

LATHAM & WATKINS LLP
Douglas E. Lumish (Bar No.
183863)
doug.lumish@lw.com
140 Scott Drive
Menlo Park, California 94025
Telephone: (650) 328-4600
Facsimile: (650) 463-2600

LATHAM & WATKINS LLP
Charles H. Sanders (*pro hac vice*)
charles.sanders@lw.com
John Hancock Tower, 27th Floor
200 Clarendon Street
Boston, Massachusetts 02116
Telephone: (617) 948-6000
Facsimile: (617) 948-6001

LATHAM & WATKINS LLP
Joseph H. Lee (Bar No. 248046)
joseph.lee@lw.com
650 Town Center Drive, 20th Floor
Costa Mesa, California 92626
Telephone: (714) 540-1235
Facsimile: (714) 755-8290

*Attorneys for Plaintiff Kolon
Industries, Inc.*

(Further attorneys listed on signature block)

ARMOND WILSON LLP
Joseph Li (Bar No. 313018)
josepher.li@armondwilson.com
4685 MacArthur Court, Suite 390
Newport Beach, California 92660
Telephone: (949) 386-1341
Facsimile: (949) 386-1932

*Attorneys for Defendant Hyosung USA,
Inc.*

QUINN EMANUEL URQUHART &
SULLIVAN, LLP
David A. Nelson (*pro hac vice*)
davenelson@quinnemmanuel.com
191 N. Wacker Drive, Suite 2700
Chicago, Illinois 60606
Telephone: (312) 705-7400
Facsimile: (312) 705-7401

*Attorneys for Defendant Hyosung Advanced
Materials Corp.*

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Kolon Industries, Inc.,

Plaintiff,

v.

Hyosung Advanced Materials Corp.
and Hyosung USA, Inc.,

Defendants.

Case No. 8:24-cv-00415-JVS-JDE

**PATENT L.R. 4-3 JOINT CLAIM
CONSTRUCTION AND
PREHEARING STATEMENT**

Pursuant to the Order Re Scheduling Dates (Dkt. 68), the parties' Joint Stipulation Staying Discovery and Amending Case Schedule (Dkt. 88), and N.D. Cal. Patent Local Rule 4-3, Plaintiff Kolon Industries, Inc. ("Kolon") and Defendants Hyosung Advanced Materials Corp. ("HAMC") and Hyosung USA, Inc. ("HUSA") (collectively, "Hyosung") hereby submit this Joint Claim Construction and Prehearing Statement ("Joint Statement"). Kolon has alleged that Hyosung infringes claims 1-3 of U.S. Patent No. 9,617,663 (the "'663 patent"), claims 4-7 of U.S. Patent No. 9,789,731 (the "'731 patent"), and claims 1-6 of U.S. Patent No. 10,196,765 (the "'765 patent") (collectively, the "Asserted Claims" and the "Asserted Patents").

I. The Parties Agreed-Upon Constructions

There are no agreed constructions.

II. Disputed Terms and Claim Dispositive Terms

The below chart shows the parties' proposed constructions of the disputed terms, the intrinsic and extrinsic evidence on which the parties intend to rely, and summaries of any witness testimony related to the proposed claim constructions. The parties reserve the right to rely on anything in the intrinsic record at any time, whether or not specifically identified herein. The parties reserve the right to rely on each other's cited materials.

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
1	"primarily twisted yarn"	Claim 1 of the '663 patent, and Claims 1, 2, 3, and 4 of	No construction necessary. <u>Intrinsic:</u> '663 patent, Abstract; Claim 1; 4:34-46, 5:14-26, 5:36-40, 6:28-7:3,	a single yarn made by twisting one filament yarn in one direction <u>Intrinsic:</u> '663 patent, 5:14-16. '765 patent, 5:29-31.

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
		the '765 patent	7:20-34, 7:38-52, 8:54-10:36; Tables 1-2. '765 patent, Abstract; Claims 1-4; 2:1-3:2, 3:33-4:3, 4:10-32, 4:61-67, 5:29-41, 5:44-6:4, 6:45-7:20; 7:56-8:25, 8:32-40, 8:65-13:3; Tables 1-2. '663 patent prosecution history, Feb. 1, 2017, Notice of Allowance (KOLON_0000909 at 915-921); Dec. 29, 2016 Response (KOLON_0000909 at 972-978); Aug. 31, 2016 Non-Final Rejection (KOLON_0000909 at 1002-1008). '765 patent prosecution history, Oct. 2, 2018 Amendment (KOLON_0001161 at 1167-1174); Sept. 10, 2018 Amendment (KOLON_0001161 at 1193-1206); Jun. 8, 2018 Final Rejection (KOLON_0001161 at 1219-1225); Mar. 28, 2018 Response (KOLON_0001161 at 1228-1233); Nov. 28,	<u>Extrinsic:</u> Expert opinion and/or testimony of Dr. Ken Gall regarding the meaning of this term, phrase, or clause to a person of ordinary skill in the art. Dr. Gall may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Gall may also provide opinions to rebut the opinions of Plaintiff's expert.

Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
		2017 Non-Final Rejection (KOLON_0001161 at 1239-1244). U.S. Publication No. 2014/0238524 to Love et al. (HAMC-00002172-2176). <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. David Brookstein regarding the plain and ordinary meaning of this term, phrase, or clause to a person of ordinary skill in the art. Dr. Brookstein may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Brookstein may also provide opinions to rebut the opinions of Defendants' expert. Definition of "FILAMENT YARN" from the Complete Textile Glossary 2001 at 61	

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
			(KOLON_0002376 at 2378). Definition of “filament yarn,” “filament,” and “yarn” from Fairchild’s Dictionary of Textiles (8th Ed.) at 228 and 693 (KOLON_0002385 at 2388). Definition of “filament yarn” and “yarn” from ASTM D4849-02B(2007)E3. Discussion of filament yarns in Textile Design at 7-9.	
2	“primarily-twisted yarn”	Claim 4 of the '731 patent	No construction necessary. <u>Intrinsic:</u> '731 patent, Abstract; Claims 4-5; 2:1-36, 3:6-24, 3:30-47, 4:5-18, 4:22-32, 4:49-58, 6:11-34, 6:40-7:39, 7:61-67, 8:31-10:32; Table 1. '731 patent prosecution history, Aug. 30, 2017 Notice of Allowance (KOLON_0000303 at 309-313); Aug. 3, 2017	a single yarn made by twisting a filament in one direction <u>Intrinsic:</u> '731 patent, 4:5-9 <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. Ken Gall regarding the meaning of this term, phrase, or clause to a person of ordinary skill in the art.

Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
		Response (KOLON_0000303 at 325-336); May 3, 2017 Final Rejection (KOLON_0000303 at 363-370); Dec. 29, 2016 Response (KOLON_0000303 at 475-486); Sept. 29, 2016 Non-Final Rejection (KOLON_0000303 at 491-498). US20090090447 (Baldwin et al.) (KOLON_0000303 at 807-841). <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. David Brookstein regarding the plain and ordinary meaning of this term, phrase, or clause to a person of ordinary skill in the art. Dr. Brookstein may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Brookstein may also provide opinions	Dr. Gall may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Gall may also provide opinions to rebut the opinions of Plaintiff's expert.

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
			to rebut the opinions of Defendants' expert. Definition of "FILAMENT YARN" from the Complete Textile Glossary 2001 at 61 (KOLON_0002376 at 2378). Definition of "filament yarn," "filament," and "yarn" from Fairchild's Dictionary of Textiles (7th Ed.) at 216 and 641-642 (KOLON_0002381 at 2383). Definition of "filament yarn" and "yarn" from ASTM D4849-02B(2007)E3. Discussion of filament yarns in Textile Design at 7-9.	
3	"plied yarn"	Claims 1, 2, and 3 of the '663 patent	No construction necessary. <u>Intrinsic:</u> '663 patent, Claims 1-3; 3:62-4:22, 5:17-26, 7:38-60, 8:27-32, 8:54-10:67.	a yarn made by twisting two or more primarily twisted yarns together in one direction, which is also called a "raw cord" <u>Intrinsic:</u> '663 patent, 5:17-23.

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
			<u>Extrinsic:</u> Expert opinion and/or testimony of Dr. David Brookstein regarding the plain and ordinary meaning of this term, phrase, or clause to a person of ordinary skill in the art. Dr. Brookstein may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Brookstein may also provide opinions to rebut the opinions of Defendants' expert. Definitions of "PLIED YARN," "PLY," and "PLYING" from the Complete Textile Glossary 2001 at 117 (KOLON_0002376 at 2379).	<u>Extrinsic:</u> Expert opinion and/or testimony of Dr. Ken Gall regarding the meaning of this term, phrase, or clause to a person of ordinary skill in the art. Dr. Gall may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Gall may also provide opinions to rebut the opinions of Plaintiff's expert.
4	"ply yarn"	Claims 4 and 6 of the '731 patent	No construction necessary, and duplicative of term (9) below. <u>Intrinsic:</u> '731 patent, Claims 4-6; Figs. 1-2; 2:24-39,	a yarn made by secondarily twisting two or more primarily-twisted yarns together, which may also be called raw cord <u>Intrinsic:</u>

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
1				
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4			3:13-24, 3:59-62, 4:10-18, 4:26-32, 4:49-58, 6:40-8:7, 8:31-10:32.	'731 patent, 4:10-15.
5			<u>Extrinsic:</u>	<u>Extrinsic:</u>
6			Expert opinion and/or testimony of Dr. David Brookstein regarding the plain and ordinary meaning of this term, phrase, or clause to a person of ordinary skill in the art.	Expert opinion and/or testimony of Dr. Ken Gall regarding the meaning of this term, phrase, or clause to a person of ordinary skill in the art.
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14			Dr. Brookstein may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Brookstein may also provide opinions to rebut the opinions of Defendants' expert.	Dr. Gall may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Gall may also provide opinions to rebut the opinions of Plaintiff's expert.
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21			Definitions of "PLIED YARN," "PLY," and "PLYING" from the Complete Textile Glossary 2001 at 117 (KOLON_0002376 at 2379).	
22				
23				
24				
25				
26			Definition of "ply yarn" from Fairchild's Dictionary of Textiles (7th Ed.) at 432	
27				
28				

