
Patent Claim Scope

2002-07-10

In a patent, what is the scope of a claimed term? This question is especially vexing when only one embodiment of a claimed term is described in a patent. In particular, to what extent does such a claimed term cover embodiments not disclosed in the patent? During prosecution, patent examiners are instructed to give claim terms their "broadest reasonable interpretation." Similarly, the general rule in the courts has been that if a claim recites a structure without limiting it to a specific subset of structures, the claimed term will cover all types of that structure, regardless of whether those types are described in the patent.

Recently, in *CCS Fitness, Inc. v. Brunswick Corp.*, the Court of Appeals for the Federal Circuit reaffirmed this general rule and described four situations in which a claim term may be constricted. These situations were not meant to be exhaustive but they reflect what the courts have done in other cases.

The claimed term at issue in *CCS* was a "reciprocating member" for an elliptical trainer. The term "member" was described in the patent with only one embodiment having a single straight bar. The accused exercise equipment had a corresponding reciprocating assembly with multiple curved structures. The court held that the claimed term "reciprocating member" covered the accused equipment with multiple components, although no such embodiment was described in the patent.

The court further explained that a court could constrict the ordinary meaning of a claim term in "at least" four ways.

1. When "the patentee acted as his own lexicographer and clearly set forth a definition of the disputed claim term in either the specification or prosecution history." This exception can be avoided unless the patent "clearly assigns" a unique definition to the claimed term. It follows that a patent drafter should be careful in defining any claimed terms in the specification or arguments to the Patent Office.
2. When the intrinsic evidence (that is, the specification and prosecution history) shows that "the patentee distinguished that term from prior art on the basis of a particular embodiment, expressly disclaimed subject matter, or described a particular embodiment as important to the invention." Thus, a patent drafter should be careful in describing particular embodiments as important to distinguish the prior art or as important to the

operation of the invention.

3. When the claimed term lacks clarity, so that the court must "resort to the other intrinsic evidence for a definite meaning." This exception is most likely to apply when the dictionary definition of the claimed term also does not "shed dispositive light" on the scope of a claim limitation.
4. When the disputed claimed term is interpreted as a means-plus-function element. If the claim term includes a "means for" clause, it is presumed to be a means-plus-function element. In that case, the [Patent Act](#) limits the term to structures performing the function specified in the claim, and using the "corresponding structure, material, or acts described in the specification and equivalents thereof." If there is no "means for" language, it is presumed that the claimed term is not a mean-plus-function term. In CCS, the court refused to interpret the claimed "reciprocating member" as a means-plus-function element in part because the term "member" had "an understood meaning" in the art, as shown by dictionary definitions.

Under CCS, in order properly to interpret a claimed term, each of the four exceptions should be analyzed in view of the intrinsic evidence and dictionary definitions. Unless one of the exceptions applies, the claimed term will be interpreted under the general rule.

After CCS, in [Beckson Marine, Inc. et al. v. NFM, Inc.](#), the Federal Circuit considered the proper interpretation of the term "sloping drain groove" in a claim for a self-draining, leak-resistant boat window. Although the patent figures showed long, narrow drains, the court noted that dictionary definitions for a groove are not that limited and that the specification also described the grooves more broadly. The court also noted that the patentee also had used the more general term, "draining structures" to describe the grooves. Consequently, the claim term was not limited to the specific structure shown in the figures.

Although the *Beckson Marine* court did not cite CCS and did not use an identical analysis, it reached the same result and focused on the same sources for interpreting the claims: the claim language, the specification, and dictionary definitions. Together, these two cases show that when a patent includes multiple or broad embodiments, claim terms are less likely to be interpreted narrowly. Also, these cases show that dictionary definitions can be significant in determining the breadth of a claim term.

Anthony Kahng
anthony.kahng@haledorr.com

Donald Steinberg
donald.steinberg@haledorr.com