United States District Court,
C.D. California.

VERTICAL DOORS INC,
v.
HOWITT, v. JT.

Nos. SACV 0600984-JVS(Anx), CV 06-4972-JVS(Anx)

Dec. 14, 2007.

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(In Chambers) Order re Markman/Claim Construction

JAMES V. SELNA**, Judge.**

Karla J. Tunis, Deputy Clerk

Plaintiff Vertical Doors, Inc. ("Vertical Doors") alleges that defendants GT Factory and Daniel Greenbank (collectively "GT Factory"); Chaser Aerodynamics, LLC ("Chaser"); The Hoffman Group, LLC, Marix Distributing, LLC, and Opus Distributing, LLC (collectively "Hoffman Group"); and Stylin' Concepts, Corp. ("Stylin' Concepts") (all of the foregoing are referred to collectively as the "the Howitt defendants") have infringed on portions of U.S. Patents Nos. 6,845,547 ("the '547 Patent"), 7,059,655 ("the '655 Patent"), and 7,140,075 ("the '075 Patent") and that defendants J.T. Bonn, Inc., Tony Yip, Bill Yip and John Tip (collectively "JT Bonn" or "the JT Bonn defendants") have infringed on portions of the '655 Patent.

This matter is before the Court for claim construction.

I. ***Legal Standard***

It is well settled that claim construction is "exclusively within the province of the court." Markman v. Westview Instruments, Inc., 517 U.S. 370, 372, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996). Such construction "begins and ends" with the claim language itself, Interactive Gift Express, Inc. v. CompuServe, Inc., 256 F.3d 1323, 1331 (Fed.Cir.2001), but extrinsic evidence may also be consulted "if needed to assist in determining the meaning or scope of technical terms in the claims." Pall Corp. v. Micron Separations, Inc.,

66 F.3d 1211, 1216 (Fed.Cir.1995).

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

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

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

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

II. ***Discussion***

a. ***Adoption of Prior Constructions***

In a related action, this Court construed 28 disputed terms in its Order Re: Markman/Claim Construction Hearing, dated October 30, 2006 ("October 30, 2006 Order"), and then amended one of those constructions and construed another disputed term in its Order Granting Plaintiff's Motion for Partial Summary Judgment, dated March 21, 2007 ("March 21, 2007 Order"). (*Vertical Doors, Inc. v. J.T. Bonn, et al.,* SACV 06-4972, Docket Nos. 146 and 256, respectively.) The Court has indicated that it would adopt these prior constructions in subsequent claim constructions unless there is substantial new or different evidence as to why they should not be adopted. The parties have made no arguments as to why the prior constructions of the following terms should not be adopted here, and the Court thus incorporates its orders of October 30, 2006 and March 21, 2007 to the extent of the construction of these terms:

"Bi-directional rotation mechanism" (in the '075, '547, and '655 Patents);

"Bi-hinge" (in the '655 Patent) is construed as synonymous with "Bi-directional hinge" (in the '547 Patent),

as previously construed;

"Chassis mounting plate" (in the '547 and '655 Patents);

"Horizontal plane of motion" (in the '655 Patent), "horizontal plane" (in the '075 Patent) and "first horizontal plane" (in the '547 Patent) are construed as synonyms with "horizontal plane," as previously construed;

"Rotationally connected in the first horizontal plane" (in the '547 Patent);

"Sag adjuster screw" (in the '075, '547, and '655 Patents);

"Sag adjuster screw guide mechanism" (in the '547 and '655 Patents);

"Securely fastened" (in the '547 Patent);

"Swingarm" (in the '075, '547, and '655 Patents);

"Vehicle door" (in the '075, '547, and '655 Patents);

"Vehicle frame" (in the '075, '547, and '655 Patents);

"Vertical plane of motion" (in the '655 Patent), "vertical plane" (in the '075 Patent) and "second vertical plane" (in the '547 Patent) are construed as synonyms with "vertical plane," as previously construed.

b. ***Terms at issue exclusively with respect to the Howitt defendants***

The Joint Rule 4-3 Statement submitted in the *Howitt* case ("Howitt Rule 4-3 Statement") includes terms from all three patents, many of which do not affect the JT Bonn defendants. The Court, therefore, resolves these issues before turning to the construction of the claim language that affects the parties in both cases.

First, the Court notes that the Howitt defendants agree with Vertical Doors' proposed construction of "vertical axis" (in the '075 Patent) and also seem to agree on Vertical Doors' proposed construction of "bi-hinge rotator" (in the '075 Patent). FN1 The Court therefore does not construe either of these terms.

The Howitt defendants also agree with Vertical Doors' proposed construction of "securely fastenable" (in the '075 Patent) to mean "capable of being attached firmly," which comports with the prior construction of "securely fastened" (in the '547 Patent) as "attached firmly." Similarly, the Howitt defendants agree with Vertical Doors that "rotationally connected in the horizontal plane" (in the '075 Patent) is synonymous with "rotationally connected in the first horizontal plane" (in the '547) as previously construed. Accordingly, the Court construes "securely fastenable" (in the '075 Patent) to mean "capable of being attached firmly," and "rotationally connected in the horizontal plane" (in the '075 Patent) to mean "rotates with, as the vehicle door opens during the horizontal phase of motion."

