

**COURT APPENDIX:
THE TERMS OF CERTAIN PATENT CLAIMS AGREED TO BY THE PARTIES**

The parties have agreed to the following constructions with respect to United States Patent Nos. 6,874,729; 7,097,137; 8,167,242; 8,517,306; and 8,567,718.

A. Constructions Agreed To By The Parties In The March 28, 2014 Joint Claim Construction Submission.

The court has adopted the parties' agreed upon constructions for the following terms.¹

1. "Arrestment."

Construed as "act of arresting or stopping motion."

2. "Line."

Construed as "cable, rope, string, cord, or wire."

3. "Arrestment Line."

Construed as "cable, rope, string, cord, or wire that arrests or stops motion."

4. "Capture."

Construed as "the act of gaining control over something."

5. "Capture Device" And Variants.

Construed as "an object, machine, or piece of equipment that has been made to gain control over something." Variants of the term include "device for capturing," "capturing device," and "a device for capturing said line."

6. "Passageway."

Construed as "a way that allows passage."

7. "Restraint"

Construed as "any object or device that restrains the movement of the arrestment line."

8. "Said Restraint Attached To A Lower End . . ."

Construed as "a connection to the base is at least one element of the restraint."

¹ The parties' agreed upon constructions are drawn from the parties' March 28, 2014 Joint Claim Construction Submission, at 4–5.

9. “Positioned Laterally” And Variants.

Construed as “positioned to the side of a lengthwise axis of said aircraft.”

10. “Aircraft.”

Construed as “a device capable of controlled atmospheric flight.”

B. Constructions Agreed To After The Parties March 28, 2014 Joint Claim Construction Submission.

1. “Device.”

The parties agreed at the April 7–8, 2014 *Markman* hearing that “device” is construed to mean “an object, machine, or piece of equipment [that has] been made.” 4/7/14 TR at 14; 5/14/14 Jt. Statement at 2.

2. “Retaining.”

AATI has agreed to adopt the construction proposed by the Government. AATI PHMB at 8; *see also* AATI Exp. Aff. ¶¶ 39–47. The term is construed to mean “keeping in possession, particularly after capture by the capture device or hook.” AATI PHMB at 8.

3. “Line Retaining Device.”

AATI has agreed to adopt the construction proposed by the Government. AATI PHMB at 9. The term is construed to mean “[a]n object, machine, or piece of equipment that has been made to keep a line in the object, machine, or piece of equipment.” AATI PHMB at 8.

4. “Hook.”

The parties agreed at the April 7–8, 2014 *Markman* hearing that “hook” is construed to mean “a device for catching, holding, or pulling, an arrestment line that is either permanently or nonpermanently attached to the aircraft or flying object.” 4/7/14 TR at 69–70; *see also* AATI PHMB at 9–10; 5/14/14 Jt. Statement at 2.

5. “Inboard.”

The parties agreed at the April 7–8, 2014 *Markman* hearing that “inboard” should be construed to mean “closer or closest to the longitudinal axis of a ship or aircraft.” 4/7/14 TR at 216–17; *see also* ACADEMIC PRESS DICTIONARY OF SCI. & TECH. 1092 (1992); 5/14/14 Jt. Statement at 3.

6. “Outboard.”

The parties agreed at the April 7–8, 2014 *Markman* hearing that “outboard” should be construed to mean “away from the vessel’s centerline or the airplane’s centerline.” 4/7/14 TR at 217; *see also* ACAD. PRESS DICTIONARY OF SCI. & TECH. 1542 (1992); 5/14/14 Jt. Statement at 3.

7. “Flying Object.”

The parties agreed at the April 7–8, 2014 *Markman* hearing that “flying object” should be construed to mean “a vehicle or object that moves through [the] atmosphere or space supported by aerodynamic, aerostatic, or reaction forces, or by orbital speed.” 4/7/14 TR at 278–79; *see also* ACADEMIC PRESS DICTIONARY OF SCI. & TECH. 847 (1992) (defining “flight”); 5/14/14 Jt. Statement at 3.

8. “An Orientation Which Includes”

The parties agreed at the April 7–8, 2014 *Markman* hearing that “an orientation which includes a component normal to the flight path” should be construed to mean “an orientation that is not completely parallel to the flight path.” 4/7/14 TR at 284; 5/14/14 Jt. Statement at 4.

9. “[A] Device Being Adapted For Intercepting”

The parties agreed at the April 7–8, 2014 *Markman* hearing that “[a] device being adapted for intercepting the line after the line slides laterally along a leading edge of a structure comprising a wing of the flying object and holding the flying object to the line” does not require construction. 4/7/14 TR at 286; 5/14/14 Jt. Statement at 4.

10. “Base.”

The parties agreed in their October 10, 2014 Post-Hearing *Markman* Briefs that “base” should be construed to mean “a place such as the ground, vessel, or rotating base on which the arrestment line’s support structure rests.” Gov’t Resp. at 18; AATI PHMB at 50.

11. “Line Capturing And Retaining Device” And “Capturing And Retaining Device.”

