

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

CAPSA SOLUTIONS LLC

PLAINTIFF

VERSUS

CIVIL ACTION NO. 2:22-cv-00065-HSO-BWR

HOWARD INDUSTRIES, INC.

DEFENDANT

**PLAINTIFF CAPSA'S OPENING CLAIM CONSTRUCTION
BRIEF**

Pursuant to the Court's Case Management Order, Dkt. No. 26, and the Addendum Regarding Patent Disclosures and Claim Construction Schedule ("Addendum Schedule"), Dkt. 26-1, Plaintiff Capsa Solutions LLC ("Capsa") hereby submits its Opening Claim Construction Brief with Plaintiff's proposed constructions, and supporting evidence, with respect to the claim terms from U.S. Patent Nos. 7,594,668 ("the '668 patent"), 8,215,650 ("the '650 patent"), 8,109,527 ("the '527 patent"), 9,039,016 ("the '016 patent"), and D762,339 ("the D339 patent") (collectively, "the Asserted Patents" or "Patents-in-suit").

RESPECTFULLY SUBMITTED, this the 26th day of May, 2023.

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Abbreviations

Capsa: Plaintiff, Capsa Solutions LLC

Howard: Defendant, Howard Industries, Inc.

'650 Patent or '650: U.S. Patent No. 8,215,650

'668 Patent or '668: U.S. Patent No. 7,594,668

'527 Patent or '527: U.S. Patent No. 8,109,527

'016 Patent or '016: U.S. Patent No. 9,039,016

D'339 Patent or D'339: U.S. Patent No. D762,339

**patents-in-suit: The '668 patent, the '650 patent, the '527 patent, the
 '016 patent and, the D'339 patent**

Citations to U.S. Patents will be cited as follows: **Patent Number, col. no.:line nos.** (so for example '650 Patent, col 4:15-22 is a citation to the '650 Patent, column 4 at lines 15-22).

Exhibit R, Declaration of Kwak, relates to the authenticity of citations in Exhibit L as well as the authenticity of certain exhibits attached to the Declaration of Pinhas Ben-Tzvi.

I. Introduction

Plaintiff Capsa’s proposed definitions are consistent with, and supported by, the intrinsic evidence (the patent claims, description and related prosecution history) – in other words the “four corners” of the documents the patentee submitted to the U.S. Patent Office including the “prosecution history” or “file history” of the patent as it made its way through the examination process at the Patent Office.¹ For all of the claim terms at-issue in the present case, the review of the intrinsic evidence demonstrates the meanings of the terms are readily apparent and, that for most of the claim terms, the claim interpretation in this case involves little more than the application of widely accepted, ordinary, meanings of commonly understood words.

Defendant Howard’s definitions, on the other hand, depart from the ordinary meanings of commonly understood words and narrowly construing terms by limiting the invention to example embodiments of the invention even though there is an absence of a clear disclaimer or redefinition of the term (i.e., lexicography) in the intrinsic evidence.² It is obvious that Defendant is arguing for an overly narrow interpretation of many of the claim terms in order to fuel their noninfringement arguments. Defendant improperly relies on extrinsic (e.g., expert) evidence in support of its unduly restrictive definitions although expert testimony is not needed and is inappropriate in this case because the intrinsic evidence unambiguously sets forth the meanings of the terms. Defendant also “cherry picks” certain claim definitions set forth in the vacated (nonprecedential) claim construction order from a previous case involving the ‘650 patent at-issue while taking contrary positions to other definitions from the vacated order Defendant presumably

¹ The file history contains the correspondences between the inventor/patentee and the patent examiner during the examination of the patent application at the Patent Office.

² Although the intrinsic evidence is all that is needed to construe the disputed claim terms in this case, Plaintiff has cited to extrinsic evidence of expert Dr. Pinhas Ben-Tzvi, and dictionary definitions, to confirm the ordinary meanings of the terms established in view of the intrinsic evidence and to rebut the extrinsic expert evidence submitted by Defendant.

does not like. *Rubbermaid Inc. v. Ergotron, Inc.*, No. 3:12-cv-416, Ex. A, Memorandum of Decision and Order (W.D.N.C. March 11, 2014). When applying the proper claim construction principles, it is apparent that the patentee did not redefine claim terms by giving them special definitions that depart from their customary and ordinary meanings.

A. Background of Plaintiff CAPSA

Capsa was built upon a 60-year foundation of experience and innovation designed to improve the organization, efficiency and accuracy of healthcare providers. Capsa is a leading innovator in healthcare delivery and technology solutions for point-of-care, medication management, supplies organization and pharmacy automation. Capsa is considered to be an industry leader in the design and manufacture of medical carts and has successfully sold its products for many years to customers in the U.S. and in many countries around the world.

Capsa was sued for patent infringement in 2012 by Rubbermaid. *Rubbermaid Incorporated d/b/a Rubbermaid Medical Solutions v. Capsa Solutions LLC*, Civil Action No. 3:12-cv-00611-GCM-DLH. Rubbermaid alleged that Capsa's medical carts at the time infringed the '650 and '668 Patent at-issue in this case. Capsa settled the patent suit with Rubbermaid, and subsequently (around the 2015 timeframe) acquired the '650, '668, '527 and D'339 Patents-in-suit from Rubbermaid who exited the business.

Today, Capsa employs approximately 600 employees, including many degreed engineers plus technical and assembly staff, in 300,000+ square feet of manufacturing space. Capsa has invested millions of dollars into the research, development, manufacturing, design of its new and innovative healthcare products, including the acquisition of related companies and intellectual property. While Defendant is a large conglomerate selling many types of products, Plaintiff Capsa is a smaller company that relies heavily on the revenue of its patented medical products. Moreover, the market for these products is relatively small with only a handful of competitors. Accordingly,

Defendant's competition in this market is harmful to Plaintiff.

B. Background of Technology

The technology at-issue in the present case relates to patents relating to improvements to the field of mobile workstation/cart technology, e.g., for medical applications, more particularly to claim terms from U.S. Patent Nos. 7,594,668 ("the '668 patent"), 8,215,650 ("the '650 patent"), 8,109,527 ("the '527 patent"), 9,039,016 ("the '016 patent"), and D762,339 ("the D339 patent") (collectively, "the Asserted Patents" or "Patents-in-suit").

The patented technology relates to mobile computing workstations used by medical professionals in a health care facility. Some of the technology relates specifically to medication computing workstations that have storage drawers or bins for medicines to be dispensed. The patented features mostly center around making carts user friendly and ergonomic to alleviate physical stresses to healthcare workers. This is particularly important in the field as nurses and hospital staff are on their feet all day pushing the carts around the hospital while constantly bending over to obtain items stored in the carts. Some of the significant patented features include:

- Ergonomically designed carts including height adjustment mechanisms in combination with overall cart design which facilitates various essential work/tasks while allowing an operator to efficiently access cart operation (e.g., height control). *See* '650 and '668 Patents.
 - Automatic height adjustment, such as based on stored user preference or inputted user height. *See*, '527 Patent.
- A sliding, tilting keyboard tray and mouse pad for ergonomic use. *See* '016 Patent.
- An ornamental and distinctive cart design as claimed in the design patent at-issue. *See* D'339 Patent.

C. Person of Ordinary Skill in the Art (POSITA)

The effective filing dates of each of the Patents-in-suit fall within the 2003-2004 date range for the '668 and '650 Patents, the 2008 timeframe for the '527 Patent, the 2012 timeframe for the '016 Patent, and the 2014 timeframe for the D'339 Patent (collectively between the 2003-2014 timeframe). The definition of a person of ordinary skill in the art stayed consistent during the

period between 2003-2014 (the period of invention of the Patents-in-suit). Ex. B, Declaration of Ben-Tzvi, para. 14. A person of ordinary skill in the art (POSITA) in the 2003-2014 timeframe would have had a bachelor's degree in a pertinent discipline involving mechanical product design, such as mechanical engineering, with 2-3 years of experience in in the design, manufacture, or analysis of mechanical devices. Alternatively, a POSITA would have been a person with a 2 year mechanical engineering diploma and had 4-6 years of experience in in the design, manufacture, or analysis of mechanical components and devices. *Id.*

II. Summary of Relevant Claim Construction Law

The purpose of claim construction is to give claim terms the meaning understood by a person of ordinary skill in the art at the time of invention. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312-14 (Fed. Cir. 2005) (en banc). The words of a patent claim are generally given their ordinary and customary meaning as understood by a person of ordinary skill in the art when read in the context of the patent description (i.e., specification) and prosecution history. *See Id.* at 1313. There is a heavy presumption that claim terms are to be given their ordinary and customary meaning. *Avlus Networks, Inc. v. Apple Inc.*, 856 F.3d 1353, 1358-59 (Fed. Cir. 2017). There are only two exceptions to this general rule: 1) when a patentee provides his or her own special definition and acts as his own lexicographer, or 2) when the patentee disavows (“disclaims”) the full scope of a claim term either in the specification or during prosecution. *Thorner v. Sony Comput. Entm't Am. LLC*, 669 F.3d 1362, 1365 (Fed. Cir. 2012), citing to *Vitronics Corp. v. Conceptiontronic, Inc.*, 90 F.3d 1576, 1580 (Fed. Cir. 1996). To act as its own lexicographer, a patentee must “clearly set forth a definition of the disputed claim term” other than its plain and ordinary meaning. *Thorner*, 669 F.3d at 1365-66. It is not enough for a patentee to simply disclose a single embodiment or use a word in the same manner in all embodiments, the patentee must “clearly express an intent” to redefine the term. *Id.* For example, the patentee can show clear

intent to redefine a term by putting the term in quotation marks, or otherwise making it clear the patentee is providing a special definition. *Tyco Fire Prods., L.P. v. Victaulic Co.*, No. 10-4645, 2012 U.S. Dist. LEXIS 42766, at *73 (E.D. Pa. Mar. 27, 2012) (finding a special definition where patent explicitly stated the claim term had a particular meaning). The standard for disavowal of claim scope is similarly exacting. “The patentee may demonstrate intent to deviate from the ordinary and accustomed meaning of a claim term by including in the specification expressions of manifest exclusion or restriction, representing a clear disavowal of claim scope.” *Thorner*, 669 F.3d at 1366 (Fed. Cir. 2012); *see also Home Diagnostics, Inc. v. LifeScan, Inc.*, 381 F.3d 1352, 1358 (Fed. Cir. 2004) (“Absent a clear disavowal in the specification or the prosecution history, the patentee is entitled to the full scope of its claim language.”). “We do not read limitations from the specification into claims; we do not redefine words. Only the patentee can do that. To constitute disclaimer, there must be a clear and unmistakable disclaimer.” *Id.* “Where an applicant’s statements are amenable to multiple reasonable interpretations, they cannot be deemed clear and unmistakable.” *3M Innovative Props. Co. v. Tredegar Corp.*, 725 F.3d 1315, 1326 (Fed. Cir. 2013). Mere criticism of a particular embodiment encompassed in the plain meaning of a claim term is not sufficient to rise to the level of clear disavowal. *Thorner*, 669 F.3d at 1366 (Fed. Cir. 2012)

The Federal Circuit has repeatedly cautioned against limiting the claimed invention to preferred embodiments or specific examples described in the patent specification. *Williamson v. Citrix Online, LLC*, 792 F.3d 1339, 1346-47 (Fed. Cir. 2015); *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 913 (Fed. Cir. 2004) (“[I]t is improper to read limitations from a preferred embodiment described in the specification—even if it is the only embodiment—into the claims absent a clear indication in the intrinsic record that the patentee intended the claims to be so limited.”). “[I]t is the *claims*, not the written description, which define the scope of the patent right.” *Laitram Corp. v.*

NEC Corp., 163 F.3d 1342, 1347 (Fed. Cir. 1998); *see also id.* (“[A] court may not import limitations from the written description into the claims.”).

When engaged in the construction of claims, courts begin by looking to the words of the claims themselves to define the scope of the patented invention. *Vitronics Corp.*, 90 F.3d at 1582; *Innova/Pure Water, Inc. v. Safari Water Filtration Sys.*, 381 F.3d 1111, 1116 (Fed. Cir. 2004), (“[A] claim construction analysis must begin and remain centered on the claim language itself, for that is the language the patentee has chosen ‘to particularly point[] out and distinctly claim[] the subject matter which the patentee regards as his invention.’” After reviewing the language of the claims, a subsequent step in claim construction is to review the patent specification. Claims must always be read in view of the specification, which is “highly relevant to the claim construction analysis.” *Vitronics Corp.*, 90 F.3d at 1582. Third, the court may also consider the prosecution history of the patent, if in evidence. *Id.* However, general statements discussing the prior art, without more, should not be interpreted to disclaim every feature of every prior art device discussed in the patent. *Ventana Med. Sys. v. BioGenex Labs., Inc.*, 473 F.3d 1173, 1181 (Fed. Cir. 2006). In most situations, an analysis of the intrinsic evidence (i.e., patent description/specification and patent prosecution (file) history) alone will resolve any ambiguity in a disputed claim term. In such circumstances, it is improper to rely on extrinsic evidence, such as experts. *Vitronics*, 90 F.3d. at 1583.

