United States District Court,
S.D. Texas, Houston Division.

David SEITZ and Microtherm, Inc,
Plaintiffs.
v.
ENVIROTECH SYSTEMS WORLDWIDE, INC. and Envirotech of Texas, Inc,
Defendants.

June 8, 2006.

Loren G. Helmreich, Browning Bushman PC, Steve A. Bryant, Steve A. Bryant & Associates, Houston, TX, for Plaintiffs.

Arnold Weintraub, The Weintraub Group PLC, Farmington Hills, MI, Mark Chester, Scottsdale, AZ, for Defendants.

CLAIM CONSTRUCTION ORDER

LEE H. ROSENTHAL**, United States District Judge.**

Pursuant to a Markman hearing held on 30 May 2006, the Court construes the following terms in Claim 1 and 6 of the U.S. Patent 5,216,743 to have the following meanings.

(1) The Court construes the term "associated with" in Claims 1 and 6 of the ' 743 patent to mean that there is an association between the sensor (sensing means) sensing water temperature in a chamber (fluid conducting means) and the heater (heating means) which heats the water in that chamber. The heater and the sensor act upon or sense fluid in the same chamber.

(2) The Court construes the term "set point temperature means for varying the temperature sensed by said first temperature sensing means" in Claim 1 of the ' 743 patent to mean that the set point temperature means is part of the controller (control means). A set point temperature is input to the controller and varies power to the first heater and thereby varies the temperature sensed by the first temperature sensor means (first sensors) in that chamber when there is no fluid flow.

(3) The Court construes the term "relatively constant" in Claim 1 to mean that the temperature sensed by the second temperature sensor is relatively constant after the temperature drifts toward an ambient temperature. Temperature variation at that time (no flow condition) in the second chamber is substantially constant, but changes in response to ambient temperature changes and to the more significant temperature changes occurring in the first chamber.

(4) The Court construes the term "means for transitioning the temperature of the fluid by targeting a transitional set point temperature between a standby set point and said operating set point" in Claims 1 and 6

of the '743 patent to mean that the controller does not operate with only the high operator signal and the low standby signal. The means for transitioning may be a fixed or a floating temperature and targets a transitional set point between these highs and lows.

S.D.Tex.,2006.
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