

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 13-05463-RGK (SSx)	Date	September 10, 2014
Title	IMAGINAL SYSTEMATIC, LLC v. LEGGETT & PLATT, INC. AND SIMMONS BEDDING CO.		

Present: The Honorable	R. GARY KLAUSNER, U.S. DISTRICT JUDGE		
Sharon L. Williams, Not Present	Not Reported		
Deputy Clerk	Court Reporter / Recorder		
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:		
Not Present	Not Present		

Proceedings: (IN CHAMBERS) Order re: Imaginal’s Motion for Claim Construction Summary Judgment (DE 44); Defendants’ Motion for Claim Construction and Partial Summary Judgment (DE 75)

I. INTRODUCTION

Imaginal Systematic, LLC (“Imaginal”) asserts that after a judgment of infringement had been rendered in January 2012, Leggett & Platt, Inc. (“L&P”) and Simmons Bedding Co. (“Simmons”) (collectively, “Defendants”) have continued to infringe Imaginal’s patents by using the same accused device. Imaginal also asserts that notwithstanding post-judgment modifications made by L&P to the accused device, the redesigned device also infringes one of Imaginal’s patent.

Before the Court are the parties’ cross motions for summary judgment. For the reasons stated below, the Court **grants in part** Imaginal’s Motion for Summary Judgment, and **grants** Defendants’ Motion for Partial Summary Judgment.

II. BACKGROUND

Imaginal owns U.S. Patent Nos. 6,935,546 (‘546 patent), 7,222,402 (‘402 patent), and 7,467,454 (‘454 patent) (collectively, “Asserted Patents”). These patents, entitled, “Box Spring Stapler Apparatus,” relate to an apparatus that uses a fastener to automatically secure a module to a frame, using a mechanical guide.

L&P designs and manufactures products, one of which was the Auto TopOff machine, which automatically stapled wire-grids to wood frames to make foundation for beds. Simmons manufactures and sells bedding products, including bedsets. Simmons purchased eleven Auto Topoff machines from L&P to assemble foundations for its bedsets.

In October 2010, Imaginal sued Defendants for patent infringement (“Prior Action”). In that

case, Imaginal alleged that Defendants infringed the Asserted Patents by making, selling, or using the Auto TopOff machines. In a summary judgment, the Court found that the Auto TopOff infringed the Asserted Patents by infringing at least Claim 1 of the '546 patent, Claim 1 of the '454 patent, and Claim 8 of the '402 patent. The Court then conducted a bench trial on January 18, 2012 and found that Defendants did not willfully infringe the Asserted Patents, and that Defendants failed to establish laches or equitable estoppel as affirmative defenses. As to damages, the case went to jury trial. On January 24, 2012, following a jury award of \$5 million in damages, the Court entered judgment for Imaginal. In a post-trial motion, Imaginal sought an award of ongoing royalties. The Court denied its request. In its order, the Court reasoned that it had never previously been asked to make any determination involving prospective use of the patents. Therefore, Imaginal's post-trial request for ongoing royalties amounted to a request to alter judgment, which at that point, was untimely.

On July 29, 2013, Imaginal filed the current action for damages ("Current Action"). Imaginal alleges that, by their post-judgment use of the Auto TopOff, Defendants willfully infringe Imaginal's patents. Imaginal also contends that any redesigned AutoTopOffs ("Redesigned ATO") still infringe one of the patents. Imaginal seeks declaratory judgment of infringement, permanent injunction and other equitable relief, compensatory damages, punitive damages, pre-judgment and post-judgment interest, and attorneys' fees and costs.

III. JUDICIAL STANDARD

Summary judgment is appropriate when there is no genuine issue of material fact for trial. Fed. R. Civ. P. 56(c). The party moving for summary judgment has the burden of establishing that the other party cannot establish a necessary element of its case, notwithstanding any factual disputes. *Novartis Corp. v. Ben Venue Laboratories, Inc.*, 271 F.3d 1043, 1046 (2001). Therefore, the moving party "has the initial responsibility of identifying the legal basis of its motion, and of pointing to those portions of the record that it believes demonstrate the absence of a genuine issue of material fact." *Id.* (citation omitted). If the moving party overcomes that burden, the burden will shift to the non-moving party to point to specific facts that creates a genuine issue of material fact. *Id.* In the patent infringement context, the ultimate burden in proving infringement rests with the patentee. *Id.* On a summary judgment for non-infringement, therefore, it is not necessary for the moving party to offer evidence of non-infringement. *Id.* It suffices for the movant to point to lack of any evidence that supports infringement. *Id.*