Second, while the Howitt defendants present argument on only two terms in opposition, they include a joint list of disputed terms appended to their brief. (Hoffman Group Opposition, Ex. A; GT Factory Opposition Br. p. 2.) This list of disputed terms contains constructions of several terms which are not otherwise mentioned or discussed in the opposition papers, but it does not nearly exhaust the terms included in the

Howitt Rule 4-3 statement. Thus, there are a few terms on which the parties do not agree in the Howitt Rule 4-3 Statement, but for which the Howitt defendants neither present argument nor re-state their proposed constructions in their list of disputed terms. The Court understands the Howitt defendants' failure to mention these terms as an acknowledgment that they no longer contest Vertical Doors' constructions of those terms. Therefore, the Court summarily adopts Vertical Doors' proposed constructions as follows:

Term	*Patent*	*Court's Construction*
"Bi-hinge body"	'075	"the body (main portion) of a bi-hinge"
"Desired horizontal alignment"	'075	"proper alignment for the particular vehicle, typically alignment with the door frame"
"Hinge pin"	'075	"a rod or pin that rotates in a bi-hinge support about a vertical axis"
"Rotationally connected in the first horizontal plane to the bi-directional rotation mechanism"	'547	no interpretation needed

Third, there are two terms for which the Howitt defendants propose a construction different from Vertical Doors' construction in the Howitt Rule 4-3 statement and which they also include in their list of disputed terms in opposition. These terms are: "first portion of sag adjustment device" and "second portion of sag adjustment device" (both in the '655 Patent). The Howitt defendants propose that "first portion of sag adjustment device" be construed to mean "the sag adjuster screw" and that "second portion of sag adjustment device" to mean "the sag adjuster guide." (Hoffman Opposition Br. Ex. A, p. 17.) However, beyond merely mentioning the terms and proposed constructions on the list, the Howitt defendants do not present any argument in support of their proposed constructions. FN2

The terms "first portion ..." and "second portion of sag adjustment device" appear in claims 2 and 4 of the '655 Patent. ('655 Patent, 12:59-60, 62-63; 13:3-6.) Claim 4 states that the "first portion ... comprises a sag adjuster screw" and the "second portion ... comprises a sag adjuster guide." (*Id*. 13:4-6.) The use of the words "comprises a" gives rise to the presumption that the claim is open-ended. Invitrogen Corp. v. Biocrest Mfg., L.P., 327 F.3d 1364, 1368 (Fed.Cir.2003). Thus, claim 4 provides open-ended examples of components that may comprise the "first [and second] portion[s] of the sag adjustment device," but does not require that the "first [and second] portion[s] ..." refer exclusively to the "screw" and "guide," respectively.

The Howitt defendants do not point to, and the Court does not see, any reason to depart from the rule that claims employing the term "comprising" are to be construed as open-ended and not as limited to a "singular sense." *See* Norian Corp. v. Stryker Corp., 432 F.3d 1356, 1359 (Fed.Cir.2005); Scanner Techs. Corp. v. ICOS Vision Sys. Corp. N.V., 365 F.3d 1299, 1306 (Fed.Cir.2004). Thus, the Court declines to adopt the Howitt defendants' proposed construction.

Moreover, and particularly in light of the fact that the Court construes the constituent term "sag adjustment device" in this Order, the Court finds that the terms "first [and second] portion of the sag adjustment device" do not require construction.

There is one final term which is at issue only between Vertical Doors and the Howitt defendants: "Sag adjuster screw guide mechanism" (in the '547 and the ' 075 Patents). This Court previously construed this term to mean "a mechanism comprised of a sag adjuster screw guide together with the sag adjuster screw." (October 30, 2006 Order p. 37.)

Vertical Doors now requests that the Court construe the term differently for the purposes of the '075 Patent. Vertical Doors would have the Court adopt its prior construction of "sag adjuster screw guide," i.e. "a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane," for the term "sag adjuster screw guide mechanism" as used in the '075 Patent. (Vertical Doors' Opening Br. in the *Howitt* case p. 11.) It argues that a different construction for the '075 Patent is warranted because certain claims in the '075 Patent may be rendered invalid if the prior construction of "sag adjuster screw guide mechanism" is adopted to construe that term in the '075 Patent. (*Id*. pp. 12-13.) The Howitt defendants do not discuss this term in their briefs. FN3 (GT Factory and Hoffman Group Opposition Briefs, *passim*.)

Generally the principle that claims are to be "construed to preserve their validity" is "limited ... to cases in which the court concludes, after applying all the available tools of claim construction, that the claim is still ambiguous." *Phillips,* 425 F.3d at 1327 (internal citations and quotations omitted.) In this case, however, Vertical Doors is not requesting that the Court construe terms to preserve the validity of the claims at the expense of other canons of construction, but rather, the question here is essentially whether the potential invalidity of the claims in the '075 Patent is sufficient justification for the Court to adopt a different construction for the purposes of that Patent. The Court finds that it is.

Most importantly, the claim language in the '075 Patent is significantly different from the language in the '547 Patent on which the Court depended for its construction of "sag adjuster screw guide mechanism" in the October 30, 2006 Order. In fact, the '075 Patent contains instances of the very language that this Court specifically noted is *not* found in the '547 Patent. (October 30, 2006 Order, p. 38.) For example, this Court stated that "[n]owhere does the ['547] patent describe the 'sag adjuster screw' as bearing against the 'sag adjuster screw [guide] *mechanism:* ' the ['547] patent only describes the 'sag adjuster screw' as bearing against the 'sag adjuster screw *guide*.' " (October 30, 2006 Order, p. 38; original emphasis.) In sharp contrast, claims 1, 8, 12, and 20 of the '075 Patent state that "a sag adjuster screw bear[s] against the sag adjuster screw guide mechanism." ('075 Patent 12:28-29, 61-62, 13:33-34, 14:20-21; emphasis added.) Further, claims 3, 13 and 23 of the ' 075 Patent state that the "sag adjuster screw rotates along the sag adjuster screw guide *mechanism*." (*Id*. 12:34-35, 13:36-37, 14:32-33; emphasis added) Finally, claims 5 and 15 of the '075 Patent state that "the sag adjuster screw is on the chassis mounting plate and the sag adjuster screw guide *mechanism* is on the swingarm." (*Id*. 12:39-41, 13:41-43; emphasis added.) All of this language clearly presents the sag adjuster screw guide mechanism as a component separate from the sag adjuster screw, and not as an umbrella term that encompasses the sag adjuster screw. Further, the usage of "sag adjuster screw guide mechanism" in these claims in the '075 Patent is in perfect accord with this Court's prior construction of the term "sag adjuster screw guide" to mean "a component against which a sag adjuster screw bears when the vehicle door is rotates through the horizontal plane." (October 30, 2006 Order p. 36.)

