

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

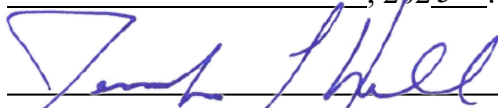
NATIONAL STEEL CAR LIMITED,)
)
Plaintiff/Counterclaim-)
Defendant,)
)
v.) C.A. No. 24-594-JLH-CJB
)
FREIGHTCAR AMERICA, INC.,)
FREIGHTCAR NORTH AMERICA, LLC,)
JAC OPERATIONS, INC., AND)
FCA-FASEMEX, LLC,)
)
Defendant/Counterclaim-)
Plaintiffs.)

~~PROPOSED~~ CLAIM CONSTRUCTION ORDER

IT IS HEREBY ORDERED that the following terms in U.S. Patent Nos. 8,132,515 and 8,166,892 are construed as follows:

Claim(s)	Term/Phrase	Claim Construction
'892 Patent, claims 6, 7; '515 Patent, claim 43	"sloped side sheet"	"a sheet extending in a longitudinal direction with respect to a side of the hopper and which forms a sloped surface"
'515 Patent, claims 1, 7, 18, 20, 24, 32	"shear plate extending [lengthwise/longitudinally] along said draft sill and cross-wise from side to side of said hopper car"	"shear plate extending [lengthwise/longitudinally] along said draft sill and laterally from side sill to side sill, including a situation where there is an intermediate piece between the shear plate and the side sill"
'892 Patent, claim 15	"flat bar" or "made of flat bar"	Not construed

SO ORDERED on this 17th day of December, 2025 :



The Honorable Jennifer L. Hall
UNITED STATES DISTRICT JUDGE

U.S. District Court

District of Delaware

Notice of Electronic Filing

The following transaction was entered on 12/8/2025 at 1:17 PM EST and filed on 12/8/2025

Case Name: National Steel Car Limited v. FreightCar America, Inc. et al

Case Number: [1:24-cv-00594-JLH-CJB](#)

Filer:

Document Number: 175(No document attached)

Docket Text:

ORAL ORDER: Having reviewed Judge Burke's Report and Recommendation (D.I. 170, 171, 172) regarding the parties' motions for claim construction (D.I. [108], [109]), no party having filed objections pursuant to Federal Rule of Civil Procedure 72(b)(2) in the prescribed period, and the Court finding no clear error on the face of the record, IT IS HEREBY ORDERED that the Report and Recommendation (D.I. 170, 171, 172) is ADOPTED. IT IS FURTHER ORDERED that, within 7 days, the parties shall submit a Proposed Order for the Court's signature setting forth the claim constructions. Ordered by Judge Jennifer L. Hall on 12/8/2025. (ceg)

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U.S. District Court

District of Delaware

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Case Name: National Steel Car Limited v. FreightCar America, Inc. et al

Case Number: 1:24-cv-00594-JLH-CJB

Filer:

Document Number: 172(No document attached)

Docket Text:

REPORT AND RECOMMENDATION (part 3 of 3): The Court, having reviewed the parties' motions for claim construction, (D.I. [108]; D.I. [109]), and the briefing related thereto, (D.I. [105]), hereby addresses term 3 ("flat bar" or "made of flat bar"). As stated at the *Markman* hearing and for the reasons set out then, the Court declines to construe this term at present because it does not discern any clear dispute between the parties as to the meaning of this term. See *O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co.*, 521 F.3d 1351, 1362 (Fed. Cir. 2008); *Sysmex Corp. v. Beckman Coulter, Inc.*, Civil Action No. 19-1642-RGA-CJB, 2021 WL 1259710, at *9 (D. Del. Apr. 6, 2021), *report and recommendation adopted*, Civil Action No. 19-1642-JFB-CJB, 2022 WL 1237787 (D. Del. Apr. 27, 2022). Please note that when filing Objections pursuant to Federal Rule of Civil Procedure 72(b)(2), briefing consists solely of the Objections (no longer than ten (10) pages) and the Response to the Objections (no longer than ten (10) pages). No further briefing shall be permitted with respect to objections without leave of the Court. Objections to R&R due by 12/5/2025. Ordered by Judge Christopher J. Burke on 11/21/2025. (sam)

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Case Number: 1:24-cv-00594-JLH-CJB

Filer:

Document Number: 171(No document attached)

Docket Text:

REPORT AND RECOMMENDATION (part 2 of 3): The Court has reviewed the parties' motions for claim construction, (D.I. [108]; D.I. [109]), and the briefing related thereto, (D.I. [105]). Regarding term 2 ("shear plate extending [lengthwise/longitudinally] along said draft sill and cross-wise from side to side of said hopper car"), the parties' sole dispute is really over the meaning of the words "from side to side[.]" Both sides agree that the claimed "shear plate extending... cross-wise *from side to side* of said hopper car" must extend "laterally from side sill to side sill[.]" (D.I. [105] at 34, 38, 43) But there is still a dispute between them over what the phrase "from side sill to side sill" means. Plaintiff asserts that "from side sill to side sill" includes "a situation where there is an intermediate piece between the shear plate and the side sill." (D.I. 106, ex. O; *see also* D.I. [105] at 43) Meanwhile, Defendants argue that "from side sill to side sill" must mean actually reaching or touching the respective side sills in all circumstances. (D.I. [105] at 43-44) The Court agrees with Plaintiff and construes the term to mean "shear plate extending [lengthwise/longitudinally] along said draft sill and laterally from side sill to side sill, including a situation where there is an intermediate piece between the shear plate and the side sill." (*Id.* at 38; D.I. [106], ex. O) It does so for the following reasons: (1) Most significantly, the Court concludes that the concept of the shear plate extending cross-wise "from side to side" of the hopper car is depicted or described in one primary embodiment in the patents, which is shown in Figure 1. (D.I. [105] at 41) The specification discusses this same embodiment in column 14, noting that "[s]hear plate 76[.]" which is depicted in Figure 1, "extends laterally from side sill to side sill[.]" (515 patent, col. 14:13-14; *see also id.*, col. 12:34 & 13:26 (the patent specification making clear that when columns 12, 13, and 14 are describing components of a freight car denoted by numerals, they are discussing those components/numerals as depicted in Figure 1)) And, in Figure 1, the shear plate is depicted in a manner consistent with Plaintiff's proposed construction—in that the shear plate extends almost all of the way to each side sill, but there is still an intermediate piece of the sidewall in between the shear plate and the side sill preventing the two from coming into direct contact. (D.I. [105] at 39, 42; 515 patent, FIG. 1) As the United States

Court of Appeals for the Federal Circuit has noted, a construction that excludes the “preferred (and indeed only) embodiment... is rarely, if ever, correct[.]” *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1583 (Fed. Cir. 1996). Because Defendants’ proposal (in terms of what Defendants mean by the phrase “from side sill to side sill”) would read out the preferred embodiment depicted in Figure 1, it cannot be correct.; and (2) Defendants suggested in their briefing and during the *Markman* hearing that perhaps Figure 1 is depicting an *unclaimed* embodiment of what it means for a shear plate to extend “from side to side”—and that column 14’s description is discussing some *different, separate* embodiment that aligns with Defendants’ construction. (D.I. [105] at 43-44) But the patent specification provides no clear indication that Figure 1 is depicting unclaimed features, and the Figure’s prominence indicates that it was plainly meant to constitute “various aspects of the present invention” claimed in the patent. (515 patent, col. 12:34-37; see *TQP Dev., LLC v. Intuit Inc.*, CASE NO. 2:12-CV-180-WCB, 2014 WL 2810016, at *4 (E.D. Tex. June 20, 2014)) Indeed, both sides liberally cited to Figure 1 and its depictions in their briefing when it served their purposes. (D.I. [105] at 3-4, 17-19, 24, 30-31, 33-35, 39) Moreover, as explained above, column 14 is not describing some *separate* embodiment from that depicted in Figure 1—it is describing Figure 1 *itself*. So while the shear plate definitely could extend all the way to the side sill on both sides of the car, (see 515 patent, col. 9:41-51), it cannot be the case that it is required to do so. Ordered by Judge Christopher J. Burke on 11/21/2025. (sam)

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Case Number: 1:24-cv-00594-JLH-CJB

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Document Number: 170(No document attached)

Docket Text:

REPORT AND RECOMMENDATION (part 1 of 3): The Court, having reviewed the parties' motions for claim construction, (D.I. [108]; D.I. [109]), and the briefing related thereto, (D.I. [105]), having considered the legal standards relating to claim construction, *see Vytacera Bio, LLC v. CytomX Therapeutics, Inc.*, Civil Action No. 20-333-LPS-CJB, 2021 WL 4621866, at *2-3 (D. Del. Oct. 7, 2021), and having held a *Markman* hearing on November 18, 2025, hereby addresses the construction of term 1 ("sloped side sheet"). The Court will construe "sloped side sheet," as Plaintiff proposes, to mean "a sheet extending in a longitudinal direction with respect to a side of the hopper and which forms a sloped surface[.]" (D.I. [105] at 7) Here, the parties' dispute as to term 1 is all about whether the "sloped side sheet" is required to be, as Defendants suggest, a "sloped *portion of the side[w]all[.]*" (*Id.* (emphasis added)) The Court rejects Defendants' position in this regard, for the reasons that follow: (1) As even the parties acknowledged during the *Markman* hearing, the two asserted patents are not models of clarity when it comes to their descriptions and/or depictions of what is (or may be) a "sloped side sheet." In that uncertain landscape, the Court will start, as it should, with the language of the claims. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc); *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996) ("First, we look to the words of the claims themselves[.]"). As a general matter, where a patent separately lists out claim limitations, there is a presumption that such language "indicate[s] separate and distinct physical structure[.]" *Google LLC v. EcoFactor, Inc.*, 92 F.4th 1049, 1058 (Fed. Cir. 2024); *Becton, Dickinson & Co. v. Tyco Healthcare Grp., LP*, 616 F.3d 1249, 1254 (Fed. Cir. 2010). In the relevant asserted claims, as represented by claim 6 of the 892 patent ("claim 6"), the "first sloped side sheet" is described as "meet[ing] said *first sidewall* at said transition portion." (892 patent, col. 25:18-19 (emphasis added); *see also id.*, col. 5:45-46 (the patent specification, noting the same)) Thus, because the claims recite the "sloped side sheet" and "sidewall" as two elements that *meet* each other, they are presumed to be separate elements (such that the former is not a component of the latter). (D.I. [105] at 8, 19, 21-22) While such a presumption is rebuttable, *Google*, 92 F.4th at 1058, Defendants have failed to

