

In re Bilski Impact assessed from US PAIR Information

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Will your patent survive Bilski?

Dolcera has conducted an in-depth analysis on In Re Bilski's impact on software, medical devices and pharma method patents. The USPTO is on the offensive since the In re Bilski verdict from the CAFC. Software companies have reported sharply higher rejection-rate from the patent office, and thousands of business method and software patents risk being invalidated because of this ruling.

We have conducted an analysis of hundreds of USPTO examination reports for method patents in three areas: a. Software, b. Medical device and diagnostic, and c. Pharmaceutical. We have now established the following:

- Rejection rates for software method patents are significantly higher since the Bilski decision in October 2008
- Medical diagnostic method patents are also affected
- Pharmaceutical method patents have been impacted, but to a much lesser degree

[Click here](#) to download the Dolcera presentation at the PIUG 2009 Annual Conference

What is In Re Bilski?

In re Bilski, 545 F.3d 943, 88 U.S.P.Q.2d 1385 (Fed. Cir. 2008), is an en banc decision of the United States Court of Appeals for the Federal Circuit (CAFC) on the patenting of method claims, particularly business methods.

The Verdict

The court affirmed the rejection of the patent claims involving a method of hedging risks in commodities trading. The court also reiterated the machine-or-transformation test as the [1] applicable test for patent-eligible subject matter, and stated that the test in State Street Bank v. Signature Financial Group should no longer be relied upon.

Dolcera analysis raw data

- [In re Bilski 35 USC § 101 Rejections - Patent Application Analysis](#)

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