

561 U.S. 593, 130 S.Ct. 3218, 177 L.Ed.2d 792, 78 USLW 4802, 2010-1 USTC P 50,481, 95 U.S.P.Q.2d 1001, 10 Cal. Daily Op. Serv. 7966, 2010 Daily Journal D.A.R. 9848, 22 Fla. L. Weekly Fed. S 703  
**(Cite as: 561 U.S. 593, 130 S.Ct. 3218)**



Supreme Court of the United States  
 Bernard L. BILSKI and Rand A. Warsaw, Petitioners,  
 v.  
 David J. KAPPOS, Under Secretary of Commerce for  
 Intellectual Property and Director, Patent and Trade-  
 mark Office.

No. 08–964.  
 Argued Nov. 9, 2009.  
 Decided June 28, 2010.

**Background:** Patent applicants challenged denial of patent application for method of hedging risk in field of commodities trading in the energy market based on lack of patent-eligible subject matter. The Patent and Trademark Office, Board of Patent Appeals and Interferences, [2006 WL 5738364](#), sustained rejection of all claims in application. Applicants appealed. Following sua sponte order of review en banc, the United States Court of Appeals for the Federal Circuit, Michel, Chief Judge, [545 F.3d 943](#), affirmed. Certiorari was granted.

**Holdings:** The Supreme Court, Justice [Kennedy](#), held that:

(1) machine-or-transformation test is not the sole test for determining the patent eligibility of a process, and  
 (2) applicants' method was an unpatentable abstract idea.

Affirmed.

Justice [Scalia](#) joined the opinion in part.

Justice [Stevens](#) filed an opinion concurring in the judgment, in which Justice [Ginsburg](#), Justice [Breyer](#), and Justice [Sotomayor](#) joined.

Justice [Breyer](#) filed an opinion concurring in the judgment, in which Justice [Scalia](#) joined in part.

#### West Headnotes

#### [1] Patents 291

##### 291 Patents

##### 291I Subjects of Patents

291k1 k. Nature of patent rights. [Most Cited Cases](#)

The Patent Act specifies four independent categories of inventions or discoveries that are eligible for protection: processes, machines, manufactures, and compositions of matter. [35 U.S.C.A. § 101](#).

#### [2] Patents 291

##### 291 Patents

##### 291I Subjects of Patents

291k1 k. Nature of patent rights. [Most Cited Cases](#)

In choosing the Patent Act's expansive terms for specifying the four independent categories of inventions or discoveries that are eligible for protection, namely processes, machines, manufactures, and compositions of matter, modified by the comprehensive “any,” Congress plainly contemplated that the patent laws would be given wide scope. [35 U.S.C.A. § 101](#).

#### [3] Patents 291

##### 291 Patents

##### 291I Subjects of Patents

561 U.S. 593, 130 S.Ct. 3218, 177 L.Ed.2d 792, 78 USLW 4802, 2010-1 USTC P 50,481, 95 U.S.P.Q.2d 1001, 10 Cal. Daily Op. Serv. 7966, 2010 Daily Journal D.A.R. 9848, 22 Fla. L. Weekly Fed. S 703  
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[291k1](#) k. Nature of patent rights. **Most Cited Cases**

Congress took a permissive approach to patent eligibility to ensure that ingenuity should receive a liberal encouragement. [35 U.S.C.A. § 101](#).

#### [4] Patents 291

291 Patents

[291I](#) Subjects of Patents

[291k4](#) Arts

[291k6](#) k. Principles or laws of nature. **Most Cited Cases**

There are three specific exceptions to the Patent Act's broad patent-eligibility principles, namely laws of nature, physical phenomena, and abstract ideas; while these exceptions are not required by the statutory text, they are consistent with the notion that a patentable process must be new and useful, and the concepts covered by these exceptions are part of the storehouse of knowledge of all men, free to all men, and reserved exclusively to none. [35 U.S.C.A. § 101](#).

#### [5] Patents 291

291 Patents

[291I](#) Subjects of Patents

[291k1](#) k. Nature of patent rights. **Most Cited Cases**

The patent-eligibility inquiry into whether a claimed invention is a process, machine, manufacture, or composition of matter is only a threshold test for patent protection. [35 U.S.C.A. § 101](#).

#### [6] Patents 291 16(1)

291 Patents

[291III](#) Patentability

[291III\(A\)](#) Invention; Obviousness

[291k16](#) Invention and Obviousness in General

[291k16\(1\)](#) k. In general. **Most Cited Cases**

#### Patents 291 37

291 Patents

[291III](#) Patentability

[291III\(B\)](#) Novelty

[291k37](#) k. Nature and necessity of patentable novelty. **Most Cited Cases**

#### Patents 291 99

291 Patents

[291IV](#) Applications and Proceedings Thereon

[291k99](#) k. Description of invention in specification. **Most Cited Cases**

Even if an invention qualifies as a process, machine, manufacture, or composition of matter, in order to receive the Patent Act's protection the claimed invention must also be novel, nonobvious, and fully and particularly described. [35 U.S.C.A. §§ 101, 102, 103, 112](#).