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
			(KOLON_0002381 at 2384).	
5	“tension applied to the nylon filament yarn in the second step is higher than tension applied to the aramid filament yarn in the first step in such an amount that, if the secondary twist of the hybrid tire cord with a predetermined length were untwisted, the aramid primarily twisted yarn would be 1.005 to 1.025 times longer than the nylon primarily twisted yarn”	Claim 1 of the '663 patent	Not indefinite. No construction necessary. <u>Intrinsic:</u> '663 patent, Abstract; Claim 1; 3:19-28, 3:63-4:26, 4:54-67, 5:17-19, 5:49-6:10, 7:61-10:67; Tables 1-2. '663 patent prosecution history, Feb. 1, 2017, Notice of Allowance (KOLON_0000909 at 915-921); Dec. 29, 2016 Response (KOLON_0000909 at 972-978); Aug. 31, 2016 Non-Final Rejection (KOLON_0000909 at 1002-1008). '765 patent prosecution history, Sept. 10, 2018 Amendment (KOLON_0001161 at 1193-1206); Jun. 8, 2018 Final Rejection (KOLON_0001161 at 1219-1225); Mar. 28, 2018 Response (KOLON_0001161 at 1228-1233).	Indefinite <u>Intrinsic:</u> '663 patent, 3:62-4:18. <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. Ken Gall regarding the meaning of this term, phrase, or clause to a person of ordinary skill in the art, and how such term, phrase, or clause, when read in light of the intrinsic record, fails to inform those skilled in the art about the scope of the invention with reasonable certainty. Dr. Gall may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Gall may also provide opinions to rebut the opinions of Plaintiff's expert.

1		Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
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4				<u>Extrinsic:</u>	
5				Expert opinion and/or	
6				testimony of Dr. David	
7				Brookstein regarding	
8				the plain and ordinary	
9				meaning of this term,	
10				phrase, or clause to a	
11				person of ordinary skill	
12				in the art, and how	
13				such term, phrase, or	
14				clause, when read in	
15				light of the intrinsic	
16				record, informs those	
17				skilled in the art about	
18				the scope of the	
19				invention with	
20				reasonable certainty.	
21				Dr. Brookstein may	
22				also opine regarding	
23				the level of ordinary	
24				skill in the art and/or	
25				the qualification of one	
26	6	"if the	Claim 1	of ordinary skill in the	Indefinite
27		secondary	of the	art. Dr. Brookstein may	<u>Intrinsic:</u>
28		twist of the	'765	also provide opinions	
		hybrid tire	patent	to rebut the opinions of	
				Defendants' expert.	
				Discussion of	
				untwisting in ASTM	
				D1423-02R08 at 4.	

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
1				
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4	cord with a		'765 patent, Abstract;	'765 patent, 3:33-42,
5	predetermined		Claims 1-4; 2:1-3:2,	5:64-6:2, 8:32-40.
6	length were		3:30-4:3, 4:10-32,	
7	untwisted, a		4:61-67, 5:1-14, 5:29-	<u>Extrinsic:</u>
8	length of the		34, 5:44-6:25, 7:56-	Expert opinion and/or
9	aramid		8:25, 8:12-40, 8:65-	testimony of Dr. Ken
10	primarily		13:3; Tables 1-2.	Gall regarding the
11	twisted yarn			meaning of this term,
12	would be		'663 patent prosecution	phrase, or clause to a
13	1.005 to 1.025		history, Feb. 1, 2017,	person of ordinary skill
14	times a length		Notice of Allowance	in the art, and how such
15	of the nylon		(KOLON_0000909 at	term, phrase, or clause,
16	primarily		915-921); Dec. 29,	when read in light of the
17	twisted yarn"		2016 Response	intrinsic record, fails to
18			(KOLON_0000909 at	inform those skilled in
19			972-978); Aug. 31,	the art about the scope
20			2016 Non-Final	of the invention with
21			Rejection	reasonable certainty.
22			(KOLON_0000909 at	
23			1002-1008).	Dr. Gall may also opine
24			'765 patent prosecution	regarding the level of
25			history, Sept. 10, 2018	ordinary skill in the art
26			Amendment	and/or the qualification
27			(KOLON_0001161 at	of one of ordinary skill
28			1193-1206); Jun. 8,	in the art. Dr. Gall may
			2018 Final Rejection	also provide opinions to
			(KOLON_0001161 at	rebut the opinions of
			1219-1225); Nov. 28,	Plaintiff's expert.
			2017 Non-Final	
			Rejection	
			(KOLON_0001161 at	
			1239-1244).	
			<u>Extrinsic:</u>	
			Expert opinion and/or	
			testimony of Dr. David	

