

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

BABY JOGGER, LLC,

Plaintiff,

v.

MONAHAN PRODUCTS, LLC
d/b/a UPPABABY,

Defendant.

Civil Action No. 1:24-cv-11582

**Leave to file excess pages
granted on March 14, 2025**

UPPABABY'S OPENING CLAIM CONSTRUCTION BRIEF

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I. INTRODUCTION

This is a patent case involving strollers and stroller accessories. The field is very crowded, with prior art going back nearly 100 years. Indeed, Baby Jogger itself characterized the market as “saturated” in its complaint. Yet Baby Jogger spawned a bloated family of patents, often on the thinnest of grounds, by convincing the Patent Office that the claims were narrow to distinguish the overwhelming volume of prior art. Now, after years of peaceful co-existence, Baby Jogger inexplicably accused UPPAbaby of infringing five patents in its patent family. In litigation, Baby Jogger treats its claims like the proverbial “nose of wax,” seeking broad constructions of narrow terms to aid its allegations against UPPAbaby. Baby Jogger should not be afforded broader claims in this litigation than it told the public and Patent Office.

II. PROCEDURAL AND FACTUAL BACKGROUND

A. UPPAbaby’s Pending Summary Judgement Motion

The origins of the parties’ dispute go back to 2008, when Baby Jogger and UPPAbaby were on relatively friendly terms and Baby Jogger saw the first version of UPPAbaby’s RumbleSeat at a tradeshow they both attended. ECF No. 42-1 at ¶ 6 (Declaration of Trung Phung).

In 2015, the parties were engaged in confidential business discussions unrelated to the asserted patent family. *Id.* at ¶ 7. Following a breakdown in those discussions, Baby Jogger accused UPPAbaby’s RumbleSeat of infringing the parent patent now asserted in this action. *Id.* at ¶¶ 8-9; ECF No. 42-2 at 2. UPPAbaby questioned whether Baby Jogger stole the idea from UPPAbaby at the 2008 tradeshow and accused Baby Jogger of unfair business practices. ECF No. 42-1 at ¶ 9; ECF No. 42-2 at 4-5. In responsive letter correspondence, Baby Jogger did not expressly deny either of the accusations. ECF No. 42-1 at ¶ 10; ECF No. 42-2 at 7-8. UPPAbaby never heard from Baby Jogger again. ECF No. 42-1 at ¶ 15.

In this action brought by Baby Jogger *eight years later* in 2024, UPPAbaby filed a Motion for Summary Judgment of Equitable Estoppel based on, among other reasons, the extraordinary defensive prejudice of being unable to (1) assert its counterclaim for unfair business practices after the statute of limitations expired, and (2) obtain adequate discovery from Baby Jogger concerning a tradeshow that took place nearly 17 years ago. ECF Nos. 41-43, 52-53; ECF Nos. 31, 32 at ¶ 17 (where Baby Jogger claims that it “lacks knowledge or information” as to whether its representatives saw UPPAbaby’s RumbleSeat at the 2008 tradeshow).

UPPAbaby’s Motion is fully briefed and pending the Court’s decision. *Id.* Early resolution is important to end this case now before the parties expend significant resources fighting other issues in the case, such as these claim construction proceedings.

B. UPPAbaby’s Innovative Vista Stroller and RumbleSeat Accessory

UPPAbaby is a premium brand known for its innovative baby gear with luxury features and finishes. The Vista stroller has been UPPAbaby’s flagship stroller since 2006. ECF No. 42-1 at ¶ 4 (Declaration of Trung Phung). The accused RumbleSeat is an optional accessory to the Vista stroller that allows a caregiver to seat an additional child in tandem with a first child:



The first version of UPPAbaby's RumbleSeat was publicly disclosed at the ABC Kids Expo in Las Vegas in September 2008. ECF No. 42-1 at ¶ 3. Baby Jogger has taken the position that there are "no meaningful differences" among subsequent RumbleSeat versions since Baby Jogger first accused it of infringement in 2015. ECF No. 48-4 at 3 (Baby Jogger's Preliminary Infringement Contentions).

C. Baby Jogger's Five Asserted Patents

The five asserted patents¹ are members of a large patent family with multiple and complicated interrelationships. The family has been in prosecution for over 16 years with Baby Jogger actively extending the family with new filings, including as recently as this month. Some applications claim priority to more than one provisional application. At least three applications have been abandoned. A visual aid tracing family branch points, sub-branches, and sub-sub-branches among the at least 16 applications was previously provided. *See* ECF No. 42 at 21-22. This entire family claims priority to the December 2008 provisional application that Baby Jogger suspiciously filed three months after seeing UPPAbaby's RumbleSeat at the ABC Kids Expo in Las Vegas in September 2008.

The asserted patent family is directed to strollers and stroller accessories for attaching stroller seats to a frame. The field of stroller accessories, including those that convert single to double strollers, is very crowded.² In their specifications, Baby Jogger has made up a large number

¹ U.S. Patent No. 8,955,869; U.S. Patent No. 9,403,550; U.S. Patent No. 11,192,568; U.S. Patent No. 11,505,231; and U.S. Patent No. 11,878,729.

² "It is axiomatic patent law that improvement patents in a crowded art are to be construed narrowly." *Harrington Mfg. Co. v. White*, 475 F.2d 788, 796 (5th Cir. 1973). *See also Augustine Med., Inc. v. Gaymar Indus., Inc.*, 181 F.3d 1291, 1301 (Fed. Cir. 1999) ("Without extensive prior art to confine and cabin their claims, pioneers acquire broader claims than non-pioneers who must craft narrow claims to evade the strictures of a crowded art field."). *See also* 69 C.J.S. Patents § 408 (Dec. 2024) ("Improvement patents in a crowded art are to be construed narrowly.").

of terms to describe specific parts of their strollers and accessories that function in very specific ways. Throughout the over 16 years of prosecution, Baby Jogger has continuously characterized these terms, distinguishing them from features disclosed in the prior art, in order to get their patents granted. On many occasions, Baby Jogger has added new disclosures for different parts, using different names for them.

The result is a patent portfolio that includes an extensive glossary of made up terms. Baby Jogger has a history of describing these terms in detail in order to overcome prior art in a crowded field when it suited them. Now Baby Jogger requests claim constructions that are much broader than the use of these terms in the specification or their characterizations in the prosecution history, in an attempt to capture additional claim scope and redefine these terms for purposes of this litigation. This is impermissible. “A patent may not, like a ‘nose of wax,’ be twisted one way to avoid anticipation and another to find infringement.” *Amazon.com, Inc. v. Barnesandnoble.com, Inc.*, 239 F.3d 1343, 1351 (Fed. Cir. 2001).

III. LEGAL STANDARD

A. Sources for Claim Interpretation

Sources for claim interpretation include “the words of the claims themselves, the remainder of the specification, the prosecution history, and extrinsic evidence concerning relevant scientific principles, the meaning of technical terms, and the state of the art.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005) (en banc).

“It is well-settled that, in interpreting an asserted claim, the court should look first to the intrinsic evidence of record, *i.e.*, the patent itself, including the claims, the specification and, if in evidence, the prosecution history.” *Vitronics Corp. v. Conceptoronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996). Intrinsic evidence is “the most significant source of the legally operative meaning

of disputed claim language.” *Id.* In particular, the specification is “highly relevant,” “[u]sually...dispositive,” and “the single best guide to the meaning of a disputed term.” *Id.* Further, “the record before the Patent and Trademark Office is often of critical significance in determining the meaning of the claims.” *Id.* at 1582-1583 (citing *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980 (Fed. Cir. 1995) (en banc); *Southwall Tech., Inc. v. Cardinal IG Co.*, 54 F.3d 1570, 1576 (Fed.Cir.1995) (“The prosecution history limits the interpretation of claim terms so as to exclude any interpretation that was disclaimed during prosecution.”)).

