

Abstract

Study on Mayo's Framework*

- Legal policy on SW inventions patentable and the influence on the Copyright system -

Jeong, Jin Keun

Patentable subject matter especially in the area of computer implemented invention has become one of the most controversial areas of patent law and also of copyright law. Patent law in U.S. states "Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title". Also, even though the invention can be in the 4 categories above, if the invention is just natural law, natural phenomenon or abstract idea it can not be patentable.

Since Diehr case in 1981, U.S. Courts have given decisions and judgments to make SW patent broader on pro-patent policy. But Bilski case in 2008, Mayo case in 2012 and Alice case in 2014 are the other side to decide on the issue of SW patentable matter. So, we should make researches and analysis about these cases and cases after these cases. Also we should make attention for whether those cases adopt the 'machine or transformation test' and 'useful, concrete and tangible result test'.

On the series of cases, the most important one is Mayo case because this case show 'Mayo's framework' and Alice case followed Mayo's framework to decide SW patent eligibility.

We should discuss the influence of these cases on the Copyright system and the reform of SW patent examination guideline.

* This study is supported by 2015 Research Grant from Kangwon National University(No. 520150186)

Keywords

Sw Copyright, Sw Invention, Patentable Subject Matter, Abstract Idea, Mayo'S Framework, Alice, Machine or Transformation Test, Inventive Concept, Computer-Implemented Method

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