United States District Court,
C.D. California.

Edward STEVENSON, an individual,
Plaintiff.
v.
GULFSTREAM COACH, INC., an Indiana corporation; Thor Industries, Inc., a Delaware corporation; and Dutchman Manufacturing, Inc., a Delaware corporation,
Defendants.

No. CV 06-7626 MMM (PJWx)

Aug. 1, 2007.

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Steven L. Smilay, Botkin and Hall, South Bend, IN, David J. Pitman, Fulwider, Patton, Lee & Utecht, J. Randolph Huston, John S. Ward, Walker, Wright, Tyler & Ward, Los Angeles, CA, for Defendants.

CLAIM CONSTRUCTION ORDER

MARGARET M. MORROW**, District Judge.**

On November 30, 2006 plaintiff Edward Stevenson commenced this patent infringement action against defendants Gulfstream Coach, Inc. and Thor Industries, Inc. On May 2, 2007, plaintiff amended his complaint to add Dutchman Manufacturing, Inc. as a defendant. Pursuant to Markman v. Westview Instruments, Inc., 517 U.S. 370, 373, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996), this order sets forth the court's construction of disputed terms in the patent claims.

I. THE PATENT

United States Patent No. 6,163,900 (the "'900 Patent") issued on December 26, 2000. FN1 It protects "folding furniture"-consisting of a "seating portion" and a "back portion" connected by "foldover arms"-that is bracketed to the vertical wall of a recreational vehicle. FN2 The wall "bracket" is "hinging," and allows the "folding furniture" to be placed in a "vertical storage mode" (i.e., placed adjacent and relatively flat to the vertical wall of the recreational vehicle) when not in use. FN3 The "foldover arms" are "pivotally connected" to the "seating portion" and "back portion," which allows the furniture to function both in a "seating mode" (when the back portion is pivoted into an upright position) and a "bed mode" (when the back portion is pivoted into a downward position). FN4 The invention was designed to maximize the amount of available floor space in recreational vehicles for storage of motorcycles, dune buggies, other motorized vehicles, and other gear during travel. FN5

The patent consists of seventeen claims, fifteen of which are asserted against defendants. These seventeen

claims are recited below with the disputed terms underlined.

1. *Folding furniture* for use with recreational vehicles having vertical walls and a floor surface, the folding furniture comprising:

a seating portion having a *framework* with a front edge, left and right side edges, and a rear edge, the seating portion having an upper surface and a lower surface;

a back portion having a *framework* with a front edge, left and right side edges, and a rear edge, the back portion having an upper surface and a lower surface;

a right side set and a left side set of *foldover arms,* each of the right side and left side sets of *foldover arms* comprising two non-straight arm portions, each with a seating portion connecting end and a back portion connecting end, the seating portion connecting ends of the right and left side sets of *foldover arms* being *pivotally* connected to the right and left side edges of the *framework* of the seating portion, respectively, and the back portion connecting ends of the right and left side sets of *foldover arms* being *pivotally* connected to the right and left side edges of the *framework* of the back portion, respectively, to form a *pivotally* attached together seating and back portion, wherein the right side set and the left side set of *foldover arms* are adapted to permit the back portion to be pivoted backwardly in a generally upright or slanted back manner adjacent to the rear edge of the seating portion, which seating portion remains in a horizontal orientation, to conform to a seating mode of the folding furniture, and permit the back portion to be pivoted frontwardly in a generally horizontal manner such that the rear edge of the *framework* of the back portion is adjacent to the front edge of the seating portion to conform to a horizontal bed mode of the folding furniture; and

hinging brackets that are *hingeably attached* to the *framework* of the seating portion wherein the *hinging brackets* permit the *pivotally* attached together seating and back portions to swing up to a vertical storage position and to swing down to the horizontal bed mode of the folding furniture, and wherein when the seating and back portions are swung up to the vertical storage position, *no portion of the folding furniture remains on a floor surface*.

2. The folding furniture for recreational vehicles of claim 1, further comprising fold down legs attached to at least one of the seating portion and the back portion.

5. The folding furniture for recreational vehicles of claim 1, wherein the seating portion, back portion, right side set and a left side set of *foldover arms,* and *hinging brackets* are made of metal.

6. The folding furniture for recreational vehicles of claim 1, wherein the upper surfaces of the seating portion and back portion are *upholstered*.

7. The folding furniture for recreational vehicles of claim 1, wherein a plurality of straps are secured around the *framework* of the seating portion and the *framework* of the back portion, and the upper surfaces of the seating portion and back portion are *upholstered*.

8. The folding furniture for recreational vehicles of claim 1, wherein the folding furniture comprises a *single pivotally* attached together seating and back portion wherein the pair of *hinging brackets* are *hingeably attached* to the rear edge of the *framework* of the seating portion.

9. The folding furniture for recreational vehicles of claim 1, wherein the folding furniture comprises a *single pivotally* attached together seating and back portions, wherein the pair of *hinging brackets* are *hingeably attached* to one of the left and right side edges of the *framework* of the seating portion.

10. The folding furniture for recreational vehicles of claim 1, wherein the folding furniture comprises two seating portions and two back portions that are joined together by two right side sets and two left side sets of *foldover arms* into two separate *pivotally* attached together seating and back portions, wherein the *hinging brackets* are *hingeably attached* to one of the right and left side edges of the *framework* of the seating portion, wherein the two separate *pivotally* attached together seating and back portions are placed in a spaced apart orientation such that each of the two separate *pivotally* attached together seating and back portions form oppositely facing seats when in the seating mode, and to together form a continuous, horizontal bed when in the bed mode.

11. The folding furniture for recreational vehicles of claim 1, wherein the *framework* of the seating portion and back portion are rectangular in shape.

12. *Folding furniture* for use with recreational vehicles having vertical walls and a floor surface, the folding furniture comprising:

a seating portion defining a *generally planar structure* having a front edge, left and right side edges, and a rear edge, the seating portion having an upper surface and a lower surface;

a back portion defining a *generally planar structure* with a front edge, left and right side edges, and a rear edge, the back portion having an upper surface and a lower surface;

a right side set and a left side set of *foldover arms,* each of the right side and left side sets of *foldover arms* comprising two non-straight arm portions, each with a seating portion connecting end and a back portion connecting end, the seating portion connecting ends of the right and left side sets of *foldover arms* being *pivotally* connected to the right and left side edges of the seating portion, respectively, and the back portion connecting ends of the right and left side sets of *foldover arms* being *pivotally* connected to the right and left side edges of the back portion, respectively, to form a *pivotally* attached together seating and back portion, wherein the right side set and a left side set of *foldover arms* are adapted to permit the back portion to be pivoted backwardly in a generally upright or slanted back manner adjacent to the rear edge of the seating portion, which seating portion remains in a horizontal orientation, to conform to a seating mode of the folding furniture, and permit the back portion to be pivoted frontwardly in a generally horizontal manner such that the rear edge of the back portion is adjacent to the front edge of the seating portion to conform to a horizontal bed mode of the folding furniture; and

hinging brackets that are *hingeably attached* to the seating portion, wherein the *hinging brackets* permit the *pivotally* attached together seating and back portions to swing up to a vertical storage position and to swing down to the horizontal bed mode of the folding furniture, and wherein when the seating and back portions are swung up to the vertical storage position, *no portion of the folding furniture remains on a floor surface*.

13. The folding furniture for recreational vehicles of claim 12, further comprising fold down legs attached to at least one of the seating portion and the back portion.

14. The folding furniture for recreational vehicles of claim 12, wherein the, upper surfaces of the seating

portion and back portion are *upholstered*.

15. The folding furniture for recreational vehicles of claim 12, wherein the folding furniture comprises a *single pivotally* attached together seating and back portion wherein the pair of *hinging brackets* are *hingeably attached* to the rear edge of the seating portion.

16. The folding furniture for recreational vehicles of claim 12, wherein the folding furniture comprises a *single pivotally* attached together seating and back portions, wherein the pair of *hinging brackets* are *hingeably attached* to one of the right and left side edges of the seating portion.

