

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

SRAM, LLC	)	
	)	
Plaintiff,	)	Civil Action No. 1:23-cv-00492-SCJ
	)	
v.	)	
	)	
FOX FACTORY, INC.	)	
	)	
Defendant.	)	

JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to Patent L.R. 6.3 and this Court’s July 2, 2024 Order (Doc. No. 36), the Parties submit their Joint Claim Construction Statement for the patents-in-suit, namely, United States Patent No. 10,328,993 B2 (“the ‘993 Patent”) and United States Patent No. 7,147,207 B2 (“the ‘207 Patent”).

FOX requests the Court to construe three terms from the ‘993 and ‘207 Patents.

SRAM does not believe any claim construction is necessary because these three terms have a plain and ordinary meaning. However, to the extent that the Court deems construction of these terms to be necessary and appropriate, SRAM has provided restatements of the terms. FOX understands SRAM’s request for “restatements of the terms” to be a request for claim construction by another name.

The Parties agree that all other claims terms in the ‘993 and ‘207 Patents should be given their plain and ordinary meaning.

I. Joint Disputed Claim Construction Chart

The Parties have attached hereto as Exhibit A their Joint Disputed Claim Construction Chart identifying disputed claim terms from the ‘993 and ‘207 Patents, along with each Party’s proposed construction with citations to supporting intrinsic and extrinsic evidence.

II. Anticipated Length of Time for Claim Construction Hearing

SRAM expects that its portion of the Claim Construction hearing will take no longer than one hour, with approximately 30 minutes for its expert’s testimony (if the Court wishes to entertain live testimony) and 30 minutes for argument. FOX expects its portion of the Claim Construction Hearing to take 1.5 hours, including time for expert testimony.

III. Witness Testimony at Claim Construction Hearing

SRAM:

SRAM does not believe that live expert testimony is necessary for the claim construction hearing, in that the testimony offered will be substantially the same as the testimony offered through declarations in support of its claim construction positions. To the extent the Court wishes to entertain live testimony, SRAM may call SRAM’s technical expert, Dr. T. Kim Parnell, to testify regarding his opinions

as a person of ordinary skill in the art at the time of the patented inventions on the meaning and/or scope of the identified claim terms, as well as on the issue of the definiteness of claim terms. Dr. Parnell will also opine on FOX's proposed constructions and evidence offered by FOX in support thereof.

For the claim limitation "vertical plane of travel of the bicycle"/"plane of travel" in claims 1, 61, and 64 of the '993 Patent, Dr. Parnell will testify about the meaning of these phrases from the perspective of a person of ordinary skill in the art at the time of the '993 Patent invention. For example, Dr. Parnell will testify that the claim term is clearly associated with the running direction of the related bicycle.

For the claim limitation "a thickness of the wall at any point in the lower section of the body varying as a function of the cross-sectional angle of the point relative to the plane of travel, the wall thickness being at a maximum in the plane of travel of the bicycle" in independent claims 1, 61, and 64 of the '993 Patent, Dr. Parnell will testify about the meaning of the phrase from the perspective of a person of ordinary skill in the art at the time of the '993 Patent invention. For example, Dr. Parnell will testify that the claim term refers to the continuous changing of the wall thickness along the cross-section of the lower section from the thickest portion corresponding with the running direction of the bicycle to the thinnest portion corresponding to the direction orthogonal to the bicycle's running direction.

In addition, Dr. Parnell will explain that a person of ordinary skill in the art would be readily able to determine with reasonable certainty the meaning and scope of this claim term from the '993 Patent. Moreover, Dr. Parnell will explain that the meaning of the phrase “a function of the cross-sectional angle of the point relative to the plane of travel” is easily understood by one skilled in the art and that the metes and bounds of the claim phrase is set forth with reasonable certainty.

For the claim limitation “adjusting the damping characteristics corresponding to at least one of the positions of the valve actuating assembly independently of the damping characteristics corresponding to another position of the valve actuating assembly” in claim 1 of the '207 Patent, Dr. Parnell will testify about the meaning of the term from the perspective of a person of ordinary skill in the art at the time of the '207 Patent invention. For example, Dr. Parnell will testify that the claim phrase refers to the independent operations of two positions of the valve actuating assembly.

In addition, Dr. Parnell will explain that a person of ordinary skill in the art would be able to determine with reasonable certainty the meaning and scope of this claim term from the '207 Patent. For example, Dr. Parnell will explain that the '207 Patent clearly contemplates embodiments having two or more positions of the valve actuating assembly. Further, Dr. Parnell will testify that the plain meaning of the claims does not preclude multiple positions being adjusted, and further that a person of ordinary skill in the art would not find the '207 Patent's claims or specification to

be limited to only adjusting a single position. Moreover, Dr. Parnell will explain that the meaning of the this claim term is easily understood by one skilled in the art and that the metes and bounds of the claim term is set forth with reasonable certainty FOX:

FOX intends to call FOX's technical expert, Dr. Alexander Slocum, to testify on the meaning and/or scope of the identified claim terms, support in the intrinsic record (or lack thereof), and the indefiniteness issues. If SRAM provides its own constructions for the claim terms identified above, Dr. Slocum will also opine on SRAM's proposed constructions and evidence offered by SRAM in support of its constructions. Dr. Slocum will further opine on SRAM's implicit claim constructions for each of the identified claim terms in its filings before the Patent Trial and Appeal Board (PTAB) in response to FOX's *inter partes* review petitions.

