

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MAGNOLIA MEDICAL
TECHNOLOGIES, INC.,

Plaintiff,

v.

KURIN, INC.,

Defendant.

C.A. No. 24-1124-CFC

**JOINT CLAIM CONSTRUCTION BRIEF FOR
KURIN, INC.'S ASSERTED PATENT**

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I. KURIN'S OPENING INTRODUCTION

After years developing innovative products to address potentially deadly bloodstream infections, in February of 2015, Kurin's CEO, Bobby Rogers, set his sights on developing easy-to-use solutions to reduce blood culture contamination during blood collection. Mr. Rogers' innovations led to the development of both the Kurin Lock and Kurin Jet, both of which are practical, small, and effective at reducing contamination while minimizing the amount of patient blood to be discarded. Mr. Rogers' also sought to protect his innovative work by filing numerous patent applications, starting with three provisional applications filed between 2015 and 2016.

Kurin's U.S. Patent No. 12,138,052 (hereinafter, the "'052 Patent") stems from that same patent family, and, consistent with Mr. Rogers goal of designing an easy-to-use solution to a complex issue, describes the claimed invention—which represents a technologically significant and practically important step forward in the field of blood culture contamination reduction technologies—in simple, straightforward language that a person of ordinary skill in the art can explain and a jury will understand without the need for specific definition by the Court. In the '052 Patent, Kurin did not disavow any claim scope nor specifically define any claim terms separate and apart from their plain and ordinary meaning. Thus, no terms in the '052 Patent require construction, and all terms should be given their plain and

ordinary meaning. Nevertheless, Magnolia seeks to introduce a series of constructions that have no support in either the intrinsic or extrinsic record hoping to rewrite Kurin's patent claims to avoid liability for its infringement, undoubtedly recognizing that its products infringe Kurin's claims as written. Kurin respectfully requests that the Court reject Magnolia's proposed constructions and apply plain and ordinary meaning for the disputed terms of the '052 Patent.

II. MAGNOLIA'S RESPONSIVE INTRODUCTION

Magnolia proposes two terms for construction in Kurin's #052 Patent, which will help the jury better understand the claim language. In contrast, despite proposing *sixteen* terms for construction from Magnolia's patents, Kurin contends that *nothing* in its #052 Patent should be construed. Moreover, although it professes that no construction is necessary, Kurin identifies nothing in the proposed constructions that it thinks is wrong or improperly limiting, and fails to explain how (if at all) it thinks the plain and ordinary meaning is broader or different. The Court should adopt Magnolia's proposed constructions, which are fully consistent with the ordinary meaning to one of skill in the art and will help a lay jury properly understand the terms.¹

¹ Kurin's brief also seeks to present a counterfactual invention story that is irrelevant to claim construction. *Supra* §I. Magnolia does not respond here. The Court is familiar from prior litigation with the parties and their histories, including Mr. Rogers' past conduct and the true sources of his purported innovations.

III. KURIN'S REPLY INTRODUCTION

Magnolia's answering brief highlights its evident effort to have the Court address issues of liability at the claim construction stage by attempting to generate a claim construction dispute where none should exist. Indeed, a page and a half of Magnolia's eight-page response makes implied arguments related to validity while purporting to discuss the background and prosecution history of the '052 patent. Magnolia's argument includes several incorrect characterizations about what occurred during prosecution and Kurin's positions during prosecution. Kurin did not disavow any claim scope nor specifically define any claim terms separate and apart from their plain and ordinary meaning during prosecution of the '052 patent. And Magnolia's attempts to limit the scope of the disputed terms is unsupported by the intrinsic or extrinsic record.

After further discussion, the parties were able to reach agreement on the term "flexible material." Specifically, Magnolia agrees to Kurin's proposed plain and ordinary meaning of that term, which is set forth below. Thus, the only remaining dispute relates to the term "housing." For the reasons set forth in Kurin's opening brief and below, rather than engage in this liability determining exercise through an unnecessary construction, the Court should reject Magnolia's proposed construction and should adopt the plain and ordinary meaning of the term "housing."

IV. MAGNOLIA’S SUR-REPLY INTRODUCTION

For the first time in its reply brief, Kurin reveals its intent in opposing construction of the claimed “housing that defines,” arguing that the housing need not “entirely” define the inlet port, outlet port, and sampling channel. *Infra* §VII.A.3. But Kurin did not claim a housing that “partially” defines those elements. And Kurin cannot now run away from the claim language that it added during prosecution to get around Magnolia’s prior art. Kurin’s proposed plain and ordinary meaning similarly seeks to broaden its claims. Kurin says that “housing that defines” means “an enclosure, covering, structure or material that forms, establishes, determines or characterizes that which it defines.” If Kurin is correct that its language encompasses a housing that only *partially defines* that which it is supposed to *define*, accepting its position would broaden the scope of the claims far beyond the claim language and the written description’s disclosures.