III. Agreed-Upon Constructions

The parties have agreed upon the following constructions:

<u>Term/ Phrase</u>	<u>Agreed Construction</u>
“The ornamental design for a ‘cart,’ as shown and described.” (D’339 patent, cl. 1)	The ornamental design for a “cart,” as shown in Figures 1-7 and described by the specification.

IV. Disputed Claim Constructions:

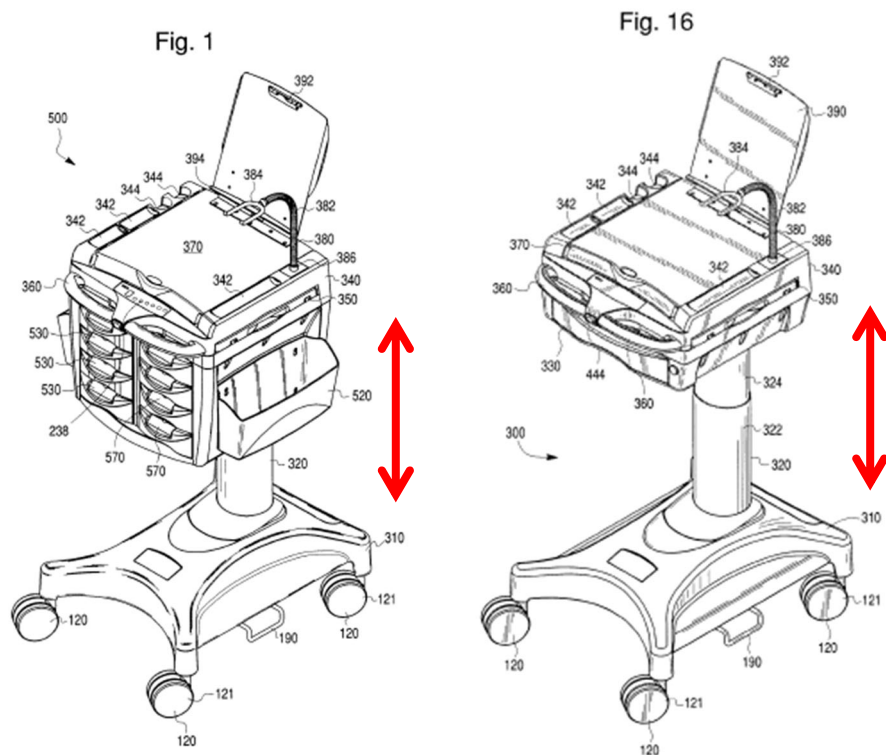
The 17 disputed claim terms from the patents-in-suit, with the Parties' proposed constructions and supporting evidence, are presented in the Joint Claim Construction Chart attached to the Joint Claim Construction Statement. Dkt. 42-1, Exhibit A, Joint Claim Construction Chart. Capsa has grouped the discussion of the disputed claim terms below based on the patent(s) in which the claim terms appear.

A. Disputed Claim Terms from the '650, and '668 Patents:

The '650 and '668 patents share the same descriptions and figures as they are from the same patent family (the '650 Patent is a continuation patent claiming priority to the '668 Patent). The inventions of the '650 and '668 Patents relate to an ergonomically designed medical cart having a height adjustment mechanism for raising and lowering the work platform including a work surface and at least one compartment that contains items such as medications for patients or for storing other medical items or devices. Because the entire work platform can be adjusted in height, the nurses attending to the patients can adjust the work platform to their preferred ergonomic height, preventing fatigue and injuries to nurses at the work place. Ex. C, '650 patent, col. 4:33-35. The claims of the '650 and '668 Patents also recite other inventions and/or combinations of other inventive features such as moveable work surfaces (that provide for more compact and ergonomically mobile carts), ergonomically placed actuators that make it easier to control the driver of the height adjustment mechanism, and/or first and second telescoping portions adapted to move in respect to each other.

One example embodiment of the medical cart of the '650 and '668 patents is shown below in **Figure 1** and another embodiment of the invention in **Figure 16** showing a work platform *without*

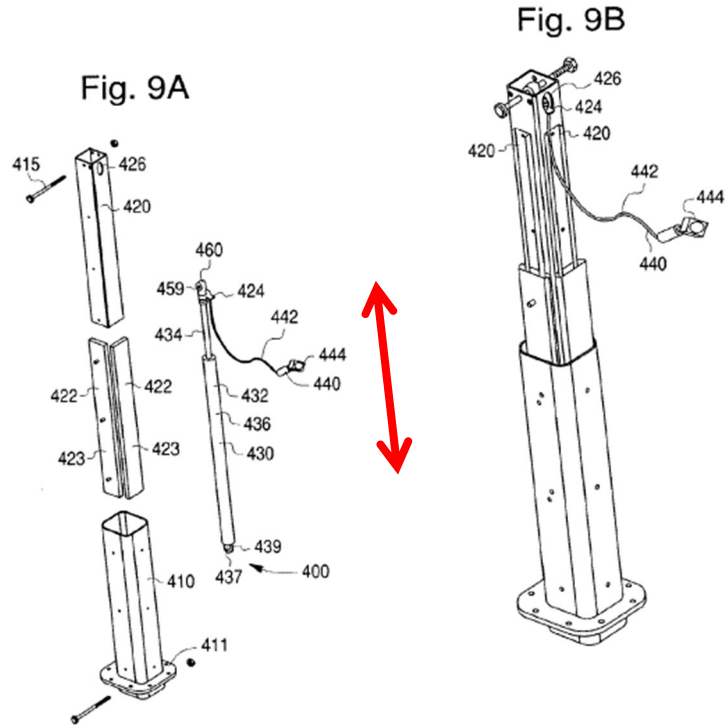
any compartments below the work surface.³ The entire work platform **340** (including work surface(s) e.g., **350**, and compartment(s) **530**) is adjustable in height using a height adjustment mechanism **400** having telescoping casing portions **410**, **420**. See '650 Patent, Figures 9A, 9B (illustrating one example embodiment of a height adjustment mechanism). See annotated figures below depicting that the height of work platform of the '650 and '668 Patents, including the compartment(s), can be adjusted up and down in the direction shown by the red arrows.



One example height adjustment mechanism **400** is shown in exploded detail in **Figures**

³ Figures 1 and 16 are described in the patent as first and second *embodiments*, and the '650 Patent states: “[a]lthough the aforementioned describes embodiments of the invention, the invention is not so restricted. It will be apparent to those skilled in the art that various modifications and variations can be made to the disclosed embodiments of the present invention without departing from the scope or spirit of the invention. Accordingly, these *other medication modules, medical carts, height adjustment mechanisms, key less entry systems, and methods of medication transport are fully within the scope of the claimed invention. Therefore, it should be understood that the apparatuses and methods described herein are illustrative only and are not limiting upon the scope of the invention, which is indicated by the following claims.*” Ex. C, '650 Patent, col. 3:4-58; col. 14:5-19 (emphasis added).

9A, 9B of the '650 Patent, reproduced below. The height adjustment mechanism shown in **Figures 9a, 9B** are operationally connected inside the first and second telescoping portions **322, 324** (shown in **Figures 1 and 16**), and drive the work platform up and down to adjust the height. In this example embodiment, the height adjustment mechanism is comprised of a driver **430** (e.g., in this example a gas driven piston **432**),⁴ telescoping casing (made up of the first (inner) telescoping portion **420** and second (outer) stationary portions **410**; and a pair of drawer slides **422** operationally



connected to the first and second telescoping portions to allow them to slide with respect to each other. The first and second telescoping portions act as protective “casings” for the height adjustment mechanism. Again, see annotated red arrows depicting the direction the driver **430** (e.g., gas driven piston **432**) moves up and down to adjust the height of the work platform. *See, e.g., Ex. C, '650 Patent, col. 8:15-67* (describing when the user activates the actuator **440** (e.g., push button **444** of the actuator), the gas flow within the gas driven piston **432** is activated causing

⁴ Note that the patent provides separate reference numbers for the driver **430** and gas driven piston **432**, yet the reference numbers **430** and **432** point to the same component in **Figures 9A and 9B**. This evidences that the patentee did not equate a “driver” to a “gas driven piston” but was merely conveying that a gas driven piston is one example type of driver that can be used to adjust the height of the work platform.

the compressed air to drive the piston/strut and connected casing/work platform to move adjustably). This works similar to a gas driven piston (e.g., gas spring or gas strut) found in a height adjustable office chair. The user can release the push button actuator to releasably lock the driver in place. Ex. C, '650 Patent, col. 9:1-38; '668 Patent, claim 2 (reciting how the activation (e.g., push button) of the actuator permits gas to flow in and out of the piston to adjust the height of the work platform).

Although, the patent *description* states that the example “height adjustment mechanism 400” is comprised of various components, various *claims* of the '650 and '668 Patents claim the “height adjustment mechanism” in different ways. For example, claim 1 of the '650 Patent claims the “height adjustment mechanism” as comprising only a “driver” and “actuator for controlling the driver,” whereas claim 2 of the '650 Patent further adds the first and second telescoping portions as part of the height adjustment mechanism recited in the invention of claim 1. *See, also* Ex. D, '668 Patent, claim 1 (also reciting the “drawer slides” as part of the “height adjustment mechanism”). Thus, it is improper to require the “height adjustment mechanism” recited in claim 1 of the '650 Patent to include the first and telescoping portions or drawer slides since they are not recited in claim 1 of the '650 Patent. This is just one example of why it is important to start with the language of the claims first to ascertain the scope of the claims and not the description (different claims can recite the terms in different context with different scope). As discussed throughout this brief, it is improper to limit/narrow the claims and claim terms to features of example embodiments described in the patent if the patentee did not explicitly recite the limitations in the claims unless one of the two exceptions discussed above have been satisfied (redefinition or disclaimer). In other words, it is a basic axiom of patent claim construction, that the patent description/specification generally describes various example embodiments and features of the invention, but it is the claims that recite the scope of the invention as intended by the Patentee.

Claim 1 of the '650 Patent is reproduced below as an example of one of the inventions recited in the '650 Patent (each claim claims a separate invention):

What is claimed is:

1. A cart comprising:

a work platform including a work surface and at least one compartment for containing an item within the compartment, wherein the work surface is disposed above a top of the at least one compartment;

a base configured to be movable in at least a rearward direction; and

a height adjustment mechanism for adjusting a height of the work platform relative to the base, wherein the height adjustment mechanism is configured to releasably position the work platform at a plurality of heights, the height adjustment mechanism comprising:

a driver configured to releasably position the work platform; and

an actuator for controlling the driver,

wherein the base includes a portion projecting, relative to the height adjustment mechanism, in a forward direction that is substantially opposite to the rearward direction,

wherein the work platform includes a portion projecting, relative to the height adjustment mechanism, in the forward direction, wherein the compartment is disposed in the portion of the work platform projecting in the forward direction, and the compartment is configured to permit a user facing in the rearward direction to access the item within the compartment,

wherein the actuator is disposed above the compartment and on the portion of the work platform projecting in the forward direction, and

wherein the work surface is movable relative to a remainder of the work platform from an extended position to a non-extended position.

Claim 1 of the '650 Patent reproduced above recites one invention to a medical cart. Some of the key disputed claim terms have been highlighted in yellow. Other claims from the '650 and '668 Patent have also been asserted against Defendant. As recited, claim 1 of the '650 recites an invention to an ergonomically designed medical cart having a height adjustable work platform, and an ergonomically placed actuator and work surface.

