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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LINK TREASURE LIMITED, a)
company organized and)
existing under the laws)
of the British Virgin)
Islands, and DISCOVERY)
INTERNATIONAL CO., LTD.,)
a company organized and)
existing under the laws)
of the British Virgin)
Islands,)
Plaintiff,)
v.)
BABY TREND, INC., a)
corporation organized)
and existing under the)
laws of the state of)
California,)
Defendants.)

Case No. EDCV 07-828-VAP
(OPx)

CLAIM CONSTRUCTION ORDER

The Court conducted a hearing on October 23, 2008 on the parties' proposed constructions of certain terms in claim one of U.S. Patent No. 5,876,057 ("The '057 Patent"), pursuant to Markman v. Westview Instruments, Inc., 52 F.3d 967 (Fed. Cir. 1995) (en banc) *aff'd*, 517 U.S. 370 (1996). Having considered the parties' written

1 submissions, as well as the arguments advanced by counsel
2 at the hearing, the Court now issues its claim
3 construction order.

4
5 **I. INTRODUCTION**

6 On August 18, 2006, Plaintiff Link Treasure Limited
7 ("Link") filed a Complaint in the United States District
8 Court, Northern District of Georgia, against Defendant
9 Baby Trend, Inc., accusing Defendant of infringing Patent
10 '057, entitled "Folding Device for a Stroller," and
11 Patent No. D430,826, entitled "Frame of Three-Wheeled
12 Stroller."

13
14 On June 18, 2007, the District Court in Georgia
15 granted Defendant's Motion to Transfer Venue, and
16 transferred the case to this Court.

17
18 **II. LEGAL STANDARD**

19 Claim construction is a legal question for the Court.
20 Markman, 517 U.S. at 390; Cyborg Corp. v. FAS Techs.,
21 Inc., 138 F.3d 1448, 1454 (Fed. Cir. 1998) (en banc). To
22 construe a claim, a court may consider the claim, the
23 specifications, and the prosecution file history.
24 Phillips v. AWH Corp., 415 F.3d 1303, 1314 (Fed. Cir.
25 2005) (en banc). "Any articulated definition of a claim
26 term ultimately must relate to the infringement question

1 it was intended to answer." E-Pass Tech, Inc. v. 3Com
2 Corp., 473 F.3d 1213, 1219 (Fed. Cir. 2007).

3

4 The Court begins its construction of a patent claim
5 with the words of the claim itself, which "are generally
6 given their ordinary and customary meaning . . . , the
7 meaning that the term would have to a person of ordinary
8 skill in the art in question . . . as of the [patent's]
9 effective filing date." Phillips, 415 F.3d at 1312-13.

10

11 The Court looks to the patent specifications when
12 construing "the meaning of a claim term as it is used by
13 the inventor in the context of the entirety of his
14 invention. . . ." Comark Comm. v. Harris Corp., 156 F.3d
15 1182, 1187 (Fed. Cir. 1998). Furthermore, in Phillips,
16 the Federal Circuit emphasized the specification's
17 critical importance: it "is always highly relevant to the
18 claim construction analysis. Usually it is dispositive;
19 it is the single best guide to the meaning of a disputed
20 term." Phillips, 415 F.3d at 1315 (quoting Vitronics
21 Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1582 (Fed.
22 Cir. 1996)).

23

24 The prosecution history, like the specifications,
25 provides evidence of how the Patent Officer and the
26 inventor understood the patent. Phillips, 415 F.3d at
27 1317 (citing Lemelson v. Gen. Mills, Inc., 968 F.2d 1202,

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1 1206 (Fed. Cir. 1992)). The prosecution history
2 "represents an ongoing negotiation between the PTO and
3 the applicant, rather than the final product of that
4 negotiation, it often lacks the clarity of the
5 specification and thus is less useful for claim
6 construction purposes." Id. (citing Inverness Med.
7 Switz. GmbH v. Warner Lambert Co., 309 F.3d 1373, 1380-82
8 (Fed. Cir. 2002); Athletic Alternatives, Inc. v. Prince
9 Mfg., Inc., 73 F.3d 1573, 1580 (Fed. Cir. 1996)). The
10 prosecution history, however, is important because it can
11 demonstrate "whether the inventor limited the invention
12 in the course of prosecution, making the claim scope
13 narrower than it would otherwise be." Id. (citing
14 Vitronics, 90 F.3d at 1582-83; Chimie v. PPG Indus.,
15 Inc., 402 F.3d 1371, 1384 (Fed. Cir. 2005)).

