

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

OXYGENATOR WATER
TECHNOLOGIES, INC.

Plaintiff,

v.

TENNANT COMPANY

Defendant.

Civil Action No. 0:20-cv-00358
(ECT/HB)

**SUPPLEMENTAL JOINT PATENT CASE STATUS REPORT AND
CLAIM CONSTRUCTION STATEMENT**

Pursuant to the Pretrial Scheduling Order (ECF No. 43, modified by ECF No. 62), Plaintiff Oxygenator Water Technologies, Inc. (“OWT”) and Defendant Tennant Company (“Tennant”) jointly submit this Supplemental Joint Patent Case Status Report and Claim Construction Statement to correct errors regarding specific terms in the Joint Claim Construction Statement filed on April 9, 2021. (ECF No. 64.) Specifically, the tables in sections C and D of that Joint Claim Construction Statement included errors that are corrected by the below redlines. The parties agree that the remainder of the Joint Patent Case Status Report and Claim Construction Statement filed on April 9, 2021 shall remain in effect (subject to the Court’s Briefing Order at ECF No. 68).

C. Agreed Claim Constructions

Term(s)/Phrase(s)	Patent Claim(s)	Agreed Claim Construction
“a suspension comprising oxygen microbubbles and nanobubbles”	’415 Patent, Claim 13	A mixture including microbubbles and nanobubbles that are dispersed within but undissolved in the water.

“microbubble”	'415 Patent, Claims 13, 19, 20, 21, 22, 25; '092 Patent, Claim 23	A bubble with a diameter less than 50 microns.
“critical distance”	'415 Patent, Claim 13	The distance separating the anode and cathode at which evolved oxygen forms microbubbles and nanobubbles.
“aquarium reservoir container”	'415 Patent, Claim 20	A container designed for keeping fish or other live aquatic creatures.
“supersaturate”	'415 Patent, Claim 21	Causing water to have oxygen at a higher concentration than normal calculated oxygen solubility at a particular temperature and pressure.
“concave”	'092 Patent, Claim 64	Curved inward.
“radial direction relative to the longitudinal center axis”	'092 Patent, Claim 65	A direction perpendicular to the longitudinal center axis.

D. Terms for Construction

Claim Term, Phrase, or Clause	Patent Claim(s)	OWT Proposed Construction	Tennant Proposed Construction
“water”	'415 Patent, Claims 13, 18, 19, 20, 21, 25, 29; '092 Patent, Claims 13, 27, 60; '665 Patent, Claims 13, 55	An aqueous medium that can support the electrolysis of water.	Water means any aqueous medium with resistance less than one ohm per square centimeter, that is, a medium that can support the electrolysis of water. In general, the lower limit of resistance for a medium that can support electrolysis is water containing more than 2000 ppm total dissolved solids.
“conductivity produced by the presence of dissolved solids such	'415 Patent, Claim 13	Plain and ordinary meaning.	To the extent any construction is possible, Tennant relies on the definition provided by

that the water supports plant or animal life”			the applicant wherein he defined how conductivity is produced by the presence of dissolved solids such that the water supports plant or animal life as water that can support electrolysis is “water containing more than 2000 ppm total dissolved solids.”
“aqueous medium”	’665 Patent, Claim 55	Plain and ordinary meaning.	a mixture made with water
“oxygenated aqueous composition”	’415 Patent, Claim 13	Plain and ordinary meaning.	a composition of water and oxygen
“tubular housing”	’415 Patent, Claims 13, 26	Plain and ordinary meaning. The term does not require a circular cross section.	an enclosure shaped like a cylinder, hose, or tube
“flowing water . . . through an electrolysis emitter”	’415 Patent, Claim 13	Moving water through an electrolysis emitter by means other than electrolysis.	Placing the emitting device in the fluid to be treated as opposed to using a pipe system
“a flow-through oxygenator”	’092 Patent, Claim 13	An oxygenator configured to connect to a source of flowing water.	Placing the emitting device in the fluid to be treated as opposed to using a pipe system
“deliver electrical current to the electrodes while water flows through the tubular housing”	’665 Patent, Claim 13	Deliver electrical current to the electrodes while moving water through the electrolysis emitter by means other than electrolysis.	Delivering electrical current to the electrodes while the emitting device is in the fluid to be treated as opposed to being used with a pipe system.
“passing water through the tubular housing”	’092 Patent, Claim 13	Moving water through an electrolysis emitter by means other than electrolysis.	Placing the emitting device in the fluid to be treated as opposed to using a pipe system.

<p>“an electrical power source”</p> <p>“a power source”</p>	<p>’415 Patent, Claim 13</p> <p>’092 Patent, Claims 13 and 27; ’665 Patent, Claim 13</p>	<p>Electrical and mechanical equipment and their interconnections used to generate and/or convert power.</p>	<p>Plain and ordinary meaning</p>
<p>“nanobubble”</p>	<p>’415 Patent, Claims 13, 19, 20, 21, 22, 25; ’092 Patent, Claim 26</p>	<p>A bubble with a diameter less than that necessary to break the surface tension of water.</p>	<p>Nanobubble means a bubble with a diameter less than necessary to break the surface tension of water. Nanobubbles remain suspended in the water, giving the water an opalescent or milky appearance.</p>
<p>“incapable of breaking the surface tension of the water”</p>	<p>’415 Patent, Claim 25</p>	<p>Plain and ordinary meaning.</p>	<p>Containing nanobubbles.</p>
<p>the water temperature is a factor for formation of the suspension”</p>	<p>’415 Patent, Claim 18</p>	<p>Plain and ordinary meaning. The term does not require the temperature be measured or evaluated</p>	<p>The method uses water temperature to determine whether or not a suspension can be formed.</p>
<p>“the microbubbles and nanobubbles remain in the water at least in part for a period up to several hours”</p>	<p>’415 Patent, Claim 19</p>	<p>The microbubbles and nanobubbles remain in the water at least in part for at least several hours.</p>	<p>Where the microbubbles and the nanobubbles remain in water for any period of time up to several hours.</p>
<p>“wherein the period for which the microbubbles and nanobubbles at least in part remain in the water is determined by containing the water with microbubbles and nanobubbles in a two and one half gallon</p>	<p>’415 Patent, Claim 20</p>	<p>Plain and ordinary meaning. This claim identifies physical properties of the microbubbles and nanobubbles and identifies a test methodology for determining whether the microbubbles and nanobubbles have that physical property.</p>	<p>Claim requires an alleged infringer contain the water with microbubbles and nanobubbles in a two and one half gallon aquarium reservoir container.</p>

aquarium reservoir container”			
“a first anode electrode portion that is non parallel to a second anode electrode portion”	'665 Patent, Claim 61	Plain and ordinary meaning.	A first anode and a second anode with planar surfaces that are not oriented in the same direction
“tubular flow axis from the inlet to the outlet”	'415 Patent, Claim 13	Plain and ordinary meaning, which is: a main line of flow through the tubular housing from the inlet to the outlet.	A straight line defining a path through which water flows through the tubular housing and extending from the inlet to the outlet.

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