#### [7] Patents 291 3

291 Patents

[291I](#) Subjects of Patents

[291k3](#) k. Constitutional and statutory provisions. **Most Cited Cases**

In patent law, as in all statutory construction, unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning.

#### [8] Patents 291 7.11

561 U.S. 593, 130 S.Ct. 3218, 177 L.Ed.2d 792, 78 USLW 4802, 2010-1 USTC P 50,481, 95 U.S.P.Q.2d 1001, 10 Cal. Daily Op. Serv. 7966, 2010 Daily Journal D.A.R. 9848, 22 Fla. L. Weekly Fed. S 703  
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## 291 Patents

### 291I Subjects of Patents

#### 291k4 Arts

291k7.11 k. Use or operation of machine or apparatus as affecting process. [Most Cited Cases](#)

The “machine-or-transformation test,” which provides a claimed invention is not patentable if it is not tied to a machine and does not transform an article, is not the sole test for determining the patent eligibility of a process; the test is a useful and important clue, an investigative tool, for determining whether some claimed inventions are patent-eligible processes. [35 U.S.C.A. § 101](#).

## [9] Statutes 361 1159

### 361 Statutes

#### 361III Construction

361III(E) Statute as a Whole; Relation of Parts to Whole and to One Another

361k1159 k. Associated terms and provisions; noscitur a sociis. [Most Cited Cases](#)  
 (Formerly 361k193)

Under the doctrine of “noscitur a sociis,” an ambiguous term may be given more precise content by the neighboring words with which it is associated.

## [10] Patents 291 1

### 291 Patents

#### 291I Subjects of Patents

291k1 k. Nature of patent rights. [Most Cited Cases](#)

Patent Act provision defining the subject matter that may be patented is dynamic and designed to encompass new and unforeseen inventions. (Per Justice Kennedy, with three Justices joining and four Justices concurring in the judgment.) [35 U.S.C.A. § 101](#).

## [11] Patents 291 1

### 291 Patents

#### 291I Subjects of Patents

291k1 k. Nature of patent rights. [Most Cited Cases](#)

A categorical rule denying patent protection for inventions in areas not contemplated by Congress would frustrate the purposes of the Patent Act. (Per Justice Kennedy, with three Justices joining and four Justices concurring in the judgment.) [35 U.S.C.A. § 101](#).

## [12] Patents 291 7

### 291 Patents

#### 291I Subjects of Patents

#### 291k4 Arts

291k7 k. Process or methods in general. [Most Cited Cases](#)

A patent-eligible “process” may include at least some methods of doing business. [35 U.S.C.A. § 101](#).

## [13] Statutes 361 1214

### 361 Statutes

#### 361III Construction

361III(G) Other Law, Construction with Reference to

#### 361k1210 Other Statutes

361k1214 k. Superfluosness. [Most Cited Cases](#)  
 (Formerly 361k223.1)

## Statutes 361 1219

### 361 Statutes

#### 361III Construction

561 U.S. 593, 130 S.Ct. 3218, 177 L.Ed.2d 792, 78 USLW 4802, 2010-1 USTC P 50,481, 95 U.S.P.Q.2d 1001, 10 Cal. Daily Op. Serv. 7966, 2010 Daily Journal D.A.R. 9848, 22 Fla. L. Weekly Fed. S 703  
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[361III\(G\)](#) Other Law, Construction with Reference to

[361k1210](#) Other Statutes

[361k1219](#) k. Earlier and later statutes.

**Most Cited Cases**

(Formerly [361k223.1](#))

**Statutes** [361](#)  [1245\(1\)](#)

[361](#) Statutes

[361III](#) Construction


[361III\(H\)](#) Legislative History

[361k1243](#) Particular Kinds of Legislative History

[361k1245](#) Motives, Opinions, and Statements of Legislators

[361k1245\(1\)](#) k. In general. **Most Cited Cases**

(Formerly [361k216](#))

**Statutes** [361](#)  [1385\(1\)](#)

[361](#) Statutes

[361III](#) Construction

[361III\(M\)](#) Presumptions and Inferences as to Construction


[361k1381](#) Other Law, Construction with Reference to

[361k1385](#) Other Statutes

[361k1385\(1\)](#) k. In general. **Most Cited Cases**

(Formerly [361k212.4](#))

The canon against interpreting any statutory provision in a manner that would render another provision superfluous applies to interpreting any two provisions in the United States Code, even when Congress enacted the provisions at different times; the canon cannot be overcome by judicial speculation as to the subjective intent of various legislators in enacting the subsequent provision.

