

United States District Court,  
C.D. California.

**TARGETTI NORTH AMERICA INC,**  
v.  
**LEGION LIGHTING COMPANY.**

No. SACV 03-1215-JVS(ANx)

**June 25, 2004.**

**PRESENT: THE HONORABLE JAMES V. SELNA, District Judge.**

Karla J. Tunis, Courtroom Clerk.

Not Present, Court Reporter.

PROCEEDINGS(In Chambers): *Order Re Markman Hearing on Claim Construction*

Pursuant to the Court's March 29, 2004 instructions and a Joint Stipulation filed April 9, 2004, Plaintiff Targetti North America, Inc. ("Targetti") and Defendant Legion Lighting Co. ("Legion") have submitted to the Court proposed claim constructions regarding Claim One of United States Patent Number RE 36,961 (the "'961 Patent" or the "Patent"), which is at issue in the above-referenced matter. The relevant claim language is construed by the Court as set forth in Section II, below.

***I. Claim Language.***

The '961 Patent, entitled "Cove Lighting Apparatus," claims a lighting apparatus comprising "a group of lighting fixtures, a number of which are interconnected by flexible conductor-carrying interconnections." (Legion 1483, col. 1, ll. 49-51. FN1) Claim One of the Patent recites:

FN1. All citations to "Legion" refer to Exhibit A to Defendant's Brief Concerning Claim Construction (Legion 44-1201) or Defendant's Submission of Certified Copies of Patent File Histories for U.S. Patent No. 5,436,816 and U.S. Patent No. RE 36,961 (Legion-1236-1516).

Lighting apparatus comprising:

a first light fixture means for mounting a first fluorescent lamp and having an opening in a first end thereof;

a second light fixture means for mounting a second fluorescent lamp and having an opening formed in an end thereof positioned opposite said first end of said first fixture means;

first means for providing a flexible passageway connecting the opening in said first end to the opening in said second fixture opposite said opening in said first end;

a ballast in one of said first and second fixture means; and conductor means passing through said means for providing a flexible passageway and connected to said ballast and to said first and second fluorescent lamps.

(Legion 1484.)

Targetti and Legion agree on the construction of the first four limitations of Claim One, FN2 and disagree on the construction of the last two limitations. FN3 (Joint Statement Concerning Claim Construction, p. 2.) Each party's proposed claim construction is as follows:

FN2. The parties' Joint Statement indicates that "[t]he Parties agree upon the claim construction for the first four limitations of Claim 1..." (Joint Statement Concerning Claim Construction, p. 2.) Legion, both in its brief to the Court and at oral argument on this matter, raised a point of disagreement, asking the Court to construe the term "end." (Def.'s Brief Concerning Claim Construction, p. 11 ("The Court is asked to acknowledge that the word 'end' is broad, and means more than just an absolutely vertical, single surface. It means the whole 'end' portion of each light fixture making up a pair.")) The Court declines to grant Legion's request to construe the term "end," given the belated timing of the request and the parties' prior stipulation to the meanings of limitations one through four of Claim One.

FN3. The parties also agree that there are no means-plus-function clauses in Claim One, because each of the "means" limitations contained therein recites a sufficiently definite structure to rebut the presumption that 35 U.S.C. s. 112, para. 6 applies. (Joint Statement Concerning Claim Construction, p. 2.)

<i>961 Patent Claim One Language</i>	<i>Targetti's Proposed Claim Construction</i>	<i>Legion's Proposed Claim Construction</i>
Lighting apparatus comprising:	Lighting apparatus comprising:	
a first light fixture means for mounting a first fluorescent lamp and having an opening in a first end thereof;	a first light fixture with a first fluorescent lamp mounted thereon, and the first light fixture has a first end with an opening therein;	

a second light fixture means for mounting a second fluorescent lamp and having an opening formed in an end thereof positioned opposite said first end of said first fixture means;a second light fixture with a second fluorescent lamp mounted thereon, and the second light fixture has an end positioned opposite the first end of the first light fixture, and the end of the second light fixture has an opening therein;

