

# United States Court of Appeals for the Federal Circuit

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PLASTIC OMNIUM ADVANCED INNOVATION AND  
RESEARCH,  
*Plaintiff-Appellant*

v.

DONGHEE AMERICA, INC., DONGHEE ALABAMA,  
LLC,  
*Defendants-Appellees*

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2018-2087

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Appeal from the United States District Court for the  
District of Delaware in No. 1:16-cv-00187-LPS, Chief Judge  
Leonard P. Stark.

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SEALED OPINION ISSUED: November 21, 2019  
PUBLIC OPINION ISSUED: December 3, 2019\*

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ALEXANDER HADJIS, Oblon, McClelland, Maier and  
Neustadt, LLP, Alexandria, VA, argued for plaintiff-appel-  
lant. Also represented by ROBERT CARTER MATTSON,  
CHRISTOPHER RICCIUTI.

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\* This opinion was originally filed under seal and has  
been unsealed in full.

ERIC SHUMSKY, Orrick, Herrington & Sutcliffe LLP, Washington, DC, argued for defendants-appellees. Also represented by MELANIE L. BOSTWICK, JEREMY PETERMAN; ALYSSA MARGARET CARIDIS, Los Angeles, CA; EDMUND HIRSCHFELD, New York, NY.

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Before NEWMAN, CLEVINGER, and REYNA, *Circuit Judges*.

Opinion for the court filed by *Circuit Judge* REYNA.

Dissenting opinion filed by *Circuit Judge* CLEVINGER.

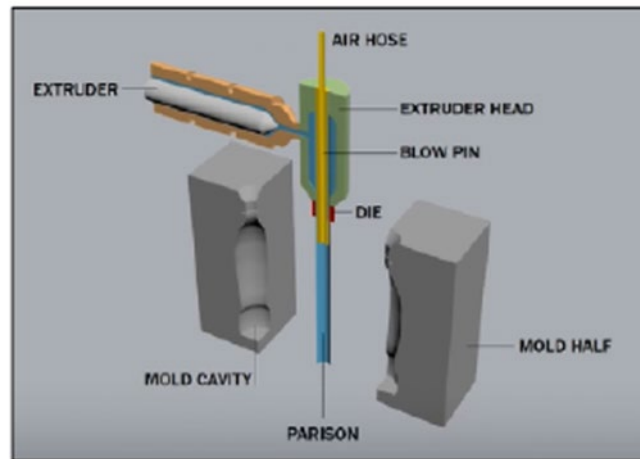
REYNA, *Circuit Judge*.

Plastic Omnium Advanced Innovation and Research appeals from a grant of summary judgment of noninfringement by the U.S. District Court for the District of Delaware. The district court's determinations on summary judgment are consistent with its claim construction and supported by undisputed facts in the record. We affirm.

## BACKGROUND

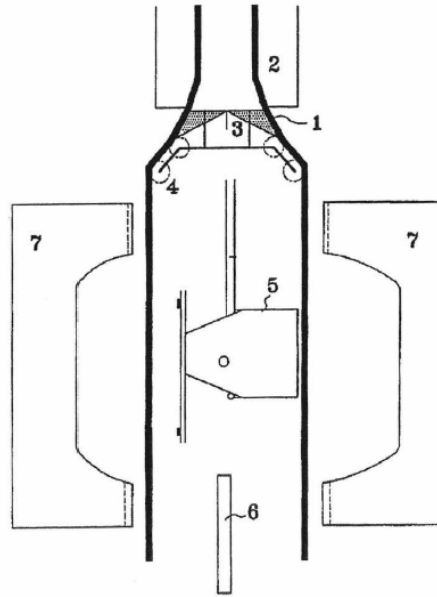
### A. The Asserted Patents

Plastic Omnium Advanced Innovation and Research ("Plastic Omnium") owns U.S. Patent Nos. 6,814,921 ("the '921 patent") and 6,866,812 ("the '812 patent"). The patents generally relate to manufacturing plastic fuel tanks formed by blow molding. The fuel tanks are formed in a way that allows accessory components to be installed inside the fuel tank without cutting holes in the tank wall, which could compromise the structural integrity of the wall. A conventional blow molding system is depicted below:



J.A. 3482 (Appellee's Technology Tutorial). The image shows the general placement and geometry of the extruder head, die, parison, and molding cavity in a conventional blow molding process.

The sole figure (shown below) of the '812 patent is representative of the disclosed system and depicts a tubular "parison" that is formed using an extrusion head (component 2) and circular die mounted on the extrusion head. As the parison exits the extrusion head, a blade (component 3) located at the exit of the die splits the parison.



'812 patent Fig. 1, col. 5 ll. 28–30; *see also* '921 patent col. 5 l. 25.

Claim 1 of the '921 patent recites the following, including the disputed “extruded parison” limitation:

1. A process for manufacturing plastic hollow bodies from two shells formed by molding, which are joined together, at least one shell being produced by compression-molding a portion of a plastic sheet between a mold and a punch and by the remaining portion of the sheet being blow-molded in the region not compression-molded, characterized in that it is applied to the manufacture of a fuel tank and in the sheet is obtained in the same manufacturing line as the shell which will be produced from this sheet, by the *cutting and opening an extruded parison of closed cross section*.

'921 patent col. 5 l. 44–col. 6 l. 6 (emphasis added to disputed term). Claim 32 of the '812 patent includes a similar disputed term: “extruding a parison.”

## B. District Court Proceedings

On March 23, 2016, Plastic Omnium filed suit against Donghee America, Inc., and Donghee Alabama, LLC (collectively “Donghee”) in the District of Delaware, asserting infringement of several patents. The '921 and '812 patents were among the eight patents in Plastic Omnium’s amended complaint. After claim construction, Donghee moved for summary judgment of noninfringement as to the asserted claims of the '921 and '812 patents and on other bases not at issue in this appeal. On May 22, 2018, the district court granted Donghee’s summary judgment motion. The district court entered final judgment on June 11, 2018.

### 1. Claim Construction

During claim construction, the parties disputed the meaning of the term “parison.” *Plastic Omnium Advanced Innovation & Research v. Donghee Am., Inc.*, No. 16-CV-187, 2017 WL 5125725, at \*3–4 (D. Del. Nov. 6, 2017) (“*Claim Construction Order*”). Donghee argued that it should be given its plain and ordinary meaning of “hollow plastic tube exiting the die of an extrusion head.” *Id.* at \*3. Plastic Omnium argued that the patentee had acted as its own lexicographer and that “the '921 and '812 patents do not use the term ‘parison’ [in] its conventional, plain and ordinary meaning.” *Id.* The district court agreed with Plastic Omnium and reasoned that “the patents specify that the ‘parison’ is cut in two as it leaves the die at the end of the extrusion head” and so “this ‘parison’ cannot be strictly limited to a fully-formed tubular structure existing in its entirety outside the extrusion head/die.” *Id.* at \*4. It recognized that “the principal disagreements between the parties [were] identifying the point at which the molten plastic within the extrusion head becomes a ‘parison,’ and

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