

eventual ranges. A dependent claim cannot broaden the range. Range within range is indefinite in a claim but acceptable in specification.

2.5.12 Negative Limitations

Permissible if boundaries are set forth definitely, such as free of an impurity or a particular element or incapable of performing a certain function. Absence of structures cannot be claimed—holes, channels, and the like—as structural elements.

2.5.13 Relative and Exemplary Terminology

Imprecise language may satisfy definiteness requirement (for one of ordinary skill). “So dimensioned” or “so spaced” can be definite if it is as accurate as the subject would permit; “about” is clear and flexible but rendered indefinite if specification or prior art does not provide indication about the dimensions anticipated. “Essentially,” “substantially,” and “effective amount” are definite if one with ordinary skills would understand. Exemplary terminology is always indefinite: such as, of like material, similar—all are rejected.

2.5.14 Markush Group

Closed form comprises two forms one wherein P is a material selected from a group consisting of A, B, C, and D; or wherein P is A, B, C, or D. Members must belong to a recognized class and possess properties in common, as disclosed in the specification, and these properties are mainly responsible for their function, or the grouping is clear from their nature or the prior art that all members possess the property. Adding members broadens claim. Prior art with one of the members anticipates the claim.

2.5.15 Markush Alternates

“Or” terminology is used if choices are related: one or several pieces; made entirely or part of; red, blue, or white. If choices are unrelated, the use of “or” will lead to indefinite interpretation. “Optionally” is used if definite or if there are no ambiguities in the scope of the claim as a result of the choices offered.

2.5.16 Jepson-Type Claims—Improvement Claims

Preamble defines what is conventional; transitional phrase, “wherein the improvement comprises;” body builds on preamble; can add element or modify element in preamble. Preamble is limiting.

2.5.17 Mixed-Class Claims

Mixed elements are improper: methods claims should have no structural elements; apparatus claims should have no step elements. Limitations can be mixed, such as method step may include a structural limitation, and an apparatus may include a process limitation.