IV. DISCUSSION

Imaginal seeks summary judgment of infringement for (1) continued, post-judgment use of the Auto TopOff, and (2) use of the Redesigned ATO. Defendants seek summary judgment of non-infringement as to the Redesigned ATO. For the following reasons, the Court finds that Imaginal prevails on its motion as to post-judgment infringement by continued use of the Auto TopOff, and Defendants prevail on its motion as to the Redesigned ATO.

A. Auto TopOff

Court records show that in the Prior Action, the Court found the Auto TopOffs to infringe Imaginal's Asserted Patents. The subject matter of the Current Action includes the continued use of the same infringing machines.¹ By way of its motion, Imaginal seeks a finding of willful infringement and a finding that the royalty rate purportedly determined in the Prior Action is binding on the Current Action.

¹ It is undisputed that L&P redesigned the Auto TopOffs in response to the Prior Action. However, it appears that Simmons continued using at least a portion of the original machines until conversion to the Resdesigned ATOs was complete in June 2014. (Cox Decl. ¶ 36, Ex. 35.)

1. *Infringement Through Continued Use of the Auto TopOff*

It is undisputed that after the January 24, 2012 Judgment, Simmons continued to use the Auto TopOff machines. (Defs.' Statement of Genuine Issues ("SGI"), ¶4.) The evidence shows that, because the process of converting to the Redesigned ATO occurred over a period of time, Simmons' use of Auto TopOffs continued as late as June 2014. (Defs.' SGI, ¶4; Imaginal's Mot. for Summ. J. ("MSJ"), Ex. Y.) Moreover, Imaginal offers evidence indicating that L&P induced this continued use. Specifically, the evidence shows that post-judgment, L&P (1) made service calls for the Auto TopOffs, provided assistance in repairing a broken part, and traveled to Simmons' facilities to troubleshoot problems with the machines (Imaginal's MSJ, Ex. E, p. 127; Ex. F, pp. 231, 252-253); (2) provided replacement parts for the Auto TopOffs (Imaginal's MSJ, Ex. F, pp. 230-231); (3) sold Semi-Flex grids to Simmons with the knowledge that they would be used with Auto TopOff machines (Imaginal's MSJ, Ex. G, pp. 8-9; Ex. E, pp. 138-139); and (4) agreed to indemnify Simmons for costs related to the current litigation (Imaginal's MSJ, Ex. G, pp. 40-41; Ex. J, pp. 43-54). In response, Defendants argue only that the assistance provided to Simmons was de minimus, and that L&P's work with customers to implement the Redesigned ATO constitutes evidence that L&P intended to curtail infringement. These arguments are insufficient to raise a triable issue of material fact as to inducement.

Based on the principles of collateral estoppel, along with the evidence provided, the Court finds that Defendants infringed Imaginal's patents through Simmons' continued use of the Auto TopOff after January 24, 2012.

2. *Defendants' Affirmative Defenses*

Defendants argue that Imaginal's claim is barred by the doctrines of res judicata; collateral estoppel; and equitable estoppel, laches, and waiver. The Court rejects Defendants' res judicata and collateral estoppel defenses, as discussed in the Court's concurrently issued Order re Motion for Judgment on the Pleadings. Therefore, the Court addresses only Defendants' equitable estoppel, laches, and waiver arguments.

As to this remaining defense, Defendants argue only that Imaginal is equitably estopped from asserting its claim because its conduct during and following the Prior Action convinced Defendants that Imaginal's efforts to obtain prospective remedies had been abandoned.²

To prevail on an equitable estoppel defense, Defendants must prove the following three elements: (1) Imaginal, through misleading conduct or silence, led Defendants to reasonably infer that Imaginal does not intend to enforce its patent against Defendants; (2) Defendants relied on that conduct; and (3) Defendants will be materially prejudiced if Imaginal is allowed to proceed with its claim. *See Radio Systems Corp. v. Lalor*, 709 F.3d 1124, 1130 (Fed. Cir. 2013).

