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Adjusting to *Alice*
USPTO patent examination outcomes after *Alice*
Corp. v. CLS Bank International

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OFFICE OF THE CHIEF ECONOMIST
IP DATA HIGHLIGHTS

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UNITED STATES
PATENT AND TRADEMARK OFFICE



Adjusting to *Alice*

USPTO patent examination outcomes after *Alice Corp. v. CLS Bank International*

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KEY FINDINGS

- The likelihood of receiving a first office action with a rejection for patent-ineligible subject matter increased by 31% in the 18 months following the U.S. Supreme Court decision in *Alice Corp. v. CLS Bank International* in 33 “*Alice*-affected” technology areas.
- For these technologies, uncertainty in patent examination — measured as variability in patent subject matter eligibility determinations across examiners in the first action stage of examination — increased by 26% in the 18 months following the *Alice* decision.
- One year after the United States Patent and Trademark Office issued its January 2019 Revised Patent Subject Matter Eligibility Guidance (2019 PEG), the likelihood of *Alice*-affected technologies receiving a first office action with a rejection for patent-ineligible subject matter had decreased by 25%.
- Uncertainty in patent examination for *Alice*-affected technologies decreased by 44% in the 12 months following the issuance of the 2019 PEG.

¹ Any inquiries regarding this publication should be sent to economics@uspto.gov. Supplementary materials for this report are available at www.uspto.gov/ip-policy/economic-research/publications/reports.

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"Section 101: Impacts of the New Guidelines on Patent Subject Matter Eligibility and
Federal Circuit Decisions"