1. “height adjustment mechanism:”

Term/Phrase (claims)	Plaintiffs' Proposed Construction	Defendants' Proposed Construction
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“height adjustment mechanism” (’668, cl. 3, 4) (’650, cl. 1, 2)	A set of components for adjusting the height of an object.	No construction necessary.
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Plaintiff Capsa’s proposed definition is consistent with the plain and ordinary meaning of the term “height adjustment mechanism,” while Defendant Howard argues that no construction is necessary. Initially, Plaintiff notes that Defendant Howard has not adopted the definition of “height adjustment mechanism,” as construed by the District Court for the Western District of North Carolina (hereinafter W.D.N.C.) in the previous case of *Rubbermaid Inc. v. Ergotron, Inc.*, No. 3:12-cv-416, *See*, Ex. A, Memorandum of Decision and Order (W.D.N.C. March 11, 2014). In that vacated order, the District Court for the W.D.N.C. construed the term “height adjustment mechanism” as a “gas driven piston and button that controls the flow of the gas driven piston.” Ex. A, at pgs. 13-14. Thus, Defendant fails to adopt the definition of “height adjustment mechanism” set forth in the vacated order while cherry-picking other definitions from the vacated claim construction order Defendant presumably likes. The vacated order Howard improperly relies upon has no precedential value, and should not be relied upon for persuasive effect, especially where Defendant picks only those definitions from the vacated order that Defendant believes helps its case. Thus, Defendant’s reliance on the constructions of the vacated order should be ignored as biased and lacking credibility.⁵

Because the term “height adjustment mechanism” is not a term that is commonplace for lay people on a jury, Plaintiff submits that this term should be construed to help the understanding of a future jury. The review of the intrinsic evidence demonstrates the meaning of this term is

⁵ Like Defendant, Plaintiff Capsa also disagrees with the District Court of the W.D.N.C.’s definition of “height adjustment mechanism.” The vacated order limits the “height adjustment mechanism” to a gas driven piston and button actuator which is merely one example of a height adjustment mechanism described in the ‘650 Patent. Ex. A, at pgs. 13-14.

readily apparent and the claim interpretation in this case involves little more than the application of widely accepted meanings of commonly understood words as understood by those of ordinary skill in the art at the time of the invention. Starting with the claim language itself, the “height adjustment mechanism” is recited as a mechanism for “adjusting a height of the work platform.” *See, e.g.*, ‘650 Patent, claim 1.

The description of the ‘650 patent also uses the term “height adjustment mechanism” consistently with its plain and ordinary meaning as “a set of components for adjusting the height of an object.” For example see, Ex. C, ‘650 Patent, cl. 1, 2 (claim 1 reciting the height adjustment mechanism is “for adjusting the height of the work platform...” and being comprised of a “driver” and “actuator” whereas dependent claim 2 adds the “first and second telescoping portions”); Figures 9A, 9B; col. 3:38-39 (Figures illustrating one example embodiment of a height adjustment mechanism); col. 8:29-38 (describing one example embodiment of a height adjustment mechanism); col. 14:5-17 (stating that described apparatuses in the patent description are “illustrative only and are not limiting” and that other “medical carts, height adjustment mechanisms...are fully within the scope of the invention, which is indicated by the following claims.”); Ex. D, ‘668 Patent, cl. 3, 4 (adding the “stationary and telescoping casings” as part of the height adjustment mechanism).

The Court of Appeals for the Federal Circuit (CAFC)) has also previously found that the term “height adjustment mechanism” is a term with a generally understood plain and ordinary meaning that connotes a general class of structures. *Flo Healthcare Solutions, LLC v. Kappos*, 697 F.3d 1367, 1372 (Fed. Cir. 2012) (in another case involving medical carts, finding that the term “height adjustment mechanism” is not a means-plus-function term under 35 U.S.C. § 112 (¶6) and that the term designates a class of structures known in the art – for example gas springs, rack and pinion mechanisms, cable and pulley mechanisms, ball screw, etc. – and refusing to limit

the term to the example embodiments described in the patent).

Although extrinsic evidence is not needed to construe the term “height adjustment mechanism” as the term is not ambiguous in view of the intrinsic evidence, Plaintiff cites to the following nonexhaustive list of other U.S. patents and patent applications as confirmation that the term “height adjustment mechanism” refers to a general, known, class of structures for adjusting the height of an object:

- Ex. E, U.S. Patent No. 9,367,061 to Miller, Fig. 2A, col. 6:52-7:38; col. 13:28-44; col. 13:60-14:15 (patent to a medical cart discussing height adjustment mechanisms and “drivers,” listing different types of height adjustment mechanisms and “drivers,” e.g., gas driven pistons and linear actuators as known structures in the art).⁶
- Ex. F, U.S. Patent No. 6,721,178 and Ex. G, 6,493,220 to Clark; e.g., Figures 4A, 10A, 16, col. 8:63-9:10 (patent to a mobile medical cart describing a “height adjustment mechanism” as a known structure in the art, with various types of drive mechanisms, e.g., gas springs, rack and pinion mechanisms, ball screw, cable and pulley systems, etc.).
- Ex. H, U.S. Patent No. 9,039,016 to Abernethy, col. 9:7-16; col. 10:16-21; col. 11:3-12 (patent to a mobile medical cart using the term “height adjustment mechanism”); col. 15: 8-12 (citing to Ex. I and Ex. J, US Patent Application Publication US 2005/0284991 (Ser. No. 11/150,870) and US Patent Application Publication US 2008/0265107 (Ser. No. 12/102,312) for examples of different types of height adjustment mechanisms, for example gas springs, screw mechanisms (para. [0071])).
- Ex. K, U.S. Patent 10,667,612, col. 7:26-56 (patent to an ergonomic chair discussing “height adjustment mechanisms” as a well-known class of structures and listing different types of height adjustment mechanisms, e.g., hydraulic, pneumatic (gas), or other mechanical driving mechanisms).

See also, Ex. B, Declaration of Ben-Tzvi, paras. 15-16. Based on the foregoing, Plaintiff respectfully submits that “height adjustment mechanism” is correctly defined as “a set of

⁶ It is known in the art that a “linear actuator” is a type (subset) of driver (e.g., hydraulic, pneumatic/gas, electro-mechanical/motor) that converts energy/input into linear motion. Ex. B, Declaration of Ben-Tzvi, para. 16. For example, hydraulic drivers use water energy, pneumatic drivers (e.g., gas springs or gas driven pistons) use compressed gas, and mechanical drivers may use electric motors to drive motion of another component. Electro-mechanical type drivers may include, for example, rack and pinion type drivers, ball screw type drivers, or cable and pulley type drivers. *Id.*

components for adjusting the height of an object” as the definition is consistent with the plain and ordinary meaning of the term as understood to one of ordinary skill in the art.

2. “driver:”

Term/Phrase (claims)	Plaintiffs’ Proposed Construction	Defendants’ Proposed Construction
“driver” (’668 patent (cl. 3, 4) (’650 patent (cl. 1, 2, 8))	A mechanical component for imparting motion to another component.	Gas driven piston.

The key issue for the Court to decide in construing the term “driver” is whether the patentee intended to limit the term “driver” to one particular type of driver – a “gas driven piston” described in the patent as urged by Defendant or should the plain and ordinary meaning apply. Plaintiff Capsa’s proposed definition is consistent with the plain and ordinary meaning of the term “driver,” while Defendant Howard redefines the term “driver” and narrowly limits it to one specific type of driver - a “gas driven piston.”⁷ There are various reasons why Howard’s proposed definition is incorrect:

1. it redefines the term “driver” as a “gas driven piston” even though there is no evidence, much less clear evidence, that the patentee redefined the term “driver” to mean only this one specific type of driver or disclaimed coverage over other types of drivers;
2. Howard’s definition violates established principles of claim construction by limiting the term “driver” to one example embodiment described in the patent.
3. Howard’s definition violates the principles of claim differentiation. In other words, because dependent claim 8 of the ’650 Patent clarifies that the “driver” recited in claim

⁷ Plaintiff notes that for this claim term, contrary to other terms, Defendant Howard has adopted the definition of “driver” as construed by the District Court for the Western District of North Carolina (hereinafter W.D.N.C.) in the previous vacated order from *Rubbermaid Inc. v. Ergotron, Inc.*, No. 3:12-cv-416, *See*, Ex. A, Memorandum of Decision and Order (W.D.N.C. March 11, 2014).

1 can be a gas piston, the “driver” broadly recited in claim 1 should not be construed narrowly as being limited to a gas driven piston as argued by Defendant.

Curtiss-Wright Flow Control Corp. v. Velan, Inc., 438 F.3d 1374, 1380-81 (Fed. Cir. 2006) (stating there is a “presumption that each claim in a patent has a different scope” and a “presumption that an independent claim should not be construed as requiring a limitation added by a dependent claim”); *see also* ‘668 Patent, claim 2 (also clarifying, based on claim differentiation principles, that the “driver” recited in claim 1 may be a gas piston driver – but does not have to be). The doctrine of claim differentiation is at its strongest in this type of case, “where the limitation that is sought to be ‘read into’ an independent claim already appears in a dependent claim.” *InterDigital Communs., LLC v. ITC*, 690 F.3d 1318, 1324 (Fed. Cir. 2012).

A review of the intrinsic evidence demonstrates the meaning of this term is readily apparent and the claim interpretation in this case involves little more than the application of widely accepted meanings of commonly understood words. A review of the ‘668 and ‘650 Patents demonstrates that the patentee used the term “driver” consistent with its plain and ordinary meaning. For example, as discussed above, by starting with the language of the patent claims themselves, it is clear that the patentee claimed the “driver” broadly in the independent claims and more narrowly as a gas driven piston in the dependent claims.

The description of the ‘668 and ‘650 Patents also demonstrates that the patentee used the term “driver” broadly, consistent with its plain and ordinary meaning. *See, e.g.*, Ex. C, ‘650 Patent, col. 8:29-38; col. 14:5-17 (stating that the described apparatuses in the patent description are “illustrative only and are not limiting” and that other “medical carts, height adjustment mechanisms...are fully within the scope of the invention”). As discussed above discussing the background of the ‘668 and ‘650 Patents, note that these patents provide separate reference numbers for the driver **430** and gas driven piston **432**, yet the reference numbers **430** and **432** point

to the same component in **Figures 9A and 9B**. This evidences that the patentee did not equate a “driver” to a “gas driven piston” but was merely conveying that a gas driven piston is one example driver that can be used to adjust the height of the work platform. *See* Ex. C, ’650 Patent, col. 8:52-54 (stating “[t]he driver **430** includes a gas driven piston **432**” – but does not equate a driver to a gas driven piston)(emphasis added). Nowhere in these sections of the ’650 or ’668 Patents does the patentee redefine the term “driver” as meaning one specific type of driver (e.g., gas driven piston) or disclaim coverage over other types of drivers (e.g., hydraulic drivers or electro-mechanical linear actuators such as ball screw drivers or rack and pinion drivers).

Other Federal District Courts have agreed with Capsa’s proposed definition finding that the term “driver” is a term with a generally understood plain and ordinary meaning that connotes a general class of structures. For example, the District Court of Minnesota has recently construed the term “driver” has a plain and ordinary meaning refusing to limit the term “driver” to the drive-screw example embodiment described in the patent at-issue – even if it was the only type of driver disclosed. *See, DoseLogix, LLC v. Reflex Med. Corp.*, No. 21-cv-1275 (ECT/DJF), 2022 U.S. Dist. LEXIS 2051131. At *23-25 (D. Minn. Nov. 10. 2022) (finding the term “driver” is a common term easily understood by persons of ordinary skill in the art or unskilled lay persons citing to dictionary definitions defining “driver” as “a mechanical piece for imparting motion to another piece”). Following the logic of the *Reflex Med.* case, it is improper for Defendant Howard to limit the term “driver” to the example embodiment of a gas driven piston – even though, arguably, it may be the only example driver described in the patent. *See, also, Arthrex, Inc. v. Smith & Nephew, Inc.*, No. 2:15-cv-1047-RSP, 2016 U.S. Dist. LEXIS 105750, at *134 (E.D. Tex. Aug. 10. 2016) (finding the term “driver” should be construed to mean “device for driving another object through a transfer of force.”); *Bonutti Research, Inc. v. Lantz Med., Inc.*, No. 1:14-cv-00609-SEB-MJD, 2016 U.S. Dist. LEXIS 6974, at *56-57 (S.D. Ind. Jan. 21, 2016) (finding that the term “drive

assembly” was not a means-plus-function term and construing the term as “an assembly designed or constructed to transfer power from one part to another”). These findings from other Federal District Courts confirm that the term “driver” has a well-known meaning in the art to skilled and unskilled lay persons consistent with the definition proposed by Plaintiff Capsa.