17. The folding furniture for recreational vehicles of claim 12, wherein the folding furniture comprises two seating portions and two back portions that are joined together by two right side sets and two left side sets of *foldover arms* into two separate *pivotally* attached together seating and back portions, wherein the *hinging brackets* are *hingeably attached* to one of the right and left side edges of the *framework* of the seating portion, wherein the two separate *pivotally* attached together seating and back portions are placed in a spaced apart orientation such that each of the two separate *pivotally* attached together seating and back portions form oppositely facing seats when in the seating mode, and ... together form a continuous, horizontal bed when in the bed mode.

II. DISCUSSION

A. Legal Standard Governing Claim Construction

Patents grant inventors the exclusive right to make and sell their inventions in exchange for full disclosure of the invention. Markman v. Westview Instruments, Inc., 517 U.S. 370, 373, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996). Two parts of the patent fulfill this function: the specification and the claims. *Id*. The specification must describe the invention "in such full, clear, concise, and exact terms as to enable any person skilled in the art ... to make and use the same." 35 U.S.C. s. 112. The claims must "particularly point[ ] out and distinctly claim[ ] the subject matter which the applicant regards as his invention." *Id*. "Victory in an infringement suit requires a finding that the patent claim 'covers the alleged infringer's product or process,' which in turn necessitates a determination of 'what the words in the claim mean." ' Markman, 517 U.S. at 374 (quoting H. Schwartz, PATENT LAW AND PRACTICE 1, 33 (2d ed.1995), and 3 E. Lipscomb, Walker on Patents, s. 11:2, pp. 288-90 (3d ed.1985)).

In *Markman,* the Supreme Court clarified that it is the judge, not the jury, who must determine the meaning of the claim terms. *Id*. at 387; see also *id*. at 372 (noting that claim construction is a matter of law that is "exclusively within the province of the court"). The "analytical focus must begin with and remain centered on the language of the claim[ ] [itself]." Storage Tech. Corp. v. Cisco Sys., Inc., 329 F.3d 823, 830 (Fed.Cir.2003); see also UA-Columbia Cablevision of Westchester, Inc., 336 F.3d 1308, 1314 (Fed.Cir.2003) ("We begin our claim construction analysis with the words of the claim.... In construing claims, the analytical focus must begin and remain centered on the language of the claims themselves, for it is that language that the patentee chose to use to particularly point[ ] out and distinctly claim [ ] the subject matter which the patentee regards as his invention" (internal quotation marks omitted)); Optical Disc Corp. v. Del Mar Avionics, 208 F.3d 1324, 1334 (Fed.Cir.2000) (noting that the claim construction process is begun "by considering the words of the claim itself").

To ascertain the meaning of a claim term, the court [must] look[ ] to 'those sources available to the public that show what a person of skill in the art would have understood disputed claim language to mean." '

Phillips v. AWH Corp., 415 F.3d 1303, 1314 (Fed.Cir.2005) (en banc) (quoting Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc., 381 F.3d 1111, 1116 (Fed.Cir.2004)), cert. denied, 546 U.S. 1170, 126 S.Ct. 1332, 164 L.Ed.2d 49 (2006). The person of ordinary skill in the art is presumed "to read [a disputed] 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.* at 1313; see also Medrad, Inc. v. MRI Devices Corp., 401 F.3d 1313, 1319 (Fed.Cir.2005) ("We cannot look at the ordinary meaning of the term ... in a vacuum. Rather, we must look at the ordinary meaning in the context of the written description and the prosecution history"); V-Formation, Inc. v. Benetton Group SpA, 401 F.3d 1307, 1310 (Fed.Cir.2005) (stating that the intrinsic record "usually provides the technological and temporal context to enable the court to ascertain the meaning of the claim to one of ordinary skill in the art at the time of the invention"); Unitherm Food Sys., Inc. v. Swift-Eckrich, Inc., 375 F.3d 1341, 1351 (Fed.Cir.2004) (the proper definition of a claim term is the "definition that one of ordinary skill in the art could ascertain from the intrinsic evidence in the record"). FN6

The specification "is the single best guide to the meaning of a disputed term" and in fact "is [usually] dispositive." *Vitronics Corp.,* 90 F.3d at 1582. In addition to the specification, the prosecution history is "often of critical significance in determining the meaning of the claims." *Id.;* see also Phillips, 415 F.3d at 1317 ("In addition to consulting the specification, we have held that a court 'should also consider the patent's prosecution history, if it is in evidence,' " quoting *Markman,* 52 F.3d at 980). The prosecution history can also "inform the meaning of the claim language by demonstrating how the inventor understood the invention and whether the inventor limited the invention in the course of prosecution, making the claim scope narrower than it would otherwise be." *Id.* Thus, the court should look to the prosecution history "to exclude any interpretation that was disclaimed during prosecution." CVI/Beta Ventures, Inc. v. Tura LP, 112 F.3d 1146, 1155 (Fed.Cir.1997); accord Chimie v. PPG Indus., Inc., 402 F.3d 1371, 1384 (Fed.Cir.2005). FN7

"If the meaning of the claim limitations is apparent from the totality of the intrinsic evidence, then the claim has been construed. If however a claim limitation is still not clear, [the court] may look to extrinsic evidence to help resolve the lack of clarity." *Interactive Gift Exp.,* 256 F.3d at 1332; see also *On-* Line Techs., Inc. v. Bodenseewerk Perkin-Elmer GMBH, 386 F.3d 1133, 1139 (Fed.Cir.2004) (noting that extrinsic evidence "cannot be used to alter a claim construction dictated by a proper analysis of the intrinsic evidence"). Extrinsic evidence is "all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises." *Markman,* 52 F.3d at 980. While "extrinsic evidence ... is unlikely to result in a reliable interpretation of patent claim scope unless considered in the context of the intrinsic evidence," the Federal Circuit has held that the district court may, in its discretion, admit such evidence to the extent it is "useful [in] ... provid[ing] background on the technology at issue, ... explain[ing] how an invention works, ... ensur[ing] that the court's understanding of the technical aspects of the patent is consistent with that of a person of skill in the art, or ... establish[ing] that a particular term in the patent or the prior art has a particular meaning in the pertinent field." *Phillips,* 415F.3d at 1319.

B. Patent Claim Terms In Dispute

There are ten claim terms whose meaning the parties dispute: FN8 (1) "folding furniture" as used in claims 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17; (2) "framework" as used in claims 1, 7, 8, 9, 10, 11, and 17; (3) "pivotally" as used in claims 1, 8, 9, 10, 12, 15, 16, and 17; (4) "foldover arms" as used in claims 1, 5, 10, 12, and 17; (5) "hinging bracket" as used in claims 1, 5, 8, 9, 10, 12, 15, 16, and 17; FN9 (6) "hingeably attached" as used in claims 1, 8, 9, 10, 12, 15, 16, and 17; FN10 (7) "no portion of the folding furniture remains on a floor surface" as used in claims 1 and 12; (8) "upholstered" as used in claims 6, 7,

and 14; (9) "single" as used in claims 8, 9, 15, and 16; FN11 and (10) "generally planar structure" as used in claim 12.

1. "Folding Furniture"

a. Plaintiff's Proposed Construction

Plaintiff argues that "folding furniture" should be defined as "furniture, which when not in use, may be folded relatively flat against the side walls of a recreational vehicle to maximize the open floor space of the vehicle, and which includes a seating portion, a back portion, foldover arms, and hinging brackets." FN12 He asserts that this definition should be used because it is based exclusively on the intrinsic evidence, namely, the specification ("RV furniture ... that will fold relatively flat against the side walls of the recreational vehicle to maximize floor space") FN13 and claims 1 and 12 ("folding furniture ... comprising ... a seating portion ...; a back portion ...; a right side set and a left side set of foldover arms ...; and hinging brackets").FN14 Plaintiff also asserts that this construction conforms to the first preferred embodiment, illustrated in Figures 1 through 6 of the drawings.

