

United States District Court,
S.D. California.

SAFETY SYRINGES, INC., a Delaware corporation,
Plaintiff.

v.

BECTON DICKINSON AND COMPANY, a New Jersey corporation,
Defendant.

Civ. No. 01CV2031-B (NLS)

March 7, 2003.

James W. Geriak, Orrick Herrington and Sutcliffe, Irvine, CA, for Plaintiff.

Robert S. Brewer, Jr., McKenna Long and Aldridge San Diego, CA, Timothy R. Jezek, William G. McElwain, Wilmer Cutler Pickering Hale and Dorr, Washington, DC, Wendy A. Haller, William F. Lee, Wilmer Cutler Pickering Hale and Dorr, Boston, MA, for Defendant.

ORDER CONSTRUING PATENT CLAIMS AND TERMS FOR JURY TRIAL

BREWSTER, Senior District Judge.

This matter came on regularly for hearing on Friday, February 14, 2003, pursuant to *Markman v. Westview Instruments*, 52 F.3d 967 (Fed.Cir.1995). Plaintiff was represented by attorneys James W. Geriak, Esq., Hope E. Melville, Esq., and Donald E. Daybell, Esq. Defendant was represented by attorneys William F. Lee, Esq., William G. McElwain, Esq., and James McNeill, Esq.

The Court and parties conducted a *Markman* hearing in order to prepare jury instructions interpreting the pertinent claims of each of the four patents at issue. In addition, the Court and parties prepared a case glossary defining terms that were considered too technical for a jury of laymen to understand clearly without specific definition.

The resulting jury instructions for all claims at issue in the '032 patent are attached hereto as exhibit A. Attached here to as exhibit B is the aforementioned case glossary of pertinent technical terms.

IT IS SO ORDERED.

EXHIBIT A TO ORDER CONSTRUING PATENT CLAIMS AND TERMS OF U.S. PATENT NO. 6,344,032 FOR JURY TRIAL

U.S. Patent No. 6,344,032-Claim 1	
Claim Language	Court Construction of Meaning of Claim Language
1. A guard for a medical cartridge comprising proximal and distal ends, the distal end having a needle extending therefrom, the guard comprising:	means "A guard for a medical cartridge comprising proximal and distal ends, the distal end having a needle extending therefrom, the guard comprising:" [<i>Same as claim language</i>]
[a] a substantially rigid body having a cavity for	means "a substantially rigid body having a cavity for

receiving the cartridge axially therein through an open proximal end of the body, and having a distal end including an opening through which the needle may extend when the cartridge is received within the cavity;	receiving the cartridge axially therein through an open proximal end of the body, and having a distal end including an opening through which the needle may extend when the cartridge is received within the cavity;" [Same as claim language]
[b] a finger grip on the proximal end of the body, the finger grip comprising	means " the portion of the body which extends proximally from and includes the finger ledges "
[i] lateral surfaces substantially enclosing a recess for receiving the proximal end of the cartridge therein when the cartridge is received in the cavity,	means " the finger grip portion of the body has sides which largely surround a three dimensional space for receiving the proximal end of the cartridge "
[ii] the lateral surfaces comprising locking detents defining slots in the lateral surfaces for engaging the proximal end of the cartridge received in the cavity, thereby locking the cartridge in the body;	means " the sides having locking detents outlining slots in the sides for engaging the proximal end of the cartridge received in the cavity, thereby locking the cartridge in the body; "
[c] a shield slidably attached to the body, and having open proximal and distal ends, the shield being slidable between an unguarded and a guarded position, thereby uncovering and covering, respectively, the needle on the cartridge; and	means "a shield slidably attached to the body, and having open proximal and distal ends, the shield being slidable between an unguarded and a guarded position, thereby uncovering and covering, respectively, the needle on the cartridge; and" [Same as claim language]
[d] cooperating detents on the body and the shield for mutually engaging to hold the shield in the guarded position.	means "cooperating detents on the body and the shield for mutually engaging to hold the shield in the guarded position." [Same as claim language]

