United States District Court,
S.D. California.

MYTEE PRODUCTS, INC., a California corporation,
Plaintiff.
v.
HARRIS RESEARCH, INC., a Utah corporation, and Does 1 through 20, inclusive,
Defendants.
Harris Research, Inc,
Cross-Complainant.
v.
Mytee Products, Inc., and Roes 1 through 20, inclusive,
Cross-Defendants.

No. 06-CV-1854 JLS (CAB)

April 24, 2008.

Anthony J. Dain, Frederick K. Taylor, Lisel M. Ferguson, Procopio, Cory, Hargreaves & Savitch LLP, San Diego, CA, for Plaintiff and Cross-Defendant, Mytee Products, Inc. a Delaware corporation.

CLAIM CONSTRUCTION ORDER FOR UNITED STATES PATENT NUMBERS 6,298,577 AND 6,266,892

JANIS L. SAMMARTINO**, District Judge.**

Presently before the Court is the construction of the disputed terms of the asserted claims in United States Patent Numbers 6,298,577 and 6,266,892. On April 17, 2008, the Court held a *Markman* hearing to entertain the parties' arguments regarding the disputed terms.

LEGAL STANDARD

I. The Anatomy of a Patent

A patent includes two basic parts: (1) a written description of the invention, which may include drawings and which is referred to as the "specification" of the patent; and (2) the patent claims. The cover page of the patent provides identifying information including the date the patent issued and the patent number along the top, as well as the inventor's name, the filing date, and a list of the prior art publications considered by the U.S. Patent Office in issuing the patent. The specification of the patent begins with an Abstract, found on the cover page. The Abstract is a brief statement about the subject matter of the invention. The drawings of the invention follow the abstract. The drawings depict various aspects or features of the inventions and the embodiments of the claims. The written description of the invention appears next. In this portion of the patent, each page is divided into two columns, which are numbered at the top of the page. The written description of the patent begins at column 1, line 1. The written description includes a background section, a

summary of the invention, a detailed description of the invention, among other things.

By statute, each issued patent concludes with one or more "claims" that particularly point out and distinctly claim the patented invention. 35 U.S.C. s. 112, PP1-2 ("Section 112.") The first paragraph of Section 112 states that:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same[.]

Thus, the statutory requirement is that the specification describe the claimed invention in "full, clear, concise and exact terms." The second paragraph of section 112 provides that:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Section 112 thus requires a "definiteness" in claims to "ensure that the claims delineate the scope of the invention using language that adequately notifies the public of the patentee's right to exclude. Datamize, LLC. v. Plumtree Software, Inc., 417 F.3d 1342, 1347 (Fed.Cir.2005).

II. The Importance of the Patent Claims

The specification is followed by one or more numbered paragraphs. These are called the patent claims. The claims may be divided into a number of parts or steps, which are referred to as "claim limitations." The claims of a patent are a main focus of a patent case because the claims define the patent owner's rights under the law. The claims define what the patent owner may exclude others from doing during the term of the patent. The claims of the patent serve two purposes. First, the claims state the boundaries of the invention. Second, they provide notice to the public of those boundaries. Thus, when a product is accused of infringing a patent, it is the patent claims that must be compared to the accused product to determine whether or not there is infringement. It is the claims of the patent that are infringed when patent infringement occurs. The claims are also at issue when the validity of the patent is challenged. Model Jury Instructions: Patent Litigation, 2005 A.B.A. Sec. Litigation 7-9.

There are two basic forms of claims, independent and dependent. Independent claims are free-standing claims. The scope of an independent claim can therefore be determined by referring to that claim only and not to any other claims in the patent. Dependent claims, in contrast, incorporate the contents of a preceding claim by reference. 35 U.S.C. s. 112, P 4; 37 C.F.R. s. 1.75(c) ("One or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application."). The scope of a dependent claim cannot be ascertained without referring to the claim from which it depends.

III. Claim Construction

A patent is a written instrument, and therefore, the judge bears the responsibility for all patent interpretation issues. Markman v. Westview Instruments, Inc., 517 U.S. 370, 390, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996). A key issue in interpretation of a patent language, is the interpretation of the words in the patent's claims, called "claim construction." *Id*. *Markman* holds that claim construction is a matter of law to be decided exclusively by judges. Analysis of a patent infringement claim contains two steps: "The first step is determining the meaning and scope of the patent claims asserted to be infringed ... The second step is

comparing the properly constructed claims to the device accused of infringing." Markman v. Westview Instruments, Inc., 52 F.3d 967, 976 (Fed.Cir.1995) (en banc), *aff'd,* 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996).

