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IP Buzz

THE LATEST INTELLECTUAL PROPERTY NEWS AND TIPS FROM VENABLE

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Honors and Awards

IP LEGAL NEWS AND UPDATES

USPTO Guidance on Computer-Implemented Inventions and Abstract Ideas

Authors: Michael A. Sartori and Todd R. Farnsworth

On January 27, 2015, the U.S. Patent and Trademark Office released a list of examples to supplement the 2014 Interim Guidance on Patent Subject Matter Eligibility. The examples are directed towards computer-implemented inventions, and include four claim sets that the USPTO suggests are patent eligible and four that are not. The examples apply the test for subject matter eligibility as described by the U.S. Supreme Court in *Alice Corporation Pty. Ltd. v. CLS Bank International, et al*.

Click here to learn more about the PTO's guidance.

Tracking the Evolving Abstract Idea Doctrine: How Courts Have Applied the Two-Part Test for Computer-Implemented Inventions post-*Alice*

Authors: Trent B. Ostler, Robert Kinberg, and Michael A. Sartori

The Supreme Court's decision in *Alice v. CLS* Bank provides a framework for determining when a patent claim is directed to one of the long-standing exceptions to patent eligibility, namely, laws of nature, natural phenomena, and abstract ideas. In particular, *Alice* addresses whether computer-implemented inventions are patent-ineligible abstract ideas, but the framework set forth in *Alice* is broadly applicable to each of the long-standing exceptions.

Click here to read about how the *Alice* framework affects patent eligibility.

In re Cuozzo: The Federal Circuit Affirms the PTAB's Finding of Unpatentability

Authors: Fabian Koenigbauer and Steven J. Schwarz

The first Federal Circuit decision from an appeal of a Final Written Decision in an *Inter Partes* Review affirmed the Patent Trial and Appeal Board on all grounds. The decision clarifies several issues affecting AIA Trials, including whether a PTAB decision to institute IPR is appealable; the claim construction standard in IPR; and whether a motion to amend the patent in an IPR may introduce substitute claims that "would encompass any apparatus or claim that would not have been covered by the original claims."

Click here to read the details of this decision.

The Battle of the Two Flanax's and the Power of the

Mexico-United States Border

Author: Kimberly Culp

There are two Flanax's. Belmora LLC distributes Flanax, a brand of pain relief medicine, in the United States while Bayer has distributed a brand of pain medicine, Flanax, in Mexico for decades. Bayer sought to cancel Belmora's registered trademark for Flanax in the Trademark Trial and Appeal Board. Bayer won in that venue. Then, the parties sought review of that decision and brought additional causes of action in the Eastern District of Virginia. Belmora filed a motion to dismiss Bayer's counterclaims, which the District Court had granted, and a motion to reverse the TTAB opinion.

Click here to learn about this outcome.

Too Much of a Good Thing Can Hurt You

Author: Joshua J. Kaufman

In every contract, parties try to limit their liability. As a result, drafters include very broad limitations of liability, which, up to a point, are fine and should be used. However, problems arise when an entity tries to draft a limitation of liability that is so broad that it goes against public policy and state statutes. This is what recently happened in the case of *Rossi v. Photoglou*.

Click here to read the full article.

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