into a plurality of sections after a selection process.

Petter wonders what the debris and liquid are segregated from, what "selective segregation" is, and whether

claim 16 is meant to be a combination apparatus/process claim.

Hydro states that the debris is segregated from the liquid. The summary explains that "weirs and/or oil coalescing material may be placed in the trough ... to help settle solids from the wash fluid." (Docket no. 117-2 at 10, col. 2, lines 46-48.) The preferred embodiment details that "[w]eirs 46 may be provided in trough 20 to aid in settling solids from the wash fluid. Upon settling, the solids are dewatered by fluid evacuation and can easily be shoveled from trough 20 even during use.... [I]f desired, automatic trough cleaning systems ... may be installed." (Docket no. 117-2 at 12, col. 5, lines 10-17.)

While "subsequent[ly] selective[ly] segregated" is admittedly cumbersome, imprecise language, when claim 16 is read in the holistic context of the patent and illuminated by the description of the preferred embodiment, the Court understands it to mean that after the liquid and debris accumulate in the trough, the debris is segregated from the liquid. Consequently, "selective[ly] segregated" means "**the debris is segregated from the liquid.**"

W.D.Mich.,2009.

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