Defendants contend that plaintiff's proposed construction of "folding furniture" is infirm in two respects. First, they argue that plaintiff attempts to restrict the parts comprising "folding furniture" to (1) a seating portion, (2) a back portion, (3) foldover arms, and (4) hinging brackets. This, defendants contend, is inappropriate because the '900 Patent uses the open-ended term "comprising" as the transition between the preamble and the body of claims 1 and 12.FN15 Defendants also object to plaintiff's proposed inclusion of "folded relatively flat against the side walls of a recreational vehicle." They assert that the claims examiner twice rejected plaintiff's patent application because the claims referred to parts of recreational vehicle.FN16

b. Defendants' Proposed Construction

Defendants contend that "folding furniture" should be defined as "parts added to a recreational vehicle to provide for furniture that can fold, including but not limited to hinging brackets." FN17 They assert that this construction is consistent with the prosecution history of the ' 900 Patent, because it makes clear that the patent does not claim any part of the recreational vehicle itself.FN18 Defendants argue that utilization of the phrase "including but not limited to" comports with the claim's use of "comprising" as the transitional term between the preamble and the body of claims 1 and 12. FN19

Plaintiff does not offer any meaningful objection to defendants' proposed construction. In particular, plaintiff does not respond to defendants' argument regarding the prosecution history of the '900 Patent. He simply asserts that, because it includes elements of folding furniture other than "hinging brackets," his proposed construction is "more precise and accurate than the definition [d]efendants propose." FN20

c. Court's Construction

The court does not believe it is necessary to construe the term "folding furniture." This non-technical term is given its customary meaning in the ' 900 Patent, a meaning that will be as clear to a layperson without judicial construction as it would to a person skilled in the art. See, e.g., Biotec Biologische Naturverpackungen GmbH & Co. KG v. Biocorp, Inc., 249 F.3d 1341, 1349 (Fed.Cir.2001) (holding that the district court did not err when it declined to construe "melting" when the meaning of "melting" did not depart from its ordinary meaning or otherwise require construction); Orion IP, LLC v. Mercedes-Benz USA, LLC, No. CV 05-322, 2007 WL 1091025, *U (E.D.Tex. Apr. 10, 2007) ("[T]here is no reason within

the patent to believe the Applicant used 'questions' in any manner besides its ordinary meaning. Accordingly, there is no need to construe the term, much less to stringently limit the meaning of 'questions' as [d]efendants would like"); Applera Corp. v. Stratagene Corp., No. CV 04-1881(RNC), 2007 WL 776329, (D.Conn. Mar.12, 2007) ("In its claim construction brief, [defendant] urged the court to construe 'operable' as meaning 'capable of being used.' However, the claim is perfectly clear on its face, and there is no significant disagreement between the parties as to its meaning.... Therefore, it is unnecessary to construe this term"); Vision Advancement, LLC v. Vistakon, No. CV 05-55, 2007 WL 275572, (E.D.Tex. Jan. 26, 2007) (rejecting plaintiff s argument that the term "continuously" should be constructed as "no discontinuities in progressivity," because the term, as used in the patent, was given its "plain and ordinary [meaning]" so that no construction was necessary); Collegenet, Inc. v. XAP Corp., No. CV 03-1229 HU, 2004 WL 2429843, (D.Or. Oct.29, 2004) ("While claim terms must be construed as they would be understood by a person of ordinary skill in the art to which the invention pertains, and thus, what the claim terms would mean to laymen is irrelevant, if a person of ordinary skill in the art would understand the term in its ordinary, everyday sense, there is no need to construe the term. Both 'application' and 'application form' are easily understood terms which the patents use in their ordinary sense. Neither the claim language nor the specification suggests that the meaning is anything other than the form used to apply to an institution or an institution of higher education. To the extent any construction is needed, I agree with plaintiff that it should be limited to 'a form corresponding to an application' " (citations and alterations omitted)); Agere Systems, Inc. v. Broadcom Corp., No. CV 03-3138, 2004 WL 1658530, (E.D.Pa. July 20, 2004) (declining to construe the term "predetermined" in a patent involving technology that transmitted certain wireless signals at "predetermined intervals," since there was no indication that the term had been given anything other than its "customary meaning" in the patent, and that meaning would be equally clear to a layperson and a person skilled in the art); Appelra Corp. v. MicrosMass, UK, Ltd., 186 F.Supp.2d 487, 524, 526 (D.Del.2002) (declining to construe the terms 'maintain,' 'maintaining,' and a 'whereby' clause because they were clear on their face and the meaning was "self-evident"); Zip Dee, Inc. v. Dometic Corp., 63 F.Supp.2d 868, 872 (N.D.Ill.1998) (rejecting defendant's 'artificial construct' of the term 'tension' because no construction beyond the 'ordinary English language meaning of the term' was required and thus the patent's "references to 'tension' [would] go to the jury without the interposition of any judicial gloss").

In addition, the patent claims themselves unambiguously define "folding furniture" as "comprising" FN21 "a seating portion," "a back portion," "a right side set and a left side set of foldover arms," and "hinging brackets." FN22 The parties agree on the construction of "seating portion" and "back portion," and the court construes the terms "foldover arms" and "hinging brackets" below. By construing these two terms (as well as the terms "pivotally" and "hingeably attached"), the court specifies the manner in which the "folding furniture" is "folding ." Consequently, the court does not need to construe the term "folding furniture" separately as it effectively construes the term by construing its constituent parts. Cf. Vision Advancement, 2007 WL 275572 at *13 (declining to construe terms such as "intermediate vision correction power," "high vision correction power," and "low vision correction power," where the court had already construed "vision correction power" because it "[found] that these terms sufficiently convey to the jury all that is necessary to understand these additional terms").

Defendants argue that "folding furniture" should be construed as "parts *added* to a recreational vehicle to provide for furniture that can fold" so that it reflects a limitation on the invention to which plaintiff acceded during prosecution. The court does not agree. The court recognizes that plaintiff's patent application was twice rejected because he included parts of the recreational vehicle in his claims.FN23 The court also recognizes that, in construing the terms of a patent, the prosecution history may reveal that "the inventor limited the invention in the course of prosecution, making the claim scope narrower than it would otherwise

be." Phillips, 415 F.3d at 1317; see also Intellectual Property Devs., Inc. v. UA-Columbia Cablevision of Westchester, Inc., 336 F.3d 1308, 1316 (Fed.Cir.2003) (noting that the prosecution history may reveal the patentee's intent "to deviate from a term's ordinary and accustomed meaning"). Given its customary meaning, however, the term "folding furniture" does not encompass or communicate information regarding the location in which the furniture is placed (e.g., a recreational vehicle or in a house). It refers only to the furniture itself. There is thus no need to construe the term "folding furniture" so as to exclude elements that are not included in the term as customarily understood.

For all of these reasons, the court declines to construe the term "folding furniture." The term has been afforded its ordinary meaning in the '900 Patent, and the claims themselves specify the particular components that comprise "folding furniture." Because those components will be construed, a separate construal of "folding furniture" is not necessary.

2. "Framework"/"Generally Planar Structure"

Although not suggested by the parties, the court believes that the terms "framework" and "generally planar structure" must be construed with relation to one another, because they differentiate the two types of "folding furniture" plaintiff claims in the two independent claims of the '900 Patent. The first type of folding furniture, claimed in claim 1, is comprised of "a seating portion" and "a back portion" that have "a framework." FN24 The second type of folding furniture, claimed in claim 12, has "a seating portion" and "a back portion" that are defined by "a generally planar structure." FN25

Both of the preferred embodiments described in the specification illustrate a version of "folding furniture" protected by claim 1 (and its dependent claims), i.e., "folding furniture" whose "seating portion" and "back portion" have "a framework." In its discussion of the first preferred embodiment, for example, the specification references Figure 2, which is "a partially exposed front perspective view showing the first embodiment of the folding furniture **14** in its bed mode with portions of the padding and upholstery 18 cut away to show *the framework* **20** of the folding furniture **14.**" FN26 Likewise, Figure 7 depicts "a second embodiment of the folding furniture **100** ... in its storage mode, with portions of the upholstery **102** removed to show details of *its framework* **104.**" FN27

The specification later clarifies that "a [ ] *framework* is preferably utilized in the embodiments of the folding furniture **14** and [**100**]," but that "the seat and back portions could be formed of plywood, solid plastic panels or blow molded structures (e.g., that might even have flexibility in the upper surface directly incorporated into the design)[,] fiberglass, or more exotic materials (not shown)." FN28 Because the specification must contain "a written description of the invention," 35 U.S.C. s. 112, the court concludes that this portion of the specification describes the type of folding furniture claimed in claim 12 (and its dependent claims), i.e., "folding furniture" whose "seating portion" and "back portion" are defined by "a generally planar structure." Otherwise, the patent specification would not "describe" the invention claimed in claim 12 (and its dependent claims) at all. See, e.g., Invitrogen Corp. v. Clontech Laboratories, Inc., 429 F.3d 1052, 1072 (Fed.Cir.2005) (noting that the Federal Circuit had adopted the guidelines promulgated by the United States Patent and Trademark Office for compliance with the written description requirement, which mandate "disclosure of sufficiently detailed, relevant identifying characteristics ... i.e., complete or partial structure, other physical and/or chemical properties, functional characteristics when coupled with a known or disclosed correlation between function and structure, or some combination of such characteristics"); accord Univ. of Rochester v. G.D. Searle & Co., Inc., 358 F.3d 916, 925 (Fed.Cir.2004).