Districts courts may also rely on extrinsic evidence, which “consists of all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises.” *Phillips*, 415 F.3d at 1317. “Within the class of extrinsic evidence, the court has observed that dictionaries and treatises can be useful in claim construction.” *Id.* at 1318.

B. Indefiniteness

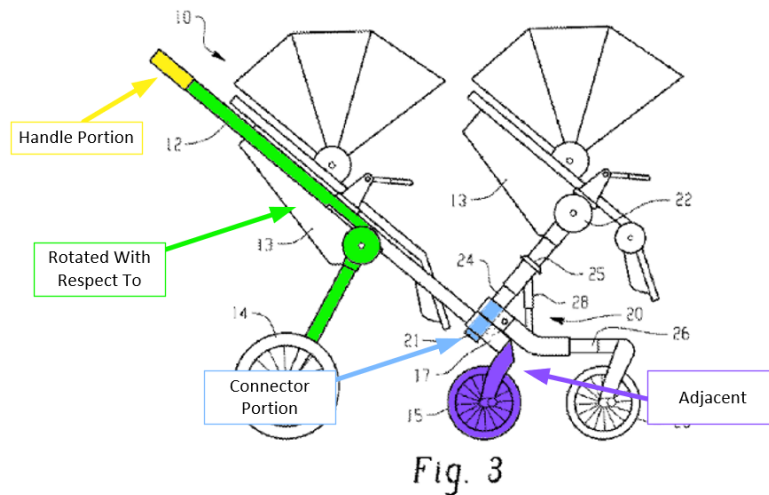
“A patent is invalid for indefiniteness if its claims, read in light of the specification delineating the patent, and the prosecution history, fail to inform, with reasonable certainty, those skilled in the art about the scope of the invention.” *Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898, 901 (2014). Indefiniteness is a question of law. *Dow Chem. Co. v. Nova Chemicals Corp. (Canada)*, 803 F.3d 620, 625 (Fed. Cir. 2015). General principles of claim construction apply in determining whether a claim limitation is indefinite. *HZNP Medicines LLC v. Actavis Lab’ys UT, Inc.*, 940 F.3d 680, 688 (Fed. Cir. 2019).

IV. THE PERSON OF ORDINARY SKILL IN THE ART

A person of ordinary skill in the art would have a bachelor’s degree in a relevant scientific field (e.g., mechanical engineering or materials science) or two years of stroller design experience.

V. CLAIM TERMS REQUIRING CONSTRUCTION

Four claim terms require construction: (1) “connector portion”; (2) “rotated with respect to”; (3) “handle portion”; and (4) “adjacent.” The relevant structural features of these claims are identified below, with reference to Figure 3 of the ‘869 Patent. ECF No. 1-1 at 5 (annotations added). In addition, two terms should be construed as indefinite: “closer” and “substantially parallel”.³



A. “Connector Portion” Means “Male Mating Element that Attaches by Insertion into a Corresponding Part”

UPPAbaby’s Construction	Baby Jogger’s Construction
Male mating element that attaches by insertion into a corresponding part.	Does not require construction. Alternatively, plain and ordinary meaning, which is “feature that is capable of connecting to a stroller frame.”

The claim term “connector portion” in the ‘869, ‘550, and ‘231 Patents should be construed as a male mating element that attaches by insertion into a corresponding part, consistent with its use in the claims as well as the description and figures of the specification.

³ This memorandum is supported by the Declaration of Kevin M. Eckert and exhibits thereto and the Declaration of UPPAbaby’s expert witness, William “Buddy” Clark, Ph.D., filed contemporaneously herewith.

1. The claims and specification support UPPAbaby’s proposed construction

“Connector portion” is not a term of art with an ordinary meaning. Baby Jogger made up this term to describe a specific part of the attachment portion. Representative claim 1 of the ‘869 Patent requires a “connector portion” capable of removably connecting to a stroller frame:

a **connector portion** capable of removably connecting to a stroller frame adjacent a left front wheel of the stroller and a left seat support element removably connecting a seat in either a forward or backward position...

ECF No. 1-1 at 18 (emphasis added). *See also id.* at 5 (where “connector portion” is identified as 21 in Figure 3 of the ‘869 Patent).

The “connector portion” must be capable of being received into a slot. Dependent claims provide guidance on this interpretation. For example, claim 7 of the ‘869 Patent further narrows a different claim limitation (“attachment frame members”) to specify that such members include “slots.” ECF No. 1-1 at 18. The slots are for “removably receiving the connector portion.” *Id.* Likewise, claims 9-10 of the ‘231 Patent recite “a pair of attachment portions configured to support the [...] connector portion” and “the attachment portions include left and right slots in

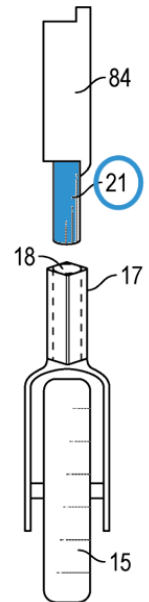


FIG. 10

the parallel support members configured to receive the [...] connector portion,” respectively. ECF No. 1-4 at 30. Insertion into the claimed “slot” (i.e., a female mating element) necessarily requires that the corresponding “connector portion” be configured as a male mating element.

The specification confirms this interpretation:

The **connector portion 21** may be **inserted into a cylindrical slot 18** of the attachment portion 17 of stroller 10 of FIG. 1 to secure the seat attachment and convert the single stroller into a double stroller, as shown in FIG. 3.

ECF No. 1-1 at 16 (col. 6, ll. 55-59) (emphasis added). *See also* ECF No. 1-4 at 14 (Fig. 10) (“connector portion” annotated in blue).

While the specification states that “[o]ther embodiments of the seat attachment may include any type of connector portion,” the listed “other embodiments” are male mating elements with *different shapes*:

Other embodiments of the seat attachment may include any type of connector portion. The connector portion may be of a solid or tubular construction and may be any cross-sectional shape including, but not limited to, circular, polygonal, square, rectangular, and triangular, for example.

ECF No. 1-1 at 16 (col. 6, ll. 59-64). The specifications of the asserted patents do not show or describe any other embodiment of a “connector portion” that is not a male mating element that attaches by insertion into a corresponding part. *See, e.g.*, ECF No. 1-4 at 13 (Fig. 9) (“connector portion” annotated in blue).

2. The prosecution history supports UPPAbaby’s proposed construction

During prosecution of U.S. Patent Application No. 12/631,375 (“the ‘375 Application”), to which all the asserted patents claim priority, the patent examiner cited U.S. Patent No. 7,677,585 (“Rohl”) as disclosing a seat attachment for a stroller comprising a connector portion and U.S. Patent No. 7,475,900 (“Cheng”) as disclosing at least one connector portion connected to an attachment portion of the stroller frame. Eckert Decl. at Ex. A [‘375 Application file wrapper] at BJvU-0001047, 1050.

