KILPATRICK TOWNSEND

5 KEY TAKEAWAYS

Eligibility-Rejection Trends: Within and Beyond Business-Method Art Units

Kilpatrick Townsend attorney Kate Gaudry recently presented on “Eligibility-Rejection Trends: Within and Beyond Business-Method Art Units” as part of the Landslide Webinar Series.

Key takeaways from Dr. Gaudry’s presentation include:

1. *Alice Corp. v. CLS Bank Int’l* was issued in 2014 and held multiple business-method patents to be invalid under § 101. Much attention was given to the plummeting allowance rates that followed in the business-method art units. While eligibility rejections remain extremely prevalent, allowance rates are now nearing creeping higher.

2. Very similar trends were observed within the Bioinformatics art unit (1631), though those trends received far less attention.

3. Examination in Technology Center (TC) 2100 (Computer Architecture and Software) seemed to have been nearly unaffected by *Alice*, despite its strong tie to software technologies. For example, TC 2100 is home to multiple art units examining artificial-intelligence applications.

4. Yet recently, TC 2100 is mirroring the strong shifts observed in the business-method art units years ago. For example, over 80% of the office actions in Q1 2018 for artificial-intelligence applications included an eligibility rejection.

5. The TC 2100 shifts appear to have been triggered by *Electric Power Group, LLC v. Alstom S.A.*, which held three TC 2100 patents to be invalid under § 101.

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