Consequently, the court construes "framework" as an "internal skeletal structure," and construes "generally planar structure" as a "structure made, in large part, of solid material with generally flat surfaces." The court's construction of "framework" is largely consistent with plaintiff's proposed interpretation of the term as an "internal structure." FN29 The court adds "skeletal," however, because plaintiff's proposed construction does not sufficiently differentiate the folding furniture claimed in claim 1 from the folding furniture claimed in claim 12. See, e.g., Seachange Int'l, Inc. v. C-COR, Inc., 413 F.3d 1361, 1369 (Fed.Cir.2005) (noting the "presumption that two independent claims have different scope when different words or phrases are used in those claims"); Karlin Tech., Inc. v. Surgical Dynamics, Inc., 177 F.3d 968, 971-72 (Fed.Cir.1999) (stating that the doctrine of claim differentiation is based on "the common sense notion that different words or phrases used in separate claims are presumed to indicate that the claims have different meanings and scope"). More specifically, the court believes that the slightly broader definition of "framework" proposed by plaintiff would render claim 12 redundant, in that the "generally planar structure" (i.e., the "structure made of solid material ...") that there defines the "seating portion" and the "back portion" of the "folding furniture" *is* the "internal structure" of the "seating portion" and the "back portion," once their upper surfaces have been "upholstered." FN30

The court's construction is also supported by the specification. As noted, the specification describes the type of "folding furniture" claimed in claim 12 as having "a seating portion" and "a back portion" that are *themselves* "formed" of a solid material. This contrasts with the type of "folding furniture" claimed in claim 1. As both parties appear to agree, the "seating portion" and "rear portion" of the type of "folding furniture" claimed in claim 1 are not themselves "formed" of a "framework," but instead (in the words of the claim) "hav[e]" a "framework," i.e., an "internal structure." The patent drawings depict the "framework" not as a solid "internal structure," but rather as a series of supporting slats to which "padding" and "upholstery" are added to create the "seating portion" and the "rear portion" of the "folding furniture." FN31 This depiction of a skeletal framework comports with one of the stated goals of the invention-to "provide a sturdy yet *relatively light weight* folding sofa/bed RV furniture and foldable table seating/bed RV furniture that incorporates an internal framework of metal for maximum strength." FN32 Additionally, including the term "skeletal" in the construction of "framework" is consistent with the common meaning of the term as "a skeletal or structural frame." FN33 Nothing in the claims or specification of the ' 900 Patent suggests that the patentee intended to use "framework" in other than its usual and customary sense.FN34

With respect to "generally planar structure," the court's construction is largely consistent with defendant's proposed construction, i.e., a "structure that is generally flat or level." FN35 The court adds the requirement that the "structure" consist, "in large part," of "solid material," however, both to ensure that its definition of "generally planar structure" is consistent with one of the inventions described in the specification and to differentiate "generally planar structure" more clearly from "framework" as construed by the court.FN36 The court also adds the requirement that the surfaces of the "generally planar structure" (rather than the "structure" itself) be relatively flat, as necessary to ensure the functionality of that portion of the "folding furniture" upon which a user sits, lies, or supports his back.FN37

3. "Pivotally"

With respect to the "folding furniture" claimed in claim 1, the '900 Patent uses the term "pivotally" to describe the manner in which the "foldover arms" are "connected" to the "framework" of the "seating portion" and the "back portion" of the "folding furniture." FN38 Similarly, with respect to the "folding furniture" claimed in claim 12, the ' 900 Patent uses the term "pivotally" to describe the manner in which the "foldover arms" are "connected" directly to the "seating portion" and to the "back portion" of the "folding

furniture." FN39 Both claims recite that the "folding arms" render the "seating portion" and the "back portion" of the furniture "pivotally attached together." FN40 The "folding arms" are "adapted" to

"permit the back portion to be *pivoted backwardly* in a generally upright or slanted back manner adjacent to the rear edge of the seating portion, which seating portion remains in a horizontal orientation, to conform to a seating mode of the folding furniture, and permit the back portion to be *pivoted frontwardly* in a generally horizontal manner such that the rear edge of the framework of the back portion is adjacent to the front edge of the seating portion to conform to a horizontal bed mode of the folding furniture." FN41

The functionality of the "pivotally connected" "foldover arms" is demonstrated in Figures 4-6 (with respect to the first preferred embodiment) and Figures 8-10 (with respect to the second preferred embodiment) described in the specification.FN42

Plaintiff argues that "pivotally" should be defined as "in a manner allowing rotation." FN43 Defendants argue that "pivotally" should be defined as "in a manner allowing one mechanical part, related to another mechanical part, to rotate or swing on such other mechanical part." FN44 Both parties cite dictionary definitions in support of their proposed constructions.FN45 In the context of the ' 900 Patent, the court believes the most appropriate construction of the term "pivotally" is "in a manner that allows one part to rotate in relation to another part." Like defendants' proposed construction, the court's construction defines "pivotally" with more precision than plaintiff's proposal,FN46 yet does not include unnecessary and extraneous language that is unsupported by the intrinsic evidence (e .g., "related mechanical parts," "swing on"),

4. "Foldover Arms"

Plaintiff argues that "foldover arms" should be construed as "linkages that connect portions of the folding furniture and allow it to be moved between its storage position and its use position." FN47 Defendants argue that "foldover arms" should be construed as "arms configured to allow the furniture to bend over or double up so that one part lies on another part." FN48

Claims 1 and 12 of the '900 Patent unambiguously define "foldover arms" as "comprising two non-straight arm portions, each with a seating portion connecting end and a back portion connecting end," which "pivotally connect [ ]" to the "seating portion" and the "back portion," and in this fashion "pivotally attach[ ] [these two portions of the folding furniture] together." FN49 This is significant, since courts look first to the language of the claims, and give that language the ordinary meaning it would have to a person skilled in the art. See, e.g., Liquid Dynamics Corp. v. Vaughan Co., Inc., 355 F.3d 1361, 1368 (Fed.Cir.2004) (' "We look first to the claim language itself, to define the scope of the patented invention,' " and " 'give claim terms their ordinary and accustomed meaning as understood by one of ordinary skill in the art' "); Intellectual Property Dev., 336 F.3d at 1314 ("We begin our claim construction analysis with the words of the claim ..."). Given the unambiguous language of the patent claims, the court construes "foldover arms" as "non-straight connectors that pivotally attach portions of the folding furniture together," i.e., "non-straight connectors that attach portions of the folding furniture together in a manner allowing one portion of the folding furniture to rotate in relation to another portion" FN50

5. "Hinging Bracket"

The "hinging bracket" is a critical component of the "folding furniture" protected by the '900 Patent; it attaches the remaining components of the "folding furniture" to the vertical wall of a recreational vehicle

and, because it is hinged, allows those other components to be placed into a "vertical storage mode" (i.e., placed adjacent and relatively flat to the vertical wall of the recreational vehicle) when the "folding furniture" is not in use.FN51 More specifically, as used in claim 1, "hinging brackets" are "hingeably attached" to the "framework of the seating portion," and allow the "pivotally attached together seating and back portions" to "swing up to a vertical storage position and to swing down to the horizontal bed mode." FN52 Similarly, as used in claim 12, the "hinging brackets" are "hingeably attached" to the "seating portion" (rather than to the "framework of the seating portion"), and allow the "pivotally attached together seating and back portions" to "swing up to a vertical storage position and to swing down to the horizontal bed mode." FN53 The specification's description of the first preferred embodiment states that the "hinging bracket" is comprised of a "wall attachment end[ ] 72 for secure attachment to the vertical inside RV wall," and a "pivot end[ ] 74 for hingeable attachment to the framework [of the seating portion]." FN54 The "hinging bracket" is also clearly depicted in Figures 3 through 6 of the specification, which show a right side view of the folding furniture in its first preferred embodiment.FN55

