IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WATERS TECHNOLOGIES CORPORATION, WATERS INVESTMENTS LTD., MICROMASS UK LTD., and MICRO MASS INC.,	)	
Plaintiffs,	)	
v.	)	C.A. No. 02-1285 GMS
APPLERA CORPORATION,	)	
Defendant.	)	

MEMORANDUM

I. INTRODUCTION

The plaintiffs, Waters Technologies Corporation, Waters Investments Ltd., Micromass UK Ltd., and Micromass, Inc. (collectively "Waters"), filed the above-captioned suit against the defendant Applera Corporation ("Applera") on July 11, 2002, alleging patent infringement. Following a Markman hearing on June 3, 2003, the court issued an order construing the term "directly" to mean "'without undergoing adiabatic expansion in a vacuum chamber.'" (D.I. 72). Presently before the court is the defendant's motion for reargument and/or reconsideration of the court's order. For the reasons that follow, the court will deny the motion.

II. DISCUSSION

As a general rule, motions for reconsideration should be granted only "sparingly." *Karr v. Castle*, 768 F. Supp. 1087, 1090 (D. Del. 1991). In this district, these types of motions are granted only if it appears that the court has patently misunderstood a party, has a made a decision outside the adversarial issues presented by the parties, or has made an error not of reasoning, but of

apprehension. *See, e.g.*, *Shering Corp. v. Amgen, Inc.*, 25 F. Supp. 2d 293, 295 (D. Del. 1998); *Brambles USA, Inc. v. Blocker*, 735 F. Supp. 1239, 1240 (D. Del. 1990) (citing *Above the Belt, Inc. v. Mel Bonhannan Roofing, Inc.*, 99 F.R.D. 99 (E.D. Va. 1983)); *see also Karr*, 768 F. Supp. at 1090 (citing same). Moreover, even if the court has committed one of these errors, there is no need to grant a motion for reconsideration if it would not alter the court's initial decision. *See Pirelli Cable Corp. v. Ciena Corp.*, 988 F. Supp. 424, 455 (D. Del. 1998). Finally, motions for reconsideration "should not be used to rehash arguments already briefed." *TI Group Automotive Systems, (North America), Inc. v. VDO North America L.L.C.*, 2002 U.S. Dist. LEXIS 1018, 2002 WL 87472 (D. Del. 2002) (citation omitted); *see also Quaker Alloy Casting v. Gulfco Industries, Inc.*, 123 F.R.D. 282, 288 (N.D. Ill. 1988) ("This Court's opinions are not intended as mere first drafts, subject to revision and reconsideration at a litigant's pleasure.").

The defendant argues that reargument or reconsideration is necessary because the court "'made an error of . . . apprehension' fostered by a misleading argument made by Waters to which [the defendant] had no opportunity to respond." (D.I. 84, Defendant's Brief in support of its Motion for Reargument and/or Reconsideration of the Court's Construction of the Term "Directly" (citing *TI Group Automotive Systems (North America), Inc. v. VDO North America L.L.C.*, 2002 U.S. Dist. LEXIS 1018, at *2 (D. Del. Jan. 22, 2002)). Specifically, the defendant believes that the court was misled by a misstatement made by counsel for Waters in its rebuttal at the Markman hearing. The passage from Waters's argument that Applera contends confused or misled the court went as follows:

> Now, Mr. Hanley - - if we could go to Slide 76, please - - Mr. Hanley makes the point that there's discussion here first of a chamber and of a skimmer in Chowdhury.
>
> Maybe we could put up Chowdhury, David.

> All that discussion is doing is laying out the structure which confirms that there is a vacuum chamber there. It's not saying it's not directly because there's an interchange chamber and intervening skimmer. It's simply saying, and I will show, - - I'm sorry. I need Allen.
>
> [Transcript of Markman Hearing, June 3, 2003, p. 141, lines 6-15.]

However, it is clear from the context that counsel for Waters simply misspoke. His mistake was inadvertent and immediately corrected. The court understood the parties' presentations and, after considering the arguments, was persuaded that the proper construction of the term "directly" is as was stated in its order. Applera has failed to demonstrate that the court's construction is reflective of an error of apprehension based on Waters's misstatement. Therefore, the court denies the defendant's motion for reargument and/or reconsideration.

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Defendant.	)	

ORDER

IT IS HEREBY ORDERED that:

1. The defendant's motion for reargument and/or reconsideration is DENIED.

Gregory M. Sleet
UNITED STATES DISTRICT JUDGE

Dated: January 13, 2004