**[14] Patents** [291](#)  [16\(1\)](#)


[291](#) Patents

[291II](#) Patentability

[291II\(A\)](#) Invention; Obviousness

[291k16](#) Invention and Obviousness in General

[291k16\(1\)](#) k. In general. **Most Cited Cases**

**Patents** [291](#)  [37](#)

[291](#) Patents

[291II](#) Patentability

[291II\(B\)](#) Novelty

[291k37](#) k. Nature and necessity of patentable novelty. **Most Cited Cases**


**Patents** [291](#)  [99](#)

[291](#) Patents

[291IV](#) Applications and Proceedings Thereon

[291k99](#) k. Description of invention in specification. **Most Cited Cases**

The requirements for receiving patent protection, that any claimed invention must be novel, nonobvious, and fully and particularly described, serve a critical role in adjusting the tension, ever present in patent law, between stimulating innovation by protecting inventors and impeding progress by granting patents when not justified by the statutory design. (Per Justice Kennedy, with three Justices joining and four Justices concurring in the judgment.) [35 U.S.C.A. §§ 102, 103, 112.](#)

**[15] Patents** [291](#)  [7.14](#)

[291](#) Patents

[291I](#) Subjects of Patents

[291k4](#) Arts

**(Cite as: 561 U.S. 593, 130 S.Ct. 3218)**

[291k7.14](#) k. Particular processes or methods as constituting invention. [Most Cited Cases](#)

Claimed invention that explained how buyers and sellers of commodities in the energy market could protect, or hedge, against the risk of price changes and that reduced this concept of hedging to a mathematical formula was an “abstract idea,” and thus was not a patentable “process.” [35 U.S.C.A. § 101](#).

## [16] Patents [291](#) [16.2](#)

### 291 Patents

#### 291III Patentability

##### 291III(A) Invention; Obviousness

##### [291k16.2](#) k. Ideas and abstract principles.

#### [Most Cited Cases](#)

Limiting an abstract idea to one field of use or adding token postsolution components do not make the concept patentable. [35 U.S.C.A. § 101](#).

#### *\*3220 Syllabus* <sup>FN\*</sup>

**FN\*** The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U.S. 321, 337, 26 S.Ct. 282, 50 L.Ed. 499.

Petitioners' patent application seeks protection for a claimed invention that explains how commodities buyers and sellers in the energy market can protect, or hedge, against the risk of price changes. The key claims are claim 1, which describes a series of steps instructing how to hedge risk, and claim 4, which places the claim 1 concept into a simple mathematical formula. The remaining claims explain how claims 1 and 4 can be applied to allow energy suppliers and consumers to minimize the risks resulting from fluctuations in market demand. The patent examiner re-

jected the application on the grounds that the invention is not implemented on a specific apparatus, merely manipulates an abstract idea, and solves a purely mathematical problem. The Board of Patent Appeals and Interferences agreed and affirmed. The Federal Circuit, in turn, affirmed. The en banc court rejected its prior test for determining whether a claimed invention was a patentable “process” under Patent Act, [35 U.S.C. § 101](#)—*i.e.*, whether the invention produced a “useful, concrete, and tangible result,” see, *e.g.*, *State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 149 F.3d 1368, 1373—holding instead that a claimed *\*3221* process is patent eligible if: (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing. Concluding that this “machine-or-transformation test” is the sole test for determining patent eligibility of a “process” under [§ 101](#), the court applied the test and held that the application was not patent eligible.

*Held:* The judgment is affirmed.

[545 F.3d 943](#), affirmed.

Justice **KENNEDY** delivered the opinion of the Court, except as to Parts II–B–2 and II–C–2, concluding that petitioners' claimed invention is not patent eligible. Pp. 3224 – 3227, 3228 – 3229, 3229 – 3231.

(a) [Section 101](#) specifies four independent categories of inventions or discoveries that are patent eligible: “process[es],” “machin[es],” “manufactur[es],” and “composition[s] of matter.” “In choosing such expansive terms, ... Congress plainly contemplated that the patent laws would be given wide scope,” *Diamond v. Chakrabarty*, 447 U.S. 303, 308, 100 S.Ct. 2204, 65 L.Ed.2d 144, in order to ensure that “ ‘ingenuity should receive a liberal encouragement,’ ” *id.*, at 308–309, 100 S.Ct. 2204. This Court's precedents provide three specific exceptions to [§ 101](#)'s

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