16
17 In Phillips, the Federal Circuit also addressed the
18 use of dictionaries in claim construction, reiterating
19 that "[i]n some cases, the ordinary meaning of claim
20 language as understood by a person of skill in the art
21 may be readily apparent even to lay judges, and claim
22 construction in such cases involves little more than the
23 application of the widely accepted meaning of commonly
24 understood words. . . . In such circumstances, general
25 purpose dictionaries may be helpful." Phillips, 415 F.3d
26 at 1314 (citing Brown v. 3M, 265 F.3d 1349, 1352 (Fed.
27 Cir. 2001)). Overall, extrinsic evidence is "less
28

1 significant than the intrinsic record in determining the
2 legally operative meaning of the claim language." Id. at
3 1317 (citation omitted.) With these principles in mind,
4 the Court turns to the terms at issue here.

5 6 **III. CLAIM CONSTRUCTION**

7 All of the disputed terms appear in Claim One of the
8 '057 Patent.

9 10 **A. Claim 1: "Strip"**

11 Plaintiff Link proposes the claim term "strip" be
12 construed as follows: "a relatively thin and inextensible
13 piece of material of uniform width." (Joint Claim
14 Constructions at 2.) Defendant Baby Trend proposes the
15 term be construed as "a piece of material that is long,
16 narrow, and flat."¹ (Id.)

17
18 The parties dispute only whether "flat" should be
19 included in the construction. Plaintiff Link opposes its
20 inclusion, contending that given the intrinsic evidence,
21 the "strip" described in the patent is a piece of
22 material that is curved and not "flat." (See Link Br. at
23 13-14.)

24 ///

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26
27 ¹ Defendant Baby Trend cites to dictionary
28 definitions as its extrinsic support; the Court need not
resort to such definitions because the ordinary meaning
is apparent readily. Accord Phillips, 415 F.3d at 1314.

1 In construing a claim, the Court must give the
2 disputed claim term meaning it would have to a person of
3 ordinary skill in the art in question at the time of the
4 invention, "who views the claim term in light of the
5 entire intrinsic record." Nystrom v. Trex Co, 424 F.3d
6 1136, 1142 (Fed. Cir. 2005). Also, the Court must
7 determine the ordinary meaning in the context of the
8 written description and the prosecution history, not in a
9 vacuum. See Medrad, Inc. v. MRI Devices Corp., 401 F.3d
10 1313, 1319 (Fed. Cir. 2005).

11
12 Viewing the claim in light of the intrinsic record
13 here, the Court finds that the "strip," identified as 50
14 in the '057 patent specifications, figures 3, 4, 5, and
15 7, is curved along the length of the stroller arm. See,
16 e.g., '057 Patent, Figs. 3-5, 7. The strip's function is
17 movement that triggers the sliding plate (44) which in
18 turn moves and disengages from the cover (112); the strip
19 itself is flat but assumes the curvature of the arm of
20 the stroller. If the strip were a rigid curved form, it
21 would be locked into place, unable to move along the
22 upper support (20) of the stroller.

23
24 The intrinsic record also reveals that the strip is
25 flexible, as it assumes the curve of the stroller arm's
26 upper support, but cannot expand or contract. Otherwise,
27 the strip could not serve its function in engaging the
28

1 collapsing process of the stroller by triggering the
2 sliding plate to disengage from the cover, as described
3 above.

4

5 The language of the patent and its attached diagrams
6 and specifications support a combination of the proposed
7 constructions of the parties. (See Patent No. '057 fig.
8 5; col. 2, ll. 37-41, 55-65.)

9

10 Accordingly, the Court construes Claim One as
11 follows: "The strip is a piece of inextensible material
12 that is long, narrow, and flat."

13

14 **B. Claim 2: Sliding Plate**

15 Although the parties originally sought a claim
16 construction on the term "sliding plate," they have since
17 withdrawn that request.

18

19 **C. Claim 3: Recovery Member**

20 The third claim reads as follows: "recovery member
21 having a first end securely mounted to a distal end of
22 the upper support and a second end of which is securely
23 connected with said sliding plate." (Joint Claim
24 Constructions at 9.) Plaintiff Link proposes that the
25 Court construe the claim term as follows:

26 "one or more components that exert a force that
27 returns one or more other components to their
28 original position(s) or location(s) and that is
positioned between the sliding plate and one end of

1 the upper support such that the recovery member's
2 first end is attached at or near the end of the upper
3 support that is farthest away from the handle in a
4 manner such that the recovery member does not come
5 loose during normal operation of the mechanism and
6 that is attached at another end to the sliding plate
7 in a manner such that the recovery member does not
8 come loose during normal operation of the mechanism."
9 (Id. at 9-10.)

