United States District Court,
N.D. Illinois.

LAMPI CORPORATION, an Alabama corporation,
Plaintiff.
v.
AMERICAN POWER PRODUCTS, INC., a California corporation,
Defendant.

July 8, 1997.

MEMORANDUM OPINION AND ORDER

WAYNE R. ANDERSEN**, United States District Judge.**

Plaintiff Lampi Corporation ("Lampi") filed the instant suit alleging that defendant American Power Products, Inc. ("APP") has wilfully infringed United States Patents No. 4,965,875 (the " '875 patent") and 5,169,227 (the " '227 patent"), both of which are entitled "Fluorescent Lamp." On June 19, 1997, we conducted a hearing pursuant to Markman v. Westview Instruments, Inc., 52 F.3d 967 (Fed.Cir.1995), *aff'd,* 116 S.Ct. 1384 (1996), for the purpose of construing certain language in Claims 1 and 11 of the '875 patent and Claims 1, 10, and 11 of the '227 patent. Prior to that hearing, the parties submitted the patents, specifications, prosecution histories, accused products, a commercial embodiment of the patents in suit, supporting briefs on each party's proposed claim interpretations, and a joint chart on claim interpretation for the Court's review. This Memorandum Opinion sets forth our interpretations of the disputed terms at issue.

BACKGROUND

The parties are competing manufacturers of fluorescent night lights which are intended for home use and do not require professional installation. Lampi is the exclusive licensee of the '875 and '227 patents which disclose "a fluorescent lamp having a fluorescent tube and a connecting element for connection to a source of current." (App. To Def.'s Markman Br. Ex. A at Col. 1, L.L. 4-6; Ex. B at Col. 1, L.L. 7-9). In short, the patents describe a small plug-in fluorescent night light.

Lampi's commercial embodiment of the '875 and '227 patents is the "Micro Lampi." APP manufactures various models of a small plug-in fluorescent light called the "Mini-Fluorescent." Both of these lights are sold throughout the United States, including the Northern District of Illinois. Lampi filed the instant suit alleging that APP's manufacture and sale of the "Mini-Fluorescent" constitutes wilful infringement of the '875 and '227 patents.

DISPUTED CLAIMS THE '875 PATENT **CONTAINS 19 CLAIMS OF WHICH TWO ARE ARE INDEPENDENT (CLAIMS I AND 11) AND THE REMAINING SEVENTEEN ARE DEPENDENT CLAIMS. AN INDEPENDENT CLAIM STANDS ON ITS OWN AND DOES NOT REFER TO ANY OTHER CLAIM IN THE PATENT. IT MUST THEREFORE BE READ SEPARATELY WHEN**

DETERMINING ITS SCOPE. A DEPENDENT CLAIM, ON THE OTHER HAND, INCLUDES A REFERENCE TO AT LEAST ONE OTHER CLAIM IN THE PATENT AND MUST BE INTERPRETED TO ENCOMPASS EACH OF ITS OWN ELEMENTS AS WELL AS ANY ADDITIONAL ELEMENTS RECITED IN THE REFERENCED CLAIM. ONLY LANGUAGE CONTAINED WITHIN THE INDEPENDENT CLAIMS IS DISPUTED HERE. WE HAVE:;CT FORTH THESE CLAIMS IN THEIR ENTIRETY UNDERSCORING THE DISPUTED TERMS. SPECIFICALLY, INDEPENDENT CLAIM 1 OF THE '875 PATENT **PROVIDES:**

1. A fluorescent lamp comprising:
a fluorescent tube, and

a connecting element for establishing connection with a source of current, said connecting element including a light socket plug having contact plugs electrically connected to the fluorescent tube and projecting on one side, said light socket plug being shaped like a flat plug and the area of the connecting element facing the contact plugs being shaped as a housing for said fluorescent tube, said housing including two separable, *identical half shells,*

(App. To Def.'s Markman Br. Ex. A at Col. 4, L.L. 15-27)(emphasis added). Independent Claim 11 of the '875 patent provides:
11. A fluorescent lamp comprising:

a fluorescent tube, and

a connecting element for establishing connection with a source of current, said connecting element including a light socket plug having contact plugs electrically connected to the fluorescent tube and projecting on one side, said light socket plug being shaped like a flat plug and the area of the connecting element facing the contact plugs being shaped as a housing for said fluorescent tube, said housing having an oblong shape with the light socket plug being located on the longitudinal side thereof and projecting vertically from said longitudinal side, said housing including two separable, *identical half shells*.

