Alice at 6: Section 101 Year in Review

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1

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 & Mfrg., 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_
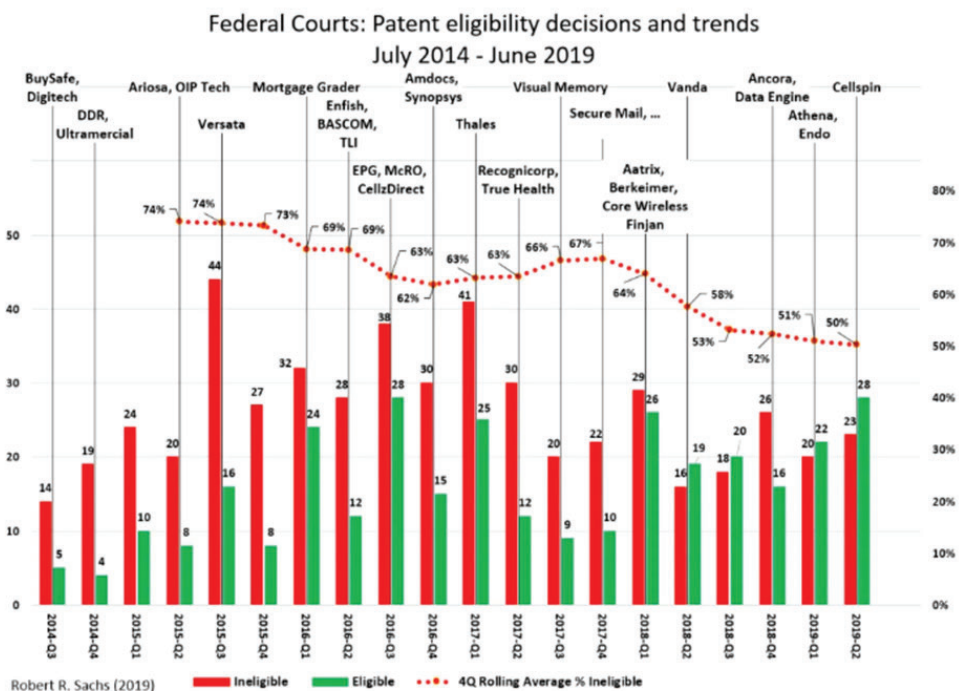   - _Appendix D: 2016 Section 101 Update_

2

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."
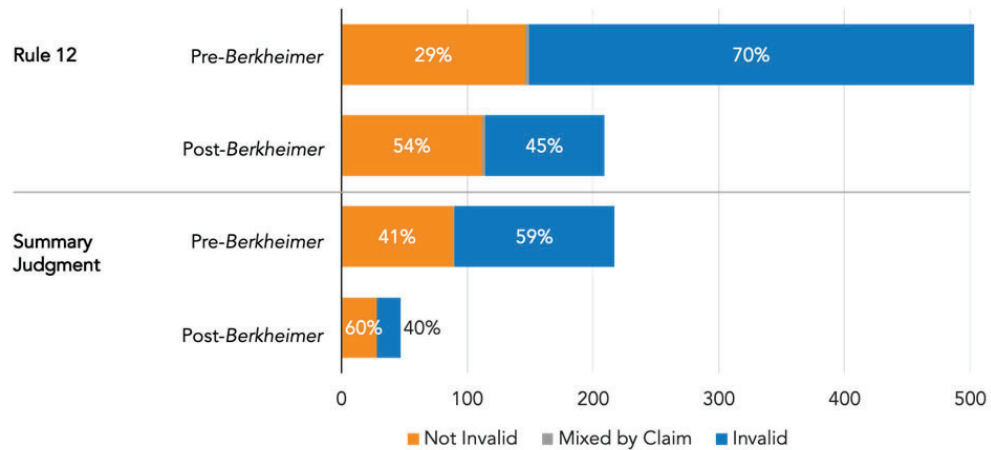
3

Bilski Blog: Post-*Alice* Data

Federal Courts: Patent eligibility decisions and trends
July 2014 - June 2019

Robert R. Sachs (2019)   ■ Ineligible   ■ Eligible   •••• 4Q Rolling Average % Ineligible

4

RPX Corp: Patents Invalidated Before and After *Berkheimer*

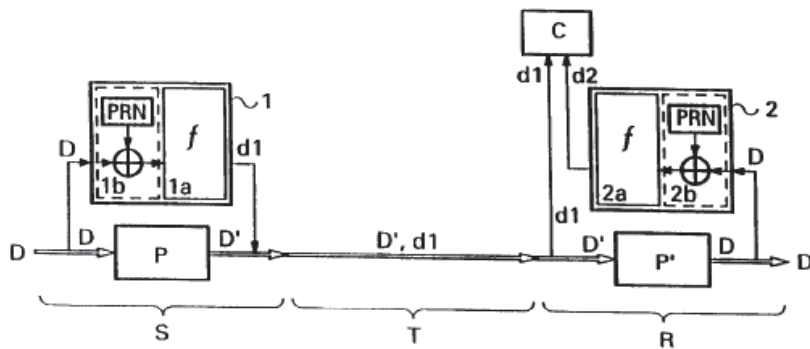|		Not Invalid	Invalid
Rule 12	Pre-*Berkheimer*	29%	70%
	Post-*Berkheimer*	54%	45%
Summary Judgment	Pre-*Berkheimer*	41%	59%
	Post-*Berkheimer*	60%	40%

Legend: Not Invalid ■ Mixed by Claim ■ Invalid

"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/.

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.

Title search: Section 101 Update: Alice at Six

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"Section 101 Update: *Alice* at Six"