In contrast, the specification of the '075 Patent admittedly does employ "sag adjuster screw guide" to describe the component against which the sag adjuster screw bears during the horizontal rotation of the door. ('075 Patent 5:18-20.) However, the claims consistently employ "sag adjuster screw guide mechanism" to describe the component that performs this function. Thus, given that "the words of the claims themselves ... define the scope of the patented invention," Vitrionics Corp. v. Conceptronic, 90 F.3d 1576, 1582 (Fed.Cir.1996), the Court finds that the instance of "sag adjuster screw guide" in the specification to refer to the component against which the screw bears does not preclude a construction of "sag adjuster screw guide mechanism" to mean "a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane."

Accordingly, for the purposes of the '075 Patent only, the Court construes the term "sag adjuster screw guide mechanism" as synonymous with "sag adjuster screw guide," i.e. "a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane."

c. ***Terms at issue exclusively with respect to the JT Bonn defendants***

The Court now turns to the terms "rotating" and "rotation" that are at issue only between Vertical Doors and the JT Bonn defendants.

Vertical Doors argues that the term "rotating" (the '655 Patent) and "rotation" (the '655 Patent) do not need to be construed. (Vertical Doors' Opening Br. in the *JT Bonn* case pp. 6, 16.) JT Bonn does not point to any intrinsic evidence or present any argument specific to these terms, but requests the terms be given their ordinary meaning (JT Bonn Rule 4-3 Statement pp. 7, 33; JT Bonn Opposition p. 10.)

The Court finds no interpretation is necessary in order to construe the meaning of "rotating" and "rotation."

d. ***Terms to be construed relevant to all defendants***

1) ***Bi-Hinge Supports (in the '655 and*** '075 Patents***)***

Vertical Doors' Construction [FN4]	The JT Bonn defendants' Construction	The Howitt defendants' Construction
"structures that support the bi-hinge"	"a mounting device for the bi-hinge"	Agree with Vertical Doors

"Bi-hinge support" refers to a specific component. ('655 Patent Fig. 14, numbers 116 and 116'.) Although the parties did not expressly rely on the claim language for their constructions, the Court observes that claims 8, 15, and 20 of the '655 Patent describe the bi-hinge supports as "connect[ing]" the bi-hinge to the chassis mounting plate, "thereby allowing the vehicle door to rotate in the horizontal plane." ('655 Patent 13:21-22, 65-77, 14:30-32.) Similarly, the '075 Patent notes that the "hinge pin 112 rotates in a bi-hinge support 116 about a vertical axis which allows horizontal motion of the swingarm." ('075 Patent 7:24-26.) Claims 9 and 17 of the '075 Patent state that "the bi-hinge body is pivotally mounted to the chassis mounting plate by a bi-hinge support." (*Id*. 13:5-7, 48-49.) The Court finds that Vertical Doors' construction merely re-states the words of the claim term instead of providing a definition for it. The Court also finds that JT Bonn's construction more accurately capture the patents' usage of "bi-hinge support" as a component that connects the bi-hinge to the chassis mounting plate. However, the Court finds that JT Bonn's construction improperly characterizes the component as a "device."

The Court concludes that the claims' usage of "bi-hinge support" clearly identifies it as a particular component with the function of connecting the bi-hinge to the chassis mounting plate, and therefore construes the term as follows: "a component that connects the bi-hinge to the chassis mounting plate."

2) ***Bi-Hinge Rod (in the*** '655 Patent)

Vertical Doors' Construction	The JT Bonn defendants' Construction	The Howitt defendants' Construction
"a rod or pin defining the horizontal axis about	"a pin on which the door	Agree with Vertical

which the bi-hinge rotates in the vertical plane"	rotates in a vertical plane"	Doors

"Bi-hinge rod" is likewise a particular component of the invention. ('655 Patent, Figs. 14 and 15, number 104.) All parties agree that the bi-hinge rod is the component on which the door rotates in a vertical plane. Vertical Doors' construction describes the component as a "rod or pin" and JT Bonn's construction limits it to only a "pin." Vertical Doors' construction further imports the (arguably superfluous) element that the rod "defin[es] the horizontal axis."

The language of the claims themselves best supports a construction slightly modified from those proposed by the parties. Claims 8, 15 and 20 of the '655 Patent state that "a binge-rod [is] connected to the swingarm and the bi-hinge, thereby allowing the vehicle door to rotate in the vertical plane." ('655 Patent, 13:24-26, 14:1-3, 34-36.) Based on the claim language and the substantial agreement of the parties, the Court adopts the following construction of "bi-hinge rod": "a rod or pin about which the door rotates in the vertical plane."

3) ***Doorway (in the*** '655 Patent)

Vertical Doors' Construction	The JT Bonn defendants' Construction	The Howitt defendants' Construction
"the area of a vehicle typically used for allowing entry to and exit from the vehicle"	"the portion of the vehicle in which the vehicle door sits when the door is closed"	Agree with Vertical Doors

Vertical Doors draws its construction of "doorway" from language in the specification that reads: "The door, however, now swings upwards and out of the way of the user, *allowing easy entry and exit from the vehicle,* this will be referred to as 'substantially clearing the door way' of the vehicle." (Vertical Doors' Opening Br. in the *JT Bonn* case p. 5; '655 Patent 8:26-29 (emphasis added).) The JT Bonn defendants point to no evidence and provide no argument in support of their construction. (JT Bonn 4-3 Statement p. 6; JT Bonn Opposition Br. *passim*.) The Court finds that Vertical Doors' construction of the term is in accord with the claims and aligns naturally with the patent as a whole.

Accordingly, the Court adopts Vertical Doors' construction of "doorway" as follows: "the area of a vehicle typically used for allowing entry to and exit from the vehicle."

