United States District Court,
C.D. California.

VERTICAL DOORS, INC,
v.
J T BONN.

No. SACV 05-905 JVS(ANX)

Oct. 30, 2006.

CIVIL MINUTES-GENERAL

SELNA**, J.**

Karla J. Tunis	Not Present
Deputy Clerk	Court Report
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:
Not Present	Not Present

Proceedings: (IN CHAMBERS) Order Re: Markman/Claim Construction Hearing

I. ***BACKGROUND***

Plaintiff Vertical Doors, Inc. ("Vertical Doors") alleges that Defendant KW Automotive North America, Inc. ("KW") has infringed claims 1-3 of U.S. Patent No. 6,845,547 ("the '547 patent"). FN1 (Vertical Doors Opening Br. 1.) Vertical Doors also alleges that the remaining Defendants have violated claims 8-10 of the '547 patent: J .T. Bonn, Inc., Bill Yip, Tony Yip, and John Yip (collectively "JT"); Extreme Dimensions, Inc., Simon Cheng, and Ryan Li (collectively "Extreme"); and Ultimate Product Corp., Vincent Huang, and Richard On (collectively "Ultimate"). (*Id.*) There are twenty-eight disputed terms.

FN1. In citing to the patent, the Court adopt the following convention: "column.line."

II. ***LEGAL STANDARD***

Claim construction is "exclusively within the province of the court." Markman v. Westview Instruments, Inc., 517 U.S. 370, 372, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996). Such construction "begins and ends" with the claim language itself, Interactive Gift Express, Inc. v. Compuserve, Inc., 256 F.3d 1323, 1331 (Fed.Cir.2001), but extrinsic evidence may also 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).

In construing the claim language, the Court begins with the principle that "the words of a claim are generally given their ordinary and customary meaning." Phillips v. AWH Corp., 415 F.3d 1303, 1312 (Fed.Cir.2005) (internal quotation marks omitted). Further, this ordinary and customary meaning "is the meaning that the [claim] term would have to 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." (Id. at 1313.) "[T]he person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification." (*Id.*)

"In some cases, the ordinary meaning of claim language as understood by a person of skill in the art may be readily apparent even to lay judges, and claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words." (*Id.* at 1314.) "In such circumstances general purpose dictionaries may be helpful." (*Id.*) In other cases, "determining the ordinary and customary meaning of the claim requires examination of terms that have a particular meaning in a field of art." (*Id.*) In those cases, "the court looks to those sources available to the public that show what a person of skill in the art would have understood the disputed claim language to mean." (*Id.*) These sources include "the words of the claims themselves, the remainder of the specification, the prosecution history, and extrinsic evidence concerning relevant scientific principles, the meaning of technical terms, and the state of the art." (*Id.*) (internal quotation marks omitted.)

The claim terms are not presumed to have the meaning that a person of ordinary skill in the relevant art would ordinarily attribute to them if (1) the patentee acts as his own lexicographer, or (2) the claim term is too vague for an accurate meaning to be ascertained from the language used. Novartis Pharms. Corp. v. Abbott Labs., 375 F.3d 1328, 1334 (Fed.Cir.2004). For a patentee to act as his own lexicographer, the patentee must set out a different meaning in the specification in a manner sufficient to provide notice of the meaning to a person of ordinary skill in the art. *In re* Paulsen, 30 F.3d 1475, 1480 (Fed.Cir.1994).

With these principles in mind, the Court now turns to the construction of the claim language at issue.

III. *DISCUSSION*

A. Validity objections

KW argues that claims 1-3 are indefinite and, as a result, cannot be construed. (KW Opening Br. 1, 21-25.)

The Federal Circuit has "certainly not endorsed a regime in which validity analysis is a regular component of claim construction ." Phillips, 415 F.3d at 1327.

Accordingly, the Court declines to examine issues of validity in the instant order.

B. Disputed Terms

1. "CHASSIS MOUNTING PLATE"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction

"CHASSIS MOUNTING PLATE"	"A portion of the vehicle door hinge to be fastened to the vehicle frame"	JT; Extreme; Ultimate: "A flat and thin metal piece used to attach the hinge to the vehicle frame"	No interpretation required
		KW: "a flat and thin rigid piece of material that is securely fastened to the frame of a vehicle"	

Vertical Doors contends that the Court ought to construe "chassis mounting plate" to mean "a portion of the vehicle door hinge to be fastened to the vehicle frame." (Vertical Doors Opening Br. 4-5.) Vertical Doors argues that its construction is the "clear" result from the patentee acting as his own lexicographer. (*Id.*) However, the Court finds no indication from the specification or other evidence that the patentee departed from the ordinary meaning of the words "chassis," "mounting," and "plate," or from a phrase consisting of all three words in order. To act as his own lexicographer, a patentee must set out a different meaning sufficient to provide notice to a person of ordinary skill in the art. *See In re* Paulsen, 30 F.3d at 1480. There is no intrinsic evidence that the patentee here used "chassis mounting plate" in a different manner than its ordinary and customary usage.

In addition, Vertical Doors' own intrinsic evidence is inconsistent with its proposed construction. In every quotation from the '547 patent relied upon, the term "chassis mounting plate" is immediately followed by the very same terms that are allegedly part of what the term "chassis mounting plate" means. For instance, the patent states that it is one advantage of the invention that, *inter alia,* the hinge comprises "a chassis mounting plate securely fastened to such vehicle frame[.]" (3:28-29.) If the term "chassis mounting plate" indeed means "a portion of the vehicle door hinge to be fastened to the vehicle frame," as Vertical Doors contends (Vertical Doors Opening Br. 4-5), there would be no need to specify that the chassis mounting plate is "fastened to such vehicle frame." Absent evidence to the contrary, the Court presumes that different terms connote different meanings. *See* CAE Screenplates v. Heinrich Fiedler GmbH, 224 F.3d 1308, 1317 (Fed.Cir.2000).

Defendants' proposed constructions focus on the "flat and thin" nature of the "plate" in issue. (*See, e.g.,* JT Opening Br. 4-5.) Extreme and JT argue that Vertical Doors' construction "ignores the common meaning of the term 'plate[.]" ' (*Id.* at 5; Extreme Opening Br. 4-5.) KW contends that, in addition, the construction ought to specify that "the chassis mounting plate be 'securely fastened' to the vehicle frame." (KR Opening Br. 6.)

None of the proposed constructions of "chassis mounting plate" overcome the "heavy presumption" that the terms "mean what they say and have the ordinary meaning that would be attributed to those words by persons skilled in the relevant art." Texas Digital Systems, Inc. v. Telegenix, Inc., 308 F.3d 1193, 1202 (Fed.Cir.2002). The Court further finds that the term "chassis mounting plate" is used according to its ordinary and customary usage, and that the scope of the claims are clear when the ordinary and customary meaning of "chassis mounting plate" is used. Therefore, the Court finds that no interpretation is necessary in order to construe the meaning of the term.

2. "VEHICLE FRAME"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction

"VEHICLE FRAME"	"the frame / body / chassis of a vehicle"	JT; Extreme; Ultimate; KW: "a structural unit in an automobile chassis supported on the axles and supporting the rest of the chassis and the body"	"that portion of the vehicle with which the vehicle door typically comes into contact."

In its brief, Vertical Doors prefers to conflate the interpretation of "vehicle frame" with the term "securely fastened." (Vertical Doors Opening Br. 5-8.) The Court, however, will examine each in turn.

