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The Alice Patent Doesn't Live Here Anymore

Software Patents and Abstract Ideas

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The Bilski Patent – Claim 1

A method for managing the consumption risk costs of a commodity sold by a commodity provider at a fixed price comprising the steps of:

- (a) initiating a series of transactions between said commodity provider and consumers of said commodity wherein said consumers purchase said commodity at a fixed rate based upon historical averages, said fixed rate corresponding to a risk position of said consumer;
- (b) identifying market participants for said commodity having a counter-risk position to said consumers; and
- (c) initiating a series of transactions between said commodity provider and said market participants at a second fixed rate such that said series of market participant transactions balances the risk position of said series of consumer transactions

Alice Patent – Representative Claim 33

33. **A method of exchanging obligations** as between parties, each party holding a credit record and a debit record with an exchange institution, the credit records and the debit records for exchange of predetermined obligations, the method comprising the steps of:

- (a) **creating a shadow credit record** and a shadow debit record for each stakeholder party to be held independently by a supervisory institution from the exchange institutions;
- (b) **obtaining from each exchange institution a start-of-day balance** for each shadow credit record and shadow debit record;
- (c) for every transaction resulting in an exchange obligation, the supervisory institution **adjusting each respective party's shadow credit record** or shadow debit record, allowing only these transactions that do not result in the value of the shadow debit record being less than the value of the shadow credit record at any time, each said adjustment taking place in chronological order; and
- (d) at the end-of-day, the supervisory institution **instructing ones of the exchange institutions to exchange credits for debits to the credit record and debit record** of the respective parties in accordance with the adjustments of the said permitted transactions, the credits and debits being irrevocable, time invariant obligations placed on the exchange institutions.

Supreme Court: Compare to Bilski

Bilski Claim (Abstract)

A method for managing the consumption risk costs of a commodity sold by a commodity provider at a fixed price comprising the steps of:

- (a) initiating a series of transactions between said commodity provider and consumers of said commodity wherein said consumers purchase said commodity at a fixed rate based upon historical averages, said fixed rate corresponding to a risk position of said consumer;
- (b) identifying market participants for said commodity having a counter-risk position to said consumers; and
- (c) initiating a series of transactions between said commodity provider and said market participants at a second fixed rate such that said series of market participant transactions balances the risk position of said series of consumer transactions

Alice Patent

33. A method of exchanging obligations as between parties, each party holding a credit record and a debit record with an exchange institution, the credit records and debit records for exchange of predetermined obligations, the method comprising the steps of:

- (a) creating a shadow credit record and a shadow debit record for each stakeholder party to be held independently by a supervisory institution from the exchange institutions;
- (b) obtaining from each exchange institution a start-of-day balance for each shadow credit record and shadow debit record;
- (c) for every transaction resulting in an exchange obligation, the supervisory institution adjusting each respective party's shadow credit record or shadow debit record, allowing only these transactions that do not result in the value of the shadow debit record being less than the value of the shadow credit record at any time, each said adjustment taking place in chronological order; and
- (d) at the end-of-day, the supervisory institution instructing ones of the exchange institutions to exchange credits or debits to the credit record and debit record of the respective parties in accordance with the adjustments of the said permitted transactions, the credits and debits being irrevocable, time invariant obligations placed on the exchange institutions.

Alice Patent – Claim 36. Different result?

36. A data processing system to enable the formulation of customized potential multi-party risk management contracts, the system comprising:

- at least one stakeholder input means by which ordering stakeholders can input contract data representing at least one offered contract in at least one predetermined phenomenon, each said phenomenon having a future outcome at a time of maturity, and said contract data specifying an entitlement due at maturity for each outcome in a range of future outcomes;
- at least one counter-party stakeholder input means by which at least one counter-party stakeholder can input registering data, independent of said stakeholders inputting said contract data, for one or more of said predetermined phenomena;
- a data storage means linked with each said stakeholder input means and linked with each said counter-party stakeholder input means to store said contract data and said registering data; and
- data processing means, linked with the data storage means, for pricing contracts from said contract data and said registering data, said pricing including calculating counter-considerations derived from said registering data relating to the phenomenon of the contract data.

Look to PTAB for Guidance

- ◆ To determine whether a patent qualifies or not for CBM review, the PTAB asks. . .

“whether the claimed subject matter as a whole [A] recites a **technological feature** that is novel and unobvious over the prior; and [B] solves a **technical problem** using a **technical solution.**”

-- 37 CFR § 42.301(b).

Next Test: Ultramercial v. Hulu

1. A method for distribution of products over the Internet via a facilitator, said method comprising the steps of:
 - a first step of receiving, from a content provider, media products that are covered by intellectual-property rights protection and are available for purchase, wherein each said media product being comprised of at least one of text data, music data, and video data;
 - a second step of selecting a sponsor message to be associated with the media product, said sponsor message being selected from a plurality of sponsor messages, said second step including accessing an activity log to verify that the total number of times which the sponsor message has been previously presented is less than the number of transaction cycles contracted by the sponsor of the sponsor message;
 - a third step of providing the media product for sale at an Internet website;
 - a fourth step of restricting general public access to said media product;
 - a fifth step of offering to a consumer access to the media product without charge to the consumer on the precondition that the consumer views the sponsor message;
 - a sixth step of receiving from the consumer a request to view the sponsor message, wherein the consumer submits said request in response to being offered access to the media product;
 - a seventh step of, in response to receiving the request from the consumer, facilitating the display of a sponsor message to the consumer;
 - an eighth step of, if the sponsor message is not an interactive message, allowing said consumer access to said media product after said step of facilitating the display of said sponsor message;
 - a ninth step of, if the sponsor message is an interactive message, presenting at least one query to the consumer and allowing said consumer access to said media product after receiving a response to said at least one query;
 - a tenth step of recording the transaction event to the activity log, said tenth step including updating the total number of times the sponsor message has been presented; and
 - an eleventh step of receiving payment from the sponsor of the sponsor message displayed.