

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

KINETIC CONCEPTS, INC., KCI Licensing, Inc. KCI USA, Inc. and Wake Forest University Health Sciences,
Plaintiffs.

v.

BLUESKY MEDICAL CORPORATION, Medela AG, Medela, Inc., and Patient Care Systems, Inc,
Defendants.

June 29, 2006.

SECOND AMENDED ORDER CONSTRUING PATENT '643 AND '081 CLAIM TERMS

ROYAL FURGESON, District Judge.

On June 29, 2005 the Court entered an Order Construing Patent '643 Claim Terms (Docket No. 258). The parties appeared for a second Markman hearing, and a second claims construction order construing '643 claim terms as well as '081 claim terms was entered (Docket No. 408) on January 24, 2006. Upon consideration of the testimony and evidence presented at trial, the Court decided it was necessary to amend the construction of one term in the first order (Docket No. 258) and one term in the second order (Docket 408).

In the Order Construing Patent '643 Claim Terms (Docket No. 258) the Court construed the claim term "treating a wound" in Claim 13 as "giving medical care to an injury." In the Order Construing Patent '643 and '081 terms, the Court construed the claim term "facilitating the healing of wounds" in Claims 1, 27, and 54 of Patent '081 as "facilitating the healing of injuries." After approximately ten days of trial, the term "injury" has not been used by any of the witnesses to describe the patented device. In light of the testimony and evidence presented at trial, the Court is of the opinion that it is not necessary to construe the term "wound."

Therefore, the Court hereby **ORDERS** that its construction of "wound" be vacated. It is further **ORDERED** that claim term "treating a wound" shall be construed to mean "giving medical care to a wound." FN1 It is further **ORDERED** that claim term "facilitating the healing of wounds" does not need further construction.

FN1. The parties requested that the Court construe "treating a wound" in Claim 13 of the '643 patent. "Treating a wound" also appears in claims 6, 11, 26, 28, 29, 31, and 32 of the '643 patent. The construction described in this order shall apply consistently each time the term appears in the identified claims.

It is **SO ORDERED**.

W.D.Tex.,2006.

Kinetic Concepts, Inc. v. Bluesky Medical Corp.

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