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Subject: [EXT] Activity in Case 1:22-cv-01359-CJB Inpria Corporation v. Lam Research Corp. Oral Order
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U.S. District Court

District of Delaware

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Case Name: Inpria Corporation v. Lam Research Corp.
Case Number: 1:22-cv-01359-CJB
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Docket Text:
ORAL ORDER: With regard to the motions for claim construction, (D.I. [201]; D.I. [204]), the Court hereby addresses the construction of term 5: "no more than 0.5 mole % dialkyltin compounds as an impurity relative to the total tin amount". The Court will adopt most of Defendant's proposed construction for the term, and construe the term to mean "[n]o more than 0.5 mole % dialkyltin compounds as an impurity relative to the total tin amount prepared without the use of an alkyl lithium reaction, an alkyl lithium reaction with a subsequent conventional distillation step, or other synthesis and/or purification processes that were known in the art[,]" (D.I. [199] at 43), for the following reasons: (1) Term 5 appears in claim 1 of the 903 patent, as part of a composition claim (a claim to a "high purity liquid composition"). (D.I. [199] at 43; 903 patent, col. 17:40-45); (2) The above-referenced (now adopted) portion of Defendant's proposed construction is premised in significant part on the concept of prosecution history disclaimer, i.e., that during prosecution the patentee clearly and unmistakably disavowed certain claim scope, thus limiting the meaning of the claim term in the manner set out in the construction. *See Mass. Inst. of Tech. v. Shire Pharms., Inc.*, 839 F.3d 1111, 1119 (Fed. Cir. 2016); *see also MBO*

INPRIA EXHIBIT 2044
Entegris, Inc. v. Inpria Corp.
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***Lab'ys, Inc. v. Becton, Dickinson & Co.*, 474 F.3d 1323, 1330 (Fed. Cir. 2007) ("Prosecution arguments... which draw distinctions between the patented invention and the prior art are useful for determining whether the patentee intended to surrender territory, since they indicate in the inventor's own words what the invention is not."). The Court agrees with Defendant that there was such disclaimer here, a fact that even Plaintiff has a hard time disputing (at least in part). (*Cf.* D.I. [232] at 143 (during the *Markman* hearing, Plaintiff's counsel appearing to acknowledge that at least a limited disclaimer was made during prosecution)) At three different points during prosecution, in distinguishing the claimed composition from the prior art, the patentee clearly stated (in line with the content of declarations provided by one of the inventors) that "at the time of the filing [of] the present application, the claimed purity of the monoalkyltin compounds was not achievable through the use of an alkyl lithium reaction, through the use of an alkyl lithium reaction with a subsequent conventional distillation step, or through other synthesis and/or purification processes that were then known in the art." (D.I. [226], ex. I at 7; *id.*, ex. J at 5; *id.*, ex. K at 5; *see also id.*, ex. L at ¶ 9; D.I. [199] at 47-48, 51-52); (2) Contrary to Plaintiff's arguments otherwise, these statements were not ambiguous or "boilerplate[,]" (D.I. [199] at 45, 50); instead they were specific, clear and understandable, and all portions of the above-referenced disclaimer were relevant to the patentee's efforts to overcome certain rejections, (*id.* at 48, 51-52).; (3) Plaintiff also suggests that the statements should not be held against it because the Examiner expressly rejected them. (D.I. [199] at 44 (citing *Galderma Lab'ys, L.P. v. Amneal Pharms. LLC*, 806 F. App'x 1007, 1010-11 (Fed. Cir. 2020)); *see also id.* at 49) But the Court has seen no clear indication that this is so. For example, one of the statements was made to overcome an anticipation objection over Bernhardt, and the Examiner later withdrew that very anticipation rejection. (D.I. [226], ex. I at 6-7; D.I. [199] at 49, 51-52 (citing D.I. [226], ex. F at 2; *id.*, ex. AC at 2)) And more broadly, Plaintiff has pointed to no part of the prosecution history where the Examiner expressly questioned the logic of or the conclusion drawn in any of the statements at issue, or otherwise "rejected" them.; and (4) The Court has limited its construction to reflect the wording used in the disclaimer itself. Thus, it has not adopted the remainder of Defendant's proposal ("(e.g., lithium reagents or organotin trichlorides), and limited to the use of the processes and reagents described in the working examples set forth in the []903 patent"). (D.I. [199] at 43) In part, that is because Defendant said very little in its briefing about those portions of its proposal. (D.I. [199] at 51) Whether a particular synthesis or purification process amounts to one of the disclaimed types may be an infringement issue (as opposed to a claim construction issue), and in any event is something that can be addressed at a later stage of the litigation if necessary. Ordered by Judge Christopher J. Burke on 09/08/2025. (sam)**

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