(Id. at Col. 5, L.L. 9-25)(emphasis added). In both claims, the parties dispute the meaning of the terms "identical" and "half shell's."
The '227 patent is a continuation of the '875 patent. It contains 11 total claims of which three are independent (Claims 1, 10, and 11). Once again, only language contained within the independent claims is at issue here. Specifically, Claim 1 of the '227 patent provides:

1. A miniature fluorescent lamp comprising:

a miniature fluorescent tube; electrical means for operating said fluorescent tube, including connecting elements and an electric plug for establishing an electrical connection between said tube and an outlet;

a self-supporting elongated housing enclosing said electrical means and having support means for supporting said fluorescent tube, said housing having a first longitudinally-extending side defining a *first interior channel* in which said fluorescent tube is mounted, said *first channel* defining a window for the fluorescent tube and an opposite longitudinally-extending second side defining a *second interior channel in* which said electrically means is primarily housed, said electrical plug being in the form of plug blades, and extending generally outwardly and normally from said second housing side configured and dimensioned to

support said housing and the fluorescent tube in a self-supporting manner when inserted into an electrical outlet, said housing additionally having two closed ends enclosing the ends of the fluorescent tube and including a *conduit* which connects said *first interior channel* to said *second interior channel* and allows said electrical means to pass therethrough.

(App. To Def.'s Markman Br. Ex. B at Col. 4, L.L. 18-44)(emphasis added). Similarly, independent Claim 10 of the '227 patent provides:

10. A miniature fluorescent lamp comprising:

a miniature fluorescent tube; electrical means for operating said fluorescent tube, including connecting elements and an electric plug for establishing an electrical connection between said tube and an outlet;

a self-supporting elongated housing having *two separable half-shells, both half-shells being identically shaped,* said housing enclosing and supporting said fluorescent tube and said electrical means, said housing have a first longitudinally-extending side defining a first *interior channel* in which said fluorescent tube is mounted, and an opposite longitudinally-extending second side defining a *second interior channel* in which said electrical means is primarily housed, said electrical plug extending generally outwardly and normally from said second housing side configured and dimensioned to support said housing and the fluorescent tube in a self-supporting manner when inserted into an electrical outlet

(Id. at Col. 4, L.L. 67-68 and Col. 5, L.L. 1-19)(emphasis added). Lastly, independent Claim 11 of the '227 patent provides: SU1H 11. A miniature fluorescent lamp comprising:

a miniature fluorescent tube;

electrical means for operating said fluorescent tube, including connecting elements and an electric plug for establishing an electrical connection between said tube and an outlet;

a self-supporting elongated housing having two separable *half-shells,* said *half-shells* being joined along a junction plane and said plug being arranged in said junction plane of said *half-shells,* said housing enclosing and supporting said fluorescent tube and said electrical means, said housing having a first longitudinally-extending said defining a *first interior channel* in which said fluorescent tube is mounted, and an opposite longitudinally-extending second side defining a *second interior channel* in which said electrical means is primarily housed, said electrical plug extending generally outwardly and normally from said second housing side configured and dimensioned to support said housing and the fluorescent tube in a self-supporting manner when inserted into an electrical outlet. (Id. at Col. 5, L.L. 230-21 and Col. 6, L.L. 1-20)(emphasis added). Once again, the parties dispute the meaning of "identical" and "half-shells." The parties also disagree on the meaning of the terms "channel" and "conduit."

DISCUSSION

A patent is a government grant of rights which permits the patentee to exclude others from making, using, or selling the invention as claimed. 35 U.S.C. s. 154. Therefore, a patent must describe the exact scope of an invention in order to define the limits of the patentee's rights and "apprise the public of what is still open to them." Markman v. Westview Instruments, Inc., 116 S.Ct. 1384, 1387 (1996) (*quoting* McClain v. Ortmayer, 141 U.S. 419, 424 (1891)). To accomplish these objectives, a patent document contains two

distinct elements. The first is a specification which describes the invention "in such full, clear, concise, and exact terms as to enable any person skilled in the art .... to make and use the same "35 U.S.C. s. 112. The second element is "one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention." *Id.; see also* Markman, 116 S.Ct. at 1388 ("The claim define [s] the scope of a patent grant and functions to forbid not only exact copies of art invention, but products that go to the heart of the invention but avoid literal infringement by making a noncritical change.")(internal quotations and citations omitted).

