



UNIVERSITY OF  
MARYLAND  
SCHOOL OF LAW

**PATENT LAW  
UPDATE**

***Creo Prods.,  
Inc.  
v.  
Presstek, Inc.***

Nos. 01-1634,  
02-1023  
Federal Circuit  
Sept. 17, 2002

***“[P]roper  
application of  
§ 112 ¶ 6  
generally reads  
the claim  
element to  
embrace  
distinct and  
alternative  
described  
structures for  
performing the  
claimed  
function.”***

On September 17, 2002, the Federal Circuit, *inter alia*, affirmed the district court’s judgment following a bench trial that the claims of U.S. Patents No. 5,163,368 and No. 5,174,205 are not invalid for indefiniteness. The patented technology related to electronic imaging systems designed to be installed in printing presses. The Federal Circuit stated:

Creo asserts that claim 1 of the ‘368 patent is invalid for indefiniteness because the specification of that patent does not adequately disclose sufficient structure corresponding to the “means for rotating each cylinder” limitation of that claim. Creo advances a similar argument with respect to the “mounting means for mounting said plate on said cylinder” limitation in claim 11 of the ‘205 patent.

“[P]roper application of § 112 ¶ 6 generally reads the claim element to embrace distinct and alternative described structures for performing the claimed function. Specifically, ‘disclosed structure includes that which is described in a patent specification, including any alternative structures identified.’” [W]here the specification discloses different alternative embodiments, the claim is valid even if only one embodiment discloses corresponding structure. With respect to the “central-impression” embodiment, the written description expressly discloses that “the impression cylinder drives each plate cylinder.” . . . Thus, we conclude that the specification of the ‘368 patent discloses adequate structure corresponding to the “means for rotating” limitation of claim 1.

To the extent that Creo contends that additional structure is required for completely performing the function of “rotating each cylinder,” we consider such structure to be implicit in the disclosure of the ‘368 patent. Under our case law interpreting § 112, ¶ 6, knowledge of one skilled in the art can be called upon to flesh out a particular structural reference in the specification for the purpose of satisfying the statutory requirement of definiteness. Thus, in addressing the question whether a means-plus-function limitation satisfies the definiteness requirement, we focus our inquiry on whether one skilled in the art would have understood that the specification of each patent disclosed structure capable of performing the function recited in the claim limitation. Here, the parties agree that the manner of rotating plate cylinders in a printing press was well known in the art and need not have been explained in great detail in the specification. . . . We therefore conclude that the ‘205 patent discloses sufficient structure corresponding to the “means for mounting” limitation of claim 11.

In sum, Presstek’s expert offered un rebutted testimony that the structures disclosed in the specifications of the ‘368 and ‘205 patents corresponding to each of the two disputed limitations were well known in the art. . . . Given the structures disclosed in the specifications of the two patents and the record evidence of the knowledge of those having ordinary skill in the art, we hold that Creo has not made a sufficient showing of indefiniteness to overcome the presumption of validity that attaches to the claims of the ‘368 and ‘205 patents.