In support of their defense, Defendants rely solely on evidence that during the pendency of the Prior Action, Imaginal signaled at least three times that it would pursue an injunction, but then declined to do so, even after prevailing at trial. (Defs.' Opp'n, Cox Decl., Exs. 1-3.) Defendants argue that this evidence shows affirmative conduct from which they could reasonably infer that the claim against them had been abandoned.

² By footnote, Defendants state that the same circumstances may also give rise to waiver or an implied license. (Defs.' Opp'n, p.12.) Additionally, at the end of their opposition, Defendants conclusorily state that their equitable estoppel, laches, and waiver defenses have merit. (Defs.' Opp'n, p.30.) However, Defendants fail to support either of these independent contentions with argument or factual support.

The Court finds Defendants' argument unavailing. The evidence upon which they rely does not give inference to such a conclusion. Rather, the evidence makes it clear that during the pendency of the Prior Action, Imaginal had the intention to pursue prospective enforcement after judgment was entered. In fact, Imaginal *did* seek such relief, albeit through an untimely motion that was denied on procedural grounds. Defendants have offered no evidence showing that Imaginal did anything in the time period between judgment and its untimely motion that created a reasonable inference that it had abandoned its enforcement rights. Defendants indicate that it was Imaginal's inaction during that time period that created an inference of abandonment. However, the Ninth Circuit has held that "silence alone will not create an estoppel unless there was a clear duty to speak or somehow the patentee's continued silence reinforces the defendant's inference from the plaintiff's known acquiescence that the defendant will be unmolested." *A.C. Aukerman Co. v. R.L. Chaides Constr. Co.*, 960 F.2d 1020, 1042-44 (Fed. Cir. 1992). Here, Defendants have not established that Imaginal had a clear duty to speak or that there was a previous, knowing acquiescence.

Based on the foregoing, the Court finds that Defendants fail to satisfy their burden as to any affirmative defense.

3. Willfulness

To establish willful infringement, Imaginal must show by clear and convincing evidence that (1) Defendants acted despite an objectively high likelihood that their actions constituted infringement of a valid patent; and (2) such risk was either known or so obvious that Defendants should have known of the risk. *See In re Seagate Tech., LLC*, 497 F.3d 1360, 1371 (Fed. Cir. 2007).

Here, it is undisputed that Simmons, a party to the Prior Action, continued to use the very same machines that the Court had already determined to infringe on the Asserted Patents. In light of the Prior Action, it is hard to imagine a clearer case where the defendant actually knows that its actions constitute infringement of a valid patent. Therefore, the elements of willful infringement are satisfied.

In their defense, Defendants argue that they relied on a "reasonable defense to a charge of infringement." *See Bard Peripheral Vascular, Inc. v. W. L. Gore & Assoc., Inc.*, 682 F.3d 1003, 1005-06 (Fed. Cir. 2012). Specifically, Defendants state that had a reasonable belief that (1) reexaminations of the Asserted Patents that were pending with the USPTO would result in a finding of patent invalidity, and (2) due to its dilatory conduct, Imaginal no longer intended to enforce the patents against Defendants after January 24, 2012.

Neither argument is persuasive. As an initial matter, the Court rejects the dilatory conduct argument based on the same reasons discussed in Section IV.A.2, above. As to the pending reexaminations argument, Defendants state that during and after the Prior Action, there was strong evidence to show that the USPTO would ultimately find that the Asserted Patents were invalid. This argument is unavailing. At the time of the continued infringement, the Court had already issued a judgment clearly stating that Auto TopOff infringed *valid patents*. Until the Judgment is reversed or rendered invalid, it is simply unreasonable to take the position that invalidity is a legitimate defense to Defendants' knowing infringement.

Defendants have failed to raise a triable issue of fact as to willfulness. Therefore, Imaginal prevails on this issue.

4. Collateral Estoppel as to Royalties

In the Current Action, Imaginal seeks to use the royalty rate purportedly determined in the Prior Action. Imaginal asserts that Defendants are collateral estopped from challenging this. Imaginal is

wrong.