6 Defendant Baby Trend's proposed construction is:

7 "the recovery member is positioned between the
8 sliding plate and the distal end of the upper support
9 by the recovery member's first end being securely
10 mounted at or near the edge of the upper support that
11 is farthest away from the handle and its second end
12 being securely connected to the sliding plate at a
13 position between the first end of the recovery member
14 and the handle." (Id.)

12 The crux of the discord between the parties' proposed
13 constructions is whether or not the recovery member is
14 attached at the "end" or to the "edge" of the upper
15 support that is farthest away from the handle.

16
17 The Court notes that neither party's construction
18 gives much better a description than does the patent
19 itself. The patent's "Detailed Description of Preferred
20 Embodiment" states "[a] first end of the recovery member
21 43 is securely mounted on a distal end of the upper
22 support 20 and a second end thereof is securely connected
23 to the sliding plate 44, thereby allowing a reciprocating
24 movement of the sliding plate 44 due to the provisions of
25 the recovery member 43." Patent No. '057, col. 2 ll. 41-
26 46.

27 ///

28

1 Upon review of the entire intrinsic record, the Court
2 finds it unnecessary to include in the construction, as
3 Plaintiff Link proposes, any description why the recovery
4 member is attached securely to the upper support. (See
5 Joint Claim Constructions at 9 (recovery member is
6 attached "in a manner such that the recovery member does
7 not come loose during normal operation of the
8 mechanism".) Such additional language is unnecessary
9 because the recovery member can be construed sufficiently
10 without reference to it; also, the additional language is
11 unsupported by the intrinsic record. See Netword, LLC v.
12 Centraal Corp., 242 F.3d 1347, 1352 (Fed. Cir.
13 2001)(claims cannot "enlarge what is patented beyond what
14 the inventor has described in the invention").

15
16 After review of the specifications and preferred
17 embodiment, the Court agrees with Plaintiff Link that
18 using the word "edge" is not supported by the intrinsic
19 record. The recovery member is affixed to the upper
20 support at a point near the end of the upper support, but
21 not at the edge of the upper support. (See, e.g., Patent
22 No. '057, fig. 7.)

23
24 The Court construes Claim Three as follows: "The
25 recovery member is the component positioned between the
26 sliding plate and the distal end of the upper support,
27 with its first end attached securely at or near the end
28

1 of the upper support that is farthest away from the
2 handle and its second end being connected securely to the
3 sliding plate."

4
5 **D. Claim 4: Having a Recess Defined [in the Cover]**

6 Plaintiff Link proposes the Court adopt the following
7 construction of the claim term "having a recess defined
8 [in the cover]": "having an indentation or depression in
9 the structure that overlays at least a portion of the top
10 of the front support of the stroller." (Joint Claim
11 Constructions at 14.) Defendant Baby Trend proposes the
12 Court construe it to mean "a surface of the cover has a
13 hole or hollow." (Id.)

14
15 Upon review of the intrinsic record, the claim term,
16 referred to as 113, describes a semi-circular recess or
17 notch carved out of the upper section of the cover. (See
18 Patent. No. '057, fig. 3-5, 7.) The notch itself is
19 received and latches into the sliding plate; when the
20 notch is released by the trigger pulling the sliding
21 plate up the stroller arm, the collapsing mechanism of
22 the stroller is engaged. (See id.)

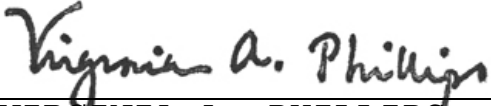
23
24 Based on the intrinsic record, the Court adopts
25 Plaintiff Link's proposed construction, in part. Link's
26 construction describes more than "having a recess
27 defined" by explaining how the recess relates to the rest
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1 of the stroller construction. The Court limits the
2 construction to the scope of the claim term itself. See
3 Netword, LLC, 242 F.3d at 1352.

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The Court construes Claim Four as follows: "having an indentation or depression."

Dated: November 13, 2008



VIRGINIA A. PHILLIPS
United States District Judge