In an attempt to distinguish the prior art, Baby Jogger narrowed its claims to specify that the “connector portion” is capable of reversibly connecting to the stroller frame. *Id.* at BJvU-0001077, 1084. However, connector portions capable of reversibly connecting were also disclosed

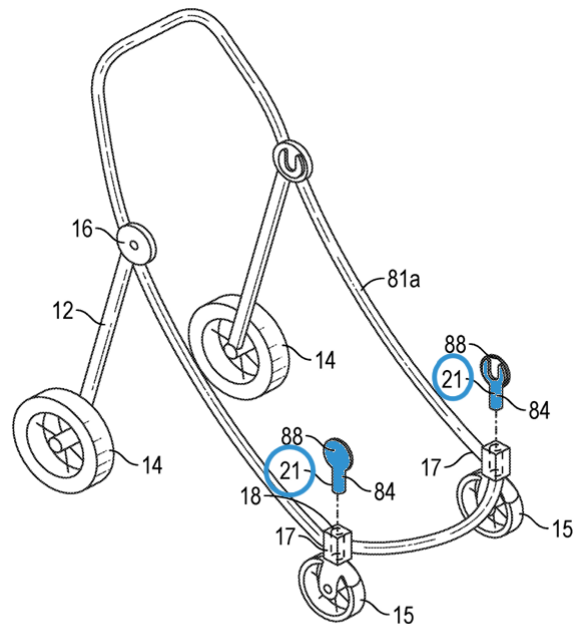


FIG. 9

by the prior art. *Id.* at BJvU-0001132, 1135-36. Baby Jogger was required to make further claim amendments and continued characterizing the seat attachment and stroller. *Id.* at BJvU-0001168-70.

Referring specifically to the connector portion, Baby Jogger argued that “[t]he connector portion of the seat attachment member may simply be a frame member that is **received in a slot in the attachment portion** of the stroller.” *Id.* at BJvU-0001168-69 (emphasis added). Baby Jogger understood and explained that the connector portion has a male mating portion for insertion into a slot.

The type of structural feature that can be received in a slot, as described by Baby Jogger in the prosecution history of the ‘375 Application, is a male mating element that attaches to the frame by insertion into a corresponding slot. The “connector portion” in the ‘375 Application, as well as in the asserted patents, must therefore refer to a male mating element that attaches by insertion into a corresponding part.

3. Baby Jogger’s proposed construction is not based on the intrinsic record

There is no ordinary meaning of “connector portion.” Baby Jogger’s proposed construction is not grounded in the language of the claims, the specification, or the prosecution history of the patent family. Instead, it is an attempt to redefine a claim term that Baby Jogger made up to describe a specific part of their stroller accessory in a manner that Baby Jogger never intended. The specification shows and describes a connector portion that attaches by insertion into a slot. ECF No. 1-1 at 16 (col. 6, ll. 55-59).

During prosecution of the related ‘375 Application, the Examiner considered that the prior art taught connector portions. Eckert Decl. at Ex. A [‘375 Application file wrapper] at BJvU-0001047, 1050. Baby Jogger was forced to amend its claims and clarify that the connector portion

is received in a slot in the attachment portion. *Id.* at BJvU-0001168-69. Baby Jogger now seeks a construction that is inconsistent with the intrinsic record of the claims, specification, and prosecution history.

B. “Rotated with Respect to” Means “Rotatably Coupled at a Common Pivot Point”

UPPAbaby’s Construction	Baby Jogger’s Construction
Rotatably coupled at a common pivot point.	Does not require construction. Alternatively, plain and ordinary meaning, which is “one component rotated relative to another component”

The claim term “rotated with respect to” should be construed as “rotatably coupled at a common pivot point,” consistent with its use in the claims as well as the description and figures of the specification. The term “rotated with respect to” appears in claim 1 of the ‘568 Patent.

1. The claims and specification support UPPAbaby’s proposed construction

Claim 1 of the ‘568 Patent requires a back wheel support frame “rotated with respect to” an upper support frame:

a first back wheel support frame **rotated with respect to** the first upper tube support frame; and

ECF No. 1-3 at 31 (emphasis added). Thus, the two frame elements that are rotated with respect to each other are rotated at a common pivot point.

The specification of the ‘568 patent also shows and describes the two frame elements being rotated at a common pivot point:

In certain example embodiments, one or more of the corresponding front wheel support frame 81a, **back wheel support frame 81b**, and **upper tube support frame 81c** are **rotatably coupled** and rotatably adjustable about one or more axes defined through the folding mechanism 81e.

ECF No. 1-3 at 27 (col. 9, ll. 44-49) (emphasis added).

disclosing first and second front wheel support frames configured to rotate with respect to the first and second upper tube support frames. Eckert Decl. at Ex. B [‘901 Application file wrapper], at BJvU-0002129.

In an attempt to distinguish the prior art, Baby Jogger narrowed its claims to specify that the first and second wheel support frames are “rotatable with respect to” the first and second upper tube support frames. *Id.* at BJvU-0002224.

Referring specifically to the disclosure of Cheng, Baby Jogger argued that, as shown in Figure 6 of Cheng, “element **31** is rotatable with respect to element, **32**, which the Examiner alleges is the back wheel support frame. Element **31** does not rotate which [sic] respect to element **10** of Cheng.” *Id.* at BJvU-0002233 (emphasis added). As shown in Figure 6 of Cheng, element 31 is

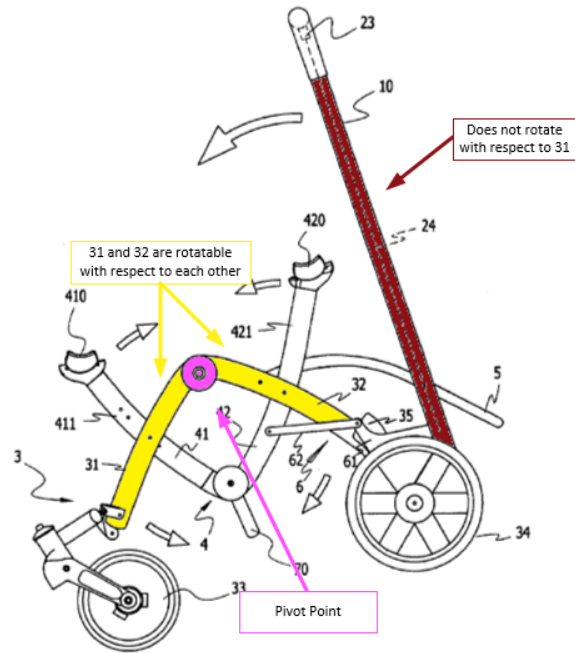


FIG. 6

rotatably coupled at a common pivot point with element 32, while element 31 is not rotatably coupled at a common pivot point with element 10. Eckert Decl. at Ex. C [Cheng], at UB-0001822.

Baby Jogger understood and explained that two elements which are rotatable with respect to each other are rotatably coupled at a common pivot point. These remarks were necessary to distinguish the claims from Cheng, which had previously rendered the claims obvious. Eckert Decl. at Ex. B [‘901 Application file wrapper] at BJvU-0002245-46. *Omega Eng’g, Inc., v. Raytek Corp.*, 334 F.3d 1314, 1323 (Fed. Cir. 2003) (“The doctrine of prosecution disclaimer is well established in Supreme Court precedent, precluding patentees from recapturing through claim interpretation specific meanings disclaimed during prosecution.”).

The claim term “rotated with respect to” in the ‘568 Patent must therefore mean rotatably coupled at a common pivot point.

3. Baby Jogger’s proposed construction is not based on the intrinsic record

Baby Jogger’s proposed construction is not grounded in the language of the claims, the specification, or the prosecution history of the patent family. Instead, it is an attempt to construe claim terms in a manner that Baby Jogger deliberately surrendered during prosecution of the related ‘901 Application. The Examiner considered that Cheng taught two frame elements that were configured to rotate with respect to each other because they rotate relative to one another. Eckert Decl. at Ex. B [‘901 Application file wrapper] at BJvU-0002129.

Baby Jogger was forced to amend its claims and clarify that the amended language specifically refers to rotation at a common pivot point. *Id.* at BJvU-0002224. Baby Jogger now seeks a construction that is inconsistent with the intrinsic record of the claims, specification, and prosecution history. This is impermissible. “Prosecution history estoppel precludes a patentee from regaining, through litigation, coverage of subject matter relinquished during prosecution of the application for the patent.” *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd.*, 535 U.S. 722, 734 (2002) (quoting *Wang Labs., Inc. v. Mitsubishi Elecs. Am., Inc.*, 103 F.3d 1571, 1577-78 (Fed. Cir. 1997)) (cleaned up).

