

UNITED STATES
PATENT AND TRADEMARK OFFICE



1

How did *Alice Corp. v. CLS Bank Int'l* impact patent examination?

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2

What's the issue?

- Business leaders, legal professionals, and scholars have expressed deep concern about the impacts of the 2014 Supreme Court ruling in *Alice Corp. v CLS Bank Int'l*.
- Many believe the SCOTUS ruling significantly increased legal uncertainty surrounding the patentability of the key technologies that are part of the 4th Industrial Revolution, including those related to artificial intelligence.

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3

3

Economic implications

- If true, increased legal uncertainty in patent rights can have significant and detrimental effects on economic outcomes including:
 - Lowering the expected value of patents
 - Decreasing ex-ante incentives to invest in innovation
 - Reducing transactions involving technologies (e.g. licensing)
 - Limiting entry into new markets

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4

4

Alice Corp. v. CLS Bank Int'l

(referred to simply as *Alice* for convenience)

- The 2014 Supreme Court ruling had the following broad effects:
 - Extended the scope of the two-part test to patent eligibility for inventions potentially falling under the “abstract ideas” judicial exception (e.g. business method and software-related inventions)
 - Set a higher standard (or threshold) of patentability, meaning the Court in *Alice* clarified that a general purpose computer implementation alone was not enough
 - Created ambiguity without providing additional clarity

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5

5

Why increased uncertainty?

- The source is:
 - The ambiguity of the language in the two-part rule for evaluating patentability.
- The words and phrases of the two-part rule can be reasonably interpreted in many ways, and the interpretive choice of any single person cannot be predicted with certainty.
 - This uncertainty is magnified as more and more people apply their viewpoints on the meaning of the words and phrases.

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6

6

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