

## FEDERAL CIRCUIT PATENT LAW CASE UPDATE

JVW Enters. v. Interact Accessories, 04-1410 (Fed. Cir. Oct. 3, 2005) (Prost, J.)

The court reversed-in-part the district court's judgment that Interact's "racing wheel" video game controllers do not infringe JVW's patent for a base and lockable mounting structure to securely hold a video game controller. Applying a revised claim construction for the means-plus-function limitation "means for lockably receiving," one accused device infringed but the other did not.

JVW owns U.S. Pat. No. 4,494,754, for a device that holds a video game controller, freeing the hands to operate the game via the controller while some portion of the player's lower body stabilizes the holding device.

According to the '754 patent, the accessory includes a base, a riser, a mounting member, and controller holders. '754 patent, col. 2, ll. 26-28. The riser extends upward from the horizontal base and connects to the mounting member. *Id.* at col. 2, ll. 48-55. The controller holders attach to the mounting member and allow the video game controller to be positioned and locked into place just above the player's lap.

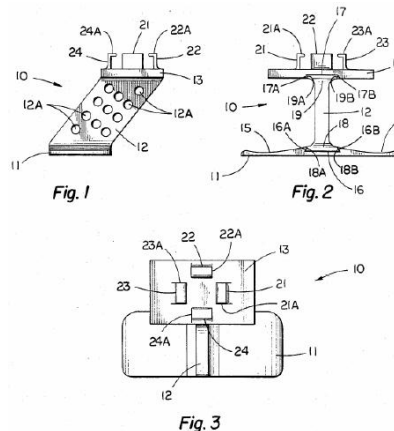
The accused devices are "racing wheels" where a steering wheel mounts to a base, the wheel being used to drive a video game car race. Two models are accused, the V3 and the V4, each of which uses a different mechanism to interface the wheel with its base.

The claim term at issue was the means-plus-function limitation "means for lockably receiving a video game controller in fixed position on said mounting member." The accused racing wheels allow the height of the wheel to be adjusted, raising the question whether the adjustment mechanisms "lockably receive" the wheel, as a "video game controller" into the base. Procedurally, the district court issued its claim construction, but then later revised it.

The district court's second construction confuses function with structure. Determining a claimed function and identifying structure corresponding to that function involve distinct, albeit related, steps that must occur in a particular order. In short, function must be determined before corresponding structure can be identified. . . . By adopting "received in fixed position by the interlacing of fitting of parts into each other" as the claimed function, the district court effectively combined the two steps, resulting in the inappropriate inclusion of structure, "the interlacing of fitting of parts into each other," in the construction of the claimed function. The district court therefore erred in its second construction

The court determined that the proper characterization of the function was "receiving and locking a video game controller into a fixed position on the mounting member for use." The corresponding structure was controller holders 21-24.

This led the court to reverse the infringement determination for the V3 model.



[W]e conclude that no reasonable fact-finder, applying the correct claim construction, could find that the means-plus-function limitation does not read on the V3.

The result for the V4, however, was different.

Like the V3, the V4 clearly performs the function of "receiving and locking a video game controller into a fixed position on the mounting member for use." The relevant question regards whether the structure used by the V4 to accomplish the claimed function is either identical or equivalent to controller holders 21-24. . . . We are not persuaded that the district court clearly erred in determining that V4 does not include structure that is identical or equivalent to controller holders 21-24. . . . Moreover, even though the district court's infringement analysis was predicated on an incorrect claim construction, no reasonable fact-finder, applying the correct claim construction, could conclude that the means-plus-function limitation reads on the V4 because of substantial differences between controller holders 21-24 and the V4's plates and molded projections. While controller holders 21-24 are L-shaped, the plates are donut-shaped so as to surround the V4's metal shaft, and the projections are straight. Moreover, the structures clearly perform the claimed function in substantially different ways. For example, controller holders 21-24 lock a controller into a fixed position by preventing linear, up and down movement of the steering wheel column. In contrast, the projections lock a controller into a fixed position by preventing rotational movement of the steering wheel unit on the shaft.