ARE Patent Law Alert:
Federal Circuit Affirms Computer-Implemented Financial Management Claims Patent-Ineligible As Capable Of Being Performed Mentally

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(July 30, 2012) Just a few weeks after its decision in *CLS Bank Int'l v. Alice Corp. Pty. Ltd.* , No. 2011-1301, 2012 U.S. App. LEXIS 13973 (Fed. Cir. July 9, 2012) recently reported by us , the Federal Circuit again considered the patent-eligibility of claims covering computer-implemented financial management systems, methods, and media. This time the Court found the claims-at-issue patent-ineligible as directed to an abstract idea. *See Bancorp Servs. v. Sun Life Assur. Co.*, No. 2011-1467, 2012 U.S. App. LEXIS 15488 (Fed. Cir. July 26, 2012).

In a unanimous decision authored by Judge Lourie, *Bancorp* affirmed the district court summary judgment decision of invalidity of the asserted claims under 35 U.S.C. § 101.

Although the Court recognized that at least some of the claims-at-issue were properly construed to require the use of "one or more computers," it nevertheless found that the use of those computers was not enough to turn the abstract idea of managing a stable value protected life insurance policy into a practical application of that abstract idea. In particular, *Bancorp* explained that the mere addition of a computer limitation "for no more than its most basic function" of making calculations is not sufficient to transform a patent-ineligible claim on an abstract idea into a patent-eligible application of the idea because a person could (inefficiently) make those calculations mentally. As the computer in the claims at issue was found to only be used for the performance of repetitive calculations, it does not meet the requirement of imposing "meaningful limits on the scope of those claims."

Additionally, *Bancorp* confirmed that the form of a claim (e.g., a method, system, product, etc.) should not "change the patent eligibility analysis under §101," as held in *CLS Bank v. Alice*.

The Court analogized the claims to those invalidated by the Supreme Court in *Bilski v. Kappos,* and distinguished the claims from those found patent-eligible in other recent cases. This type of claim comparison to previously adjudicated claims has become common in patent-eligibility analyses since *Bilski*.

Bancorp also distinguished this case from its recent decision in *CLS*, under which it held

computer-implemented financial transaction claims patent-eligible because they were not "manifestly abstract." It explained that the computer limitation in Bancorp's claims, taken as a whole, were *not* a "significant part" of the claimed invention, whereas in *CLS*, it was "difficult" to make that conclusion. In addition, Bancorp's claims broadly claim an abstract idea rather than being directed to a "very specific application" of the inventive concept, as they were in *CLS*.

As evidenced by the approach taken in *Bancorp*, the dividing line between patent-eligibility and ineligibility continues to be difficult to navigate. We continue to watch this evolving area of law and encourage you to monitor our website for further reports on these developments.

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