

The IP Beacon, January 2012

January 9, 2012 Scott Jarratt, Jonathan Hallman

PRACTICES Intellectual Property

The IP Beacon is a Haynes Boone Newsletter highlighting current issues in Intellectual Property Law. Articles featured in the January 2012 issue include:

[Lipstick on a Pig? A Claim's Preamble Does Not Confer Patentability on an Otherwise Unpatentable Process](#)

Does claim format matter? In *CyberSource v. Retail Decisions*, the U.S. Court of Appeals for the Federal Circuit held that software patent claims do not escape the *Bilski* patentability standards just by virtue of being drafted as so-called "Beauregard" claims, *i.e.*, "A computer-readable medium?"

[Qimonda's Impact on Patent Licenses When a Licensor Goes Bankrupt in a Foreign Land](#)

Can a U.S. patent licensee whose license has been rejected by a licensor under foreign law in a foreign bankruptcy rely on the protections of ? 365(n) of the U.S. Bankruptcy Code? On October 28, 2011, the U.S. Bankruptcy Court for the Eastern District of Virginia issued an opinion holding that the application of ? 365(n) to executory licenses to U.S. patents was required to sufficiently protect the interests of U.S. patent licensees under Chapter 15 of the Bankruptcy Code, and that the failure of German insolvency law to protect patent licensees was "manifestly contrary" to United States public policy.

[Patenting Anything Under the Sun vs. *Bilski*](#)

This article addresses a flaw in the Supreme Court's *Bilski* decision and its resulting use in evaluating patent claims: Rather than making a statutory subject matter determination, *Bilski* and similar patent claims may be more appropriately evaluated using a written description analysis to determine whether the claims are commensurate in scope with the disclosed subject matter in the specification.

For more information, click here to visit our [Intellectual Property Practice Group](#) page.