

Claims Interpretation: It Figures

Claim language is an art in writing and understanding, though one also needs to consider the bigger picture at hand. Although patent agents can skillfully describe an entire invention, in the broadest sense in a single sentence, the constraints of language alone can leave us wondering as to exactly what it is that an invention does. Take, for example, the following sample claim:

An elongated device threadable into a bore comprising:

a shaft having a tapered first end and a second end;

said tapered first end having a helically-aligned peripheral thread extending therefrom to near said second end;

said second end having a tool-receiving region for receiving a complementarily shaped portion of a tool capable of applying a rotational force to said shaft; and

at least one cutting region extending from said first end along said shaft to a predetermined point in the direction of said second end for progressively cutting away a portion of a periphery of the bore such that said thread may be progressively received into said cut away portion as said shaft is rotated.

Although descriptive, read alone, such a claim could be taken to mean a specialized wood screw or, perhaps a tap die. One is a fastener, while the other is for creating a threaded surface inside a bore, generally in metal working applications. In the case of the screw, the cutting region aids to start the screw in the wood without a pilot hole, whereas in the case of the tap die, a bore is provided about the periphery of which the cutting region begins to score such that the helically-aligned threads can produce and hone a threaded region as it is worked into the bore.

Enter the skilled illustrator. Reading the above claim and referring to the diagrams below can shed a whole new light on the claim language, such that the invention, and its use, can be readily determined. Looking at Figure 1, it is clearly a wood screw; Figure 2 clearly depicts a tap die.

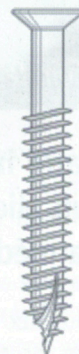


Figure 1



Figure 2

The Court has consistently affirmed that drawings accompanying the specification form part of the patent and may be used in comprehending the invention and in construing the claims (see, for example, *Curl-Master Mfg. Co. v. Atlas Brush Ltd.*, 52 C.P.R. 51 (S.C.C.), *Lightning Fastener Co. v. Colonial Fastener Co.*, 51 R.P.C. 349 (P.C), and *Whirlpool Corp. v. Camco Inc.*, 9 C.P.R. (4th) 129 (S.C.C.)). Further guidance as to how figures may be used to aid in the understanding of an invention and support claim language may be found in Section 37 of the *Patent Act* and Rule 82 of the *Patent Rules*.

With the Courts' affirmation that drawings form part of the specification and can aid in comprehension of the invention and construction of the claims, the risk of having poor quality drawings may be great. As such, engaging a skilled illustrator at the outset of a patent application, to graphically set forth the invention and what the inventors contemplate, can make all the difference when construing the claims. As the old adage goes: "A picture is worth a thousand words."

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On behalf of the Young Practitioners Committee