V. THE ASSERTED PATENT

A. KURIN’S OVERVIEW OF THE ’052 PATENT

Kurin is an innovator in medical technologies and successfully developed a simpler, more efficient, solution to reducing contamination in blood culture collection and devised technologies that could be readily and successfully introduced to practitioners’ workflows. The ’052 Patent is one of many patents awarded to Kurin that demonstrates the significant research and development work by Kurin to develop these technologies.

The '052 Patent, titled "Blood Sample Optimization Device," claims priority to a series of provisional applications filed on July 24, 2015, October 7, 2015, and April 4, 2016, and describes a device for reducing, or eliminating, contaminants present in collected blood samples, and in turn reducing or eliminating false positive readings in blood cultures or other testing of collected blood samples. The '052 Patent accomplishes these goals through the use of a device comprising multiple flow paths and a collection chamber which collects a first portion of blood from the patient by use of a drawing force provided by a blood sample collection device. The patented solution also increases the efficiency, and effectiveness, of the blood collection process, and includes an inlet port, outlet port, and sampling channel defined by the devices external housing. Kurin's innovative approach to include these critical elements within a housing was an inventive approach to addressing skin contaminants in blood samples, as recognized by the United States Patent Office. *See* Ex. A (October 10, 2024 Notice of Allowability) at 2. Indeed, Kurin's invention led to many practical improvements, including in manufacturing of devices, *see, e.g.*, Ex. B ('052 Patent) at 16:15-46, 17:37-41, and ensuring that the device is user-friendly, thereby increasing the likelihood of successful utilization of the claimed invention to achieve the claimed invention's goal of reducing contamination in blood sample collection.

B. MAGNOLIA’S OVERVIEW OF THE ’052 PATENT

Kurin filed a continuation application from which the #052 Patent issued on July 24, 2024, approximately five months after Magnolia filed its patent-infringement complaint against Kurin in this case. *See* Ex. 1 Application No. 18783088 (July 24, 2024); D.I. 1. The United States Patent Office issued a non-final rejection on September 17, 2024. *See* Ex. 2 #052 Non-Final Rejection (Sept. 17, 2024). The Examiner rejected Kurin’s claims because an application describing inventions of one of Magnolia’s cofounders, Dr. Richard Patton, anticipated all of Kurin’s independent claims under 35 U.S.C. § 102(a)(1). *Id.* (*citing* United States Patent Application Publication No. 2008/0145933, attached hereto as Ex. 3). This prior art patent application was published June 19, 2008. Ex. 3 (U.S. App. Pub. No. 2008/0145933). The Patton reference disclosed every element of Kurin’s original independent claims, including a device comprising an inlet port, an outlet port, a chamber comprised of flexible material configured to collect a first portion of the blood sample when under a drawing force, and a sampling channel. *See* Ex. 2 #052 Non-Final Rejection (Sept. 17, 2024). Kurin did not contest that Magnolia’s 2008 application discloses all of these elements. Instead, Kurin responded by adding a single claim limitation to its two independent claims: a “housing” that “defines the inlet port, the sampling channel, and the outlet port.” Ex. 4, #052 Notice of Allowance (Oct. 10, 2024). The Examiner then issued a notice of allowance for the

amended claims, explaining that “the most pertinent prior art Patton *et al* (US 2008/0145933) . . . does not teach, disclose and/or fairly suggest a housing that defines the inlet port, the sampling channel, and the outlet port.” *Id.* at 2.

VI. AGREED-UPON CONSTRUCTION

A. FLEXIBLE MATERIAL

Counterclaim Plaintiff's Construction	Counterclaim Defendant's Construction
Plain and ordinary meaning	Material that is easily hand-folded, flexed, twisted, and bent
Agreed Upon Construction	
Plain and ordinary meaning, which is “a material that can be flexed, bent, stretched, expanded, or compressed without breaking under normal conditions”	

1. Kurin's Opening Position Magnolia's proposed construction seeks to introduce requirements, based on its own view of what qualifies as “flexible” despite that view being untethered from the '052 Patent, that are entirely absent from the '052 Patent and intrinsic record. Magnolia's game is conspicuous. Despite the '052 Patent not limiting the definition of the term flexible material, Magnolia attempts to rewrite and redefine Kurin's patent, hoping to manufacture a non-infringement position out of thin air. The Court should reject Magnolia's arguments. Because the '052 Patent describes the term in broad, plain language that can be easily understood by a jury, Magnolia's proposed construction “would [not] add clarity to the technical and nontechnical meaning of the term[],” and the term should be given its plain and ordinary meaning. *See IOEngine, LLC*, 2016

WL 1121938, at *1, n. 1; *see also Brown*, 265 F. 3d at 1352; *E.I. du Pont de Nemours and Co.*, 2016 WL 158031, at *3-4.