Vertical Doors again argues that its interpretation is the result of the patentee acting as his own lexicographer. (Vertical Doors Opening Br. 6.) Vertical Doors contends that the patentee set out a meaning which is interchangeable with "chassis" and "body." To support this contention, Vertical Doors cites to the following passages: "... sufficient to avoid damage to the vehicle frame/body during the vertical motion ..." (8:37-38); and "after the door is properly and correctly fit to the frame/chassis ..." (10:23-24). (Vertical Doors Opening Br. 6-7.) The passages only suggest that the patentee intended to convey disjunction between the words separated by a slash mark, not equivalence. In its Reply, Vertical Doors argues further that the slash mark is used elsewhere in the patent to convey equivalence (e.g., "... in which rotation about the post is disabled/prevented." 11:4-5). However, as KW points out, applying an interpretation that the slash mark means equivalence leads to the absurd result that the patentee meant "opening" and "closing" to be equivalent. (KW Reply Br. 6 n.1; citing 11:59-62: "... during the horizontal portion of the opening/closing cycle.")

Defendants argue that their proposed construction ("a structural unit in an automobile chassis supported on the axles and supporting the rest of the chassis and the body") is the "ordinary meaning in the field of automotive design." (JT Opening Br. 6. *See also* Extreme Opening Br. 5-6; KW Opening Br. 6-9.)

The claims "must be read in view of the specification, of which they are a part." *Markman,* 52 F.3d at 979. 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." Vitrionics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1582 (Fed.Cir.1996). The correct construction is the one that "stays true to the claim language and most naturally aligns with the patent's description of the invention." Renishaw PLC v. Marposs Societa per Azioni, 158 F.3d 1243, 1250 (Fed.Cir.1998) (citations omitted).

Defendants' construction of the term "vehicle frame" is inconsistent with the specification. The specification and claims state that the hinge connects the vehicle door to the "vehicle frame." (*e.g.*, 5:1-6; 12:47-48; 13:14-15) If "vehicle frame" meant "a structural unit in an automobile chassis supported on the axles and supporting the rest of the chassis and the body," the hinge could not possibly allow the horizontal and vertical motion the patent describes and claims. Such a construction does not naturally align with the patent.

The specification and claims use the term "vehicle frame" in a broad fashion to describe that part of the vehicle which typically comes into contact with the vehicle door. The specification describes the importance of a "tight and correct fit with correct orientation and no unusual spacing between the door and the door frame," so that the vehicle does not become "noisy and drafty." (6:48-51.) The invention attaches to the vehicle in a location very similar or identical to where a typical vehicle's door attaches. In the "retrofit kit" preferred embodiment, to be used with vehicles such as the Acura Integra and Mitsubishi Eclipse,

the user will remove the conventional door hinges. The invention may be installed either as a *hole-for-hole replacement of the older equipment,* or the user may drill new holes or weld as needed to accommodate the

door mounting plate portion of the swingarm and the chassis mounting plate of the invention.

(12:13-18, emphasis added.)

The Court finds that the patent uses the term "vehicle frame" in an unusual yet consistent fashion, such as to put one ordinarily skilled in the art on notice of its different meaning. Though the patent describes how the invention attaches to the "vehicle frame," the ordinary meaning of the term seems to belie that notion. The deposition testimony of Defendants' automotive design expert supports this conclusion:

Q: Are the doors of an automobile ever attached to the frame?

A: Not in general production vehicles. I've seen some speciality cars, some show cars, some race cars with special doors that were attached to the frame. But most production automobiles have the doors attached to the body A-pillar, it's called, that's the first vertical member underneath the windshield.

...

Q: Do you have an opinion as to what the phrase ["after the door is properly and correctly fit to the frame/chassis"] would mean to someone of ordinary skill in the art when they are reading that as to why it says frame/chassis?

A: Exactly what I reacted to, which-when it clearly says attached to the frame/chassis, *the first thing that anybody skilled in the art would say is, "why are you doing that?"*

Q: Would it be normal to attach it to the chasis?

A: No, it would not be normal to attach it to the chassis.

Q: And not normal to attach it to the frame?

A: No.

(Telford Dep., 32:19-33:1; 35:12-23, emphasis added.)

Accordingly, the Court interprets "vehicle frame" to mean "that portion of the vehicle with which the vehicle door typically comes into contact."

3. "SWINGARM"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"SWINGARM"	"a portion of the vehicle door hinge to be fastened to the vehicle door"	JT; Extreme; Ultimate: "a metal piece used to attach the hinge to the door of a vehicle that is capable of pivotal motion" KW: "a rigid piece of material	"a rigid piece of material that is securely fastened to the door of a vehicle that is capable of pivotal motion"

		that is securely fastened to the door of a vehicle that is capable of pivotal motion"	

Vertical Doors again argues that the term is a clear example of the patentee acting as his own lexicographer. (Vertical Doors Opening Br. 8.) And again, the Court finds no support for the assertion, for the same reasons as described earlier. *See* discussion, Part III.B.1, *supra*.

In support of its construction, Vertical Doors quotes passages from the patent such as the following: "the swingarm may be securely fastened to the vehicle door[.]" (Vertical Doors Opening Br. 9, citing 12:19-20.) But, just as in its proposed construction for "chassis mounting plate," Vertical Doors' construction here would result in unnecessary repetition. If the patentee indeed meant "swingarm" to mean "a portion of the vehicle door hinge to be fastened to the vehicle door," there would be no need to specify that the "swingarm *may* be securely fastened to the vehicle door[.]" (12:19-20, emphasis added.) Absent evidence to the contrary, the Court presumes that different terms connote different meanings. *See* CAE Screenplates v. Heinrich Fiedler GmbH, 224 F.3d at 1317.

No party has suggested that "swingarm" has an ordinary meaning to one skilled in the art. The Court, then, must look to the intrinsic evidence to determine its meaning. *See* Alza Corp. v. Mylan Labs, Inc., 391 F.3d 1365, 1370 (Fed.Cir.2004). Depicted in Figs. 3(6), 14-15(114), and described in 7:44-54, the term "swingarm" denotes that portion of the invention connecting the vehicle door to the hinge mechanism. It is to be "securely fastened" to the vehicle door. (*See, e.g.,* 3:29-30; 4:59-60; 5:6-7.) KW's proposed definition accurately describes the term's meaning, without the unnecessary specification that the denoted item be made of metal, as suggested by the other Defendants (Joint PLR 4-3 Statement 9). KW's construction also specifies an essential aspect of the "swingarm"; that it be capable of pivotal movement. *See* 7:44-54 (describing how the swingarm moves bi-directionally relative to the chassis mounting plate). Vertical Doors' suggested construction ("a portion of the vehicle door hinge to be fastened to the vehicle door") is overly broad because it makes no mention of the necessary feature that the "swingarm" is capable of movement.

The Court agrees with KW, and construes "swingarm" to mean "a rigid piece of material that is securely fastened to the door of a vehicle that is capable of pivotal motion."

4. "HORIZONTAL BEARING SURFACE"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"HORIZONTAL BEARING SURFACE"	"a surface which bears against another surface (e.g., a strong bearing surface) during motion of the door in the horizontal plane"	JT; Extreme; Ultimate: no interpretation required KW: "a non-adjustable raised surface on the swingarm that is level and parallel to	"a surface which rotates along the length of the 'strong bearing surface' and takes stress from the vehicle door during horizontal motion of the door"

	or the same as the horizon when the swingarm is securely fastened to the vehicle door, and that transfers the weight of the door to another surface (the strong bearing surface, defined below) during opening of the door"

Vertical Doors' claim that this term is a clear example of the patentee acting as his own lexicographer is again rejected on the same grounds as above. *See* discussion, Part III.B.1, *supra*.

