

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

WALTER KIDDE PORTABLE EQUIPMENT
INC.,

Plaintiff,

v.

FIRST ALERT, INC. and
BRK BRANDS, INC.,

Defendants.

Civil Action No. 6:22-cv-566-ADA-DTG

JURY TRIAL DEMANDED

JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to the Court’s Scheduling Order (Dkt. No. 25) and the Court’s Standing Order Governing Proceedings – Patent Case (OGP), Plaintiff Walter Kidde Portable Equipment Inc. (“Kidde”) and Defendants First Alert, Inc. and BRK Brands, Inc. (collectively, “Defendants”) hereby submit this Joint Claim Construction Statement for claim terms and phrases in asserted U.S. Patent Nos. 7,123,158 (“158 Patent”); 7,525,445 (“445 Patent”); 7,403,128 (“128 Patent”); and 8,791,828 (“828 Patent”).

I. AGREED TERMS

Proposed By	Claim Term(s)	Asserted Claim(s)	Agreed Construction
Defendants	“automatically”	’158 Patent, cl. 1	Plain and Ordinary Meaning
Defendants	“manually”	’158 Patent, cl. 1	Plain and Ordinary Meaning
Defendants	“a selected threshold”	’128 Patent, cl. 5	Plain and Ordinary Meaning
Defendants	“lack of power”	’828 Patent, cl. 2	Plain and Ordinary Meaning
Defendants	“loss of power”	’828 Patent, cl. 3	Plain and Ordinary Meaning

II. DISPUTED TERMS

Term No.	Group No.	Proposed By	Claim Term(s)	Asserted Claim(s)	Kidde’s Proposed Construction	Defendants’ Proposed Construction
1	1	Defendants	“activate” /”activation”	’158 Patent, cl. 1, 12; ’445 Patent, cl. 8	Plain and Ordinary Meaning	“[supply] / [supplying of] power to the electronics”
2	1	Defendants	“deactivate”/ “deactivation”/ “deactivated”	’158 Patent, cl. 1, 12; ’445 Patent, cl. 8	Plain and Ordinary Meaning	“[removing] / [removing of] power to the electronics” / “power has been removed from the electronics”
3	1	Defendants	“reactivated”	’158 Patent, cl. 1	Plain and Ordinary Meaning	“power is reapplied to the electronics”

4	1	Defendants	“the second portion cannot be reactivated”	’158 Patent, cl. 1	Plain and Ordinary Meaning	“power cannot be reapplied to the electronics”
5	1	Defendants	“permanent deactivation” / “permanently deactivated”	’158 Patent, cl. 12; ’445 patent, cl. 8	Plain and Ordinary Meaning	“power cannot be reapplied to the electronics”
6	2	Defendants	“activation mechanism”	’158 Patent, cl. 12; ’445 Patent, cl. 8	Plain and Ordinary Meaning, not subject to §112, ¶6. If subject to §112, ¶6: <u>Function</u> : activate the second portion <u>Structure</u> : a tab and/or a switch	Subject to §112, ¶6. <u>Function</u> : activate the second portion <u>Structure</u> : the mechanism described at Figures 3-7 and 9, and 4:61-6:36, and 6:59-65 of the ’158 Patent (with structure to include, at least a three position switch)
7	2	Defendants	“permanent deactivation mechanism”	’158 Patent, cl. 12; ’445 Patent, cl. 8	Plain and Ordinary Meaning, not subject to §112, ¶6. If subject to §112, ¶6: <u>Function</u> : permit permanent deactivation of the second portion	Subject to §112, ¶6. <u>Function</u> : permanently deactivate the second portion <u>Structure</u> : the mechanism described at Figures 4, 5, 6, 8, and 10,

					after the second portion has been activated <u>Structure:</u> a tab and/or a switch	and 6:36-7:11 of the '158 Patent (with structure to include, at least a three position switch)
8	2	Defendants	"reattachment prevention mechanism"	'158 Patent, cl. 12; '445 Patent, cl. 8	Plain and Ordinary Meaning, not subject to §112, ¶6. If subject to §112, ¶6: <u>Function:</u> prevent reattachment of the first and second portions once the second portion is permanently deactivated <u>Structure:</u> a physical obstruction to the connection system, such as a tab	Subject to §112, ¶6. <u>Function:</u> prevent reattachment of the first and second portions <u>Structure:</u> the mechanism described at Figures 5-10 and 6:36-7:5 of the '158 Patent (with structure to include at least a three position switch)
9	2	Defendants	"activate/deactivate system"	'158 Patent, cl. 1	Plain and Ordinary Meaning, not subject to §112, ¶6.	Subject to §112, ¶6. <u>Function:</u> both: (a) automatically activate the second

					If subject to §112, ¶6: <u>Function:</u> automatically activate the second portion upon initial attachment of the second portion to the first portion, and enable the user to manually deactivate the second portion <u>Structure:</u> a tab, switch, slider, and protrusion working in concert	portion upon initial attachment of the second portion to the first portion, and (b) enable the user to manually deactivate the second portion <u>Structure:</u> the mechanism described at Figures 3-10 and 4:58-7:11 of the '158 Patent (with structure to include, at least a three position switch)
10	4	Defendants	"cannot be reattached"	'158 Patent, cl. 1	Plain and Ordinary Meaning	"is mechanically incapable of reattachment"
11	4	Defendants	"prevent reattachment"	'158 Patent, cl. 12; '445 Patent, cl. 8	Plain and Ordinary Meaning	"make mechanically incapable of reattachment"
12	5	Defendants	"configured for one-way movement"	'158 Patent, cl. 5	Plain and Ordinary Meaning	"mechanically incapable of moving in more than one direction"
13	6	Defendants	"initial activation"	'128 Patent, cl. 1	Plain and Ordinary Meaning	"first application of power"

14	7	Defendants	“recording the occurrence of the monitored event and a time stamp”	’128 Patent, cl. 1	Plain and Ordinary Meaning	“recording the occurrence of the monitored event together with a time stamp” “storing an indication of the monitored event along with a time stamp”
15	8	Defendants	“interrogating the microprocessor”	’128 Patent, cl. 1	Plain and Ordinary Meaning	“accessing the microprocessor using a nearby, external device and without communicating to any external component or network”
16	10	Defendants	“detect a first trouble condition representative of an end-of-life condition of the sensor”	’828 Patent, cl. 1	Plain and Ordinary Meaning	“determine that the sensor has actually reached the end of its life”
17	11	Defendants	“remote agent”	’828 Patent, cl. 1	Plain and Ordinary Meaning	“entity, person, or device external to and remote from the carbon monoxide detector”

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a) on January 26, 2023, and was served via CM/ECF on all counsel of record.

/s/ Aamir A. Kazi

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