Research Assessment #1

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September 6th, 2019

Intellectual Property law

Winborn, Brett. "Patent Owners versus the Supreme Court: Changing the Law Underlying Patent Eligible Subject Matter." *The Journal of Corporation Law*, Fall 2018, p. 187. *Gale Academic Onefile*, https://link.gale.com/apps/doc/A580598804/AONE?u=j043905009&sid=AONE&xid=56229f36. Accessed 6 Sept. 2019.

Courts exempted laws of nature, natural phenomena, and abstract ideas from patent-eligible subject matter. This article discusses two different proposals to clarify patent-eligible subject matter through legislation by three intellectual property advocacy organizations, the Intellectual Property Owners Association (IPO), the American Intellectual Property Law Association (AIPLA), and the American Bar Association Section of Intellectual Property Law (ABA). The proposals have been created to amend 35 U.S.C. Section 101, a controversial issue caused by changing the landscape of what is and what is not patent-eligible subject matter, through a joint proposal from the IPO and AIPLA and the other from the ABA.

An invention can be defined in many different ways however there are strict guidelines that must be met in order for your invention to be patentable. Since there are many different ways to define an invention, some people agree and others disagree with the guidelines. Section 101 allows patents for four categories of inventions: processes, machines, manufactures, and compositions of matter. However, the courts have added three judicial exceptions to what is patentable: natural phenomena, laws of nature, and abstract ideas. This tells me that these exceptions play a vital role in patents because a new invention has to include a process so it can be deemed patent-eligible. It would make me think that some people may create steps in order to make sure it doesn't collide with one of the exceptions.

Gottschalk v. Benson in 1972, the Court held that a method to convert binary-coded-decimal (BCD) numerals to pure binary numerals was not patent-eligible. I disagreed with this at first because I know that there is a process in making a code, however, the court deemed the process as too abstract. After further evaluation, I believe that the court made the right decision because BCD is very abstract and if it had gotten the patent then it would've stopped future inventions. I relate this to a science experiment. The procedure part of the experiment is meant to be very specific so it can be followed by a normal person. A patent in today's world is very specific because you want to make sure the process of the invention is secured but doesn't limit others in making discoveries. I agree with this because if we make patents broad then the patent owner can have too many uses. The more specific, the fewer chances of an idea not being built upon.

The Supreme Court creates a test to evaluate patent eligibility. This meant that inventors must add an "inventive concept" that transforms the claim from one covering the natural law to one covering patent-eligible subject matter. Further, the Court stated that the transformation must be above and beyond "well-understood, routine, conventional activity previously engaged in by researchers in the field." I relate this back to our justice system because of the saying "beyond a reasonable doubt." In other words, there is a way to turn something natural patentable by just adding an inventive concept. I don't understand this reasoning because something that is seen as inventive can be minimalistic. It makes me realize how the natural product can be stretched enough into being patentable. A risky chance to take yet it seems doable. I am assuming there has to be another set of guidelines to access the changes that can be made.

In conclusion, my understanding of patents has increased greatly. It is very important for me to understand the specific guidelines about eligibility as well as the 3 very important exclusions. I have learned why a science-related major is important in patents because the world of innovation relies on science and technology. I am even more interested in seeing how to officially create a patent and hope to find an article on it. I am glad I chose Intellectual Property because I find it extremely interesting and I can explore all of its branches. I look forward to directing my research more on the technicality aspects now rather than the

guidelines. My knowledge for my topic is increasing every day and I hope to create a product beneficial to lawyers and perhaps my own proposal in patentability.