Patent '547 depicts the "horizontal bearing surface" in Fig. 3(12). As its only support for its preferred construction, Vertical Doors quotes from the patent at 3:48-52 and 7:34-41. JT, Extreme, and Ultimate do not suggest a construction. KW argues for a very specific construction, drawing upon the ordinary meaning of "horizontal," claim 1, and the specification. (KW Opening Br. 10-11.)

Vertical Doors' interpretation is insufficiently precise because it cannot distinguish the "horizontal bearing surface" from the "strong bearing surface." Both surfaces bear against each other during horizontal movement of the door. *See* 7:34-43.

KW's definition is overly narrow, as it improperly limits the claims to one of the patent's preferred embodiments where the "horizontal bearing surface" is, for instance, "non-adjustable."

The Court interprets the term "horizontal bearing surface" in light of claim 1 and the specification: "a surface which rotates along the length of the 'strong bearing surface' and takes stress from the vehicle door during horizontal motion of the door."

5. "STRONG BEARING SURFACE"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"STRONG BEARING SURFACE"	"a surface to which another surface (e.g., a horizontal bearing surface) bears against"	JT; Extreme; Ultimate: no interpretation required KW: "an adjustable raised surface of a cam adjuster barrel located on the chassis mounting plate that receives the weight of the vehicle door from another surface (the horizontal bearing surface, defined above) during opening of the door"	"a surface to which another surface (e.g., a horizontal bearing surface) bears against"

Vertical Doors argues that the patent's use of "strong bearing surface" is a result of the patentee acting as his own lexicographer. (Vertical Doors Opening Br. 10.)

KW argues for a much more narrow interpretation, contending that "the specification makes clear that the cam adjuster 10 and strong bearing surface are synonymous." (KW Opening Br. 11.)

The Court finds that KW's interpretation adds limitations onto the claim, whereas Vertical Doors' proposed construction accurately reflects how the term is used in the specification and the claims.

The Court interprets "strong bearing surface" to mean "a surface to which another surface (*e.g.*, a horizontal bearing surface) bears against."

6. "HAVING A LENGTH"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"HAVING A LENGTH"	"having a measurement from one point to another point"	JT; Extreme; Ultimate: no interpretation required KW: "being of a structure that has a linear dimension or distance"	no interpretation required

Vertical Doors, and all the defendants aside from KW, contend that the term "having a length" does not depart from its ordinary meaning.

KW relies on the idea that the ordinary meaning does not sufficiently explain why the patent mentions the term at all, because the ordinary meaning would seem to be superfluous given the context. For instance: "[t]his off-centered axis of rotation assists in the very important areas of maintaining a tight and correct fit and in maintaining the proper orientation as the door opens, and further provides a strong bearing surface having a length ." (7:9-13.) KW asserts that the ordinary meaning of "having a length" would violate the "fundamental rule of construction that all claim terms have meaning." (KW Opening Br. 12.)

KW fails to make a sufficient showing to overcome the presumption of ordinary meaning. The Court finds no need to construe the term.

7. "HORIZONTAL"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"HORIZONTAL"	no interpretation required	JT; Extreme; Ultimate: no interpretation required KW: "oriented parallel to or the same as the horizon"	no interpretation required

Vertical Doors contends that the Court need not interpret the term "horizontal," because the term has meaning only as to other terms under dispute (*i.e.*, "horizontal bearing surface" and "horizontal plane"). (Vertical Doors Opening Br. 11.)

In light of the Court's interpretation of "horizontal plane," *infra,* the Court finds that no interpretation of "horizontal" is necessary.

8. "HORIZONTAL PLANE"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"HORIZONTAL PLANE"	"a plane of motion relative to a vehicle's orientation, in which a standard vehicle door opens horizontally"	JT; Extreme; Ultimate: "a flat or level surface parallel to the horizon" KW: "an imaginary flat or level surface that is parallel to or the same as the horizon"	"a plane of motion relative to a vehicle's orientation, in which a conventional vehicle door opens horizontally"

Vertical Doors argues that the patent's use of "horizontal plane" is a result of the patentee acting as his own lexicographer. (Vertical Doors Opening Br. 11-1.)

Vertical Doors also argues that the patent's use of "horizontal plane" refers to movement relative to the orientation of the car, rather than, as defendants argue, relative to the horizon. (Vertical Doors Opening Br. 11-12.)

JT argues that Vertical Doors' definition is overly broad, because it is "synonymous with 'outward." ' (JT Opening Br. 7). The Court disagrees, as Vertical Doors' proposed definition specifies that the plane of motion is one "in which a standard vehicle door opens."

Extreme argues that the ordinary meaning of the term ought to prevail, and that Vertical Doors' reference to a "standard vehicle door" finds no support in the specification or prosecution history. (Extreme Opening Br. 4.) KW essentially agrees with Extreme, arguing that the ordinary meaning of "horizontal" is movement with reference to the horizon. In addition, KW argues that since the patentee included the word "substantially" in the specification, but omitted it from the claim, "any embodiment which facilities motion other than in the 'horizontal plane' has been dedicated to the public. (KW Opening Br. 17.)

The disagreement concerns the reference point of the initial movement of the door. The Court finds that the movement need not be precisely parallel to the horizon; the car may be parked at an angle, for instance, or the door may open at an angle slightly off from the horizon due to the operation of the hinge mechanism. The scope of the claims are not dependent on the car's position relative to the horizon, or on the door opening at an absolutely precise angle.

The Court interprets "horizontal plane" to mean "a plane of motion relative to a vehicle's orientation, in which a conventional vehicle door opens horizontally."

9. "VERTICAL PLANE"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"VERTICAL PLANE"	"a plane of motion substantially orthogonal to the horizontal plane"	JT; Extreme; Ultimate: "a flat or level surface perpendicular to the horizon" KW: "an imaginary flat surface that is perpendicular to or at a right angle to the horizon"	"a plane of motion substantially orthogonal to the horizontal plane"

Vertical Doors argues that the patent's use of "vertical plane" is a result of the patentee acting as his own lexicographer. (Vertical Doors Opening Br. 12-14.)

Vertical Doors makes essentially the same argument as it did for "horizontal plane." (Vertical Doors Opening Br. 12-14.) The Court agrees with Vertical Doors that requiring the second motion of the door to be at a precisely ninety degree angle to the first would contradict the specification and exclude the patent's preferred embodiments. The intrinsic evidence is clear on this. For instance: "... the new motion is substantially vertical in the preferred embodiment but in other embodiments the direction of rotation may considerably depart from the vertical." (8:20-23.)

Defendants present variations of the same argument that, though the specification and other intrinsic evidence may indicate that movement of the door occurs in a substantially vertical plane, the claim itself omits the word "substantially," and so aspects of the invention dealing with motion of the door, apart from a precisely vertical motion, are dedicated to the public. As support for this argument, Defendants principally rely upon Schoenhaus v. Genesco, Inc., 440 F.3d 1354, 1359 (Fed.Cir.2006).

Though the claims do not use the word "substantially," the Court finds that interpreting that term "vertical plane" in a narrow, mathematically precise fashion would render the patent inconsistent. "In construing terms used in patent claims, it is necessary to consider the specification as a whole, and to read all portion of the written description, if possible, in a manner that renders the patent internally consistent." Budde v. Harley-Davidson, Inc., 250 F.3d 1369, 1379-80 (Fed.Cir.2001). 37 C.F.R. s. 1.75(d)(1) is also instructive:

The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.

The Court therefore interprets the term "vertical plane" to mean "a plane of motion substantially orthogonal to the horizontal plane."

