

RECENT DEVELOPMENTS AT ITC

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Important Developments in 2016

- Section 101 patentability challenges at the ITC
- ITC's accelerated disposition programs
 - 100-day Early Disposition Program
 - Expedited procedures for modifications and advisory opinions regarding new and re-designed products
- ITC's jurisdiction over electronic transmissions in wake of *Clear Correct v. ITC*
- PTAB proceedings and ITC investigations

Section 101 Overview

- **35 U.S.C. § 101** : Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
- Judicial Exceptions:
 - Laws of Nature
 - Natural Phenomenon
 - *Abstract Ideas*

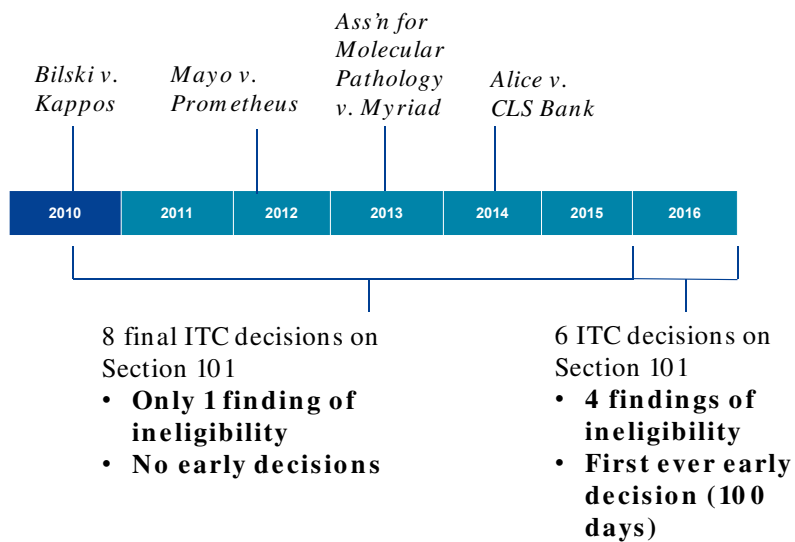
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Section 101 Overview

- *Bilski*
 - Preemption
 - Effective grant of a patent monopoly over an abstract idea
- *Mayo*
 - Abstract idea can be patentable if the claims recite an inventive concept
- *Alice*
 - Formalized the two-step framework
 - STEP 1: Claims directed towards patent-ineligible judicial exception
 - STEP 2: If so, do the claims have an inventive concept to “integrate the building blocks into something more.”
 - Generic computer implementation not inventive

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Section 101 Patentability Challenges at ITC



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ITC Section 101 decisions in 2016

- *Network Devices*, Inv. 944 (validity upheld)
- *Light-Emitting Diode Products*, Inv. 947 (validity upheld)
- *Activity Tracking Devices* (Jawbone v. Fitbit), Inv. 963 (patents found invalid)
- *Wearable Activity Tracking Devices* (Fitbit v. Jawbone), Inv. 973 (certain patent claims found invalid)
- *Automated Teller Machines*, Inv. 972 (certain patent claims found invalid)
- *Portable Electronic Devices*, Inv. 994 (patent found invalid in 100-day proceeding)

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