<i>961 Patent Claim One Language</i>	<i>Targetti's Proposed Claim Construction</i>	<i>Legion's Proposed Claim Construction</i>

first means for providing a flexible passageway connecting the opening in said first end to the opening in said second fixture opposite said opening in said first end;	a flexible passageway connecting the opening in the first end of the first light fixture to the opening in the end of the second light fixture;	
a ballast in one of said first and second fixture means; and	a ballast located in at least one of said first and second light fixtures; and	a ballast located either in only the first light fixture or in only the second light fixture; and
conductor means passing through said means for providing a flexible passageway and connected to said ballast and to said first and second fluorescent lamps.	conductor passing through the flexible passageway and connected to at least one ballast and to said first and second fluorescent lamps.	electrical wiring must pass through a flexible passageway and connect a ballast both to the first fluorescent lamp and also to the second fluorescent lamp.

(Joint Statement Concerning Claim Construction, p. 3; *see also* Def.'s Brief Concerning Claim Construction, p. 2 (changing Legion's proposed claim construction of last limitation in Claim One).)

## II. Discussion.

Claim construction "begins and ends" with the claim language itself. *Interactive Gift Express, Inc. v. CompuServe, Inc.*, 256 F.3d 1323, 1331 (Fed.Cir.2001). In construing the language of a patent claim for purposes of claim construction, the patent and its prosecution history are of paramount importance. *Burke, Inc. v. Bruno Ind. Living Aids, Inc.*, 183 F.3d 1334, 1340 (Fed.Cir.1999). Evidence extrinsic to this public record may only be consulted "if needed to assist in determining the meaning or scope of technical terms in the claims." *Pall Corp. v. Micron Separations, Inc.*, 66 F.3d 1211, 1216 (Fed.Cir.1995); *accord* *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1583 (Fed.Cir.1996). The Court's starting point in determining the meaning of the terms at issue in this Motion is therefore the intrinsic evidence: the claim language, specification, and prosecution history of the relevant patents.

Where the intrinsic evidence of a patent reveals that a patentee has acted as lexicographer with respect to a particular claim term-by creating a new word or assigning a new or different meaning to an existing word, for example-"the definition selected by the patent applicant controls" and the term's special meaning is given full force. *Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1249 (Fed.Cir.1998). The lexicography must "appear with reasonable clarity, deliberateness, and precision before it can affect the claim," however. *Id.* (internal citations omitted). The test for whether a special meaning is reasonably clear is whether the patent or its prosecution history "put a reasonable competitor or one reasonably skilled in the art on notice" that the patentee intended to redefine the claim language at issue in the manner asserted. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357 (Fed.Cir.1999), *cert. denied*, 529 U.S. 1037 (2000).

Where, on the other hand, the patent applicant is not deemed a lexicographer, there is a "heavy presumption" that the words in the claims have their full ordinary or accustomed meaning. *Johnson Worldwide Assocs. v. Zebco Corp.*, 175 F.3d 985, 989 (Fed Cir.1999). As the Federal Circuit has noted, "dictionaries, encyclopedias and treatises are particularly useful resources to assist the court in determining the ordinary and customary meanings of claim terms." *Texas Digital Sys., Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1202 (Fed.Cir.2002). If a particular claim term has both an ordinary meaning and a customary meaning known to one ordinarily skilled in the art, and these meanings conflict, the latter meaning prevails. *Karlin Tech v.*

Surgical Dynamics, 177 F.3d 968, 971 (Fed.Cir.1999).

With these principles in mind, the Court now turns to the construction of the claim language at issue: the last two limitations of Claim One.

**A. "A ballast in one of said first and second fixture means"**

Targetti urges the Court to construe Claim One's fifth limitation to mean "a ballast located in *at least one* of said first and second light fixtures." (Pl.'s Brief in Support of Markman Hearing, p. 2 (emphasis in original).) It argues that such an interpretation comports with the "common and ordinary meaning" of the claim language, in that "an indefinite article 'a' or 'an' in patent parlance carries the meaning of 'one or more' in open-ended claims containing the transitional phrase 'comprising.'" *KJC Corp. v. Kinetic Concepts, Inc.*, 223 F.3d 1351, 1356 (Fed.Cir.2000).

