

## Seeing Double? Similar Claim Terms Could Be Trouble

*Power2B, Inc. v. Samsung Elecs. Co.*, 2025 WL 1431450 (Fed. Cir. May 19, 2025)

Authors: Michael Bregenzer & Nick Wheeler | Editor: Jason Keener | June 6, 2025

When prosecuting a patent with similar language across various claims make sure your claim terms have different meanings, otherwise, during litigation you may lose the strategic opportunity to keep some claims valid if others are found invalid. In *Power2B v. Samsung*, the Federal Circuit (“CAFC”) reversed a decision of the Patent Trial and Appeal Board (“PTAB”) and held that an asserted claim limitation was obvious over the prior art because the asserted claim limitation’s meaning was “materially” similar to a different claim limitation that was held to be obvious.



In 2022, Samsung filed two inter partes review petitions (“IPRs”) against Power2B alleging that U.S. Patent Nos. 7,952,570 (“the ’570 patent”) and 8,547,364 (“the ’364 patent”) (collectively the “Challenged Patents”) were obvious. The Challenged Patents both relate to a personal user device and a light-emitting stylus. The PTAB held that (i) all of the challenged claims of the ’570 patent were obvious, and (ii) that all of the claims of the ’364 patent were obvious except claim 20. Power2B appealed the PTAB’s obviousness holdings, and Samsung cross-appealed the PTAB’s non-obviousness holding. Putting aside for the moment claim 20 of the ’364 patent, the CAFC affirmed the PTAB’s decision holding that all of the challenged claims of the Challenged Patents were obvious because Power2B’s claim construction argument on appeal was not supported by the claim language or the specification of the Challenged Patents.

As to claim 20 of the ’364 patent, the CAFC agreed with Samsung and reversed the PTAB’s decision that claim 20 was patentable because the PTAB’s holding was “based on a legally erroneous” interpretation of the claim language. More specifically, the PTAB held that Samsung did not demonstrate that the “generating control signals by the input circuitry” limitation of claim 20 was obvious because the PTAB construed this claim limitation to be materially different than the “output indication” limitation found in claim 13, which was previously held as obvious. The CAFC explained that in Samsung’s IPR petitions, Samsung grouped claim 20 which required a “control signal,” and claim 13, which required an “output indication,” together as covered by the same prior art. Furthermore, the CAFC acknowledged that while there is a presumption that the use of different claim limitations in different claims “connotes different meanings,” that “the presumption is not an invariable rule” because different claim terms in “separate claims may be construed to cover the same subject matter.” The CAFC held that because the ’364 “patent [did] not describe any difference between an ‘output indication’ and ‘control signal’” that these claim limitations were not “materially” different. Therefore, because claim 13 was obvious, claim 20 was too.

This decision highlights the importance of careful patent drafting. It is important for a patent drafter to carefully select different claim limitations that clearly conveys the patent drafter’s desire for different claim scope coverage. If a patent drafter plans to file a patent with similar claims, the patent drafter should be cautious in choosing claim language across different claims that could be interpreted as having the same construction. If a claim limitation’s construction is too similar to the construction of another claim limitation, a court may find that your two different claim terms have the same meaning and that if it is shown that one of the claims is invalid based on the prior art, the other might fall as well.