

Into a Silver Age: US Patent Law 1992-2012

Jay Thomas
April 12, 2012

1992



1992 in US Patent Law

- * Patent Term = 17 years from the issuance date
- * US patent system maintains other idiosyncratic practices
- * Federal Circuit celebrates 10-year anniversary
- * USPTO
 - * 173,075 patent applications filed
 - * 97,444 patents issued
 - * Majority of both are of US origin
- * Notable Decision: *Arrhythmia Research v. Corazonix*

2012 in US Patent Law

- * Patent Term = 20 years from filing date
- * Pre-grant publication, prior user rights
- * Three decades of the Federal Circuit
- * USPTO (2011)
 - * 503,582 patent applications filed
 - * 224,505 patents issued
 - * Majority of both are of foreign origin
- * Notable Decision: *Prometheus v. Mayo*

Legislative Reform

- * America Inventors Protection Act of 1999
 - * Pre-Grant Publication
 - * Patent Term Guarantee
- * Leahy-Smith America Invents Act of 2011
 - * First-to-File
 - * Prior User Rights
 - * Best Mode



Supreme Court Intervention

- * Merck v. Integra
- * eBay v. MercExchange
- * Microsoft v. ATT
- * KSR v. Teleflex
- * Quanta v. LG
- * Bilski v. Kappos
- * Prometheus v. Mayo



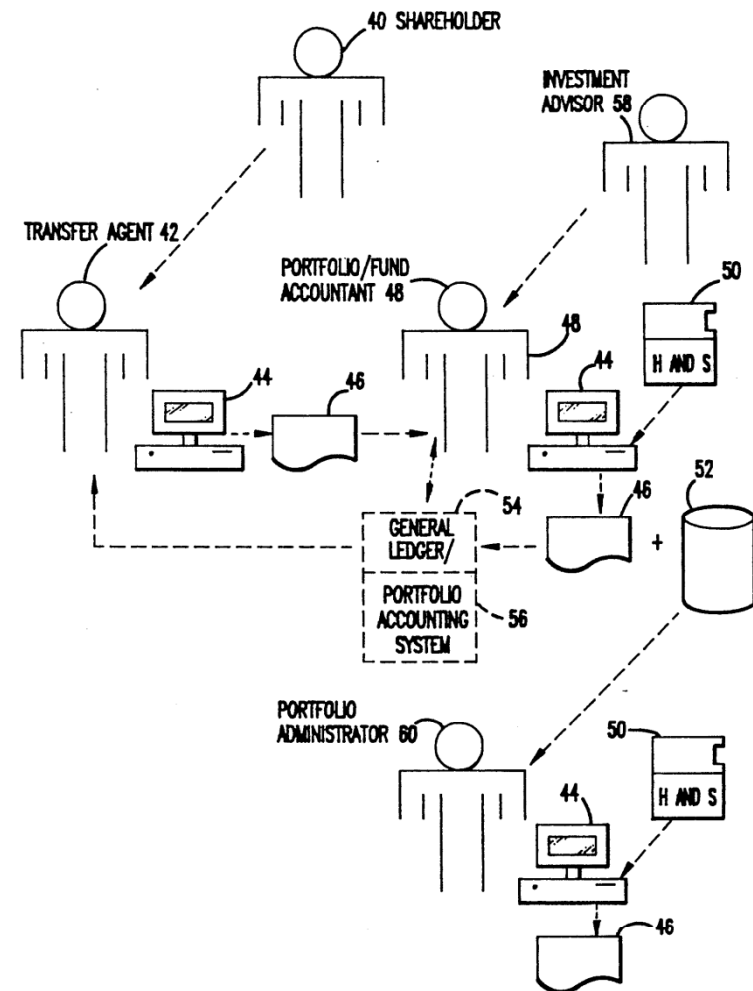
Markman v. Westview Instruments

- * Claim construction is a matter of law
- * *Markman* Hearings
- * *De Novo* Review



State Street Bank

- * “The question of whether a claim encompasses statutory subject matter should not focus on which of the four categories of subject matter a claim is directed to... but rather on the essential characteristics of the subject matter, in particular, its practical utility.”
- * Regarding business methods: “We take this opportunity to lay this ill-conceived exception to rest.”



The BlackBerry Case

- * Case of the Generation
- * Unsettling prospect of loss of mobile service
- * High damages awards
- * Trolling
- * International enforcement
- * Impetus for reform
 - * *eBay*
 - * Leahy-Smith AIA



New Entrants

coalition for
patent fairness



ABA
Defending Liberty
Pursuing Justice

THE NATIONAL ACADEMIES

Advisers to the Nation on Science, Engineering, and Medicine

Working for Consensus

THE COALITION FOR 21ST CENTURY PATENT REFORM

Protecting Innovation to Enhance American Competitiveness



Public Patent Foundation

Representing the Public's Interests in the Patent System

PUBPAT

The Future

- * The Rise of Regulatory Exclusivities
- * The Changing Nature of National Treatment
- * Parallel Importation
- * USPTO Prominence
- * Sophisticated Patent Markets
- * Bulk Sales and Licensing
- * Congressional Involvement