

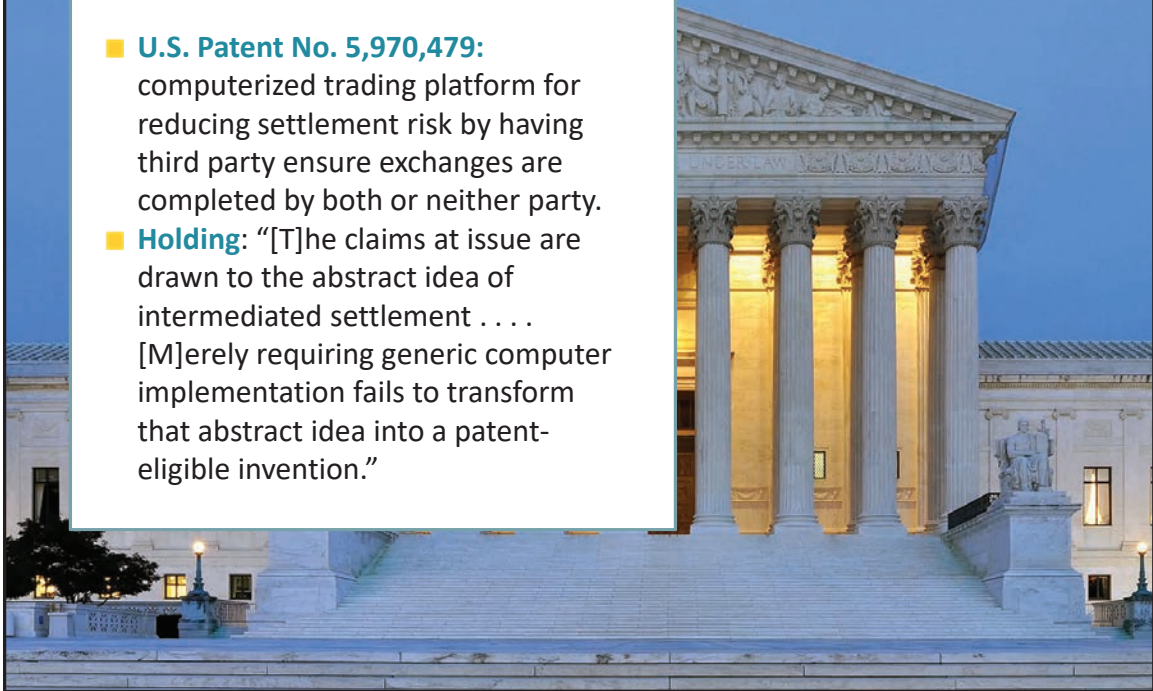
**2018 Section 101 Update**  
Steve R. Borgman & Janice L. Ta

**Overview**

- *Alice Corp. v. CLS Bank*
- Decisions Finding Patent Eligibility
  - *Finjan v. Blue Coat Systems*
  - *Core Wireless v. LG Electronics*
  - *Exergen Corp. v. Kaz USA*
  - *Vanda Pharmaceuticals v. Aventisub*
- Decisions Finding Patent Ineligibility
  - *Berkheimer v. HP*
  - *Aatrix Software v. Green Shades Software*
  - *BSG Tech. v. Buyseasons*
- Takeaways
- Appendices
  - Appendix A: 2017 Section 101 Update
  - Appendix B: 2016 Section 101 Update



- **U.S. Patent No. 5,970,479:**  
computerized trading platform for reducing settlement risk by having third party ensure exchanges are completed by both or neither party.
- **Holding:** “[T]he claims at issue are drawn to the abstract idea of intermediated settlement . . . . [M]erely requiring generic computer implementation fails to transform that abstract idea into a patent-eligible invention.”