C. “Handle Portion” Means “Lateral Frame Portion That Is Grasped When Pushing the Stroller”

UPPAbaby’s Construction	Baby Jogger’s Construction
Lateral frame portion that is grasped when pushing the stroller.	Does not require construction. Alternatively, plain and ordinary meaning, which is “portion of frame coupled to the left and right upper tube support frame”

The claim term “handle portion” in the ‘231 and ‘729 Patents should be construed as a lateral frame portion that is grasped when pushing the stroller, consistent with its use in the claims as well as the description and figures of the specification.

1. The claims and specification support UPPAbaby’s proposed construction

Claim 1 of the ‘231 Patent, which is representative, requires a handle portion on the stroller frame:

a frame including a **handle portion**, a rear wheel support portion, a front wheel support portion and a folding mechanism connecting the front wheel support portion and the **handle portion** in both an unfolded configuration and in a folded configuration, wherein the folding mechanism connects the rear wheel support portion to the front wheel support portion and the **handle portion**, wherein the frame includes a stroller seat support portion positioned at a first vertical position adjacent the **handle portion**, and wherein the front wheel support portion and the **handle portion** are substantially parallel when the frame is in the unfolded configuration...

ECF No. 1-4 at 30 (emphasis added).

Throughout the claims in the ‘231 Patent and the ‘729 Patent, the handle portion is consistently used as a lateral frame portion that is grasped when pushing the stroller. Claim 1 of the ‘231 Patent recites a handle portion as part of the frame. ECF No. 1-4 at 30. The handle portion is shown in Figure 9 of the ‘231 Patent. ECF No. 1-4 at 13 (annotations added, below right).

The specifications of the ‘231 Patent and the ‘729 Patent also show and describe a handle portion that includes a lateral support portion.

In one example embodiment, the stroller frame 81 can include [...] a **handle portion** 81 d having a first end coupled to the left upper tube support frame 81 c and a distal second end coupled to the right upper tube support frame 81 c, [...].

ECF No. 1-4 at 26 (col. 8, l. 63-col. 9, l. 4) (emphasis added).

The handle portion 81d and upper tube support frame 81c are shown in Figure 8A (annotations added, below left).

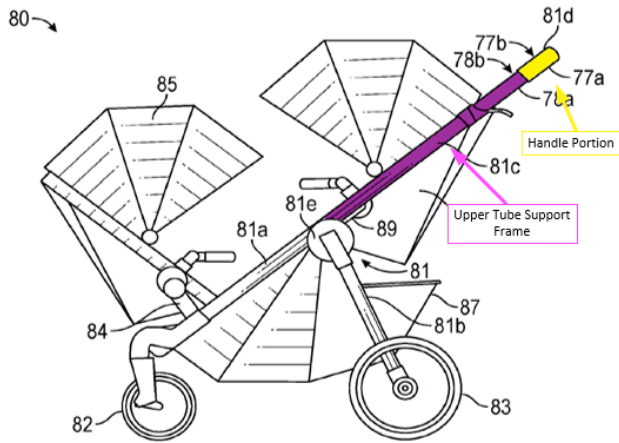


FIG. 8A

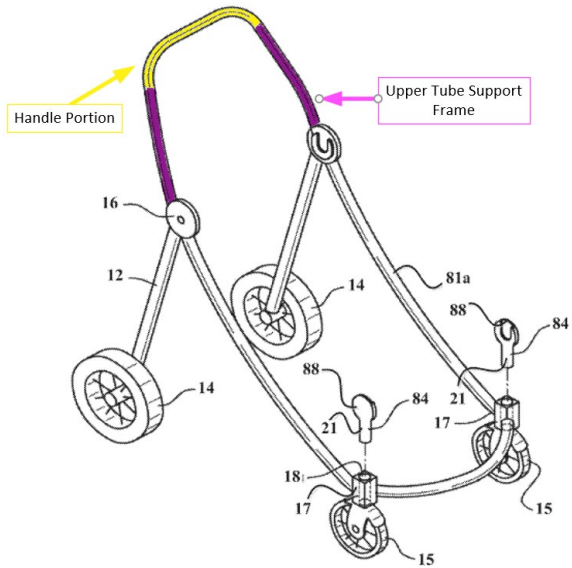


FIGURE 9

As shown in Figure 9 of the ‘231 patent, the handle portion is a lateral support portion. ECF No. 1-4 at 8, 13 (annotations added).

The specifications of the ‘231 Patent and the ‘729 Patent do not show or describe any other embodiment of the handle portion. *See* ECF No. 1-4; ECF No. 1-5. Thus, as shown and described in the specification, the handle portion is a lateral frame portion that is grasped when pushing the stroller.

2. The prosecution history supports UPPAbaby’s proposed construction

During prosecution of the ‘901 Application, the patent examiner cited Cheng as disclosing a stroller handle provided along an end of the first and second upper tube support frame. Eckert Decl. at Ex. B [‘901 Application file wrapper] at BJvU-0002129.

In an attempt to distinguish the Cheng prior art, Baby Jogger argued that “stroller handle 23 is coupled to the push bar 10” and “element 10 should be properly

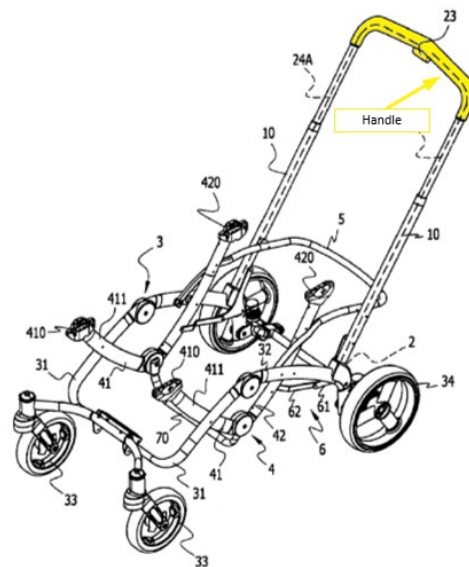


FIG. 4

identified as the upper tube support frame given that it’s [sic] end is coupled to the stroller handle.” *Id.* at BJvU-0002232-33. As shown in Figure 4 of Cheng, stroller handle 23 is the lateral frame portion that is grasped when pushing the stroller. Eckert Decl. at Ex. C [Cheng], at UB-0001820.

The claim term “handle portion” in the ‘231 Patent and ‘729 Patent must therefore be a lateral frame portion that is grasped when pushing the stroller.

3. Baby Jogger’s proposed construction is not based on the intrinsic record

Baby Jogger’s proposed construction is not grounded in the language of the claims, the specification, or the prosecution history of the patent family. The specification shows and describes a handle portion that includes a lateral support portion. ECF No. 1-4 at 26 (col. 8, l. 63-col. 9, l. 4).

During prosecution of the related ‘901 Application, the Examiner considered that the prior art taught a stroller handle provided along an end of the first and second upper tube support frame. Eckert Decl. at Ex. B [‘901 Application file wrapper] at BJvU-0002129. In response, Baby Jogger pointed to a handle 23 as shown in Figure 4 of Cheng that is a lateral support portion. *Id.* at BJvU-0002233. Baby Jogger now seeks a construction that is inconsistent with the intrinsic record of the claims, specification, and prosecution history.

