

CLIENT ALERT

Lacking Disclosure Of An Algorithm For Performing The Recited Computer Function, Means-Plus-Function Claim Is Indefinite

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In *Net Moneyin, Inc. v. Verisign, Inc.* (No. 07-1565; October 20, 2008), the Federal Circuit affirms a district court's judgment that certain disputed claims were invalid as indefinite under 35 U.S.C. § 112, ¶6, but reverses the summary judgment that another disputed claim was invalid as anticipated by prior art.

The claims related to systems for processing credit card transactions over the Internet. Certain of the claims included means-plus-function limitations. At issue was whether the specification disclosed structure corresponding to the "means for generating an authorization indicia" limitation. Since the specification only disclosed a general purpose computer, without disclosing an algorithm for performing the claimed function, the Court affirms the indefiniteness of the claims.

The Court also clarifies what a reference must show in order to anticipate a claimed invention. As previous Federal Circuit decisions have stated, in order to demonstrate anticipation, the patent challenger must show "that the four corners of a single, prior art document describe every element of the claimed invention." As the Court clarifies in the present case, however, the prior art must disclose all of the elements of the claim "arranged or combined in the same way as in the claim." Because the district court combined two separate examples disclosed in the prior art reference to find all of the claimed elements, the Court reverses the finding of invalidity.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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