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Patents for Business Methods

Introduction

Developments in Australia and overseas are enabling business methods to gain patent protection as long as certain criteria are met. We suggest you obtain the advice of a patent attorney, and consider seeking patent protection if your invention meets these criteria.

Business methods that claim a technical solution or a technical advantage, for example, computerised accounting, monitoring, reporting or analysis systems are generally acceptable, as are business methods involving electronic commerce or the Internet generally.

What defines a patentable business method?

Essentially a patent may be granted for a business method where there is something artificially created to implement the method. That is, the implementation of a business method may require the interaction of a physical system or process with the method. There should also be sufficient detail given in the description about the specific operation of the system or process to implement the method. Any such business method must also be new and inventive.

An example of a business method for which a patent may be granted:

- *A method of analysing business performance by operating a computer*

system to set specified parameters and thresholds in accordance with preselected criteria and to program the computer system to compare business performance against the parameters and thresholds.

In this example the patentability of the method resides in an application to implement the method. Note that the newness of the invention may be a separate issue. The above example is simply indicative of the patentability of the subject matter.

On the other hand, a scheme or plan (including a business scheme or business method), by itself, is not suitable for a patent because it does not specifically involve any artificial application to implement the scheme.

Examples of methods like pure schemes or plans that are not acceptable are:

- *A method of raising funds by seeking sponsors to donate products, and conducting a raffle of those products.*
- *A method of conducting a racing competition by causing each competitor to run the race alone, timing each competitor's time for the race, and designating the competitor with the fastest time as the winner.*



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- *A method of analysing the performance of an investment by creating a benchmark, and comparing the investment to the benchmark.*

Seek Professional Advice

This sheet provides only basic information. Patent matters can involve complex legal issues and it may be in your best interests to consult a patent attorney, solicitor experienced in intellectual property matters, or your business adviser.

Disclaimer:

This information is intended to help the reader gain a basic understanding of some IP principles. It is not designed to provide legal, business or other relevant professional advice. IP Australia recommends that you seek independent legal, business or other relevant specialist advice.

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