Plaintiff argues that "hinging bracket" should be defined as "a connector having a wall attachment end and a pivot end, and which allows relative movement between the parts it connects." FN56 He asserts that this proposed construction is supported by the intrinsic evidence cited above. The court agrees in large part, but credits defendants' argument that "connector" has a substantially broader meaning than "bracket," FN57 which has a relatively straightforward customary meaning that the ' 900 Patent appears to embrace.FN58 The court also questions inclusion of the term "pivot end" in the definition. As described in the specification of the ' 900 Patent, the bracket does not truly have an "end" that "pivots." Rather, the end has an attachment mechanism that allows the components of the "folding furniture" to which the "hinging bracket" is attached to pivot downward (or "swing down," in the words of the claims) from the "vertical storage position" to the "horizontal bed mode." As stated in the claims themselves, one portion of the bracket "hingeably attache[s]" to the "framework of the seating portion" (or alternatively, in claims 12, 15, 16, and 17, to the "seating portion" itself). FN59

The court consequently construes "hinging bracket" as "a structure with two perpendicular components, one of which attaches firmly to a vertical surface, and the other of which attaches to the seating portion or the framework of the seating portion of the folding furniture in such a manner that the furniture can move."

The court notes, in this regard, that it cannot accept defendants' argument that the "hinging" and "bracket" should be separately construed. FN60 The two words do not appear separately in the ' 900 Patent, and it is clear that, as used therein, they constitute a composite term that describes a bracket with a particular type of attachment mechanism on one of its two arms.FN61 The words must thus be interpreted in combination. Attempting to construe "hinging" and "bracket" separately would obscure rather than elucidate the meaning of the term "hinging bracket," as defendants' proposed construction of the words illustrate.FN62 Consequently, the court declines to interpret the words separately.FN63

6. "Hingeably Attached"

Given the court's construction, *supra,* of the term "hinging bracket," it adopts (with minor alterations) plaintiff's proposed construction of "hingeably attached" as "attached in a manner that allows the furniture to move." FN64 This adequately conveys the meaning of the term as it is, used in the ' 900 Patent, and makes the construction of "hingeably attached" consistent with the construction of "hinging bracket." No further definition is required, as the claims themselves describe the type of movement that the "hingeably attached" "hinging bracket" must accommodate, i.e., the "hinging brackets [must] permit the [the folding furniture] to

swing up to a vertical storage position and to swing down to the horizontal bed mode of the folding furniture." FN65

The court cannot accept defendants' argument that "hingeably" should be defined as "able to function as a jointed or flexible device that allows the turning or pivoting of a part, such as a door or lid, on a stationary frame," and that "attached" need not be defined.FN66 Defendants' proposed construction relies on a dictionary definition and is divorced from the intrinsic evidence; this is best illustrated by defendants' inclusion of the phrase "such as a door or lid." Given the patent claim's description of the specific movement permitted by the "hinging bracket," however, the court instead adopts plaintiff's proposed construction. Cf. UniRAM Tech., Inc. v. Monolithic Sys. Tech., Inc., No. C 04-1268 VRW, 2006 WL 825460, * 10 (N.D.Cal. Mar.30, 2006) (adopting plaintiff's proposed construction of the term "active area" over defendants' proposed construction "because it is simpler and more accurately reflects the disclosed embodiments").

7. "No Portion of the Folding Furniture Remains on a Floor Surface"

Plaintiff argues that "no portion of the folding furniture remains on a floor surface" should be defined as "none of the following parts: the seating portion, the back portion, the foldover arms, or the hinging brackets, stays on the floor of the recreational vehicle." FN67 Defendants counter that "no portion of the folding furniture remains on a floor surface" should be defined as "no portion of the folding furniture remains on a lower or supporting surface." FN68 A comparison of the parties' proposed constructions reveals that they disagree as to (1) whether the court should define "folding furniture" in construing the phrase "no portion of the folding furniture remains on a floor surface," and (2) whether "a floor surface" should be construed as "the floor of the recreational vehicle" or "a lower or supporting surface."

As respects the parties' first point of disagreement, the court agrees with defendant that the term "folding furniture" need not be defined in order to construe "no portion of the folding furniture remains on a floor surface." Indeed, for the reasons stated above, the court declines to construe "folding furniture" at all, as the meaning of the term is clear in the patent.

With respect to the construction of "floor surface," the court finds plaintiff's position more persuasive. "[W]hile the article 'a' can mean 'one or more' [as opposed to one], the court must look to the patent specification and history to determine whether the 'inventors here intended it to have other than its normal singular meaning.' " Regents of the Univ. of Cal. v. Oncor Inc., 44 U.S.P.Q.2d 1321, 1324 (N.D.Cal.1997) (quoting *N*. Am. Vaccine, Inc. v. Am. Cyanamid Co., 7 F.3d 1571, 1575-76 (Fed.Cir.1993)). The court concludes that plaintiff's intention to use "a" in the singular is clear when one reviews the preambles of claims 1 and 12, which describe "recreational vehicles" as "having vertical walls and a *floor surface*." FN69 As is evident from this language, while the claim contemplates that a "recreational vehicle" may have a number of wall surfaces, it contemplates that the vehicle has only *one* "floor surface." Plaintiff's intention to use "a" in the singular is further illustrated by the specification. In the summary of the invention, for example, the patent states that "[o]ne object of the invention is to provide folding sofa/bed RV furniture and foldable table seating/bed RV furniture that when folded in their storage position will remain relatively flat against the wall of the RV without any portion remaining on *the floor* of the RV." FN70 In addition, Figure 1-which is a "diagrammatic right side perspective view [of the first preferred embodiment of the folding furniture] showing a recreational vehicle 10 with a rear ramp 12 in its lowered position" FN71-clearly illustrates a recreational vehicle with only one floor surface. Finally, plaintiff's proposed construction of "a floor surface" to mean "the floor of the recreational vehicle" comports with the common meaning of the

non-technical term "floor" as " *the* bottom or lower part of any room: *the* part of a room upon which one stands ." FN72

For these reasons, the court declines to construe "no portion of the folding furniture" and construes "remains on a floor surface" as "remains on the floor of a recreational vehicle."

8. "Upholstered"

Defendants argue that the term "upholstered" is given its customary meaning in the '900 Patent and consequently rely upon a dictionary definition to propose that the court construe "upholstered" as "supplied with stuffing, springs, cushions, and covering fabric." FN73 Plaintiff counters that the intrinsic evidence indicates that "padding" (or any equivalent, such as "stuffing" or "cushions") was not contemplated as a necessary element of the "upholstery" to be placed on the "folding furniture." Based on the intrinsic evidence, plaintiff argues that "upholstered" should be construed more broadly than defendants suggest, specifically, as "having a covering." FN74

If the patentee gave "upholstered" its customary meaning in the '900 Patent, a construction of the term similar to that proposed by defendants would be appropriate.FN75 The court concludes, however, that the patent uses "upholstered" in a manner that gives the term a broader meaning than that which is customary. Claims 6, 7, and 14 of the ' 900 Patent recite "upper surfaces of the seating portion and the back portion" of the "folding furniture" that are "upholstered." FN76 The specification's discussion of the first preferred embodiment refers to Figure 2 as showing "a partially exposed front perspective view ... of the folding furniture 14 in its bed mode with portions of *the padding and upholstery* 18 cut away to show the framework 20 of the folding furniture 14." FN77 Later in the same paragraph, the specification states that Figure 2 demonstrates that " *the upholstery* 18 *covers* an upper surface 56 of the seating portion 22 and the seating portion 24." FN78 The patent's discussion of the preferred embodiment thus indicates that the "upholstery" is separate from the "padding" that it "covers." While this might not be sufficient to establish that the patentee intended to give "upholstered" something other than its customary meaning, the patent explicitly contemplates, with respect to the second type of folding furniture claimed (comprised of "a seating portion" and "a back portion" defined by "a generally planar structure"),FN79 that certain "solid material" that defines the "seating portion" and "back portion" may "have flexibility in the *upper surface [s]* directly incorporated into the design." FN80 This would obviate the need for any "padding" (or "stuffing" or "cushions") between the "upper surfaces" of the "seating portion" and the "back portion" and the "upholstery" that covers it. Consequently, the court concludes that the patentee provided a definition of "upholster" in the patent by implication that is different than the commonly understood meaning of the term. See, e.g., Honeywell International, Inc. v. Universal Avionics Systems Corp., 493 F.3d 1358, 2007 WL 1892472, * 2 (Fed.Cir. July 3, 2007) (noting that a patentee can act as his own lexicographer even when he does not provide "an explicit statement of redefinition," and can define terms "by implication"); Bell Atlantic Network Services, Inc. v. COVAD Comm. Group, Inc., 262 F.3d 1258, 1271 (Fed.Cir.2001) ("When a patentee uses a claim term throughout the entire patent specification, in a manner consistent with only a single meaning, he has defined that term 'by implication' "). Based on this intrinsic evidence, the court adopts (with minor modification) plaintiff's proposed construction of "upholstered" as "supplied with a covering."