4) ***Sag Adjuster Screw Guide (in the*** '547 Patent) ***and Sag Adjuster Guide (in the*** '655 Patent)

Vertical Doors' Construction	The JT Bonn defendants' Construction	GT Factory's Construction
"a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane"	"a device by which the sag adjuster screw is led into its proper course" (JT Bonn Rule 4-3 Statement, p. 31); *or* "a discrete element forming a constituent of the sag adjuster screw guide mechanism" (JT Bonn Opposition Br. p. 9)	"a component against which a sag adjuster screw bears other than the bi-directional hinge, when the vehicle door is rotated through the horizontal plane"
		The Hoffman Group's Construction

"an element that the sag adjuster screw bears against, separate from the bi-directional hinge (bi-hinge) and which rotates with the bi-directional hinge when the vehicle door is rotated in the horizontal plane"

This Court previously construed "sag adjuster screw guide" to mean "a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane." (October 30, 2006 Order p. 36.) Vertical Doors' argues that "sag adjuster guide" is synonymous with the previously construed term and requests that this construction be adopted for the term "sag adjuster guide" in the '655 Patent. (Vertical Doors Opening Brs. in the *JT Bonn* case p. 20 and in the *Howitt* case pp. 9-11.)

JT Bonn provides, without explanation, two different constructions in the Rule 4-3 statement and in its opposition. (JT Bonn Rule 4-3 statement p. 31; JT Bonn Opposition p. 9.) While the JT Bonn defendants do not reference this Court's prior construction of the similar term "sag adjuster screw guide," the construction they propose in their opposition is identical to the construction they previously proposed, and which the Court declined to adopt, for the term "sag adjuster screw guide." (*Compare,* October 30, 2006 Order p. 36, *with* JT Bonn Opposition p. 9.)

GT Factory and the Hoffman Group each propose constructions which require that "sag adjuster screw guide" denote a physical component separate from the bi-hinge. (*Howitt* Rule 4-3 Statement pp. 25, 53; The Hoffman Group Opposition pp. 10-12; GT Factory Opposition pp. 7-9.) While the Howitt defendants' papers only discuss "sag adjuster screw guide" under the heading of the '547 Patent, it seems (and Vertical Doors' apparently assumes) that they also want the Court to adopt their construction for the term "sag adjuster guide" in the '655 Patent as well. (*See, Howitt* Rule 4-3 Statement p. 25, 53; Vertical Doors' Reply Br. p. 4.)

The Court agrees that the terms "sag adjuster screw guide" and "sag adjuster guide" are synonymous. Two related questions remain, then: 1) whether the Howitt defendants have offered substantial new or different evidence why the Court should not apply its prior construction of "sag adjuster screw guide" in the '547 Patent to those defendants and 2) whether any defendant has offered substantial new or different evidence why the Court should not adopt its prior construction of "sag adjuster screw guide" in the '547 Patent for the construction of "sag adjuster guide" in the '655 Patent.

The Howitt defendants argue, essentially, that the Court erred in its prior construction of "sag adjuster screw guide" when it failed to account for the fact that the sag adjuster screw guide must be a "separate claim element" from the bi-directional rotation mechanism. (Hoffman Opposition p. 10; GT Factory Opposition p. 7.) They point to language in claim 8 of the '547 Patent that reads, "a sag adjuster screw guide mechanism rotationally connected in the first horizontal plane to the bi-directional rotation mechanism," as evidence that the bi-directional rotation mechanism must be a physical component separate from the sag adjuster screw guide mechanism. (Id.; '547 Patent 14:29-31.) If the two mechanisms are connected, the Howitt defendants argue, then logic requires that the mechanisms are physically separate. (Hoffman Opposition p. 10; GT Factory Opposition p. 7.)

What the Howitt defendant fail to point out, however, is that the Court construed the words "rotationally connected" in its October 30, 2006 Order, albeit in another context, to denote a type of "connection" that

does not necessarily presuppose physical separation. (October 30, 2006 Order p. 40.) Specifically, the Court construed "rotationally connected in the first horizontal plane" to mean "rotates with, as the vehicle door opens during the horizontal phase of motion." (Id.) The Court agreed with Vertical Doors' interpretation that the language in the '547 specification that read "as the vehicle door opens ... sag adjuster guide 110 will *rotate with* bi-hinge 102 (*rotationally connected* in the first horizontal plane)" means that the sag adjuster screw guide rotates with the door. (*Id*., pp. 40-41; emphasis added.) In light of this interpretation of "rotationally connected," the language cited by the Howitt defendants, "a sag adjuster screw guide mechanism rotationally connected ... to the bi-directional rotation mechanism," means simply that the two mechanisms rotate with one another. It says nothing about whether or not the two mechanisms are manifested in separate physical components.

Moreover, the Court specifically found that "[t]he ['547] patent describes the 'sag adjuster screw guide' as essentially a surface on which the 'sag adjuster screw' bears during horizontal movement of the door," and, similarly, that "the 'sag adjuster screw guide' appears to be little more than a stable surface on which the sag adjuster screw bears." (October 30, 2006 Order p. 36.)

In this regard, the Howitt defendants made the argument at oral hearing that in all embodiments of the '547 and '655 Patents the sag adjuster screw guide serves two essential functions: First, the sag adjuster screw guide allows alignment of the door with the vehicle frame. Second, the sag adjuster screw guide bears the weight of the door, relieving the bi-hinge of this burden and thus prolonging the life of the bi-hinge. The Howitt defendants argue that these twin functions must both be represented in the construction of the term "sag adjuster screw guide." In support of this position, they point to language in the '547 and '655 specifications that reads:

"Sag adjuster screw 108 and sag adjuster guide 110 will take the weight and torque of the vehicle door (not pictured) to which the swingarm 114 is attached. By taking this burden, as with other embodiments previously discussed, the life of the hinge mechanism is prolonged, the accurate fit of the door to the vehicle is maintained, and opening and closing of the door is eased."

('547 Patent 11:22-36; '655 Patent 11:21-34.)

"In particular, such sag adjustment devices should bear the weight and torque of the door under the influence of gravity during the horizontal portion of the opening/closing cycle."

('547 Patent 11:56-62; '655 Patent 11:54-60.)

They claim, without supplying any expert evidence, that engineering principles dictate that in order for the sag adjuster screw guide to take the weight of the door from the bi-hinge, it must be a component that is physically separate from the bi-hinge. The corollary is that if the sag adjuster screw guide is a surface on the bi-hinge itself, it would be structurally unable to perform the critical function of taking the weight of the door away from the bi-hinge. Thus, according to the Howitt defendants, because the patents define the sag adjuster screw guide as an element which takes the weight of the door from the bi-hinge, it must be construed as a component separate from the bi-hinge.

