

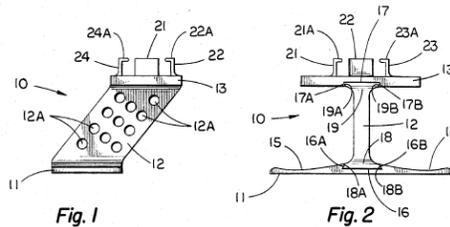
**Keywords:**      **claim construction; means-plus-function**

**General:**        **When construing a means-plus-function limitation, a court may not read structural limitations into the claim from an extrinsic definition of the claimed function, and the court must construe the claimed function independently of any function performed by a working embodiment.**

*JVW Enterprises, Inc. v. Interact Accessories Inc.*  
76 U.S.P.Q.2d 1642 (Fed. Cir. 2005)  
Decided October 3, 2005

**I. Facts**

Plaintiff, JVW Enterprises, Inc. (JVW), is the owner of U.S. Patent No. 4,494,754 (“the ‘754 patent”), which is entitled “Apparatus for Playing Home Video Games.” The ‘754 patent, which issued on January 22, 1985, relates to a stand for securing a video game controller. As illustrated by Figures 1 and 2 below, the stand has the profile of an I-beam. The user sits on the base, or bottom portion of the “I,” and a platform rests above the user’s lap. A riser extends between the user’s legs and joins the platform to the base. An Atari style controller snaps into resilient, L-shaped clips extending from the platform. The specification of the ‘754 patent discloses only one embodiment, which is shown below.



Claim 1 of the ‘754 patent recites:

An accessory for aiding a video game player during play of a video game, the video game player operating a video game controller which transmits signals in response to manipulations made on the video game controller by the video game player, the transmitted signals being processed by a computer processor which responsively manipulates images on a television screen, said accessory comprising: a base, said base extending horizontally, said base being positionable on a surface so as to permit a video game player to stabilize said base by placing lower body weight on said base; a riser, said riser extending upward from said base; and a mounting member attached to said riser, said mounting member being positioned over the lap of a player with lower body weight on said base, said mounting member including means for lockably receiving a video game controller in fixed position on said mounting member. (Emphasis added to the limitation in question).

Interact Accessories Inc. (Interact) manufactures steering wheel controllers for video games. At issue in this case, the V3 model (which is depicted below) and the V4 model both include a base on which a user sits to stabilize the controller. In both models, game players may adjust the steering wheel. However, during normal operation, the steering wheel is not removable.



JVW sued Interact for infringing claim 1 of the '754 patent. In district court, arguments focused on the proper construction and application of the means-plus-function limitation of claim 1, i.e., “means for lockably receiving a video game controller in fixed position on said mounting member.” Identifying the function associated with “lockably receiving” presented difficulties for the district court. Initially, the district court construed “lockably receiving” to mean “attached by a method whereby one can lock a game controller in place for use and can unlock and release the game controller after use.” JVW argued that this interpretation improperly imported an *unlocking* function into the limitation. In response, the district court agreed to “rephrase” the construction by adoption a dictionary definition of the term “lockably”: “receiving in fixed position by the interlacing of fitting of parts into each other.”

The parties agreed to a bench trial, so the district court proceeded to determine if the construed claims read on the V3 or V4 controllers. In its analysis, the district court applied the first construction of the means-plus-function limitation, not the rephrased construction. With respect to the V3 controller, the district court stated that “by no means does the structure of the device perform the function of *lockably* receiving the controller in fixed position in the same way as the easily releasable disclosed clip structure to achieve the same result of permitting a convenient interchange of video game controllers.” (Underline added, and italics in original.) Similar reasoning was applied to the analysis of the V4 controller. The district court held that neither the V3 nor the V4 infringe the '754 patent.

JVW appealed the judgment of the district court to the Federal Circuit. JVW argued that the district court applied the first construction of the means-plus-function limitation and thereby improperly imported an unlocking function. In response, Interact asserted both that the court *should* have read the claim as requiring an unlocking function and, in the alternative, that the court *did not* read the claim as requiring an unlocking function. The Federal Circuit was unable to determine which construction the district court applied, so they examined both constructions.

## II. Issues

- A. Was the district court’s first construction of the means-plus-function limitation of claim 1 correct? That is, must “means for lockably receiving” support an unlocking function?
- B. Was the district court’s second construction of the means-plus-function limitation of claim 1 correct? Do “means for lockably receiving” require “receiving in fixed position by the interlacing of fitting of parts into each other”?
- C. Could a reasonable fact finder, applying the correct claim construction, find that the means-plus-function limitation does not read on the V3 controller?

## III. Discussion

- A. No. The first construction improperly adds unclaimed limitations to the function of the means-plus-function limitation. The Federal Circuit articulated two tenets governing the determination of function in a means-plus-function limitation. First, a court may not construe

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a means-plus-function limitation by adopting a function different from that explicitly recited in the claim. Second, a court errs by importing the functions of a working device into the specific claims, rather than reading the claims for their meaning independent of any working embodiment. Here, the Federal Circuit noted that the “unlocking” function is not explicitly recited in the claim. The Federal Circuit concluded by holding that the first construction is improper because the district court improperly imported a function performed by the embodiment disclosed in the specification of the ‘754 patent.

- B. No. With respect to the district court’s second construction, the Federal Circuit held that function identified by the district court improperly imports structural limitations from the definition of “lockably.” To explain this holding, the Federal Circuit stated that the “function must be determined before corresponding structure can be identified.” The court went on to explain that construing “means for lockably receiving” as referring to structures which perform the function of “receiving in fixed position by the interlacing of fitting of parts into each other” creates structural limitations independent of corresponding structures in the specification. Specifically, the “interlacing of fitting of parts” portion of the function identified by the district court recites improperly imported structure.
- C. No. After disregarding both constructions stated by the district court, the Federal Circuit construed the function of “means for lockably receiving a video game controller in fixed position on said mounting member” as “receiving and locking a video game controller into a fixed position on the mounting member for use.” The Federal Circuit then identified the structure corresponding to this function as the L-shaped controller holders 21-24 extending from the platform of the primary embodiment. Finally, the Federal Circuit held that no reasonable fact-finder, applying the correct claim construction, could find that the means-plus-function limitation does not read on the V-3 controller. In reaching this decision, the Federal Circuit focused on clips that constrain the movement a steering column in the V3 controller. The appeals court stated that “[t]he clips in the V-3 perform the identical claimed function of ‘receiving and locking a video game controller into a fixed position on the mounting member for use.’”

#### **IV. Conclusion**

The Federal Circuit’s analyses of all three issues share a common thread. In disposing of each issue, the court either disregards or avoids objective indicia of the disputed term’s referent. The court declined to use both intrinsic and extrinsic evidence of the meaning of “lockably receiving” and then defined the term with a tautology. With regard to the first construction advanced by the district court, the Federal Circuit declined to read a limitation from the specification into the meaning the means-plus-function limitation. The one-disclosed embodiment both locks a controller in place and unlocks the controller. Nonetheless, the appeals court did not construe “lockably receiving” to mean “unlockably receiving.” With regard to the second construction of “lockably receiving,” the Federal Circuit, in effect, declined to use an extrinsic source to define the recited function. The appeals court disregarded the dictionary definition that led to the district court’s second construction. Finally, the Federal Circuit defined “lockably receiving” as “receiving and locking.” That is, the Federal Circuit stated a content-neutral definition of “lockably receiving.” Consequently, the appeals court was unconstrained by any objective measure of the disputed terms meaning.