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Section 101 and Drafting Implications: Lifesciences**Robert L. Stoll**

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Overview of §101

- Four Main Sections of 35 USC That Block Patentability
 - §101: Patentable subject matter
 - §102: Novelty
 - §103: Non-obviousness
 - §112: Written description, enablement, indefiniteness
- §101 is A Broad Filter
 - Sometimes decided early in litigation, thereby ending litigation quickly
 - Sometimes used by defendant to challenge patent used in litigation

Overview of §101

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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.

Supreme Court's Judicial Exceptions: Laws of Nature, Natural Phenomena, & *Abstract Ideas*

- Policy Rationale: Avoid Pre-emption
 - DO NOT Preempt use of the "basic tools of scientific & technological work"

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Alice Corp. v. CLS Bank U.S. Supreme Court

- **Issue:** Is a computer-implemented scheme for mitigating settlement risk (patent eligible subject matter)
- **Unanimous Decision** (June 19, 2014): NO!
- **Holding:** An intermediated settlement is an **abstract idea**, and merely requiring generic computer implementation fails to transform the claims to eligible subject matter.

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