

Distinguish “Smart Contract” From Abstract Idea To Pass Blockchain Patentability Scrutiny

“Smart contracts are often mentioned in blockchain-themed patent applications and recited in claims. However, Examiners without a thorough understanding of this concept or unfamiliar with blockchain technology often equate smart contracts with legal or commercial contracts stored on blockchains. As a result, the Examiners may find claims directed to merely applying the blockchain technology to execute legal or commercial contracts, for example, as part of a commerce system, like hedging,” write Yunlai Zha and Weiguo (Will) Chen in *The National Law Review*.

“Without detailed explanations of ‘smart contract’ set forth in the specification, patent prosecutors may find themselves in an uphill battle against the abstract idea finding. What makes it worse is that several mainstream online sources often explain ‘smart contract’ in a narrow sense or an incorrect way, from where Examiners may have looked up and gathered an impression.”

Read the post.