The proper construction or interpretation of an asserted claim is strictly a question of law for the Court. Markman, 52 F.3d at 979; Vitronic Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1582 (Fed.Cir.1996). In determining the proper construction of a claim, the court may consult both intrinsic and extrinsic evidence. Vitronics, 90 F.3d at 1582. Intrinsic evidence consists of the patent itself including the claims, the specification, and the prosecution history. *Id.;* Markman, 52 F.3d at 979. Extrinsic evidence is that evidence which is external to the patent and file history including, but not limited to, expert testimony, inventor testimony, dictionaries, technical treatises and articles, and prior art not cited in the prosecution history. Vitronics, 90 F.3d at 1584.

The intrinsic evidence of record (claims, specification, and prosecution history) is the most important resource when determining the operative meaning of disputed claim language. Vitronics, 90 F.3d at 1582. Indeed, it will usually resolve any ambiguity. Id. at 1583. "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, aid 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." *Id*. (citing Markman, 52 F.3d at 978-79). Altering or changing the public record with extrinsic evidence, such as expert testimony, would essentially eliminate this right. Vitronics, 90 F.3d at 1583; Southwall Technologies, Inc. v. Cardinal IG Co., 54 F.3d 1570, 1578 (Fed.Cir.1995), *cert. denied,* 116 S.Ct. 515 (1995) ("A patentee may not proffer an interpretation for the purposes of litigation that would alter the indisputable public record consisting of the claims, the specification and the prosecution history, and treat the claims as a nose of wax.") (citations and internal quotations omitted).

Established rules of claim construction require that the court first consider the intrinsic evidence of record beginning with "the words of the claims themselves, both asserted and unasserted, to define the scope of the patented invention." Vitronics, 90 F.3d at 1582; *see also* Markman, 52 F.3d at 979; Bell Communications Research, Inc. v. Vitalink Communications Corp., 55 F.3d 615, 620 (Fed.Cir.1995). These words are generally given their customary and ordinary meaning. Vitronics, 90 F.3d at 1582. Nevertheless, a patentee is free to be his own lexicographer provided his special definition is clearly delineated in the specification or file history. Vitronics, 90 F.3d at 1582; Hoechst Celanes Corp. BP Chemicals Ltd., 78 F.3d 1575, 1578 (Fed.Cir.1996), *cert. denied,* 117 S.Ct 275 (1996) ("A technical term used in a patent document is interpreted as having the meaning it would be given by persons experienced in the field of the invention, unless it is apparent from the patent and the prosecution history that the inventor used the term with a different meaning.") (citations omitted); Hormone Research Foundation, Inc. v. Genentech, Inc., 904 F.2d 1558, 1563 (Fed.Cir.1990) ("It is a well-established axiom in patent law that a patentee is free to be his or her own lexicographer and thus may use terms in a manner contrary to or inconsistent with one or more of their ordinary meanings.") (citations omitted).

Next, the court should review the specification to determine whether the inventor has employed any terms or words in a way inconsistent with their plain and ordinary meaning. Vitronics, 90 F.3d at 1582. "For claim construction purposes, the specification may act as a sort of dictionary, which explains the invention and may define terms used in the claims." Markman, 52 F.3d at 979. "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." Vitronics, 90 F.3d at 1582. The Federal Circuit has repeatedly held that "[c]laims must be read in view of the specifications, of which they are a part." Markman, 52 F.3d at 979.

Third, if in evidence, the court may consider the prosecution history of the patent. Vitronics, 90 F.3d at 1582; Markman, 52 F.3d at 980. "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 claims." Vitronics, 90 F.3d at 1582; *see also* Southwall Technologies, 54 F.3d at 1576 ("The prosecution history limits the interpretation of claim terms so as to exclude any interpretation that was disclaimed during prosecution.") (citations omitted). The court may also examine the prior art cited within the file history to obtain a general idea of what the claims do not cover. *See* Vitronics, 90 F.3d at 1583.

Extrinsic evidence, such as expert testimony, may also be used to help the court come to a proper understanding of the claims. Markman, 52 F.3d at 980-81. For instance, courts may consult technical treatises or dictionaries to gain a better understanding of the underlying technology. Vitronics, 90 F.3d at 1584 n. 6. Courts may also "rely on dictionary definitions when construing claim terms, so long as the dictionary definition does not contradict any definition found in or ascertained by a reading of the patent documents." *Id*. Additionally, prior art may often help to demonstrate how a disputed term is used by those skilled in the art. *Id*. at 1584 (citing Kearns v. Chrysler Corp., 32 F.3d 1541, 1547 (Fed.Cir.1994), *cert. denied,* 115 S.Ct. 1392 (1995)). Once again, however, reliance on extrinsic evidence is unnecessary, and indeed improper, when the disputed terms can be understood from a careful reading of the public record. Vitronics, 90 F.3d at 1584; *Markman,* 53 F.3d at 981.