This argument essentially amounts to a claim that the patentee acted as a lexicographer of "sag adjuster screw guide" to exclude an embodiment in which the screw bears directly on the bi-hinge. The Court does not agree that the patentee acted as a lexicographer in so limiting the term "sag adjuster screw guide." In

order to act as a lexicographer, the patentee must define the terms in the specification "with reasonable clarity, deliberateness and precision." In re Paulsen, 30 F.3d at 1480. (Fed.Cir.1994). Here, the specification merely describes various benefits of the fact that the sag adjuster screw guide bears the weight of the door, including prolonging the life of the hinge, maintaining the accurate fit of the door, and easing the opening and closing of the door. ('655 Patent 11:32-34; '547 Patent 11:33-35.) This description is in the context of a particular embodiment, namely that depicted in Fig. 14. The specification also states that " *in general,* embodiments of the invention *may have* ... sag adjustment devices ... [and] such sag adjustment devices *should* bear the weight and torque of the door." ('655 Patent 11:54-59; ' 547 Patent 11:56-61.) This language identifies the patentees preferences as to the characteristics of embodiments, but does not amount to a deliberate, clear or precise definition of "sag adjuster screw guide" in terms of its ability to transfer the weight of the door away from the bi-hinge. Accordingly, the Court finds that the patentee did not act as a lexicographer and did not define the sag adjuster screw guide as a component that transfers the weight of the door away from the bi-hinge.

Thus, even if the Court were to accept the Howitt defendant's conclusion that the sag adjuster screw guide can only perform the weight transferring function if it is physically distinct from the bi-hinge, because the Court does not agree that this function is essential to the patents' definition of the term, the Court is not compelled to find that the sag adjuster screw guide *must* be a separate component.

Moreover, the claims themselves use "sag adjuster screw guide" in a manner that neither implies nor requires that the sag adjuster screw guide transfer the weight of the door away from the bi-hinge. For example, claim 8 of the ' 547 Patent describes a hinge comprising "a sag adjuster screw bearing against the sag adjuster screw guide when the vehicle door is rotated through the first horizontal plane." ('547 Patent 14: 33-35.) Similarly, claim 4 of the '655 Patent describes a method "including bearing the screw against the sag adjuster device during rotation of the vehicle door in the horizontal plane of motion." ('655 Patent 13:6-8.) This claim language is fully in accord with this Court's prior construction of "sag adjuster screw guide," as "a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane." (October 30, 2006 Order p. 36.)

Therefore, the Court finds that the Howitt defendants have not provided a substantial evidentiary basis for why the Court's previous construction of "sag adjuster screw guide" in the '547 Patent should not apply to them.

Neither does the Court find a substantive basis not to adopt its previous construction of "sag adjuster screw guide" to construe the term "sag adjuster guide" here. First, the '655 Patent contains language defining the concept "rotationally connected" that is identical to the language in the '547 Patent that the Court relied on in its prior Order. ('655 Patent 11:24-27.) Thus, for the reasons discussed above, the Court disagrees that the language cited by the Howitt defendants requires that the sag adjuster guide denote a physical component separate from the bi-directional rotation mechanism. Second, the Howitt defendants do not point to, and the Court does not see, anything in the '655 Patent that is inconsistent with the Court's interpretation that the "sag adjuster guide" is "little more than a stable surface on which the sag adjuster screw bears." (October 30, 2006 Order p. 36.) Third, the Court does not agree that the patentee acted as a lexicographer to exclude embodiments in which the screw bears directly on the bi-hinge.

Therefore, the Court adopts its prior construction of "sag adjuster screw guide" (in the '547 Patent) to construe "sag adjuster guide" (in the '655 Patent) as follows: "a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane."

5) ***Sag Adjustment Device (in the*** '655 Patent)

Vertical Doors' Construction	The JT Bonn defendants' Construction	GT Factory's Construction
"a device that prevents vertical sag of the vehicle door during the horizontal plane of motion"	"a device of unspecified form that stops the door from traveling vertically below the door frame" (JT Bonn Rule 4-3 Statement p. 21); *or*	"a device coupled to at least one of the chassis mounting plate and the swingarm, preventing the vertical sag of the vehicle door during horizontal rotation"
	"a device capable of supporting the weight of the door to prevent the door from sinking or drooping" (JT Bonn's Opposition Br. p. 9)	The Hoffman Group's Construction
		"a device preventing vertical sag of the vehicle door during horizontal rotation that is coupled to at least one of the chassis mounting plate and the swing arm"

Vertical Doors' argues that the patentee acted as its own lexicographer by including language in the specification that reads: "the bi-directional rotation mechanism further comprises: at least one sag adjustment device preventing vertical sag of the door during the first horizontal plane of motion." (Vertical Doors' Opening Brs. in the *JT Bonn* case p. 10 and in the *Howitt* case p. 18-19; '655 Patent 5:18-20.) The JT Bonn defendants do not provide any argument in support of their proposed construction, nor any intrinsic evidence beyond that indicated by Vertical Doors, nor do they explain the fact that the proposed construction in their opposition differs from that in the Joint Rule 4-3 statement. (JT Bonn Rule 4-3 Statement p. 21, JT Bonn Opposition p. 9.) The Howitt defendants point to certain intrinsic evidence, but provide no argument in support of their constructions. (Howitt Rule 4-3 Statement p. 42; GT Factory and Hoffman Group Opposition Brs. *passim*.)

All of the proposed constructions agree that the sag adjustment device prevents vertical sag of the door. The second JT Bonn construction includes the manner in which the sag adjustment device prevents sag, i.e. by supporting the weight of the door. The Howitt defendants' proposed constructions each include the additional element that the device is "coupled to at least one of the chassis mounting plate and the swingarm."

