

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MASSACHUSETTS INSTITUTE)
OF TECHNOLOGY and CHILDREN'S)
MEDICAL CENTER CORPORATION,)
Plaintiffs,)
v.) 1:13-CV-10020-MLW
SHIRE PHARMACEUTICALS, INC., and)
SHIRE REGENERATIVE MEDICINE, INC.,)
Defendants.)

ORDER

WOLF, D.J.

April 17, 2015

For the reasons described in court on August 8 and 9, 2015, the court construes the disputed terms as follows¹:

1. "Vascularized organ tissue" means "vascularized tissue from an organ." The court understands this to mean tissue in a living human organ that is connected to blood vessels. Because the dermal layer of skin contains blood vessels, this term encompasses skin.

2. "Cells derived from a vascularized tissue" will be given its ordinary meaning. The defendants proposed limiting this term to parenchymal and bone-forming cells only. However, the intrinsic evidence does not show a "clear intent" to alter the ordinary meaning of the term. See Starhome GMPH v. AT&T

¹ At the request of the parties, the court has construed these terms at an early stage in the litigation, prior to the completion of discovery. As the parties agree, the court retains authority to review its construction of these terms.

Mobility, LLC, 743 F.3d 849, 857 (Fed. Cir. 2014). Because skin contains vascularized tissue, this term encompasses at least some cells derived from skin.

3. The term "three-dimensional scaffold" is construed to mean a supporting structure that allows cells to attach along its width, length, and height. This is the ordinary meaning of the term "three-dimensional." The court also finds that the term "three-dimensional" is not "indefinite." See 35 U.S.C. §112, ¶2; Nautilus, Inc. v. Biosig Instruments, Inc., 134 S. Ct. 2120, 2128 (2014).


UNITED STATES DISTRICT JUDGE