With these rules in mind, we now turn to the disputed claim language at issue here. As a preliminary matter, however, we must address the parties' interpretation of the term comprising" which is used to join the preamble of a claim to the body of a claim, e.g., " 1. a fluorescent lamp *comprising:* a fluorescent tube, and a connecting element for establishing connection with a source of current, ..." (App. To Def.'s Markman Br. Ex. A at Col. 4, L.L. 16-19)(emphasis added). At the *Markman* hearing, there was a slight disagreement over the meaning of this term. We therefore take a moment to clear up any confusion.

Put simply, "[c]omprising is a term of art used in claim language which means that the named elements are essential, but other elements may be added and still form a construct within the scope of the claim." Genentech, Inc. v. Chiron Corp., 112 F.3d 495, 501 (Fed.Cir.1997)(internal quotations omitted). Thus, a party cannot avoid infringement of an open-ended claim using this term merely by adding additional elements so long as each element recited in the claim is found in the accused device. *See* Stiftung v. Renishaw PLC, 945 F.2d 1173, 1178 (Fed.Cir.1991)("comprising" denotes or signals an "open" claim which will read on devices which only add additional elements); Moleculon Research Corp. v. CBS, Inc., 793 F.2d 1261, 1271 (Fed.Cir.1986), *cert. denied,* 479 U.S. 1030 (1987) (claim which employs the term "comprising" does not exclude additional unrecited elements or structures); A.B. Dick Co. v. Burroughs Corp., 713 F.2d 700, 703 (Fed.Cir.1983), *cert. denied,* 464 U.S. 1042 (1984)("For example, a pencil structurally infringing a patent claim would not become noninfringing when incorporated into a complex machine that limits or

controls what the pencil can write. Neither would infringement be negated simply because the patentee failed to contemplate use of the pencil in that environment.").

With that said, we now turn to the substantive disputes concerning the terms "half-shells, " "identical, " "channel," and "conduit." The parties agree that these terms have the same meaning wherever they are found it the claims. We therefore address each one in turn.

I. Half-Shells

Claims 1 and 11 of the '875 patent describe the housing of the fluorescent lamp as "including two separable, identical *half shells*." (App. To Def.'s Markman Br. Ex. A at Col. 4, L. 26 and Col. 5, L.L. 24-25)(emphasis added). Claim 10 of the '227 patent describes "a self-supporting elongated housing having two separable *half-shells* both half-shells being identically shaped." (App. To Def.'s Markman Br. Ex. B at Col. 5, L.L. 6-7)(emphasis added). Additionally, Claim 11 of the '227 patent discloses "a self-supporting elongated housing having two separable *half-shells,* said *half-shells* being joined along a junction plane and said plug being arranged in said junction plane of *said half-shells*." (Id. at Col. 6, L.L. 5-8)(emphasis added).

APP contends that "half-shells" are equal halves of a hard outside cover. Lampi has not proffered its own definition of "half-shells." Rather, counsel for plaintiff generally asserted that "half" does not mean equal. With respect to "shell," Lampi also asserted that there is no basis to interpret it as a hard outside cover.

Neither of these objections to APP's interpretation is well-founded, particularly since Lampi failed to provide an alternative definition. First, and most obviously, the ordinary and customary meaning of "half" is one of two equal or corresponding parts into which a thing is divided. Nothing in the patent suggests otherwise. Indeed, Claims 4 and 15 of the '875 patent use the term "corresponding" to describe the two shells which meet along a junction plane to form the housing. (*See* App. To Def.'s Markman Br. Ex. A at Col. 4, L. 39 and Col. 6, L. 9). Moreover, counsel for Lampi conceded that, at least mathematically, halves are more often than not equal to one another. We will not quibble with his analysis. Contrary to APP's assertions, however, "equal" or "corresponding" does not necessarily mean exactly alike or the same. If that were the case, there would be no reason to modify "half-shells" with the term "identical" discussed in part II. of this Opinion.