The parties have agreed upon the constructions of the following terms:

- “Line”: The parties have agreed that “line” shall be construed as “cable, rope, string, cord, or wire.” JBR at 4.
- “Capture”: The parties have agreed that “capture” shall be construed as “the act of gaining control over something.” JBR at 4.
- “Device”: The parties agreed at the April 7–8, 2014 *Markman* hearing that “device” should be construed to mean “an object, machine, or piece of equipment that has been made.” 4/7/14 TR at 16–19; *see also* AATI PHMB at 8.

The parties continued to dispute the meaning of “retaining” at the April 7–8, 2014 *Markman* hearing. 4/7/14 TR at 19–46. On October 10, 2014, AATI withdrew its construction of the term “retaining.” AATI PHMB at 8 (“In the interest of compromise, AATI agrees to the [retaining] construction proposed by the Government.”). “Retaining” is construed to mean “keeping in possession, particularly after capture by the capture device or hook.” Therefore, all of

the relevant words of “line capturing and retaining device” and “capturing and retaining device” have been construed and the terms require no further construction.

12. “Capturing And Retaining Hook.”

Claim 9 of the ’242 patent provides, “An aircraft . . . including a line capturing and retaining hook mounted to a wing of the aircraft[.]” ’242 patent col. 20, ll. 64–67.

The parties have agreed upon the constructions of the following terms:

- “Capture”: The parties have agreed that “capture” shall be construed as “the act of gaining control over something.” JBR at 4.
- “Hook”: The parties agreed at the April 7–8, 2014 *Markman* hearing that “hook” should be construed to mean “a device for catching, holding, or pulling an arrestment line that is either permanently or non-permanently attached to the aircraft or flying object.” 4/7/14 TR at 69–70 (“catching, holding, [or] pulling” part of definition); 4/7/14 TR at 97 (adding “an arrestment line”); 4/7/14 TR at 97 (adding “permanent[ly] or nonpermanent[ly]”); *see also* 5/14/14 Jt. Statement at 2; AATI PHMB at 9–10.

The parties continued to dispute the meaning of “retaining” at the April 7–8, 2014 *Markman* hearing. 4/7/14 TR at 19–45. On October 10, 2014, AATI withdrew its construction of “retaining.” AATI PHMB at 9 (“In the interest of compromise, AATI agrees to the [retaining] construction proposed by the Government.”). Therefore, “retaining” is construed to mean “keeping in possession, particularly after capture by the capture device or hook,” and all of the relevant words in “capturing and retaining hook” have been construed.

13. “A Sensor Being Attached”

The parties originally disputed the construction of “a sensor being attached [.]” as used in claim 5 of the ’729 patent. JBR at 69–70 (describing the parties’ constructions and their arguments in support); AATI PHMB at 36 (arguing that the Government’s proposed construction imposed a negative limitation that contradicted the specification). On November 21, 2014, the Government withdrew its construction of “a sensor being attached[.]” Gov’t Resp. at 17 (“All parties appear to agree that the ‘sensor’ of claim 5 in the ’729 patent must be located on the recovery system. With that understanding, the Government does not object to [AATI]’s construction of this term. The Government maintains, however, that the term ‘sensor’ must be limited to ‘camera’ (and equivalents thereof)[.]”); *see also* Boeing Resp. at 12 (limiting its argument to the proposition that “sensor” should be construed to mean “video camera”). The court construed “sensor” in Section IV.F.7.b.

14. “Inclined At An Angle”

The parties originally disputed the construction of “inclined at an angle [.]” as used in claim 20 of the ’729 patent. JBR at 75–78 (describing parties’ constructions and arguments in support); AATI PHMB at 37–41; Gov’t Resp. at 17. On March 31, 2015, the Government

withdrew its construction of the term “inclined at an angle[.]” Gov’t Exp. Aff. at 1–2. Therefore, inclined at an angle is construed to mean “making an angle with at least one wing of the aircraft.”

15. “Comprises A Single Arrestment Line.”

The parties originally disputed the construction of “comprises a single arrestment line,” as used in claim 18 of the ’137 patent. JBR at 6–8; AATI PHMB at 6–7 (arguing that the term should “[i]nclude[] *only* one arrestment line”) (emphasis added); Gov’t Resp. at 4–5 (arguing that the term should “[i]nclude[] *at least* a single arrestment line”) (emphasis added). But, on July 27, 2015, the parties agreed that “comprises a single arrestment line” does not require construction. 7/27/15 TR at 12.

16. “Support Structure.”

The parties originally disputed the construction of “support structure,” as used in claims 1, 20, and 25 of the ’137 patent and claims 1, 9, 17, and 21 of the ’306 patent. JBR at 129–30; AATI PHMB at 53–54 (arguing that no construction is necessary, because the plain and ordinary meaning controlled); Boeing Resp. at 19 (arguing that the term should be construed as “a structure that is configured to maintain an arrestment line in a configuration for engaging an aircraft or flying object”); Gov’t Resp. at 20 (stating a preference for Boeing’s proposed construction). But, on July 27, 2015, the parties agreed that “support structure” does not require construction. 7/27/15 TR at 13.