

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN POWERED COVER PLATES

Inv. No. 337-TA-1124

**ORDER NO. 28: CONSTRUING CERTAIN TERMS OF THE ASSERTED
CLAIMS OF THE PATENTS AT ISSUE (MARKMAN
CLAIM CONSTRUCTION)**

(February 21, 2019)

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Appendix A

Appendix A	Claim Chart No. 1: Court's Constructions of Disputed Claims Terms
	Claim Chart No. 2: Adopted Claim Construction Based Upon the Parties' Agreed Upon Construction

Table of Abbreviations

Compl.	Complaint
CMBr.	Complainant SnapPower's <i>Markman</i> Brief
RMBr.	Respondent Alltrade's <i>Markman</i> Brief
SMBr.	Staff's <i>Markman</i> Brief
Joint CC Chart	Corrected Joint Claim Construction Chart

I. RELEVANT BACKGROUND AND SUMMARY OF CLAIM CONSTRUCTION PROCEEDINGS

The complaint (“Complaint”) and Notice of Institution (“NOI”) identify U.S. Patent No. 9,871,324 (“the ’324 patent”), U.S. Patent No. 9,917,430 (“the ’430 patent”), U.S. Patent No. 9,882,361 (“the ’361 patent,” and with the ’324 and ’430 patents, the “Utility Patents”), and U.S. Design Patent No. D819,426 (“the ’426 patent” or the “Design Patent,” and with the Utility Patents, the “Asserted Patents”) as the asserted patents in this Investigation. (Compl. (Doc. ID No. 648221) at ¶ 4 (June 21, 2018); 83 Fed. Reg. 34872 (July 23, 2018).). In the Complaint, Complainant SnapRays, LLC d/b/a SnapPower (“SnapPower” or “Complainant”) alleges that Respondents Ontel Products Corporation; Dazone LLC; Shenzhen C-Myway; E-Zshop4u LLC; Desteny Store; Zhongshan Led-Up Light Co. Ltd.; AllTrade Tools LLC; Guangzhou Sailu Info Tech. Co., Ltd.; Zhejiang New-Epoch Communication Industry Co., Ltd.; KCC Industries; Vistek Technology Co., Ltd.; Enstant Technology Co., Ltd.; and Manufacturers Components Incorporated infringe certain claims of the Asserted Patents. (Compl. at ¶ 1.).

Of the original thirteen named respondents, the Complaint has been withdrawn with respect to the following three (3) respondents that could not be served: Shenzhen C-Myway; Zhongshan Led-Up Light Co. Ltd.; and Guangzhou Sailu Info Tech. Co., Ltd. (Doc. ID No. 659529 (Oct. 23, 2018).). The Complaint has been withdrawn against the following three (3) respondents based either on a settlement agreement and/or consent order: E-Zshop4u LLC (Order No. 5 (Sept. 26, 2018); Doc. ID No. 660113 (Oct. 29, 2018)); KCC Industries (Order No. 6 (Sept. 26, 2018); Doc. ID No. 660113 (Oct. 29, 2018)); and Ontel Products Corporation (Order No. 12 (Oct. 29, 2018); Doc. ID No. 662648 (Nov. 27, 2018)).

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Order No. 7 issued on September 27, 2018, directing Respondents Dazone LLC, Desteny Store, NEPCI-Zhejiang New-Epoch, and Manufacturers Components Incorporated (“Defaulting Respondents”) to show cause why they should not be held in default. (Order No. 7 (Sept. 27, 2018).). Because none of the Defaulting Respondents filed a response to Order No. 7, on November 28, 2018, an Initial Determination issued finding the Defaulting Respondents in default. (Order No. 18 (Nov. 28, 2018).). The remaining three (3) respondents are Vistek Technology Co., Ltd. (“Vistek”), Enstant Technology Co., Ltd. (“Enstant”), and AllTrade Tools LLC (“Alltrade”) (collectively, “Respondents” and with SnapPower, the “Private Parties”).

On August 1, 2018, a proposed Scheduling Order (“Proposed Scheduling Order”) issued to guide the timing and conduct of this Investigation. (Order No. 2 (Aug. 1, 2018).). On August 8, 2018,¹ pursuant to Order No. 2, the Private Parties and Commission Investigative Staff (“Staff,” and with the Private Parties, the “Parties”) jointly filed a joint proposed procedural schedule (“Joint Proposed Procedural Schedule”) that filled in certain dates left open in Order No. 2, adopted other proposed dates contained in Order No. 2, and requested that certain proposed dates in Order No. 2 be changed. (Doc. ID No. 652515 (Aug. 9, 2018).). On August 9, 2018, an initial procedural schedule (“Procedural Schedule”) issued that adopted the dates in the Parties’ Joint Proposed Procedural Schedule. (Order No. 3 (Aug. 9, 2018).).

On October 24, 2018, consistent with Order No. 3, the Parties filed a Joint Claim Construction Chart. (Doc. ID No. 659759 (Oct. 24, 2018).). On November 16, 2018, the Parties filed a corrected Joint Claim Construction Chart (“Joint CC Chart”). (Doc. ID No. 661997 (Nov. 16, 2018).). The Joint CC Chart lays out the claim terms for which the Parties agree on a

¹ The official receipt date is August 9, 2018.

meaning and the claim terms for which a meaning remains in dispute. (*Id.*). In the Joint CC Chart, the Parties identified three (3) disputed terms, and one (1) term upon which they agreed. (*See id.*).

On November 2, 2018, SnapPower, Alltrade, and Staff each filed a claim construction brief. (SnapPower's *Markman* Brief ("CMBr."), Doc. ID No. 660878 (Nov. 2, 2018); Alltrade's *Markman* Brief ("RMBr."), Doc. ID No. 660845 (Nov. 2, 2018); Staff's *Markman* Brief ("SMBr."), Doc. ID No. 660868 (Nov. 2, 2018).). Enstant and Vistek jointly filed a statement asserting that: (i) they are not seeking construction of any terms of the only patent, the '361 patent, asserted against them in this Investigation; (ii) they take no position on the constructions of claims of the other patents at issue in this Investigation; and (iii) they do not intend to submit any claim construction briefs with respect to the other patents. (Doc. ID No. 660862 (Nov. 2, 2018).). On November 2, 2018, the Parties also filed their Joint *Markman* Hearing Proposal in which they proposed that no *Markman* hearing be held. (Doc. ID No. 660871 (Nov. 2, 2018).).

II. PATENTS AT ISSUE

A. Background

SnapPower asserted the following claims of the Utility Patents in this Investigation: claims 1, 4, 8, 9, 10, 13, 16, 17, and 19 of the '324 patent; claims 1-3, 7, 8, 18, and 19 of the '430 patent; and claims 1, 3, 4, 10, 14, 17, 21, 23, and 24 of the '361 patent.² *See, e.g.*, 83 Fed. Reg. 34872 (July 23, 2018). SnapPower also asserted the sole claim of the Design Patent. *Id.* The

² Of the remaining Respondents, the '361 patent is asserted only against Enstant and Vistek; the '324 patent and the Design patent are asserted only against Alltrade. SnapPower asserted the '430 only against Ontel, who, as noted above, has since settled with SnapPower and is no longer a Respondent in this Investigation. Thus, the '430 patent is not asserted against any of the remaining Respondents.



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