Although extrinsic evidence is not needed to construe the term “driver” as the term is not ambiguous in view of the intrinsic evidence, Plaintiff cites to the following dictionary definitions that confirm the plain and ordinary meaning of the term as proposed by Capsa. “Driver: a piece for imparting motion to another piece either directly or indirectly.” *Webster’s 3rd Int’l Dictionary, Unabridged*. See also, Ex. E, U.S. Patent No. 9,367,061 to Miller, Fig. 2A, col. 6:52-7:38; col. 13:28-44; col. 13:60-14:15 (patent to a medical cart discussing height adjustment mechanisms and “drivers,” listing different types of height adjustment mechanisms and drivers, e.g., gas driven pistons and linear actuators as known structures in the art). This dictionary definition and the Miller patent provide further evidence that the term “driver” has a well-understood plain and ordinary meaning in the art to mean a mechanical component for imparting motion to another component and that different types of drivers such as pneumatic/gas piston drivers, hydraulic drivers, or other electro-mechanical drivers such as ball screw drivers, cable and pulley drivers, rack and pinion drivers, etc. can be used interchangeably for height adjustment applications. See, also, Ex. B, Declaration of Ben-Tzvi, paras. 17-20, 25-26 (confirming that ordinary meaning of “driver,” that it has a well understood and ordinary meaning in the art, and that a gas spring or gas driven piston is only one example type of driver). Based on the foregoing, Plaintiff respectfully submits that “driver” is correctly defined as “a mechanical component for imparting motion to another component” as the definition is consistent with the plain and ordinary meaning of the term as understood to one of ordinary skill in the art.

There is no evidence in the intrinsic evidence, much less clear evidence, demonstrating that

the patentee redefined the term “driver” to mean one particular type of driver (“gas driven piston”) or disclaimed coverage over other types of drivers. Defendant Howard has failed to rebut the heavy presumption that patent claim terms should be construed according to their plain and ordinary meanings, and has failed to overcome the presumption of claim differentiation.

3. “actuator:”

Term/Phrase (claims)	Plaintiffs’ Proposed Construction	Defendants’ Proposed Construction
“actuator”/ “an actuator for controlling the driver” ('668, cl. 3, 4) ('650, cl. 1, 5, 8)	A mechanism to activate or control equipment, e.g., by use of pneumatic, hydraulic, or electronic signals	Subject to pre-AIA 35 U.S.C. § 112(6) <u>Function:</u> “controlling the driver” <u>Structure:</u> <i>Indefinite</i>

The key issue for the Court to decide in construing the term “actuator,” is whether the term “actuator” has a known customary and ordinary meaning in the art or is it an indefinite term as Defendant alleges. Plaintiff Capsa’s proposed definition of “actuator” is consistent with the plain and ordinary meaning of the term, while Defendant Howard improperly attempts to construe the term “actuator” as a means-plus-function limitation under 35 U.S.C. § 112, para. 6 even though the word “means” has not been used to claim the term “actuator.”⁸ See 35 U.S.C. § 112, para. 6 (stating that a patent claim term recited using the term “means...for performing a specified function...shall be construed to cover the corresponding structure...described in the [patent] specification and equivalents thereof.”) There is a presumption that if a claim term does not use the word “means,” that it is not to be construed as a means-plus-function limitation. *Williamson*

⁸ For example, the patentee did not draft the claims of the '650 and '668 Patents at-issue to read a “means for actuating,” or a “means for controlling...” – the patentee affirmatively recited an “actuator” without using the term “means.” Thus, there is a presumption that 35 U.S.C. § 112, para. 6, does not apply as Defendant Howard urges.

v. Citrix Online, LLC, 792 F.3d 1339, 1349 (Fed. Cir. 2015). Additionally, the term “actuator” should not be construed as a means-plus-function term under 35 U.S.C. § 112, para. 6, because the term “actuator” connotes sufficiently definite structure to a person of ordinary skill in the art. *Id.* (finding that a term is not construed under 35 U.S.C. § 112, para. 6 if the patent claim term at-issue connotes sufficiently definite structure to a person of ordinary skill in the art). *See, e.g., Flo Healthcare Sols.*, 697 F.3d at 1374. (holding that 35 U.S.C. § 112, ¶ 6 did not apply to the claim limitation “detent mechanism” because dictionary definitions established that “the noun ‘detent’ denotes a type of device with a generally understood meaning in the mechanical arts ...”).

The intrinsic and extrinsic evidence, as summarized below, demonstrates that the term “actuator” is not indefinite but a well-known term in the art as referring to a general class of structures for activating/actuating or controlling equipment, for example by pressing or activating a push button, lever, switch, foot pedal, knob, dial or other type of actuator.⁹ In other words, an “actuator” is just what it sounds like and what most people understand it to be, a mechanism that actuates, activates or controls something. Plaintiff Capsa’s proposed definition is consistent with this plain and ordinary meaning of “actuator.”

A review of the intrinsic evidence demonstrates the meaning of this term is readily apparent and the claim interpretation in this case involves little more than the application of widely accepted

⁹ Initially, Plaintiff notes that Defendant Howard has *not* adopted the definition of “actuator” as construed by the District Court for the Western District of North Carolina (hereinafter W.D.N.C.) in the previous case of *Rubbermaid Inc. v. Ergotron, Inc.*, No. 3:12-cv-416, *See*, Ex. A, Memorandum of Decision and Order (W.D.N.C. March 11, 2014). In that vacated order, the District Court for the W.D.N.C. construed the term “actuator” as a “button that controls gas flow of the gas driven piston.” Ex. A, at pgs. 13-14. Thus, Defendant fails to adopt the definition of “actuator” set forth in the vacated order while adopting other definitions from the vacated claim construction order Defendant presumably likes. Noticeably, neither party in the *Rubbermaid Inc. v. Ergotron* case, nor the Court in that case, argued that the term “actuator” is a means-plus-function limitation under 35 U.S.C. § 112, para. 6 or that it was indefinite, as Defendant Howard now argues. *Id.*

meanings of commonly understood words. A review of the '668 and '650 Patents demonstrates that the patentee used the term “actuator” consistent with its plain and ordinary meaning. For example, by starting with the language of the patent claims themselves, it is clear that the patentee claimed the “actuator” broadly in the independent claims (e.g., claim 1 of the '650 Patent) consistent with the plain and ordinary meaning of a “actuator” as a mechanism to activate or control equipment. Ex. C, '650 Patent, claim 1 (claiming “an actuator for controlling the driver”), but see claim 8 (further clarifying that the “in response to the user’s actuation of the actuator, permits gas to flow out of the piston during lowering of the height of the work platform”). *See, also*, Ex. D, '668 Patent, claims 1 and 2. Under legal principles of patent claim differentiation, by claiming the term “actuator” more broadly in independent claim 1, then further clarifying how the actuator controls the gas piston in the dependent claims provides evidence that the independent claims should be more broadly construed.

The description of the '668 and '650 Patents also demonstrates that the patentee used the term “actuator” broadly, consistent with its plain and ordinary meaning. Ex. C, '650 Patent, col. 9:1-4 (describing one example type of actuator - referring to “a button **444** of the actuator **440**”); Figure 9A, 9B, 10B (illustrating the example push-button actuator); '650 Patent, col. 8:52-56 (stating “[t]he driver **430** includes a gas driven piston **432**...The driver is controlled by an actuator **440** to which is connected by a connector **442**”); col. 9:1-38 (similar to a gas driven piston or gas spring in a height-adjustable office chair, the '650 Patent describes pressing the button of the actuator allows the valves of the gas piston (driver) to open to expel from the piston chamber (or inhale air) causing the piston to move up or down. Releasing the actuator allows the valve to close releasably locking the piston in place). Nowhere in these sections of the '650 or '668 Patents does the patentee redefine the term “actuator” as meaning one specific type of actuator (e.g., push-button actuator) or disclaim coverage over other types of actuators (levers, knobs, switches, touch

screens, etc.).

Other Federal District Courts have agreed with Capsa’s proposed definition finding that the term “actuator” is a term with a generally understood plain and ordinary meaning that connotes a general class of structures. *See, e.g., Comcast Cable Communs., LLC v. Sprint Commun., Co., LP*, 38 F. Supp. 3d 589, 605 (E.D. Pa. 2014) (defining the term “actuator” to mean “a mechanism for triggering an action”). In the *Sprint Commun.* case, the Court cited to the dictionary definition of “actuator” for support of its meaning. *Id.* (citing to *The Webster’s Third New International Dictionary of the English Language Unabridged* 22 (2002) (defining “actuator,” as, *inter alia*, “any of the various electric, hydraulic, or pneumatic mechanisms by means of which something is moved or controlled indirectly instead of by hand”). *See, also, IGT v. ALL. Gaming Corp.*, No. 2:04-CV-1676-RCJ-RJJ, 2007 U.S. Dist. LEXIS 104265, at *27-29 (D. Nev. May 9, 2007) (finding “actuator” was not indefinite where the patent gave a “button” as an example actuator). In the *ALL. Gaming* case, the Court construed the term “bonus payout actuator” as follows: “A bonus payout actuator is a device, such as a button or switch, used to activate the bonus payout indicator.” *Id.*; *Lutron Elecs, Co. v. Control4 Corp.*, No. 2:06-cv-00401 CW, 2009 U.S. Dist. LEXIS 3562, at *10-11 (D. Utah Jan. 20, 2009) (defining “manual actuator” as “a mechanism, such as a button, knob, or touchscreen sensor, for altering the condition of an electrical device”); *SunRace Roots, Enter. Co., Ltd. V. SRAM Corp.*, 336 F.3d 1298, 1307-08 (Fed. Cir. 2003) (finding the term “shift actuator” should be afforded its plain and ordinary meaning and refusing to limit the term to the specific type of actuator disclosed in the patent description). In all of these cases cited in this paragraph, contrary to the arguments made by Defendant, none of the Courts found the term “actuator” indefinite as the term connotes a well-known class of structures or structural components.

Although extrinsic evidence is not needed to construe the term “actuator” as the term is not

ambiguous in view of the intrinsic evidence, Plaintiff cites to the dictionary definitions that confirm the plain and ordinary meaning of the term as proposed by Capsa. *See, e.g.,* Alan Freedman, *McGraw Hill Computer Desktop Encyclopedia* 11 (9th Ed. 2001) (defining “actuator” as “[a] mechanism that causes a device to be turned on or off, adjusted or moved.”), Ex. L at pg. 7; *Random House Webster's College Dictionary* 14 (2d revised and updated ed. 2000/2001) (defining “actuator” as “to incite or move into action; impel; motivate” or “to put into action”), Ex. L at pg. 11; *McGraw-Hill Dictionary of Scientific and Technical Terms, 6th Edition* (defining “actuator” as “a mechanism to activate process control equipment by use of pneumatic, hydraulic, or electronic signals: for example, a valve actuator for opening or closing a valve to control the rate of fluid flow.”), Ex. L at Pg 15; *Merriam-Webster.com Dictionary, Merriam-Webster*, <https://www.merriamwebster.com/dictionary/actuator>. Accessed 6 Apr. 2023 and 24 May 2023 (defining “actuator” as “a mechanical device for moving or controlling something.”), Ex. L at pg. 16; *Merriam-Webster.com Thesaurus, Merriam-Webster*, <https://www.merriam-webster.com/thesaurus/actuator>. Accessed 6 Apr. 2023 and 24 May 2023 (“actuator” is synonymous to “levers, knobs, controllers, switches, buttons, dials, push buttons, controls...”), Ex. L at pg. 27.

Plaintiff also cites to the following non-exhaustive list of other U.S. Patents and Patent Applications as confirmation that the term “actuator” refers to a general, known, class of structures or mechanisms to control or activate equipment, e.g., by use of pneumatic, hydraulic, or electronic signals:

- Ex. M U.S. Patent 6,019,429. Fig. 1-3, col. 1:35-48; col. 6:58-col. 10:39.; col. 11:8-16; col. 45-53; col. 12:34-52 (discussing height adjustable chair using a gas driven piston with valve actuator).
- Ex. N U.S. Patent 7,673,942, col. 5:29-42 (use of gas spring chair height driver with

foot pedal actuator “to control the release of the gas spring...”).

- Ex. O U.S. Patent 10,667,612, col. 7:26-56; 10:14-24; col. 13:53-60 (discussing “height adjustment mechanism” as a well-known class of structures and discussing lever or button actuators to control gas driver for chair height, also describes gas cylinder as a gas driven piston).
- Ex. P U.S. Patent No. 6,182,583 (discussing one type of gas spring with lever actuated valve and where the pressurized gas drives the seat up when the actuator is pushed).