There is no dispute that, the words “easily hand-folded, flexed, twisted, and bent” do not appear once in the ’052 Patent or its file history. The ’052 Patent broadly describes examples of materials that the claimed device’s chamber could be made of, including “plastic, rubber, steel, aluminum or other suitable material” such as “flexible tubing or other elastomeric materials.” Ex. B (’052 Patent) at 6:26-28. But nothing in that language limits the specific material that makes up the chamber, much less supports Magnolia’s arbitrary definition, which would require that the chamber be “easily hand-folded, flexed, twisted, and bent.” Because Kurin did not redefine or otherwise limit the term “flexible” in the the ’052 Patent, it is entitled to the full benefit of the term’s plain and ordinary meaning. *Thorner*, 669 F. 3d at 1367; *see also Phillips*, 415 F.3d at 1316.

Not only is Magnolia’s proposed construction unnecessary and untethered from the ’052 Patent, it attempts to introduce factual questions related to infringement into the claim construction inquiry. The Federal Circuit rejected a similar approach related to the construction of the term “flexible” where, like here, both the specification and claims are silent as to the degree of flexibility. *See Thorner*, 669 F.3d at 1368-69 (overturning district court’s construction of “flexible” as “capable of being noticeably flexed with ease” and adopting plain and ordinary

meaning, noting that “[t]he task of determining the degree of flexibility . . . is part of the infringement analysis, not part of the claim construction.”). Magnolia’s proposed construction is not based on anything in the intrinsic record and instead asks the Court to determine the type or degree of flexibility – a factual question that should be left to the jury. Accordingly, Kurin requests the Court reject Magnolia’s proposed construction and that the term be given the full scope of its plain and ordinary meaning.

2. Magnolia’s Response

As with the term “housing that defines,” in the context of the materials in blood diversion devices, the term “flexible material” is not in a juror’s everyday repertoire. Whether a material is considered “flexible” by medical or scientific standards may be different than a juror’s colloquial knowledge of the term. Construing this term will aid the jury’s understanding. *See Funai Elec.*, 616 F.3d at 1366; *see also Select Retrieval LLC*, 2014 WL 1092387, at *1-*2.

In view of the specification, a person of ordinary skill would understand “flexible” to mean easily hand-folded, flexed, twisted, and bent. The only reference to “flexible” in the specification describes a “sequestration chamber” as “formed of flexible tubing or other elastomeric materials.” #052 Patent at 6:27-28. A “flexible tubing” is one that can be easily hand-folded, flexed, twisted, and bent. Kurin cites the same portions of the specification in its brief. *See supra* §VI.A.1. Not construing

this term risks misapplication and jury confusion—all of which may be avoided through Magnolia’s proposed construction.

Thorner v. Sony Computer Entertainment America, LLC supports Magnolia’s proposed construction. 669 F.3d 1365 (Fed. Cir. 2012). Unlike Kurin, the patentee in *Thorner* agreed that the term “flexible pad” needed construction and proposed “capable of being flexed.” *Id.* at 1369. Here, Magnolia’s construction is consistent with that proposed construction.

Because there is little intrinsic evidence on the meaning of a “flexible” material, it is particularly appropriate to turn to extrinsic evidence to understand how a skilled artisan would understand the term’s meaning. *L.B. Plastics, Inc. v. Amerimax Home Prods., Inc.*, 499 F.3d 1303, 1308 (Fed. Cir. 2007) (“Since the intrinsic record provides no further guidance to the meaning of the terms . . . the district court properly turned to extrinsic evidence in this case and consulted dictionaries.”); *see also Bos. Sci. Scimed, Inc. v. Cordis Corp.*, 554 F.3d 982, 987 (Fed. Cir. 2009). Courts often turn to technical dictionaries to understand how one of ordinary skill would understand a patent term. *See, e.g., Philips*, 415 F.3d at 1318 (“Because dictionaries, and especially technical dictionaries, endeavor to collect the accepted meanings of terms used in various fields of science and technology,” they are appropriate extrinsic evidence for claim construction); *L.B. Plastics*, 499 F.3d at 1308 (affirming district court’s construction of the disputed term based on general

and technical dictionaries); *Atofina v. Great Lakes Chem. Corp.*, 441 F.3d 991, 996 (Fed. Cir. 2006) (finding that “the district court properly relied on scientific and technical dictionaries to construe the ordinary and customary meaning of the term”). Here, the definition of “flexible” in a pertinent technical dictionary further supports Magnolia’s construction. Flexible means “easily hand-folded, flexed, twisted, and bent.” Ex. 6, American Society for Testing and Material, Dictionary of Science and Technology (2005 ed.).

