United States District Court,
C.D. California.

INDEPENDENT INK, INC., a California Corporation,
Plaintiff.
v.
TRIDENT,
INC. Defendant.

No. CV98-6686NMCWX

April 27, 2000.

ORDER RE MARKMAN HEARING

MANELLA**, J.**

On April 18, 2000, the court conducted a Markman hearing to determine the interpretation of the term "about" and "colorant" in the claims of the 5, 154, 761 ('761) patent.

Defendant Trident requested that the term "about" be construed so as to extend the percentage ranges of the ingredients beyond those specified in the patent claims and specification.

Plaintiff Independent, Inc.'s position was that the term "about" should be given its ordinary and customary meaning and that the percentage ranges should not be extended beyond a fraction of a percent.

Defendant Trident requested that the term "colorant" be construed to include any colorant that would function within piezoelectric print heads, if used with the other ingredients set forth in the claims.

Plaintiff Independent, Inc.'s position was that "colorant" is any colorant that will function within piezoelectric print heads, if used with the other ingredients of the claims, provided said ingredients are within the percentage ranges specified in the claims.

After reviewing the pleadings, hearing the testimony of Trident's expert Dr. Jaffe and considering the arguments of counsel, it is hereby ordered:

1. Trident's request to extend the percentage ranges of the ingredients in the claims of the 5, 154, 761 patent is denied. The term "about" is to be given its ordinary and customary meaning, " ... with some approach to exactness in quantity, number, or time...." Conopco, Inc. v. May Dept. Stores Co., 46 F.3d 1556 (Fed.Cir.1994). The court construes the term "about" to have its ordinary and customary meaning and finds that the percentage ranges should not be extended beyond one percent of the ranges set forth in the patent claims. *See Jeneric/Pentron Inc. v. Dillon Co.,* No. 99-1283 (Fed.Cir.2000).

2. The term "colorant" is construed to mean any colorant which will function with the other claimed ingredients in the percentages set forth in the patent.

IT IS SO ORDERED.

C.D.Cal.,2000.
Independent Ink, Inc. v. Trident, Inc.

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