1		Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
2					
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4				Brookstein regarding	
5				the plain and ordinary	
6				meaning of this term,	
7				phrase, or clause to a	
8				person of ordinary skill	
9				in the art, and how	
10				such term, phrase, or	
11				clause, when read in	
12				light of the intrinsic	
13				record, informs those	
14				skilled in the art about	
15				the scope of the	
16				invention with	
17				reasonable certainty.	
18				Dr. Brookstein may	
19				also opine regarding	
20				the level of ordinary	
21				skill in the art and/or	
22				the qualification of one	
23				of ordinary skill in the	
24				art. Dr. Brookstein may	
25				also provide opinions	
26				to rebut the opinions of	
27				Defendants' expert.	
28				Discussion of	
				untwisting from ASTM	
				D1423-02R08 at 4.	
23	7	"if the secondary twist of the hybrid tire cord ... were untwisted"	Claim 1 of the '663 patent, and Claim 1 of the	No construction necessary, and duplicative of terms (5 and 6) above. <u>Intrinsic:</u> '663 patent, Abstract; Claim 1; 3:19-28, 3:62-	if the secondary twist of the plied yarn ... were untwisted <u>Intrinsic:</u>

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
		'765 patent	4:18, 4:54-67, 5:49-6:10, 7:61-10:67. '663 patent prosecution history, Dec. 29, 2016 Response (KOLON_0000909 at 972-978). '765 patent, Abstract; Claim 1; 3:30-43, 4:10-32, 5:1-14, 5:64-6:25, 8:12-40, 9:61-10:17; Tables 1-2. '765 patent prosecution history, Sept. 10, 2018 Amendment (KOLON_0001161 at 1193-1206); Jun. 8, 2018 Final Rejection (KOLON_0001161 at 1219-1225); Mar. 28, 2018 Response (KOLON_0001161 at 1228-1233). <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. David Brookstein regarding the plain and ordinary meaning of this term, phrase, or clause to a person of ordinary skill in the art.	'663 patent, 5:20-23, 5:49-54, 8:14-22, 8:27-32, 8:54-12:26. '765 patent, 5:35-38, 5:64-6:2, 8:32-40, 8:44-49, 9:4-13:19. <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. Ken Gall regarding the meaning of this term, phrase, or clause to a person of ordinary skill in the art. Dr. Gall may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Gall may also provide opinions to rebut the opinions of Plaintiff's expert.

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
			Dr. Brookstein may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Brookstein may also provide opinions to rebut the opinions of Defendants' expert. Discussion of untwisting in ASTM D1423-02R08 at 4.	
8	"a predetermined length"	Claim 1 of the '663 patent, and Claim 1 of the '765 patent	Not indefinite. No construction necessary, and duplicative of terms (5 and 6) above. <u>Intrinsic:</u> '663 patent, Abstract; Claim 1; 3:19-28, 3:62-4:18, 5:49-56, 7:61-8:23, 8:54-10:67. '765 patent, Abstract; Claim 1; 3:30-43, 4:10-32, 5:1-14, 5:64-6:18, 8:12-25, 8:32-40, 9:61-10:17. '663 patent prosecution history, Feb. 1, 2017 Notice of Allowance (KOLON_0000909 at 915-921); Dec. 29, 2016 Response	Indefinite <u>Intrinsic:</u> '663 patent, 3:19-28, 3:62-4:18, 5:49-54, 7:61-8:7, 8:14-22. '765 patent, 3:33-42, 5:64-6:2, 8:12-25, 8:32-40. <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. Ken Gall regarding the meaning of this term, phrase, or clause to a person of ordinary skill in the art, and how such term, phrase, or clause, when read in light of the intrinsic record, fails to