To apply collateral estoppel, the following requirements must be met: (1) the issue to be decided is identical to the one decided in the first action; (2) the issue was actually litigated in the first action; (3) resolution of the issue was essential to a final judgment in the first action; and (4) the parties had a full and fair opportunity to litigate the issue in the first action. *Applied Medical Resources Corp. v. U.S. Surgical Corp.*, 435 F.3d 1356, 1361 (Fed. Cir. 2006).

Here, the facts pertinent to the Prior Action fail to satisfy all requirements for collateral estoppel. As Imaginal correctly argues, the jury was presented with a damages theory based on labor cost savings Simmons achieved by using the Auto TopOff. This fact, however, is irrelevant. Court records show that, with regard to damages, the jury was asked only to arrive at a “total amount to compensate Imaginal for the use made of the patented invention by [D]efendants up to the date of [the] verdict.” (Verdict Form (filed January 24, 2012), CV-10-07416-RGK, DE 436.). The jury was then asked to determine the amount of the total compensation that should be apportioned to Simmons. *Id.* The jury was never asked to disclose the process by which it determined the damages award, and the Court will not speculate as to that process. It is completely unknown whether the jury used Imaginal’s proposed \$0.44 royalty rate, or a different method of calculation, to arrive at its result. As such, the Court finds that Imaginal cannot establish that the issue was actually decided by the jury as an essential step in reaching final judgment.

Imaginal’s motion fails as to this issue.

5. Conclusion

Based on the foregoing, the Court finds that Defendants willfully infringed Imaginal’s patents by Simmons’ continued use of AutoTopOffs after January 24, 2012. Defendants have failed to assert a valid defense, and Imaginal has failed to show that royalties purportedly determined during the Prior Action are binding on the Current Action.

B. Redesigned ATO

The parties do not dispute that in response to the Prior Action, L&P redesigned its original machines. According to the undisputed evidence, Defendant instituted a conversion process from the AutoTopOff to the Redesigned ATO, which completed in June 2014.

The Redesigned ATO operates without use of the “gripper feet” alignment tool, and instead, incorporates the Cognex System. (Sturges Decl. ¶12; Garrett Decl. ¶¶5 and 10; Sturges Decl., Ex. 2 (Garrett Dep.) at 24:1-10; Sturges Decl., Ex. 3 (Myers Dep.) at 32:3-12, 33:14-18.) The Cognex System is a computer system that uses an optical sensor to control the movement of both a gripper carriage on which a wood frame and one grid of modules are placed, and the stapling device. (Hanle Decl., Ex. Q (Rawlings Dep.) at 32:20-23, 20:4-21:25, 33:14-23, 64:5-22; Sturges Decl. ¶¶25-45; Garrett Decl., ¶¶7-8, 14-16; Sturges Decl., Ex. 3 (Myers Dep.) at 97:3-15, 102:7-10; Sturges Decl., Exs. 4-8.) Once the frame and overlaying grid of modules are fed onto a gripper carriage, the system advances the frame/grid to the stapling tool. *Id.* As the staplers descend on a row of modules, the computer’s optical sensor looks for the bottom portion of the wire modules that is to be fastened to the frame. *Id.* If the wire is located within the computer’s field of vision, the stapler is allowed to complete its descent and apply a staple to the target fastening location on the wood frame. *Id.* If the wire is not located, the computer will stop the movement of the stapler and adjust the position of the frame/grid in an effort to locate the row of modules. *Id.* If the staplers have already descended to a certain point before the computer stops them, the system moves the staplers back up to a safe height. *Id.* Once the modules are back in alignment, the

system tells the staplers to continue the downstroke. *Id.* If proper alignment cannot be achieved, the system advances the frame/grid to the next row of modules. *Id.*

The question presented by the parties' cross motions for summary judgment is whether the Redesigned ATO infringes Imaginal's '402 patent. Imaginal specifically contends that, by use of the Redesigned ATO, Defendants infringe claims 1,6,7,8,11, and 12 of the '402 patent.