10. "MOTION OF THE DOOR IN THE FIRST HORIZONTAL PLANE"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"MOTION OF THE DOOR IN THE FIRST HORIZONTAL PLANE"	"motion of the door in the horizontal plane of motion as defined herein"	JT; Extreme; Ultimate: "movement of the door in a direction that occurs first and is within an imaginary flat or level surface that is parallel to or the same as the horizon"	no interpretation required

		KW: "movement of the door is in a direction that is within an imaginary flat level surface that is parallel to or the same as the horizon"	

Vertical doors argues that, once the Court interprets "horizontal plane," there is no reason to depart from the ordinary meaning of words in the term. (Vertical Doors Opening Br. 15.)

KW similarly relies upon its argument for its interpretation of "horizontal plane." (KW Opening Br. 14.)

JT would require that movement "occurs first" within the horizontal plane. However, the patent merely specifies two separate planes, and does not specify or require an order of movement, or exclude the possibility of movement in two plans simultaneously. FN2

FN2. Moreover, the construction could render superfluous the term "sequentially" in claim 2. (12:65-67.)

Accordingly, this Court finds that, given its interpretation of "horizontal plane," *supra,* a separate interpretation of "motion of the door in the first horizontal plane" is unnecessary.

11. "MOTION OF THE DOOR IN THE SECOND VERTICAL PLANE"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"MOTION OF THE DOOR IN THE SECOND VERTICAL PLANE"	"motion of the door in the vertical plane of motion (as defined herein)"	JT; Extreme; Ultimate: "movement of the door in a direction that occurs second and is within an imaginary flat or level surface that is perpendicular to the horizon" KW: "movement of the door is in a direction that is within an imaginary flat level surface that is perpendicular to the horizon"	no interpretation required

As in the previous term, Vertical Doors argues that, once the Court interprets "vertical plane," it is unnecessary for the Court to interpret "motion of the door in the second vertical plane." (Vertical Doors Opening Br. 15.)

KW similarly relies upon its argument for its interpretation of "vertical plane." (KW Opening Br. 14.)

As in its interpretation of "motion of the door in the first horizontal plane," JT's proposed interpretation of "motion of the door in the second vertical plane" erroneously requires that the vertical movement occur after the horizontal movement.

Accordingly, this Court finds that, given its interpretation of "vertical plane," *supra,* a separate interpretation of "motion of the door in the second vertical plane" is unnecessary.

12. "ROTATES ALONG THE LENGTH OF THE STRONG BEARING SURFACE DURING MOTION OF THE DOOR IN A FIRST HORIZONTAL PLANE"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"ROTATES ALONG THE LENGTH OF THE STRONG BEARING SURFACE DURING MOTION OF THE DOOR IN A FIRST HORIZONTAL PLANE"	"moves along a length of the strong bearing surface while being rotated during motion of the door in the horizontal plane"	JT; Extreme; Ultimate: no interpretation required KW: "the horizontal bearing surface travels by rolling lengthwise (linearly), rather than radially, along a horizontal line of contact for a distance from a first point to a second point on the strong bearing surface."	no interpretation required

Vertical Doors' claim that this term is a clear example of the patentee acting as his own lexicographer is again rejected on the same grounds as above. *See* discussion, Part III.B.1, *supra*.

KW principally objects to Vertical Doors use of the word "moves" instead of "rotates" or "rolls." (KW Opening Br. 15-16 .)

This disputed term principally consists of terms already examined by the Court. Here, no party makes a sufficient showing to overcome the presumption of ordinary meaning, and therefore, the Court finds that no interpretation is required of "rotates along the length of the strong bearing surface during motion of the door in a first horizontal plane."

13. "WHEREBY THE STRONG BEARING SURFACE AND THE HORIZONTAL BEARING SURFACE COOPERATE TOGETHER TO TAKE THE STRESS OF THE DOOR OPENING"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"WHEREBY THE STRONG BEARING SURFACE AND THE HORIZONTAL BEARING SURFACE COOPERATE TOGETHER TO TAKE THE STRESS OF THE DOOR OPENING"	no interpretation required	JT; Extreme; Ultimate: no interpretation required KW: "the full weight of the door is supported through the interaction of the horizontal	no interpretation required

		interaction of the horizontal bearing surface and the strong bearing surface during opening of the vehicle door"	

Vertical Doors argues that there is no reason to depart from the ordinary meaning of the term. (Vertical Doors Opening Br. 16.)

JT, Extreme, and Ultimate concur that no interpretation is needed. (Joint PLR 4-3 Statement, 32.)

KW avers that interpretation is unnecessary because the "whereby" clause does not limit the claim. (KW Opening Br. 16.) KW relies upon Texas Instruments Inc. V. U.S. Int'l Trade Comm'n, 988 F.2d 1165, 1172 (Fed.Cir.1993), for the proposition that a whereby clause that merely states the result of the claim cannot limit the claim. (Id.)

Vertical Doors responds by contending that the "whereby" clause in question does add substance to the claim, as it is followed by a specific "thereby" clause pertaining to the motion of the door. (Vertical Doors Reply Br. 14-15.)

The term in issue appears in claim 1 of the patent. 12 :60-64. In *Texas Instruments,* the court held that a whereby clause did not limit the claim because it "only express[ed] the necessary results of what is recited in the claims." 988 F.2d at 1172. Here, however, the Court agrees with Vertical Doors that the "whereby" clause does add substance to the claim by, *inter alia,* specifying that the "strong bearing surface and the horizontal bearing surface cooperate together to take the stress of the door opening," thus facilitating "motion of the door in the first horizontal plane and a second vertical plane." *Id*.

In light of its previous interpretations, the Court finds that an additional interpretation of "whereby the strong bearing surface and the horizontal bearing surface cooperate together to take the stress of the door opening" is unnecessary.

14. "THEREBY ALLOWING MOTION OF THE DOOR IN THE FIRST HORIZONTAL PLANE AND SECOND VERTICAL PLANE"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"THEREBY ALLOWING MOTION OF THE DOOR IN THE FIRST HORIZONTAL PLANE AND SECOND VERTICAL PLANE"	"the door is capable of motion in the horizontal plane and in the vertical plane"	JT; Extreme; Ultimate: no interpretation required	no interpretation required
		KW: see discussion	

Vertical Doors argues that there is no reason to depart from the ordinary meaning of the term. (Vertical Doors Opening Br. 17.)

JT, Extreme, and Ultimate concur that no interpretation is needed. (Joint PLR 4-3 Statement, 35.)

KW proposes the following construction:

"the vehicle door which supported, as defined above, is capable of moving a distance in a direction that is within an imaginary flat and level surface which is oriented parallel to or the same as the horizon, and the vehicle door is further capable of moving a distance in a direction within an imaginary flat surface that is perpendicular to or at a right angle to the horizon through the separation of the horizontal bearing surface from the strong bearing surface, which movements may occur at the same time"

KW again argues that the Court need not interpret this clause because it "simply recites the result of the hinge and is not a limitation." (KW Opening Br. 17.) The Court rejects this argument for the same reasons as in the previous term.

KW argues, in the alternative, that the Court ought to adopt its interpretation. FN3

FN3. KW's interpretation as offered in its Opening Brief differs from its proposed interpretation in the Joint PLR 4-3 Statement.

In light of its previous interpretations, the Court finds that an additional interpretation of "thereby allowing motion of the door in the first horizontal plane and second vertical plane" is unnecessary.

15. "SEQUENTIALLY"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"SEQUENTIALLY"	one after the other, and not at the same time	JT; Extreme; Ultimate: In a consecutive manner; one after the other, and not simultaneously, such that the door cannot begin moving in the second vertical plane until movement in the first horizontal plane is completed" KW: "one after the other"	no interpretation required

Vertical Doors argues that there is no reason to depart from the ordinary meaning of the term. (Vertical Doors Opening Br. 17.)

JT argues that it is important to specify that the vertical motion of the door may only occur after the horizontal motion is completed. (JT Opening Br. 8.)