Claims 2 and 13 of the '655 Patent describe the "sag adjustment device coupled to at least one of the chassis mounting plate and the swingarm," and "a sag adjustment device on at least one of the chassis mounting plate and the swingarm." ('655 Patent 12:54-56, 13:53-56.) This language does not, however, support a construction of "sag adjustment device" which includes the limitation that the device must be coupled to either the chassis mounting plate or the swingarm. Rather, the language of claims 2 and 13 would be entirely redundant if the fact that a sag adjustment device must be coupled to one of the chassis mounting plate or swingarm inhered in the term "sag adjustment device" itself. Absent evidence to the contrary, the Court presumes that different terms connote different meanings. *See* CAE Screenplates v. Heinrich Fiedler GmbH, 224 F.3d 1308, 1317 (Fed.Cir.2000).

For this reason, and because the Court finds that Vertical Doors' construction best aligns with the patent, the Court adopts Vertical Doors' construction of "sag adjustment device" as follows: "a device that prevents vertical sag of the vehicle door during the horizontal plane of motion."

6) ***Spring Mounting Hole (in the*** '655 Patent)

Vertical Doors' Construction	The JT Bonn defendants' Construction	The Howitt defendants' Construction
"a hole to which the spring is mounted" *or* no construction needed	"an opening on the chassis mounting plate in which the end of a spring rests"	Agree with Vertical Doors

Vertical Doors argues that the term "spring mounting hole" does not need to be construed because "the individual words are simple and the combined term is nothing more than the combination of the individual words retaining their own meaning." (Vertical Doors' Opening Br. in the *JT Bonn* case p. 14 and Reply Br. p. 7.) The Court agrees. The JT Bonn defendants do not provide any argument in support of their proposed construction. Moreover, the JT Bonn construction limits the location of the spring mounting hole to the chassis mounting plate, in direct contradiction to the language of the claims, which specifically refer to holes in both the swingarm and the chassis mounting plate. (*See, e.g.,* ' 655 Patent, 13:42-43.)

Therefore, the Court finds no interpretation is necessary in order to construe the meaning of "spring mounting holes."

7) ***Spring (in the '1655 Patent)***

Vertical Doors' Construction	The JT Bonn defendants' Construction	The Howitt defendants' Construction
"a device used to at least partially counterbalance the weight of the vehicle door during vertical motion, including, for example, a coil spring, gas strut, a hydraulic cylinder, combination devices, or other types of gas or metal springs"	"an elastic body or device that recovers its original shape when released after being distorted" (JT Bonn Rule 4-3 statement, p. 23.); *or* "a conventional spring such as a coil spring, or it may be a gas strut, a combination device or other types of gas or metal spring" (JT Bonn Opposition Br. p. 10).	Agree with Vertical Doors

Vertical Doors argues that the patentee acted as his own lexicographer when he stated that "the spring is designed to function as a counter balance," "the spring used may almost exactly balance ...", and "the spring used may be a conventional spring such as a coil spring, or it may be a gas strut, a combination device or other types of gas or metal spring." (Vertical Doors' Opening Br. in the *JT Bonn* case p. 11; '655 Patent, 8:36-41.)

The Court analyzes the issue of whether the patentee acted as his own lexicographer as to the counterbalancing function of the spring first and then as to the list of examples of permissible types of springs.

The language "is designed to function" and "may [function in a particular manner]" does not "clearly set

forth a ... definition" different from the ordinary meaning of "spring." 3M Innovative Props. Co. v. Avery Dennison Corp., 350 F.3d 1365, 1371 (Fed.Cir.2003). In fact, the intrinsic evidence cited by Vertical Doors is inconsistent with its proposed construction. If the patentee specially defined "spring" to mean "a device use to partially counterbalance the weight of the door," it would not be necessary to then state that "the spring is designed to function as a counter balance to the weight of the door," since the counterbalancing function would be inherent in the term "spring." Similarly, the claims employ "spring" and separately specify the counterbalancing function of the spring, which would not be necessary if "spring" indeed means "a device used to at least partially counterbalance ...". ('655 Patent, 13:17-19, 39-41.) Absent evidence to the contrary, the Court presumes that different terms connote different meanings. *See* CAE Screenplates, 224 F.3d at 1317.

In contrast, the specification clearly intends to provide an illustrative list of the types of springs that may be used for the stated purpose, when it states that "[t]he spring used may be a conventional spring such as a coil spring, or it may be a gas strut, a combination device or other types of gas or metal spring." ('655 Patent 8:41-44.) The Court finds that this language in the specification is sufficiently clear "to put one reasonably skilled in the art on notice that the inventor intended to redefine [spring]" to mean any of the various types of springs listed, including conventional and gas springs. Merck & Co. v. Teva Pharms. USA, Inc., 395 F.3d 1364, 1370 (Fed.Cir.2005). Thus, the patentee acted as his own lexicographer with respect to the list of permissible types of springs.

JT Bonn provides no explanation of the difference between the definition it proposes in its Rule 4-3 statement and that proposed in its opposition brief. Nor does it provide any intrinsic evidence FN5 or argument in support of either construction. However, JT Bonn does include the list of spring types in the definition it proposes in its opposition brief, in accord with the Court's conclusion that "spring" should be construed to encompass these types of springs. (JT Bonn Opposition Br. p. 10.)

For all these reasons, the Court construes the term "spring" to mean "a conventional spring such as a coil spring, or a gas strut, a hydraulic cylinder, a combination device, or other type of gas or metal spring."

8) ***Stopping Pin (in the*** '655 Patent)

Vertical Doors' Construction	The JT Bonn defendants' Construction	The Howitt defendants' Construction
"a protrusion that prevents vertical motion of the vehicle door until the vehicle door is opened sufficiently in the horizontal plane"	"a rod preventing rotation of the door" (JT Bonn Rule 4-3 statement p. 22); *or* "a pin that 'prevents vertical motion on the part of swingarm prior to the time when the horizontal motion of swingarm 6 and door are sufficiently opened. In addition, stopping pin 15 holds swingarm 6 at the proper angle when the door is open[']" (JT Bonn Opposition Br. pp. 9-10).	"a pin that prevents vertical motion of the vehicle door until the vehicle door has been opened sufficiently in the horizontal plane"

The Court notes that the Howitt defendants' construction differs from Vertical Doors' construction only in that it substitutes the word "pin" for the word "protrusion." (Vertical Doors' Opening Br. in *Howitt* p. 19.) The Howitt defendants do not mention this term in their opposition briefs or in their list of disputed terms. (Hoffman Opposition Br. Ex. A.) As noted above in Part II, the Court understands this as an acquiescence to Vertical Doors' proposed construction.

