

**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)

**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 Joint Patent Case Status Report and Claim Construction Statement.

A. Claim Construction Hearing

The parties request a claim construction hearing to determine claim interpretation. Pursuant to the Pretrial Scheduling Order, the parties will jointly contact the Chambers of District Judge Eric C. Tostrud no later than April 16, 2021 to request a hearing date.

B. Pre-Claim Construction Conference and Technology Tutorial

Tennant requests a pre-claim construction conference with the Court which would include an informal technology tutorial. This tutorial shall be made through attorney presentation rather than witness testimony. Tennant request a pre-claim construction conference to address how the Court would like the *Markman* hearing handled, and in

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.
“microbubbles”	'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.

Claim Term, Phrase, or Clause	Patent Claim(s)	OWT Proposed Construction	Tennant Proposed Construction
----------------------------------	--------------------	------------------------------	----------------------------------

“conductivity produced by the presence of dissolved solids such that the water supports plant or animal life”	'415 Patent, Claim 13	Plain and ordinary meaning.	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.	Plain and ordinary meaning
“an electrical power source” “a power source”	'415 Patent, Claim 13 '092 Patent, Claims 13 and 27; '665	Electrical and mechanical equipment and their interconnections used to generate and/or convert power.	Plain and ordinary meaning

	Patent, Claim 13		
“nanobubbles”	’415 Patent, Claims 13, 19, 20, 21, 22, 25; ’092 Patent, Claim 26	A bubble with a diameter less than that necessary to break the surface tension of water.	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.
“incapable of breaking the surface tension of the water”	’415 Patent, Claim 25	Plain and ordinary meaning.	Containing nanobubbles.
the water temperature is a factor for formation of the suspension”	’415 Patent, Claim 18	Plain and ordinary meaning. The term does not require the temperature be measured or evaluated	The method uses water temperature to determine whether or not a suspension can be formed.
“the microbubbles and nanobubbles remain in the water at least in part for a period up to several hours”	’415 Patent, Claim 19	The microbubbles and nanobubbles remain in the water at least in part for at least several hours.	Where the microbubbles and the nanobubbles remain in water for any period of time up to several hours.
“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 aquarium reservoir container”	’415 Patent, Claim 20	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.	Claim requires an alleged infringer contain the water with microbubbles and nanobubbles in a two and one half gallon 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	A straight line defining a path through which water flows through the tubular

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.