5 Key Takeaways | Hot Topics in Biopharma: From Enablement to Written Description, Section 101 Challenges, and The Patent Eligibility Restoration Act of 2023

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5 KEY TAKEAWAYS

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Kilpatrick Townsend recently held its semi-annual KTIPS (Kilpatrick Townsend Intellectual Property Seminar) in California. Firm attorneys led two days of interactive discussions with clients on the latest developments in intellectual property law and any impact on the legal and business landscapes, potential challenges and opportunities, possible legislative reforms, and more.

April Abele Isaacson and Yifan Mao's session, "**Hot Topics in Biopharma: From Enablement to Written Description, Section 101 Challenges and The Patent Eligibility Restoration Act of 2023**," provided an in-depth analysis of recent decisions related to enablement, written description, and patentability affecting the life sciences and other industries. This session offered a comprehensive understanding of the current legal framework, challenges, and potential legislative reforms.

Their 5 Key Takeaways from the discussion include:

1. **Enablement**: Remember a claim must be enabled across the full scope; the more you claim, the more you must enable.
2. **Enablement**: Expect significant hurdles are when claiming only by function; consider adding structural limitations to claims whenever possible.
3. **Written Description**: Disclose claimed subject matter explicitly! Implicit disclosure is not a sufficient written description.
4. **Patent Eligibility**: Bolster disclosure with non-conventional methods for preparation, detection, etc.; be aware of using the word "conventional," which may be used as an admission for patent ineligibility.
5. **SCOTUS and Legislative 101 Watch**: Will SCOTUS grant cert in *CareDx, Inc. v. Natera, Inc.* (whether a new and useful method for measuring a natural phenome-

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SCOTUS and Legislative 101 Watch: Will SCOTUS grant cert in *CareDx, Inc. v. Natera, Inc.* (whether a new and useful method for measuring a natural phenomenon that improves upon prior methods for measuring that very same phenomenon is patent eligible), and Patent Eligibility Restoration Act of 2023.

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