All of these patents in the related art cited above, provide concrete evidence that the term “actuator” has a well-understood plain and ordinary meaning in the art as proposed by Plaintiff. Defendant has failed to overcome the presumption that the term “actuator” is not a means-plus-function limitation under 35 U.S.C. § 112, para. 6, because the term “means” is not recited and because the term “actuator” has a well-known structural meaning or connotation. Defendant Howard has failed to meet its burden of proving invalidity (*e.g.*, indefiniteness) of the “actuator” claims, much less by clear and convincing evidence. *Budde v. Harley-Davidson, Inc.*, 250 F.3d 1369, 1376 (Fed. Cir. 2001). The patent examiner who examined the ‘527 Patent certainly didn’t believe the term “actuator” was indefinite when he or she allowed the ‘527 Patent. Defendant Howard has also failed to rebut the heavy presumption that patent claim terms should be construed according to their plain and ordinary meanings. *See also*, Ex. B, Declaration of Ben-Tzvi, paras. 17-24 (confirming the plain and ordinary meaning of “actuator”).

4. “releasably lock:”

Term/Phrase (claims)	Plaintiffs’ Proposed Construction	Defendants’ Proposed Construction
“wherein the height adjustment mechanism is configured to releasably lock	“releasably lock” means to releasably fix or hold in place.	Wherein the height adjustment mechanism secures the work

the work platform at a plurality of heights” / “wherein the height adjustment mechanism is configured to releasably position the work platform at a plurality of heights” (’668 patent (cl. 3, 4) (’650 patent (cl. 1)	The other terms, not otherwise construed herein, should be afforded their plain and ordinary meaning.	platform at a plurality of heights via a biased pin, latch, or other mechanical impediment to movement.
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The parties’ dispute over the meaning of these claim terms/phrase centers around the meaning of “releasably lock” or “releasably position” (as the other terms “height adjustment mechanism” and “work platform” are defined separately). Plaintiff Capsa respectfully submits that its proposed definition is correct as it is consistent with the plain and ordinary meaning of “releasably lock.” Defendant Howard’s definition is incorrect because it is against the plain and ordinary meaning of “releasably lock,” their definition gives no meaning to the term “releasably” (essentially reading it out of the claim), and is vague (it is unclear what the term “mechanical impediment to movement” entails).

As described above when discussing the “height adjustment mechanism” and “driver” terms above, the present invention relates to an ergonomically designed medical cart having a height adjustable work platform. As discussed, in the example embodiment, a user (e.g., nurse) can push the push-button actuator on the cart to activate the driver (e.g., gas driven piston) of the height adjustment mechanism to adjust the height of the work platform up or down. As described, the user can release the actuator and lock/position the work platform at the preferred height. If the user wants to reposition or adjust the height, the user again engages the actuator which releases air internal gas pressure allowing the user to again move the work platform to another desired height. In other words, the user can releasably lock or position the work platform at various heights depending on the preferred height for each user. Plaintiff Capsa’s proposed definition of

“releasably lock” to mean “releasably fix or hold in place” is consistent with the patent description and the customary and ordinary meaning of the term.

A review of the intrinsic evidence demonstrates the meaning of this term is readily apparent and the claim interpretation in this case involves little more than the application of widely accepted meanings of commonly understood words. A review of intrinsic evidence of the '668 and '650 Patents demonstrates that the patentee used the term “releasably lock/position” consistent with its plain and ordinary meaning. For example, by starting with the language of the patent claims themselves, it is clear that the patentee claimed these terms broadly in the independent claims. *See*, '668 Patent, claims 3, 4; '650 Patent, claim 1 (reciting that the driver is configured to “releasably lock/position” the work platform but not including specific types of locks, pins or latches in the claims or detail on how the locking is accomplished).

The description of the '668 and '650 Patents also demonstrates that the patentee used the term “releasably lock/position” broadly consistent with its plain and ordinary meaning. Ex. C, '650 Patent, col. 6:20-23, Figure 3C (discusses releasably locking or holding the work surface in position to prevent it from sliding); col. 9:11-38 (discussing the releasably locking of the example gas driven piston using internal gas pressure); col. 10:1-22 (discusses the releasable connection to a medication module); col. 12:39-67, col. 13:1-29 (discussing using an example locking mechanism **170** to releasably lock the nested medication modules). Nowhere in these sections of the '650 or '668 Patents does the patentee redefine the term “releasably lock/position” as meaning one specific type of lock (e.g., pin or latch) or disclaim coverage over other types of lock methods (e.g., as discussed in the '650 Patent, gas driven pistons do not use pins or latches but use internal gas pressure, and the balancing thereof, to releasably lock/position the piston in place).

Other Federal District Courts have agreed with Capsa’s proposed definition finding that the term “releasably lock/position” is a term with a generally understood plain and ordinary

meaning that connotes a general class of structures. *See, e.g., Mad Catz Interactive, Inc. v. Razer USA, Ltd.*, No. 3:13-cv-2371-GPC-JLB, 2015 U.S. Dist. LEXIS 83532, at *19 (S.D. Cal. June 25, 2015) (finding the term “releasably lock” should be afforded its plain and ordinary meaning and refusing to limit the term to one specific type of frictional lock described). Other Federal Courts have construed the term “lock” according to its plain and ordinary meaning and refusing to limit “lock” to a specific type of lock described in the patent. *See, e.g., Smarte Carte Inc. v. Innovative Vending Sols., LLC*, No. 1:19-cv-08681-NLH-AMD, 2023 U.S. Dist. LEXIS 32905, at *42 (D.N.J. Feb. 28, 2023) (construing “locking system” under its broad plain and ordinary meaning and refusing to limit to the specific solenoid lock described in the patent especially where claim differentiation evidences an intent for a broader meaning); *Worldwide v. Rapid-Eps Ltd.*, No. 3:17-CV-0055-K, 2018 U.S. Dist. LEXIS 234462, at *14-15 (N.D. Tex. May 29, 2018 (refusing to limit “locking mechanism” to specific examples of pins, screws, rods. etc.); *Leupold & Stevens, Inc. v. Lightforce USA, Inc.*, No. 3:16-cv-01570-HZ, 2018 U.S. Dist. LEXIS 15713, at *40-41 (D. Or. Jan31, 2018) (defining “locking mechanism” broadly to mean “a mechanism for securing a structure in position”).

Although extrinsic evidence is not needed to construe the term “releasably lock/position” as the term is not ambiguous in view of the intrinsic evidence, Plaintiff cites to the dictionary definitions that confirm the plain and ordinary meaning of the term as proposed by Capsa. *See, e.g., “Lock:”* 2(b): to fix in a particular situation or method of operation, 3(a): to make fast, motionless, or inflexible especially by the interlacing or interlocking of parts, Ex. L at pg. 39, *Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/lock>*. Accessed 5 Apr. 2023 and 24 May 2023; “Lock”: to become fastened, fixed, or interlocked, Ex. L at pg. 54, <https://www.dictionary.com/browse/lock>; “Releasability:” The quality or state of being releasable, Ex. L at pg. 62, *Merriam-Webster.com*

Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/releasability>. Accessed 13 Apr. 2023 and 24 May 2023.

The intrinsic and extrinsic evidence discussed above provide concrete evidence that the term “releasably lock/position” has a well-understood plain and ordinary meaning in and that the term is not limited to any specific type of locking mechanism (e.g., pins and latches). See also, *See, also*, Ex. B, Declaration of Ben-Tzvi, paras. 27-28 (confirming the plain and ordinary meaning of “releasably lock/position”). Based on the foregoing, Plaintiff respectfully submits that “releasably lock/position” is correctly defined as “to releasably fix or hold in place” as the definition is consistent with the plain and ordinary meaning of the term as understood to one of ordinary skill in the art. Defendant Howard has failed to rebut the heavy presumption that patent claim terms should be construed according to their plain and ordinary meanings.

5. “work platform:”

Term/Phrase (claims)	Plaintiffs’ Proposed Construction	Defendants’ Proposed Construction
“work platform” (’668, cl. 3, 4) (’650, cl. 1, 2, 6, 8)	A height adjustable set of components for facilitating work configured to be raised and lowered together.	Plain and ordinary meaning

Plaintiff Capsa submits that the term “work platform” should be construed because the term “work platform” is not as commonly used as some of the other terms discussed and it would be helpful to a jury to understand the scope of the term by providing a definition. Also, there are multiple possible meanings for this term that requires clarification by resort to the intrinsic evidence. Initially, Plaintiff again notes that Defendant Howard has not adopted the definition of “work platform,” as construed by the District Court for the Western District of North Carolina (hereinafter W.D.N.C.) in the previous case of *Rubbermaid Inc. v. Ergotron, Inc.*, No. 3:12-cv-416, *See*, Ex. A, Memorandum of Decision and Order (W.D.N.C. March 11, 2014). In that vacated

order, the District Court for the W.D.N.C. construed the term “work platform” as a “height adjustable set of components configured to be raised and lowered together.” Ex. A, at pgs. 4-5. Again, Defendant Howard’s citation to the vacated order should be disregarded as they merely rely on the vacated order for select claim terms while taking contrary positions to other definitions from the vacated order.

A review of the intrinsic evidence demonstrates that Capsa’s definition properly defines the term “work platform” as one of ordinary skill in the art would understand the term. For example, by starting with the language of the patent claims themselves, it is clear that the patentee claimed the “work platform” broadly in the independent claims. Ex. D, ‘668 Patent, cl. 3, 4; Ex. C, ‘650 Patent, claims 1, 9, 12, 13 (reciting that the “work platform” is comprised of various components for facilitating work such as a work surface, at least one compartment, moveable platform (added in claim 9), and reciting that the claimed height adjustment mechanism adjusts the height of the work platform and releasably locks/positions the work platform at a plurality of heights).

The description of the ‘668 and ‘650 Patents also demonstrates that Capsa’s definition properly defines the term “work platform” as one of ordinary skill in the art would understand the term. In other words, consistent with Plaintiff Capsa’s proposed definition, the description of the ‘650 and ‘668 Patents demonstrate that the patentee intended the “work platform” to be a set of components for facilitating work that are configured to be raised and lowered together. Ex. C, ‘650 Patent, Figures 1 and 7 (depicting one example of the work platform with work surfaces and compartment(s)); col. 4:30-37 (describing one example embodiment of a work platform and that all of the items that make up the work platform can be ergonomically accessed because they are raised and lowered as part of the work platform); col. 7:28-32, col. 8:15-22; col. 8:25-28, col. 9:32-38 (again stating that the work platform, including the compartments, move up and down

together¹⁰). Based on the foregoing, Plaintiff respectfully submits that “work platform” is correctly defined as “a height adjustable set of components for facilitating work configured to be raised and lowered together” as the definition that one of ordinary skill in the art would understand as the meaning of the term based on a review of the intrinsic evidence. *See also*, Ex. B, Declaration of Ben-Tzvi, para. 29 (confirming the meaning of “work platform” as proposed by Plaintiff).

6. “movable platform:”

Term/Phrase (claims)	Plaintiffs’ Proposed Construction	Defendants’ Proposed Construction
“movable platform” (’650 patent (cl. 6))	Plain and ordinary meaning Or in the alternative: A substantially flat raised area or structure that can move.	Movable surface at the top of the cart.

The parties have submitted competing definitions for the term “moveable platform,” however, Plaintiff’s Capsa’s proposed definition is more accurate because a “platform” is not the same thing as a “surface” as set forth by Defendant Howard’s proposed definition. Defendant Howard’s proposed definition of “movable platform” is also improper as it reads in a specific location that the “movable platform” must be found – “at the top of the cart.” Where the “movable platform” is located is an extraneous limitation of one example embodiment of the movable platform described in the patent, but there is no evidence that the patentee redefined the term “movable platform” as necessarily being at the top of the cart as urged by Defendant.

A review of intrinsic evidence of the ’668 and ’650 Patents demonstrates that the patentee used the term “movable platform” consistent with its plain and ordinary meaning, or to mean “a substantially flat, raised area or structure that can move.” For example, by starting with the

¹⁰ Similar to a platform construction workers stand on to move up and down.

language of the patent claims themselves, it is clear that the patentee claimed these terms broadly in the independent claims. The term “movable platform” was added to the claims in dependent claim 6 of the ’650 Patent. Ex. C, ’650 Patent, cl. 6 (reciting “[t]he cart of claim 1, wherein the work platform further comprises a movable platform configured to move in at least one of the forward direction and the rearward direction.”); cls. 9, 12, 13 (claiming the “movable platform” separately from the “work surface.”) Thus, the claim themselves do not redefine the term “movable platform” as being equated to a “surface” or that it must be located “at the top of the cart” as required by Defendant Howard’s proposed definition.

