

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

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**MEMORANDUM ORDER**

Pending before me is Defendants AGCO Corporation and Precision Planting LLC's motion for further claim construction. D.I. 211. I allowed briefing on this motion based on Defendants' repeated and emphatic representations that Plaintiff Deere & Company maintained during an *inter partes* review (IPR) before the Patent Trial and Appeal Board positions on claim construction that were "diametrically opposed" to and "fundamentally inconsistent" with positions Deere took during claim construction before me. Tr. of June 9, 2021 Hr'g at 17:24–18:1, 20:12–13; *see also* Tr. at 13:11–14 ("[T]he claim construction[s] that they urge upon this Court are diametrically opposed to the positions they took in the PTAB proceedings."); 18:4–5 ("[T]hey took directly opposite positions."); 20:11–13

(“What caused this issue is that Deere took fundamentally inconsistent positions in the PTAB.”). In their brief filed in support of the motion, Defendants again assert that “Deere took [in the IPR proceedings] positions that directly contradict the constructions it successfully urged upon the Court,” and argue that further claim construction on three terms is necessary as a result of Deere’s “opposite position[s].” D.I. 211 at 1–3.

I have read the parties’ briefing and exhibits from the IPR proceedings submitted with the briefing. I do not think it reasonable or fair to accuse Deere of adopting in the IPR proceedings “fundamentally inconsistent positions” that were “diametrically opposed” to the positions Deere took during claim construction before me. I will therefore deny Defendants’ motion and, going forward, will view with skepticism arguments and representations by Defendant.

NOW THEREFORE, at Wilmington this Twenty-seventh day of July in 2021, **IT IS HEREBY ORDERED** that AGCO Corporation and Precision Planting LLC’s Motion for Further Claim Construction in Light of Deere’s Positions Asserted in IPR Proceedings (D.I. 211) is **DENIED**.

  
UNITED STATES DISTRICT JUDGE