



Alice Year in Review 2018-2019

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Welcome to My Nightmare: Section 101 Year in Review

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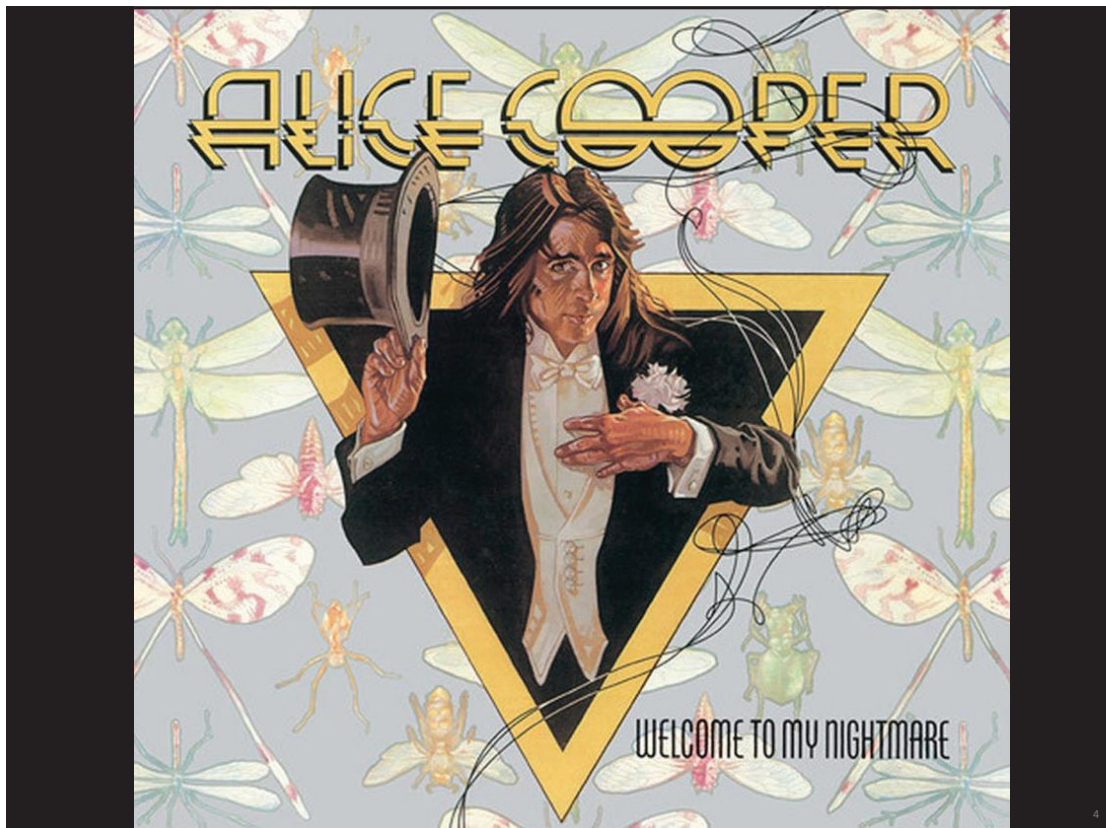
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Overview

- Welcome to my Nightmare: *Alice Corp. v. CLS Bank*
- Billion Dollar Babies: Software-Based Patents
- Clones (We're All): Life-Science Patents
- Raise Your Fist & Yell: Federal Circuit
- School's Out
- Appendices
 - *Appendix A: 2018 Section 101 Update*
 - *Appendix B: 2017 Section 101 Update*
 - *Appendix C: 2016 Section 101 Update*

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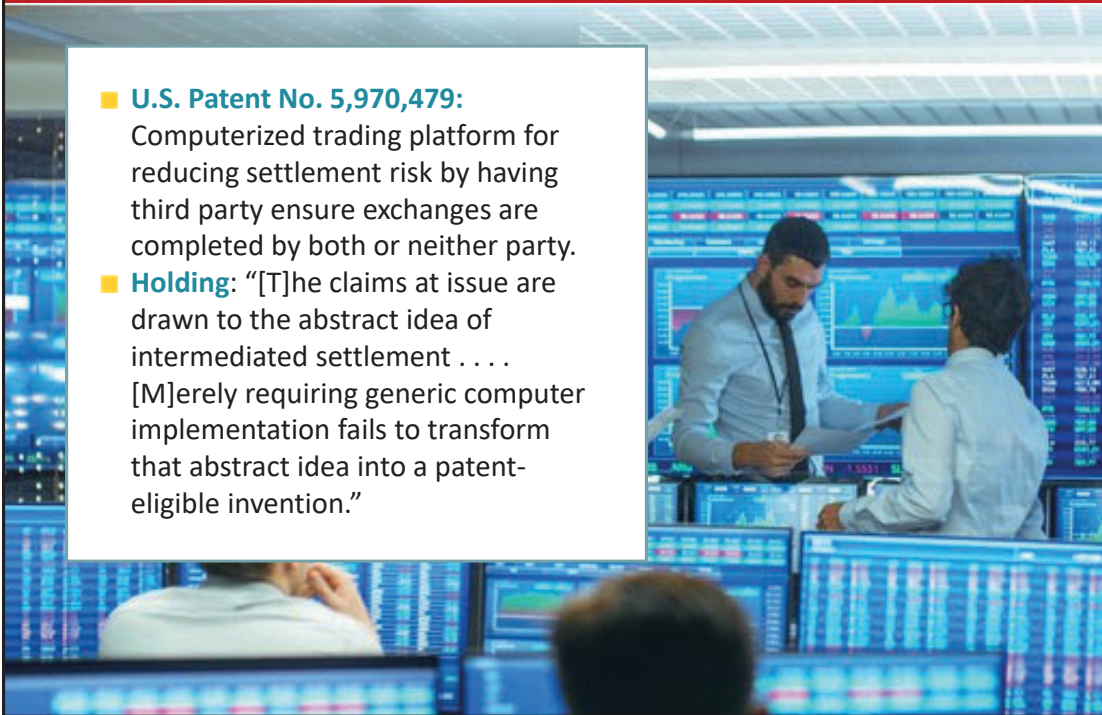