1		Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
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4				(KOLON_0000909 at 972-978); Aug. 31, 2016 Non-Final Rejection (KOLON_0000909 at 1002-1008).	inform those skilled in the art about the scope of the invention with reasonable certainty.
5				'765 patent prosecution history, Sept. 10, 2018 Amendment (KOLON_0001161 at 1193-1206); June 8, 2018 Final Rejection (KOLON_0001161 at 1219-1225); Mar. 28, 2018 Response (KOLON_0001161 at 1228-1233) ; Nov. 28, 2017 Non-Final Rejection (KOLON_0001161 at 1239-1244).	Dr. Gall may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Gall may also provide opinions to rebut the opinions of Plaintiff's expert.
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19				<u>Extrinsic:</u>	
20				Expert opinion and/or testimony of Dr. David Brookstein regarding the plain and ordinary meaning of this term, phrase, or clause to a person of ordinary skill in the art, and how such term, phrase, or clause, when read in light of the intrinsic record, informs those skilled in the art about	
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1		Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
2					
3					
4				the scope of the invention with reasonable certainty.	
5					
6				Dr. Brookstein may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Brookstein may also provide opinions to rebut the opinions of Defendants' expert.	
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14	9	"secondarily twisting the nylon and aramid primarily- twisted yarns together at a third twist number to produce a ply yarn in such a way that the nylon and aramid primarily- twisted yarns have identical structures with each other"	Claim 4 of the '731 patent	Not indefinite. No construction necessary. <u>Intrinsic:</u> '731 patent, Abstract; Claims 4-6; Figs. 1-2; 2:1-39, 2:62-3:24, 3:30-47, 3:59-62, 4:5- 18, 4:22-32, 4:49-58, 6:11-34, 6:40-8:7, 8:31-10:32. '731 patent prosecution history, Aug. 30, 2017 Notice of Allowance (KOLON_0000303 at 309-313); Aug. 3, 2017 Response (KOLON_0000303 at 325-336); May 3, 2017 Final Rejection (KOLON_0000303 at 363-370); Dec. 29,	Indefinite <u>Intrinsic:</u> '731 patent, 3:13-24, 3:37-47, 7:21-39. <u>Extrinsic:</u> EP2938765 October 20, 2016 Search Opinion; June 26, 2017 Communication Re Abandonment; WO2014/104680 Expert opinion and/or testimony of Dr. Ken Gall regarding the meaning of this term, phrase, or clause to a person of ordinary skill in the art, and how such term, phrase, or clause,
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1	Claim Term	Claim(s)	Kolon's Proposed	Hyosung's Proposed
2	or Phrase		Construction and	Construction and
3			Evidence	Evidence
4			2016 Response	when read in light of the
5			(KOLON_0000303 at	intrinsic record, fails to
6			475-486); Sept. 29,	inform those skilled in
7			2016 Non-Final	the art about the scope
8			Rejection	of the invention with
9			(KOLON_0000303 at	reasonable certainty.
10			491-498).	
11			<u>Extrinsic:</u>	Dr. Gall may also opine
12			Expert opinion and/or	regarding the level of
13			testimony of Dr. David	ordinary skill in the art
14			Brookstein regarding	and/or the qualification
15			the plain and ordinary	of one of ordinary skill
16			meaning of this term,	in the art. Dr. Gall may
17			phrase, or clause to a	also provide opinions to
18			person of ordinary skill	rebut the opinions of
19			in the art, and how	Plaintiff's expert.
20			such term, phrase, or	
21			clause, when read in	
22			light of the intrinsic	
23			record, informs those	
24			skilled in the art about	
25			the scope of the	
26			invention with	
27			reasonable certainty.	
28			Dr. Brookstein may	
			also opine regarding	
			the level of ordinary	
			skill in the art and/or	
			the qualification of one	
			of ordinary skill in the	
			art. Dr. Brookstein may	
			also provide opinions	
			to rebut the opinions of	
			Defendants' expert.	

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
10	"identical structures"	Claim 4 of the '731 patent	Not indefinite. No construction necessary, and duplicative of term (9) above. <u>Intrinsic:</u> '731 patent, Abstract; Claims 4-5; Figs. 1-2; 2:1-39, 2:62-3:24, 3:30-47, 3:59-62, 4:10-12, 6:17-24, 7:21-39, 8:31-10:32. '731 patent prosecution history, Aug. 30, 2017 Notice of Allowance (KOLON_0000303 at 309-313); Aug. 3, 2017 Response (KOLON_0000303 at 325-336); May 3, 2017 Final Rejection (KOLON_0000303 at 363-370); Dec. 29, 2016 Response (KOLON_0000303 at 475-486); Sept. 29, 2016 Non-Final Rejection (KOLON_0000303 at 491-498). <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. David Brookstein regarding the plain and ordinary	Indefinite <u>Intrinsic:</u> '731 patent, 3:13-24, 3:37-47, 7:21-39. <u>Extrinsic:</u> EP2938765 October 20, 2016 Search Opinion; June 26, 2017 Communication Re Abandonment; WO2014/104680 Expert opinion and/or testimony of Dr. Ken Gall regarding the meaning of this term, phrase, or clause to a person of ordinary skill in the art, and how such term, phrase, or clause, when read in light of the intrinsic record, fails to inform those skilled in the art about the scope of the invention with reasonable certainty. Dr. Gall may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Gall may also provide opinions to

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
			meaning of this term, phrase, or clause to a person of ordinary skill in the art, and how such term, phrase, or clause, when read in light of the intrinsic record, informs those skilled in the art about the scope of the invention with reasonable certainty. Dr. Brookstein may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Brookstein may also provide opinions to rebut the opinions of Defendants' expert. '663 patent, 5:57-67; '765 patent, 6:5-16.	rebut the opinions of Plaintiff's expert.
11	"merge structure having a partial covering structure"	Claim 1 of the '765 patent	Not indefinite. "A structure where both the nylon and aramid yarns have been twisted together where each yarn partially covers the other." <u>Intrinsic:</u> '765 patent, Claim 1; 2:1-3:2, 4:52-67, 5:64-	Indefinite <u>Intrinsic:</u> '765 patent, 2:53-63, 2:64-3:2, 5:64-6:4, 6:5-18. '765 Patent File History March 28, 2018 Applicant Arguments/Remarks

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
			6:44, 8:65-13:25; Tables 1-2. '765 patent prosecution history, Oct. 2, 2018 Notice of Allowance (KOLON_0001161 at 1177-1183); Sept. 10, 2018 Response (KOLON_0001161 at 1193-1206); Jun. 8, 2018 Final Rejection (KOLON_0001161 at 1219-1225); Mar. 28, 2018 Response (KOLON_0001161 at 1228-1233). <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. David Brookstein regarding the plain and ordinary meaning of this term, phrase, or clause to a person of ordinary skill in the art, which is "a structure where both the nylon and aramid yarns have been twisted together where each yarn partially covers the other," and how such term, phrase, or clause, when read in light of the intrinsic record, informs those	Made in an Amendment at 4 <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. Ken Gall regarding the meaning of this term, phrase, or clause to a person of ordinary skill in the art, and how such term, phrase, or clause, when read in light of the intrinsic record, fails to inform those skilled in the art about the scope of the invention with reasonable certainty. Dr. Gall may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Gall may also provide opinions to rebut the opinions of Plaintiff's expert.

