

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

Brook + Whittle LTD,

Plaintiff,

v.

Nestlé USA, Inc., Fuji Seal International, Inc.,

Defendants.

CASE NO. 2:24-CV-00735-JRG-RSP

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

Pursuant to Local Patent Rule 4-3, Plaintiff Brook + Whittle LTD (“B+W”) and Defendants Nestlé USA, Inc. (“Nestlé”) and Fuji Seal International, Inc. (“Fuji Seal”) (collectively “Defendants”) hereby provide their Joint Claim Construction and Prehearing Statement.

Pursuant to P.R. 4-3(a)(1), the parties agree on the constructions of the following claim terms, phrases, or clauses: NONE.

Pursuant to P.R. 4-3(a)(2), each party’s proposed construction for the disputed terms are as follows:

Claim Term (Where Term Appears)	Plaintiff B+W’s Proposed Construction	Defendants’ Proposed Construction
“recyclable” (Claims 1–14, 16–19)	“capable of being recycled without removing the label from a container before or during the recycling process”	“capable of being processed and recovered in a PET recycling stream”
“polyethylene terephthalate (PET)” (Claims 1, 5, 14, 18, 19)	Plain and ordinary meaning	“A polymer prepared from terephthalic acid (or dimethyl terephthalate) and ethylene glycol, and not any other monomers”

“wherein the recyclable shrink label is recyclable with a PET container” (Claims 1, 19)	Plain and ordinary meaning (aside from the term “recyclable”)	“wherein the claimed heat shrink label is capable of being processed and recovered in its entirety, together with a PET container in the same PET recycling stream, without being separated from the PET container”
“crystallizable polyethylene terephthalate (PET)” (Claim 18)	Plain and ordinary meaning	“polyethylene terephthalate (PET) (as construed) that is capable of crystallizing”
“comprising polyethylene terephthalate (PET)” (Claims 1, 19)	Plain and ordinary meaning Term is not indefinite under 35 U.S.C. § 112	Indefinite under 35 U.S.C. § 112 or, in the alternative, should be construed as “the majority of which is polyethylene terephthalate (PET) (as construed)”

Pursuant to P.R. 4-3(a)(2), the parties provide the identification of intrinsic and extrinsic evidence in the attached Exhibit A (Plaintiff B+W) and Exhibit B (Defendants Nestlé and Fuji Seal).

Pursuant to P.R. 4-3(a)(3), the parties anticipate the time necessary for the Claim Construction Hearing: 2–3 HOURS.

Pursuant to P.R. 4-3(a)(4), with respect to witnesses at the hearing, the parties propose: NONE. However, as identified in Exhibits A and B, the parties may submit expert declarations from various experts in support of the construction of certain terms.

Pursuant to P.R. 4-3(a)(5), with respect to other issues that might appropriately be taken up at a prehearing conference prior to the Claim Construction Hearing: NONE.

Dated: August 26, 2025

/s/ John F. Bennett

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3) on August 26, 2025.

/s/ *Brandon H. Brown*
Brandon H. Brown

CERTIFICATE OF CONFERENCE

I hereby certify that counsel has complied with the meet and confer requirement of Local Rule CV-7(h). Counsel for Defendants confirmed that Defendants jointly agree to the filing of this Joint Claim Construction and Prehearing Statement.

/s/ Brandon H. Brown
Brandon H. Brown