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LEGAL ALERT

March 31, 2011

Patents on Computerized Settlement of Foreign Exchange Transactions Invalid Under *Bilski*

In another district court decision applying *Bilski v. Kappos*, the U.S. District Court for the District of Columbia has declared four patents invalid as directed to unpatentable "abstract ideas." *CLS Bank Int'l v. Alice Corp. Pty. Ltd.*, No. 07-974, 2011 WL 80207, at *1 (D.D.C. Mar. 9, 2011). The decision addresses patents purporting to cover computer-implemented methods, systems, and products for exchanging financial obligations. If this decision is upheld on appeal, it could have sweeping effects on business and financial method patents, calling into question the validity of these types of patents across many technology sectors.

Patentee Alice Corporation claimed that CLS Bank infringed four patents directed to methods, systems, and computer-program products for employing a computerized intermediary to facilitate the simultaneous exchange of obligations in order to minimize risk. Essentially, Alice's patents claim computer systems and technology used across the world's financial system to settle foreign exchange transactions. CLS Bank asserted in response that Alice's business and financial method patents were invalid as directed to non-statutory subject matter and moved for summary judgment. Judge Rosemary M. Collyer of the D.C. District Court agreed, and held Alice's patents invalid. The court found that the basic business or financial concept of settling financial obligations via a computer system unpatentable, and compared Alice's patents to the hedging method struck down by the U.S. Supreme Court in *Bilski*. *See id.* at *21–22 (citing *Bilski v. Kappos*, 130 S. Ct. 3218 (2010)).

This comparison is significant because, unlike the patent claims invalidated in *Bilski*, Alice's patents clearly required the system or method to be implemented using a computer. *See id.* The D.C. District Court explained that Alice's claims were unpatentable because, in part, the claims would allow Alice to preempt the use of an electronic intermediary to guarantee exchanges across an incredible swath of the economic sector. The District Court also expressly rejected Alice's argument that its method claims were a specific application of an idea, holding instead that the fact that Alice's methods were computer-implemented did not render them patentable under the Federal Circuit's machine-or-transformation test, even thought the claim language specifically recited the use of a computer. *Id.* at *16–17. The District Court rejected the argument that tying the method claims to a general-purpose computer was sufficient to save the claims from invalidity.

The District Court also invalidated Alice's system and product claims. Regarding the system claims, the District Court held that Alice's system was merely an electronically implemented version of the method claims it had held unpatentable as an abstract idea. *Id.* at *26. Likewise, the Court found the software product claims unpatentable because they merely mirrored the method claims. *Id.* at *29.

Many observers of the *Bilski* litigation have commented that patents like these—which claim a general-purpose computer implementation of a business or financial method—were likely to survive invalidity analysis. Depending on the Federal Circuit's treatment of this decision, there may be many more business patents that are vulnerable to attack.

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