

Accent Packaging, Inc.,

Plaintiff,

versus

Leggett & Platt, Inc.,

Defendant.

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Civil Action H-10-1362

Opinion on Claim Construction

1. *Background.*

Accent Packaging, Inc., sued Leggett & Platt, Inc., saying that Leggett’s Pinnacle II Wire-Tie System infringed Accent’s patent — U.S. Patent No. 7,373,877 (filed Apr. 14, 2004). That patent covers a machine for tying wire around bales of scrap metal. Accent and Leggett disagree about the meaning of four terms.

2. *Pivotal Shaft Assembly.*

The parties dispute “pivotal shaft assembly.” Accent says that it means “a cylindrical shaft that rotates in one direction and then back to the original position.” Leggett says that it means “an assembly of parts that pivots about a shaft axis.”

Claim one describes a “pivotal shaft assembly” with “elongated operator bodies” that are “fixed to the shaft assembly such that rotational movement of the shaft assembly causes the operator bodies to swing about a shaft axis.”¹ The term “fixed” in claim one describes how the operator bodies are attached to the shaft. This shows the shaft itself rotates, and it is not simply an axis around which parts rotate. The specification shows that the shaft rotates in one direction to complete the wire-tying and then returns to its original position: “When [piston rod 208 retracts], the gear 256 returns to its original position

¹ ‘877 Patent, col. 10 ll. 38, 39, 45-47.

along with the components of operating assembly 192.² The construction of “pivotal shaft assembly” is “a cylindrical shaft that rotates in one direction and then back to the original position.”

3. *Elongated Operator Bodies.*

The parties dispute “elongated operator bodies.”³ Accent says that it means “structures attached to the shaft assembly that extend away from the shaft.” Leggett says that “elongated” means “greater in length than in width and that “operator bodies” needs no further construction.

The specification describes how the operator bodies extend. “The operators 220, 222 similarly include outwardly extending bodies 234, 236” and “the cutter operator 224 has an extended body 252.”⁴ “Elongated” was added to distinguish the patent from U.S. Patent No. 4,577,544 (filed Mar. 22, 1985). The examiner told the applicant that the patent “needs to be more specific in the structural interrelationship between the elements in order to overcome the [prior art] reference and to show that the invention does not require unreliable components.”⁵ The applicant amended the claims to say “the operator bodies are elongated bodies and the bodies are projecting radially from the shaft assembly and swing about a shaft axis.”⁶ The construction of “elongated operator bodies” is “structures attached to the shaft assembly that extend away from the shaft.”

4. *To Swing.*

The parties dispute “to swing.” Accent says that it means “to move back and forth on an axis.” Leggett says that it requires no construction or “to turn on an axis.”

² *Id.* at col. 9 ll. 46-50.

³ *Id.* at col. 10 ll. 39, 44, 46-47, 50, 55.

⁴ *Id.* at col. 6 ll. 25-26, 32-33.

⁵ Joint Submission of Prosecution History for U.S. Patent No. 7,373,877 – Exhibit 2 at 34, *Accent Packaging Inc. v. Leggett & Platt, Inc.*, 10-cv-1362, (S.D.T.X. 2010), ECF No. 30.

⁶ *Id.* at 48.

“To swing” describes the movement of the operator bodies about the shaft axis. Claim one says the “swinging of the operator bodies in the single direction effects said timed operation.”⁷ The specification says “the gear 256 returns to its original position along with the components of the operating assembly 198.”⁸ The operating arms swing back and forth because if they completed a 360 degree turn about the shaft axis, they would collide with bottom plate 66.⁹ The construction of “to swing” is “to move back and forth on an axis.”

5. *Operably Coupled with & Operably Connected to.*

The parties dispute “operably coupled with” and “operably connected to.” Accent says that both mean “physically interacting with.” Leggett says that “being operably coupled with” means “having a functional relationship between,” and “operably connected with” means “having a functional relationship with.”

“Operably coupled with” describes the relationship between the operator bodies and the gripper, knotter, cutter, and cover. “Operably connected with” describes the relationship between the drive assembly and the shaft assembly.¹⁰ Both terms describe relationships where driving power is supplied from one part to another through physical engagement. The construction of “operably coupled with” and “operably connected with” is “physically interacting with.”

6. *Conclusion.*

These are the constructions:

- “Pivotal shaft assembly” means “a cylindrical shaft that rotates in one direction and then back to the original position.”
- “Elongated operator bodies” means “structures attached to the shaft assembly that extend away from the shaft.”
- “To swing” means “to move back and forth on an axis.”

⁷ ‘887 Patent, col. 10 ll. 54-56.

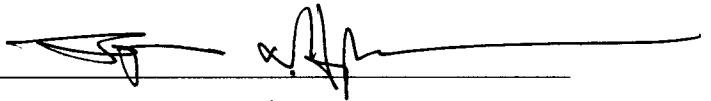
⁸ *Id.* at col. 9 ll. 48-50.

⁹ *See id.* at fig.5, item 66.

¹⁰ *Id.* at col. 10 ll. 40, 59.

- “Operably coupled with” and “operably connected with” mean “physically interacting with.”

Signed on August 30, 2015, at Houston, Texas.

A handwritten signature in black ink, consisting of a stylized 'L' followed by 'N. Hughes' and a long horizontal flourish extending to the right.

Lynn N. Hughes