

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

LakeSouth Holdings, LLC,

Plaintiff,

vs.

Ace Evert, Inc., *et al.*

Defendants.

CASE No.: 3:14-cv-1348-N

JURY TRIAL DEMANDED

Consolidated with 3:14-cv-1877-N

LAKE SOUTH HOLDINGS, LLC'S CLAIM CONSTRUCTION BRIEF

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The claims of U.S. Patent No. 6,612,713 (“the ’713 patent”) use plain language that is readily understood by skilled artisans and lay persons alike. Indeed, many of the terms at issue, such as: “pole,” “canopy,” “base,” “support,” “upper,” “lower,” “component,” and “recessed,” are commonly used by the public, and the ’713 patent uses these terms as they are normally understood. Accordingly, none of the disputed claim terms require further construction.

Presumably to avoid infringement, Defendants propose constructions that improperly import limitations from the specification, and in some instances, out of whole cloth. For the reasons set forth herein, Defendants’ proposed constructions should be rejected.

I. Claim Construction Principles

This Court is familiar with the principles of claim construction, and LakeSouth believes that repeating those general principles here is not necessary. Instead, it will address any specific principles in the context of specific arguments. Generally, the arguments set forth below are based on the legal standards governing claim construction usually applied by this Court, for example, in *Geotag, Inc. v. AT&T Mobility, LLC*, 3:13-cv-169, 2014 WL 2587626 at *3-4 (N.D.Tex. June 10, 2014).

II. Background

The ’713 patent is generally directed to lawn or patio umbrellas that incorporate other electrical components, such as solar energy and lighting systems. *See* App. at 13, col. 1:31-61. The ’713 patent first issued on September 2, 2003, and after a lengthy and comprehensive reexamination proceeding, a Reexamination Certificate issued on September 23, 2013. During reexamination, certain claims were confirmed, others were amended or canceled, and claims 15 through 29 were added.

When the application for the '713 patent was filed, there was a growing interest in outdoor entertaining, and a growing market for outdoor patio and lawn furniture. The inventor of the '713 patent believed that an improved umbrella apparatus would well serve the burgeoning marketplace. For example, one embodiment of the invention disclosed by the '713 patent is a patio umbrella that includes a lighting system integrated into the canopy of the umbrella to provide outdoor lighting. App. at 14, col. 3:49-56. Further, this embodiment of the invention also includes a rechargeable power system, such as batteries, to power the lights within the umbrella, and a solar power system to recharge those batteries. *Id* at col. 4:23-63. The batteries and solar charging system allow the umbrella to be placed anywhere, rather than being confined to the immediate vicinity of an electrical outlet. This way, users can enjoy their lighted umbrellas wherever they choose.

III. Claim Construction Arguments

This brief addresses the disputed claim terms in the order those terms appear in the claims. Certain terms are presented together because the parties' disputes regarding these terms involve the same or substantially similar issues.

The '713 patent uses terms and phrases that are readily understood by those of ordinary skill in the art and lay persons. Therefore, LakeSouth contends that the claims of the '713 patent need no further construction. The parties' disputes regarding the scope of the claims may be resolved without replacing the plain words of the claims.

A. base support portion (all asserted claims)

| LakeSouth's Construction | Defendants' Construction |
|--|---|
| Plain and ordinary meaning, this term needs no construction. | Part into which the pole portion is inserted and supports the umbrella apparatus. |

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