Although extrinsic evidence further supports it, Magnolia’s proposed construction is not “untethered” from the #052 Patent. *Supra* §VI.A.1. It follows from the limited disclosure regarding how the applicant used “flexible.” *See* #052 Patent at 6:27-28. And it provides clarity that will help the jury understand and apply the term.

3. Kurin’s Reply

After the Court’s order requiring that the parties explain the plain and ordinary meaning of terms for which they argued no construction was necessary, Feb. 10, 2025, Oral Order, the parties resolved their dispute over the term “flexible material.” Kurin provided its explanation that the plain and ordinary meaning of the term “flexible material” is “a material that can be flexed, bent, stretched, expanded, or compressed without breaking under normal conditions.” D.I. 141. After the parties’

meet and confer, Magnolia agreed to Kurin’s proposed plain and ordinary meaning of the term.

Thus, the parties agree that the term “flexible material” should be given its plain and ordinary meaning of “a material that can be flexed, bent, stretched, expanded, or compressed without breaking under normal conditions.”

VII. DISPUTED TERM

A. “A HOUSING THAT DEFINES”

Counterclaim Plaintiff’s Construction	Counterclaim Defendant’s Construction
Plain and ordinary meaning	A casing that fixes or marks the limits of

1. Kurin’s Opening Position

Because the ’052 Patent describes the term in clear, plain language, Magnolia’s proposed construction “would [not] add clarity to the technical and nontechnical meaning of the term[],” and as such the term should be given its plain and ordinary meaning. *See IOEngine, LLC v. Interactive Media Corp.*, 2016 WL 1121938, at *1, n. 1 (D. Del. Mar. 21, 2016) (adopting proposed construction of “personal computing device” for term “portable device,” where patent specification “suggest[ed] that the device is not only for individual use.”); *see also Brown v. 3M*, 265 F.3d 1349, 1352 (Fed. Cir. 2001) (adopting construction that was consistent with “the plain reading of the claim text,” where the terms “are not technical terms of art, and do not require elaborate interpretation.”); *E.I. du Pont de Nemours and Co. v.*

Unifrax I LLC, 2016 WL 158031, at *3-4 (D. Del. Jan. 13, 2016) (adopting plain and ordinary meaning and rejecting proposed construction that was inconsistent with plain language of specification and claim).

Although, the Court previously construed the term “housing,” with respect to Magnolia’s U.S. Patent No. 10,039,483, as “a casing that at some point in time encloses at least a portion of one or more components,” *see Magnolia Medical Technologies, Inc. v. Kurin, Inc.*, C.A. No. 19-00097-CFC-CJB, Dkt. 75 at 2 (D. Del. May 20, 2020), that prior construction is irrelevant and was directly tied to the structure of Magnolia’s claimed device. Indeed, the parties’ arguments with respect to that claim had nothing to do with a housing that “defined” components, but instead centered around whether, consistent with the ’483 Patent’s specification, the claimed housing contained, or enclosed, components. *See, e.g., Magnolia Medical Technologies, Inc. v. Kurin, Inc.*, C.A. No. 19-00097-CFC-CJB, Dkt. 59 at 59-71 (D. Del. Feb. 11, 2020).

Unlike the prior construction of “housing” in the ’483 Patent, Magnolia’s proposed construction of the term “housing” in the ’052 Patent is unnecessary and lacks support. Nothing in the ’052 Patent’s specification, or anywhere in the intrinsic record, evidences an intent by Kurin to specifically define the claim term in a way that differs from its plain and ordinary meaning. And Magnolia’s proposed construction is unquestionably not based on language from the intrinsic record;

indeed, the language of Magnolia’s proposed construction – “fixes or marks the limits of” – is entirely absent from the ’052 Patent’s written description. *See Bradium Techs. LLC v. Iancu*, 923 F.3d 1032, 1043 (Fed. Cir. 2019) (“[T]he specification is the single best guide to the meaning of a disputed patent claim term and usually, it is dispositive.” (internal quotation omitted)); *see also Puma Biotech, Inc. v. Astrazeneca Pharms. LP*, 2023 WL 2683559, at *8 (D. Del. Mar. 29, 2023) (“[M]erely rephrasing or paraphrasing the plain language of a claim by substituting synonyms does not represent genuine claim construction.”).