D. “Adjacent” Means “Next to and Having Contact With”

UPPAbaby’s Construction	Baby Jogger’s Construction
Next to and having contact with.	Does not require construction. Alternatively, plain and ordinary meaning, which is “next to” or “nearby”

The term “adjacent” should be construed to mean “next to and having contact with,” consistent with its use in the claims and specification. The term “adjacent” appears in claims 1 and 24 of the ‘869 Patent, claim 1 of the ‘729 Patent, and claim 1 of the ‘231 Patent.

1. The claims and specification support UPPAbaby’s proposed construction

Claims 1 and 24 of the ‘869 Patent are similar. Claim 1 is representative for the purposes of claim construction, and states:

a connector portion capable of removably connecting to a stroller frame **adjacent** a left front wheel of the stroller and a left seat support element removably connecting a seat in either a forward or backward position

ECF No. 1-1 at 18. Claim 1 of the ‘729 and ‘231 Patents states:

wherein the frame includes a stroller seat support portion positioned at a first vertical position **adjacent** the handle portion...and the rear wheel support portion is disposed **adjacent** to both the front wheel support portion and the handle portion when the frame is in the folded configuration...

ECF No. 1-4 at 30; ECF No. 1-5 at 30. The specification of the ‘729 Patent refers to the term “adjacent” in its discussion of the wheels of the stroller and the relationship of the wheels to the frame.

one front wheel 82 being coupled to the stroller 80 **adjacent** the left front wheel support frame 81a and the second front wheel 82 being coupled to the stroller 80 **adjacent** the right front wheel support frame 81a.

ECF No. 1-5 at 26 [col. 9, ll. 39-55]. FIG. 8A illustrates the relationship between these components, showing the front wheel adjacent the front wheel support frame (81a).

Baby Jogger was also careful to distinguish “adjacent” features from alternative arrangements

and similar but not identical situations. For example, the applicant used the term “substantially adjacent” in a context that distinguishes it from “adjacent” without a modifier.

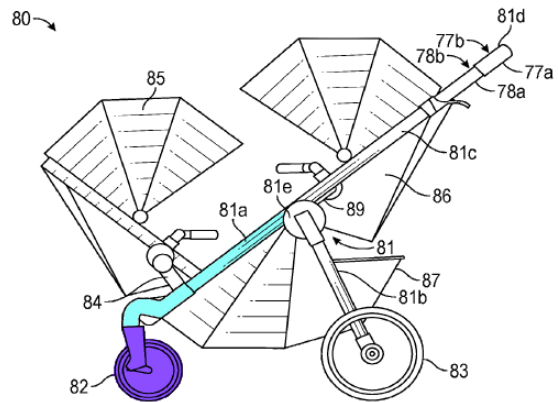


FIG. 8A

In certain example embodiments, the removable seat attachment adapter 84 is capable of supporting a second stroller seat 85 such that a child in the second stroller seat 85 is substantially above the frame 81 of the stroller 80 that is **substantially adjacent** to the connection point of the second stroller seat 85.

ECF No. 1-5 at 26-27 [col. 10, ll. 60-67, col. 11, ll. 1-4].

Unlike the description of “adjacent”, the term “substantially adjacent” refers to the position of the connection port of the second stroller seat 85 to the frame 81 of the stroller 80. “Connection point” refers to a feature of the adapter. The adapter 84 is described, mere sentences before the use of the term “substantially adjacent,” as “configured to have a first end that is removably coupled to the frame 81 and/or seat attachment housing and a **distal end** that is configured to be removably coupled to a second stroller seat 85.” ECF No. 1-5 at 26 [col. 10, ll. 30-35]. The connection point is the distal end of the adapter.

FIG. 8A shows the connection point (green) “substantially adjacent” to the frame. The connection point is not “adjacent” to the frame because it is not next to and in contact with the frame. This demonstrates that the drafters of the ‘729 Patent understood the terms “adjacent” and

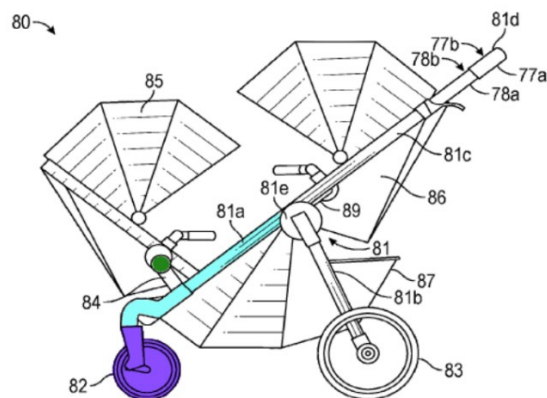


FIG. 8A

“substantially adjacent” to differ at least by whether the two parts were in contact with one another. The drafters of the ‘729 Patent would have referred to the connection point as adjacent if they meant for “adjacent” to encompass situations where two parts were only relatively near each other.

By contrast, when referring to the adapter as a whole, which is next to and in contact with the frame, the term “adjacent” is used.

In certain example embodiments, the seat support element 84 is **adjacent** to the front wheel support portion 81a of frame 81. **Alternatively**, the seat support element 84 is simply forward of and positioned at a vertical level lower than the attachment point for the first stroller seat 86 (FIG. 8A) on the stroller 80.

ECF No. 1-5 at 27 [col. 11, ll. 59-67].

This is illustrated in FIG. 8A, where the adapter 84 (gold) is both next to and in contact with the frame 81a.

Furthermore, column 11 also includes the phrase, “Alternatively, the seat support element 84 is simply forward of and positioned at a vertical level lower than the attachment point for the first stroller seat on the stroller.” *Id.* It is clear that merely being forward and below the vertical level

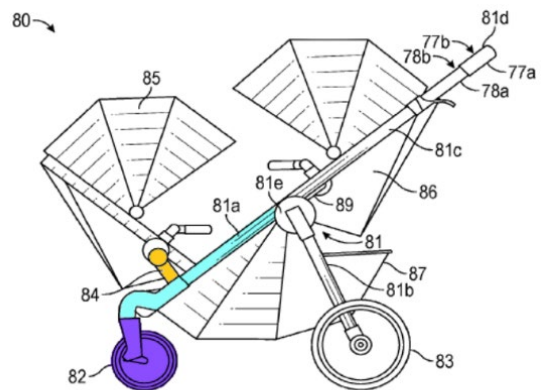


FIG. 8A

of the attachment point for the first stroller seat 86 on its own is not equivalent to “adjacent” in the view of the drafters of the ‘729 Patent — the term “alternatively” is providing an alternative to the “adjacent” configuration.

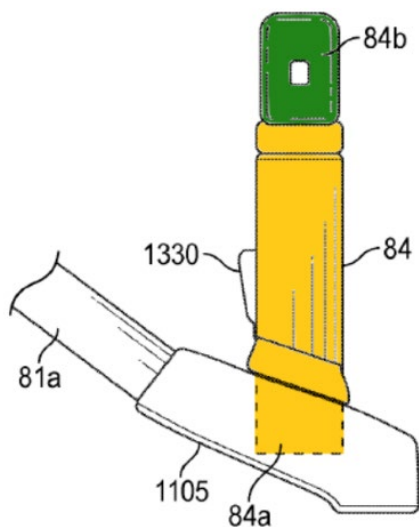


FIG. 13C

Column 14 of the ‘729 patent further emphasizes the meaning of “adjacent.” In this case, “a stroller seat can be removably coupled to a seat connector disposed on or adjacent to the second end 84b of the removably seat attachment adapter 84.” The second end (green) of the adapter (gold) has, as illustrated in FIG. 13C, a small hole in its center to permit a seat connector to be fixed to the second end. This would, again, require the seat connector to be next to and in contact with the second end 84b.

Column 15 describes a spring-loaded latching tab 1305 that can be positioned adjacent a tab receiver 1307.

When the adapter 84 is inserted into the adapter receiving cavity 1205 a sufficient distance (which can be configurable based on the design specifics on the stroller), the spring-loaded latching tab 1305 can be positioned **adjacent** a tab receiver 1307.

