



SHIMOKAJI & ASSOCIATES, P.C.

Intellectual Property Lawyers
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NEWSLETTER

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Best Wishes for the Year of the Dragon

The Dragon is a creature of myth and legend. In ancient China, the celestial Dragon represents an emperor and power. Today, it is the ultimate auspicious symbol signifying success and happiness. May the celestial Dragon bring great good luck to everyone.



What is an Algorithm according to the Federal Circuit?

In *Typhoon Touch v. Dell*, at issue was the claim term "means for cross-referencing." Plaintiff conceded that the structure to support the term was not explicitly disclosed in the specification. The district court found the means plus function term indefinite.

The Federal Circuit disagreed. The court explained that the term means "[a] fixed step-by-step procedure for accomplishing a given result, usually a simplified procedure for solving a complex problem, also a full statement of a finite number of steps." It does not necessarily mean computer code. Instead, an algorithm can be described "in any understandable terms including a mathematical formula, in prose, or as a flow chart, or in any other manner that provides sufficient structure."

According to the court, the specification included a four-step algorithm for computer implemented cross-referencing. It also found that defendant presented no evidence that a computer programmer of ordinary skill would not understand how to implement the recited function.

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