



CITY OF DORAL NOTICE OF PUBLIC HEARING

All residents, property owners and other interested parties are hereby notified of a **Local Planning Agency (LPA)** meeting on **Wednesday, January 23, 2019 beginning at 5:00 PM**, to consider the following amendment to the Land Development Code. This meeting will be held at the **City of Doral, Government Center, Council Chambers located at 8401 NW 53rd Terrace, Doral, Florida, 33166.**

The City of Doral proposes to adopt the following Resolution:

RESOLUTION No. 19-

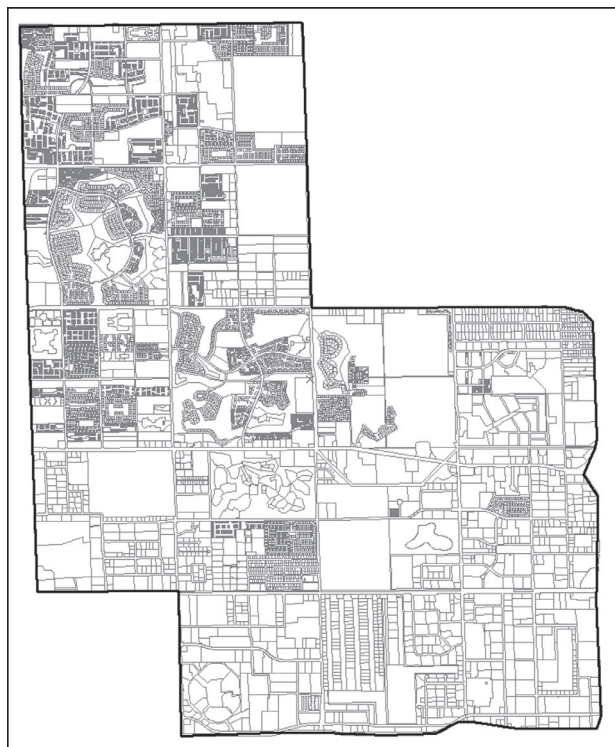
A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, SITTING AS THE LOCAL PLANNING AGENCY RECOMMENDING APPROVAL / DENIAL, OR GOING FORWARD WITHOUT A RECOMMENDATION OF A TEXT AMENDMENT TO THE CITY OF DORAL LAND DEVELOPMENT CODE BY AMENDING CHAPTER 74 "MISCELLANEOUS AND SUPPLEMENTARY REGULATIONS", ARTICLE III "SPECIAL SETBACKS AND USES", DIVISION 2 "SPECIAL SETBACKS", SECTION 74-105 "SPECIAL SETBACKS ESTABLISHED" PERTAINING TO ZONING REGULATIONS OF PERMANENTLY INSTALLED STAND-BY GENERATORS AND PERGOLAS; AND PROVIDING FOR AN EFFECTIVE DATE

HEARING NO.: 19-01-DOR-02

APPLICANT: City of Doral

REQUEST: A text amendment to the City of Doral Land Development Code by amending Chapter 74 "Miscellaneous and Supplementary Regulations", Article III "Special Setbacks and Uses", Division 2 "Special Setbacks", Section 74-105 "Special Setbacks Established" pertaining to zoning regulations of permanently installed stand-by generators and pergolas.

Location Map



Information relating to the subject application is on file and may be examined in the City of Doral, Planning and Zoning Department Located at **8401 NW 53rd Terrace, Doral, FL. 33166**. All persons are invited to appear at this meeting or be represented by an agent, or to express their views in writing addressed to the City Clerk, **8401 NW 53rd Terrace, Doral, FL. 33166**. Maps and other data pertaining to these applications are available for public inspection during normal business hours in City Hall. Any persons wishing to speak at a public hearing should register with the City Clerk prior to that item being heard. Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL.

Pursuant to Section 286.0105, Florida Statutes If a person decides to appeal any decisions made by the City Council with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

NOTE: If you are not able to communicate, or are not comfortable expressing yourself, in the English language, it is your responsibility to bring with you an English-speaking interpreter when conducting business at the City of Doral during the zoning application process up to, and including, appearance at a hearing. This person may be a friend, relative or someone else. A minor cannot serve as a valid interpreter. The City of Doral DOES NOT provide interpretation services during the zoning application process or during any quasi-judicial proceeding.

