

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

**Washington, D.C.**

**In the Matter of**

**CERTAIN PRINTING AND IMAGING  
DEVICES AND COMPONENTS  
THEREOF**

**Inv. No. 337-TA-690**

**ORDER NO. 25: DENYING RESPONDENTS' MOTION FOR SUMMARY  
DETERMINATION OF INVALIDITY OF U.S. PATENT NO.  
6,212,343 FOR FAILURE TO COMPLY WITH 35 U.S.C. § 112, ¶ 2**

(April 22, 2010)

On March 17, 2010, respondents Oki Data Corporation and Oki Data Americas, Inc. (collectively "Oki Data") filed a motion for summary determination of invalidity of claims 18-21 of U.S. Patent No. 6,212,343 ("the '343 patent"). (Motion Docket No. 690-017.) On March 29, 2010, complainants Ricoh Company, Ltd., Ricoh Americas Corporation, and Ricoh Electronics, Inc. (collectively "Rico") filed a response opposing the motion. On March 29, 2010, the Commission Investigative Staff ("Staff") filed a response supporting the motion.

Oki Data asserts that claims 18-21 of the '343 patent are invalid because they are indefinite. Oki Data focuses on the following language from claims 18, 20, and 21: "configured to have a length that enables the narrow-width part to be bent in a direction orthogonal to a longitudinal direction of the developing roller between the side seals arranged at sides of the toner exit[.]"<sup>1</sup> Oki Data asserts that the '343 patent specification fails to shed light on the meaning of the claim language at issue. Oki Data argues that this language renders the claims

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<sup>1</sup> Claim 19 depends on claim 18, and thus necessarily includes the claim language at issue.

indefinite because the parties' experts do not dispute that there are an infinite number of potential "longitudinal direction[s] of the developing roller."

Oki Data argues that the expert reports submitted by Ricoh's expert Dr. Stauffer emphasize that the claim language is indefinite. According to Oki Data, Dr. Stauffer's initial expert report took the position that the claim language at issue referred to the L-shaped plastic deformation of narrow-width portion of the blade described in column 12 of the '343 patent. Oki Data asserts that Dr. Stauffer's rebuttal report takes a different view of the claim language, and Oki Data cites to portions of Dr. Stauffer's deposition testimony where he allegedly acknowledges that his position changed between his initial expert report and his rebuttal expert report. Oki Data argues that "[t]he inability of the specification to 'reasonably appraise' Ricoh's own expert of the bounds of this claim language illustrates that the plain language of the claim is *per se* indefinite." (Oki Data Mot. at 11.)

Oki Data asserts that the specification does not support Dr. Stauffer's new claim construction position. Oki Data states that the portions of the specification cited by Dr. Stauffer describe a configuration of blade and developing roller wherein the blade is pushed toward the "rear side" of toner exit. Oki Data argues that the portions of the specification do not support Dr. Stauffer's opinion that the phrase "direction orthogonal to a longitudinal direction of the developing roller" was a term defined by the inventor to mean "the longitudinal direction would be along the length of the development roller through its axis."

Ricoh opposes the motion. Ricoh offers four reasons regarding why Oki Data's argument is incorrect. First, Oki Data acknowledges that the word "a" preceding "longitudinal direction" simply means "one or more." Thus, Ricoh states that it is irrelevant whether the location of the "longitudinal direction of the developing roller" could be any of an infinite number of locations.

Ricoh states that as long as the narrow-width part of the blade can be “bent in a direction orthogonal to” any of the allegedly infinitely-located longitudinal directions, then the claim limitation is met.

Second, Ricoh claims that one of ordinary skill in the art would have no trouble identifying a “longitudinal direction” of the developing roller. Ricoh claims that the “longitudinal direction” is a direction along the length-wise part of the roller. Ricoh provides the example that if the roller were placed length-wise on a map of the United States, a longitudinal direction would be east-west.

Third, Ricoh claims Oki Data’s motion disproves its own argument when the motion states that “[t]he longitudinal direction of a cylinder is any chord, or line, drawn between the two ends of the cylinder and parallel to the axis or one side of the cylinder.” (Ricoh Resp. at 4.) Ricoh argues that in light of this admission, Oki Data has no basis for asserting that the claim language is indefinite.

Fourth, the fact that Oki Data claims that the direction orthogonal to a longitudinal direction of the developing roller could point in many different directions does not render the claim indefinite. Ricoh states that the claim language states “a direction orthogonal,” with “a” signifying “one or more.” According to Ricoh, the plain meaning of “a direction orthogonal,” is a direction along a line running perpendicular or radial to a line running parallel to the central length-wise axis of the developing roller.

