

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

_____)	
GREEN MOUNTAIN GLASS, LLC AND)	
CULCHROME, LLC,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 14-392-GMS
)	
SAINT-GOBAIN CONTAINERS, INC. dba)	
VARALLIA NORTH AMERICA,)	
)	
Defendant.)	
_____)	

ORDER CONSTRUING THE TERMS OF U.S. PATENT NOS. 5,718,737 and 6,230,521

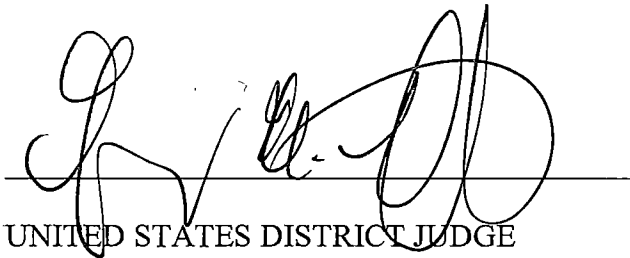
After considering the submissions of the parties and hearing oral argument on the matter, IT IS HEREBY ORDERED, ADJUDGED, and DECREED that, as used in the asserted claims of U.S. Patent Nos. 5,718,737 (“the ’737 patent”) and 6,230,521 (“the ’521 patent”):

1. The term “**mixed color cullet**” is construed to mean “broken pieces of glass of mixed colors,” and the term “**unsorted**” is construed to have its plain and ordinary meaning.¹

¹ Construction of these terms is straightforward. The ’737 patent defines “mixed colored cullet glass” as “broken pieces of glass of mixed colors and types.” ’737 patent at 1:14–16. The court finds that the intrinsic record does not contradict the presumption that “unsorted” should be granted plain and ordinary meaning.

2. The term “at least two different colors” is construed to mean “more than one color.”²

Dated: April 27, 2016



UNITED STATES DISTRICT JUDGE

² The defendant argues that this term should be construed to mean “at least two different colors (not including flint).” In support, it notes that the ’737 patent specification refers to flint as “colorless” glass. The plaintiffs respond that references to flint as “colorless” do not mean the patentee intended to exclude flint as a color in the mixed colored cullet. The specification refers to “flint colored bottles,” ’737 patent at 4:4–6, and includes flint as part of a typical color distribution. *Id.* at 2:1–5 (“A typical color distribution is approximately 65% flint (colorless), 20% amber, and 15% green.”). Further, several claims list flint as a colored glass in the mixed colored cullet. *See id.*, claim 2 (“mixed color cullet comprising flint, green and amber colored glass”). The court is persuaded by the plaintiffs that flint qualifies as a color in the ’737 patent. Accordingly, the term is given its ordinary meaning of “more than one color.”