ALICE CORP. PTY. LTD. v. CLS BANK INT'L, Appeal No. 13-298 (U.S. June 19, 2014). Delivered by Thomas. Appealed from Fed. Cir. (*en banc*).

Background:

The background of this case is discussed in our case summary for the Federal Circuit's *en bank* decision, from which Alice petitioned for certiorari.

Issue/Holding:

Did the Federal Circuit err in finding Alice's claims patent-ineligible under the judicially-created "abstract idea" exception to patent eligibility. No, affirmed.

Discussion:

The Supreme Court applied the two-step analysis set forth in its *Mayo* decision to determine whether the claims at issue were directed to a patent-ineligible "abstract idea" (or one of the other patent-ineligible concepts). The first step in the analysis is determining whether the claims at issue are directed to an abstract idea. If the claims are determined to be directed to an "abstract idea," the second step is determining whether the claims recite additional elements constituting an "inventive concept" that is sufficient to "transform" the abstract idea into a patent-eligible application.

Regarding the first step, the Court characterized abstract ideas as including an idea of itself and a principle in the abstract, such as a fundamental truth, an original cause, and a motive. The Court did not provide any bright-line rule or test for determining whether a claim is directed to an abstract idea. Instead, by analogizing primarily to the claims at issue in *Bilski*, the Court found that the concept of intermediated settlement is also "a fundamental economic practice long prevalent in our system of commerce," and "a building block of the modern economy." Based on these findings, the Court concluded that intermediated settlement, like *Bilski*'s hedging, is an abstract idea.

Regarding the second step, the Court again provided no bright-line rule or test for determining when a transformative inventive concept is present, and compared the claims at issue to the claims at issue in the Court's prior decisions. The Court concluded that the addition of generic computer components in Alice's method claims was no more than adding the words "apply it with a computer," which the Court likened to combining the ineffective addition of "apply it" in *Mayo* with the ineffective "limitation to a particular technological environment" of *Bilski*.

The Court also determined that Alice's other independent non-process claims directed to either a computer system or a computer-readable medium (*Beauregard*-type claim) were patent-ineligible for the same reasons as the process claims. In particular, the Court determined that "none of the hardware recited by the system claims offers a meaningful limitation beyond generally linking the use of the method to a particular technological environment, that is, implementation via computers," and thus "the system claims are no different from the method claims in substance."

Justices Sotomayor, Ginsburg, and Breyer joined in a brief concurring opinion that additionally opines that all business methods should be patent ineligible under §101.

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