Magnolia’s proposed definition is not pulled from or based on the intrinsic record. Instead, Magnolia derives its proffered construction from the Merriam-Webster dictionary’s definition of “define.” *See, e.g., Ex. C* (<https://www.merriam-webster.com/dictionary/define/>) (“2a: to fix or mark the limits of: DEMARCATE”). Although Magnolia may wish to redefine Kurin’s claim based on a favorable dictionary definition, the terms “housing” and “define” as they are used in the claims of the ’052 Patent are well-known and easily understood. There is no reason to turn to a dictionary to “merely rephras[e] or paraphras[e] the plain language of a claim by substituting synonyms,” because that “does not represent genuine claim construction.” *See C.R. Bard, Inc. v. U.S. Surgical Corp.*, 388 F.3d 858, 863 (Fed. Cir. 2004) (“We question the need to consult a dictionary to determine the meaning of such well-known terms.”).

The '052 Patent's specification is consistent with giving the term "housing that defines" its plain and ordinary meaning. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1316 (Fed. Cir. 2005) ("The construction that stays true to the claim language and most naturally aligns with the patent's description of the invention will be, in the end, the correct construction."). And the '052 Patent does not "redefine" the term "defines," nor does it limit the term to "fixes or marks the limits of" as would be required to accept Magnolia's proposed construction. *Thorner v. Sony Comput. Ent't Am., LLC*, 669 F.3d 1362, 1367 (Fed. Cir. 2012) (A patentee can "expect to obtain the full scope of its plain and ordinary meaning unless the patentee explicitly redefines the term or disavows its full scope.").

For example, the '052 Patent's specification references Figure 15D as "showing the housing 1501 ***that defines the sampling channel*** 1506," and goes on to describe the sampling channel being "formed by grooves, channels, locks or other pathways formed in housing 1501." *See* Ex. B ('052 Patent) at 16:3-4; 16:44-46; Fig. 15D; *see also id.* at 17:37-41 ("Fig. 17 illustrates a bottom member of the blood sequestration device, and Fig. 18 illustrates a top member of the blood sequestration device, which top member and bottom member can be mated together to form an input port, and output port, a sequestration channel and a sampling channel"). The specification also describes the "the inlet port 1502" which "defines an opening into the blood sequestration device," and the "outlet port 1504 which defines an opening

out of the blood sequestration device 1500 and to the blood sample collection device.” *Id.* at 14:46-67. The specification therefore makes clear that the construction of “a housing that defines” is not limited to “a casing that fixes or marks the limits of,” as Magnolia asserts. Nor has Kurin defined the term “housing that defines,” as Magnolia proposes, at any point during its application and prosecution of the patent. Accordingly, Kurin requests the Court reject Magnolia’s proposed construction and instead give the term the full scope of its plain and ordinary meaning.

2. Magnolia’s Response

Both of the independent claims of the #052 patent recite “a housing that defines the inlet port, the sampling channel, and the outlet port.” #052 Patent at cls. 1, 13. Typical jurors will likely not be familiar with how a person of skill in the art would understand the term “housing,” much less “a housing that defines.” Particularly in the context of blood-diversion devices like the ones at issue in this action, this term is far outside a juror’s bailiwick. What is a “housing,” and how can it “define” the claimed elements? Jurors will need guidance to answer these questions. And providing guidance to jurors is precisely the function of claim construction. *See Funai Elec. Co. v. Daewoo Elecs. Corp.*, 616 F.3d 1357, 1366 (Fed. Cir. 2010) (“The criterion is whether the explanation aids the court and the jury in understanding the term as it is used in the claimed invention.”); *see also Select*

Retrieval LLC v. AmeriMark Direct LLC, 2014 WL 1092387, at *1-*2 (D. Del. Mar. 14, 2014) (rejecting ordinary meaning and adopting construction wherein “construction of the term will clarify its meaning and assist the jury”).

Construction of this term will be particularly helpful because Kurin added the claim limitations reciting “a housing that defines” to overcome the PTO’s rejection of its claims over Magnolia’s prior art. *See supra* Overview of the #052 Patent. These limitations were essential to—and the *only* basis for—the PTO’s decision to allow the #052 Patent to issue over the otherwise-anticipating prior art from Magnolia’s cofounder. Ex. 4, #052 Notice of Allowance (Oct. 10, 2024), at 2 (concluding that the closest prior art of record does not teach “a housing that defines the inlet port, the sampling channel, and the outlet port”).