9. "Single"

The term "single" appears in claims 8, 9, 15, and 16 of the '900 Patent. All four of these claims claim a version of the "folding furniture" to which the patent refers, in the summary of the invention, as "sofa/bed

RV furniture." FN81 More specifically, claims 8 and 9 claim a version of "folding furniture" illustrated by the first preferred embodiment of the specification.FN82 Claims 15 and 16 claim a version of the "folding furniture" substantially similar to that illustrated by the first preferred embodiment, with the exception that the "seating portion" and "back portion" of the "folding furniture" are defined by "a generally planar structure" rather than a "framework." FN83 This version of the "folding furniture" "comprises *a single* pivotally attached together seating and back portions." FN84 In contrast to the "sofa/bed RV furniture" is the "table seating/bed RV furniture" FN85 that is illustrated by the second preferred embodiment. Claims 10 and 17 both claim a version of the "folding furniture" that is illustrated by (or substantially similar to that illustrated by) this preferred embodiment. This version of the "folding furniture" "comprises two seating portions and two back portions" that are "joined together" in such a way to comprise " *two separate* pivotally attached together seating and back portions." FN86

Plaintiff argues that the term "single" is "clear on its face" and does not require construction.FN87 Defendants argue that "single" should be construed as "not accompanied by another or others." FN88 Defendants argue this is necessary because claims 8, 9, 15, and 16 all use the open-ended expression "comprises," which means that the "folding furniture" claimed could include more than one "pivotally attached together seating and back portions." FN89

The court finds defendants' argument unavailing. The Federal Circuit has made clear that the "use of the transition 'comprising' in conjunction with the article 'a' or 'an' creates the presumption that the article is construed to mean one or more elements or steps, *unless there is evidence of a clear intent to limit the claims*." Scanner Techs. Corp., 365 F.3d 1299 at (emphasis added). Here, both the claims (by using the word "single") and the patent specification and drawings make abundantly clear that the "folding furniture" claimed in claims 8, 9, 15, and 16 is limited to "sofa/bed RV furniture" which consists only of *one* "pivotally attached together seating and back portions." As a result, the presumption that generally arises from the use of "comprises" in conjunction with an indefinite article does not arise here. Cf., e.g., id. at 1304 ("[In] Insituform [Technologies, Inc. v. Cat Contracting, Inc., 99 F.3d 1098 (Fed.Cir.1996),] [the court] dealt with claim language and a specification that strongly suggested that the claim language 'a cup' was meant to encompass only one cup. There, the asserted claim repeatedly described a single cup, using the term 'the cup' and describing a process in terms of a single cup. [Id.] at 1105-06.... Moreover, the court in *Insituform* found that 'neither the specification nor the drawings discloses the use of more than one cup,' and in fact repeatedly described or depicted 'the cup.' *Id*. Thus, the court in *Insituform* found that the claims were properly limited to a single cup"). Consequently, the court declines to construe the term "single," because-as plaintiff argues-it is clear on its face.

III. CONCLUSION

For the foregoing reasons, the court adopts the following constructions:

1. "Framework": "internal skeletal structure."

2. "Pivotally": "in a manner allowing one part to rotate in relation to another part."

3. "Foldover arms": "non-straight connectors that pivotally attach portions of the folding furniture together," i.e., "non-straight connectors that attach portions of the folding furniture together in a manner allowing one portion of the folding furniture to rotate in relation to another portion."

4. "Hinging bracket": "a structure with two perpendicular components, one of which firmly attaches to a vertical surface, and the other of which is hingeably attached to the seating portion," i .e., "a structure with two perpendicular components, one of which firmly attaches to a vertical surface, and the other of which is attached to the seating portion or framework of the seating portion in a manner that allows the furniture to move."

5. "Hingeably attached": "attached in a manner that allows the furniture to move."

6. "Remains on a floor surface": "remains on the floor of a recreational vehicle."

7. "Upholstered": "supplied with a covering."

8. "Generally planar structure": "structure made, in large part, of solid material with generally flat surfaces."

FN1. United States Patent No. 6,163,900 at 1.

FN2. Id.

FN3. Id.

FN4. Id.

FN5. Id., col. 1:6-14. Recreational vehicles encompasses self-contained motorized vehicles as well as trailers hauled by pickup trucks and other vehicles.

FN6. "Throughout the construction process, ... the viewing glass through which the claims are construed is that of a person skilled in the art," Interactive Gift Exp., Inc. v. Compuserve Inc., 256 F.3d 1323, 1332 (Fed.Cir.2001), "unless it appears from the patent and the prosecution history that the inventor used [a] term with a different meaning." Phillips Petroleum Co. v. Huntsman Polymers Corp., 157 F.3d 866, 871 (Fed.Cir.1998) (internal quotation marks omitted); see also Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1582 (Fed.Cir.1996) ("Although words in a claim are generally given their ordinary and customary meaning, a patentee may choose to be his own lexicographer and use terms in a manner other than their ordinary meaning, as long as the special definition of the term is clearly stated in the patent specification or file history"). If a patentee has not chosen to depart from the ordinary meaning of a claim term, a claim's meaning in certain cases may be the "widely accepted meaning of commonly understood words." Phillips, 415 F.3d at 1314; see also Golden Blount, Inc. v. Robert H. Peterson Co., 365 F.3d 1054, 1059 (Fed.Cir.2004) (noting that "[t]he plain language of the claim [was] relatively straightforward," and that "there [was] nothing to indicate that persons skilled in the art would attribute any other or different meaning" to the term than "its ordinary and customary meaning").

FN7. In considering a patent's prosecution history, the applicant's subjective intent is irrelevant; "[r]ather,

the standard for determining what subject matter was surrendered is objective and depends on what a competitor, reading the prosecution history, would reasonably conclude was given up by the applicant." Instituform Technologies, Inc. v. CAT Contracting, Inc., 99 F.3d 1098, 1107-08 (Fed.Cir.1996).

FN8. The parties agree that "seating portion" should be constructed as "a portion of the folding furniture on which one may sit" and that "back portion" should be constructed as "a portion of the folding furniture on which one's back may be supported." (See Parties' Joint Claim Construction Chart.)

FN9. As indicated below, defendants urge the court to construe these two words separately, while plaintiff argues that they should be construed together.

FN10. As indicated below, defendants urge the court to construe the word "hingeably" but not to construe the word "attached."

FN11. As indicated below, plaintiff argues that this term requires no construction.

FN12. Plaintiff Edward Stevenson's Opening Claim Construction Brief ("Pl.'s Opening Brief") at 8-9.

FN13. '900 Patent, col. 1:9,: 11-12.

FN14. Id., Claim 1 (col.5:26,:28-29,:33,:36,:60-61); Claim 11 (col.6:57,:59-60,:64, col.7:1,:23-24).

FN15. Reply Brief in Support of Defendants' Claim Construction (Defs .' Reply) at 3.

FN16. Id. at 4.

FN17. Brief in Support of Gulf Stream's, Thor's and Dutchmen's Claim Construction ("Defs.' Opening Brief") at 3.

FN18. Id.

FN19. Id.

FN20. Plaintiff Edward Stevenson's Claim Construction Reply Brief at 3.

