



UNIVERSITY OF  
MARYLAND  
SCHOOL OF LAW

**PATENT LAW  
UPDATE**

***Verve, LLC  
v.  
Crane Cams,  
Inc.***

No. 01-1417  
Federal Circuit  
Nov. 14, 2002

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On November 14, 2002, the Federal Circuit reversed-in-part, vacated-in-part, and remanded the district court’s summary judgment that certain claims of U.S. Patent No. 4,850,315 are invalid for anticipation and indefiniteness. The patented technology related to claims improved push rods for internal combustion engines. With respect to indefiniteness, the Federal Circuit stated:

[The district] court erred in law, in requiring that the intrinsic evidence . . . is the sole source of meaning of words that are used in a technologic context. While reference to intrinsic evidence is primary in interpreting claims, the criterion is the meaning of words as they would be understood by persons in the field of the invention. Patent documents are written for persons familiar with the relevant field; the patentee is not required to include in the specification information readily understood by practitioners, lest every patent be required to be written as a comprehensive tutorial and treatise for the generalist, instead of a concise statement for persons in the field. Thus resolution of any ambiguity arising from the claims and specification may be aided by extrinsic evidence of usage and meaning of a term in the context of the invention. The question is not whether the word “substantially” has a fixed meaning as applied to “constant wall thickness,” but how the phrase would be understood by persons experienced in this field of mechanics, upon reading the patent documents. It may of course occur that persons experienced in a technologic field will have divergent opinions as to the meaning of a term, particularly as narrow distinctions are drawn by the parties or warranted by the technology. Patent disputes often raise close questions requiring refinement of technical definitions in light of particular facts. The judge will then be obliged to decide between contending positions; a role familiar to judges. But the fact that the parties disagree about claim scope does not of itself render the claim invalid.

Expressions such as “substantially” are used in patent documents when warranted by the nature of the invention, in order to accommodate the minor variations that may be appropriate to secure the invention. Such usage may well satisfy the charge to “particularly point out and distinctly claim” the invention, 35 U.S.C. §112, and indeed may be necessary in order to provide the inventor with the benefit of his invention. [U]sages such as “substantially equal” and “closely approximate” may serve to describe the invention with precision appropriate to the technology and without intruding on the prior art. [“[L]ike the term ‘about,’ the term ‘substantially’ is a descriptive term commonly used in patent claims to ‘avoid a strict numerical boundary to the specified parameter.’”

[W]hen the term “substantially” serves reasonably to describe the subject matter so that its scope would be understood by persons in the field of the invention, and to distinguish the claimed subject matter from the prior art, it is not indefinite. Understanding of this scope may be derived from extrinsic evidence without rendering the claim invalid. The summary judgment record offered no basis for departing from these general rules. Thus the usage “substantially constant wall thickness” does not of itself render the claims of the ‘315 patent indefinite.