For the claim limitation "a vertical plane of travel of the bicycle"/"plane of travel" in claims 1, 61, and 64 of the '993 patent, Dr. Slocum will testify about the meaning of the term from the perspective of a person skilled in the art in view of the intrinsic record.

For the claim limitation "a thickness of the wall at any point in the lower section of the body varying as a function of the cross-sectional angle of the point relative to the plane of travel, the wall thickness being at a maximum in the plane of travel of the bicycle" in independent claims 1, 61, and 64 of the '993 patent,

Dr. Slocum will also provide his opinion that the meaning and scope of this limitation cannot be determined with reasonable certainty by a person skilled in the art. Specifically, Dr. Slocum will explain that a person skilled in the art would not be able to reasonably determine, based on the claim language and/or the specification, whether the wall thickness of the steerer tube body must vary continuously or linearly throughout the cross-section of tube body, or whether the thickness must vary at only two or more points (not continuously) on an inner cross-section of the tube body. Moreover, Dr. Slocum will explain that the meaning of the phrase “a function of the cross-sectional angle of the point relative to the plane of travel” is unclear and cannot be reasonably understood by one skilled in the art.

For the claim limitation “adjusting the damping characteristics corresponding to at least one of the positions of the valve actuating assembly independently of the damping characteristics corresponding to another position of the valve actuating assembly” in claim 1 of the ‘207 patent, Dr. Slocum will explain that the meaning and scope of this limitation cannot be determined with reasonable certainty by a person skilled in the art. Specifically, Dr. Slocum will explain that in the case of a device having three or more adjustment positions of the valve actuating assembly, a person skilled in the art would not be able to reasonably understand or determine whether adjustment of damping characteristics in one position leaves the damping characteristics of each of the other positions unaffected, or whether adjustment of

damping characteristics in one position leaves the damping characteristics of only one or some (but not all) of the other positions unaffected. Alternatively, Dr. Slocum will opine that to clarify the meaning and scope of the limitation, it should be construed to mean that when the damping characteristics corresponding to one of the positions of the valve actuating assembly is adjusted, the damping characteristics corresponding to all other positions of the valve actuating assembly remain unaffected, and how this construction is supported by the intrinsic record.

Respectfully submitted this 8th day of July, 2024

By: /s/ Holmes J. Hawkins III

Holmes J. Hawkins III
Georgia Bar No. 338681
KING & SPALDING, LLP
1180 Peachtree Street, NE, Suite 1600
Atlanta, Georgia 30309
Telephone: (404) 572-4600
Email: HHawkins@KSLAW.com

Richard B. Walsh, Jr. (*pro hac vice*)
Michael J. Hickey (*pro hac vice*)
Sarah A. Milunski (*pro hac vice*)
LEWIS RICE LLC
600 Washington Ave., Suite 2500
St. Louis, Missouri 63101
Telephone: (314) 444-7600
Email: rwalsh@lewisrice.com
mhickey@lewisrice.com
smilunski@lewisrice.com

Counsel for Plaintiff SRAM, LLC

By: /s/ Arpita Bhattacharyya

Virginia L. Carron (Ga. Bar 112770)
**FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER,
LLP**
271 17th Street, NW
Suite 1400
Atlanta, GA 30363-6209
Tel: (404) 653-6400
Fax: (404) 653-6444
Email: virginia.carron@finnegan.com

Robert F. McCauley (*pro hac vice*)
Arpita Bhattacharyya (*pro hac vice*)
**FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER,
LLP**
3300 Hillview Avenue
Palo Alto, CA 94304
Tel: (650) 849-6600
Fax: (650) 849-6666
Email:
robert.mccauley@finnegan.com
Email:
Arpita.bhattacharrya@finnegan.com

Attorneys for Defendant FOX Factory, Inc.

CERTIFICATE OF FONT COMPLIANCE

Undersigned counsel hereby certifies that the forgoing has been prepared with one of the font and point selections approved by the Court in L.R. 5.1, Times New Roman 14 point.

