



# Software patent protection

Where it is now & where it is going



# Overview

- What's a software patent?
- Australia
- New Zealand
- United States
- United Kingdom
- Where are we heading?



# Computer-implemented inventions

'A computer-implemented invention is one which involves the use of a computer, computer network or other programmable apparatus, where one or more features are realised wholly or partly by means of a computer program'.

European Patent Office - November 2013

# Computer software in Australia

- Manner of Manufacture
- Commercially useful effect – *IBM*
- Concrete, tangible, physical or observable effect – *Grant*
- Central to the purpose – *Invention Pathways* – *Bilski*
- Computer implementation = ‘artificial state of affairs’ – *RPL Central*
- Physical effect requires more than mere use of a computer – *Research Affiliates*



# Computer software in New Zealand

- Manner of Manufacture
- Commercially useful effect – *Hughes*
- Interaction with a real entity, or achieves a tangible product or result – *Haddad*
- Computer programs 'as such'



# Computer software in the USA

- Process, machine, manufacture, composition of matter
- Useful, concrete, tangible result– *State Street* (1998)
- Machine-or-transformation – *In re Bilski* (2008) and *Bilski v Kappos* (2010)
- *Alice Corp v CLS Bank* (2014)

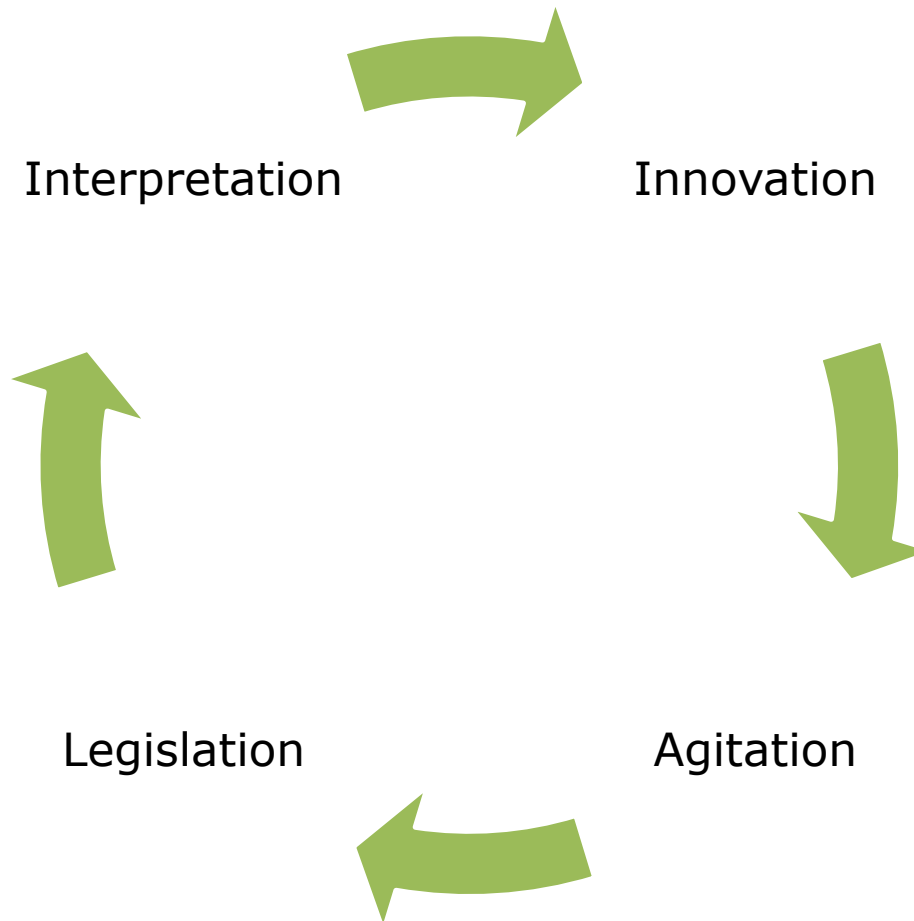


# Computer software in the UK

- No definition of invention
- Exclusion for computer programs as such
- Four-step *Aerotel* test – *Aerotel/Macrossan*
- Look at the task the computer is programmed to do



# Where are we heading?





A man in a white dress shirt and dark tie is holding a transparent sheet in front of his face. The sheet is slightly tilted and has the word "Questions?" written on it in a bold, green, sans-serif font. The man's face is partially obscured by the sheet, and he is looking directly at the camera with a neutral expression. The background is a plain, light-colored wall.

**Questions?**