

Patent Law Update

September 24, 2009

As follow-up to our recent *Focus on Business* article entitled [Is Your Intellectual Property in Jeopardy? The Impact of In re Bilski on Patent Strategies for Innovative Business Methods](#), the U.S. Supreme Court granted the appellant's petition for review in the *In re Bilski* case on June 1, 2009. Thus, the U.S. Supreme Court soon will be addressing the following significant questions under U.S. patent law...

- Whether the Federal Circuit erred by holding that a “process” must be tied to a particular machine or apparatus, or transform a particular article into a different state or thing (“machine-or-transformation” test), to be eligible for patenting under 35 U.S.C. § 101, despite this Court’s precedent declining to limit the broad statutory grant of patent eligibility for “any” new and useful process beyond excluding patents for “laws of nature, physical phenomena, and abstract ideas.”
- Whether the Federal Circuit’s “machine-or-transformation” test for patent eligibility, which effectively forecloses meaningful patent protection to many business methods, contradicts the clear Congressional intent that patents protect “method[s] of doing or conducting business.” 35 U.S.C. § 273.

We will of course continue to update our readers with further developments as the case progresses.