The first step, claim construction, is presently before this Court. As discussed below, there are four principle sources of evidence that the trial court may use in construing claims: (1) the language of the claims; (2) the patent specification; (3) the prosecution history; and (4) limited extrinsic evidence to assist with understanding the background technology and the state of the art. Claim construction begins with an examination of the intrinsic evidence, i.e., items (1)-(3) above. Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1582 (Fed.Cir.1996); *See, e.g.,* Graham v. John Deere Co., 383 U.S. 1, 33, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966) ("It is, of course, well settled that an invention is construed not only in the light of the claims, but also with reference to the file wrapper or prosecution history in the Patent Office ... Claims as allowed must be read and interpreted with reference to rejected ones and to the state of the prior art; and claims that have been narrowed in order to obtain the issuance of a patent by distinguishing the prior art cannot be sustained to cover that which was previously by limitation eliminated from the patent.").

IV. Claim Construction Begins with the Words of the Claims

It is a "bedrock principle" of patent law that "the claims of a patent define the invention to which the patentee is entitled the right to exclude." Phillips v. AWH Corp., 415 F.3d 1303, 1312 (Fed.Cir.2005), *cert. denied,* 546 U.S. 1170, 126 S.Ct. 1332, 164 L.Ed.2d 49 (2006). Claim construction centers on the words actually used in the claims. Inno/Pure Water, Inc. v. Safari Water Filtration Sys., Inc., 381 F.3d 1111, 1116 (Fed.Cir.2004). Claims construction "begins and ends" with the actual words of the claims. Scanner Techs Corp. v. ICOS Vision Sys. Corp. N.V., 365 F.3d 1299, 1303 (Fed.Cir.2004).

Words in a claim can acquire meaning from various sources including: (1) the ordinary use of the English language, (2) the customary use by a group (e.g., a trade, professional, scientific or technological group), or (3) the particular use within in the patent or its prosecution history. *See* Vitronics Corp. v. Conceptronic, 90 F.3d at 1582 ("[R]egardless of how those skilled in the art would interpret a term in other situations, where those of ordinary skill, on a reading of the patent documents, would conclude that the documents preclude the term being given the meaning propounded by the expert witnesses, we must give it the meaning indicated by the patentee in the patent claim, specification and file history.").

In Phillips, 415 F.3d at 1313, the court stated that claim interpretation begins with determining how a person of ordinary skill in the art understands a claim term as of the filing date of the patent application. "Such a person is deemed to read the words used in the patent documents with an understanding of their meaning in the field, and to have knowledge of any special meaning and usage in the field." *Id.* Second, and importantly, the person "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.*

Words of a claim "are generally given their ordinary and customary meaning." Phillips v. AWH Corp., 415 F.3d at 1312. "[T]he ordinary and customary meaning of a claim term is the meaning that the 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.;* Home Diagnostics, Inc. v. LifeScan, Inc., 381 F.3d 1352, 1358 (Fed.Cir.2004) ("customary meaning" refers to the "customary meaning in [the] art field"). A judge cannot add or subtract words from the claims. Callicrate v. Wadsworth Mfg., Inc., 427 F.3d 1361, 1369 (Fed.Cir.2005). The objective is to determine the "acquired meaning" of the claim language actually used.

Markman, 517 U.S. at 388; Riles v. Shell Exploration, 298 F.3d 1302, 1310 (Fed.Cir.2002).

V. Claims Must Be Read In Light Of The Specification

The specification may resolve ambiguous claim terms "where the ordinary and accustomed meaning of the words used in the claims lack sufficient clarity to permit the scope of the claim to be ascertained from the words alone." Teleflex, Inc. v. Ficosa North America Corp., 299 F.3d 1313, 1325 (Fed.Cir.2002). But, "[a]lthough the specification may aid the court in interpreting the meaning of disputed claim language, particular embodiments and examples appearing in the specification will not generally be read into the claims." Comark Commc'ns, Inc. v. Harris Corp., 156 F.3d 1182, 1187 (Fed.Cir.1998). Patent claims are not limited to the embodiments set forth in the specification. Phillips, 415 F.3d at 1323 ("[A]lthough the specification often describes very specific embodiments of the invention, we have repeatedly warned against confining the claims to those embodiments."). Only the claim language that is in dispute needs to be construed. Vanderlande Industries Nederland BV v. I.T.C., 366 F.3d 1311, 1323 (Fed.Cir.2004) (claim limitation was not in dispute when the ALJ construed the claims, and thus there was no reason for the ALJ to set out a formal construction.)