EXHIBIT A TO ORDER CONSTRUING PATENT CLAIMS AND TERMS OF U.S. PATENT NO. 6,344,032 FOR JURY TRIAL

U.S. Patent No. 6,344,032-Claim 9	
Claim Language	Court Construction of Meaning of Claim Language
9. A syringe comprising:	means "A syringe comprising:" [Same as claim language]
[a] a cartridge for holding medication having proximal and distal ends, and having a needle extending from the distal end and a lip on the proximal end;	means "a cartridge for holding medication having proximal and distal ends, and having a needle extending from the distal end and a lip on the proximal end;" [Same as claim language]
[b] a substantially rigid body having a cavity into which the cartridge is received,	means "a substantially rigid body having a cavity into which the cartridge is received," [Same as claim language]
a finger grip on a proximal end of the body	means " the portion of the body which extends proximally from and includes the finger ledges "
having lateral surfaces substantially enclosing a recess for receiving the lip therein when the cartridge is received in the cavity,	means " the finger grip portion of the body has sides which largely surround a three dimensional space for receiving the proximal end of the cartridge. "
and a locking mechanism defining slots in the lateral surfaces for engaging the lip to substantially permanently encapsulate the cartridge in the cavity, thereby restraining the cartridge from moving proximally from the cavity,	means " a locking mechanism consisting of slots in the sides for interlocking the lip to substantially permanently enclose the cartridge in the cavity, thereby restraining the cartridge from moving from the cavity towards the user, "
the body having a distal opening through which the needle extends;	means "the body having a distal opening through which the needle extends;" [Same as claim language]
[c] a shield slidably attached to the body, the	means "a shield slidably attached to the body, the shield

shield being slidable distally in relation to the body from an unguarded position where the needle extends beyond a distal end of the shield to a guarded position where the shield substantially covers the needle;	being slidable distally in relation to the body from an unguarded position where the needle extends beyond a distal end of the shield to a guarded position where the shield substantially covers the needle;" <i>[Same as claim language]</i>
[d] cooperating detents on the shield and body for locking the shield in the guarded position.	means "cooperating detents on the shield and body for locking the shield in the guarded position." <i>[Same as claim language]</i>

EXHIBIT A TO ORDER CONSTRUING PATENT CLAIMS AND TERMS OF U.S. PATENT NO. 6,344,032 FOR JURY TRIAL

U.S. Patent No. 6,344,032-Claim 12	
Claim Language	Court Construction of Meaning of Claim Language
12. A guard for a medical cartridge having a proximal and a distal end, and having its own needle extending from the distal end, the guard comprising	means "A guard for a medical cartridge having a proximal and a distal end, and having its own needle extending from the distal end, the guard comprising" <i>[Same as claim language]</i>
[a] a body having a cavity adapted to receive the cartridge axially therein through an open proximal end of the body, and having a distal end including an opening through which the needle may extend when the cartridge is received within the cavity;	means "a body having a cavity adapted to receive the cartridge axially therein through an open proximal end of the body, and having a distal end including an opening through which the needle may extend when the cartridge is received within the cavity;" <i>[Same as claim language]</i>
[b] lateral surfaces on the proximal end of the body	means " sides on the proximal end of the body "
[i] substantially enclosing a recess for receiving the proximal end of the medical cartridge,	means " the sides largely surround a three dimensional space for receiving the proximal end of the cartridge "
[ii] the lateral surfaces comprising locking detents defining slots in the lateral surfaces	means " the sides having locking detents outlining slots in the sides "
for substantially permanently engaging the proximal end of the cartridge received in the cavity;	means "for substantially permanently engaging the proximal end of the cartridge received in the cavity;" <i>[Same as claim language]</i>
[c] a shield slidably attached to the body, and having open proximal and distal ends, the shield being slidable between an unguarded and a guarded position, thereby uncovering and covering, respectively, the needle on the cartridge;	means "a shield slidably attached to the body, and having open proximal and distal ends, the shield being slidable between an unguarded and a guarded position, thereby uncovering and covering, respectively, the needle on the cartridge;" <i>[Same as claim language]</i>
[d] a finger grip on one of the body and the shield; and	means " the portion of the body or the shield which extends proximally from and includes the finger ledges "
[e] cooperating detents on the shield and body for holding the shield in the unguarded and guarded positions.	means "cooperating detents on the shield and body for holding the shield in the unguarded and guarded positions." <i>[Same as claim language]</i>

EXHIBIT B TO ORDER CONSTRUING PATENT CLAIMS AND TERMS OF U.S. PATENT NO. 6,344,032 FOR JURY TRIAL

Glossary Terms

"axially" means along the length of the body

"distal" means "further from the user"

"engaging" means "interlocking"

"lateral surfaces" means "sides"

"locking detents" mean "catches that hold a part in place"

"locking mechanism" means "a mechanism that restrains one part from moving in relationship to another"

"proximal" means "closer to the user"

"slots" mean "narrow openings into which something can be inserted"

Exhibit B

Case Glossary

Patent Terms	Definitions
Axially	Along the length of the body.
Distal	Further from the user.
Engaging	Interlocking.
Lateral Surfaces	Side surfaces.
Locking Detent	A catch that holds a part in place.
Locking Mechanism	A mechanism that restrains one part from moving in relationship to another.
Proximal	Closer to the user.
Slot	A narrow opening into which something can be inserted.

S.D.Cal.,2003.

Safety Syringes, Inc. v. Becton Dickinson and Co.

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