



## **Means-Plus-Function Claiming Post-*Williamson v. Citrix Online***

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**Aden Allen and Jose Villarreal**



## **MPF Claiming Post-*Williamson v. Citrix***

### **Brief Intro to *Williamson v. Citrix Online***



## MPF Claiming Post-*Williamson v. Citrix*

### Preliminary Intro to *Williamson v. Citrix Online*

#### **“a distributed learning control module”**

“a distributed learning control module for receiving communications transmitted between the presenter and the audience member computer systems and for relaying the communications to an intended receiving computer system and for coordinating the operation of the streaming data module.”

Where is the “magical language”?

Where is the structure?

Would a POSA readily understand what a “distributed learning control module” is?

What are the functions of the “distributed learning control module”?



## MPF Claiming Post-*Williamson v. Citrix*

### History of Functional Claiming



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### History of Functional Claiming

#### 35 U.S.C. § 112 (f) // pre-AIA 35 U.S.C. § 112, ¶6

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

**First codified in 1952** in response to *Halliburton Oil Well Cementing Co. v. Walker*, 329 U.S. 1 (1946).

- Supreme Court invalidated a claim that “[did] not describe the invention but use[d] ‘conveniently functional language at the exact point of novelty.’”

**After *Halliburton* and prior to Patent Act of 1952 Act**, Supreme Court in *Faulkner v. Gibbs*, 338 U.S. 267 (1949) had affirmed validity of functional claim. There, patentability based on combination and not functional limitation at point of novelty.



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### History of Functional Claiming

#### Functional Claiming recognized prior to *Halliburton Oil Well*

*In re Fuetterer*, 319 F.2d 259 (C.C.P.A. 1963) – Judge Rich states considerable body of case law pre-*Halliburton* recognized functional claiming.

- Judge Rich cited 2 Supreme Court cases **from late-1800s**
  - *Westinghouse v. Boyden Power Brake Co.*, 170 U.S. 537, 558 (1898)
    - “[R]eading the specification into the claim, we can adopt no other construction than to consider it as if the auxiliary valve were inserted in the claim in so many words, and then to inquire whether the defendants make use of such valve, or its mechanical equivalent.”
  - *The Corn-Planter Patent*, 90 U.S. 181 (1874)
    - “[I]f construed as claiming the accomplishment of the result by substantially the means described in the specification, it is free from that objection; and we ought to give a favorable construction, so as to sustain the patent if it can fairly be done.”

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## Title search: Means-Plus-Function Claims after *Williamson v. Citrix Online*

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