Consistent with Magnolia’s proposed construction, the #052 Patent describes the housing defining the interior structures by fixing or marking their limits. For example, the specification includes Figure 15D, which depicts “the housing 1501 that defines the sampling channel 1506.” #052 Patent at 16:1-4. The figure shows that the housing 1501 defines the internal sampling channel 1506 by fixing its outer limits. And it shows the housing defining the sampling channel by forming and demarcating its outer boundary.

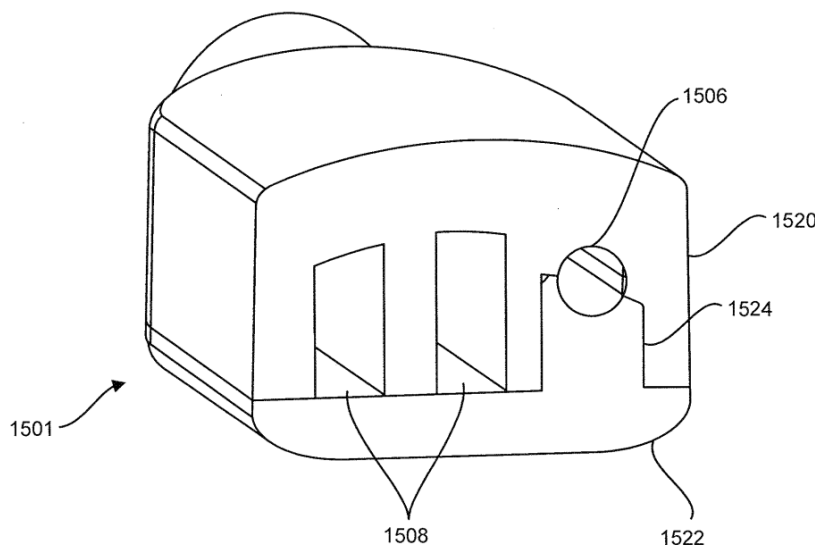


FIG. 15D

Other disclosures in the specification are consistent and show that when the housing “defines” an element of an embodiment in the #052 Patent, it is fixing or marking the limits of that element. For example, in the description of Figure 2, the patent specifies that the “housing for the sequestration chamber . . . define[s] an interior space or volume therein.” #052 Patent at 7:33-42. Here, the housing defines the sequestration chamber by fixing its limits. *See also, e.g., id.* at 6:11-14 (sequestration chamber “formed in or defined by the housing”), 12:27-36 (sequestration chamber “is formed as a cavity or chamber within housing 1301 or formed by walls that define housing 1301”).

The portions of the specification that Kurin cites support the same meaning. *See supra* §VII.A.1. For example, Kurin cites a passage that describes constructing the claimed device by “mat[ing] together” a “top member” and “bottom member” of

the housing “to form” interior structures. #052 Patent at 17:37-41. This illustrates Magnolia’s point—the housing itself forms and fixes the boundaries of the relevant interior spaces. Similarly, the passage that describes the sampling channel being “formed by grooves, channels, locks or other pathways formed in housing 1501” supports Magnolia’s construction because it explains that the housing itself forms and delimits the bounds of the sampling channel. #052 Patent at 16:44-46.

Kurin argues that Magnolia’s proposed construction would not “give the term the full scope of its plain and ordinary meaning.” *Supra* §VII.A.1. But Kurin provides no examples or explanation of *how* Magnolia’s construction limits the claimed invention. Nor can it, because Magnolia’s construction reflects the plain and ordinary meaning to a skilled artisan for a term that would otherwise be vague or confusing for the jury.

Further, in the prior litigation between the parties, Kurin had no issue with proposing a construction that uses the more familiar term “casing” when referring to the term “housing” that skilled artisans use in the context of the purported inventions. Ex. 5, Apr. 15, 2020 Claim Construction Tr., at 37:8-38:13, C.A. No. 19-97-CFC (D. Del.).

Contrary to Kurin’s argument, Magnolia’s proposed construction does not merely “substitut[e] synonyms,” *see supra* §VII.A.1—instead, Magnolia’s proposed

construction clarifies language that would otherwise be opaque and potentially ambiguous to a jury.