The description of the ’668 and ’650 Patents also demonstrates that the patentee used the term “movable platform” broadly, consistent with its plain and ordinary meaning as set forth in Plaintiff’s proposed definition. Ex. C, ’650 patent, Fig. 1, 2A, 2B, 4A (describing one example movable platform **370** (e.g., laptop platform that moves from forward to back) separate from work surface **350** (that moves from side to side); col. 4:30-col. 5:51; col. 8:15-28. The example laptop platform or tray is more than just a “surface” - it is a structure that has a body, edges and a bottom as well.¹¹

Based on the foregoing, Plaintiff respectfully submits that “movable platform” should be afforded its plain and ordinary meaning, or, alternatively, as “a substantially flat raised area or structure that can move” as the definition that one of ordinary skill in the art would understand as the meaning of the term based on a review of the intrinsic evidence. *See* dictionary definitions cited for “platform” in the discussion below for the ’527 Patent (defining “platform” as a “raised

¹¹ Similar to the ’650 Patent, the ’016 Patent-at-issue refers to the “platform 106” separately from its “work surface 108,” again providing evidence that “platform” is not equated to “surface” as urged by Defendant in its proposed definition of “moveable platform. Ex. H, ’016 Patent, Figure 1.

structure that has a flat surface where people....do work”)¹²; Ex. B, Declaration of Ben-Tzvi, para. 30 (confirming the meaning of “movable platform” as proposed by Plaintiff upon a review of the intrinsic evidence).

7. “work surface:”

Term/Phrase (claims)	Plaintiffs’ Proposed Construction	Defendants’ Proposed Construction
“work surface” (’668 patent (cl. 3, 4) (’650 patent (cl. 1)	Plain and ordinary meaning	A curved surface at the top of a cart large enough to dispense medication or hold work papers.

The key dispute for the Court to decide in defining the term “work surface” is whether the plain and ordinary meaning should apply or has the patentee clearly redefined the term “work surface” as one specific type of “curved” work surface described in the Patents-at-issue as argued by Defendant Howard. The review of the intrinsic evidence demonstrates the meaning of this term is readily apparent and this term does not need construction as a jury would not have trouble understanding these commonly used words. *Acceleration Bay LLC v. Activision Blizzard, Inc.*, Civil Action No. 16-453-RGA, 2017 U.S. Dist. LEXIS 209057, at *17-18 (D. Del. Dec. 20, 2017). A “work surface” is just what it sounds like – a surface for doing work – there is no need to further define this term, much less redefine it to the specific shape and size work surface recited in Defendant’s proposed definition (*i.e.*, “curved,” “located at the top of the cart,” and “large enough to dispense medication or hold work papers”).

Plaintiff Capsa’s submits that the plain and ordinary meaning of the term “work surface” should be applied while Defendant Howard redefines the term “work surface” and narrowly limits it to one specific type of work surface. There are various reasons why Howard’s proposed definition

¹² This definition does not equate a “platform” to a “surface” as urged by Defendant’s proposed definition.

is incorrect:

1. it redefines the term “work surface” as a specific type of work surface even though there is no evidence, much less clear evidence, that the patentee redefined the term to mean only this one specific type of work surface or disclaimed coverage over other types of work surfaces having non-curved shapes;
2. Howard’s definition violates established principles of claim construction by limiting the term “work surface” to one example embodiment described in the patent.
3. Howard’s definition violates the principles of claim differentiation (e.g., because dependent claim 7 of the ’650 Patent clarifies that the “work surface” recited in claim 1 can be a work surface that moves in an arcuate path, the “work surface” recited in claim 1 should not be construed narrowly as being limited to a curved work surface as argued by Defendant).

A review of the intrinsic evidence demonstrates the meaning of this term is readily apparent and the claim interpretation in this case involves little more than the application of widely accepted meanings of commonly understood words. A review of the ’668 and ’650 Patents demonstrates that the patentee used the term “work surface” consistent with its plain and ordinary meaning. For example, by starting with the language of the patent claims themselves, it is clear that the patentee claimed the “work surface” broadly in the independent claims (e.g., claim 1 of the ’650 Patent) consistent with the plain and ordinary meaning of a “work surface.” Ex. C, ’650 Patent, claim 1 (claiming a “work surface” as part of the work platform and that it can move from an extended position to a non-extended position), but see claim 7 (further clarifying that the “work surface” of claim 1 moves in an arcuate path). Nowhere in independent claim 1 does it state that the “work surface” is “curved” or “large enough to dispense medication or hold work papers” yet Defendant Howard attempts to read these limitations into their proposed definition of “work surface.” In fact,

independent claim 1 of the '650 Patent is completely silent as to the shape or size of the “work surface.”

The description of the '668 and '650 Patents also demonstrates that the patentee used the term “work surface” broadly, consistent with its plain and ordinary meaning. Ex. C, '650 patent, Fig. 1, 2A, 2B, 4A (describing one example movable platform **370** (e.g., laptop platform that moves in and out) separate from work surface **350**; col. 6:14-20; col. 4:21-22; 41-44; 52-59; col. 14:5-17 (stating that the invention is not restricted to the described embodiments in the patent and that the claims define the invention); col. 5:42-44 (discussing secondary work surface **379** that is exposed when the laptop platform is pushed out). Further evidence that the term “work surface” should not be limited to the specific curved work surface disclosed in the patent is provided by reference to the “secondary work surface **379**” as show in Figure 2A. This secondary “work surface” as recited in claim 16 of the '650 Patent for example, is not a curved work surface at all. Thus, the intrinsic evidence of the '650 Patent itself provides evidence that all “work surfaces” do not have to be curved. Ex. C, '650 Patent, col. 16:27-28 (claim 16 reciting a “secondary work surface” referenced in the patent by numeral **379** in Figure 2A); Fig. 1, 2A; col. 1:46-47; Ex. Q, Provisional App. 60/448,920, at 9-11 (provisional application the '650 Patent claims priority to, describing a non-curved work surface). Nowhere in these sections of the '650 or '668 Patents does the patentee, clearly or otherwise, redefine the term “work surface” as meaning one specific type of work surface (e.g., curved) or disclaim coverage over other types of work surfaces (e.g., non-curved or work surfaces with other shapes). Defendant Howard has failed to rebut the heavy presumption that patent claim terms should be construed according to their plain and ordinary meanings.

There is no evidence in the intrinsic evidence, much less clear evidence, demonstrating that the patentee redefined the term “work surface” to mean one particular type of work surface

(“curved” and “large enough to dispense medication or hold work papers”) or disclaimed coverage over other types of work surfaces of different shapes and sizes. Defendant Howard has failed to rebut the heavy presumption that patent claim terms should be construed according to their plain and ordinary meanings, and has failed to overcome the presumption of claim differentiation. *See, e.g., Esco Grp. LLC v. Deere & Co.*, No. 20-1679-RGA-JLH, 2022 U.S. Dist. LEXIS 63566, at *12-13 (D. Del. Apr. 6, 2022) (refusing to limit the term “front surface” to an oval shape even though the embodiments described in the patent were limited to an oval-shape and the patent touted the benefits of an oval-shape surface). *See also*, Ex. B, Declaration of Ben-Tzvi, paras. 31-34 (confirming the meaning of “work surface” as proposed by Plaintiff upon a review of the intrinsic evidence).

8. “wherein the work surface is movable:”

Term/Phrase (claims)	Plaintiffs’ Proposed Construction	Defendants’ Proposed Construction
“wherein the work surface is movable” (’650 patent (cl. 1))	Plain and ordinary meaning	Wherein the curved surface near the top of the cart large enough to dispense medication or hold work papers moves along a curved path toward the user.

The parties’ proposed definitions for this term poses the same issues as the term “work surface” discussed above. Defendant Howard argues for essentially the same definition as proposed for the term “work surface” - e.g., that it be “curved” and “large enough to dispense medications or hold work papers.” For the same reasons provided above for the term “work surface,” Plaintiff respectfully submits that the plain and ordinary meaning of this term/phrase should apply and a no construction is necessary as a jury would have no problem understanding the scope of this term/phrase. The term/phrase “wherein the work surface is movable” means exactly what it says and there is no further need to define it for a jury.

9. “compartment(s):”

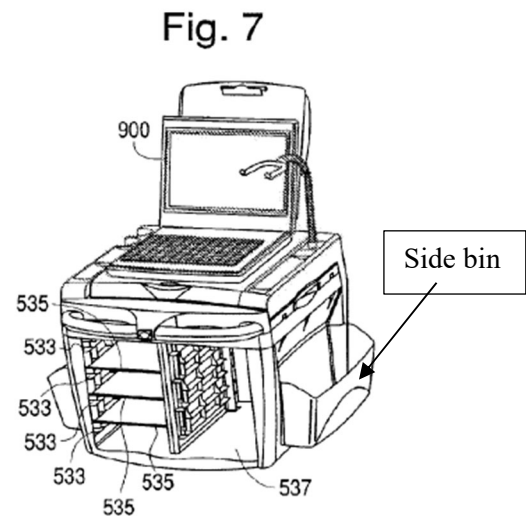
Term/Phrase (claims)	Plaintiffs’ Proposed Construction	Defendants’ Proposed Construction
“compartment(s)” (’668 patent (cl. 3, 4) (’650 patent (cl. 1, 5)	An enclosed space for containing an item.	A small chamber, receptacle, or container.

Plaintiff Capsa’s definition of “compartment” is more accurate as it is more consistent with the plain and ordinary meaning of the term “compartment” as it used in the intrinsic evidence (e.g., claims and description of the ’650 and ’668 Patents). Defendant Howard’s definition is imprecise and vague as it is unclear what a “small” chamber is and does not distinguish between types of containers that are enclosed (compartments) and other kinds of unenclosed containers discussed in the patent. When there are multiple possible ordinary meanings for a claim term or when the definition of the term may be disputed by the parties and become dispositive to the issue of infringement or validity of the patent, the term should be construed by the Court (not they jury). Thus, the term should be construed to clarify the most consistent ordinary meaning in view of the specification and claims. *AstraZeneca AB v. Mylan Pharms. Inc.*, Case No. 21-1729 (Fed. Cir. Dec. 8, 2021). Plaintiff Capsa is not redefining the term “compartment” to mean an enclosed space – Capsa is merely selecting the most consistent plain and ordinary meaning based on the intrinsic evidence.

The intrinsic evidence (e.g., claims and patent description), demonstrates that the claimed “compartment” does not merely refer to any generic type of storage space. Rather, the ’650 Patent makes clear that the claimed compartment, the intended use of which is safe medication storage, is a container that is enclosed when inserted into the work platform of which it forms a part. The ’650 Patent specifically distinguishes this claimed compartment from unenclosed storage spaces such as bins and cup holders.

First, starting with the claim language itself, the recited claims of the '650 and '668 Patents make it clear that Plaintiff's proposed definition aligns with the most consistent plain and ordinary meaning of "compartment" in view of the claim language. For example, many of the claims of the '650 and '668 Patents recited that the compartment are "for containing an item" providing evidence that a "compartment" is an enclosed space and not some other type of storage space such as a shelf. Ex. C, '650 Patent, cl. 1.

The description of the '668 and '650 Patents also demonstrates that the patentee used the term "compartment" consistent with its plain and ordinary meaning of an enclosed space as proposed by Plaintiff Capsa. For example, the description of the '650 and '668 Patents repeatedly contrast the claimed "compartment" from unenclosed storage spaces. Ex. C, '650 patent, Figures 1, 7, 8 (showing compartments **530** as pull-out enclosure-type containers or drawers); col. 3:14-15; 33-37; col. 4:30-34 (expressly distinguishing the "compartment" from other unenclosed storage spaces such as top bins **342**, side bins **520**, cup holders **344**, barcode scanner holder); col. 2:38-39 (stating that the work platform "houses the at least one compartment"); col. 7:33-36 (describing that the plurality of compartments allow nurses to securely hold medication for patients); col. 8:6-11. As another example, the patentee explicitly describes Figure 7 as a medical cart "without compartments" yet the side bin 520 storage unit is shown as part of the medical cart in Figure 7. *Id.* at col. 3:33-35.



Although extrinsic evidence is not needed to construe the term "compartment" as the term is not ambiguous in view of the intrinsic evidence, Plaintiff cites to the dictionary definitions that confirm the plain and ordinary meaning of the term as proposed by Capsa as an "enclosed" space.

See, e.g., “Compartment: 2. One of the parts into which an enclosed space is divided.” Ex. L at pg. 72, *Merriam-Webster.com Dictionary*, *Merriam-Webster*, <https://www.merriam-webster.com/dictionary/compartment>. Accessed Apr. 2023 and May 2023; Ex. L, pg. 87, *Random House Webster’s Unabridged Dictionary* 2183 (2d ed. 2001) (defining “within” as “4. inside an enclosed place, area, room, etc.” or “6. in or into the interior of or the parts or space enclosed by”).