FN21. "Comprising" is a well-recognized transitional term of art in patent law; when used "in conjunction with the article 'a' or 'an' [it] creates the presumption that the article is construed to mean one or more elements or steps." Scanner Techs. Corp. v. Vision Sys. Corp., 365 F.3d 1299, 1305-06 (Fed.Cir.2004); see also, e.g., KCJ Corp. v. Kinetic Concepts, Inc., 223 F.3d 1351, 1356 (Fed.Cir.2000) ("This court has repeatedly emphasized that an indefinite article 'a' or 'an' in patent parlance carries the meaning of 'one or more' in open-ended claims containing the transitional phrase 'comprising' "). To the extent defendants believe that the jury should be instructed on the meaning of the term "comprising," they can request that the court provide an appropriate instruction defining the term at the appropriate time.

FN22. '900 Patent, Claim 1 (col.5:26,:28-29,:33,:36,:60-61); Claim 11 (col.6:57,:59-60,:64, col.7:1,:23-24).

FN23. See Defs.' Opening Brief, Exhibit 2 at 84-85 (Office Action dated Jan. 12, 2000), 101-102 (Office Action dated July 11, 2000).

FN24. '900 Patent, col. 5:30,:33.

FN25. Id., col. 6:60:,:64.

FN26. Id., col. 3:15-19 (emphasis added).

FN27. Id., col. 4:23-26 (emphasis added).

FN28. Id., col. 5:10-15 (emphasis added).

FN29. Pl.'s Opening Brief at 10.

FN30. The court recognizes that inventors may describe the same invention using different terms in two (or more) independent patent claims. See, e.g., *Curtiss-Wright Flow Control Corp.,* 438 F.3d at 1380-81 ("[C]laim drafters can [ ] use different terms to define the exact same subject matter. Indeed this court has acknowledged that two claims with different terminology can define the exact same subject matter," citing, *inter alia,* Hormone Research Found. v. Genentech, Inc., 904 F.2d 1558, 1567 n. 15 (Fed.Cir.1990) ("It is not unusual that separate claims may define the invention using different terminology, especially where (as here) independent claims are involved")). Plaintiff does not argue, however, that independent claims 1 and 12 define the same invention.

FN31. See particularly Figure 2 and Figure 7. The Federal Circuit has approved using patent drawings to understand the patent claims. See, e.g., CVI/Beta Ventures, Inc. v. Tura LP, 112 F.3d 1146, 1153 (Fed.Cir.1997) (holding that patent drawings may be highly relevant to understanding claims); Desper Products v. QSound Labs, Inc., 157 F.3d 1325, 1333 (Fed.Cir.1998) (relying on patent drawings to clarify ambiguity in patent claims themselves).

FN32. '900 Patent, col. 2:29-32 (emphasis added).

FN33. WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE UNABRIDGED 902 (1973).

FN34. The court declines to adopt defendants' proposed construction of "framework"-"a structure for supporting or enclosing something else, especially a skeletal support as the basis for something being constructed" (Defs.' Opening Brief at 5)-because it is taken from a dictionary without reference to the '900 Patent and is divorced from the intrinsic evidence. See, e.g., Logan v. Hormel Foods, Inc., 217 Fed.Appx. 942, 944 (Fed.Cir.2007) (Unpub.Disp.) ("[Plaintiff] argues that the 'support member' should only be required to hold the meat. [Plaintiff] cites numerous dictionary definitions in an attempt to bolster his argument. However, these dictionary definitions are inconsistent with the intrinsic record and therefore, are not probative"); *On-* Line Techs., 386 F.3d at 1139 (noting that extrinsic evidence "cannot be used to alter a claim construction dictated by a proper analysis of the intrinsic evidence"); Intel Corp. v. VIA Techs., Inc., 319 F.3d 1357, 1367 (Fed.Cir.2003) ("When an analysis of intrinsic evidence resolves any ambiguity in a disputed claim term, it is improper to rely on extrinsic evidence to contradict the meaning so ascertained"); Renishaw PLC v. Marposs Societa' Per Azioni, 158 F.3d 1243, 1250 (Fed.Cir.1998) ("[A] common meaning, such as one expressed in a relevant dictionary, that flies in the face of the patent disclosure is undeserving of fealty. As one of our predecessor courts stated, 'Indiscriminate reliance on definitions found in dictionaries can often produce absurd results.... One need not arbitrarily pick and choose from the various accepted definitions of a word to decide which meaning was intended as the word is used in a given claim. The subject matter, the context, etc ., will more often than not lead to the correct conclusion' " quoting Liebscher v. Boothroyd, 46 C.C.P.A. 701, 258 F.2d 948, 951 (C.C.P.A.1958)). Indeed, defendants' proposed definition of "framework" appears to contemplate the "framework" of a building or similar physical structure.

FN35. Defs.' Opening Brief at 9.

FN36. The court added the "in large part" language following the *Markman* hearing to alleviate plaintiff's concern that a construction that did not include such language would be unduly restrictive in that it would exclude from the "folding furniture" protected by the '900 Patent a "seating portion" or "back portion" that is primarily defined by solid materials but also has a partial framework. Defendants stated at the hearing that they did not oppose such a modification to the court's tentative construction of "generally planar structure."

FN37. Plaintiff argues that "generally planar structure" should be defined as "having a relatively flat or level

surface." (Pl.'s Opening Brief at 19.) While "generally planar" is properly defined as "having a relatively flat or level surface," plaintiff's proposed construction would give no content or meaning to the word "structure." This contravenes the well-established claim construction canon that each term in a claim should be construed to have meaning. See, e.g., Bicon, Inc. v. Straumann Co. ., 441 F.3d 945, 950 (Fed.Cir.2006) ("[C]laims are interpreted with an eye toward giving effect to all terms in the claim"); Merck & Co. v. Teva Pharms, USA, Inc., 395 F.3d 1364, 1372 (Fed.Cir.2005) ("A claim construction that gives meaning to all the terms of the claim is preferred over one that does not do so").

FN38. '900 Patent, col. 5:40-47.

FN39. Id., col. 7:5-11.

FN40. Id., col. 5:47-48, col. 7:12.

FN41. Id., col. 5:50-60, col. 7:14-23.

FN42. Id., drawing sheets 2-3, 4-5.

FN43. Pl.'s Opening Brief at 10.

FN44. Defs.' Opening Brief at 5.

FN45. Defendants cite a definition of the noun "pivot," while plaintiff cite a definition of the verb "pivot." (Compare Pl.'s Opening Brief at 11 (citing THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE (4th ed. 2004) ("To cause to rotate, revolve, or turn"), with Defs.' Opening Brief at 6 (citing the same) ("A short rod or shaft on which a related part rotates or swings").)

FN46. Compare the court's construction (the "foldover arms" are "connected" to the"back portion" and the "seating portion" "in a manner that allows one part [the back portion] to rotate in relation to another part [the seating portion]") with plaintiff's proposed construction ("the "foldover arms" are "connected" to the"back portion" and the "seating portion" "in a manner allowing rotation").

FN47. Pl.'s Opening Brief at 11.

FN48. Defs.' Opening Brief at 5.

FN49. '900 Patent, col. 5:38-40,:42,:47-48, col.7:3-5,:7,:12.

FN50. The court does not limit "foldover arms" to a " *set of two* non-straight connectors ..." because of the patent's use of the term "comprising." As noted, "comprising" is a well-recognized transitional term of art in patent law. Although most often used in conjunction with the article "a" or "an," its use in conjunction with a number (here, "two") means that the item claimed has at least that many components, but may have more. See, e.g., Gillette Co. v. Energizer Holdings, Inc., 405 F.3d 1367, 1371 (Fed.Cir.2005) (construing the phrase "comprising ... a group of first, second, and third blades" in a patent protecting a particular type of safety razor to encompass four-bladed safety razors); Vehicular Techs. Corp. v. Titan Wheel Int'l, Inc., 212 F.3d 1377, 1383 (Fed.Cir.2000) ("A drafter uses the term 'comprising' to mean 'I claim at least what follows and potentially more' "); Genentech, Inc. v. Chiron Corp., 112 F.3d 495, 501 (Fed.Cir.1997) (" 'Comprising' is a term of art used in claim language which means that the named elements are essential, but other elements may be added"). The court consequently construes "foldover arms" in the plural as "non-straight connectors" without specifying the particular number of "connectors" that comprise the "foldover arms." Stated differently, "folding furniture" that has a "seating portion" and a "back portion" that are "pivotally attached together" by more than two "foldover arms" would fall within the claims of the '900 Patent as construed by the court.