Ricoh notes that Oki Data emphasizes the fact that Dr. Stauffer has changed his position regarding the claim language throughout the investigation. Ricoh argues that this does not mean that the claim language is indefinite; it simply means that Ricoh’s expert reached a different conclusion upon further study of the patent. Ricoh states that claim construction is primarily

dependent on intrinsic evidence, and thus the expert opinion of Dr. Stauffer is less important than the intrinsic evidence.

Staff supports the motion. Staff states that the longitudinal direction of a cylinder is any chord, or line, drawn between the two ends of the cylinder and parallel to the axis or one side of the cylinder. Staff states that the claim requires that the narrow-width part of the blade be bent in a direction orthogonal to one of these longitudinal directions. According to Staff, because there are an infinite number of longitudinal directions, there are also an infinite number of possible orthogonal directions. Staff claims that Dr. Stauffer's new construction – that the longitudinal axis is through the center of the developing roll and the pressure exerted by the developing roll is orthogonal to the roll (perpendicular) – fails to make the claim understandable. Staff states that the pressure described by Dr. Stauffer would not result in a perpendicular bend in the blade as recited in the claim language.

## **I. Legal Standard**

### **A. Summary Determination**

Commission Rule 210.18 governs summary determination, and states, *inter alia*, that:

The determination sought by the moving party shall be rendered if pleadings and any depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a summary determination as a matter of law.

19 CFR § 210.18(b).

The evidence “must be viewed in the light most favorable to the party opposing the motion...with doubt resolved in favor of the nonmovant.” *Crown Operations Int'l, Ltd. v. Solutia, Inc.*, 289 F.3d 1367, 1375 (Fed. Cir. 2002); *see also Xerox Corp. v. 3Com Corp.*, 267 F.3d 1361, 1364 (Fed. Cir. 2001) (“When ruling on a motion for summary judgment, all of the

nonmovant's evidence is to be credited, and all justifiable inferences are to be drawn in the nonmovant's favor."). "Issues of fact are genuine only if the evidence is such that a reasonable [fact finder] could return a verdict for the nonmoving party." *Id.* at 1375 (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). The trier of fact should "assure itself that there is no reasonable version of the facts, on the summary judgment record, whereby the nonmovant could prevail, recognizing that the purpose of summary judgment is not to deprive a litigant of a fair hearing, but to avoid an unnecessary trial." *EMI Group North America, Inc. v. Intel Corp.*, 157 F.3d 887, 891 (Fed. Cir. 1998). "Where an issue as to a material fact cannot be resolved without observation of the demeanor of witnesses in order to evaluate their credibility, summary judgment is not appropriate." *Sandt Technology, Ltd. v. Resco Metal and Plastics Corp.*, 264 F.3d 1344, 1357 (Fed. Cir. 2001) (Dyk, C.J., concurring). "In other words, '[s]ummary judgment is authorized when it is quite clear what the truth is,' [citations omitted], and the law requires judgment in favor of the movant based upon facts not in genuine dispute." *Paragon Podiatry Laboratory, Inc. v. KLM Laboratories, Inc.*, 984 F.2d 1182, 1185 (Fed. Cir. 1993).

### **B. Claim Construction**

Claim construction is a question of law. *Schindler Elevator Corp. v. Otis Elevator Co.*, 593 F.3d 1275, 1281 (Fed. Cir. 2010). Claim construction focuses on the intrinsic evidence, which consists of the claims themselves, the specification, and the prosecution history. *See generally Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (*en banc*). The Federal Circuit in *Phillips* explained that in construing terms, courts must analyze each of these components to determine the "ordinary and customary meaning of a claim term," which is "the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention." *Id.* at 1313.

“It is a ‘bedrock principle’ of patent law that ‘the claims of a patent define the invention to which the patentee is entitled the right to exclude.’” *Id.* at 1312 (citations omitted). “Quite apart from the written description and the prosecution history, the claims themselves provide substantial guidance as to the meaning of particular claim terms.” *Id.* at 1314. For example, “the context in which a term is used in the asserted claim can be highly instructive,” and “[o]ther claims of the patent in question, both asserted and unasserted, can also be valuable sources of enlightenment as to the meaning of a claim term.” *Id.*

“[T]he specification ‘is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.’” *Id.* (citation omitted). “The longstanding difficulty is the contrasting nature of the axioms that (a) a claim must be read in view of the specification and (b) a court may not read a limitation into a claim from the specification.” *Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111, 1117 (Fed. Cir. 2004). The Federal Circuit has explained that there are certain instances when the specification may limit the meaning of the claim language:

[O]ur cases recognize that the specification may reveal a special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess. In such cases, the inventor’s lexicography governs. In other cases, the specification may reveal an intentional disclaimer, or disavowal, of claim scope by the inventor. In that instance as well, the inventor has dictated the correct claim scope, and the inventor’s intention, as expressed in the specification, is regarded as dispositive.