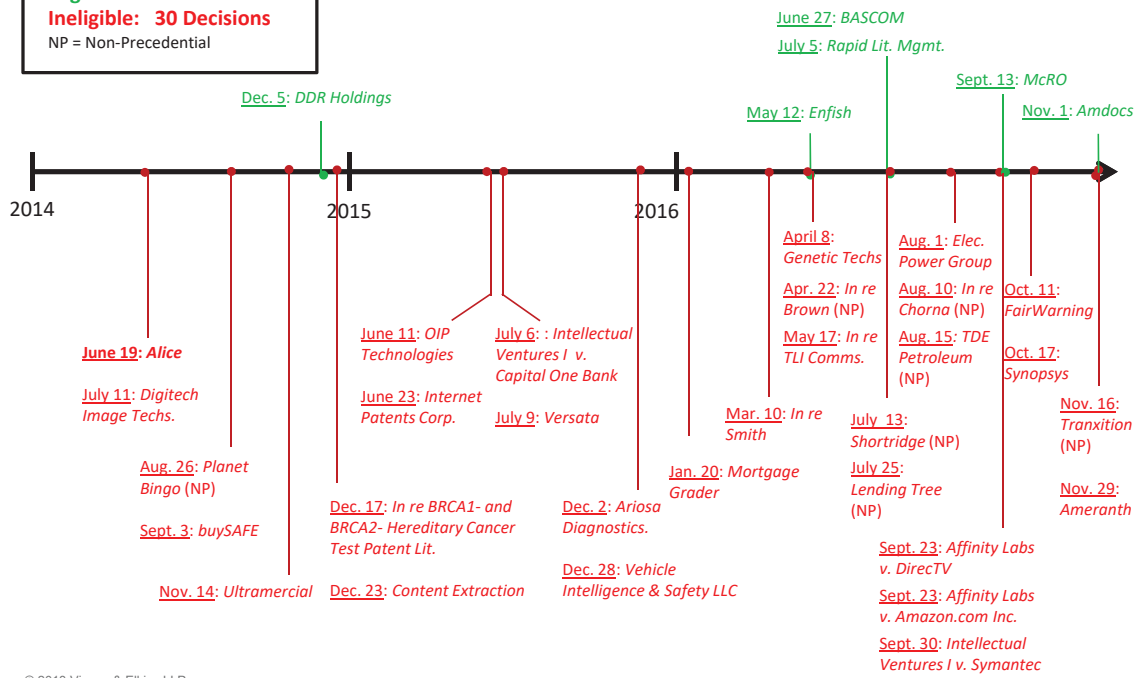
- **Step One** – Are the claims “directed to” one of the patent-ineligible “concepts” like “laws of nature, natural phenomena, and abstract ideas.”
- **Step Two** – “Simply appending conventional steps, specified at a high level of generality” is not “enough” to supply an inventive concept. “[C]laims in *Diehr* were patent eligible because they improved an existing technological process, not because they were implemented on a computer.”



# Federal Circuit § 101 Decisions 2014 – 2016



**Eligible: 6 Decisions**  
**Ineligible: 30 Decisions**  
 NP = Non-Precedential

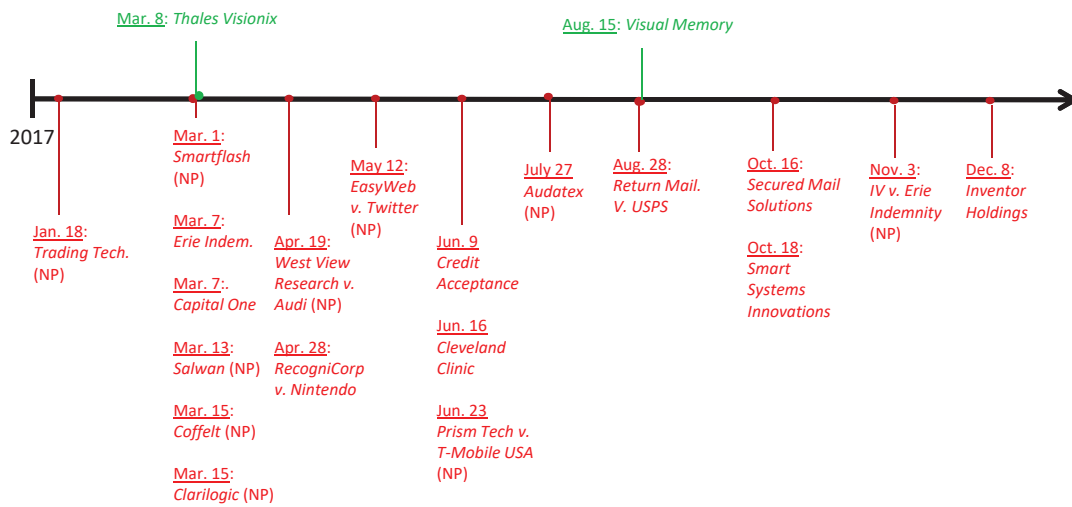


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# Federal Circuit § 101 Decisions 2017



**Eligible: 2 Decisions**  
**Ineligible: 19 Decisions**  
 NP = Non-Precedential



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First appeared as part of the conference materials for the  
23<sup>rd</sup> Annual Advanced Patent Law Institute session  
"Section 101 Update"