ECF No. 1-5 at 29 [col. 15, ll. 13-39].

FIG. 13B is the only figure that illustrates this element, and it again shows the tab (teal) next to and in contact with the receiver 1307.

As the above sections and figures illustrate, “adjacent” is used consistently where two parts are both next to one another and in contact with one another. Where two parts are not next to and in contact with one another, terms like “substantially adjacent” are used to distinguish the meaning.

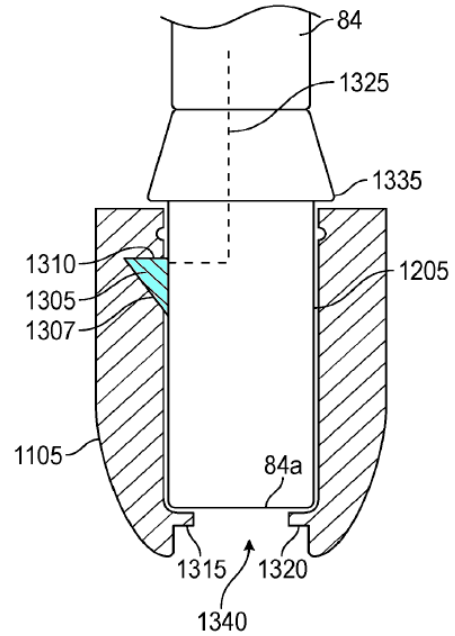


FIG. 13B

2. The prosecution history supports UPPAbaby’s proposed construction

During prosecution of U.S. Patent Application 12/631,375, Baby Jogger made various remarks about the term adjacent in view of U.S. Patent No. 7,475,900 (“Cheng”). The Examiner argued that Cheng disclosed two attachment portions (part 410, gold) connected adjacent the front wheels (part 33, purple). Eckert Decl. at Ex. A [‘375 Application file wrapper] at BJvU-0001132. FIG. 5 of Chen is provided below, illustrating these elements.

On June 12, 2013, applicant argued, in opposition, that Cheng did not disclose attachment portions adjacent to the front wheels. Eckert Decl. at Ex. A [‘375 Application file wrapper] at BJvU-0001169. Instead, applicant argued that the attachment portions were coupled to the pivoting frame member (41). That is, despite the proximity of

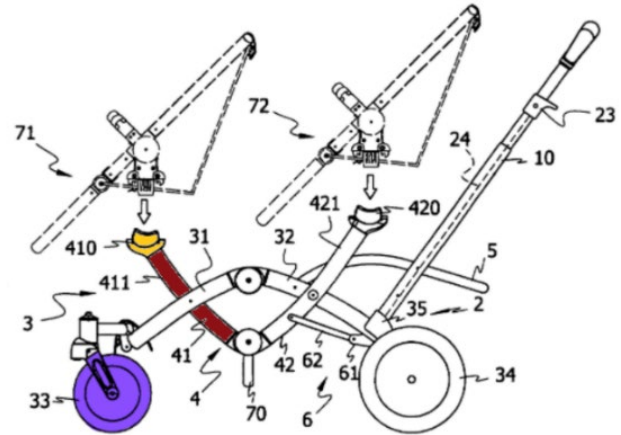


FIG. 5

the attachment portion to the front wheel of Cheng, and the indirect connection between the attachment portion and the front wheel, in applicant’s view this did not amount to “adjacent.” It is clear that applicant rejected the idea that an indirect connection or mere proximity amounted to adjacency.

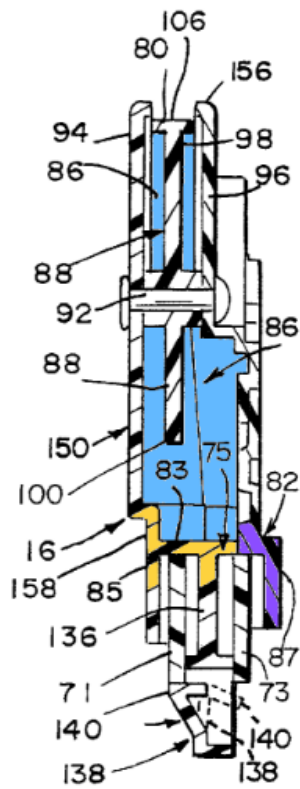


FIG 7

In the prosecution of U.S. Patent Application No. 15/225,326, the applicant admitted that the bottom end 158 of the device in U.S. Patent 6,286,844 (“Cone”) was adjacent to the stroller mount 82. Eckert Declaration Ex. D [‘326 Application file wrapper] at BJvU-0006635. In fact, applicant stated that Cone taught that the bottom end 158 was adjacent to the stroller mount 82. FIG. 7 of Cone shows portions of the bottom end 158 (gold) next to portions of the stroller mount (purple). Cone includes a hollow interior cavity (blue) which are defined by the bottom ends 156, 158. Eckert Declaration Ex. E [Cone] at col. 6, ll. 52-67. It is clear that the stroller mount and bottom end are both next to and in contact with one another. *Id.*

Therefore, the prosecution history indicates that the applicant considered “adjacent” to mean “next to and in contact with” and rejected definitions where pieces were in proximity to one another or indirectly coupled to one another (even when in proximity to one another).

3. Baby Jogger’s proposed construction is not based on the intrinsic record

Baby Jogger’s proposed definition cannot be correct. “Next to” or “nearby” are both belied by the fact that “substantially adjacent” clearly illustrates the case of “next to” or “nearby.” Furthermore, there is no instance in the intrinsic record where adjacent was not used to refer to something next to and in contact with something else.

E. “Closer” Is Indefinite

UPPAbaby’s Construction	Baby Jogger’s Construction
The term “closer” as used in the claims is indefinite.	Not indefinite. The relevant term is “closer to” which does not require construction. Alternatively, plain and ordinary meaning, which is “being near in space”

The claim term “closer” is indefinite. The definiteness requirement of 35 U.S.C. § 112 serves an important public notice function. *Nautilus*, 572 U.S. at 909. “Otherwise there would be [a] zone of uncertainty which enterprise and experimentation may enter only at the risk of infringement claims.” *Id.* (quoting *United Carbon Co. v. Binney & Smith Co.*, 317 U.S. 228, 236 (1942)). As the Federal circuit has held repeatedly, “there is an indefiniteness problem if the claim language might mean several different things and no informed and confident choice is available among the contending definitions.” *Interval Licensing LLC v. AOL, Inc.*, 766 F.3d 1364, 1371 (Fed. Cir. 2014) (citing *Nautilus*, 572 U.S. at 911 n.8). *Accord HZNP Medicines*, 940 F.3d at 698 (same).

The claim term “closer” is indefinite because it is unclear what “closer” is being measured relative to. The seats are claimed to be “closer to a handle” or “closer to the front wheels” but it

is unclear what that is relative to. *Closer than what?* Likewise, the connector portions are claimed to be “closer to a left front wheel” or “closer to a right front wheel” but it is unclear what that is relative to. *Closer than what?*

The claim term “closer” appears in the ‘550 Patent at independent claims 1 and 7. There are four occurrences of the claim term “closer” in independent claim 1, quoted below and representative of the four occurrences in independent claim 7. ECF No. 1-2 at 18. Analysis of the claims themselves and the specification does not shed light on the question of what “closer” is being measured relative to.

“Closer” Occurrence No. 1

The ‘550 Patent claim 1, which is also representative of its claim 7, requires:

“a first seat coupled to the stroller frame at a first vertical position of the stroller frame *closer to a handle of the stroller*” (closer to a handle of the stroller than what?)