*Phillips*, 415 F.3d at 1316.

In addition to the claims and the specification, the prosecution history should be examined if in evidence. “The prosecution history...consists of the complete record of the proceedings before the PTO and includes the prior art cited during the examination of the patent. Like the specification, the prosecution history provides evidence of how the PTO and the

inventor understood the patent.” *Id.* at 1317 (citation omitted). “[T]he prosecution history can often inform the meaning of the claim language by demonstrating how the inventor understood the invention and whether the inventor limited the invention in the course of prosecution, making the claim scope narrower than it would otherwise be.” *Id.*

If the intrinsic evidence does not establish the meaning of a claim, then extrinsic evidence may be considered. Extrinsic evidence consists of all evidence external to the patent and the prosecution history, including dictionaries, inventor testimony, expert testimony and learned treatises. *Id.* at 1317. Extrinsic evidence is generally viewed “as less reliable than the patent and its prosecution history in determining how to read claim terms[.]” *Id.* at 1318. “The court may receive extrinsic evidence to educate itself about the invention and the relevant technology, but the court may not use extrinsic evidence to arrive at a claim construction that is clearly at odds with the construction mandated by the intrinsic evidence.” *Elkay Mfg. Co. v. Ebco Mfg. Co.*, 192 F.3d 973, 977 (Fed. Cir. 1999).

### **C. Indefiniteness**

“Indefiniteness under 35 U.S.C. § 112 ¶ 2 is an issue of claim construction and a question of law[.]” *Cordis Corp. v. Boston Scientific Corp.*, 561 F.3d 1319, 1331 (Fed. Cir. 2009). The second paragraph of 35 U.S.C. § 112 states that “[t]he specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.” As explained by the Federal Circuit, “[t]his requirement serves a public notice function, ensuring that the patent specification adequately notifies the public of the scope of the patentee’s right to exclude.” *Praxair, Inc. v. ATMI, Inc.*, 543 F.3d 1306, 1319 (Fed. Cir. 2008). “If one skilled in the art would understand the bounds of the claim when read in light of the specification, then the claim satisfies section 112 paragraph 2.” *Exxon*

*Research & Eng'g Co. v. United States*, 265 F.3d 1371, 1375 (Fed. Cir. 2001). The Federal Circuit has provided the following guidance in determining whether a claim is indefinite:

If a claim is insolubly ambiguous, and no narrowing construction can properly be adopted, we have held the claim indefinite. If the meaning of the claim is discernible, even though the task may be formidable and the conclusion may be one over which reasonable persons will disagree, we have held the claim sufficiently clear to avoid invalidity on indefiniteness grounds.

*Id.*; see also *Amgen, Inc. v. Hoechst Marion Roussel, Inc.*, 314 F.3d 1313, 1342 (Fed. Cir. 2003)

(characterizing the indefiniteness standard as “somewhat high.”)

## II. Analysis

In each of claims 18, 20, and 21, the disputed claim language is part of a larger paragraph:

wherein the blade includes a wide-width part having a length such that longitudinal ends thereof face the side seals respectively and **a narrow-width part** extended from the wide-width part toward upstream of a rotation direction of the developing roller and **configured to have a length that enables the narrow-width part to be bent in a direction orthogonal to a longitudinal direction of the developing roller** between the side seals arranged at sides of the toner exit, and a step part forming a boundary between the wide-width part and the narrow-width part is disposed downstream of a contact point of the blade and the roller part of the developing roller in the rotation direction of the developing roller.

(emphasis added.) Specifically, the parties focus on the language “in a direction orthogonal to a longitudinal direction of the developing roller.” I find that this claim language is not indefinite, and thus summary determination of invalidity is inappropriate.

I start with the plain meaning of the claim terms in dispute. None of the parties assert that these words are given special meanings in the '343 patent, and I find nothing in the specification to indicate that terms should be given anything other than their plain and ordinary meanings. In this circumstance, it is appropriate to use dictionary definitions when determining the plain meaning of claim terms. *Mass. Inst. of Tech. v. Abacus Software*, 462 F.3d 1344, 1351

(Fed. Cir. 2006) (examining dictionary definitions of the claim term “scanner”). The word “orthogonal” is defined as “intersecting or lying at right angles.” MERRIAM WEBSTER’S COLLEGIATE DICTIONARY, pg. 821 (10<sup>th</sup> ed. 1997). The word “longitudinal” is defined as “placed or running lengthwise; of or relating to length or the lengthwise dimension.” MERRIAM WEBSTER’S COLLEGIATE DICTIONARY, pg. 687 (10<sup>th</sup> ed. 1997). In fact, the parties agree that the longitudinal direction of a cylinder is “any chord, or line, drawn between the two ends of the cylinder and parallel to the axis or one side of the cylinder.” (Oki Data Mot. at 6; Ricoh Resp. at 4; Staff Resp. at 5.) Thus, “a direction orthogonal to a longitudinal direction of the developing roller” refers to a direction that is at a right angle to a lengthwise direction of the developing roller.<sup>2</sup>

Oki Data’s argument centers on the allegation that there are an infinite number of longitudinal directions of the developing roller, and thus an infinite number of directions orthogonal to a longitudinal direction.