Determination of patent infringement is a two-step process. First, the Court must construe the proper meaning and scope of the claims (claim construction). *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 976 (Fed.Cir.1995) (en banc) (citations omitted), *aff'd*, 517 U.S. 370 (1996). Once the court has construed the claims, it must compare the claims to the accused device to determine infringement. *Schindler Elevator Corp. v. Otis Elevator Co.*, 593 F.3d 1275 (Fed. Cir. 2010). To meet its burden of proving infringement, a party must establish that the accused product satisfies each and every limitation of a claim, either literally or under the doctrine of equivalents. *Zelinski v. Brunswick Corp.*, 185 F.3d 1311, 1316 (Fed. Cir.1999). If an accused product does not satisfy one or more limitations of an independent claim, it necessarily does not satisfy one or more limitations of the related dependent claims. *See Jeneric/Pentron v. Dillon Co.*, 205 F.3d 1377, 1383 (Fed. Cir. 2000). Therefore, a finding of non-infringement of an independent claim results in a finding that the related dependent claims are also not infringed. *Id.*

1. Claim Construction

Claim construction is a question of law. *Cybor Corp. v. FAS Techs., Inc.*, 138 F.3d 1448, 1456 (Fed. Cir. 1998). The Federal Circuit has provided district courts with several canons of claim construction. Courts may use intrinsic and extrinsic evidence in construing claims. *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366 (Fed. Cir. 2002). Intrinsic evidence includes the claim terms, the patent specification, and the prosecution history. *Id.* Extrinsic evidence includes other sources such as expert testimony, inventor testimony, dictionaries, and treatises. *Id.*

Claim construction begins with the ordinary meaning of the terms of the claim, as one with the ordinary skills in the art would understand them. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005). If the meaning of the claim terms are clear to "lay judges," then "claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words." *Id.* at 1314.

The Court is not limited to the claim terms in claim interpretation. Apart from the claim terms, the patent specification is "highly relevant" to claim construction. "Patent claims must be read in view of specification, of which they are part." A correct construction of the claims "most naturally aligns with the patent's description of the invention." *Phillips*, 415 F.3d at 1316 (quoting *Reinshaw*, 158 F.3d at 1250). In contrast, claim construction that conflicts with the specification "is rarely, if ever, correct." *Vitronics*, 90 F.3d at 1583.

Compared to intrinsic evidence, extrinsic evidence is generally less reliable and must be used with caution. Still, technical dictionaries can be particularly useful in claim construction by showing how an ordinary person with skill in the art would understand a technical term. Similarly, expert testimony can be helpful by providing useful information on the technological background of the invention, putting the meaning of claim terms in context based on the understanding of one with ordinary skills in the art, or explaining how the invention works. Overall, extrinsic evidence is "unlikely to result in a reliable interpretation of patent claim scope unless considered in the context of the intrinsic evidence." *Phillips*, 415 F.3d at 1319.

The parties dispute the following claim terms: (1) “vision guidance system”, and (2) “moving the module with the module alignment device.”

Upon review of the ‘402 patent and the parties’ proposed constructions, the Court finds both parties generally ignore the ordinary meaning of the claim terms and improperly import the features of the preferred embodiment. While the specification can limit the claim scope by using words or expressions of manifest exclusion or restriction, no such intention has been demonstrated here. Based on the principles articulated by *Phillips*, the Court adopts the following constructions:

a. “*Vision Guidance System*”

With regard to “vision guidance system,” the parties’ dispute appears to center on the meaning of the words “vision” and “guidance.” To resolve this dispute, the Court looks to ordinary meaning of the words. “Vision” is the ability to see: sight or eyesight. *Vision Definition*, merriam-webster.com,

<http://www.merriam-webster.com/dictionary/system> (last visited Sept. 9, 2014). “Guidance” is the act of directing or controlling the path or course of something. *Guidance Definition*, merriam-webster.com, <http://www.merriam-webster.com/dictionary/guidance> (last visited Sept. 9, 2014). A “path” is the continuous series of positions or configurations that can be assumed in any motion. *Path Definition*, merriam-webster.com, <http://www.merriam-webster.com/dictionary/path> (last visited Sept. 9, 2014). “Course” is the path or direction that something or someone moves along. *Course Definition*, merriam-webster.com, <http://www.merriam-webster.com/dictionary/course> (last visited Sept. 9, 2014).