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Alice Corp. v. CLS Bank Int'l (June 19, 2014)

- **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.”



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Alice/Mayo Two-Step Framework



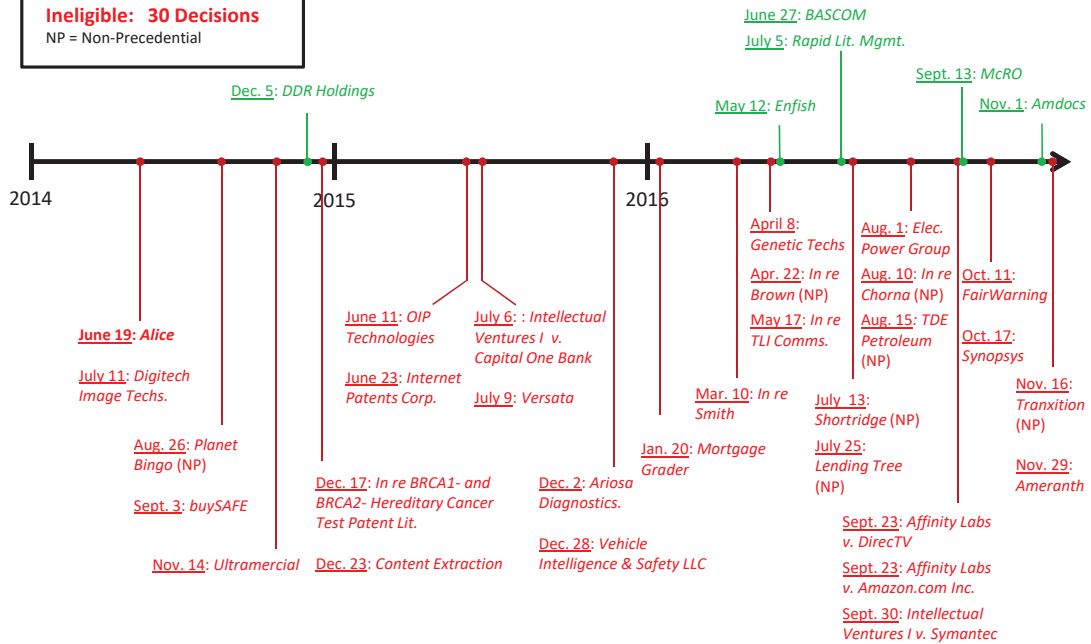
- **Step One** – Are the claims “directed to” one of the patent-ineligible “concepts” like “laws of nature, natural phenomena, and abstract ideas.”
- **Step Two** – “Simply appending conventional steps, specified at a high level of generality” is not “enough” to supply an inventive concept. “[C]laims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

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Federal Circuit § 101 Decisions 2014 – 2016

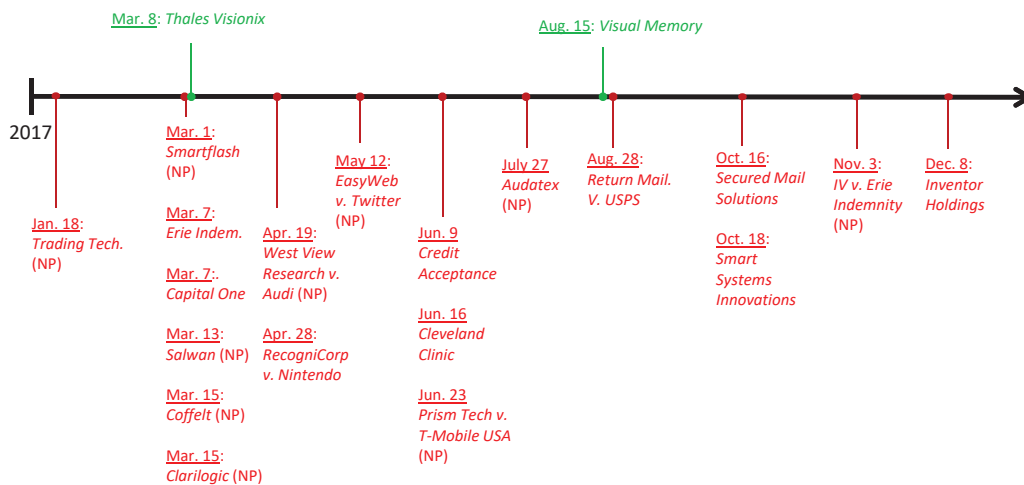
Eligible: 6 Decisions
 Ineligible: 30 Decisions
 NP = Non-Precedential



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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

24th Annual Advanced Patent Law Institute session

"*Alice* at Five: Section 101 Update"