

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NORTH ATLANTIC IMPORTS, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 23-999 (GBW) (SRF)
	)	
LOCO – CRAZY GOOD COOKERS, INC.,	)	
	)	
Defendant.	)	

**RESPONSE TO PLAINTIFF’S OBJECTION TO THE REPORT AND
RECOMMENDATION FOR THE CONSTRUCTION OF “RIB” [DKT. 74]**

OF COUNSEL:

Michael P. Dulin
Clement A. Asante
POLSINELLI PC
1401 Lawrence Street, Suite 2300
Denver, CO 80202
Phone: 303-572-9300
Fax: 303-572-7883
mdulin@polsinelli.com
casante@polsinelli.com

POLSINELLI PC
Stephen J. Kraftschik (#5623)
222 Delaware Avenue, Suite 1101
Wilmington, DE 19801
(302) 252-0920
skraftschik@polsinelli.com
Attorneys for LoCo – Crazy Good Cookers, Inc.

February 5, 2025

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	ARGUMENT	1
A.	Judge Fallon did not Apply the Wrong Legal Standard	1
B.	The Court’s Construction Does not Transform “Rib” into a Means-Plus-Function Term	4
C.	The Court’s Analysis of the Claims, Specification and Prosecution History is Correct	5
III.	CONCLUSION.....	6

TABLE OF AUTHORITIES

	Page(s)
 Cases	
<i>Kyocera Senco Indus. Tools Inc. v. Int’l Trade Comm’n</i> 22 F.4th 1369, 1380 (Fed. Cir. 1998)	5
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005) (<i>en banc</i>)	3
<i>SciMed Life Sys., Inc. v. Adv. Cardiovascular Sys., Inc.</i> , 242 F.3d 1337 (Fed. Cir. 2001).....	6
<i>Williamson v. Citrix Online, LLC</i> , 793 F.3d 1339 (Fed. Cir. 2015).....	4
 Statutes	
28 U.S.C. § 636(b)(1)(A)	1, 2
35 U.S.C. § 112(f).....	4, 5, 6
Federal Magistrates Act	1
 Other Authorities	
’473 patent	2, 3, 4, 5, 6, 7

Defendant LoCo – Crazy Good Cookers, Inc. (“Defendant”), through counsel, herby submits its Response to Plaintiff’s Objection to the Report and Recommendation for the Construction of “Rib” [Dkt. 74] (“Objection”). In support of its response, LoCo states as follows:

I. INTRODUCTION

Blackstone objects to the Report and Recommendation of Magistrate Judge Fallon [Dkt. 72] (“Report”) and asks this Court to adopt its proposed definition of the term “rib.” *See generally* Objection. It is unclear, however, what construction Blackstone seeks. In its briefing, Blackstone advocated for the definition “an elongated raised piece of strong or thick material across a surface or through a structure, serving to support or strengthen the structure.” *See* Joint Claim Construction Brief [Dkt. 67] (“Joint Brief”), at 1. During the claim construction hearing (“Hearing”), Blackstone proposed that “rib” be defined as “a structural support member.” *See* Hearing Transcript, attached as **Exhibit A**, 9:4-7 (In response to Judge Fallon’s suggestion that the parties agree to define “rib” as a “structural member,” Blackstone said that “the proposal from plaintiff’s side would be ‘a structural support’ or ‘a structural support member.’”).

Regardless of which definition Blackstone currently proposes, LoCo maintains its arguments and objections as set forth in that Joint Brief and as stated at the Hearing. *See* Joint Brief, at 7- 17; 26-35; Hearing Transcript, 6:16-7:13; 9:11-10:25. In particular, nothing in the claims, specification or prosecution history even suggest that the inventor intended the term “rib” to be narrowed to require that all “ribs” or “structural members” provide “support.” It is improper to import that limitation into the claims.

II. ARGUMENT

A. Judge Fallon did not Apply the Wrong Legal Standard

For the resolution of non-dispositive motions, the Federal Magistrates Act provides two standards of judicial review: “clearly erroneous or contrary to the law.” *See* 28 U.S.C. §

636(b)(1)(A). Blackstone argues that the Court applied the wrong legal standard but fails to allege that Judge Fallon’s decision is either clearly erroneous or contrary to the law. Indeed, Judge Fallon spent almost three pages citing the proper legal standard governing this matter, including the same standards cited by Blackstone. *See* Report, at 4-7. That is not disputed. Rather, Blackstone is critical of Judge Fallon’s comments such as “the claims and the specification do not require the ribs to be strong or thick” or that “[b]ecause there is no requirement in the ’473 patent that the ribs must be elongated, or thick, there is no basis to adopt a proposed plain and ordinary meaning.” Objection, at 3. Blackstone insinuates that the Court did not consider the entire intrinsic record, including any support for Blackstone’s construction. That is not the case. Judge Fallon reviewed, and extensively cited from, the intrinsic record and made a sound and reasoned decision based on that record.