An invention related to the ‘402 patent, U.S. Patent Number 5,904,789 (‘789 patent), discloses a machine that uses a specific vision guidance system to perform the same operation as the ‘402 patent. Imaginal argues that the meaning of “vision guidance system,” is restricted by the ‘789 patent, as the patent is incorporated by reference in the ‘402 patent. The Court finds this argument unavailing. While the ‘402 patent uses the ‘789 patent in its preferred embodiments as a general point of reference, it does not express any manifest exclusion or restriction as it pertains specifically to the meaning of “vision guidance system.”

Based on the foregoing, the Court construes “vision guidance system” as a “system that uses a vision or sight based method to control or direct the movement or direction of something.”

b. “*Moving the Module with the Module Alignment Device*”

In the Prior Action, the Court construed “module alignment device” as “a device that aligns the module and the stapler, or the module and the frame. Defendants argue that use of the phrase, “*the module*” means that the limitation involves moving only a single module of a plurality of modules. The Court disagrees, as Defendants’ construction is far too narrow. While “*the module*” indicates a single module among a plurality of modules, there is nothing in the claim language or the specification that excludes movement of a single module by moving the entire unit of modules that is comprised of a plurality of modules. Therefore, the Court construes “moving the module with the module alignment device” as “moving a single module (by directly or indirectly moving either that module or the unit of modules in which the single module is contained), using a device that aligns the module and stapler, or the module and the frame.”

2. Infringement

a. *Claim 1*

Claim 1 of the '402 patent recites:

A method of forming a portion of a box spring or mattress foundation, the method comprising:

- (1) providing a base;
- (2) locating a wood frame on the base, the wood frame including a plurality of spaced apart, generally parallel frame sections;
- (3) locating a plurality of modules arranged in a plurality of rows on the frame, each row including a plurality of modules formed from a continuous metal wire with each module having a top portion spaced apart from the frame, first and second side portions extending downwardly from the top portion, and a bottom portion connecting the first and second side portions, the bottom portion being positioned on one of the frame sections and the first and second side portions of the module being spaced apart to define an open access area above the bottom portion;
- (4) locating a fastening tool above the base;
- (5) providing a module alignment device;
- (6) moving the module with the module alignment device;
- (7) moving the fastening tool without the use of a vision guidance system in a direction generally perpendicular relative to the base and through the open access area of a module until the fastening tool is located at a target fastening location; and
- (8) securing the bottom portion of the module to the frame at the target fastening location with the fastening tool.

The only elements at dispute are the sixth and seventh elements. (Defs.' Mot. for Partial Summ. J., 1:13-24.)

(i). *Sixth Element: "Moving the Module with the Module Alignment Device"*

As stated in Section IV.B.1.b, above, the Court has construed this element as, "moving a single module (by moving directly or indirectly either that module or the unit of modules in which the single module is contained), using a device that aligns the module and stapler, or the module and the frame."

In the Prior Action, the Court found that the Auto TopOff's "gripper feet" read on the "module alignment device" limitation. As a result, L&P redesigned the AutoTopOff by removing the "gripper feet" and incorporating the Cognex System. As detailed in Section IV.B, above, the undisputed evidence shows that the Cognex System advances the frame/grid to the stapling tool. As the stapler descends on module, the computer's optical sensor looks for the bottom portion of the wire module that is to be fastened to the frame. If the wire is not located, the computer will stop the movement of the stapler and

adjust the position of the frame/grid in an effort to locate the module. According to Imaginal's expert, "the [Redesigned ATO] camera system and software include a search function that can cause the Alignment Device to shuttle the frame/module assembly back and forward on the machine base if the module becomes misaligned. . . ." (Hanle Decl., Ex. E (Report of Dr. John Pratt) at p. 29.) Defendants' expert similarly states that the purpose of the Redesigned ATO is "to guide the stapler and the target fastening location into alignment so that the staplers will fire their staples into the target fastening locations." (Sturges Decl. at ¶25.) When the camera loses the wire module, the system "commands the gripper carriage to move the wood frame backward . . . then to pull it forward again until the camera sees that the row of modules is aligned beneath the staplers." (Sturges Decl. at ¶39.) "When the camera sees the modules are again correctly aligned, the camera system stops the forward motion of the wood frame and commands the staplers to continue their descent to the target fastening locations." (*Id.* at ¶40.)

