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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. 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.

SUPREME COURT OF THE UNITED STATES

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**BILSKI ET AL. v. KAPPOS, UNDER SECRETARY OF
COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR, PATENT AND TRADEMARK OFFICE****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FEDERAL CIRCUIT**

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

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 rejected 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 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.

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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. 4–8, 10–11, 12–16.

(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, in order to ensure that “‘ingenuity should receive a liberal encouragement,’” *id.*, at 308–309. This Court’s precedents provide three specific exceptions to §101’s broad principles: “laws of nature, physical phenomena, and abstract ideas.” *Id.*, at 309. While not required by the statutory text, these exceptions are consistent with the notion that a patentable process must be “new and useful.” And, in any case, the exceptions have defined the statute’s reach as a matter of statutory *stare decisis* going back 150 years. See *Le Roy v. Tatham*, 14 How. 156, 174. The §101 eligibility inquiry is only a threshold test. Even if a claimed invention qualifies in one of the four categories, it must also satisfy “the conditions and requirements of this title,” §101(a), including novelty, see §102, nonobviousness, see §103, and a full and particular description, see §112. The invention at issue is claimed to be a “process,” which §100(b) defines as a “process, art or method, and includes a new use of a known process, machine, manufacture, composition of matter, or material.” Pp. 4–5.

(b) The machine-or-transformation test is not the sole test for patent eligibility under §101. The Court’s precedents establish that although that test may be a useful and important clue or investigative tool, it is not the sole test for deciding whether an invention is a patent-eligible “process” under §101. In holding to the contrary, the Federal Circuit violated two principles of statutory interpretation: Courts “‘should not read into the patent laws limitations and conditions which the legislature has not expressed,’” *Diamond v. Diehr*, 450 U. S. 175, 182, and, “[u]nless otherwise defined, ‘words will be interpreted as taking their ordinary, contemporary, common meaning,’” *ibid.* The Court is unaware of any ordinary, contemporary, common meaning of “process” that would require it to be tied to a machine or the transformation of an article. Respondent Patent Director urges the Court to read §101’s other three patentable categories as confining “process” to a machine or transformation. However, the doctrine of *noscitur a sociis* is inapplicable here, for §100(b) already explicitly defines “process,” see *Burgess v. United States*, 553 U. S. 124, 130, and nothing about the section’s inclusion of those other categories suggests that a “process” must be tied to one of them.

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Finally, the Federal Circuit incorrectly concluded that this Court has endorsed the machine-or-transformation test as the exclusive test. Recent authorities show that the test was never intended to be exhaustive or exclusive. See, e.g., *Parker v. Flook*, 437 U. S. 584, 588, n. 9. Pp. 5–8.

(c) Section 101 similarly precludes a reading of the term “process” that would categorically exclude business methods. The term “method” within §100(b)’s “process” definition, at least as a textual matter and before other consulting other Patent Act limitations and this Court’s precedents, may include at least some methods of doing business. The Court is unaware of any argument that the “ordinary, contemporary, common meaning,” *Diehr, supra*, at 182, of “method” excludes business methods. Nor is it clear what a business method exception would sweep in and whether it would exclude technologies for conducting a business more efficiently. The categorical exclusion argument is further undermined by the fact that federal law explicitly contemplates the existence of at least some business method patents: Under §273(b)(1), if a patent-holder claims infringement based on “a method in [a] patent,” the alleged infringer can assert a defense of prior use. By allowing this defense, the statute itself acknowledges that there may be business method patents. Section 273 thus clarifies the understanding that a business method is simply one kind of “method” that is, at least in some circumstances, eligible for patenting under §101. A contrary conclusion would violate the canon against interpreting any statutory provision in a manner that would render another provision superfluous. See *Corley v. United States*, 556 U. S. ___, ___. Finally, while §273 appears to leave open the possibility of some business method patents, it does not suggest broad patentability of such claimed inventions. Pp. 10–11.

(d) Even though petitioners’ application is not categorically outside of §101 under the two atextual approaches the Court rejects today, that does not mean it is a “process” under §101. Petitioners seek to patent both the concept of hedging risk and the application of that concept to energy markets. Under *Benson, Flook*, and *Diehr*, however, these are not patentable processes but attempts to patent abstract ideas. Claims 1 and 4 explain the basic concept of hedging and reduce that concept to a mathematical formula. This is an unpatentable abstract idea, just like the algorithms at issue in *Benson* and *Flook*. Petitioners’ remaining claims, broad examples of how hedging can be used in commodities and energy markets, attempt to patent the use of the abstract hedging idea, then instruct the use of well-known random analysis techniques to help establish some of the inputs into the equation. They add even less to the underlying abstract principle than the invention held patent ineligible in *Flook*. Pp. 12–

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15.

(e) Because petitioners' patent application can be rejected under the Court's precedents on the unpatentability of abstract ideas, the Court need not define further what constitutes a patentable "process," beyond pointing to the definition of that term provided in §100(b) and looking to the guideposts in *Benson*, *Flook*, and *Diehr*. Nothing in today's opinion should be read as endorsing the Federal Circuit's past interpretations of §101. See, e.g., *State Street*, 49 F. 3d, at 1373. The appeals court may have thought it needed to make the machine-or-transformation test exclusive precisely because its case law had not adequately identified less extreme means of restricting business method patents. In disapproving an exclusive machine-or-transformation test, this Court by no means desires to preclude the Federal Circuit's development of other limiting criteria that further the Patent Act's purposes and are not inconsistent with its text. P. 16.

KENNEDY, J., delivered the opinion of the Court, except for Parts II-B-2 and II-C-2. ROBERTS, C. J., and THOMAS and ALITO, JJ., joined the opinion in full, and SCALIA, J., joined except for Parts II-B-2 and II-C-2. STEVENS, J., filed an opinion concurring in the judgment, in which GINSBURG, BREYER, and SOTOMAYOR, JJ., joined. BREYER, J., filed an opinion concurring in the judgment, in which SCALIA, J., joined as to Part II.