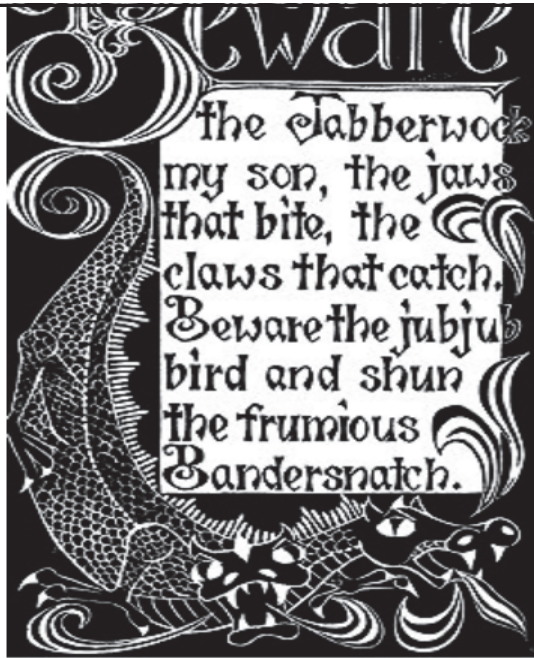




Alice at 6: Section 101 Year in Review

Steve R. Borgman, Kilpatrick Townsend

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Overview

- *Alice v. CLS Corp.*
- *Koninklijke KPN N.V. v. Gemalto M2M GMBH*
- *Boehringer Ingelheim Pharmaceuticals, Inc. v. Mylan Pharmaceuticals Inc.*
- *Ericsson v. TCL*
- *CardioNet v. InfoBionic*
- *Uniloc v. LG*
- *XY LLC v. Trans Ova*
- *American Axle & Mfg., Inc. v. Neapco Holdings LLC*
- *Illumina, Inc. v. Ariosa Diagnostics, Inc.*
- Appendices
 - *Appendix A: 2019 Section 101 Update*
 - *Appendix B: 2018 Section 101 Update*
 - *Appendix C: 2017 Section 101 Update*
 - *Appendix D: 2016 Section 101 Update*

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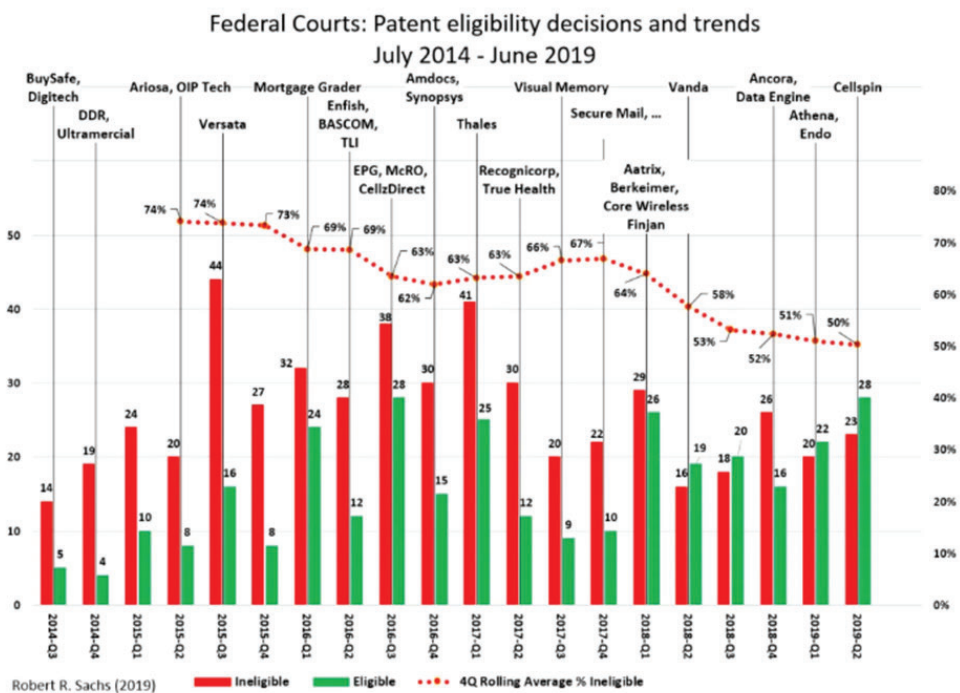
Alice Corp. v. CLS Bank Int'l (June 19, 2014)

- **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.”

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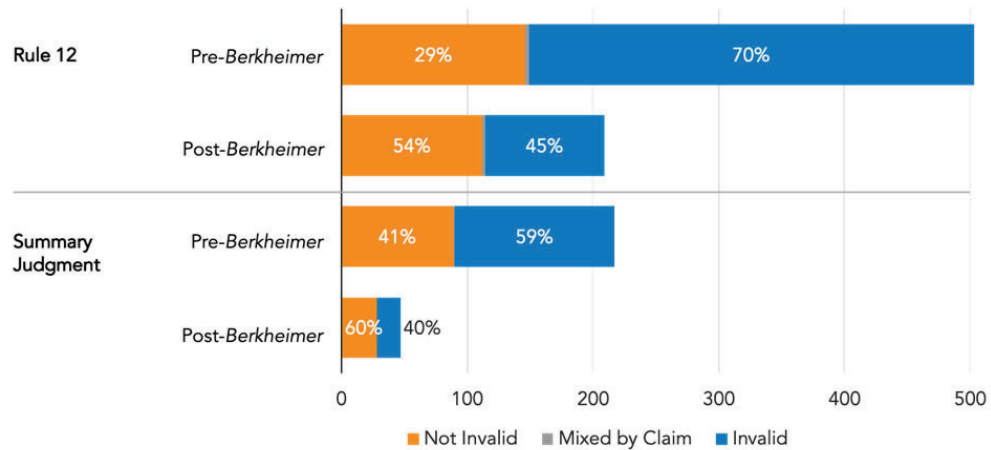
Bilski Blog: Post-Alice Data



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RPX Corp: Patents Invalidated Before and After *Berkheimer*



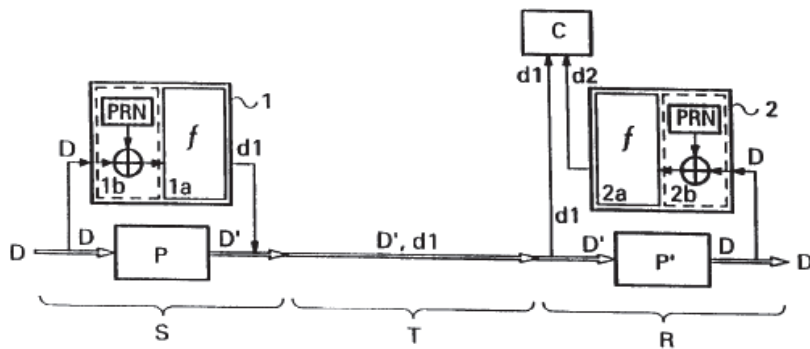
"Patents Invalidated Under *Alice* Before and After *Berkheimer* by Procedural Stage" by RPX, <https://www.rpxcorp.com/intelligence/blog/q2-in-review-alice-reined-in-as-invalidation-rate-drops-while-patent-litigation-picks-up/>.

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Koninklijke KPN N.V. v. Gemalto M2M GMBH, 942 F.3d 1143 (Nov 15, 2019)

U.S. Patent No. 6,212,662: Device for data transmission with transmission error checking. The error detection function varies with time and/or the data being transmitted, such as by assigning a variation value to a data packet index.



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25th Annual Advanced Patent Law Institute session
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