NOTA: Si usted no está en capacidad de comunicarse, o no se siente cómodo al expresarse en inglés, es de su responsabilidad traer un intérprete del idioma inglés cuando trate asuntos públicos o de negocios con la Ciudad de Doral durante el proceso de solicitudes de zonificación, incluyendo su comparecencia a una audiencia. Esta persona puede ser un amigo, familiar o alguien que le haga la traducción durante su comparecencia a la audiencia. Un menor de edad no puede ser intérprete. La Ciudad de Doral NO suministra servicio de traducción durante ningún procedimiento durante el proceso de solicitudes de zonificación.

Connie Diaz, MMC
City Clerk
City of Doral

INTELLECTUAL PROPERTY

Using EPO to Chase 'Alice' Out of the Rabbit Hole

Commentary by
Pablo Meles



Meles

The European Patent Office (EPO) issued guidelines for Nov. 1, 2018, that in many ways summarizes the direction and guidance of U.S. jurisprudence and USPTO policy for patent eligibility for computer implemented inventions. Much of the recent U.S. guidance evolves from the 2014 U.S. Supreme Court decision *Alice v. CLS Bank International* (573 U.S. 208) concerning a computer implemented electronic escrow service for facilitating financial transactions where the patent claims were found invalid as being drawn to an abstract idea. Patent ineligibility was found using a two-step process. The first step determines whether a patent claim is an abstract idea such as an algorithm or a method of computation. If the patent claim includes an abstract idea such as an algorithm, then the patent eligibility process must go to the second step and determine whether the patent claim adds "significantly more" to the idea that embodies an inventive concept. Although "significantly more" really does not provide much concrete guidance, the court did find that a mere instruction to implement an abstract idea on a computer or the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.

Since *Alice*, although a significant majority of cases reviewed by the Federal Circuit have found computer implemented inventions patent ineligible, the pendulum has started swinging slightly in the direction of eligibility by clarifying what they meant by "something more" with a few cases where patent eligibility was found. See *Thales Visionix v. United States*, *Amdocs (Israel) v. Openet Telecom, McRO v. Bandai Namco Games America*, *Bascom Global Internet Services v. AT&T Mobility*, *Enfish v. Microsoft*, *DDR Holdings v. Hotels.com* or *Research Corporation Technologies v. Microsoft*.

The USPTO also issued the Berkheimer Memo on April 19, 2018, (based on the Federal Circuit opinion in *Berkheimer v. HP*) providing examination guidance as to what would be considered "significantly more" particularly when "an additional element (or combination of elements) is not well understood, routine, or conventional." In such instances, the examiners can only use evidence falling in four specific categories to assert that the element is well-understood, routine, or conventional, namely an express statement in the specification; a court citation; a citation to a publication; or a statement by the Examiner taking "Official Notice" which can be rebutted.

All of the precedent above suggest that patent claims directed towards computer implemented inventions should be drafted keeping in mind a contemplated defense against a eligibility Section 101 attack by focusing on a specific technical solution and advantages provided by the invention present by a specific technical problem.

In a similar vein to *Alice* and the Berkheimer Memo, the EPO guidelines for eligibility of computer implemented inventions include a first prong of determining if the claimed subject matter has a technical character and a second prong of determining if all features contributing to the technical character are taken into account for assessment of inventive step which is assessed by the well-established "Problem and solution approach for claims comprising technical and non-technical features."

The EPO guidelines suggest that tying or tracking the method claim to the technical purpose explicitly or implicitly meets the eligibility requirements for computer-implemented inventions. With respect to mathematical methods, a specific technical implementation of the mathematical method can be patent eligible, for example, if claims are directed to technical considerations of the internal functioning of the computer. This is similar to the standard in *Enfish* where claims were "directed to a specific improvement to computer functionality" not directed to an abstract idea under step one of *Alice*.

The EPO further guides that a generic technical implementation or claims alleging that the mathematical method is algorithmically more efficient than prior art mathematical methods fails to solve the problem should be avoided.

With respect to artificial intelligence and machine learning, the EPO guidelines will generally find such claims by default to be of an abstract mathematical nature since they generally define computational models and algorithms for classification, clustering, regression, and dimensionality reduction. To counter such adverse assessments, the applicant in a European application should direct claims that establish a causal link to the technical purpose. The EPO guidelines clarify that artificial intelligence and machine learning inventions are subject to the same standards as computer implemented inventions and therefore the problem and solution approach for claims should continue to be applied to these claims as before. In conclusion, the standards in Europe and the United States appear to be merging or drifting toward harmonization and providing a source of guidance in either direction.

Florida Board Certified in Intellectual Property Law, attorney Pablo Meles is Of Counsel with the Miami law firm of Espinosa Martinez. He focuses on patent prosecution and patent litigation support and may be reached at pmeles@etlaw.com.

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