

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

SAUDER MANUFACTURING
COMPANY,

Plaintiff,

v.

J SQUARED, INC. d/b/a UNIVERSITY
LOFT COMPANY,

Defendant.

Case No. 3:14-cv-00962-JZ
Hon. Jack Zouhary, U.S. District Judge
Magistrate Judge James R. Knepp, II

JOINT PREHEARING STATEMENT
PER LOCAL RULE 4.5

Plaintiff/Counterclaim-Defendant Sauder Manufacturing Company (“Sauder” or “Plaintiff”) and Defendant/Counterclaim-Plaintiff J Squared, Inc. d/b/a/ University Loft Company (“ULoft” or “Defendant”) submit their Joint Prehearing Statement in accordance with Loc. P. R. 4.5:

(A.) TERMS ON WHICH THE PARTIES AGREE

Claim 1 – ‘136 Patent

TERM	AGREED MEANING
Upper portion	A portion of the chair that provides a backrest
Lower portion	A portion of the chair that has connective structure by which it is connected to the upper portion and has a portion capable of supporting a user in a seated position
Engage	Contact (vb.)
Configurable	Capable of being arranged or placed in a configuration
First configuration	The coupled arrangement as in

Second configuration	The separated arrangement as shown, for example, in Figs. 18, 19.
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Claim 12 – ‘136 Patent

The parties agree the phrase “manually operable means for releasably engaging” is subject to construction according to 35 USC §112 ¶6. That is, the means-plus-function term “shall be construed to cover the corresponding structure ... described in the specification and equivalents thereof.” The corresponding structure includes rear-mounted pivoting clip clamp latch 160 with pivoting handle 162, catch 164 and cooperating latch notch 324, and front-mounted claw 142 and claw notches 322.

Claim 1 – ‘787 Patent

The term “rocker rails” means rails curved from front to rear as on a conventional rocking chair. This excludes flat rails.

(B.) THE TERMS IN DISPUTE

‘136 PATENT

CLAIM 1

“Combination of”

Sauder: This preamble phrase gives meaning to the word “combination” that occurs several times in the body of the claim. The preamble means the claimed invention consists of only two components: a floor rocker and a base. Support is provided in Figs. 1-4, 9, 10, and 19, and the overall description, specifically col. 1, lines 49-67; col. 2, lines 1-8; col. 4, lines 18-23; col. 6, lines 44-48; and col. 8, lines 36-38. In the first configuration, the device is a

desk chair; Figs. 1-8, spec. col. 8, lines 56-58. In the second configuration, it is a floor rocker and a companion table. Figs. 14, 19, spec. col. 8, lines 12-24.

ULoft: No construction necessary. But, if the Court chooses to construe it, it should construe the claim as open-ended, not limited to two components (a chair and a base), or at least construe “chair comprising” as open-ended such that the chair component may have parts in addition to those recited as part of the upper and lower portions. The term “**comprises**” makes clear that “combination” may include other elements, not only two components. *See also*, ULoft’s proposed constructions in the accompanying chart; ULoft’s Claims Construction Brief, at 13 (E.C.F. 53).

“Chair”

Sauder: This is the floor rocker. It consists of a seat, a backrest, and by virtue of the last paragraph to claim 1, rocker legs beneath the seat. Support is found in all drawing Figs. 1-19, and in the specification, col. 1, lines 49-67; col. 2, lines 1-8; col. 4, lines 18-23; and col. 6, lines 44-48.

ULoft: An article of furniture having a seat and a back and usually but not always having legs. The term “said chair **comprising**” is open-ended, so the chair may include elements other than those recited. *See also*, ULoft’s proposed constructions in the accompanying chart; ULoft’s Claims Construction Brief, at 13-14 (E.C.F. 53),

“User”

Sauder: The term “user” is defined as a person enjoying a “contemporary lifestyle,” is “active” and can perform functions such as “writing.” Support is found in the

specification, col. 1, lines 48-57; col. 3, lines 10-13; col. 8, lines 12-16; 20-25 and 36-38; col. 9, lines 66-67; and col. 10, lines 1-6. The net result of Sauder's constructions of "chair" and "user" is to the effect that the chair is designed for an adult in the coupled configuration sitting at a desk.

ULoft: No construction is necessary but, if the Court should choose to construe this term, "user" is one who uses the chair. The claim does not recite any restriction as to the user's age, size, lifestyle, activity level, or literacy. The terms "active" and "contemporary lifestyle" are used in the specification but not in the claim, constituting intrinsic evidence that Sauder intended the claim to be broader in scope than its current litigation-induced construction. *See also*, ULoft's proposed constructions in the accompanying chart; ULoft's Claims Construction Brief, at 16 (E.C.F. 53).

"Coupled"

Sauder: The term "coupled" clarifies the relation between the floor rocker and the base in the "first configuration"; i.e., they are locked together resisting movement in all directions. Support is found in Figs. 1-8 and 12-15 of the drawing and in the abstract. In the specification, support is found in col. 1, line 49; col. 3, lines 1-57; col. 4, lines 1-12; col. 5, lines 1-67; col. 7, lines 9-13; and col. 8, lines 1-11, 36-63.

ULoft: Connected but not necessarily locked together. '136 Patent, Col. 7, line 63-Col. 8, line 11. *See also*, ULoft's proposed constructions in the accompanying chart; ULoft's Claims Construction Brief (E.C.F. 53) and Exhibit 3 thereto (E.C.F. 53-3) for citations to intrinsic and extrinsic evidence in support of ULoft's proposed claim constructions, e.g., support in the '136 patent at 7:3 to 8:11.

“Manually Convertible”

Sauder: This simply means the change between first and second configurations can be achieved without the use of tools. “Convertible” is a synonym for “reconfigurable.” Support is found at col. 6, lines 23-34.

Uloft: Convertible by hand, including conversion by hand with the aid of tools (*cf.* claim 10). *See also*, ULoft’s proposed constructions in the accompanying chart.

“Work Surface”

Sauder: This is a direct reference to the top of the “saddle.” In ordinary parlance, a writing table surface is generally flat and free of significant obstructions. Spec. col. 8, line 19. The surface must be “accessible” as defined below. Support is found in Figs. 18 and 19 of the drawings and in the specification at col. 2, lines 23-25 and col. 8, lines 12-19.

Uloft: The term in question is “work surface,” not “writing surface.” The specification does not contain a disclaimer of any kind of “work” as to depart from the plain meaning of the term “work surface.” “Work surface” is not limited by its terms, or by any definition in the specification, to any particular type of work. “Work surface” is generally understood to be any surface on which work can be performed. *See also*, ULoft’s proposed constructions in the accompanying chart.

“Accessible”

Sauder: This term defines the level of the saddle surface when the rocker and base are decoupled and placed next to one another on the floor as in Figs. 18 and 19. To be

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