Blackstone cites numerous cases for the proposition that, if the patentee fails to act as his or her own lexicographer and ascribes a certain meaning to the claim terms, then the plain and ordinary meaning of the claim term governs. *See* Objection, p. 2. Judge Fallon did not cast aside the plain and ordinary meaning of the term “rib” or issue an opinion contrary to any cited law. Rather, she found that the plain and ordinary meaning of the term “rib” is “a structural member.” *See e.g.* Report, pp. 7, 8, 11. In doing so, she found that “Plaintiff’s proposed plain and ordinary meaning of the term ‘rib’ is not consistent with the way ribs are described in the claims or specification.” Report, p. 8. She noted that while ribs “may” be elongated, that is not a requirement. *Id.* (finding that “the ‘elongated’ characteristic of the ribs does not appear as an explicit requirement in the ’473 Patent.”).

Judge Fallon also found that the “claims and specification describe how the ribs are structured and arranged to define heat regions and channels,” but the “claims do not describe the

ribs as structural supports for the griddle.” Report, at 8. Judge Fallon then noted that “the claims and the specification do not require the ribs to be strong or thick.” *Id.* at 2. In doing so, she did not apply the wrong standard. Rather, she merely noted that there is no requirement of a rib to be strong or thick. This supports the Court’s construction, which does not include the requirement for “strong or thick.” Had there been such a requirement, then Judge Fallon would have been bound to include the requirement for “strong or thick” in her construction. *See e.g. Phillips v. AWH Corp.*, 415 F.3d 1303, 1316-17 (Fed. Cir. 2005) (*en banc*).

Judge Fallon also stated that “[b]ecause there is no requirement in the ’473 patent that the ribs must be elongated, strong, or thick, there is no basis to adopt a proposed plain and ordinary meaning that includes these limitations.” Report, at 3. Again, this supports her construction. Had there been a requirement that the ribs be elongated, strong, or thick, then such would have had to have been part of her construction. This finding was not made in a vacuum. Rather, Judge Fallon considered it within the context of the entire intrinsic record. In doing so, she found that “the ‘elongated’ characteristic of the ribs does not appear as an explicit requirement in the ’473 Patent.” Report, at 8. Further, Judge Fallon found that “[t]he ’473 Patent does not contain the words ‘strong’ or ‘strength,’ and only one reference to the ribs’ thickness appears in the specification.” *Id.* at 8-9. Judge Fallon then went on to describe that the stated purpose of the “ribs” is for defining heating regions and channels, not to provide structural support. *Id.* Taking the intrinsic record as a whole, and in consideration of an utter lack of any requirement for “elongated, strong or thick” ribs, Judge Fallon correctly declined to import a requirement that the ribs provide structure support into the claims of the ’473 Patent.

The ’473 Patent describes an invention that uses ribs to create heat zones and move convection heat. Neither the claims, the specification nor the prosecution require the Court to adopt

either of Plaintiff's proposed constructions. In fact, it would be improper to import those additional requirements into the claims of the '473 Patent because such a construction is simply not supported by the intrinsic record.

B. The Court's Construction Does not Transform "Rib" into a Means-Plus-Function Term

Plaintiff next argues that the proposed definition of "rib" lacks meaning, and therefore the construction transforms the term into a means-plus-function limitation. The term "a structural member" does not lack meaning and does not convert the claims into means-plus-function claims.

35 U.S.C. § 112(f) defines a means-plus-function claim as follows:

(f) **Element in Claim for a Combination**. An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification or equivalents thereof.

There is a strong presumption that Section 112(f) does not apply to a patent claim that does not use the word "means." *Williamson v. Citrix Online, LLC*, 793 F.3d 1339, 1349 (Fed. Cir. 2015). Therefore, means-plus-function claims generally include the term a "means for" doing some specified function. *Id.* For example, if this was a means-plus-function limitation, the claim would read something like "a means for defining multiple heating regions and funneling convection heat" with no recitation of structure such as a rib. Instead, one would have to look to the specification to see the ribs extending from the underside surface of the griddle, their placement, and the other structural requirements for accomplishing the task.

In this case, the structure of the ribs are clearly set forth in the claims. The inventor never recited a "means" for performing a specified function without reciting structure. Instead, the defined term "a structural member" clearly refers to a "structure" and therefore falls outside the purview of Section 112(f). The language of the claims goes on to describe those structural

members, and how their structure performs the function of defining heating regions and funneling convection heat. Therefore, the definition “a structural member” has meaning within the context of the claims, which provide explicit requirements for the claims. For example, claim 1 requires:

a front rib and multiple lateral ribs, the front rib extending along the front end of the underside surface, and the multiple lateral ribs extending along the underside surface from the front rib to the rear end of the underside surface, the multiple lateral ribs being spaced from each other so as to define multiple heating regions such that each heating region is defined between adjacently extending lateral ribs, each of the heating regions includes one of the multiple burners positioned below one of the multiple heating regions, each of the lateral ribs extend downward from the underside surface a height so as to funnel convection heat from any one of the multiple burners toward the rear end of the underside surface of the griddle and from the rear side of the frame.

