

THE EXCLUSIVE USE OF



Guide to Patents for **Business Methods and Computer Programs**

Under UK and European patent law, certain categories of invention are defined as not being patentable. Included within these categories are rules and methods of doing business and computer programs 'as such'.

- COMPLEX AREA OF IP LAW
- CONSTANTLY CHANGING
- KEY CRITERIA FOR PROTECTION
- SEEK ADVICE

WHERE AN INVENTION IS MORE THAN JUST A METHOD OF DOING BUSINESS OR A COMPUTER PROGRAM AS SUCH THE INVENTION MAY BE PATENTABLE

Under UK and European patent law, certain categories of invention are defined as not being patentable. Included within these categories are rules and methods of doing business and computer programs 'as such'. Where an invention is more than just a method of doing business or a computer program as such, the invention may be patentable. Both the UK Intellectual Property Office and the European Patent Office have developed tests to help determine whether an invention is a method of doing business or a computer program 'as such'.

European Patent Office:

Under European Patent law, computer implemented inventions are patentable where they fulfill the same basic patentability requirements as inventions in all other fields (i.e. novelty, inventive step and industrial applicability) and also have the following characteristics:

- They have technical character and solve a technical problem.
- They involve an inventive technical contribution to the prior art.

Consequently, the patentability of computer implemented inventions at the European

Patent Office is limited as it puts an emphasis on new technical solutions to technical problems. Therefore, an invention that does not solve a technical problem (e.g. the invention solves a business problem) is highly unlikely to be granted a Patent.

UK Intellectual Property Office:

The United Kingdom Intellectual Property Office applies the following test to determine whether a computer implemented invention is patentable:

- Properly construe the claims in the patent application (i.e. what is the monopoly of protection claimed in the patent application?)

- Identify the actual contribution (i.e. what does the patent application add to human knowledge?)
- Ask whether the contribution falls solely within the excluded subject matter.
- Check whether the contribution is actually technical in nature.

This is a complex and changing area of Patent law and we are able to provide advice to help you determine whether your invention is patentable.