3. Kurin's Reply

Magnolia does not argue that Kurin disavowed claim scope or acted as a lexicographer in its use of the claim limitation, a “housing that defines” the inlet port, the sampling channel, and the outlet port. The term should therefore be afforded the full breadth of its plain and ordinary meaning. *See Wasica Fin. GmbH v. Cont'l Auto. Sys., Inc.*, 853 F.3d 1272, 1281 (Fed. Cir. 2017) (“It is axiomatic that we will not narrow a claim term beyond its plain and ordinary meaning unless there is support for the limitation in the words of the claim, the specification, or the prosecution history.”). To further simplify matters here, the plain and ordinary meaning of the term “housing that defines” is an enclosure, covering, structure or material that forms, establishes, determines or characterizes that which it defines; in this case, the inlet port, the sampling channel, and the outlet port. *See* D.I. 141.

Although Magnolia has not yet explained what it thinks is incorrect about the plain and ordinary meaning above, Magnolia nonetheless asks the Court to let it, Magnolia, redefine the term as it sees fit because it prefers a different definition. The Court should reject Magnolia's request. First, Magnolia's proposal unduly limits “a housing that defines” to “a casing that fixes or marks the limits of” the inlet port, the sampling channel, and the outlet port. Nowhere in the patent does the

phrase “fixes or marks the limits of” (or any variation thereof) appear. On the contrary, the patent is replete with references describing the housing broadly as forming the inlet port, outlet port, and sampling channel. *See, e.g.*, ’052 Patent, 12:16–18 (“The blood sequestration device 1302 includes a housing 1301 having an inlet port 1314, a main outlet port 1312, and a sequestration channel port 1316.”); *id.* at 16:1–4 (“FIG. 15D is a cross section of the blood sequestration device 1500 in accordance with some implementations, showing the housing 1501 that defines the sampling channel 1506 and the sequestration chamber 1508.”); *id.* at 16:15–18 (“The housing 1501 can be formed of multiple parts or a single, unitary part. In some implementations, and as illustrated in FIG. 15D, the housing 1501 includes a top member 1520 and a bottom member 1522 that are mated together”); *id.* at 17:36–41 (describing a top member and bottom member that can be “mated together to form an input port, an output port, a sequestration chamber and a sampling channel”); *id.* at Figs. 17A–17E (illustrating a bottom member of a housing for a blood sequestration device); *id.* at Figs. 18A–18F (illustrating a top member of a housing for a blood sequestration device); *id.* at Figs. 19A and 19B (illustrating a blood sequestration device having a top member mated with a bottom member). Absent from the patent’s description is any language which limits this term as Magnolia proposes.

Second, rather than defer to the intrinsic record, Magnolia’s proposed construction merely copies and pastes an extrinsic dictionary definition for the term “defines,” which is improper when it conflicts with the intrinsic record as here. *See Seabed Geosolutions (US) Inc. v. Magseis FF LLC*, 8 F.4th 1285, 1287 (Fed. Cir. 2021) (“[W]e resort to extrinsic evidence to construe claims only if it is consistent with the intrinsic evidence.”) (citing *Tempo Lighting, Inc. v. Tivoli, LLC*, 742 F.3d 973, 977 (Fed. Cir. 2014)). For example, contrary to Magnolia’s arguments, the ’052 patent specification does not require that the device’s housing “fix[]” or “mark[] th[e] limits” of the sampling channel’s outer limits. *See supra* §VII.A.2. Although the specification includes examples of the housing forming or enclosing the inlet port, sampling channel, and outlet port, it does not purport to limit those components, or any others, as entirely within or formed only by the housing. *See, e.g.*, ’052 Patent at 14:18-21 (“In some other implementations, one or more of the diversion pathway 1409, the inlet port 1402, and/or the outlet port 1404 can be at least partially formed by a cap member that is connected to either end of the housing 1414.”); *see also id.* at 11:46-65 (explaining that “the blood sequestration device 1202 can include an inlet port 1212, a main outlet port, and a sequestration channel port,” “[t]he sequestration device 1202 can include a housing or other containing body,” and “the sequestration device 1202 includes a main body 1206 and a cap 1208.”); Figs. 14A–E. Thus, construing “housing that defines” to mean “fixes or

marks the limits of” would improperly introduce a limitation into the claim from the specification. *See Hill-Rom Servs., Inc. v. Stryker Corp.*, 755 F.3d 1367, 1371 (Fed. Cir. 2014) (“While we read claims in view of the specification, of which they are a part, we do not read limitations from the embodiments in the specification into the claims.”) (citing *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 904 (Fed. Cir. 2004)).

Third, Magnolia’s reference to the prior litigation confuses the issue. The Court’s construction of the term “housing” in the ’483 Patent related to a term from a different patent of *Magnolia’s* and did not concern the claim language or specification here. Moreover, the dispute here is not whether a “casing” would qualify as a “housing”—the ’483 patent involved a housing that “contains” or “encloses” components. *See* No. 19-97, D.I. 59 at 59–71. Instead, the dispute here is whether the Court should limit the claim term “housing that defines” to rigidly “fix or mark the limits of” based entirely on extrinsic evidence. The term “housing that defines” in the ’052 patent can be readily understood by a juror and should be given its plain and ordinary meaning.

