Ruling may make it hard to patent business process

WASHINGTON - The appeals court that handles patent cases set out new rules that may make it harder to obtain protection for inventions on ways of doing business and software.

The US Court of Appeals for the Federal Circuit yesterday rejected a Philadelphia man's attempt to obtain a patent on a way to buy or sell energy at a fixed price based on the expected weather for a season. The court said patents on business methods must either be connected to a machine or must "transform" an item from one state to another.

The decision is a victory for companies including Microsoft Corp. and International Business Machines Corp. who had urged the court to narrow the standard for the patents. The decision puts the United States closer to the standard in Europe, which requires that software have a technical link to be patented.

"This brings us much more in the mainstream," said William Lee of Wilmer Cutler in Boston, who argued for the more-restrictive standard on behalf of the Financial Services Roundtable, representing Bank of America Corp. and Citigroup Inc.

Lee predicted it could mean more litigation because companies accused of infringing business-method patents have "new ammunition" to challenge them.

Among those arguing for maintaining broad protection were consulting company Accenture Ltd., appliance maker Royal Philips Electronics NV, and Regulatory DataCorp Inc., a company set up by Goldman Sachs Group Inc. and Bain Capital LLC to develop ways to detect suspicious financial transactions. Yahoo Inc. urged caution in imposing strict requirements.

The US Patent and Trademark Office can grant patents to machines, manufactured items, compositions of matter such as drug compounds, or processes. □