KW concurs with Vertical Doors that there is no reason to depart from the ordinary meaning of the term. (KW Opening Br. 18.) However, KW disagrees with Vertical Doors on what the ordinary meaning of "sequentially" is. (Id. at 18-19.)

The Court finds that JT fails to make a showing sufficient to overcome the presumption of ordinary meaning. In addition, the Court need not prefer either Vertical Doors' or KW's definition of "sequentially," because the Court finds that no construction is necessary.

16. "BI-DIRECTIONAL HINGE"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"BI-DIRECTIONAL HINGE"	"a hinge that rotates about two axes (e.g ., about a vertical axis to allow a horizontal are motion, and about a horizontal axis to allow a vertical are motion)"	JT; Extreme; Ultimate: "a mechanism that permits rotation limited to two planes of motion, wherein such rotation first occurs and is limited to movement along a flat or level surface that is parallel to the horizon, followed by movement that next occurs and is limited to movement along a flat or level surface that is perpendicular to the horizon"	"a hinge that rotates about two axes (*e.g.*, about a vertical axis to allow a horizontal arc motion, and about a horizontal axis to allow a vertical arc motion)"
		KW: see discussion	

Vertical Doors argues that there is no reason to depart from the ordinary meaning of the term. (Vertical Doors Opening Br. 17-18.)

JT argues that Defendants' interpretation ought to be adopted over Vertical Doors' because it is "more concise" (JT Opening Br. 9.). However, the Court observes that JT's preferred construction is nearly twice as long as Vertical Doors' (assuming inclusion of Vertical Doors' example into the word count), and is certainly more complex. KW's preferred construction is more than four times the length of Vertical Doors' (again assuming inclusion of Vertical Doors' example).

Vertical Doors is not asserting the bi-directional hinge" portion of the Claim 3 limitation against KW. KW's interpretation of the term is:

"a joint that holds two parts together so that one can swing relative to the other made up of a first non-adjustable raised surface on the swingarm that is level and parallel to or the same as the horizon when the swingarm is securely fastened to the vehicle door, and that transfers the weight of the door to another surface during opening of the door, a second adjustable raised surface of a cam adjuster barrel located on the chassis mounting plate, such that the first surface travels by rolling lengthwise (linearly), rather than radially, along a horizontal line of contact for a distance from a first point to a second point on the second surface, that facilitates motion in a first direction that is parallel to or the same as the horizon, and in a second direction that is perpendicular to the horizon"

As in its interpretation of "motion of the door in the first horizontal plane", JT again mistakenly requires that the directions of movement occur in a certain order. *See* discussion, part III.B .11, *supra*.

The Court interprets "bi-directional hinge" to mean "a hinge that rotates about two axes (*e.g.*, about a vertical axis to allow a horizontal arc motion, and about a horizontal axis to allow a vertical arc motion)."

17. "BI-DIRECTIONAL ROTATION MECHANISM"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"BI-DIRECTIONAL ROTATION MECHANISM"	"a mechanism that allows rotation in two planes of motion"	JT; Extreme; Ultimate: "a mechanism of an unspecified structure that permits rotation limited to two planes of motion" KW: no interpretation needed	"a mechanism that allows rotation in two planes of motion"

Vertical Doors contends that its interpretation is consistent with the patent and its preferred embodiments. (Vertical Doors Opening Br. 19-20.)

JT avers that its construction reflects a lack of specificity in the patent regarding the "bi-directional rotation mechanism." (JT Opening Br. 9-10.) Specifically, JT claims that "no where in the patent is there any description of how the mechanism works." (*Id*.) The Court finds that the function is described with adequate specificity. In addition, the Court rejects JT's attempt to limit rotation to two planes; the term describes a device which would permit movement in at least two directions.

KW does not put forward an interpretation. (Joint PLR 4-3 Statement 50.)

The Court interprets "bi-directional rotation mechanism" to mean "a mechanism that allows rotation in two planes of motion."

18. "SPHERICAL BEARING"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"SPHERICAL BEARING"	"a spherical component that bears against another component"	JT; Extreme; Ultimate: "a ball-shaped supporting mechanism that first allows the door to rotate along a flat or level surface that is parallel to the horizon and consecutively allows the door to rotate along a flat or level surface that is perpendicular to the horizon." KW: [4]	"a spherical component that bears against another component"

FN4. "a first non-adjustable raised surface on the swingarm that is level and parallel to or the same as the horizon when the swingarm is securely fastened to the vehicle door, and that transfers the weight of the door to another surface during opening of the door, a second adjustable raised surface of a cam adjuster barrel located on the chassis mounting plate, such that the first surface travels by rolling lengthwise (linearly), rather than radially, along a horizontal line of contact for a distance from a first point to a second point on the second surface, the second surface being in the form of a sphere or globe allowing motion in all directions"

Vertical Doors contends that there is no reason to depart from the ordinary meaning of the term. (Vertical Doors Opening Br. 19.) That is, "a spherical component that bears against another component." (*Id*.)

KW argues that its construction is required by the language of the dependent claims in which the term appears. (KW Opening Br. 19.) Dependent claim 3, for instance, states:

The hinge of claim 1, wherein the strong bearing surface and the horizontal bearing surface further comprises one member selected from the group consisting of: a bi-directional hinge, a spherical bearing, and combinations thereof.

13:1-5. Because claim 3 "incorporates by reference the strong bearing surface and horizontal bearing surface," KW avers that definitions of those terms must be part of the definition of "spherical bearing." (KW Opening Br. 19.)

Though the language of claim 3 refers to the "strong bearing surface" and the "horizontal bearing surface," the patent refers to the "spherical bearing" as a separate component. *See, e.g .,* Fig. 2, Char. 4. As KW argues, a dependent claim must include the limitations of the independent claim. 35 U.S.C. s. 112. Claim 3 is a dependent claim, but every term within the claim need not incorporate the entire independent claim on which the dependent claim relies. There is a difference between the dependent claim and the individual terms within that claim.

KW argues that the correct interpretation renders the claim invalid. (KW Opening Br. 19-25.) Because the Court will not engage in validity analysis as part of the Markman process, the Court will not address KW's validity concerns here. Whether the claim language concerning a "spherical bearing" fails to comply with the independent claim to which it pertains is beyond the scope of the instant order.

The Court again rejects JT's attempt to require an order of movement.

The Court adopts Vertical Doors' construction of "spherical bearing:" "a spherical component that bears against another component."

19. "BI-DIRECTIONAL ROTATION MECHANISM ALLOWING MOTION OF THE DOOR IN A FIRST HORIZONTAL PLANE AND A SECOND VERTICAL PLANE"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"BI-DIRECTIONAL ROTATION MECHANISM ALLOWING MOTION OF THE DOOR IN A FIRST HORIZONTAL PLANE AND A SECOND VERTICAL PLANE"	no interpretation needed	JT; Extreme; Ultimate: "a mechanism of an unspecified structure that permits rotation of the door limited to two planes of motion, wherein such rotation first occurs and is limited to movement along a flat or level surface that is parallel to the horizon, followed by movement that next occurs and is limited to movement along a flat or level surface that is perpendicular to the horizon" KW: no interpretation required	no interpretation required

Vertical Doors contends that no interpretation is needed, because the component terms "bi-directional

rotation mechanism" and "allowing motion of the door in a first horizontal plane and a second vertical plane" are previously interpreted. (Vertical Doors Opening Br. 19.)

Defendants' arguments repeat the arguments made concerning the constituent terms.

Accordingly, the Court agrees with Vertical Doors and finds that no additional interpretation is required for the term "bi-directional rotation mechanism allowing motion of the door in a first horizontal plane and a second vertical plane."