1		Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
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4				skilled in the art about the scope of the invention with reasonable certainty.	
5					
6					
7				Dr. Brookstein may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Brookstein may also provide opinions to rebut the opinions of Defendants' expert.	
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14				Definition of "covered yarn" from Fairchild's Dictionary of Textiles (8th Ed.) at 153 (KOLON_0002385 at 2387).	
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18				Definition of "covered yarn" from ASTM D4849-02B(2007)E3.	
19					
20					
21				Definition of "merge" in Webster's Third New International Dictionary (1986) (KOLON_0002389 at 2391).	
22					
23					
24					
25					
26				Definition of "merge" in The American Heritage Dictionary of the English Language (2000)	
27					
28					

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
			(KOLON_0002373 at 2375).	
12	"twist number"	Claim 4 of the '731 patent	No construction necessary. <u>Intrinsic:</u> '731 patent, Abstract; Claims 4-5; 2:1-23, 3:3-24, 3:30-47, 4:19-21, 4:26-32, 4:49-58, 6:11-34, 6:50-7:33, 7:61-66, 8:31-10:32; Table 1. '731 patent prosecution history, Dec. 29, 2016 Response (KOLON_0000303 at 475-486). <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. David Brookstein regarding the plain and ordinary meaning of this term, phrase, or clause to a person of ordinary skill in the art. Dr. Brookstein may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the	the number of twists per one meter, and the measure of the twist number is TPM (Twist Per Meter) <u>Intrinsic:</u> '731 patent, 4:19-21. <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. Ken Gall regarding the meaning of this term, phrase, or clause to a person of ordinary skill in the art. Dr. Gall may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Gall may also provide opinions to rebut the opinions of Plaintiff's expert.

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
			art. Dr. Brookstein may also provide opinions to rebut the opinions of Defendants' expert. HAMC-0002712 at 2789, 2791. Definition of "twist" in ASTM D4849-02B(2007)E3.	
13	"twist number"	Claim 1 of the '765 patent	No construction necessary. <u>Intrinsic:</u> '765 patent, Claim 1; 2:7-24, 2:44-53, 3:52-57, 3:60-4:3, 4:52-60, 5:42-43, 6:27-44, 8:26-31, 8:58-64. '765 patent prosecution history, Sept. 28, 2018 Jeon Decl. (KOLON_0001161 at 1169-1174); Sept. 10, 2018 Amendment (KOLON_0001161 at 1193-1206). <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. David Brookstein regarding the plain and ordinary meaning of this term,	the number of twists per one meter and its unit is TPM (twist per meter) <u>Intrinsic:</u> '765 patent, 5:42-43. <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. Ken Gall regarding the meaning of this term, phrase, or clause to a person of ordinary skill in the art. Dr. Gall may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Gall may also provide opinions to rebut the opinions of Plaintiff's expert.

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
			phrase, or clause to a person of ordinary skill in the art. Dr. Brookstein may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Brookstein may also provide opinions to rebut the opinions of Defendants' expert. Definition of "TWIST" from Complete Textile Glossary 2001 at 166 (KOLON_0002376 at 2380). Definition of "twist" from ASTM D4849-02B(2007)E3.	
14	"disc fatigue test is performed according to JIS-L 1017 method"	Claim 4 of the '731 patent	Not indefinite. "Disc fatigue test conducted by JIS-L 1017 standard as of the priority date." <u>Intrinsic:</u> '731 patent, Abstract; Claims 4-5; Figs. 1-2; 1:4-15, 2:45-61, 4:45-48, 6:11-24, 8:16-19, 8:31-10:32; Table 1.	Indefinite <u>Intrinsic:</u> '731 patent, 4:45-48, 8:16-19, 9:49-10:3. '731 Patent File History September 29, 2016 Non-Final Rejection Office Action at 3. '731 Patent File History: December 29, 2016

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
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4			'731 patent prosecution	Amendment to the
5			history, Aug. 30, 2017	Claims at 3; December
6			Notice of Allowance	29, 2016
7			(KOLON_0000303 at	Amendment/Request for
8			309-313); Aug. 3, 2017	Reconsideration After
9			Response	Non-Final Rejection
10			(KOLON_0000303 at	Amendment at 7;
11			325-336); May 3, 2017	August 3, 2017
12			Final Rejection	Amendment to the
13			(KOLON_0000303 at	Claims at 2-3.
14			363-370); Dec. 29,	
15			2016 Response	<u>Extrinsic:</u>
16			(KOLON_0000303 at	JIS-L 1017 (2002).
17			475-486); Sept. 29,	
18			2016 Non-Final	Expert opinion and/or
19			Rejection	testimony of Dr. Ken
20			(KOLON_0000303 at	Gall regarding the
21			491-498).	meaning of this term,
22			<u>Extrinsic:</u>	phrase, or clause to a
23			Expert opinion and/or	person of ordinary skill
24			testimony of Dr. David	in the art, and how such
25			Brookstein regarding	term, phrase, or clause,
26			the plain and ordinary	when read in light of the
27			meaning of this term,	intrinsic record, fails to
28			phrase, or clause to a	inform those skilled in
			person of ordinary skill	the art about the scope
			in the art, which is	of the invention with
			“disc fatigue test	reasonable certainty.
			conducted by JIS-L	
			1017 standard as of the	Dr. Gall may also opine
			priority date,” and how	regarding the level of
			such term, phrase, or	ordinary skill in the art
			clause, when read in	and/or the qualification
			light of the intrinsic	of one of ordinary skill
			record, informs those	in the art. Dr. Gall may
			skilled in the art about	also provide opinions to