Based on the foregoing, Plaintiff respectfully submits that “compartment” should be afforded its plain and ordinary meaning, or as “an enclosed space for containing an item” as the definition that one of ordinary skill in the art would understand as the meaning of the term based on a review of the intrinsic evidence. See, e.g., *Richmond v. Forever Gifts, Inc.* (Tex.), No. 3:14-CV-0583-K, 2015 U.S. Dist. LEXIS 68809, at *25 (N.D. Tex. May 27, 2015) (defining “battery compartment” as an “*enclosure* for holding a cell or cells that furnish electricity”) (emphasis added).

10. “at least one compartment,” “disposed above the compartment(s)”/“disposed above a top of the at least one compartment:”

Term/Phrase (claims)	Plaintiffs’ Proposed Construction	Defendants’ Proposed Construction
“at least one compartment” (’650 patent (cl. 1))	Plain and ordinary meaning	One or more compartments.
“disposed above the compartment(s)” / “disposed above a top of the at least one compartment” (’668 patent (cl. 3, 4)) (’650 patent (cl. 1))	Plain and ordinary meaning (in view of other proposed definitions)	Above all the one or more compartments.

Plaintiff has grouped these terms/phrases claimed in the ’650 and ’668 Patents together because the construction of all of these terms/phrases are related and boil down to one key issue: does the term “disposed above a top of the *at least one compartment*” mean just what it says, or does it mean disposed above a top of “*all the one or more compartments*” as Defendant Howard

urges. Plaintiff respectfully submits that the terms “the at least one compartment” means just what it says - “the at least one compartment” - and the Patentee has not redefined these terms to mean *all* the compartments as urged by Defendant. If the Patentee intended to claim the invention to require the phrase “disposed above a top of the at least one compartment” to mean to be disposed over “all” the compartments, the Patentee could have used the words “all” or “each of a plurality of compartments” in the claims but did not.

The Federal Circuit addressed this exact question in *Howmedica Osteonics Corp. v. Wright Medical Technology, Inc.*, and rejected the construction urged by Defendant Howard here—i.e., that “the [at least one]” means “all.” 540 F.3d 1337, 1347, 1352 (Fed. Cir. 2008) (brackets in original). Instead, the court correctly held that the plain language of a claim requiring “at least one” condylar element and then imposing geometric requirements for “the condylar element” means that “only one condylar element meeting the geometric limitations of the claim is required.” *Id.* at 1347. The parties in *Howmedica* agreed that, as used in the claims, “‘the condylar element’ is shorthand for ‘the [at least one] condylar element,’” *Id.* at 1352 (alteration in original).

The intrinsic evidence also supports Plaintiff’s proposed definition of the plain and ordinary meaning of the term “at least one.” The ’650 Patent never redefines the phrase “the at least one” as “all.” To the contrary, the claims recite that the work platform has “at least one compartment.” Ex. C, ’650 Patent, claims 1 and 9 (clearly indicating that only one compartment is necessary). The claims then require that the work surface (and, in the case of claim 9, the movable platform) be “disposed above a top of the at least one compartment.” *Id.* These consistent references to “the at least one compartment” refer back to the one required compartment. *Id.* Thus, claims 1 and 9 themselves unequivocally establish that only one compartment is required, and only that one requisite compartment must be situated below the work surface. This fact is reinforced by dependent claim 14, which recites: “The cart of claim 9, wherein the at least one compartment

comprises a plurality of compartments.” *Id.* at claim 14. Thus, in claim 14, in direct contrast to claims 1 and 9, the inventors did impose a requirement that the work platform have multiple compartments and that multiple compartments meet the claimed spatial limitations. Again, differently worded claims are presumed to have different meanings. By explicitly reciting that the invention have multiple compartments in claim 14, it is improper to narrowly construe other claims such as claims 1 and 9 which only recite “at least one compartment.” Based on claim differentiation principles, it is improper to read the “at least one compartment” to of the independent claim to require multiple compartments when the patentee claimed multiple compartments in a dependent claim. Plugging Defendant’s proposed construction of “the at least one compartment” into dependent claim 14 would result in the nonsensical claim that “all of the one or more compartments comprise more than one compartment.”

Other portions of the ‘650 Patent claims support Plaintiff Capsa’s position. For example, claims 1 and 9 use the phrase “a top of” in the clause “disposed above a top of the at least one compartment.” Ex. C. ‘650 Patent, claims 1, 9 (emphasis added). The singular use of “a top” is consistent with the fact that “the at least one” similarly recites only one required compartment. Defendant’s proposed definition reads the words “a top” out of the claim altogether and gives them no effect. *See Becton, Dickinson & Co. v. Tyco Healthcare Grp., LP*, 616 F.3d 1249, 1257 (Fed. Cir. 2010) (“Claims must be interpreted with an eye toward giving effect to all terms in the claim.”) (citation omitted).

If the inventors of the ‘650 and ‘668 Patents had intended to require that the movable platform and work surface be located above *all* compartments, they would have explicitly written the claim that way. However, that is not what the inventors wrote, nor did they redefine the phrase “at least one” to mean “all” in the specification or prosecution history. Thus, for the same reasons explained in *Howmedica*, this Court should reject Defendant’s argument that “the at least one”

means “all,” and should instead give “at least one compartment,” “the at least one compartment,” and “disposed above a top of the at least one compartment” their plain and ordinary meanings.¹³

11. “drawer slides:”

Term/Phrase (claims)	Plaintiffs’ Proposed Construction	Defendants’ Proposed Construction
“drawer slides” (’668 patent (cl. 3))	Plain and ordinary meaning	Plain and ordinary meaning (i.e., elongate stationary drawer rails and corresponding elongate rail runners configured to support a drawer for sliding movement between a closed position and an open position).

The term “drawer slides” is only recited in asserted claim 3 of the ’668 Patent. In claim 3 of the ’668 Patent, the drawer slides are a part of the claimed height adjustment mechanism. See ’668 Patent, claim 3. As recited in claim 3, the drawer slides are “disposed between the stationary casing and the telescoping casing” and allow them to slide with respect to each other (the drawer slides are not used with drawers in the present invention). Both parties have proposed that this Court adopt the plain and ordinary meaning of the term “drawer slides,” however Defendant submits an alternative definition. However, Plaintiff respectfully submits that Defendant Howard’s alternative definition of the term “drawer slides,” is incorrect as it redefines the term and limits “drawer slides” to one specific type of drawer slide having stationary rails and elongate rail runners.¹⁴ Defendant’s definition is also incorrect as it requires that the drawer slides be

¹³ Again, because a review of the intrinsic evidence unambiguously sets forth the meaning of the term, extrinsic evidence, such as expert testimony, is not properly considered to define the scope of “at least one.” An expert is not needed to provide a definition of a commonly used word that a jury would have no problem understanding.

¹⁴ Even the disclosed, preferred embodiment of the drawer slides described in the ’650 Patent does not have stationary rails as they are described as having moving parts, e.g., bearings. See ’650 Patent, col. 8:29-51.

“configured to support a drawer for sliding movement between a closed position and an open position.” Defendant’s alternative definition would read out or exclude all disclosed embodiments of the invention because the drawer slides as described and claimed in the ’668 Patent are part of the height adjustment mechanism and “disposed between the stationary and telescoping casings” and allow them to slide with respect to each other – the drawer slides used in the medical cart of the ’668 Patent are not configured to support a drawer at all as required by Defendant’s definition. Thus, if Defendant’s proposed definition is adopted, none of the disclosed embodiments of the invention described in the ’668 Patent would infringe claim 3 of the ’668 Patent. Such an outcome is illogical and unsupported.

The term “drawer slides” is commonly known in the art as components that allow a drawer or other connected components to slide in and out relative to each other. There is no need to affirmatively define this term as a jury would understand what this term means from its commonly understood customary and ordinary meaning. Defendant Howard’s definition is incorrect as it is inconsistent with the claims and description (the drawer slides are not used with drawers at all in the invention of the ’668 Patent) and Defendant’s proposed definition reads in limitations from the one specific type of drawer slide described in the patent (*e.g.*, that it must be elongate and have stationary rails). Ex. D, ’668 Patent, col. 8:39-48 (stating that the drawer rails “may be” a “conventional drawer rail” as one example). Defendant’s proposed definition is also vague and raises more questions than it answers (*e.g.*, what is considered “elongate” and “stationary?”). Based on the foregoing, Plaintiff respectfully submits that the Court adopt the plain and ordinary meaning of the term “drawer slides” and submits that Defendant’s alternative definition is improper and incorrect as it limits the term “drawer slides” to one example type of drawer slide and excludes all embodiments of the invention described in the ’668 Patent.

B. Disputed Claim Terms from the '016 Patent:

The '016 Patent relates to an ergonomic mobile workstation cart that can be used by nurses in clinical settings. The inventions claimed in the asserted claims of the '016 Patent relate to a cart for *automatically* adjusting the height of the cart platform (as opposed to the '650 and '668 Patents where the button actuator is pushed or released to adjust the height of the work platform and lock it in place). In other words, the cart of the '016 Patent is configured to automatically adjust to the height saved in the system (as opposed to using the actuator to set the height at the desired height). In other words, in one example, when the user logs into the system of the '016 Patent invention and inputs a user ID, the system retrieves the set preferred height for that user ID and automatically adjusts the height of the platform to the set preferred height (as discussed this set preferred height can be based on the user's actual height or it can be a preferred height input by the user during the setup process). There is only one claim term from the '016 in dispute.

1. “means for automatically adjusting a height of the platform:”¹⁵

This is the only disputed term claimed in “means-plus-function” format. 35 U.S.C. § 112, para. 6. As discussed above in the discussion of the term “actuator” (which Defendant incorrectly alleges is in means-plus-function formation even though “actuator” does not contain the word “means”). Unlike the term “actuator,” the parties are in agreement that the term “means for automatically adjusting a height of the platform” is a means-plus-function term construed under 35 U.S.C. § 112, para. 6. Thus, the only question to resolve is what is the corresponding structure(s) described in the '016 Patent for performing the stated function of “automatically adjusting a height of the platform.” *Id.*

¹⁵ Plaintiff has left out the table of competing definitions of this term in order to conserve space. The definitions for this term are found in the Joint Claim Construction Statement, Dkt. 42-1, Exhibit A, Joint Claim Construction Chart .

Defendant's definition is incomplete and thus inaccurate as it does not list all the structures disclosed in the '016 Patent described for accomplishing the stated function of "automatically adjusting a height of the platform." Particularly, Defendant's definition leaves out the Embodiment 3" structure described in the patent and listed in Plaintiff's definition.¹⁶

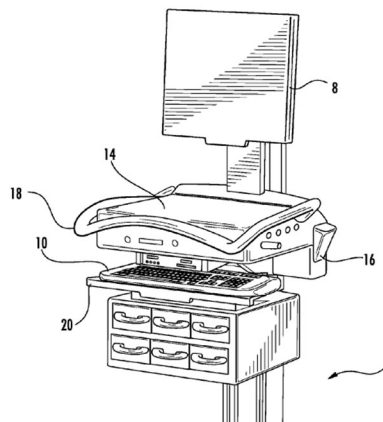
Embodiment 3 structure (from Plaintiff Capsa's proposed definition):

"processor, height adjustment mechanism (where the processor is programmed to retrieve a particular user's stored preferred work platform height when the user selects or instructs the processor to automatically adjust the work platform to the user's preferred height and to control the height adjustment mechanism to automatically adjust the height of the work platform to the user's stored preferred height)."

This "Embodiment 3" listed in Plaintiff's proposed definition, is described in the '016 Patent as one embodiment structure for performing the function of "automatically adjusting the height of the platform." Ex. H, '016 Patent, col. 11:39-46. Defendant's proposed definition is incomplete and inaccurate as it completely leaves out the "Embodiment 3" structure. Based on the foregoing, Plaintiff respectfully submits that Plaintiff's definition is the correct and complete definition under 35 U.S.C. § 112, para. 6.

