

THE SUPREME COURT'S "MBA FRAMEWORK" & "LEVELS OF ABSTRACTION"
OR
THE MBA FRAMEWORK TRANSFORMS • FUNCTIONAL SPECIFICATION BY §112(6/f)
• CLAIM INTERPRETATION & CONSTRUCTION
FROM SPECULATIVE METAPHYSICS INTO RATIONALITY

- I. Emerging Technologies, ETs, and ETs' Claimed Inventions, ETCIs
- II. Rationality vs. Scientific or Speculative Metaphysics
- III. Substantive Patent Law & *MBA* Framework of the Supreme Court
- IV. Rationalizing an ETCI by the *MBA* Framework Based FSTP-Test
- V. ACADEMIA, the SUPREME COURT, and the USPTO

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I. Emerging Technologies, ETs, and ETs' Claimed Inventions, ETCI

- Classical Technologies, CTs, vs. Emerging Technologies, ETs
- Fundamental Difference between CTCIs and ETCIs
 - * in SPL all differences ignored
 - * CTCIs: tangible, visible, concrete
 - * ETCIs: intangible, invisible, fictional/abstract
- Notional Problems by ETCIs therefore introduced into SPL – not existing in CTCIs
 - * Risk of Impreciseness/Incompleteness of Specification: What is invented?
 - * Risk in Claim Interpretation (and Construction) for ETCI
 - * Risk of Vagueness of Scope – Classically Considered Evident
 - * Risk of Unlimited Preemptivity – Classically Totally Ignored
- ETCI = New Subject Matter? OR Problems of Classic SPL's Notional Coarseness?
 - * A: "Nail a Jellyfish to a Wall"
 - * B: "Describe a Planet's Movement in Your X/Y/Z- System"
 - * C: "Determine What ETCI is an Abstract Idea"
- Result: A=>Need of "inCs"! B=>Need inCs "Refinements"! No New Subject Matter!

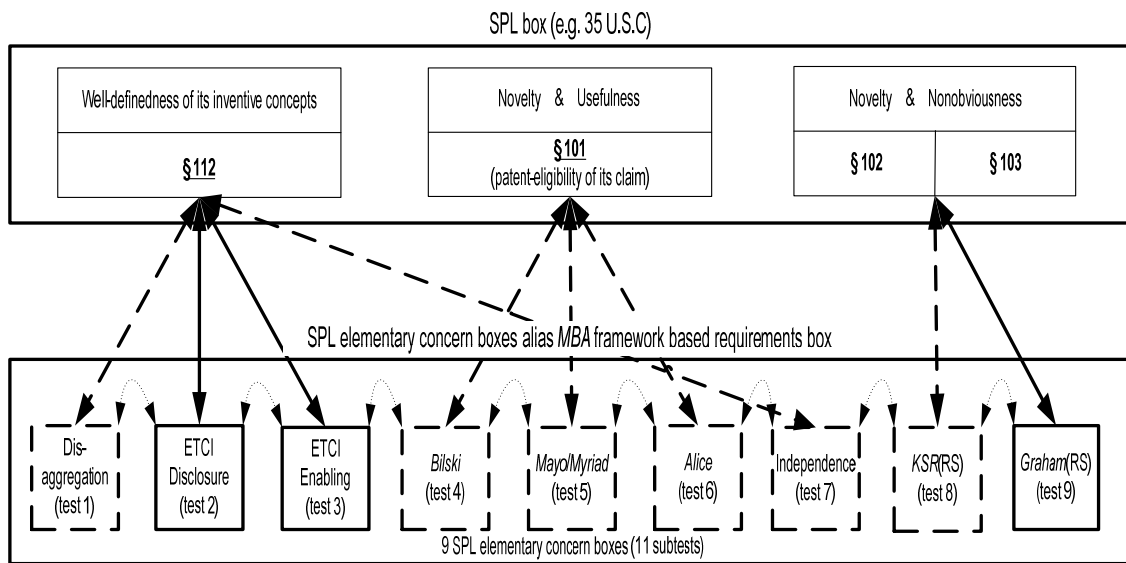
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II. Rationality vs. Scientific or Speculative Metaphysics

- Kant's approach to thinking, reduced to testing an ETCl under SPL, qualifies its thoughts as "necessity" or "sufficiency" – making intellectual "items" separable, as follows,
- by the pposc = "person of pertinent ordinary skill and creativity": For an ETCl,
- an "item" (notion, property, ...) is "transcendental"/"metaphysical"/"rational" is by definition not/partially/fully correctly&completely pposc intelligible – pposc considers a mathematically defined item as rational, even if defined by a natural language's rational subset.
- its items' properties define its: + "Rationality" iff necessary&sufficient for identifying them completely, + "Metaphysics" iff comprising at least 1 item with an only necessary or even transcendental property, + "Reasonality" (alias "Reason") comprises any item of Rationality or of "scientific = non-speculative = alternativeless Metaphysics" (defined to comprise no transcendental item), and + "Transcendentality" (or "Transcendancy") comprises its other items.
- In analogy to Kant: Rationality ::= Reasonality (while Reason=Reasonality \supseteq Rationality)
- A "rationalized item" – e.g. a statement about an ETCl – is a rational set of items totally "encapsulating" = "hiding" its potential subset of transcendental or speculative item(s).