VI. Patent Prosecution History

The U.S. Patent an Trademark Office is the agency which examines patent applications and issues patents. Patent applications are assigned to a Patent Examiner who determines whether an invention meets the requirements for patentable inventions. If the Patent Examiner rejects the patent, the applicant may respond with arguments to support the claims, by making changes to the claims, or submitting new claims. This process, from the filing of the patent application to the issuance of the patent is call "patent prosecution." Model Jury Instructions: Patent Litigation, 2005 A.B.A. Sec. Litigation 10. The record of papers relating to the patent prosecution is the "prosecution history." The prosecution history of the patent before the patent office also provides evidence of how the patent office and the inventor understood the use of certain terms of the patent. Phillips, 415 F.3d at 1317.

VII. Use of Extrinsic Evidence

Extrinsic evidence is any evidence not part of the claims, specification or prosecution history of the patent at issue. Extrinsic evidence, such as expert testimony and dictionaries, can be used if needed to assist in determining the meaning or scope of technical terms in the claims. Vitronics Corp., 90 F.3d at 1583. Extrinsic evidence may be considered in claim construction, as long as it is not used to vary or contradict the intrinsic evidence. Pitney Bowes, Inc. v. Hewlett-Packard Co., 182 F.3d 1298, 1308 (Fed.Cir.1999).

CLAIM CONSTRUCTION

Having reviewed the amended joint claim construction chart, the patents-in-suit, and the parties' briefs, the Court construes the disputed terms as set forth in the following chart.

IT IS SO ORDERED.

I. ***U.S. Patent No. 6,298,577***

TERM	PLAINTIFF'S PROPOSED	DEFENDANT'S PROPOSED	COURT'S

	CONSTRUCTION	CONSTRUCTION	CONSTRUCTION
Apertures	**Apertures**	**Apertures**	*Any holes, slots or openings that serve as liquid extraction nozzles.*
	Mytee's construction: any holes, slots or openings that serve as liquid extraction nozzles. Support for Mytee's construction: -> Specification: "The extraction nozzles are **apertures** in the only portion of 45 the Enhancement Device" (Col. 4:40-41). -> Extrinsic evidence: Dictionary definition: "opening, such as a hole, gap, or slit." The American	HRI's construction: Openings, which serve as extraction nozzles, sized large enough to permit solid contaminants to pass through, having a total size for all openings that increases the extraction power of a vacuum force applied to the openings, and having a number and shape such that the openings are configured to reduce boundary layer drag. Support for HRI's construction: -> Specification: -> One or more apertures which serve as extraction nozzles to remove liquid from a fabric (4:49-51) -> A vacuum is applied through the apertures 2 (5:2-3) -> The total cross-sectional area of the apertures 2 is selected to be that which, as explained above, increases, and preferably maximizes, the mass of air that moves through such apertures 2; (5:46-49)	**Support:** *Intrinsic Evidence:* Prosecution history. *See* Mytee's Responsive Brief at 4. *Extrinsic Evidence:* Dictionary definition: "opening, such as a hole, gap, or slit." The American Heritage Dictionary of the English Language, Fourth Edition. Houghton Mifflin Company, 2004. **Comments:** HRI's proposed claim construction unnecessarily imports limitations that do not appear in the claim.

Heritage Dictionary of the English Language, Fourth Edition. Houghton Mifflin Company, 2004.)

-> This is accomplished by selecting the total of the apertures size for all apertures 2 combined to create the speed of air through the apertures 2 that will increase, and preferably maximize, the extraction power for the vacuum with which the Enhancement Device is to be utilized. (5:49-53)

-> Additionally, the number and shape of the apertures 2 is selected to reduce boundary layer drag by reducing, and preferably minimizing, the ratio of the total distance along the perimeters of the apertures 2 to the total cross sectional area of such apertures 2. This, as also explained above, minimizes the surface of the apertures 2 to which the stream of air is exposed. (5:54-60)

