



***Resolution of the Executive Committee, Istanbul, Türkiye
21-24 April 2026***

“Consistency and Certainty in Functional Claiming”

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee held in Istanbul, Türkiye, 21 to 24 April 2026, passed the following resolution:

RECOGNISING that functional claim language, such as “means-plus-function” language, is commonly employed and understood in the art, as well as being used by patent practitioners in several jurisdictions and in multiple different technical fields;

ACKNOWLEDGING that functional claim language may be preferred or advantageous in particular circumstances and/or jurisdictions;

FURTHER ACKNOWLEDGING that it may only be possible to claim certain technical features by the function being performed regardless of the amount of technical structure used in the claim;

NOTING that in some jurisdictions, specific language may invoke Rules that specify how such language is interpreted for the purposes of which embodiments are captured by the functional element;

OBSERVING that some Patent Offices may inconsistently invoke such Rules based on claim language that is considered structural in the art, causing uncertainty for Applicants when drafting claims and providing sufficient support in their specifications;

FURTHER OBSERVING that it is unfair to applicants for Patent Offices to restrict narrowly the embodiments that fall under a functional claim element, while broadly allowing any embodiments from the prior art to be considered relevant for the purposes of determining novelty and inventive step;



BELIEVING that Applicants should endeavour, in all circumstances, to properly support all claim language used in a patent application, regardless of whether the claim language is functional;

FURTHER BELIEVING that the use of common sense by Patent Examiners when construing claim language, and determining whether a claim is sufficiently disclosed, whether or not functional features are claimed, generally leads to a result that fairly balances the interests of the Applicant and Third Parties;

URGES Patent Offices that invoke Rules restricting the interpretation or use of functional claim features to provide clarity and predictability as to what language will invoke those Rules, including the provision of clear and understandable guidelines; and

FURTHER URGES Patent Offices to provide clear reasoning when raising an objection related to a functional claim feature and provide a predictable mechanism to resolve such objections;

AND FURTHER URGES that the scope of functional features be interpreted consistently for purposes of both validity and infringement.