

# Bilski v. Kappos: U.S. Supreme Court Declines Categorical Rejection of Business Method Patents

June 29, 2010 | Client Update

In a much-anticipated decision handed down yesterday, the United States Supreme Court unanimously upheld the Federal Circuit's en banc ruling affirming the U.S. Patent & Trademark Office's rejection of patent claims for a method of hedging commodities risks as ineligible for patent protection under 35 U.S.C. § 101. See *In re Bilski*, 545 F.3d 943 (Fed. Cir. 2008), *aff'd* *Bilski v. Kappos*, 561 U.S. \_\_\_, slip op. No. 08-964 (June 28, 2010). The Court divided sharply, however, regarding the analysis underlying that conclusion and left many important questions for lower courts and the PTO to resolve concerning the tests to be used to determine the patentability of business methods and other "processes" under Section 101.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

**Frank Azzopardi**

+1 212 450 6277

frank.azzopardi@davispolk.com

---

*This communication, which we believe may be of interest to our clients and friends of the firm, is for general information only. It is not a full analysis of the matters presented and should not be relied upon as legal advice. This may be considered attorney advertising in some jurisdictions. Please refer to the firm's privacy notice for further details.*

## **Related materials**

[062910\\_bilski.pdf](#)