By: /s/ Holmes J. Hawkins III

CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2024, the foregoing document was filed electronically with the Clerk of the Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

By: /s/ Holmes J. Hawkins III

EXHIBIT A – DISPUTED CLAIM TERMS CHART

Disputed Claim Term	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
“vertical plane of travel of the bicycle” / “plane of travel” (‘993 Patent; claims 1, 61, 64)	Plain and ordinary meaning. To the extent any construction is required, the plain and ordinary meaning would be construed as: “vertical plane aligned with the running direction of the bicycle” <u>Intrinsic evidence:</u> ‘993 Patent: 1:8-42, 2:4-9, 3:26-32, 7:57-65, Figs. 1, 3-4, 8-11, 15-18, 21-24, 27-30, 33-36. ‘993 Patent file history: Responses to Office Actions dated 4/7/2017, 10/3/2017, 4/12/2018, 11/12/2018, as well as the relevant Office Actions thereto (and related United States Patent Nos. 6,145,862 and 8,366,130, discussed therein). SRAM's preliminary response and preliminary sur-reply in IPR2024-00491; FOX's petition and reply in IPR2024-00491. <u>Extrinsic evidence:</u> Expert declaration of Dr. T. Kim Parnell on the meaning/scope of the term	“vertical plane of the bicycle frame when the bicycle is in upright position with both wheels aligned in the same direction” <u>Intrinsic evidence:</u> ‘993 Patent: 1:8-42, 2:4-9, 3:26-32, 7:57-65, Figs. 1, 3-4. ‘207 Patent file history: Responses to Office Actions dated 4/7/2017, 10/3/2017, 4/12/2018, 11/12/2018; Notice of Allowability dated 2/12/2019. SRAM's preliminary response and preliminary sur-reply in IPR2024-00491. <u>Extrinsic evidence:</u> Expert declaration of Dr. Alexander Slocum on the meaning/scope of the term

Disputed Claim Term	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
“a thickness of the wall at any point in the lower section of the body varying as a function of the cross-sectional angle of the point relative to the plane of travel” (‘993 Patent; claims 1, 61, 64)	Plain and ordinary meaning. To the extent any construction is required, the plain and ordinary meaning would be construed as: “a thickness of the wall at any point in the lower section of the body continuously changing relative to the plane aligned with the running direction of the bicycle” <u>Intrinsic evidence:</u> ‘993 Patent: Abstract, 1:60-2:10, 4:5-17, 4:37-57, 5:14-43, 5:62-6:19, 6:59-7:9, 7:21-33, 7:42-65, Figs. 3-4, 6-11, 13-36. ‘993 Patent file history: Responses to Office Actions dated 4/7/2017, 10/3/2017, 4/12/2018, 11/12/2018, as well as the relevant Office Actions (and related United States Patent Nos. 6,145,862 and 8,366,130, discussed therein). SRAM's preliminary response and preliminary sur-reply in IPR2024-00491. <u>Extrinsic evidence:</u> Expert declaration of Dr. T. Kim Parnell on the meaning/scope of the term and the lack of indefiniteness.	The term is indefinite under 35 U.S.C. § 112(b). <u>Intrinsic evidence:</u> ‘993 Patent: Abstract, Summary of invention, claim language, Figs. 1-11 and associated texts. ‘207 Patent file history: Responses to Office Actions dated 4/7/2017, 10/3/2017, 4/12/2018, 11/12/2018; Notice of Allowability dated 2/12/2019. SRAM's preliminary response and preliminary sur-reply in IPR2024-00491. <u>Extrinsic evidence:</u> Expert declaration of Dr. Alexander Slocum on the indefiniteness issues.

Disputed Claim Term	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
“adjusting the damping characteristics corresponding to at least one of the positions of the valve actuating assembly independently of the damping characteristics corresponding to another position of the valve actuating assembly” (‘207 Patent; claim 1)	Plain and ordinary meaning. To the extent any construction is required, the plain and ordinary meaning would be construed as: “adjusting the damping characteristics corresponding to at least a first position of the valve actuating assembly without adjusting the damping characteristics corresponding to a second position of the valve actuating assembly,” <u>Intrinsic evidence:</u> ‘207 patent: 1:7-3:8, 3:42-62, 4:65-5:47, 8:33-42, Figs. 1-12. ‘207 patent file history: Responses to Office Actions dated 4/5/2006 and 8/25/2006, as well as the relevant Office Actions; Notice of Allowability dated 9/13/2006; Comments on Statement of Reasons for Allowance dated 9/29/2006; Claims as filed. SRAM's preliminary response and preliminary sur-reply in IPR2024-00492, FOX's petition and reply in IPR2024-00492. <u>Extrinsic evidence:</u> Expert declaration of Dr. T. Kim Parnell on the meaning/scope of the term and the lack of indefiniteness.	The term is indefinite under 35 U.S.C. § 112, ¶2, or in the alternative, the term should be construed as “when the damping characteristics corresponding to one of the positions of the valve actuating assembly is adjusted, the damping characteristics corresponding to all other positions of the valve actuating assembly remain unaffected” <u>Intrinsic evidence:</u> ‘207 patent: Abstract, 1:55-62, 2:16-33, 3:42-62, 6:27-36, 5:14-47, 7:2-6, 7:65-8:4, 8:20-32; Figs. 1-10. ‘207 patent file history: Responses to Office Actions dated 4/5/2006 and 8/25/2006; Notice of Allowability dated 9/13/2006; Comments on Statement of Reasons for Allowance dated 9/29/2006. SRAM's preliminary response and preliminary sur-reply in IPR2024-00492. <u>Extrinsic evidence:</u> Expert declaration of Dr. Alexander Slocum on the meaning/scope of the term and indefiniteness issues.