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
			the scope of the invention with reasonable certainty. Dr. Brookstein may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Brookstein may also provide opinions to rebut the opinions of Defendants' expert. JIS-L 1017 (2002). JIS-L 1017 (1995).	rebut the opinions of Plaintiff's expert.
15	"disk fatigue test conducted by JIS-L 1017 (2008)"	Claim 4 of the '765 patent	Not indefinite. "Disc fatigue test conducted by JIS-L 1017 standard as of the priority date." <u>Intrinsic:</u> '765 patent, Claim 4; 3:60-4:3, 7:37-52, 8:65-13:25; Tables 1-2. <u>Extrinsic:</u> Expert opinion and/or testimony of Dr. David Brookstein regarding the plain and ordinary meaning of this term, phrase, or clause to a person of ordinary skill	Indefinite <u>Intrinsic:</u> '765 patent, 3:60-4:3, 7:37-52, 11:23-12:9; Table 2. <u>Extrinsic:</u> JIS-L 1017 (2002). Expert opinion and/or testimony of Dr. Ken Gall regarding the meaning of this term, phrase, or clause to a person of ordinary skill in the art, and how such term, phrase, or clause, when read in light of the

	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
			in the art, which is “disc fatigue test conducted by JIS-L 1017 standard as of the priority date,” and how such term, phrase, or clause, when read in light of the intrinsic record, informs those skilled in the art about the scope of the invention with reasonable certainty. Dr. Brookstein may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Brookstein may also provide opinions to rebut the opinions of Defendants' expert. JIS-L 1017 (2002). JIS-L 1017 (1995).	intrinsic record, fails to inform those skilled in the art about the scope of the invention with reasonable certainty. Dr. Gall may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Gall may also provide opinions to rebut the opinions of Plaintiff's expert.
16	“measured by ASTM D885 (2004)”	Claims 4 and 5 of the '765 patent	Not indefinite. No construction necessary. <u>Intrinsic:</u> '765 patent, Abstract; Claims 4-5; 3:60-4:6, 6:50-61, 7:12-20, 7:37-	Indefinite <u>Intrinsic:</u> '765 patent, 3:60-4:3, 4:4-6, 7:38-52. <u>Extrinsic:</u> ASTM D885 (2004).

1		Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
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4				52, 11:1-10, 8:65- 13:25; Tables 1-2.	Expert opinion and/or testimony of Dr. Ken Gall regarding the meaning of this term, phrase, or clause to a person of ordinary skill in the art, and how such term, phrase, or clause, when read in light of the intrinsic record, fails to inform those skilled in the art about the scope of the invention with reasonable certainty.
5				<u>Extrinsic:</u>	
6				Expert opinion and/or testimony of Dr. David Brookstein regarding the plain and ordinary meaning of this term, phrase, or clause to a person of ordinary skill in the art, and how such term, phrase, or clause, when read in light of the intrinsic record, informs those skilled in the art about the scope of the invention with reasonable certainty.	Dr. Gall may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Gall may also provide opinions to rebut the opinions of Plaintiff's expert.
7				Dr. Brookstein may also opine regarding the level of ordinary skill in the art and/or the qualification of one of ordinary skill in the art. Dr. Brookstein may also provide opinions to rebut the opinions of Defendants' expert.	
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25				ASTM D885 (2004) at 6-8 Tensile Properties of Yarns and Cords, 11-12 Section 21 – Force at Specified	
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	Claim Term or Phrase	Claim(s)	Kolon's Proposed Construction and Evidence	Hyosung's Proposed Construction and Evidence
			Elongation (FASE) of Conditioned Yarns and Cords.	

III. Identification of the Terms Whose Construction Will Be Most Significant

The parties agree that the constructions of at least the 10 terms below will be the most significant to the case. Kolon does not believe the construction of any term will be case or claim dispositive.¹ Defendants believe that the construction of at least each of these terms will be case or claim dispositive.

