

**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

| <b>Term(s)/Phrase(s)</b>                                      | <b>Patent Claim(s)</b>  | <b>Agreed Claim Construction</b>  |
|---|---|---|
| “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,<br>or Clause | Patent<br>Claim(s) | OWT Proposed<br>Construction | Tennant Proposed<br>Construction |
|----------------------------------|--------------------|------------------------------|----------------------------------|
|----------------------------------|--------------------|------------------------------|----------------------------------|

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|---|---|--|--|
| “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”<br><br>“a power source”  | '415 Patent, Claim 13<br><br>'092 Patent, Claims 13 and 27;<br>'665 | Electrical and mechanical equipment and their interconnections used to generate and/or convert power.                              | Plain and ordinary meaning   |

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|--|--|---|---|
|  | Patent,<br>Claim 13  |   |   |
| “nanobubbles”  | ’415<br>Patent,<br>Claims 13,<br>19, 20, 21,<br>22, 25;<br>’092<br>Patent,<br>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<br>Patent,<br>Claim 25  | Plain and ordinary meaning.   | Containing nanobubbles.   |
| the water temperature is a factor for formation of the suspension”   | ’415<br>Patent,<br>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<br>Patent,<br>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<br>Patent,<br>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<br>Patent,<br>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<br>Patent,<br>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   |

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