’473 Patent, 10:25-44.

Again, the claims describe structural ribs that extend down from the underside surface of the griddle to define multiple heating regions and to funnel convection heat from the burners toward the rear end of the underside surface of the griddle. *Id.*

The cases cited by Plaintiff are inapposite. In *Kyocera Senco Indus. Tools Inc. v. Int’l Trade Comm’n*, the court held that the term “lifter member” did not have a “sufficiently definite meaning as for the name of the structure.” 22 F.4th 1369, 1380 (Fed. Cir. 1998). However, the Court came to that conclusion because “the surrounding claim language does not describe any structural detail about the “lifter member.” *Id.* Rather, the claims provided a purely functional description. *Id.* In this case, the claims describe the structure of the ribs sufficiently to understand how they accomplish the task of defining multiple heating regions and funneling convection heat.

C. The Court’s Analysis of the Claims, Specification and Prosecution History is Correct

Plaintiff seems to use this section to reargue the points it made in the Joint Brief, such as the arguments that the ribs must be integrally formed with the underside surface of the griddle. *See*

Objection, at 5-7. Blackstone argues that the requirement that the ribs be “integrally formed” supports its proposed construction. *Id.* at 6-7. However, that requirement is made within the context of an invention designed to define heating regions and funnel convection heat. *See generally* ’473 Patent. There is nothing in the claims requiring that the ribs prevent warpage. *Id.* at 10:19-12:61. That requirement is simply absent from the claims. LoCo incorporates the arguments it made in the Joint Brief as it stated therein.

Plaintiff argues that the Court was wrong in finding that “[t]he claims do not describe the ribs as structural supports for the griddle.” Objection, at 6. Blackstone fails to cite any support for its proposition, other than one line in the specification that states that ribs “may” serve as stabilizers to prevent warping. *Id.* However, that portion of the specification refers to the stabilizers as their own structures unique and different from the ribs. For example, in Figure 4 the stabilizers are referred to as 116 and are situated transversely to the laterally extending ribs 98. ’473 Patent, 7:41-53; Figure 1. Plaintiff provides no other support for its argument that a requirement that a rib provide structural support be imported into the claims.

Plaintiffs also point to a portion of the Report wherein Judge Fallon notes that a rib may be “elongated,” but that is not an explicit requirement of the ’473 Patent. Objection, at 7. That is true. Nowhere does the intrinsic record *require* that a rib be elongated. The fact that the specification says that a rib “may be elongated” demonstrates that it is not a requirement. Judge Fallon did not err by declining to commit the “cardinal sin” of importing a limitation into a claim of the patent. *SciMed Life Sys., Inc. v. Adv. Cardiovascular Sys., Inc.*, 242 F.3d 1337, 1340 (Fed. Cir. 2001)

III. CONCLUSION

The term “rib” is a simple, ordinary, unambiguous word that is clearly understood by a POSITA. Plaintiff’s definition is a long, contorted, and confusing definition that is unsupported by the claims, specification and prosecution history. Within the context of the ’473 Patent, the

purpose of the ribs are to define heat regions and channel heat. Plaintiff ignores that purpose and proposed a definition with an alternative purpose of supporting and strengthening. The inventor never indicated an intent to assign a new or unique meaning to the term “rib,” or to expand the meaning of that term beyond what the scope of the invention as articulated in the claims. Therefore, the Court should accept the Report of Judge Fallon.

POLSINELLI PC

OF COUNSEL:

Michael P. Dulin
Clement A. Asante
POLSINELLI PC
1401 Lawrence Street, Suite 2300
Denver, CO 80202
Phone: 303-572-9300
Fax: 303-572-7883
mdulin@polsinelli.com
casante@polsinelli.com

/s/ Stephen J. Kraftschik
Stephen J. Kraftschik (#5623)
222 Delaware Avenue, Suite 1101
Wilmington, DE 19801
(302) 252-0920
skraftschik@polsinelli.com
Attorneys for LoCo – Crazy Good Cookers, Inc.

February 5, 2025

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2025, I caused the foregoing to be served upon the following in the manner indicated:

Frederick L. Cottrell, III
Christine D. Haynes
RICHARDS, LAYTON & FINGER, P.A.
920 N. King Street
Wilmington, DE 19801
(302) 651-7700
cottrell@rlf.com
haynes@rlf.com
Attorneys for North Atlantic Imports, LLC

BY ELECTRONIC MAIL

David R. Wright
Jared J. Braithwaite
Wesley F. Harward
Alexis K. Juergens
FOLEY & LARDNER LLP
95 South State Street, Suite 2500
Salt Lake City, UT 84111
(801) 401-8900
Attorneys for North Atlantic Imports, LLC

BY ELECTRONIC MAIL

/s/ Stephen J. Kraftschik
Stephen J. Kraftschik (#5623)