C. Disputed Claim Terms from the '527 Patent:

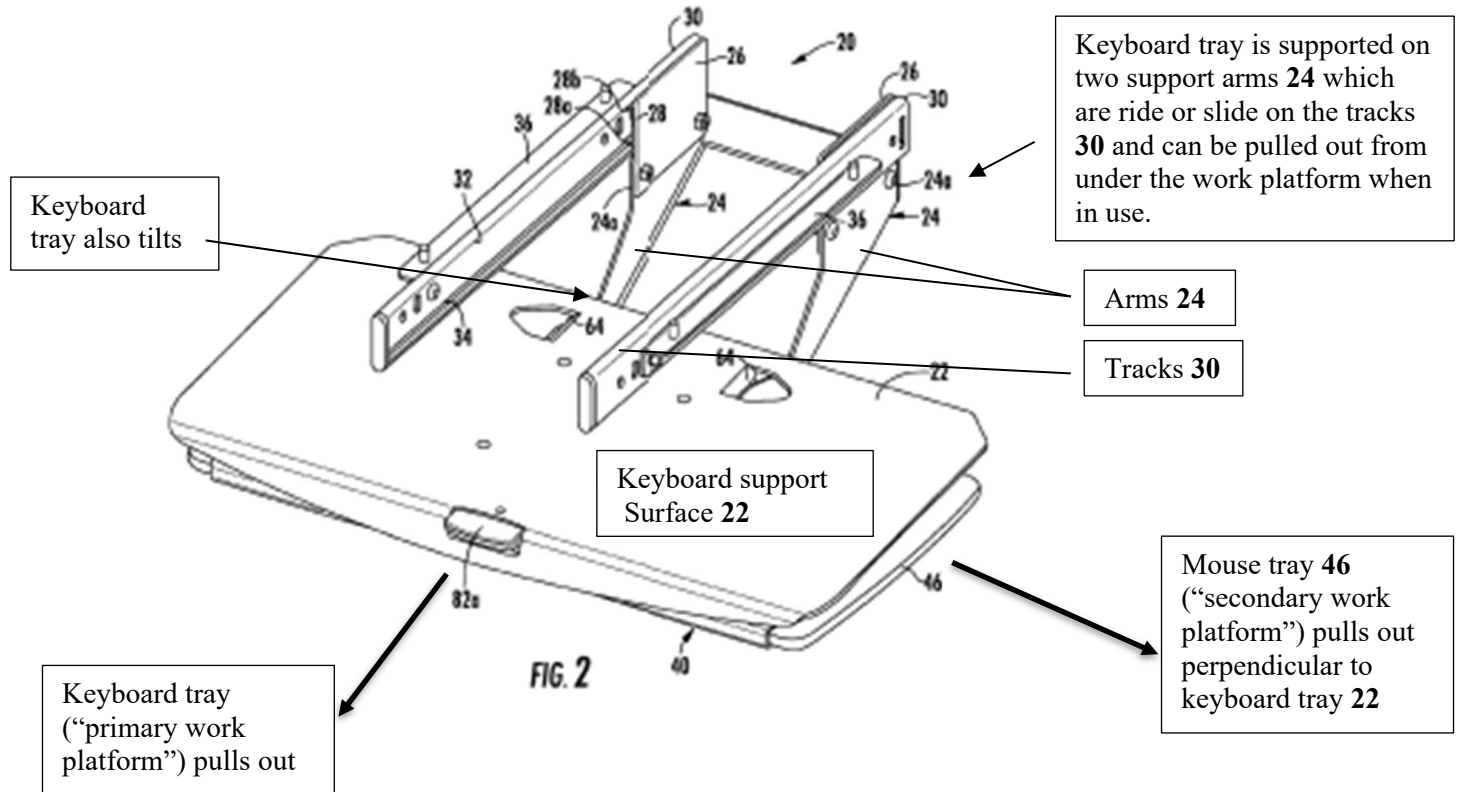
The '527 Patent relates to a medical cart having a "first platform" (e.g., keyboard tray) that tilts relative to a "second platform" (e.g., mouse tray). The keyboard tray is adapted to pulled out for use (and pushed in out of the way when not being used) whereas the mouse tray is configured so that it can be moved (e.g., pulled out) in a direction "substantially perpendicular" to the movement of the keyboard tray. One embodiment of the medical cart



¹⁶ Defendant's proposed definition identifies the described structures of "Embodiment 1" and "Embodiment 2" listed in Plaintiff's definition, however, Defendant's definition completely leaves out "Embodiment 3" described in the '527 Patent.

of the '527 Patent is shown in Figure 1. As illustrated, there is a keyboard tray **20** pivotally mounted under the work platform **14** that also has a pull-out mouse tray. The keyboard and mouse trays can be pulled out for use and pushed back under the work platform when not in use to conserve space.

One example embodiment of the tilting and pull-out keyboard and mouse trays is illustrated in Figure 2 of the '527 Patent (reproduced below). The keyboard tray **20** is comprised of a primary work platform **22** for holding the keyboard. The mouse tray or secondary work platform **46** can be pulled out from under the keyboard tray in a perpendicular direction from the direction the keyboard tray pulls out. See annotated figures from the '527 Patent reproduced below showing undermounted keyboard and mouse trays (arrows showing direction the keyboard tray and mouse tray can pull out).



1. “platform:”

Term/Phrase	Plaintiffs’ Proposed Construction	Defendants’ Proposed Construction
“platform” (’527, cl. 1, 3, 4, 5, 6)	A substantially flat raised area or structure.	Plain and ordinary meaning.

Plaintiff submits that the plain and ordinary meaning of “platform” applies (as does Defendant), but Plaintiff believes “platform” should be defined to clarify to the jury that the term “platform” has a different meaning than “work platform” as used in the ’650 and ’668 Patents.

The first and second “platforms” claimed in the ’527 Patent described in the ’527 Patent can be used to support a keyboard and mouse respectively. The first and second “platforms” claimed in asserted claim 1 is described in the ’527 Patent *separately* from the “work platform 14.” As illustrated in Figure 1, a nurse can place a laptop computer, for example, on this work platform to perform work duties. Thus, unlike the “work platform” of the ’650 and ’668 Patent, the “work platform” of the ’527 Patent refers to a substantially flat raised¹⁷ area or structure of the cart but does not include a collection of components like compartments.¹⁸ Thus, a review of the intrinsic evidence demonstrates the meaning of the term “platform” is used consistently throughout the ’527 Patent according to its plain and ordinary meaning.

Dictionary definitions also support and confirm Capsa’s proposed definition. “Platform”: a flat raised area or structure (raised with respect to the floor), Ex. L, at pg. 89, *Cambridge (on-line) Dictionary*; “Platform”: A usually raised structure that has a flat surface where people or machines do work. Ex. L, at pg. 102, *Britannica (on-line) Dictionary*. *See, also, FlexHead Indus.*

¹⁷ “Raised” refers to being raised off the floor.

¹⁸ Recall from the discussion of the ’650 and ’668 Patents, that the “work platform” described in these patents, unlike the ’527 Patent, were a set of components configured to be raised and lowered together (one embodiment including compartments, work surfaces, barcode scanner holder, and storage bins, etc.). *See, ’650 Patent, col. 30-37.*

V. EasyFlex, Inc., No. 06-11897-DPW, 2008 U.S. Dist. LEXIS 91848, at *50-51 (D. Mass. Nov. 3, 2008) (consistent with Plaintiff's definition, the Court defined "platform" as "a generally raised, flat structure"). Based on the foregoing, Plaintiff respectfully submits that Plaintiff's proposed definition is consistent with the plain and ordinary meaning of "platform" (similar to the definition of "moveable platform" in the '650 and '668 Patents discussed above).

2. "track:"

Term/Phrase	Plaintiffs' Proposed Construction	Defendants' Proposed Construction
"track" ('527, cl. 1, 2, 5)	A mechanical component that another component slides or rolls along.	An elongate guide, supported along its length, for guiding a runner.

As discussed above (describing **Fig. 2**), the '527 Patent describes the keyboard tray may ride on tracks **30** so that a user can slide the keyboard tray out during use. Plaintiff's definition is more accurate and consistent with the plain and ordinary meaning of "track" while Defendant's definition is not consistent with the plain and ordinary meaning as it redefines the term to include a particular shape "elongate," that it be "supported along its length," and that it must guide a "runner."¹⁹ These extraneous limitations are not recited in the claims, but are merely features of one example track described in the '650 Patent, and it is improper to read these limitations into the claims.

Additionally, none of the dictionary definitions of "track" cited by *either* Plaintiff or Defendant limit the term "track" to a certain shape ("elongate") or require that it be "supported along its length" or guide a "runner" as required by Defendant's definition.²⁰ Thus, none of the

¹⁹ Defendant's proposed definition is also vague as it is unclear what elongate is and what "supported along its length" means.

²⁰ Ex. L at pg. 105, "Track: the course along which something moves or progresses." *Merriam-Webster.com Dictionary, Merriam-Webster*, <https://www.merriam-webster.com/dictionary/track>. Accessed 5 Apr. 2023 and 24 May 2023.

cited dictionary definitions, even those cited to by Defendant, support Defendant's proposed definition. *See, also, Norgren Automation Sols., LLC v. PHD, Inc.*, No. 14-cv-13400, 2015 U.S. Dist. LEXIS 132614, at *49-51 (E.D. Mich. June 22, 2015) (finding that "guide track" need not be construed and applied the plain meaning and refusing to limit the term to the specific example "long" and "narrow" track shape and structure described). Based on the foregoing, Plaintiff respectfully submits that Plaintiff's definition is more accurate as it is consistent with the plain and ordinary meaning of "track" as used in the '527 Patent.

3. "arm:"

Term/Phrase	Plaintiffs' Proposed Construction	Defendants' Proposed Construction
"arm" ('527 patent (cl. 1, 2, 6)	A component that projects from a device for supporting or holding another component.	A slender part that projects from a supported end.

Again, as described above (with respect to **Fig. 2**), the arm is described as the part that connects the keyboard tray to the track so that it can slide in and out (e.g., the arms hold or support the keyboard tray). Plaintiff's definition is more accurate and consistent with the plain and ordinary meaning of "arm" while Defendant's definition is not consistent with the plain and ordinary meaning as it redefines the term "arm" to a particular shape ("slender"). It is well known that the term "arm" is used broadly to refer to a projecting component that supports or holds another component (e.g., display "monitor arm" or "arm mount"). "Arm:" a projecting part of a machine or mechanical appliance that often moves up and down or rotates. Ex. L at pg. 123, *Webster's 3rd New International Dictionary, Unabridged*; "Arm:" 2. Something like or corresponding to an arm...6. a support (as on a chair) for the elbow and forearm;" Ex. L at pg.

124, *Merriam-Webster.com Dictionary, Merriam-Webster*, <https://www.merriam-webster.com/dictionary/arm>. Accessed 5 Apr. 2023 and 26 May 2023.

Defendant's definition is vague and contrary to the example arm **24** shown in **Fig. 2** which, from certain perspectives, can be considered fairly wide – not slender. Defendant's proposed definition is over-encompassing (and vague) as it reads on literally any slender component that projects from something (*e.g.*, flag poles, radio or TV antennas, etc.). Plaintiff Capsa's proposed definition is much more precise and it is the plain and ordinary meaning of "arm" that is most consistent with the description of the '650 Patent.

4. "substantially coextensive:"

Term/Phrase	Plaintiffs' Proposed Construction	Defendants' Proposed Construction
"substantially coextensive" ('527 patent (cl. 4)	Plain and ordinary meaning or in the alternative Occupying approximately the same space or period of time.	Dimensioned such that it effectively doubles the work area available to the user when extended.

Dependent claim 4 of the '527 Patent, adds the limitation that the "second platform is substantially coextensive with the first platform." In the described example (*e.g.*, Fig. 2), the mouse tray is substantially coextensive with the keyboard tray as shown (because the mouse tray is housed underneath the keyboard tray and thus occupies approximately the same space). Plaintiff's proposed definition adopts the plain and ordinary meaning²¹ of the phrase "substantially coextensive" while Defendant's definition is improper as it redefines the term and defines it based on a description of one example embodiment in the patent. Additionally, Defendant's proposed

²¹ Ex. L at pg. 132, "Coextensive:" having the same scope or boundaries, occupying the same space or period of time. *Webster's 3rd New Int'l Dictionary, Unabridged*.

definition is improper as it redefines the term “substantially coextensive” as a result of what happens when a user extends the mouse tray (“second platform”) out from under the keyboard tray (“first platform”). It is improper to redefine the term “substantially coextensive” based on a result of doing some action. Defendant Howard has failed to rebut the heavy presumption that patent claim terms should be construed according to their plain and ordinary meanings.

V. Conclusion

For the foregoing reasons, Plaintiff Capsa respectfully submits that Capsa’s proposed claim constructions should be adopted as they are most consistent with the intrinsic evidence and the plain and ordinary meanings of the terms.

RESPECTFULLY SUBMITTED, this the 26th day of May, 2023.

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