

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DEERE & COMPANY,

Plaintiff,

v.

AGCO CORPORATION and
PRECISION PLANTING LLC,

Defendants.

Civil Action No. 18-827-CFC
CONSOLIDATED

MEMORANDUM ORDER

Pending before me is Deere's Motion for Summary Judgment of Infringement of Claim 1 of U.S. Patent No. 8,813,663 (Motion No. 1). D.I. 329. In Deere's Concise Statement of Undisputed Facts filed in support of its motion, Deere identifies the following fact as material to the motion and not in dispute: "Defendants' interrogatory response admitted that SpeedTube's feeder wheels 'take seeds while held on the seed meter disc.'" D.I. 331 ¶ 17. Deere relies on this asserted fact for its contention that the accused products "remov[e the seed] by capturing" from the seed meter. *See* D.I. 330 at 21. In support of this statement of fact, Deere cites *part* of Defendants' interrogatory: "Precision Planting created 'feeder wheels' that take seeds while held on the seed meter disc[.]" D.I. 332 at A-1311. Defendants dispute the conclusion to be drawn from the interrogatory response, explaining that the "fact that the feeder wheels 'take seeds' from the

meter is irrelevant; the relevant question is how they do so, i.e., whether seeds are removed by capturing” and stating that “SpeedTube’s feeder wheels do not remove by capturing.” D.I. 368 ¶ 17. In support of this alternative conclusion, Defendants cite *the full* interrogatory answer: “Precision Planting created ‘feeder wheels’ that take seeds while held on the seed meter disc and accelerate[] them toward the flights of the flighted belt.” D.I. 368 ¶ 17 (citing D.I. 332 at A-1311). Defendants cite additional record evidence from which a rational juror could plausibly conclude that a seed is removed by projection as opposed to by capture. *See* D.I. 368 at 11 ¶ 6 (citing D.I. 371, Ex. 3 at 157:16–22 (Deere’s expert agreeing that the “period of the seed’s travel” is “the time of flight of the seeds from the point of losing contact with the feeder wheels to the time of making contact with the flighted belt”)).

Because there is at least one disputed fact that Deere has said is material to its motion for summary judgment, I will deny the motion. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986) (holding that summary judgment will not lie if there is a genuine dispute about a material fact).

WHEREFORE, this Nineteenth day of May in 2022, Deere’s Motion for Summary Judgment (D.I. 329) is DENIED.


CHIEF JUDGE