United States District Court,
S.D. Florida, Palm Beach County Division.

**RESPONSIBLE ME, INC., a Florida corporation,**
Plaintiff.
v.
**EVENFLO COMPANY, INC., a Delaware corporation; and John Does 1-100,**
Defendants.

No. 06-61736-CIV-HURLEY/HOPKINS

**Aug. 27, 2008.**

Menina E. Cohen, S. Tracy Long, Silverman Santucci, Michael Ingrassi Santucci, Allen F. Bennett, Santucci Priore & Long LLP, Fort Lauderdale, FL, Travis Robert Hollifield, Winterpark, FL, for Plaintiff.

James George Sammataro, Lawrence Dean Silverman, Silverman Cosgrove & Sammataro, LLC, Miami, FL, John M. Mueller, Taft Stettinius & Hollister, Cincinnati, OH, Anat Hakim, Foley & Lardner, Orlando, FL, C. Edward Polk, Jr., Foley & Lardner, Washington, DC, Michael R. Houston, Foley & Lardner LLP, Chicago, IL, for Defendants.

**ORDER ON THE CONSTRUCTION OF THE CLAIM TERMS CONTAINED IN** U.S. PATENT NO. 7,134,714

DANIEL T.K. HURLEY**, District Judge.**

**THIS CAUSE** came before the Court upon the parties' respective Claim Construction Briefs [D.E. 39, 42, 46, 47, 53 and 54], a two-part *Markman* hearings held on May 13, 2008 and May 28, 2008, and subsequent pleadings filed at the Court's request relating to the construction of the claim terms contained in U.S. Patent No 7,134,714 (the "'714 Patent"). The Court, having considered all of the aforementioned, as well as other pertinent portions of the record and otherwise being fully advised in the premises, hereby:

**ORDERS AND ADJUDGES THAT,** as used in the '714 Patent, the claim terms, phrases, and clauses in dispute are to be construed as follows:

1. In claims 1 and 3 "solid contiguous surface with no through-hole openings therethrough" means the surface of the main tray, which includes the raised perimeter edge, has no through-holes.

2. In claim 4, "flat contiguous surface area substantially across an upper surface of the main tray with no through-holes therethrough" means the surface of the main tray, which includes the raised perimeter edge, has no through-holes.

3. In claims 1, 3 and 4, "rectangular opening" means that the recess opening is rectangular in shape.

4. In claims 1, 3 and 4, "the rectangular opening having a flat contiguous left side edge and a flat contiguous right side edge" means the opening for the left and right side of the recess is both flat and contiguous.

5. In claim 1, "a slidable drawer-subtray for sliding out along tracks from under the outer edge of the main tray away from the chair" means the sides of the recess of the main tray include ribbed tracks for receiving corresponding grooves on the sides of the drawer-subtray for sliding the drawer-subtray as if on a track configuration.

6. In claim 4, "the sub-tray being slidable into the recess in the front wall of the main tray by sliding along tracks located on opposite sides of the sub-tray" means the sides of the recess of the main tray include ribbed tracks for receiving corresponding grooves on the sides of the drawer-subtray for sliding the drawer-subtray as if on a track configuration.

7. In claims 1 and 3, "the elongated face plate of the drawer-subtray being substantially flush with the outer wall surface of the main tray when the drawer-subtray is in a storage position" means the face plate/front wall of the drawer-subtray is substantially flush with the outer wall surface/front wall of the main tray when the drawer-subtray is in the storage position forming a substantially contiguous solid surface.

8. In claim 4, "the elongated front wall of the sub-tray being substantially flush with the front wall of the main tray when the subtray is in a storage position" means the face plate/front wall of the drawer-subtray is substantially flush with the outer wall surface/front wall of the main tray when the drawer-subtray is in the storage position forming a substantially contiguous solid surface.

9. In claim 1, "the rear end of the drawer-subtray abuting (sic) against the rear wall of the recess when the drawer-subtray is in the storage position" means the rear edge/end of the drawer-subtray touches the rear wall of the recess along the surface thereof when the drawer-subtray is in the storage position.

10. In claim 3, "the rear edge of the drawer-subtray abuts against the rear wall of the recess" means the rear edge/end of the drawer-subtray touches the rear wall of the recess along the surface thereof when the drawer-subtray is in the storage position.

11. In claim 4, "the rear end of the sub-tray abuting (sic) against the rear wall of the recess when the subtray is in the storage position" means the rear edge/end of the drawer-subtray touches the rear wall of the recess along the surface thereof when the drawer-subtray is in the storage position.

12. In claim 1, "a grip edge underneath the drawer-subtray behind the face plate solely used for pulling the drawer-subtray from the storage position to the fixed extended position" means the grip edge serves no other purpose than pulling the drawer-subtray from the storage position to the fixed extended position.

13. In claim 4, "a single grip edge underneath the sub-tray behind the front wall" means the grip edge serves no other purpose than pulling the drawer-subtray from the storage position to the fixed extended position

14. In claim 1, "where the drawer-subtray is not useable for supporting the item" means the drawer-subtray is unusable for supporting food/beverage items when the drawer-subtray is in the storage position.

15. In claim 3, "the drawer-subtray being hidden and unuseable (sic) and unreachable to support the item

while the drawer-subtray is in the storage position" means the drawer-subtray is unusable for supporting food/beverage items when the drawer-subtray is in the storage position.

16. In claim 1, "the holder surface being solely used for holding the food item or the beverage item when the drawer-subtray is in the extended position" means the holder surface on the subtray is usable to hold food and/or beverage items only when in the extended position.

17. In claim 3, "a holder surface on the single drawer-subtray that only holds the item when the single drawer-subtray is in the extended position, the item being selected from at least one of a food and a beverage" means the holder surface on the subtray is usable to hold food and/or beverage items only when in the extended position.

18. In claim 4, "the sub-tray in the extended position is adaptable to solely hold food and beverage items" means the holder surface on the subtray is usable to hold food and/or beverage items only when in the extended position.

19. In claim 1, "the food item or the beverage item" means a food and or beverage item comprising bottles, food jars, spoons, food, liquid, utensils, glasses and the like.

20. In claim 3, "the item being selected from at least one of a food and a beverage" means a food and or beverage item comprising bottles, food jars, spoons, food, liquid, utensils, glasses and the like

21. In claim 4, "to solely hold food and beverage items" means a food and or beverage item comprising bottles, food jars, spoons, food, liquid, utensils, glasses and the like.

**DONE AND ORDERED** in Chambers at West Palm Beach, Florida, this *26th* day of *Aug.,* 2008.

S.D.Fla.,2008.
Responsible Me, Inc. v. Evenflo Co., Inc.

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