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Seasons Greetings



“Tip of the Month”

Business Methods – Are They Patentable Around the World?

Even though business methods are considered patentable in many jurisdictions, patentability requirements vary according to local law.

In the US:

The US Patent Office gives the issue of patentability a wide interpretation. Anything under the sun that is man made is patentable. The emphasis is that the invention has to have been made. In other words, the invention must be reduced to practice, which does not necessarily mean a prototype. Ideas are not patentable. Further, if the invention is merely a theory, natural law or an abstraction, it is not patentable.

In Europe:

In Europe, the European Patent Office (EPO) examines patent applications on behalf of the 25 contracting countries. Inventions must have “technical character” and those that lack “technical character” are rejected by the EPO. “Technical character” means that the invention must relate to a technical problem and have technical features. Thus, ideas and methods of doing business that lack this “technical character” are excluded from patentability. In other words, inventions involving apparatuses are accepted, but an invention to a computer which performs a series of novel processing steps is not. This has resulted in patent applications being drafted in more clever ways to cover areas that are already the subject of patents in other jurisdictions.

In Australia and Japan:

The Australian Patent Office and the Japanese Patent Office, like the US, use a broad interpretation regarding patentable and non-patentable inventions.

In Australia, an invention is patentable if it relates to “an artificially created state of affairs of utility in the field of economic endeavor.” Thus, both computer related inventions and business methods are allowed, but it is necessary to have a physical means to perform the invention.

In Japan, a technical idea utilizing a law of nature is patentable subject matter. Business methods are regarded as software related inventions and are of a technical nature.

If you have devised a method of doing business, it may be patentable. For a patentability review of your business method (i.e., whether your business method meets the minimum requirements for patentability), please feel free to give us a call at 668-1971 or contact us through the Internet at mailbox@biz-patlaw.com. We’re here to help.

Happy Holidays!

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