

**UNIT: 35 U.S.C. 112(f)**

*35 U.S.C. 112, sixth paragraph, for pre-AIA applications filed before 9/16/2012*

**Section: Identifying a Means-plus-Function Limitation**

- If a claim limitation recites a term and associated functional language, determine whether the claim limitation invokes § 112(f) (means-plus-function).
- Two Presumptions
  - If the word “means” appears in a claim element in combination with a function, it is presumed to be a means-plus-function element to which § 112(f) applies.
    - The presumption that § 112(f) is invoked is overcome and § 112(f) will not be applied when the limitation further includes sufficient structure for performing the recited function.
  - When a claim limitation does not use “means,” the claim limitation is presumed not to invoke § 112(f).
    - The presumption that § 112(f) is not invoked is overcome and § 112(f) will be applied when the limitation uses a word that is a substitute for “means” that is a generic placeholder (also called a nonce word or a verbal construct) that is not recognized as the name of known structure that performs the specific function.
- Evaluate whether § 112(f) should be applied to the claim limitation.
  - MPEP 2181(I) sets forth a 3-prong analysis for applying § 112(f) when:
    - (A) the claim limitation uses the term “means” or a term as a substitute for “means” that is generic placeholder (also called a nonce term or a non-structural term having no specific structural meaning) for performing the claimed function;
    - (B) the phrase “means” or the generic placeholder is modified by functional language, typically linked by the transition word “for” (e.g., “means for”) or another linking word; and
    - (C) the phrase “means” or the generic placeholder is not modified by sufficient structure or material for performing the claimed function.
- Linking words
  - It is not required that the transition “for” be used to link “means” or its substitute to the function.
    - Other linking words can be used, such as “so that” or “configured to,” provided it is clear that the claim element is reciting a function.
    - In certain circumstances, it is also not necessary to use a linking word if other words used with “means” or its substitute convey the function. Such words, however, cannot convey specific structure for performing that function.
      - For example, “ink delivery means” can be interpreted as “means for ink delivery” as the words “ink delivery” only convey function and have no structural meaning. In contrast, “keyboard means” would not be interpreted as a means-plus-function limitation because the word “keyboard” has a known structural meaning, while “keyboarding means” can be interpreted as means-plus-function with “keyboarding” conveying pure function.