-> Finally, again as discussed above, the cross-sectional area of the apertures 2 is selected to be large enough to permit solid contaminants that can be expected to be in the liquid to pass through the

		apertures 2 without clogging these apertures 2. (5:61-65) [x] Extrinsic evidence: -> Dictionary definition: aperture-an opening or open space Merriam-Webster's Collegiate Dictionary 57 (11th ed.2003).	
Barrier	Mytee's construction: raised protrusion which extends greater than any other portion of the base plate. Support for Mytee's construction: -> Specification: barriers are attached to the portion of the Enhancement Device that will contact the fabric so that such barriers, when force is applied to the Enhancement Device, the	HRI's construction: Solid material on the bottom of the base plate, having a small surface area that contacts the fabric, that increases the penetration of the base plate into the fabric and extends farther into the fabric than any other portion of the device Support for HRI's construction: [x] Specification: -> Attached to the bottom of the base plate (4:53) -> Having any shape that will force liquid in the fabric toward the apertures (4:55-59) -> Constructed so that each barrier has only a small surface area that will contact the fabric(5:5-7) -> When force is applied, barriers extend farther into the carpet than any other portion of the	*Solid material attached to the bottom of the base plate that extends farther into the fabric than any other portion of the device.* **Support:** *Specification:* "Attached to the bottom of the base plate." (Col.4:53). **Comments:** "Raised protrusion" does not appear in the patent. "Small surface area" appears vague and indefinite.

		device	
barriers extend		(5:32-35)	
farther into the		-> Can be located between or behind	
fabric than any		the apertures (5:28-30)	
other portion of		-> Configured such that the penetration	
the Enhancement		of the base plate into the fabric is	
Device. (3:27-31)		increased (5:39-45)	
-> when force is		-> The barriers 3 extend farther into the	
applied to the		fabric than any other portion of the	
Enhancement		Enhancement Device; (5:33-34)	
Device, the		-> And the construction of such	
barriers extend		barriers 3 to have only a small	
farther into the		surface area which contacts the	
fabric than any		fabric generally perpendicularly to	
other portion of		the original orientation of such	
the Enhancement		fabric combine to decrease the	
Device. (5:32-35)		surface areas of the Enhancement	
		Device that will exert pressure on	
		the fabric (5:34-39)	
		[x] Extrinsic evidence:	
		-> Dictionary definition: barrier-something	
		material that blocks	
		or is intended to block passage	
		Merriam-Webster's Collegiate	
		Dictionary 100 (11th ed.	
		2003).	
II. *U.S. Patent No. 6,266,892*			
PATENT	**PLAINTIFF'S PROPOSED**	**DEFENDANTS PROPOSED**	**COURT'S**

CLAIM	CONSTRUCTION	CONSTRUCTION	CONSTRUCTION
Upper End	**Upper end** Mytee's construction: top or near the top of the base plate. Support for Mytee's construction: -> Specification: "The base plate 18 advantageously can have a tapering 5 cross section with a wider upper end 26 and a narrower lower end 30." (3: 38-41); Fig 2 discloses the upper end 26 and the lower end 30. Fig 10 also discloses the lower end.	**Upper end** HRI's construction: a portion of the base plate that is located vertically higher than the lower end of the base plate Support for HRI's construction: -> Specification: -> "The base plate 18 advantageously can have a tapering cross section with a wider upper end 26 and a narrower lower end 30." (Col.3:5-7). -> Figures 2 and 10.	At oral argument, the parties agreed that the term did not need to be construed. **Comments:** "Vertically higher" language is vague and indefinite.
Lower End	**Lower end** Mytee's construction: bottom or near the bottom of the base plate. Support for Mytee's	**Lower End** HRI's construction: an end of the base plate including the portion of the base plate that comes into contact with the fabric when the device is in use	*The bottom portion of the base plate that comes into contact with the fabric.* **Support:** *Intrinsic Evidence:* Specification "The base plate 18 advantageously can have a tapering cross section with a

