IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

EATON CORPORATION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 00-751-SLR
	)	
PARKER-HANNIFIN CORPORATION,	)	
	)	
	)	
Defendant.	)	

MEMORANDUM ORDER

I. INTRODUCTION

On January 15, 2003, the court issued a Memorandum Opinion granting a motion for partial summary judgment that claims 7-11 of the '682 patent, owned by plaintiff, were invalid for failure to disclose the best mode pursuant to 35 U.S.C. § 112, ¶ 1. (D.I. 123) On January 17, 2003, plaintiff filed a motion for reconsideration of the court's order granting partial summary judgment of invalidity. (D.I. 125) At a pre-trial conference on January 21, 2003, the court granted plaintiff's motion for reconsideration and ordered the parties to submit additional briefing on the best mode issue, particularly in light of the Federal Circuit's decision in Bayer AG & Bayer Corp. v. Schein Pharms., Inc., 301 F.3d 1306 (Fed. Cir. 2002). The court has jurisdiction over this action pursuant to 35 U.S.C. §§ 1331 and 1338.

II. STANDARD OF REVIEW

The purpose of a motion for reconsideration is to "correct manifest errors of law or fact or to present newly discovered evidence." Max's Seafood Café ex-rel. Lou-Ann, Inc. v. Quinteros, 176 F.3d 669, 677 (3d Cir. 1999). Accordingly, a court may alter or amend its judgment if the movant demonstrates at least one of the following: (1) a change in the controlling law; (2) availability of new evidence not available when summary judgment was granted; or (3) a need to correct a clear error of law or fact or to prevent manifest injustice. See id.

III. DISCUSSION

The first paragraph of 35 U.S.C. § 112 provides:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The Federal Circuit has instructed that "the best mode disclosure requirement only refers to the invention defined by the claims." Bayer AG, 301 F.3d at 1315. In the briefs filed in connection with defendant's motion for partial summary judgment of invalidity, neither of the parties addressed a threshold question of a best mode analysis: was the feature accused of not satisfying the best mode requirement a claimed feature of the invention? Defendant originally argued that the best mode included a "converging angles" feature that was not disclosed in

the specification but critical to the invention described in claims 7-11. In response, plaintiff argued that the "converging angles" feature was disclosed in the specification and, therefore, the best mode requirement was satisfied. However, neither side, nor the court, initially addressed whether the "converging angles" feature was actually claimed.[1] Thus, the court granted plaintiff's motion to receive supplemental briefing on the issue and to reconsider its decision on the motion.

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[1]Claim 7 of the '682 patent claims:

> A coupling assembly for connecting two members, comprising, in combination:
>
> an annular locking means;
>
> a first member having an exterior surface, said exterior surface having a ridge consisting or a ramp, an apex and a shoulder;
>
> a second member having a portion for receiving said first member, said second member having an inner surface, said inner surface having a cavity for receiving said locking means, said inner surface further including a chamfer adjacent to said cavity;
>
> a release sleeve movably mounted on said exterior surface of said first member, said sleeve having an edge;
>
> whereby when said first member is inserted in said second member, said locking means travels up said ramp, over said apex and against said shoulder to engage said ridge, said cavity and said chamfer on said inner surface to secure said first member to said second member, said members are released when said edge of said release sleeve forces said locking means over said apex of said ridge.

'682 patent, col. 5 ll. 14-36.

On reconsideration, plaintiff argues that the "converging angles" feature, as described by defendant, or "wedge effect," as described by plaintiff, is not a limitation in any of the claims. (D.I. 143 at 3) Plaintiff further asserts that no where in any of its pleadings or otherwise has it stated that the "wedge effect" feature is necessary for any of the '682 claims to read on an accused infringing product. (Id.) It asserts that defendant's own experts acknowledge that parallel surfaces, and not "converging angles," between the male shoulder and female chamfer would work in the '682 invention.

Defendant argues that the "converging angles" feature of the invention of the '682 patent is "squarely within the scope of Eaton's claims." (D.I. 144 at 8) In support of this argument, defendant asserts that plaintiff has never denied that the "converging angles" feature was in the claims or disputed defendant's argument that it was. (Id.) However, defendant fails to point out where in the language of the claims the "converging angles" limitation is found.

Upon reconsideration, since defendant has not shown where in the claims the "converging angles" limitation is found, and viewing the underlying facts and all reasonable inferences therefrom in the light most favorable to plaintiff, the court concludes that summary judgment was improper. See Pa. Coal Ass'n v. Babbitt, 63 F.3d 231, 236 (3d Cir. 1995).

IV. CONCLUSION

At Wilmington, this 28th day of January, 2003, for the reasons stated; the court vacates in part its previous Order (D.I. 124) granting partial summary judgment of invalidity of claims 7-11 of the '682 patent.

Sue L. Robinson
United States District Judge