KILPATRICK TOWNSEND

4 KEY TAKEAWAYS

Section 101 Update: Alice at Six

Six years ago, the Supreme Court's *Alice* decision significantly changed the landscape for patent eligible subject matter. Kilpatrick Townsend's Steve Borgman recently joined other expert panelists at the 25th Annual Advanced Patent Law Institute to present an update on this year's patentable subject matter cases and other important developments.

Mr. Borgman's 4 key takeaways from the presentation, include:

1

The Federal Circuit continues to struggle with and remains divided by issues regarding patentable subject matter. See American Axle v Neapco. (July 31, 2020).

Recent cases suggest that the Federal Circuit may be moving towards more patent eligibility for life sciences patents. See Boehringer v Mylan (March 16, 2020); Cardionet v InfoBionic (April 17, 2020); and Illumina v Ariosa (August 3, 2020).

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Since Aatrix and Berkheimer were decided, the number of successful motions to dismiss and for summary judgment on patent eligibility have gone down.

Even patent claims that do not recite a law of nature may be struck down if they involve the application of one. See American Axle v Neapco (July 31, 2020).

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