

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

BAYCHAR INC. and BAYCHAR
HOLDINGS LLC,

Plaintiffs

v.

Civil No. 04-144-B-C

THE BURTON CORPORATION,
DECKERS OUTDOOR CORPORATION
and NORDICA USA CORP.,

Defendants

Gene Carter, Senior District Judge

**ORDER AFFIRMING THE RECOMMENDED
DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge having filed with the Court, with copies to counsel, her Recommended Decision (Docket Item No. 138) on Defendants' Motions for Summary Judgment Asserting Implied License/Patent Exhaustion and Non-Infringement (Docket Item Nos. 73, 87, 89, 93); Plaintiff having filed its Objections to the Recommended Decision (Docket Item No. 143); Defendants having filed their Response to Plaintiff's Objection to the Recommended Decision (Docket Item No. 145); and this Court having reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record, and this Court having made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision, and concurring with the recommendations of the United States Magistrate Judge for the reasons set forth

in her Recommended Decision, and having determined that no further proceeding is necessary, it is **ORDERED** as follows:

1. The objections of the Plaintiff are **DENIED**;
2. The Recommended Decision of the Magistrate Judge is hereby **AFFIRMED**;
3. Defendant The Burton Corporation's Motion for Summary Judgment on Patent Infringement (Docket Item No. 87) be, and it is hereby, **GRANTED**; Defendant Nordica's Motion for Summary Judgment on Patent Infringement (Docket Item No. 89) be, and it is hereby, **GRANTED**; Defendant Deckers Outdoor Corporation's Motion for Summary Judgment on Patent Infringement (Docket Item No. 93) be, and it is hereby, **GRANTED**, and, alternatively, Defendants' Motion for Summary Judgment on Anticipation (Docket Item No. 73) be, and it is hereby, **GRANTED**;
4. Defendants' Motion for Summary Judgment on Obviousness (Docket Item No. 85) be, and it is hereby, **DISMISSED AS MOOT**;
5. Plaintiff's Motion to Supplement the Record (Docket Item No. 142) is hereby **DENIED**; and
6. Plaintiff's request for oral argument (Docket Item No. 144) is hereby **DENIED**.

/s/ Gene Carter
Gene Carter
Senior District Court Judge

Dated at Portland, Maine this 6th day of November, 2006.

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