As to "shell," we find no basis for Lampi's objection to interpreting it as a hard outside covering. The ordinary, and indeed only, meaning of "shell" in this context is a hard outer cover or structure that forms a firm framework or covering. For confirmation of this definition, we need look no further than the claims themselves which are riddled with references to the housing. Specifically, Claims 3 and 14 of the '875 patent and Claim 5 of the '227 patent describe the half-shells as "injection molded parts made of plastic." (*See* App. To Def.'s Markman Br. Ex. A at Col. 4, L.L. 32-33 and Col. 6, L.L. 2-3; Ex. B at Col. 4, L. 53). These half-shells form a self-supporting elongated housing which supports the fluorescent tube and electrical components. (*See* App. To Def.'s Markman Br. Ex. B at Col. 5, L.L. 5-19 and Col. 6, L.L. 5-20). The electrical plug then extends outward to support the housing and fluorescent tube in a "self-supporting manner when inserted into an electrical outlet." (Id.). Because the shells are made of plastic, and because they form a housing which supports the inner components of the lamp, it is reasonable to interpret "shell" as a hard or firm outside covering.

Accordingly, we adopt APP's interpretation and define "half-shells" as two equal or corresponding parts forming a hard or firm outer covering into which the housing of the fluorescent lamp is divided.

II. Identical

As previously noted, Claims 1 and 11 of the '875 patent describe "two separable, *identical* half shells" while Claim 10 of the '227 patent provides for "two separable half-shells, both half-shells being *identically* shaped." (App. To Def 's Markman Br. Ex. A at Col. 4, L. 26 and Col. 5, L.L. 24-25; Ex. B at Col. 5, L.L. 6-7)(emphasis added). There is no dispute that "identical" modifies "half-shells." The only question is the extent of that limitation.

Lampi asserts that "identical" should be interpreted to allow for small differences between the half-shells. Thus, Lampi contends, we should define "identical" as similar or having such close resemblance as to be essentially the same. APP responds that the customary and ordinary meaning of "identical" is the same or exactly alike so that the half-shells are interchangeable.

Once again, we begin with the ordinary and customary meaning of "identical." We believe that meaning is the same or exactly alike. To depart from this meaning, there must be some indication in the claims or specification that the patentee intended a different one. Based on our review of the patents, that is not the case here. Claims 3 and 14 of the '875 patent and Claim 5 of the '227 patent describe half-shells that "are injection molded parts made of plastic." (App. To Def.'s Markman Br. Ex. A at Col. 4, L.L. 32-33 and Col. 6, L.L. 2-3; Ex. B at Col. 4, L. 53). The specifications explicitly provide that the product can be cost-effectively produced using injection molded half-shells and that "both half shells are identically shaped so that they are interchangeable." (App. To Def.'s Markman Br. Ex. A at Col. 2, L.L. 16-21; Ex. B at Col. 2, L.L. 19-24). Reading the claims in light of the specifications of which they are a part, as we must, it is clear that "identical" means half-shells which are exactly alike or the same so as to be interchangeable.

Moreover, Lampi's interpretation that the half-shells should only be similar and allow for small differences renders the term "identical" meaningless or mere surplusage. Indeed, the term "half" already implies some degree of similarity between the two shells-though not exact similarity as two halves are not necessarily exact in every detail. Thus, if the patentee intended to claim similar half-shells having small differences, he could easily have omitted the term "identical" from the '875 patent and inserted "similar" or "essentially the same." Even more telling is the patentee's use of "identical" in the '227 patent-the continuation of the '875 patent. The patentee explicitly claimed "two separable half-shells, both half-shells being *identically* shaped." (App. To Def.'s Markman Br. Ex. B at Col. 5, L.L. 6-7) (emphasis added). We will not simply read that term out of the claims by interpreting it as merely similar or allowing for small differences. Rather, we find that the patentee claimed half-shells which are the same or exactly alike both functionally and structurally.

Accordingly, we conclude that the term "identical," when used in the context of "identical half shells" or "half-shells identically shaped." means the same or exactly alike.

III. Channel

Claims 1, 10, and 11 of the '227 patent describe a "first interior *channel* in which said fluorescent tube is mounted" and a "second interior *channel* in which said electrical means is primarily housed." (App. To Def.'s Markman Br. Ex. 13 at Col. 4, L.L. 29-34, Col. 5, L.L. 10-13, and Col. 6, L.L. 12-14) (emphasis added). Lampi defines "channel" as an interior area where the fluorescent tube or electrical components are contained. APP responds that "channel" means an unobstructed tubular sleeve for enclosing and supporting the fluorescent tube or containing the wiring for the fluorescent tube.