FN51. '900 Patent at 1.

FN52. *Id.,* col 1:61-col. 2:2.

FN53. *Id.,* col. 7:24-32.

FN54. *Id.,* col. 3:54-57.

FN55. *Id.,* drawing sheets 2-3.

FN56. Pl.'s Opening Brief at 13.

FN57. Def.'s Reply at 9.

FN58. As noted, the patent specification states that the "hinging bracket" is comprised of a "wall attachment end" for "attachment to the vertical inside RV wall" and a "pivot end" for "hingeable attachment to the [seating portion]." ('900 Patent col. 3:54-57.) This comports with the customary meaning of the term "bracket." See, e.g., THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE (4th ed. 2004) ("A simple rigid structure in the shape of an L, one arm of which is fixed to a vertical surface, the

other projecting horizontally to support a shelf or other weight"). While the court is mindful that it should not read limitations into the patent claims based on the patent's description of the preferred embodiment, see, e.g., In re Omeprazole Patent Litig., 483 F.3d 1364, 1372 (Fed.Cir.2007) (" '[E]mbodiments and examples appearing in the specification will not generally be read into the claims,' " quoting Constant v. Advanced Micro-Devices, Inc., 848 F.2d 1560, 1571 (Fed.Cir.1988) (alteration original)), the court's reference to the specification to ascertain the meaning of the term "hinging brackets," as used in the patent claims, does not do this. See Curtiss-Wright Flow Control Corp.v. Velan, Inc., 438 F.3d 1374, 1379-80 (Fed.Cir.2006) ("This court commends the district court's reluctance to narrow the claims to the preferred embodiment. In this instance, however, that care is admirable but misplaced. This case does not evince a situation where a party is attempting to import a limitation from the specification into the claims. Claim 14 already contains the 'adjustable' limitation. Thus, the claim construction task requires this court to discern the meaning of that term in the context of this invention and field of art. The specification provides that context and substantial guidance on the meaning of 'adjustable.' In light of the specification, the term 'adjustable' means that the dynamic, live loaded seat can be adjusted while the de-heading system of claim 14 is in use"); see also Honeywell Int'l Inc. v. Universal Avionics Sys. Corp., 488 F.3d 982, 990 (Fed.Cir.2007) (affirming district court's construction of "look ahead distance," based in substantial part on the patent specification, because reference to the specification was necessary to ascertain the "clear purpose" of the claim limitation). In addition, it is well-settled that the court should refer to the specification to determine whether the patentee intended to "be his own lexicographer and use terms in a manner other than their ordinary meaning." Vitronics Corp., 90 F.3d at 1582. Here, the specification makes clear that the patentee intended the term "bracket," as used in the patent claims, to be afforded its customary meaning.

FN59. Claim 17 appear to contain a drafting error, as plaintiff there claims "hinging brackets [that] are hingeably attached to one of the right and left side edges of the *framework* of the seating portion" rather than to the "seating portion" directly. ('900 Patent, col. 8:22-24 (emphasis added).) Claim 17 is a dependent claim of claim 12. (Id., col. 8:17-18.) Claim 12 claims a "seating portion" defined by a "generally planar structure" rather than a "seating portion" having a "framework," In construing a patent, the district court is empowered to correct "obvious errors" that are "not subject to reasonable debate based on consideration of the claim language and the specification," so long as "the prosecution history does not suggest a different interpretation of the claims." Novo Industries, L.P. v. Micro Molds Corp., 350 F.3d 1348, 1357 (Fed.Cir.2003). Because the error is "apparent from the face of the patent," *id.,* and is not subject to reasonable debate given the dependent nature of claim 17, the court exercises its authority to correct line 24 of column 8 of the ' 900 Parent by striking the words "framework of the," so that claim 17 now reads, in pertinent part, "wherein the hinging brackets are hingeably attached to one of the right and left side edges of the seating portion."

FN60. Defs.' Opening Brief at 7.

FN61. In this regard, defendants' assertion that the word "hinging" is used to "describe an object or objects" is incorrect. (Defs.' Reply at 9.)

FN62. Defendants argue that the term "hinging" should be defined as "to attach by or equip with or as if with a jointed or flexible device that allows the turning or pivoting of a part, such as a door or lid, on a

stationary frame." (Defs.' Opening Brief at 7.) (In their brief, defendants separately define "hinge" and "hinging"; the court here has combined the proposed definitions.) Defendant argue that the term "bracket" should be defined as "a simple rigid structure, that may be in the shape of an L, having one arm fixed to a vertical surface, and having another arm projecting horizontally to support a shelf or other weight." (*Id*. at 4.)

FN63. The court also cannot accept defendants' argument that a "hinging bracket" is an "open-ended structure" that should be construed as consisting of more than two attachment ends. (Defs.' Reply at 9-10.) Defendants offer this argument in response to plaintiff's proposed construction of "hinging bracket." The argument is inconsistent, however, with defendants' own proposed construction of the term "bracket." That proposed construction does not suggest that a bracket is an "open-ended structure"; rather, it defines bracket as "a simple rigid structure ... having *one arm* fixed to a vertical surface, and having *another arm* projecting horizontally...." (Defs.' Opening Brief at 4 (emphasis added).) This, of course, is consistent with the commonly understood meaning of the term.

FN64. Pl.'s Opening Brief at 15 ("Attached in a manner to allow movement, including rotation").

FN65. '900 Patent, col. 5:61-col. 6:2; col. 7:24-32.

FN66. Defs.' Opening Brief at 7. In their brief, defendants offer separate definitions for "hinge" and "hingeably," the latter of which includes the term "a hinge." The court has constructed a composite definition.

FN67. Pl.'s Opening Brief at 16.

FN68. Defs.' Opening Brief at 4.

FN69. '900 Patent, col. 5:26-27 (claim 1) (emphasis added), col. 6:57-58 (claim 12) (emphasis added).

FN70. Id., col. 2:16-20 (emphasis added).

FN71. Id., col. 3:7-9.

FN72. WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE UNABRIDGED at 873 (emphasis added). Defendants argue that their proposed construction is supported by plaintiff's use of the open-ended transition term "comprising" in the patent. (Defs.' Reply at 6.) This term is not used in conjunction with "a floor surface," however, with the result that this argument fails.

FN73. Defs.' Opening Brief at 8.

FN74. Pl.'s Opening Brief at 17.

FN75. See WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE UNABRIDGED at 2517 ("to cover (a seat) *with padding and fabric* that is fastened over the padding" (emphasis added)).

FN76. '900 Patent, col. 6:23-24,:28-29, col. 8:5-6.

FN77. Id., col. 3:1549 (emphasis added).

FN78. Id., col. 3:34-36 (emphasis added).

FN79. Id., col. 6:60:,:64.

FN80. Id., col 5:13-15 (emphasis added).

FN81. Id., col. 2:16-17.

FN82. Claim 8 and claim 9 are substantially similar. Indeed, the only difference between the two is that, in claim 8, the "hinging brackets" are "hingeably attached" to the " *rear* edge[s]" of the "framework" of the "seating portion," while in claim 9, the "hinging brackets" are "hingeably attached" to the " *left and right side* edges" of the "framework" of the "seating portion." (Compare id., col. 6:30-34 (emphasis added), with id., col. 6:35-39 (emphasis added).)

FN83. Similar to claim 8, the "hinging brackets" in claim 15 are "hingeably attached" to the "rear edge[s]" of the "seating portion," whereas the "hinging brackets" in claim 16 (similar to those in claim 9) are "hingeably attached" to the "left and right side edges" of the "seating portion." (Compare id., col. 8:7-11, with id., col. 8:12-16.)

FN84. Id., col. 6:31-32 (claim 8) (emphasis added); col.6:36-37 (claim 9) (emphasis added); col. 8:8-9 (claim 15) (emphasis added); col.8:13-14 (claim 16) (emphasis added).

FN85. Id., col. 2:17.

FN86. Id., col. 6:41-45 (claim 10) (emphasis added); id., col. 8:18-22 (emphasis added).

FN87. Pl.'s Opening Brief at 18. To the extent the court deems a construction necessary, plaintiff suggests "one." (Id.)

FN88. Defs.' Opening Brief at 8.

FN89. Id. at 9.

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