There are several contradictory and irreconcilable possibilities for interpreting this use of the claim term “closer.” For example, whether the first seat is “closer” to a handle *than the front wheels* are relative to the same handle. Or, whether the first seat is “closer” to a handle *than the back wheels* are relative to the same handle. Or, whether the first seat is “closer” to a handle *than the second seat attachment* is relative to the same handle. Further confusing the issue is whether the point of measurement begins at the “first seat” or “first vertical position.” The “first seat” is claimed as being “coupled to...a first vertical position,” but is unclear whether those are two different points of reference and whether measurement relative to the claimed handle is likewise vertical or by some other measure (e.g., lateral or angled in parallel with the claimed frame).

“When a word of degree is used the district court must determine whether the patent's specification provides some standard for measuring that degree.” *Datamize, LLC v. Plumtree*

Software, Inc., 417 F.3d 1342, 1351 (Fed. Cir. 2005) (citation omitted), *abrogated on other grounds by Nautilus*, 572 U.S. 898 (2014).

Here, the ‘550 Patent’s specification is unhelpful in resolving these questions, as the word “closer” appears nowhere in it. *See* ECF No. 1-2.

“Closer” Occurrence No. 2

The ‘550 Patent claim 1, which is similar to its claim 7, requires:

“a second seat attachment coupled to the stroller frame at a second vertical position substantially below the first vertical position and *closer to the front wheels*” (closer to the front wheels than what?)

There are several contradictory and irreconcilable possibilities for interpreting this second occurrence of the claim term “closer.” For example, whether the second seat attachment is “closer” to the front wheels *than the first seat* is relative to the same front wheels. Or, whether the second seat attachment is “closer” to the front wheels *than the handle* is relative to the same front wheels. Or, whether the second seat attachment is “closer” to the front wheels *than the back wheels* are relative to the same front wheels. Further confusing the issue is whether the point of measurement begins at the “second seat attachment” or “second vertical position.” The “second seat attachment” is claimed as being “coupled to...a second vertical position,” but is unclear whether those are two different points of reference and whether measurement relative to the claimed front wheels is likewise vertical or by some other measure (e.g., lateral or angled in parallel with the claimed frame).

The ‘550 Patent’s specification is unhelpful in resolving these questions, as the word “closer” appears nowhere in it. *See* ECF No. 1-2. *Datamize*, 417 F.3d at 1351 (“When a word of degree is used the district court must determine whether the patent's specification provides some standard for measuring that degree.”) (emphasis added). Notably, the ‘550 Patent’s specification includes figures showing the second seat attachment at vertical positions that are above, below,

and approximately equal to the first seat. These three different vertical positions cannot all be “closer to the front wheels” than one another, which begs the original question: *Closer to the front wheels than what?* ECF No. 1-2 at 5 (Fig. 3), 6 (Fig.5), 8 (Fig. 8), 9-11 (Figs. 9A-9F).

“Closer” Occurrence Nos. 3 and 4

Claims 1 and 7 of the ‘550 Patent requires:

“a first connector portion releasably connected to the stroller frame *closer to a left front wheel*” (closer to a left front wheel than what?)

“a second connector portion releasably connected to the stroller frame *closer to a right front wheel*” (closer to a right front wheel than what?)

There are several contradictory and irreconcilable possibilities for interpreting the third and fourth occurrences of the claim term “closer.” For example, whether the first connector portion is “closer” to the left front wheel *than the second connector portion* is relative to the same left front wheel. Or, whether the first connector portion is “closer” to the left front wheel *than the “left seat connector”* is relative to the same left front wheel. Or, whether the first connector portion is “closer” to the left front wheel *than the first or second vertical positions of the stroller frame* are relative to the same left front wheel. Further confusing the issue is whether the point of measurement is “vertical,” as required of the first seat and second seat attachment coupling to the stroller frame, or by some other measure (e.g., lateral or angled in parallel with the claimed frame).

The ‘550 Patent’s specification is unhelpful in resolving these questions, as the word “closer” appears nowhere in it. *See* ECF No. 1-2. *Datamize*, 417 F.3d at 1351 (“When a word of degree is used the district court must determine whether the patent's specification provides some standard for measuring that degree.”) (emphasis added).

Summary of “Closer” as an Indefinite Claim Term

The claim term “closer” as used in the claims is indefinite because it is unclear what “closer” is being measured relative to. *Closer than what?* “Closer” appears nowhere in the ‘550

Patent’s specification. There is no generally accepted method by which to measure “closer” (e.g., vertically, laterally, angled in parallel, or by some other measure). In the context of the ‘550 Patent, “closer” means nothing to a person of ordinary skill in the art. Because the public is not on notice as to the scope of the claims and whether a potential product would infringe, “closer” is an indefinite claim term.

F. “Substantially Parallel” Is Indefinite

UPPAbaby’s Construction	Baby Jogger’s Construction
The term “substantially parallel” as used in the claims is indefinite.	Not indefinite. Does not require construction. Alternatively, plain and ordinary meaning, which is “the parallel relationship is not a strict relationship”

The claim term “substantially parallel” as used in the claims is indefinite because it claims elements that are disclosed to be *in line* with one another, and/or have varying degrees of *curvature*, and/or be *perpendicular*.

The term “parallel” has a well understood meaning. Two lines in the same plane that do not touch are parallel. If the lines intersect, then they are not parallel. Here, there is no indication as to what “substantially parallel” means or *how to measure it*. Said differently, how many degrees may two lines vary without departing from the claim term “substantially parallel”? Is 1° “substantially parallel”? Is 44°, 45°, or 46° “substantially parallel” (where 45° is the midpoint between parallel and perpendicular)? Is 89° (one degree prior to perpendicular) “substantially parallel”? The specification is silent.

“Substantially Parallel” Is Indefinite in the ‘568 Patent

In claim 1 of the ‘568 Patent, the two components that are claimed as “substantially parallel” are (1) the “front wheel support frame,” and (2) the “upper tube support frame.” ECF No. 1-3 at 31. Whether these two components are “substantially parallel” is assessed “when the

stroller frame is unfolded from a folded configuration.” *Id.* The claim is indefinite because these frames are shown in the specification as being only *in line* with one another or having an alternating concave/convex *curvature*. These are not “parallel” configurations and it is unclear what “substantially parallel” means.

The specification identifies “front wheel support frame” as “**81a**” and “upper tube support frame” as “**81c**” in the figures. *See, e.g.*, ECF No. 1-3 at 27, col. 9, ll. 10-16. Figure 8A of the ‘568 Patent shows **81a** and **81c** frames that are *in line* with one another, but not parallel with one another. ECF No. 1-3 at 9 (annotated). They are simply in line.