This undisputed evidence establishes that the Cognex System moves the frame and the grid of modules to align the module with the stapler. As a matter of law, the Court finds that the Redesigned ATO satisfies the sixth element of Claim 1.

- (ii). *Seventh Element: "Moving the Fastening Tool Without the Use of a Vision Guidance System in a Direction Generally Perpendicular Relative to the Base and Through the Open Access Area of a Module Until the Fastening Tool is Located at a Target Fastening Location"*

The parties do not dispute that the Cognex System moves the fastening tool in a direction generally perpendicular, relative to the base, and through the open access area of a module, until the fastening tool is located at a target fastening location. As to this element, resolution of the parties' dispute relies solely on whether the Cognex System constitutes a "vision guidance system." The undisputed evidence shows that it does.

As the Court has already found, "vision guidance system" is a "system that uses a vision or sight based method to control or direct the movement or direction of something."

Both parties have presented evidence that the Cognex system uses a camera and computer software in its operations. (Sturges Decl. at ¶¶27-28; Hanle Decl., Ex. E (Report of Dr. John Pratt) at p. 29; Hanle Decl., Ex. S (Garrett Dep.) at 84:5-14.) The evidence also shows that the system can move the frame/grid forward or backward, as well as stop its movement altogether. (Hanle Decl., Ex. S (Garrett Dep.) at 88:10-25; Sturges Decl. at ¶25) The system also controls the movement of the staplers by (1) stopping their descent if modules are not detected, (2) commanding the staplers to continue their downstroke once a module is detected, and (3) moving the staplers into a safe position if the system detects a misalignment once the stapler has already reached a certain proximity to the module. (Hanle Decl., Ex. R (Myers Dep.) at 62:1-63:15; Sturges Decl. at ¶25.)

The undisputed evidence shows that the Cognex System uses a vision-based method to control or direct the movement of both the frame/grid and the staplers. As such, the Court finds that the system is, in fact, a vision guidance system. Claim 1 expressly limits the method to one that moves the fastening tool *without* the use of a vision guidance system. Because the Redesigned ATO is a vision guidance system, the Court finds that the Redesigned ATO does not satisfy the seventh element of the Claim 1.

- (iii). *Conclusion*

Defendants contend that the Redesigned ATO does not read on the seventh element of Claim 1. Imaginal fails to raise a triable issue as to this contention. As such, the Court finds that the Redesigned

ATO does not infringe Claim 1. *See Zelinski*, 185 F.3d at 1316 (holding that a party must establish that the accused product satisfies each and every limitation of a claim to prove infringement).

b. *Remaining Claims*

In addition to Claim 1, Imaginal alleges that Defendants also infringe on Claims 6,7,8,11, and 12. Because Claims 6 and 7 are dependent claims related to Claim 1, those claims are also not infringed. *See Jeneric/Pentron*, 205 F.3d at 1383 (holding that if an accused product does not satisfy one or more limitations of an independent claim, it necessarily does not satisfy one or more limitations of the related dependent claims).

Claim 8, an independent claim, recites the following limitation: “moving the fastening tool relative to the base, the plurality of spring modules and the frame *without the use of a vision guidance system* until the fastening tool is located at a target fastening location.” ‘402 patent, Claim 8, col.6, lines 59-62 (emphasis added). Again, the element contemplates a method of moving the fastening tool *without* the use of a vision guidance system. For the same reasons discussed in Section IV.B.2.a.(ii), above, the Court finds that the Redesigned ATO does not infringe Claim 8 or its related dependent Claims 11 and 12.

V. EVIDENTIARY OBJECTIONS

To the extent the Court has relied on evidence to which the parties have objected, the Court overrules those objections.

VI. CONCLUSION

Based on the foregoing, the Court **grants in part** Imaginal’s Motion for Summary Judgment, and **grants** Defendants’ Motion for Partial Summary Judgment. Specifically, the Court finds that Defendants willfully infringed Imaginal’s patents through Simmons’ continued use of the Auto TopOff machines after January 24, 2012. The Court also finds that the Redesigned ATO does not infringe Imaginal’s ‘402 patent.

IT IS SO ORDERED.

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