	Support for Mytee's construction: Specification: "The base plate 18 advantageously can have a tapering 5 cross section with a wider upper end 26 and a narrower lower end 30." (3:38-41); Fig 2 discloses the upper end 26 and the lower end 30. Fig 10 also discloses the lower end.	Support for HRI's construction: -> Specification: -> "The base plate 18 % B5 advantageously can have a tapering cross section with a wider upper end 26 and a narrower lower end 30." (Col.3:5-7). -> "The narrower lower end 30 advantageously is better able to penetrate into the carpeted surface 14, and thus locate the apertures 22 closer to the bottom of the carpeted surface 14, and the fluid." (Col.3:8-11). "The protrusions or barriers 38 can be attached to the bottom or lower end 30 of the base plate 18, which is the portion of the base plate 18 that will face and contact the carpeted" (Col.3:43-46).	tapering cross section with a wider upper en d 26 and a narrower lowe r end 30." (Col.3:5-7). Figures 2 and 10. "The protrusions or barriers 38 can be attached to the bottom or lower end 30 of the base plate 18, which is the portion of the base plate 18 that will face and contact the carpet [.]" (Col.3:43-46).
Apertures	**Apertures**	**Apertures**	*Any holes, slots or openings that serve as liquid extraction nozzles.*
	Mytee's construction: any holes, slots or openings that serve as liquid	HRI's construction: Openings, which serve as extraction nozzles, formed in the portion of the device that	**Support:** See comments and support

extraction nozzles.

Support for Mytee's construction:

-> Specification:

"The extraction nozzles are **apertures** in the only portion of 45 the Enhancement Device" (4:40-41).

-> Extrinsic evidence:

Dictionary definition:

"opening, such as a hole, gap, or slit." The American Heritage Dictionary of the English Language, Fourth Edition. Houghton Mifflin

will face and contact the fabric and located generally between the barriers, serving to decrease the surface area of the device that will contact the fabric, being configured to reduce boundary layer drag and increase extraction power, and sized to permit solid contaminants to pass through

Support for HRI's construction:

[x] Specification:

-> The device 10 includes a base plate 18 with one or more apertures 22 which serve as extraction nozzles to remove liquid from a fabric or carpet 14 when the device 10 has been built into or retrofitted on a vacuum machine, such as a carpet-cleaning machine. (2:63-67)

-> The extraction nozzles are apertures in the only portion of the device, other than the barriers, that will, when the device is used, face and contact the fabric and are generally located between the

for construction of "apertures" in the 577 patent above.

Company, 2004.)

barriers. The existence of such apertures, therefore, decreases the surface area of the device that will contact the fabric. (4:41-46)

-> Thus, the existence of the apertures and the construction of the barriers combine to increase the pressure that is exerted against a fabric when a given force is applied to the device and, therefore, to increase the penetration of the device into the fabric. (4:54-59)

-> The second aerodynamic technique is reducing, and preferably minimizing, the boundary layer drag in the extraction nozzles. This is accomplished by reducing, and preferably minimizing, the ratio of the total distance measured along the perimeters of the extraction nozzles to the total cross-sectional area of the extraction nozzles, which, consequently, minimizes the surface of the extraction nozzles to which the stream of air is exposed. (5:8-14)

-> Finally, the cross

-> Finally, the cross-sectional area of each of the extraction nozzles is selected to be large enough to permit solid contaminants that can be expected to be in the liquid to pass through the extraction nozzles without clogging such nozzles. (5:22-26)

-> The total cross-sectional area of the apertures 22 is selected to be that which, as explained above, increases, and preferably maximizes, the energy content of air that moves through such apertures 22; this is accomplished by selecting the total of the aperture size for all apertures 22 combined to create the rate of air flow through the apertures 22 that will increase, and preferably maximize, the extraction power for the vacuum with which the device is to be utilized. (5:53-60)

-> Additionally, the number and shape of the apertures 22 is selected to reduce boundary layer

		drag by reducing, and preferably minimizing, the ratio of the total distance measured along the perimeters of the apertures 22 to the total cross-sectional area of such apertures 22. This, as also explained above, minimizes the surface of the apertures 22 to which the stream of air is exposed. (5:61-67) [x] Extrinsic evidence: -> Dictionary definition: aperture-an opening or open space Merriam-Webster's Collegiate Dictionary 57 (11th ed. 2003).	
Protrusions	**Protrusions**	**Protrusions**	*Barriers, or solid material, extending from the base plate that penetrate the carpeted surface and force any liquid in the carpeted surface toward the apertures as the base plate is moved across the carpeted surface.* **Support:** This is the first part of HRI's proposed construction. Mytee generally agreed to this part at oral argument; however, it
	Mytee's construction: a portion of material attached to the base plate between the apertures which extends farther than any other portion of the base plate and force *s* any liquid in the carpet	HRI's construction: Barriers, or solid material, extending from the base plate that penetrate the carpeted surface and force any liquid in the carpeted surface toward the apertures as the base plate is moved across the carpeted surface, with each barrier having a small surface area that will contact the fabric	

