

Patent Claim Preamble Lessons from Arctic Cat Inc. v. GEP Power Products

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The **general rule** is that a patent claim's preamble does not limit the claim unless the preamble gives life, meaning, and vitality to the claim. The Federal Circuit's recent decision in *Arctic Cat Inc. v. GEP Power Products, Inc.* (March 26, 2019) considers the situation where a patentee wants a preamble to be a required claim limitation, unlike the more typical situation where a patentee does not want a claim preamble to be limiting, such as in *Pacing Technologies v. Garmin International* previously discussed [HERE](#). The court deciding in Arctic Cat that the preambles at issue were not required claim limitations highlights important considerations for patent application drafting and for crafting post-issuance arguments.

In two inter partes reviews (IPRs) filed by GEP Power Products, the Patent Trial and Appeal Board (PTAB) decided that the term "personal recreational vehicle" present in various claims' preambles was not limiting because the bodies of the claims "describe structurally complete inventions" and the term refers only to a mere "intended use" of this structure. The patentee (Arctic Cat) was looking for the opposite conclusion to help support arguments that prior art asserted against its patents fails to read on the claims as lacking disclosure of the claimed "personal recreational vehicle."

The Federal Circuit affirmed this portion of the PTAB's decision and provided multiple reasons for its decision: (1) the preamble only provides a use, as a "personal recreational vehicle," for the structure recited in the claims' bodies, (2) the patentee did not demonstrate that the preamble imposes any structural requirements beyond those explicitly provided in the claims' bodies, (3) no arguments made during prosecution to overcome prior art appeared to rely on the "personal recreational vehicle" language in the preambles, and (4) the preamble term "personal recreational vehicle" does not supply antecedent basis for any term in any claim. The Federal Circuit also noted that the patents only illustrate a "personal recreation vehicle" in skeletal form and that the patents' specifications do not identify structure for a "personal recreation vehicle" or any improvement the vehicle's structure provides over the prior art (other than structure already present in the claims' bodies).

Interpreting claim preambles is fact and case-specific, but *Arctic Cat* nevertheless provides helpful reminders and guidance to anyone faced with writing, arguing against, or defending patent claims. Considering all of the Federal Circuit's points of analysis from a patent application's drafting and into its issued life can help maximize a patent claim's effectiveness in avoiding prior art and in covering infringing activity.

Authors



Christina Sperry