As for the JT Bonn defendants' proposed construction, the Court notes that the construction proposed in the JT Bonn Rule 4-3 statement is not in accord with that proposed in their opposition, (*Compare* JT BonnRule 4-3 statement p. 22 *with* JT Bonn Opposition Br. pp. 9-10.) JT Bonn does not provide any argument in support of either construction. (JT Bonn Opposition Br. pp. 9-10.) The first portion of the construction JT Bonn proposes in its brief essentially tracks that proposed by Vertical Doors, i.e. the stopping pin prevents the vertical motion of the door until the door is sufficiently opened horizontally. The second portion of JT Bonn's construction imposes a second limitation on "stopping pin," namely that it also "holds the swingarm at the proper angle when the door is open." (Id.) This addition is supported by the specification, which states: "In addition, stopping pin holds swingarm ... at the proper angle when the door is open." ('655 Patent, 7:30-31.) The second function of the stopping pin is not, however, included in the use of the term in the claims themselves, which employ "stopping pin" only in conjunction with the prevention of vertical motion before the swingarm has sufficiently moved horizontally. (*See,* '655 Patent, 12:66-67-13:1-2, and 13:12-15.)

Generally, limitations in the specification must not be read into the claim. *See, e.g.,* Phillips, 415 F.3d at 1323. Thus, the meaning of "stopping pin" does not include the function of holding the door at the proper angle. The Court finds that a person of ordinary skill in the art would understand "stopping pin" to refer to a device defined exclusively by the fact that it prevents the door from moving vertically before it is sufficiently opened horizontally.

Accordingly, the Court adopts Vertical Doors' construction of "stopping pin" as follows: "a protrusion that prevents vertical motion of the vehicle door until the vehicle door is opened sufficiently in the horizontal plane."

9) *Substantially clears the doorway (in the* '655 Patent)

Vertical Doors' Construction	The JT Bonn defendants' Construction	The Howitt defendants' Construction
"swings upwards to a degree sufficient to allow easy entry to and exit from the vehicle"	"moves away from the doorway so that no portion of the doorway is blocked by the door"	Agree with Vertical Doors

Vertical Doors argues that it has acted as its own lexicographer in defining this term. (Vertical Doors Opening Br. in the *JT Bonn* case p. 8.) The Court agrees. The specification states: "The door, however, now swings upwards out of the way of the use, allowing easy entry and exit from the vehicle, *this will be referred to as* 'substantially clearing the door way' of the vehicle." ('655 Patent, 8:26-29; emphasis added.) This language expressly defines the term and is sufficient to give notice to a person of ordinary skill in the art of its intended meaning. Bell Atlantic Network Services, Inc. v. Covad Commc'n Group., 262 F.3d 1258, 1268 (Fed.Cir.2001): In re Paulsen, 30 F.3d at 1480. Moreover, JT Bonn provides no argument in support of its construction, other than to merely state that it should be given its "plain and ordinary meaning." (JT

Bonn Opposition Br. p. 10.)

Accordingly, the Court adopts Vertical Doors' construction of "substantially clears the doorway," as follows: "swings upwards to a degree sufficient to allow easy entry to and exit from the vehicle."

10) ***Substantially clears the vehicle body (in the*** '655 Patent)

Vertical Doors' Construction	The JT Bonn defendants' Construction	The Howitt defendants' Construction
"rotates horizontally to a degree sufficient to allow the vehicle door to clear all parts of the vehicle body during the opening cycle"	"moves away from the vehicle so that no portion of the door is within the plane of the vehicle"	Agree with Vertical Doors

The analysis of this term is exactly parallel to that of the term "substantially clears the doorway," above. Vertical Doors acted as a lexicographer when it included the following language in the specification: "The degree of horizontal rotational motion may be selected to allow the door to clear all parts of the vehicle body during the opening cycle, *this will be referred to as* 'substantially' clearing the vehicle body." ('655 Patent, 8:5-9; Verticle Doors' Opening Br. in the *JT Bonn* case p. 7; emphasis added.) JT Bonn provides no argument with respect to its construction of this term arid the Howitt defendants agree to Vertical Doors' proposed construction.

Thus, the Court adopts Vertical Doors' construction of "substantially clears the vehicle body," as follows: "rotates horizontally to a degree sufficient to allow the vehicle door to clear all parts of the vehicle body during the opening cycle."

11) ***Swingarm angle adjuster (in the '655 and*** '075 Patents*)*

Vertical Doors' Construction	The JT Bonn defendants' Construction	The Howitt defendants' Construction
"a device allowing adjustment of an angle of the vehicle door relative to the vehicle frame for proper fit, that is maintained during rotation of the vehicle door in the horizontal plane"	"a device of unspecified form that prevents the unintended rotation of the vehicle door"	"a device having bearing surfaces, studs, pins, posts, etc. which allow easy adjustment of the door for proper fit and also control the motions of the door: allowing only horizontal motion during the horizontal arc of initial opening and only vertical motion during the vertical arc when the horizontal opening arc has been completed" (Joint Rule 4-3 Statement, p. 54); *or* "a device having bearing surfaces, studs, pins, posts, etc. which allow easy adjustment of the door hinge for proper fit and also control the limits of the horizontal and vertical motions of the vehicle door" (*Id*. p. 73).

Vertical Doors argues that the language of the specification and the claims support its proposed construction, and argues in the alternative that the term need not be construed, in light of the Court's previous construction of the constituent term, "swingarm." (Vertical Doors' Opening Br. in the *Howitt* case

p. 23.)

The Howitt defendants argue that the specification limits "swingarm angle adjuster" to an element that "also control[s] the motions of the door: allowing only horizontal motion during the horizontal arc of initial opening and only vertical motion during the vertical arc when the horizontal opening arc has been completed." (*See, e.g.,* GT Factory Opposition Br. pp. 10-12.) They insist that this additional limitation is necessary to "distinguish" the swingarm angle adjuster from other elements, including the sag adjustment mechanism. (Id.)

