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Crypto Unlocked: New Patent Eligibility Guidance on Blockchain Technology

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The U.S. gave crypto one of its biggest regulatory jolts in years. With the signing of the Guiding and Establishing National Innovation for U.S. Stablecoins ("GENIUS") Act stablecoins now have a legal framework. The GENIUS Act is part of a broader push to accelerate the development of emerging technologies in the U.S., from artificial intelligence to quantum computing. That same push is showing up in the patent world, where the U.S. Patent and Trademark Office ("USPTO") and Patent Trial and Appeal Board ("PTAB") are beginning to clarify how blockchain-related inventions can clear long-standing Section 101 hurdles.

Just as the GENIUS Act provides clarity for stablecoins, a recent PTAB decision is beginning to provide clarity for blockchain patents. In *Ex Parte David L. Newman*, the PTAB reversed the Examiner's rejection of the claims under 35 U.S.C. § 101 and provided some useful discussion of how the USPTO (and patent applicants) should approach blockchain-related patents. The claims at issue relate to "securely storing data across a network in a multi-dimensional distributed database" in order to "process[] license contracts, including computing proportional payments related thereto, using blockchains comprising supplemental fork blocks that comprise custodian addresses."

The Examiner had rejected the claims as directed to the abstract idea of "payment, distribution, and pricing for two users bound by a contractual relationship," concluding that the additional elements in the claims do not integrate the abstract idea into a practical application. In the Examiner's view, the invention simply used "a computer as a tool to perform an abstract idea." The PTAB agreed in part – acknowledging that the claims involved an abstract idea because "[i]t is well settled that commercial interactions involving payment transactions or contractual agreements, are the type of judicially excepted abstract ideas categorized as methods of organizing human activity."

However, the Board drew the line at step 2 of the *Alice* analysis. Unlike the Examiner, the Board determined that the claims integrate the abstract idea into a practical application "by improving the technical functioning of the recited blockchain by transforming it into a multi-dimensional database slidechain that allows for the execution and simultaneous processing of supplemental fork blocks along the slidechain." In other words, the invention did more than implement a business method on a generic computer—it changed how the blockchain itself operates. As the Board explained, the claims "recite[] steps that transform the blockchain itself so as to allow for improved processing, i.e., simultaneous processing of supplemental fork blocks along the slidechain… [and] uses the recited abstract idea in a meaningful way beyond generally linking its use to a particular technological environment."

Section 101 of the Patent Act has historically been a major hurdle for patent applicants attempting to claim improvements in blockchain technology. But as we discussed in relation to a recent PTAB decision related to quantum computing, patent applicants in blockchain-related industries can now find guidance in decisions like *Ex Parte David L. Newman* to overcome rejections based on 35 U.S.C. § 101. Specifically, applicants should use their specification to clearly articulate how their invention improves "the performance of a computer" and/or "the functionality of the blockchain and the processing thereof."

The Proskauer Intellectual Property Team is continuing to monitor the evolving guidance on patent eligibility of emerging technologies. With Congress providing a regulatory framework for stablecoins and the PTAB recognizing technical improvements in blockchain, these parallel developments signal a more supportive environment for innovators. We welcome questions about how these shifts may affect your patent strategy in the crypto and broader emerging technology space.

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