Based on the intrinsic evidence of record, there is considerable, if not abundant, support for APP's use of the term "sleeve." The '875 patent repeatedly claims (Claims 5, 6, 7, 9, 10, 16, 17, and 18) an interior space in the housing that forms "two contiguous sleeves" which extend in a direction parallel to one another. (*See* App. To Def.'s Markman Br. Ex. A at Col. 4, L.L. 40-50, Col. 4, L.L. 51-52, Col. 4, L. 57, Col. 4, L.L. 61-68, Col. 5, L.L. 1-8, Col. 6, L.L. 13-20, Col. 6, L. 22, and Col. 6, L. 27). The first sleeve houses the fluorescent tube and defines a window for the lamp. (Id. at Col. 4, L.L. 45-46 and L.L. 51-54). The second sleeve houses the electrical components needed to operate the fluorescent tube. (Id. at Col. 4, L.L. 46-47). The specification also describes a housing containing two "contiguous sleeves" which extend in a direction parallel to each other with one containing the fluorescent tube and the other the electrical components. (Id. at Col. 2, L.L. 35-68 and Col. 3, L.L. 1-18). Significantly, the '227 patent uses the term "channel to describe the same structures and functions. (*See* App. To Def.'s Markman Br. Ex. B at *Col. 2,* L.L. 36-68, Col. 3, L.L. 1-20, Col. 4, L.L. 25-44, Col. 5, L.L. 5-19, and Col. 6, L.L. 5-20). Furthermore, the prosecution history reveals that "sleeve" was actually the antecedent to "channel." (*See* App. To Def.'s Markman Br. Ex. I at 7-8).

Lampi's interpretation of "channel" as an "interior area" conveniently ignores this compelling intrinsic evidence. Because "sleeve" was contemplated, and indeed claimed, by the patentee, we find that it is an appropriate interpretation of "channel."

The question remains whether "sleeve" is limited by "unobstructed" and "tubular." Lampi objects asserting that there is no support for these limitations in the claims or specification. We agree. APP summarily concludes that, given the relevant prior art, a "channel" must be both unobstructed and tubular. APP's interpretation, however, is rooted entirely in extrinsic evidence including prior art and technical dictionaries. When, as here, any ambiguity is resolved by the claims, specification, or prosecution history, there is no need to consult such extrinsic evidence. *See* Vitronics, 90 F.3d at 1582.

Accordingly, we conclude that "channel" means an interior sleeve where the fluorescent tube or electrical components are contained.

IV. Conduit

Finally, Claim I of the '227 patent describes a " *conduit* which connects said first interior channel to said second interior channel and allows said electrical means to pass therethrough." (App. To Def.'s Markman Br. Ex. B at Col. 4, L.L. 41-44)(emphasis added). Lampi defines "conduit" as a connecting passage which connects the area which contains the tube with the area which contains electrical components and allows the wiring to pass from the first area to the second area. APP, on the other hand, contends that "conduit" means a separate structure designed and used exclusively for enclosing and loosely holding wires passing from the unobstructed tubular sleeve which has two closed ends for enclosing the ends of the fluorescent tube (i.e. the first interior channel) to the unobstructed tubular sleeve containing the wiring for the fluorescent lamp. (i.e. the second interior channel).

In brief, the ordinary and customary meaning of conduit is a connecting passage which permits something (here wiring) to get from one place to another. Even after examining the briefs and the relevant prior art, we are uncertain as to what APP means by a "separate structure." Nor did counsel for APP explain this limitation at the hearing. In any event, there is no indication in the claims, specification, or prosecution history that the patentee claimed an entirely different structure as a means of connecting the two channels. On the contrary, it is clear that the patentee merely claimed a passage for connecting one channel to another.

We accordingly adopt Lampi's definition of "conduit."

CONCLUSION

For all of the foregoing reasons, we interpret the disputed terms as follows:

"Comprising" means that the named elements are essential, but other elements may be added and still form a construct within the scope of the claim. More specifically, "comprising" denotes an open claim such that infringement may not be avoided merely by adding additional elements so long as the recited claims are present.

"Half-shells" mean two equal or corresponding parts forming a hard or firm outer covering into which the housing of the fluorescent lamp is divided.

"Identical" means the same or exactly alike.

"First interior channel" means an interior sleeve where the fluorescent tube is contained.

"Second interior channel" means an interior sleeve where the electrical components are contained.

"Conduit" means a connecting passage which connects the area containing the tube (first interior channel) with the area containing the electrical components (second interior channel) and allows the wiring to pass from the first channel to the second channel.

It is so ordered.

N.D.Ill.,1997.
Lampi Corp. v. American Power Products, Inc.