Legion construes the clause to require "a ballast located either in *only* the first light fixture or in *only* the second light fixture." (Def.'s Brief Concerning Claim Construction, p. 12 (emphasis supplied).) In support of its argument, Legion cites to the patent specification, which describes the ballast limitation as follows: "Electrical conductors extend from the ballast 17 through the interconnection member 15 such that the ballast 17 serves to activate both lamp units 13 of each fixture pair 11, 12." (Legion 1483, col. 2, 11. 41-44.) Legion also cites to extrinsic evidence, including relevant prior art (Legion 1131) and technical manuals that indicate what the claim terms might mean to a person of ordinary skill in the art (Legion 44, 662, 667, 679). ( *See generally* Joint Statement Concerning Claim Construction, pp. 11-12 .)

The Court finds that Legion's construction of the limitation better comports with the claim language, specification, and prosecution history of the '961 Patent. Although the claim language uses the indefinite article "a" to refer to the ballast, it further specifies that said ballast be located "in *one* of said first and second fixture means." The Court finds Targetti's proposed construction inconsistent with this claim language, and further finds that Targetti's proposed construction ignores the exception to the *KJC* rule, set out in *KJC* itself: " *Unless the claim is specific as to the number of elements*, the article 'a' receives a singular interpretation only in rare circumstances when the patentee evinces a clear intent to so limit the article." *KJC*, 223 F.3d at 1356 (emphasis supplied). Here, the claim is specific as to the "number of elements"-the number of light fixtures within which a ballast is located. The Court accordingly construes the fifth limitation of Claim One of the '961 Patent to require "a ballast located either in only the first light fixture or in only the second light fixture." FN4

FN4. In the Court's view, such a construction is consonant with the rule, cited by Targetti in its Reply Brief, that one should not "read [ ] limitations into a claim from the preferred embodiment described in the specification, even if it is the only embodiment described, absent clear disclaimer in the specification." *American Academy of Science Tech Center*, No. 03-1531, 2004 U.S.App. LEXIS 9382, (Fed.Cir.2004); *see also* *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 906 (Fed.Cir.2004). Contrary to Targetti's assertion, the claim language in this case does use words "of manifest exclusion or restriction." *Teleflex, Inc. v. Ficosa N. Am. Corp.*, 299 F.3d 1313, 1327 (Fed.Cir.2002). The Court's construction is thus based on the plain language of the claim itself, and is not grounded exclusively on the preferred embodiment described in the specification. Further, while the preferred embodiment should not restrict otherwise expansive claim language, "neither do the claims enlarge what is patented beyond what the inventor has described as the invention." *Netword, LLC v. Centraal Corp.*, 242 F.3d 1347, 1352 (Fed.Cir.2001).

**B. "Conductor means passing through said means for providing a flexible passageway and connected to said ballast and to said first and second fluorescent lamps"**

Targetti, again relying on the "common and ordinary meaning of the claim," argues that the proper construction of the sixth limitation of Claim One is "conductor passing through the flexible passageway and connected to at least one ballast and to said first and second fluorescent lamps." (Pl.'s Brief in Support of Markman Hearing, p. 5.) Legion urges the Court to construe the limitation to mean that "electrical wiring must pass through a flexible passageway and connect a ballast both to the first fluorescent lamp and also to the second fluorescent lamp." (Def.'s Brief Concerning Claim Construction, p. 15.) The primary disagreement between the parties again appears to be over whether the claim is limited to only one ballast or includes configurations with one or more ballasts. For the reasons stated in Section 11(B) above and based on the intrinsic evidence, the Court finds Legion's proposed construction preferable. The Court accordingly construes the sixth limitation of Claim One to mean that "electrical wiring must pass through a flexible passageway and connect a ballast both to the first fluorescent lamp and also to the second fluorescent lamp."

**III. Conclusion.**

Based on the above, the Court construes the fifth limitation of Claim One of the '961 Patent, which limitation teaches "a ballast in one of said first and second fixture means," to require "a ballast located either in only the first light fixture or in only the second light fixture." The Court further construes the sixth limitation, which teaches "conductor means passing through said means for providing a flexible passageway and connected to said ballast and to said first and second fluorescent lamps," to mean that "electrical wiring must pass through a flexible passageway and connect a ballast both to the first fluorescent lamp and also to the second fluorescent lamp."

C.D.Cal.,2004.

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