Finally, while Magnolia argues that the purpose of claim construction is to provide guidance to jurors and purports that its construction does that, Magnolia’s proposed construction does not clarify the term’s meaning, nor does it aid the jury in understanding the term as it is used in the patent. *See supra* §VII.A.2 (citing

Funai Elec. Co. v. Daewoo Elecs. Corp., 616 F.3d 1357, 1366 (Fed. Cir. 2010); *Select Retrieval LLC v. AmeriMark Direct LLC*, Civ. Action No. 1:11-cv-00812-RGA, 2014 WL 1092387, at *1–*2 (D. Del. Mar. 14, 2014)). The '052 Patent describes the term in clear, plain language and Magnolia's construction confuses, rather than clarifies, the term's meaning. Given that Magnolia's construction "would [not] add clarity to the technical and nontechnical meaning of the term[]," the term should be afforded its plain and ordinary meaning. *IOEngine, LLC v. Interactive Media Corp.*, Civ. Action No. 14-1571-GMS, 2016 WL 1121938, at *1, n.1 (D. Del. Mar. 21, 2016).

The Court should therefore reject Magnolia's proposed construction which improperly introduces a limitation from the specification and will lead to jury confusion in its application.

4. Magnolia's Sur-Reply

The principal dispute is whether the housing must "entirely" define the inlet port, outlet port, and sampling channel. *Supra* §VII.A.3. Kurin's argument for a broader meaning finds no support in the #052 Patent.

First, Magnolia's position hews to the claim language itself. Independent claims 1 and 13 unambiguously recite "a housing *that defines*." Those claims do not include any broadening language, like "partially." Kurin's assertion that Magnolia is introducing limitations from the specification is wrong.

Second, Kurin argues that the written description of the #052 Patent “describ[es] the housing broadly as forming the inlet port, outlet port, and sampling channel.” *Supra* §VII.A.3. That is true and consistent with Magnolia’s proposed construction. The excerpts that Kurin cites in support of this statement—many of which describe Figure 15D, which Magnolia discussed at length in its Answering Brief—all describe the housing as forming the relevant structures by fixing their limits. For example, the written description explains that “[i]n some implementations, the sampling channel 1406 and the sequestration chamber 1408 are formed by grooves, channels, locks or other pathways formed in housing 1414.” #052 Patent at 14:8-10. It further explains that “housing 1414 can have a bottom member that sealably mates with a top member. One or both of the bottom member and the top member can include the sampling channel 1406 . . . , the inlet port 1402, and the outlet port 1404.” #052 Patent at 14:12-17. Both examples are consistent with the claim language (a “housing that defines”) and Magnolia’s construction, which specifies that to define a structure is to fix its limits. Other figures and descriptions in the #052 Patent similarly support Magnolia’s position. *Supra* §VII.A.2.

The other excerpts that Kurin relies on disclose unclaimed embodiments where other components (not limited to the housing) define the inlet port and outlet port. For example, in “some other implementations” on which Kurin relies, “the inlet

port 1402, and/or the outlet port 1404 can be at least partially formed by a cap member that is connected to either end of the housing 1414.” *Supra* §VII.A.3 (quoting #052 Patent at 14:18-21). But the asserted claims recite structures defined by *a housing*, not by a cap member or other structure *connected to* the end of the housing. And, of course, claims “need not contain every feature” disclosed in the written description. *AllVoice Computing PLC v. Nuance Commc’ns, Inc.*, 504 F.3d 1236, 1248 (Fed. Cir. 2007). Hence these excerpts do not support Kurin’s position.

Finally, Kurin argues that Magnolia’s proposed construction would confuse the jury. *Supra* §VII.A.3. But Kurin does not identify any specific ambiguities or points of confusion. Nor can it, because Magnolia’s construction is clear, and instructs the jury as to the plain and ordinary meaning to a skilled artisan for a term that would otherwise be vague or confusing for the jury. Indeed, Kurin’s briefing demonstrates that construction is necessary to ensure that the term is not misread or impermissibly broadened. Kurin’s supposed “plain and ordinary meaning” would add confusion and ambiguity. For example, what does it mean for the housing to “characterize” or “establish” the inlet port, outlet port, and sampling channel? If it need not define them “entirely,” *supra* §VII.A.3, how much is enough? Kurin cannot say.

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