

## **PATENTING OF "BUSINESS METHOD"**

by Kam .W Li And Anthony J. Dain

To protect their intellectual capital, many businesses are turning to patent protection for innovative methods of conducting business. It is no wonder that the number of patent applications for "business methods" has exploded in recent years.

The dramatic increase in patent applications has been further fueled by the ruling of the U.S. Court of Appeals for the Federal Circuit in *State Street Bank & Trust Co. v. Signature Financial Group Inc.* In the July 23, 1998 ruling, the court held that business methods are subject to the same legal standards as any other "process" or "method," and that there is no business method exception to patent ability. In that case, the Court held that a computerized financial method is patent-able subject matter if it has a practical utility in producing a "useful, concrete and tangible result." The court's ruling essentially opened a floodgate for e-commerce companies to obtain patent protection for new methods of doing business on the Internet. Given the speed, openness and the breath of the Internet, business models such as those affecting retail services, finance, travel, and entertainment have become commonplace focus of patents where innovative entrepreneurs have been rewarded with broad patent coverage. Though fiber optics, chips and net appliances still require a substantial amount of financial and technological investments, creative entrepreneurs are achieving tremendous levels of success with their innovative ways of doing business in the Internet technological platform. Examples of business method patents that have been granted include Priceline.com's reverse auction for airline tickets and other products and Amazon.com's "one-click" online ordering system.

While the myth that in cyberspace the first mover has the advantage and gets the buzz has been largely dispelled by technological innovations breaking the barriers of entry, patent protections remain the dominant obstacle for late comers. In addition to protecting technological innovation, businesses must move quickly to protect their business models.

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