20. "SECURELY FASTENED"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"SECURELY FASTENED"	"fastened (directly or indirectly) sufficiently for its intended purpose"	JT; Extreme; Ultimate; KW: "attached firmly"	"attached firmly"

Vertical Doors argues that there is no reason to depart from the ordinary meaning of the term. (Vertical Doors Opening Br. 5.) As support for its definition of the ordinary meaning of "securely fastened," Vertical Doors contends that the term is "relative;" the definition depends "on the intended purpose of what is being 'securely fastened' to what." (*Id*. 6.) Vertical Doors' interpretation includes the parenthetical "(directly of indirectly)," yet provides no support for the inference that the patent contemplates "indirect" attachment. There is nothing in the patent analogous to the examples Vertical Doors provides, such as a key indirectly attached to a key chain or a wedding ring indirectly attached to a finger. (*See id*.)

JT claims that Vertical Doors' definition suggests "just firmly enough," requiring a prohibited "degree of experimentation[.]" (JT Opening Br. 10.) However, to require that a thing be attached "sufficiently" is very different from saying that a thing be attached "just sufficiently enough." In a hypothetical spectrum of degrees of attachment, from hardly attached at all to attached through the firmest possible means, one could say that any degree of attachment past a certain point is "sufficient" for a given purpose. To draw such a line is not to imply that the attachment be just past it; it is to require that the attachment be at *any* point past the line. The Court therefore disagrees with JT that Vertical Doors' definition suggests an uncertain degree of experimentation.

KW does not argue for an interpretation aside from joining the other defendants in their proposed construction. (Joint PLR 4-3 Statement 61.)

The Court agrees with Defendants and interprets the term "securely fastened" to mean "attached firmly."

21. "SAG ADJUSTER SCREW"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"SAG ADJUSTER SCREW"	"a component bearing against the sag adjuster screw guide mechanism when the vehicle door is rotated through the horizontal plane"	JT; Extreme; Ultimate: "a screw capable of supporting the weight of the door to prevent the door from sinking or dropping"	"a screw capable of supporting the door as it moves through the horizontal plane"

		KW: no interpretation required	

Vertical Doors argues that the patent's use of "sag adjuster screw" is a result of the patentee acting as his own lexicographer. (Vertical Doors Opening Br. 20.)

JT's principal objection to Vertical Doors' interpretation is the replacement of "screw" with "a component." (JT Opening Br. 10.)

KW does not advocate a specific interpretation. (Joint PLR 4-3 Statement 63.)

The term "sag adjuster screw" refers to a specific component. *See* Figs. 14, 15, Char. 108. The component bears against the sag adjuster screw guide during horizontal motion of the door, helping to maintain horizontal alignment of the door. *See* 11:22-29. The claim language specifies that the "sag adjuster screw" bears "against the sag adjuster screw guide when the vehicle door is rotated through the first horizontal plane." 14:32-34.

The Court agrees with JT that, since the patent refers to the item in question as a "screw" in every instance in which it is described, it would be improper to broaden the scope of the claims be interpreting the term as merely a "component" that serves a certain function.

The Court also finds that the other language in Vertical Doors' interpretation merely restates words typically found surrounding the term in question, rather than helping to define the term itself.

Therefore, the Court interprets the term "sag adjuster screw" to mean "a screw capable of supporting the door as it moves through the horizontal plane"

22. "SAG ADJUSTER SCREW GUIDE"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"SAG ADJUSTER SCREW GUIDE"	"a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane"	JT; Extreme; Ultimate: "a discrete element forming a constituent of the sag adjuster screw guide mechanism" KW: no interpretation required	"a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane"

Vertical Doors argues that the patent's use of "sag adjuster screw guide" is a result of the patentee acting as his own lexicographer. (Vertical Doors Opening Br. 20.)

JT argues that the term ought to be described as a discreet element, in order to distinguish it from the "sag adjuster screw guide mechanism." (JT Opening Br. 11.)

KW does not advocate a specific interpretation. (Joint PLR 4-3 Statement 66.)

The patent describes the "sag adjuster screw guide" as essentially a surface on which the "sag adjuster screw" bears during horizontal movement of the door. *See, e.g.,* 11:22-29; 14:32-34; Figs. 14, 15, Char. 110. The patent describes the component in more general terms than the "sag adjuster screw." Whereas the "sag adjuster screw" is clearly an actual screw, the "sag adjuster screw guide" appears to be little more than a stable surface on which the sag adjuster screw bears. In addition, JT's interpretation of "a discreet element" does not offer any more specificity than referring to the item as a "component."

The Court interprets "sag adjuster screw guide" as suggested by Vertical Doors, that is: "a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane."

23. "SAG ADJUSTER SCREW GUIDE MECHANISM"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"SAG ADJUSTER SCREW GUIDE MECHANISM"	the "sag adjuster screw guide" as previously interpreted	JT; Extreme; Ultimate: "a mechanism consisting of the sag adjuster screw guide together with the sag adjuster screw" KW: no interpretation needed	"a mechanism comprised of a sag adjuster screw guide together with the sag adjuster screw"

Vertical Doors argues that the patent uses the term "sag adjuster screw guide mechanism" interchangeably with "sag adjuster screw guide," and therefore contends that the Court ought to adopt the same interpretation. (Vertical Doors Opening Br. 21-22.)

JT contends that the term "sag adjuster screw guide mechanism" most likely is a term describing both the "sag adjuster screw" and the "sag adjuster screw guide." (JT Opening Br. 10-11.)

KW does not advocate a specific interpretation. (Joint PLR 4-3 Statement 65.)

Vertical Doors responds to JT's criticism by, in part, explaining that Claim 8 refers to the "sag adjuster screw" and the "sag adjuster screw guide mechanism" as two separate components. (Vertical Doors Opening Br. 22.)

Though the Court agrees that Claim 8 does so distinguish, the Court disagrees that this distinction results in equating the "sag adjuster screw guide mechanism" with the "sag adjuster screw guide ." Nowhere does the patent describe the "sag adjuster screw" as bearing against the "sag adjuster screw *mechanism;*" the patent only describes the "sag adjuster screw" as bearing against the "sag adjuster screw *guide*." In addition, the Court presumes that different terms have different meanings. *See* CAE Screenplates, 224 F.3d at 1317.

The Court agrees with JT, and interprets the term "sag adjuster screw guide mechanism" to mean "a mechanism comprised of s sag adjuster screw guide together with the sag adjuster screw."

24. "SAG ADJUSTER SCREW BEARING AGAINST THE SAG ADJUSTER SCREW GUIDE WHEN THE VEHICLE DOOR IS ROTATED THROUGH THE FIRST HORIZONTAL PLANE"

Disputed Term	Vertical Doors'	Defendants' Construction	The Court's

	Construction		Construction
"SAG ADJUSTER SCREW BEARING AGAINST THE SAG ADJUSTER SCREW GUIDE WHEN THE VEHICLE DOOR IS ROTATED THROUGH THE FIRST HORIZONTAL PLANE"	"sag adjuster screw maintaining a continuous stats of contact with the sag adjuster screw guide when the vehicle door is rotated through the horizontal plane"	JT; Extreme; Ultimate: "the sag adjuster screw maintaining a continuous state of contact with the sag adjuster screw guide throughout rotational movement of the door in a direction that is within an imaginary flat or level surface that is parallel to or the same as the horizon." KW: no interpretation required	no interpretation required

As Vertical Doors and JT acknowledge, this term is in dispute to the extent that the parties disagree over the proper interpretation of the constituent terms. (Vertical Doors Reply Br. 17; JT Opening Br. 11-12.)

KW does not advocate a specific interpretation. (Joint PLR 4-3 Statement 65.)