	such that when	argued that the
toward the apertures.	force is applied to the device the barriers	remaining part was redundant and unwarranted.
	extend farther into the fabric than any	The Court agrees.
	other portion of the device, the barriers	
	being configured to increase the pressure	*Claim 18:* "creating a plurality of protrusions
	that the device exerts, for a given force,	extending from the base plate configured to
Support for Mytee's	against the fabric	penetrate the carpeted surface."
construction:		
	Support for HRI's construction:	*Specification:* "The protrusions or barriers
-> Specification: "The		advantageously force any liquid in the carpeted
apertures	-> Specification:	surface toward the apertures as the base plate is
preferably have a	-> The apertures 22 preferably	moved across the carpeted surface." (Col.3:22-29).
diameter or size	have a diameter or size larger	
larger than the	than a width of the lower	
width of the lower	surface 34, thus creating a	
surface, thus	plurality of protrusions or	
creating a plurality	barriers 38 between the	
of protrusions or	apertures 22 extending from the	
barriers between	base plate 18 to penetrate the	
the apertures	carpeted surface 14. The	
extending from the	protrusions or barriers 38	
base plate to	advantageously force any liquid	
penetrate the	in the carpeted surface 14	
carpeted surface.	toward the apertures 22 as the	
The protrusions or	base plate 18 is moved across	
barriers	the carpeted surface 14. In	
advantageously	addition, the narrower end 30	
force any liquid in	and protrusions or barriers 38	

the carpeted surface toward the apertures as the base plate is moved across the carpeted surface." (3:22-29)

advantageously penetrate into the carpeted surface 14 to reach the fluid. (3:21-31)

-> The protrusions or barriers 38 may have a total surface area located between the apertures 22 which is less than a total area of the apertures 22. In addition, each of the protrusions 38 may have a width between the apertures 22 which is less than a width or diameter of the apertures. (3:32-36)

-> These barriers 38 can be oriented and shaped in any fashion that will force any liquid in the fabric toward the apertures 22 as the base plate 18 is moved across the fabric. (3:46-48)

-> The construction of the barriers 38 is such that each barrier 38 has only a small surface area that will contact the fabric generally perpendicularly to the original orientation of such fabric. (3:62-65)

-> First, concerning mechanical concepts, the apertures or

barriers are attached to the portion of the device that will contact the fabric so that such barriers, when force is applied to the device, will extend farther into the fabric than any other portion of the device. These barriers can be oriented and shaped in any fashion that will push any liquid in the fabric toward extraction nozzles as the device is moved across the fabric ... (4:24-32)

-> The fact that, when force is applied to the device, the barriers extend farther into the fabric than any other portion of the device is also employed to further increase the pressure that the device exerts, for a given force, against the fabric since such barriers are constructed to have only a small surface area which contacts the fabric generally perpendicularly to the original orientation of such fabric. (4:47-53)

-> As discussed above, the

existence of the apertures 22, and the fact that, when force is applied to the device 10, the barriers 38 extend farther into the fabric than any other portion of the device 10; and the construction of such barriers 38 to have only a small surface area which contacts the fabric generally perpendicularly to the original orientation of such fabric combined to decrease the surface areas of the device that will exert pressure and, consequently, the penetration of the barriers 38 and the base plate 18 achieved when a given force is applied to the device. Such increased penetration of the base plate 18 enhances the removal of any liquid in the fabric. (5:40-52)

->

[x] Extrinsic evidence:

-> Dictionary definition:

barrier-something material that blocks or is intended to block passage Merriam-Webster's Collegiate Dictionary 100 (11th ed.2003).

Channel	**Channel**	**Channel**	At oral argument, the parties agreed that the term did not need to be construed.
	Mytee's construction: a furrow or groove. Support for Mytee's construction: -> Claims: "a plurality of channels, formed in the lower end of the base plate and each ext ending from the forward surface to one of the plurality of apertures." (8:3-5). -> Specification: "The channels extend from the forward surface to corresponding apertures. The channels allow fluid to flow into the apertures" (3:38-41). -> Extrinsic Evidence: The American Heritage Dictionary of the English Language, Fourth Edition. Houghton Mifflin Company, 2004.	HRI's construction: a means of passage or a course through which something moves Support for HRI's construction: -> Extrinsic evidence: -> Dictionary definition: channel-any means of passage; a course through which something moves or is transmitted Webster's New World College Dictionary 245 (4th Ed. 1999).	

S.D.Cal.,2008.
Mytee Products, Inc. v. Harris Research, Inc.