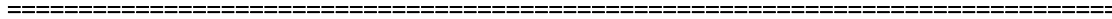
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III. Substantive Patent Law & MBA Framework of the Supreme Court

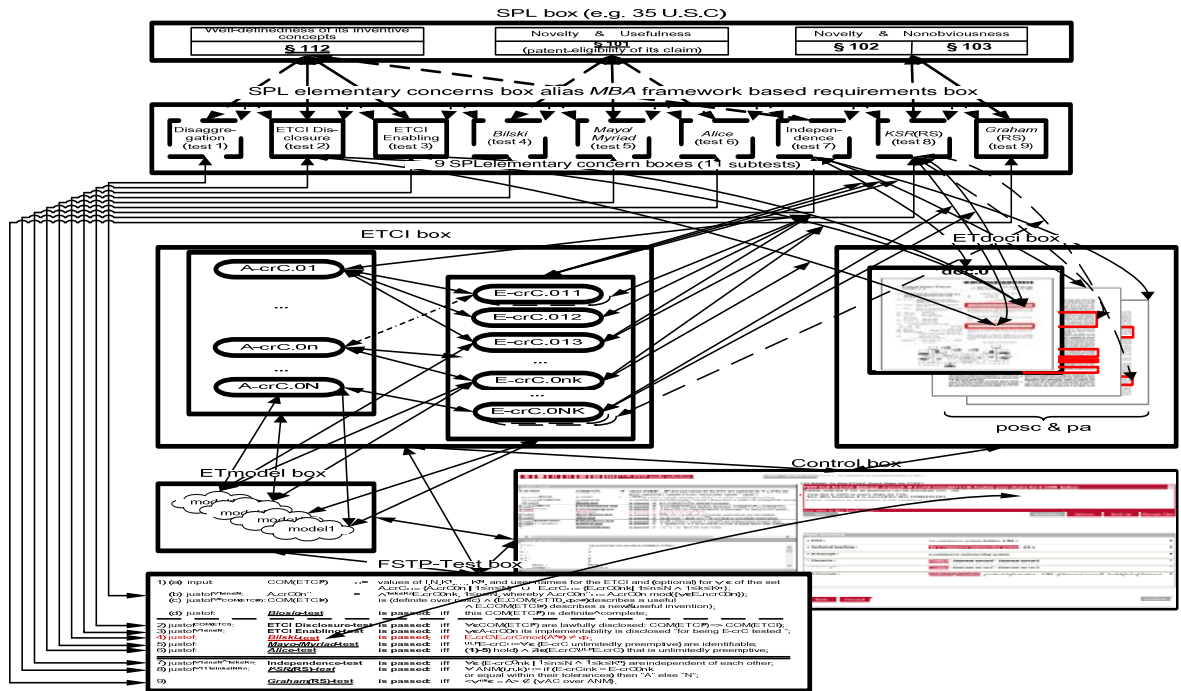


Bold lines show the classical claim construction's test.i's, dashed ones what Mayo/Biosig/Alice additionally require (refined claim construction). "←" show a "use hierarchy" among test.i's. "→" expand it to testi's total dependency.

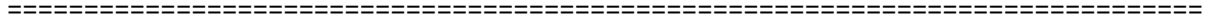
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IV. Rationalizing an ETCl by the MBA Framework Based FSTP-Test



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V. ACADEMIA, the SUPREME COURT, and the USPTO

- '*MBA* Framework' = 'Paradigm Shift in SPL': Although being Evident, it is Difficult to Grasp
- Its Current State of Acceptance in the US: Still "Work in Progress" – Irreversibility Accepted
- Berkeley, 13.04.2016, focused on Software IP: No Question about BRIPT⁰.
Big Fuzz: "Functional Specification" by §112(f) & "Levels of Abstraction" in SW correctly identified
Uncertainty as to § 101
- Supreme Court, 25.04.2016, focused on BRIPT⁰: Massive Questions about BRIPT⁰ in Legal Business.
- CAFC in *ENFISH* vs. Microsoft, 12.05.2016: Correct, but Complicated, Application of *Alice*, but
no Clear "inC based Reasoning" or Principal BRIPT⁰
(subject to correction and/or completion)
- USPTO, 27.04.2016, focused on EPQI & MRF: The "Master Review Form" is Key to its "Extended
Patent Quality Initiative" & big step forward therein.
But: No time for "Paradigm Shift Discussion" – yet
'*MBA* Framework' = 'Paradigm Shift' recognized.

The IES and its *MBA* Framework of Testing an ETCI under SPL is still in Splendid Isolation.

And: MRF defines an Excellent Entry Level for Using the IES.

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