In light of the Court's analysis of this terms's constituent terms ("sag adjuster screw," "sag adjuster screw guide," and "is rotated through the first horizontal plane"), the Court finds that an interpretation is unnecessary.

25. "ROTATIONALLY CONNECTED IN THE FIRST HORIZONTAL PLANE"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"ROTATIONALLY CONNECTED IN THE FIRST HORIZONTAL PLANE"	"rotates with, as the vehicle door opens during the horizontal phase of motion"	JT; Extreme; Ultimate: "joined by means of a rotational mechanism when parallel to the horizon" KW: no interpretation required	"rotates with, as the vehicle door opens during the horizontal phase of motion"

Vertical Doors argues that the patent's use of "rotationally connected in the first horizontal plane" is a result of the patentee acting as his own lexicographer. (Vertical Doors Opening Br. 20.) Vertical Doors quotes the specification as evidence that the patentee offers an express definition:

"As the vehicle door opens during the horizontal phase of the motion, sag adjuster guide 110 will rotate with bi-hinge 102 (rotationally connected in the first horizontal plane) ..."

11:24-28.

JT argues that Vertical Doors' definition would render the claim term superfluous, because "if the sag adjuster screw bears against the sag adjuster screw guide when the vehicle door is rotated through the horizontal plane, then it by definition rotates with...." (JT Opening Br. 12.)

KW does not advocate a specific interpretation. (Joint PLR 4-3 Statement 69.)

The Court disagrees with JT's characterization of Vertical Doors' proposed construction as superfluous. Stating that the sag adjuster screw bears against the sag adjuster screw guide during horizontal movement of the door does not necessitate that the sag adjuster screw guide rotate with the door. Conceivably, the sag adjuster screw guide could remain stationary during movement of the door, while the sag adjuster screw bears against it. Vertical Doors' interpretation of the term adds meaning to the claim term, in that it specifies that the sag adjuster screw guide rotates with the door and the sag adjuster screw during horizontal motion of the door.

The Court agrees with Vertical Doors and interprets the term "rotationally connected in the first horizontal plane" to mean "rotates with, as the vehicle door opens during the horizontal phase of motion."

26. "IS ROTATED THROUGH THE FIRST HORIZONTAL PLANE"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"IS ROTATED THROUGH THE FIRST HORIZONTAL PLANE"	"travels along an arc in the horizontal plane to introduce an angle between the chassis mounting plate and the swingarm"	JT; Extreme; Ultimate: "rotational movement of the door in a direction that is within an imaginary flat or level surface that is parallel to or the same as the horizon" KW: no interpretation required	no interpretation necessary

Vertical Doors argues that the patent's use of "is rotated through the first horizontal plane" is a result of the patentee acting as his own lexicographer. (Vertical Doors Opening Br. 23.) As support, Vertical Doors refers to passages in the specification such as, "... the door may swing though a second vertical plane/arc...." (*Id*. at 23, citing 8:13-15.)

JT objects to the "introduce an angle between the chassis mounting plate and the swingarm" component of Vertical Doors' proposed interpretation. (JT Opening Br. 12.) JT argues that the term "is rotated through the first horizontal plane" does not suggest anything concerning the relationship between the chassis mounting plate and the swingarm. (*Id*.)

KW does not advocate a specific interpretation. (Joint PLR 4-3 Statement 65.)

As with "vehicle frame" discussed *supra,* the evidence Vertical Doors relies upon presumes that the slash mark means equivalence. Though the specification refers to "arc" and "plane," the claims refer only to "planes." *See* 12:46-14:42. Similarly, language such as "... substantially horizontal motion in a first horizontal arc or plane ..." (6:7-8), suggests disjunction between two different concepts, rather than equivalence between them.

The Court finds that an interpretation of this term is unnecessary, particularly in light of its interpretation of the term "horizontal plane," *supra*.

27. "ONE MEMBER SELECTED FROM THE GROUP CONSISTING OF"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"ONE MEMBER SELECTED FROM THE GROUP CONSISTING OF"	no interpretation required	JT; Extreme; Ultimate: "one structure that is described in a group" KW: no interpretation required	no interpretation required

Vertical Doors asserts that the term need not be interpreted. (Vertical Doors Opening Br. 24.)

KW does not advocate a specific interpretation. (Joint PLR 4-3 Statement 72.)

JT justifies its interpretation by asserting that it is "reasonable," while offering no intrinsic evidence or argument.

The Court finds that an interpretation is unnecessary.

28. "COMBINATIONS THEREOF"

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"COMBINATIONS THEREOF"	no interpretation required	JT; Extreme; Ultimate: "combinations of bi-directional hinge and spherical bearing as defined above" KW: no interpretation required	no interpretation required

Vertical Doors argues that the term need not be construed. (Vertical Doors Opening Br. 24.)

No Defendant addresses the term in their briefs, though JT and Ultimate offer an interpretation in the Joint Statement. (Joint PLR 4-3 Statement 73.) Neither JT or Ultimate offer any intrinsic evidence or argument.

The Court finds that an interpretation is unnecessary.

IV. *CONCLUSION*

The following summarizes the Court's constructions.

Disputed Term	Vertical Doors' Construction	Defendants' Construction	The Court's Construction
"CHASSIS MOUNTING PLATE"	"A portion of the vehicle door hinge to be fastened to the	JT; Extreme; Ultimate: "A flat and thin metal piece used to attach the hinge to the vehicle frame"	No interpretation required

vehicle frame"

		KW: "a flat and thin rigid piece of material that is securely fastened to the frame of a vehicle"	
"VEHICLE FRAME"	"the frame / body / chassis of a vehicle"	JT; Extreme; Ultimate; KW: "a structural unit in an automobile chassis supported on the axles and supporting the rest of the chassis and the body"	"that portion of the vehicle with which the vehicle door typically comes into contact."
"SWINGARM"	"a portion of the vehicle door hinge to be fastened to the vehicle door"	JT; Extreme; Ultimate: "a metal piece used to attach the hinge to the door of a vehicle that is capable of pivotal motion" KW: "a rigid piece of material that is securely fastened to the door of a vehicle that is capable of pivotal motion"	"a rigid piece of material that is securely fastened to the door of a vehicle that is capable of pivotal motion"
"HORIZONTAL BEARING SURFACE"	"a surface which bears against another surface (e.g., a strong bearing surface) during motion of the door in the horizontal plane"	JT; Extreme; Ultimate: no interpretation required KW: "a non-adjustable raised surface on the swingarm that is level and parallel to or the same as the horizon when the swingarm is securely fastened to the vehicle door, and that transfers the weight of the door to another surface (the strong bearing surface, defined below) during opening of the door"	"a surface which rotates along the length of the 'strong bearing surface' and takes stress from the vehicle door during horizontal motion of the door"
"STRONG BEARING SURFACE"	"a surface to which another surface (e.g., a horizontal	JT; Extreme; Ultimate: no interpretation required	"a surface to which another surface (e.g., a horizontal bearing