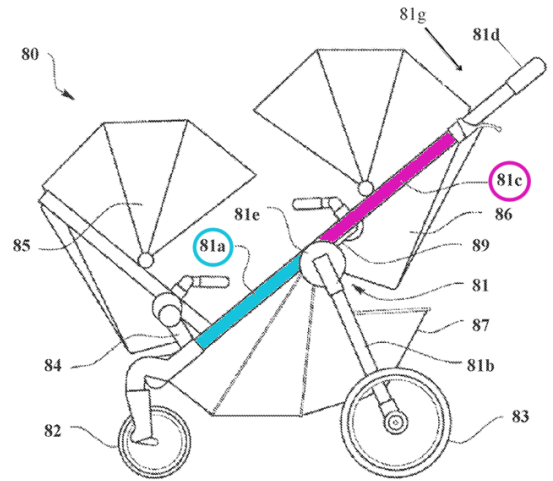


FIGURE 8A

Other figures show **81a** and **81c** as having varying degrees of curvature relative to one another, such as the curved members of Figure 9. ECF No. 1-3 at 14. Indeed, the curved members of Figure 9 alternate between concave and convex relationships. *See id.*

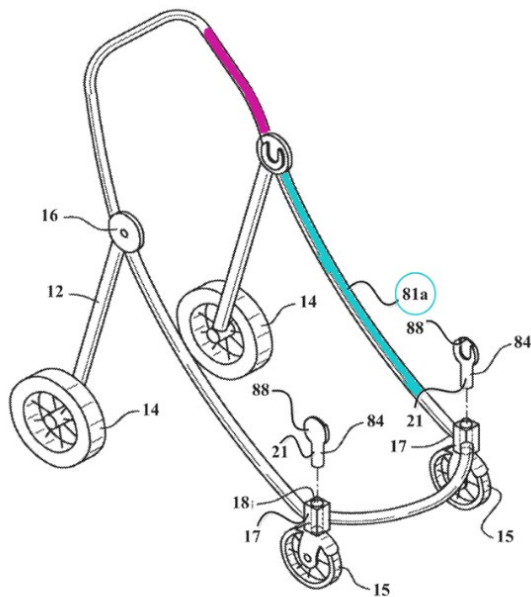


FIGURE 9

Thus, the figures either show two frames that are in line with one another (i.e., not parallel) or two frames that are *not* in line with one another (i.e., curved and not parallel). There is no disclosure of two frames in parallel when the stroller is in the unfolded position.

The specification defines “substantially parallel” as “the parallel relationship is not a strict

relationship and does not exclude functionally similar variations therefrom.” ECF No. 1-3 at 24, col. 3, l. 67 to col. 4, l. 3. However, there is no guidance as to what is or is not “functionally similar” to “substantially parallel.” There is no guidance in the specification as to *how much* curvature the support frames may possess while remaining “substantially parallel.” *Datamize*, 417 F.3d at 1351 (“When a word of degree is used the district court must determine whether the patent's specification provides some standard for measuring that degree.”) (emphasis added). Further, a person of ordinary skill in the art would not understand a curved, concave member to be “substantially parallel” with a curved, convex member. Concave and convex are antonyms and irreconcilable as “substantially parallel.”

Further confusing the issue, Baby Jogger made arguments in prosecution that are contradictory and irreconcilable with the specification. Baby Jogger added “substantially parallel” to the claims to distinguish prior art Cheng and Cone. Eckert Decl. at Ex. F [‘568 Patent file wrapper] at BJvU-0003083, 3213-14. Baby Jogger argued that Cheng is not “substantially parallel” because it is “substantially *folded*” in the *unfolded* position, which is semantically illogical and factually incorrect. *Id.*; Eckert Decl. at Ex. C [Cheng], at UB-0001820 (approximately 90°). Similarly, Baby Jogger argued that Cone is not “substantially parallel” because it is “substantially *curved*.” Eckert Decl. at Ex. F [‘568 Patent file wrapper] at BJvU-0003083, 3213-14. However, Baby Jogger’s specification also discloses varying degrees of curvature, including the curved members that alternate between concave and convex relationships. ECF No. 1-3 at 14 (Fig. 9). This begs the question: *At what concavity and degree do curved members become “substantially parallel”?* No one knows.

Because claim 1 of the ‘568 Patent fails to inform, with reasonable certainty, those skilled in the art about the scope of the invention, it is indefinite. *Nautilus*, 572 U.S. at 901.

“Substantially Parallel” Is Indefinite in the ‘231 Patent

In claim 1 of the ‘231 Patent, the two components that are claimed as “substantially parallel” are (1) the “front wheel support portion,” and (2) the “handle portion.” ECF No. 1-4 at 30. Whether these two components are “substantially parallel” is assessed “when the frame is in the unfolded configuration.” *Id.* The claim is indefinite because these portions are shown as being only *perpendicular* in the specification. Perpendicular is the opposite of parallel. There is no perpendicular angle that is “substantially parallel.”

The specification identifies “front wheel support portion” as “**81a**” and “handle portion” as “**81d**” in the figures. *See, e.g.*, ECF No. 1-4 at 26, col. 9, ll. 1-2; *id.* at 27, col. 11, ll. 64-65. Figure 8A of the ‘231 Patent shows **81a** and **81d** in a perpendicular relationship. ECF No. 1-4 at 8 (annotated). A perspective view shows this more clearly, where the “front wheel support portion” and “handle portion” are perpendicular. ECF No. 1-4 at 13 (annotated).

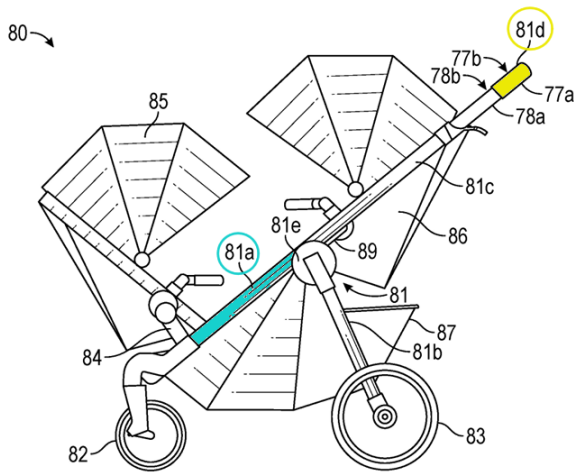


FIG. 8A

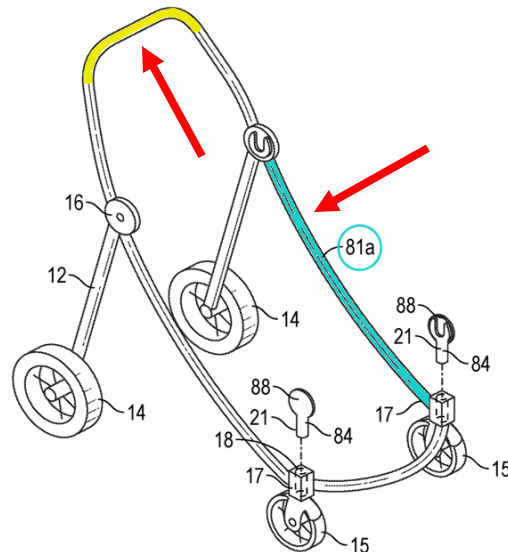


FIG. 9

Thus, the figures show two portions that are perpendicular to one another (i.e., not parallel). There is no disclosure of two portions in parallel when the stroller is in the unfolded position.

The specification defines “substantially parallel” as “the parallel relationship is not a strict relationship and does not exclude functionally similar variations therefrom.” ECF No. 1-4 at 23, col. 3, ll. 52-55. However, there is no guidance as to what is or is not “functionally similar” to “substantially parallel.” There is no guidance in the specification as to *how much* deviation between 0° and 180° the portions may exhibit while remaining “substantially parallel.” *Datamize*, 417 F.3d at 1351 (“When a word of degree is used the district court must determine whether the patent's specification provides some standard for measuring that degree.”) (emphasis added). Further, a person of ordinary skill in the art would not understand perpendicular portions to be “substantially parallel.” Parallel and perpendicular are antonyms and irreconcilable as “substantially parallel.”

Because claim 1 of the ‘231 Patent fails to inform, with reasonable certainty, those skilled in the art about the scope of the invention, it is indefinite. *Nautilus*, 572 U.S. at 901.

VI. CONCLUSION

For the foregoing reasons, UPPAbaby respectfully requests that the Court construe the claim terms “connector portion,” “rotated with respect to,” “handle portion,” and “adjacent” as proposed by UPPAbaby, and further hold that “closer” and “substantially parallel” are indefinite.

Dated: March 28, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on March 28, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which automatically sends email notification of such filing to registered participants. Any other counsel of record will receive the foregoing via e-mail in PDF format.

/s/ Andrea B. Reed

Andrea B. Reed