identify any portion of the intrinsic record that clearly demonstrates that the presumption *should* be rebutted here. In arguing otherwise (i.e., that a “sloped side sheet” must be a part of the “sidewall”), Defendants suggest that sometimes people say that a part “meets” the whole at a certain point, like when people say that “an arm meets the body at the shoulder.” (D.I. [105] at 23, 25-26) The Court doesn’t know how many people actually do say that (as it would seem more accurate to say that “an arm meets the *torso* at the shoulder”). But in any event, these patents aren’t about arms and shoulders, and the key point is that *the intrinsic record* does not suggest this type of reading here.; (2) As noted above, claim 6 tells us that the “first sloped side sheet meets said first sidewall *at said transition portion*.” (892 patent, col. 25:18-19 (emphasis added)) The parties are in agreement that the claimed “transition portion” is a reference to what the patent describes as “intermediate portion 98” (also referred to in the patent as “sloped portion 98” or “sloping portion 98”)—and that intermediate portion 98 is undisputedly a part of the claimed “sidewall.” (D.I. [105] at 12, 20, 24; 892 patent, col. 15:17, 15:31, 15:48) Defendants then go on to argue that intermediate portion 98 is also the claimed “sloped side sheet.” (D.I. [105] at 14, 25) But this would make even less sense, in light of the claim language. That’s because the claim requires the first “sloped side sheet” to meet the first “sidewall” at the “transition portion”—and if the “transition portion” *is* the “sloped side sheet” then this would mean that the “sloped side sheet” would be meeting the “sidewall” at *itself*. And that type of reading is nonsensical. *See Becton, Dickinson & Co.*, 616 F.3d at 1254; *Am. Piledriving Equip., Inc. v. Geoquip, Inc.*, 637 F.3d 1324, 1332-33 (Fed. Cir. 2011) (finding that a certain interpretation of the disputed claim term “cannot be correct as it would essentially require that the structure recited... *connect to itself*” (emphasis added)); (3) If Defendants could convince the Court that the “intermediate portion 98” is the “sloped side sheet,” this would be very helpful to their position as to this dispute, since both parties agree that “intermediate portion 98” is a part of the sidewall. In making such an argument, Defendants cited prominently to a portion of column 15 of the specification, which describes the “intermediate portion 98 [as] run[ning] in an inclined plane *sloping* inwardly and downwardly on the slope of the hopper *side sheets* generally[.]” (D.I. [105] at 14; 892 patent, col. 15:17-19 (emphasis added)) But this portion of the written description is itself unclear. It is not as if it says something like “intermediate portion 98 is a sloped side sheet” or “sloped side sheet 98,” or the like. Indeed, the sentence at issue is decidedly ambiguous as to whether it is making reference to a “sloped side sheet” or to something else entirely.; and (4) Defendant also makes the argument that: (a) intermediate portion 98 is a portion of something called a “side sheet assembly 42”; and (b) we know that intermediate portion 98 is “sloped,” since it is described as “sloping” and is depicted this way in, for example, Figure 2c; and so (c) intermediate portion 98 must then be a “sloped” “side sheet.” (892 patent, col. 15:1-24 & FIG. 2c; *see also* D.I. [105] at 13-14, 16) But while these portions of the patent indicate that intermediate portion 98 is “sloped” and that it is part of something called a “side sheet assembly,” they do not necessarily indicate that the patent is referring to intermediate portion 98 as a “sloped side sheet.” After all, if the patentee wished to make such a clear statement, it could have. And yet it never does. In light of the otherwise clear language of the claims, which indicates that the “transition portion” (i.e., intermediate portion 98) is *not* the “sloped side sheet,” Defendant’s argument here must be incorrect. Ordered by Judge Christopher J. Burke on 11/21/2025. (sam)

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