The Interpretation-Construction Distinction in Patent Law
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The ambiguity of claim language is generally considered to be the most important problem in patent law today. Linguistic ambiguity is believed to cause tremendous uncertainty about patent rights. Scholars and judges have accordingly devoted enormous attention to developing better linguistic tools to help courts understand patent claims.

In this Article, we explain why this diagnosis is fundamentally wrong. Claims are not often ambiguous, and linguistic ambiguity is not a major cause of the uncertainty in patent law today. We shall explain what really causes the uncertainty in patent rights, how the erroneous diagnosis of linguistic ambiguity has led the literature off-track, and what will get us back on track to solving the uncertainty problem.

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