	bearing surface) bears against"	KW: "an adjustable raised surface of a cam adjuster barrel located on the chassis mounting plate that receives the weight of the vehicle door from another surface (the horizontal bearing surface, defined above) during opening of the door"	surface) bears against"
"HAVING A LENGTH"	"having a measurement from one point to another point"	JT; Extreme; Ultimate: no interpretation required KW: "being of a structure that has a linear dimension or distance"	no interpretation required
"HORIZONTAL PLANE"	"a plane of motion relative to a vehicle's orientation, in which a standard vehicle door opens horizontally"	JT; Extreme; Ultimate: "a flat or level surface parallel to the horizon" KW: "an imaginary flat or level surface that is parallel to or the same as the horizon"	"a plane of motion relative to a vehicle's orientation, in which a conventional vehicle door opens horizontally"
"VERTICAL PLANE"	"a plane of motion substantially orthogonal to the horizontal plane"	JT; Extreme; Ultimate: "a flat or level surface perpendicular to the horizon" KW: "an imaginary flat surface that is perpendicular to or at a right angle to the horizon"	"a plane of motion substantially orthogonal to the horizontal plane"
"MOTION OF THE DOOR IN THE FIRST HORIZONTAL PLANE"	"motion of the door in the horizontal plane of motion as defined herein"	JT; Extreme; Ultimate: "movement of the door in a direction that occurs first and is within an imaginary flat or level surface that is parallel to or the same as the horizon" KW: "movement of the door is in a	no interpretation required

		direction that is within an imaginary flat level surface that is parallel to or the same as the horizon"	
"MOTION OF THE DOOR IN THE SECOND VERTICAL PLANE"	"motion of the door in the vertical plane of motion (as defined herein)"	JT; Extreme; Ultimate: "movement of the door in a direction that occurs second and is within an imaginary flat or level surface that is perpendicular to the horizon" KW: "movement of the door is in a direction that is within an imaginary flat level surface that is perpendicular to the horizon"	no interpretation required
"ROTATES ALONG THE LENGTH OF THE STRONG BEARING SURFACE DURING MOTION OF THE DOOR IN A FIRST HORIZONTAL PLANE"	"moves along a length of the strong bearing surface while being rotated during motion of the door in the horizontal plane"	JT; Extreme; Ultimate: no interpretation required KW: "the horizontal bearing surface travels by rolling lengthwise (linearly), rather than radially, along a horizontal line of contact for a distance from a first point to a second point on the strong bearing surface."	no interpretation required
"WHEREBY THE STRONG BEARING SURFACE AND THE HORIZONTAL BEARING SURFACE COOPERATE TOGETHER TO TAKE THE STRESS OF THE DOOR OPENING"	no interpretation required	JT; Extreme; Ultimate: no interpretation required KW: "the full weight of the door is supported through the interaction of the horizontal bearing surface and the strong bearing surface during opening of the vehicle door"	no interpretation required

"THEREBY ALLOWING MOTION OF THE DOOR IN THE FIRST HORIZONTAL PLANE AND SECOND VERTICAL PLANE"	"the door is capable of motion in the horizontal plane and in the vertical plane"	JT; Extreme; Ultimate: no interpretation required	no interpretation required
		KW: see discussion	
"SEQUENTIALLY"	one after the other, and not at the same time	JT; Extreme; Ultimate: In a consecutive manner; one after the other, and not simultaneously, such that the door cannot begin moving in the second vertical plane until movement in the first horizontal plane is completed" KW: "one after the other"	no interpretation required
"BI-DIRECTIONAL HINGE"	"a hinge that rotates about two axes (e.g ., about a vertical axis to allow a horizontal arc motion, and about a horizontal axis to allow a vertical arc motion)"	JT; Extreme; Ultimate: "a mechanism that permits rotation limited to two planes of motion, wherein such rotation first occurs and is limited to movement along a flat or level surface that is parallel to the horizon, followed by movement that next occurs and is limited to movement along a flat or level surface that is perpendicular to the horizon"	"ahinge that rotates about two axes (*e.g.*, about a vertical axis to allow a horizontal arc motion, and about a horizontal axis to allow a vertical arc motion)"
		KW: see discussion	
"BI-DIRECTIONAL ROTATION MECHANISM"	"a mechanism that allows rotation in two planes of motion"	JT; Extreme; Ultimate: "a mechanism of an unspecified structure that permits rotation limited to two planes of motion" KW: no interpretation needed	"a mechanism that allows rotation in two planes of motion"
"SPHERICAL BEARING"	"a spherical component that bears against another component"	JT; Extreme; Ultimate: "a ball-shaped supporting mechanism that first allows the door to rotate along a flat or level surface that is parallel to the horizon and consecutively allows the door to	"a spherical component that bears against another component"

		rotate along a flat or level surface that is perpendicular to the horizon." KW: see footnote 4, *supra*.	
"BI-DIRECTIONAL ROTATION MECHANISM ALLOWING MOTION OF THE DOOR IN A FIRST HORIZONTAL PLANE AND A SECOND VERTICAL PLANE"	no interpretation needed	JT; Extreme; Ultimate: "a mechanism of an unspecified structure that permits rotation of the door limited to two planes of motion, wherein such rotation first occurs and is limited to movement along a flat or level surface that is parallel to the horizon, followed by movement that next occurs and is limited to movement along a flat or level surface that is perpendicular to the horizon" KW: no interpretation required	no interpretation required
"SECURELY FASTENED"	"fastened (directly or indirectly) sufficiently for its intended purpose"	JT; Extreme; Ultimate; KW: "attached firmly"	"attached firmly"
"SAG ADJUSTER SCREW"	"a component bearing against the sag adjuster screw guide mechanism when the vehicle door is rotated through the horizontal plane"	JT; Extreme; Ultimate: "a screw capable of supporting the weight of the door to prevent the door from sinking or dropping"	"a screw capable of supporting the door as it moves through the horizontal plane"
		KW: no interpretation required	
"SAG ADJUSTER SCREW GUIDE"	"a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane"	JT; Extreme; Ultimate: "a discrete element forming a constituent of the sag adjuster screw guide mechanism" KW: no interpretation required	"a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane"
"SAG ADJUSTER SCREW GUIDE MECHANISM"	the "sag adjuster screw guide" as previously	JT; Extreme; Ultimate: "a mechanism consisting of the sag adjuster screw guide together with the sag adjuster	"a mechanism comprised of a sag adjuster screw

	interpreted	screw" KW: no interpretation needed	guide together with the sag adjuster screw"
"SAG ADJUSTER SCREW BEARING AGAINST THE SAG ADJUSTER SCREW GUIDE WHEN THE VEHICLE DOOR IS ROTATED THROUGH THE FIRST HORIZONTAL PLANE"	"sag adjuster screw maintaining a continuous stats of contact with the sag adjuster screw guide when the vehicle door is rotated through the horizontal plane"	JT; Extreme; Ultimate: "the sag adjuster screw maintaining a continuous state of contactwith the sag adjuster screw guide throughout rotational movement of the door in a direction that is within an imaginary flat or level surface that is parallel to or the same as the horizon." KW: no interpretation required	no interpretation required
"ROTATIONALLY CONNECTED IN THE FIRST HORIZONTAL PLANE"	"rotates with, as the vehicle door opens during the horizontal phase of motion"	JT; Extreme; Ultimate: "joined by means of a rotational mechanism when parallel to the horizon" KW: no interpretation required	"rotates with, as the vehicle door opens during the horizontal phase of motion"
"IS ROTATED THROUGH THE FIRST HORIZONTAL PLANE"	"travels along an arc in the horizontal plane to introduce an angle between the chassis mounting plate and the swingarm"	JT; Extreme; Ultimate: "rotational movement of the door in a direction that is within an imaginary flat or level surface that is parallel to or the same as the horizon" KW: no interpretation required	no interpretation necessary
"ONE MEMBER SELECTED FROM THE GROUP CONSISTING OF"	no interpretation required	JT; Extreme; Ultimate: "one structure that is described in a group" KW: no interpretation required	nointerpretation required
"COMBINATIONS THEREOF"	no interpretation required	JT; Extreme; Ultimate: "combinations of bi-directional hinge and spherical	no interpretation required

bearing as defined above"

KW: no interpretation required

C.D.Cal.,2006.
Vertical Doors, Inc. v. JT Bonn