- primarily[-] twisted yarn
- plied yarn
- ply yarn
- if the secondary twist of the hybrid tire cord ... were untwisted
- tension applied to the nylon filament yarn in the second step is higher than tension applied to the aramid filament yarn in the first step in such an amount that, if the secondary twist of the hybrid tire cord with a predetermined length were untwisted, the aramid primarily twisted yarn would be 1.005 to 1.025 times longer than the nylon primarily twisted yarn
- if the secondary twist of the hybrid tire cord with a predetermined length were untwisted, a length of the aramid primarily twisted yarn

¹ Kolon asserts that it is unable to fully identify which terms are case dispositive because the required disclosures of the accused instrumentality pursuant to N.D. Cal. Patent Local Rule 3-4(a) made by Hyosung were incomplete. Hyosung disagrees.

would be 1.005 to 1.025 times a length of the nylon primarily twisted yarn

- secondarily-twisting the nylon and aramid primarily-twisted yarns together at a third twist number to produce a ply yarn in such a way that the nylon and aramid primarily-twisted yarns have identical structures with each other
- twist number
- merge structure having a partial covering structure
- disc fatigue test is performed according to JIS-L 1017 method / disk fatigue test conducted by JIS-L 1017 (2008)

IV. Length of Time Necessary for the Claim Construction Hearing

A. Kolon's Position

Kolon expects that the parties will need a total of two hours, one hour per side, subject to questions from the Court, for the Claim Construction Hearing. If the Court deems a technology tutorial to be helpful, Kolon proposes 20 minutes per side within the one hour allocated to each side.

B. Hyosung's Position

Hyosung anticipates the parties to provide a technology tutorial pertinent to the claim construction issues. Hyosung expects that the parties need about 45 minutes (20 to 25 minutes each for Plaintiff and Defendants) for the tutorials and another 2.5 hours (1.25 hours per side) to present arguments concerning the disputed terms, subject to questions from the Court.

V. Witnesses and Summary of Testimony

Pursuant to the parties' agreement, the parties will submit expert declarations concurrent with the filing of their claim construction briefing. The parties do not intend to call any witnesses at the claim construction hearing.

1 DATED: February 20, 2025

Respectfully submitted,

2 LATHAM & WATKINS LLP

3 /s/ Charles H. Sanders

4 Douglas E. Lumish (Bar No. 183863)
5 *doug.lumish@lw.com*
6 140 Scott Drive
7 Menlo Park, California 94025
Telephone: (650) 328-4600
Facsimile: (650) 463-2600

8 Charles H. Sanders (*pro hac vice*)
9 *charles.sanders@lw.com*
John Hancock Tower, 27th Floor
200 Clarendon Street
10 Boston, Massachusetts 02116
Telephone: (617) 948-6000
11 Facsimile: (617) 948-6001

12 Joseph H. Lee (Bar No. 248046)
13 *joseph.lee@lw.com*
650 Town Center Drive, 20th Floor
Costa Mesa, California 92626
14 Telephone: (714) 540-1235
Facsimile: (714) 755-8290

15 Joseph C. Akalski (*pro hac vice*)
16 *joe.akalski@lw.com*
1271 Avenue of the Americas
17 New York, NY 10020
Telephone: (212) 906-1200
18 Facsimile: (212) 751-4864

19 *Attorneys for Plaintiff Kolon Industries,*
20 *Inc.*

1 DATED: February 20, 2025

Respectfully submitted,

2
3 QUINN EMANUEL URQUHART &
SULLIVAN, LLP

4 /s/ D. James Pak

5 David A. Nelson (*pro hac vice*)
6 *davenelson@quinnemanuel.com*
191 N. Wacker Drive, Suite 2700
7 Chicago, Illinois 60606
Telephone: (312) 705-7400
8 Facsimile: (312) 705-7401

9 D. James Pak
djamespak@quinnemanuel.com
865 S. Figueroa St, 10th Floor
10 Los Angeles, CA 90017
Telephone: (213) 443-3000
11 Facsimile: (213) 443-3100

12 Kevin (Gyushik) Jang
kevinjang@quinnemanuel.com
50 California Street, 22nd Floor
13 San Francisco, California 94111
Telephone: (415) 875-6600
14 Facsimile: (415) 875-6700

15 *Attorneys for Defendant Hyosung*
16 *Advanced Materials Corp.*

1 DATED: February 20, 2025

Respectfully submitted,

2 ARMOND WILSON LLP

3
4 /s/ Ash D. Patel

5 Josepher Li (Bar No. 313018)
6 *josepher.li@armondwilson.com*
7 ARMOND WILSON LLP
8 4685 MacArthur Court, Suite 390
9 Newport Beach, California 92660
10 Telephone: (949) 386-1341
11 Facsimile: (949) 386-1932

12 Marla R. Butler (*pro hac vice*)
13 *marla.butler@thompsonhine.com*
14 Ash D. Patel (*pro hac vice*)
15 *ash.patel@thompsonhine.com*
16 Jonathan M. Nussbaum (*pro hac vice*)
17 *jonathan.nussbaum@thompsonhine.com*
18 THOMPSON HINE, LLP
19 3560 Lenox Road, Suite 1600
20 Atlanta, Georgia 30326
21 Telephone: (404) 541-2900
22 Facsimile: (404) 541-2905

23 *Attorneys for Defendant Hyosung USA,*
24 *Inc.*

ATTESTATION PURSUANT TO LOCAL RULE 5-4.3.4(A)(2)(i)

Pursuant to Local Rule 5-4.3.4(a)(2)(i), I, Charles H. Sanders, attest that all other signatures listed and on whose behalf the filing is submitted concur in this filing's content and have authorized this filing.

/s/ Charles H. Sanders
Charles H. Sanders