

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

X-1 AUDIO, INC.,

Plaintiff,

v.

OTTER PRODUCTS, LLC and
TREEFROG DEVELOPMENTS, INC.,
d/b/a LIFEPROOF,

Defendants.

Civil No. 13cv2021-CAB (NLS)

CLAIM CONSTRUCTION ORDER

On July 10, 2014, the Court held a hearing to construe certain claim terms of U.S. Patent No. 7,263,032 (“the ‘032 patent”). Laura Kenneally, Esq., Kara Szpondowski, Esq., and Allison H. Goddard, Esq., appeared for plaintiff X-1 Audio, Inc. (“X-1”). Garret A. Leach, Esq., Rachel D. Lamkin, Esq., Jennifer Becker, Esq., and Andrew D. Skale, Esq., appeared for defendants Otter Products, LLC and Treefrog Developments, Inc., d/b/a Lifeproof (collectively referred to as “Otter Products”). Briefing for the claim construction hearing was filed in accordance with the local rules and the scheduling order in this case. Having considered the submissions of the parties and the arguments of counsel, for the reasons articulated by the Court on the record at the hearing, the Court construes the disputed claim terms as set forth in this order.

1 I. Background

2 The '032 patent is directed at a System for Housing an Audio System in an
 3 Aquatic Environment. In general, the invention relates to water resistant housings that
 4 serve as portable systems for containing and delivering audio media players while
 5 conducting underwater activities at depths exceeding atmospheric pressure. [See
 6 generally, Doc. No. 41-2, Col. 1:1-2, 18-20.] Although the patent discloses that the
 7 system can be employed for near-surface aquatic use, such as swimming, or even
 8 activities where contact with water is incidental, the inventor concedes that waterproof
 9 containers for electrical devices existed in the prior art, and distinguishes the invention
 10 as a waterproof container for audio systems that can also be used in a pressurized aquatic
 11 environment. [Id., at Col.1:52- Col.3:24; Col. 7:23-41.]

12 The '032 patent has 73 claims. Plaintiff X-1 asserts independent claim 23, and its
 13 dependent claims 24, 25 and 26; independent claim 36, and its dependent claims 37, 38
 14 and 39; and independent claim 49 and its dependent claim 50, against defendant Otter
 15 Products. Claim 23 is representative and contains all the disputed terms (identified in
 16 bold).

17 23. A waterproof housing adapted to receive an electronic audio device, said
 18 housing compromising:

19 a **rigid container adapted to** receive the electronic audio device, said
 20 container **waterproof** under submersible conditions; and

21 at least one **control device on the exterior of** said rigid container, said
 22 control device adapted to control the electronic audio device and said
 control device adapted to withstand activation caused by underwater
 pressure.

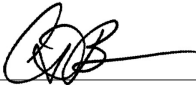
23 In light of the plain language of the claims, the specification, and the file history, and in
 24 consideration of the written and oral arguments of the parties, for the reasons set forth on
 25 the record, the Court construes the disputed terms as follows:

**Constructions for
U.S. Patent 7,263,032**

Term	Construction
Rigid Container	a structure that completely encloses the electronic device, the material of which is capable of withstanding pressures encountered when submerged into an aquatic environment and does not allow the user to manipulate the controls through the material.
Adapted to	designed or configured to accomplish the specific objective, not simply that it can be made to serve that purpose
Waterproof	prevents the electronic device from exposure to water
Control device on the exterior of <i>said rigid container</i>	a separate component in contact with the outside supporting surface of [<i>said rigid container</i>]

IT IS SO ORDERED.

DATED: July 10, 2014


CATHY ANN BENCIVENGO
 United States District Judge