Vertical Doors' responds by pointing out that the patent does not always distinguish between the swingarm angle adjuster and the sag adjustment mechanism. (Vertical Doors' Reply Br. in the *Howitt* case p. 9.) In fact, claims 21 and 25 specifically provide that "the swingarm angle adjuster comprises a sag adjuster screw ... and a sag adjuster guide," rendering the sag adjustment mechanism synonymous with the swingarm angle adjuster for the purpose of that claim. (*Id.;* '655 Patent 14: 36-38, 65-67.)

The Court agrees with Vertical Doors' that the patent uses the term "swingarm angle adjuster" to potentially encompass functions also fulfilled by the sag adjustment mechanism in various embodiments. However, the Court finds it unnecessary to construe the term "swingarm angle adjuster," because the Court has already construed the constituent term "swingarm" and the remaining constituent terms "angle" and "adjuster" have ordinary meanings which render the scope of the claims clear without further interpretation. Moreover, there is no basis to import the Howitt defendants' restrictions with respect to vertical and horizontal motions.

Therefore, given the Court's prior construction of the term "swingarm" to mean "a rigid piece of material that is securely fastened to the door of a vehicle that is capable of pivotal motion," the Court finds no interpretation is necessary in order to construe the meaning of "swingarm angle adjuster."

III. ***Conclusion***

The Court adopts its prior constructions of the following terms for the purposes of this claim construction: "bi-directional rotation mechanism," "bi-directional hinge" (also "bi-hinge"), "chassis mounting plate," "horizontal plane" (also "horizontal plane of motion" and "first horizontal plane"), "rotationally connected in the first horizontal plane," "sag adjuster screw," "sag adjuster screw guide mechanism" (in the '655 and '547 Patents), "securely fastened", "swingarm," "vehicle door," "vehicle frame," "vertical plane" (also "vertical plane of motion" and "second vertical plane").

The following summarizes the Court's constructions new to this Order:

Term	Court's Construction
"bi-hinge body"	"the body (main portion) of a bi-hinge"
"bi-hinge support"	"a component that connects the bi-hinge to the chassis mounting plate"
"bi-hinge rod"	"a rod or pin about which the door rotates in the vertical plane"
"bi-hinge rotator"	no interpretation necessary
"desired horizontal alignment"	"proper alignment for the particular vehicle, typically alignment with the door frame"
"doorway"	"the area of a vehicle typically used for allowing entry to and exit from the vehicle"

"first portion of the sag adjustment device"	no interpretation needed
"hinge pin"	"a rod or pin that rotates in a bi-hinge support about a vertical axis"
"rotating"	no interpretation needed
"rotation"	no interpretation needed
"rotationally connected in the horizontal plane"	"rotates with, as the vehicle door opens during the horizontal phase of motion"
"rotationally connected in the first horizontal plane to the bi-directional rotation mechanism"	no interpretation needed
"sag adjuster guide"	"a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane"
"sag adjuster screw guide"	"a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane"
"sag adjuster screw guide mechanism" (for the '075 Patent only)	"a component against which a sag adjuster screw bears when the vehicle door is rotated through the horizontal plane"
"sag adjustment device"	"a device that prevents vertical sag of the vehicle door during the horizontal plane of motion"
"second portion of the sag adjustment device"	no interpretation needed
"securely fastenable"	"capable of being attached firmly"
"spring mounting holes"	no interpretation necessary
"spring"	"a conventional spring such as a coil spring, or a gas strut, a hydraulic cylinder, a combination device, or other type of gas or metal spring"
"stopping pin"	"a protrusion that prevents vertical motion of the vehicle door until the vehicle door is opened sufficiently in the horizontal plane"
"substantially clears the doorway"	"swings upwards to a degree sufficient to allow easy entry to and exit from the vehicle"
"substantially clears the vehicle body"	"rotates horizontally to a degree sufficient to allow the vehicle door to clear all parts of the vehicle body during the opening cycle"
"swingarm angle adjuster"	no interpretation necessary
"vertical axis"	no interpretation necessary

FN1. For the term "bi-hinge rotator," the constructions Vertical Doors and the Howitt defendants propose are nearlyidentical, with Vertical Doors defining the term as pertaining to a "rod or pin," and the Howitt defendants limiting it to a "rod." (Vertical Doors and the Howitt defendants' Joint Rule 4-3 Statement, p. 69; Opening Br. p. 26.) However, the Howitt defendants present no argument in favor of their subtraction from the construction of the words "or pin" from Vertical Doors construction. (GT Factory and Hoffman Group Opposition Briefs, *passim*.)

FN2. Vertical Doors objects to these terms as they were not included in any party's "Claim Terms to be Construed." (Howitt Rule 4-3 Statement p. 45.)

FN3. The Howitt defendants do, however, include "sag adjuster screw guide mechanism" in their list of disputed terms. (Hoffman Group Opposition Br. Ex. A.) First, under the heading of the '547 Patent, they list the term and note "(ALL PARTIES AGREE)." (Id. p. 16.) Then, under the heading of the '655 Patent, they include two entries for "sag adjuster screw guide mechanism," which contain two different sets of constructions. (*Id*. pp. 17, 18.) Finally, under the heading of the '075 Patent, the Howitt defendants include an entry which lists the parties' proposed constructions for the term as set out in the Howitt Rule 4-3 Statement, which, in the case of the Howitt defendants, is the Court's prior construction of "sag adjuster screw guide mechanism." (*Id*. p. 19.) The Court interprets this somewhat confusing presentation to mean that the Howitt defendants request that the Court adopt its prior construction for the purposes of all three patents.

FN4. Unless otherwise stated, the parties' constructions are as listed in their respective Joint Rule 4-3 Statements.

FN5. While JT Bonn provides a citation to an online dictionary in the Joint Rule 4-3 statement under the heading "intrinsic evidence," dictionary definitions are indisputably extrinsic evidence. (JT Bonn Rule 4-3 Statement p. 23.)

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