First, the parties recognize that the “a” preceding “direction orthogonal” and “longitudinal direction” means “one or more.” *KCJ Corp. v. Kinetic Concepts, Inc.*, 223 F.3d 1351, 1356 (Fed. Cir. 2000) (“This court has repeatedly emphasized that an indefinite article ‘a’ or ‘an’ in patent parlance carries the meaning of ‘one or more’ in open-ended claims containing the transitional phrase ‘comprising.’”)<sup>3</sup> Thus, the claims do not require a single or specific longitudinal direction.

Second, while there may be an infinite number of lines that run in a longitudinal direction of the developing roller, a longitudinal direction of the developing roller is easily identifiable.

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<sup>2</sup> Ricoh states that “a direction orthogonal to a longitudinal direction of the developing roller” is a direction “along a line running perpendicular or radial to a line running parallel to the central length-wise axis of the developing roller.” (Ricoh Resp. at 4.) I understand this description to be substantively identical to my explanation of the claim language.

<sup>3</sup> The claims at issue use the transitional phrase “comprising.”

Likewise, a direction orthogonal to a longitudinal direction is easily identifiable. Thus, I find that one of ordinary skill in the art would be capable of determining whether or not a product includes “a narrow-width part...configured to have a length that enables the narrow-width part to be bent in a direction orthogonal to a longitudinal direction of the developing roller[.]” Because the meaning of this claim language is discernable, I find that it is not indefinite. *Exxon*, 265 F.3d at 1375.


Oki Data argues that Dr. Stauffer’s change in position regarding this claim language proves that the language is indefinite. I do not concur. First, it appears from Oki Data’s briefing that Dr. Stauffer’s alleged changed opinion relates to the comparison of the claim language at issue to a preferred embodiment in the specification. More specifically, the issue appears to relate to what component in the specification corresponds to the bend in the narrow-width part referenced in the disputed claim language. It does not provide evidence that the language “a direction orthogonal to a longitudinal direction of the developing roller” is insolubly ambiguous.

Second, claim construction focuses on the intrinsic evidence, and any extrinsic evidence, including expert testimony, is secondary in nature. *Phillips*, 415 F.3d at 1318. Therefore, Dr. Stauffer’s expert opinion regarding claim construction, even if it did support Oki Data’s argument, cannot overcome the plain meaning of the claim terms. *Elkay*, 192 F.3d at 977.

ORDER

Motion No. 690-017 is hereby DENIED.

**SO ORDERED.**

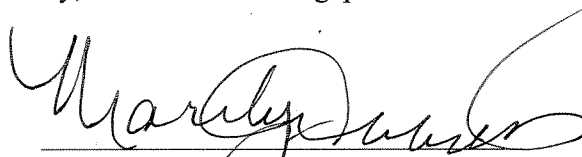


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Robert K. Rogers, Jr.  
Administrative Law Judge

**PUBLIC CERTIFICATE OF SERVICE**

I, Marilyn R. Abbott, hereby certify that the attached **ORDER** was served upon **Juan S. Cockburn, Esq.**, Commission Investigative Attorney, and the following parties via first class mail and air mail where necessary on



Marilyn R. Abbott, Secretary  
U.S. International Trade Commission  
500 E Street SW, Room 112A  
Washington, D.C. 20436

**FOR COMPLAINANTS: RICOH COMPANY, LTD., RICOH AMERICAS CORPORATION and RICOH ELECTRONICS, INC.:**

Sean C. Cunningham, Esq.  
**DLA PIPER LLP**  
401 B. Street  
Suite 1700  
San Diego, CA 92101

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

**FOR RESPONDENTS OKI DATA CORPORATION & OKI DATA AMERICAS, INC.:**

V. James Adduci, II, Esq.  
**ADDUCI, MASTRIANI & SCHAUMBERG, LLP**  
1200 Seventeenth Street NW  
Fifth Floor  
Washington, DC 20006

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

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**PUBLIC MAILING LIST**

Heather Hall  
**LEXIS – NEXIS**  
9443 Springboro Pike  
Miamisburg, OH 45342

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

Kenneth Clair  
**THOMAS WEST**  
1100 Thirteen Street NW, Suite 200  
Washington, D.C. 20005

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_