

**United States Court of Appeals  
for the Federal Circuit**

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CLS BANK INTERNATIONAL,

*Plaintiff-Appellee,*

*and*

CLS SERVICES LTD.,

*Counterclaim-Defendant Appellee,*

*v.*

ALICE CORPORATION PTY. LTD.,

*Defendant-Appellant.*

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*Appeal from the United States District Court for the District of  
Columbia in case no. 07-CV-0974, Judge Rosemary M. Collyer*

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**BRIEF OF *AMICUS CURIAE*  
INTELLECTUAL PROPERTY OWNERS ASSOCIATION  
IN SUPPORT OF NEITHER PARTY**

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UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

*CLS Bank International v. Alice Corporation Pty. Ltd.*

2011-1301

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**CERTIFICATE OF INTEREST**

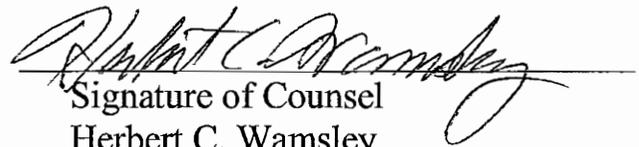
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1. The full names of every party or amicus represented by me is:  
**Intellectual Property Owners Association**
2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is: **NONE**
3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of *amicus curiae* represented by me are: **NONE**
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## STATEMENT OF INTEREST OF *AMICUS CURIAE*

The Intellectual Property Owners Association (IPO) is a trade association representing companies and individuals in all industries and fields of technology who own or are interested in intellectual property rights.<sup>1</sup> IPO's membership includes more than 200 companies and over 12,000 individuals who are involved in the association either through their companies or as inventor, author, executive, law firm, or attorney members. Founded in 1972, IPO represents the interests of all owners of intellectual property. IPO regularly represents the interests of its members before Congress and the USPTO and has filed amicus curiae briefs in this Court and other courts on significant issues of intellectual property law. This brief was approved by the IPO Board of Directors. A list of the IPO board members can be found in the Appendix.<sup>2</sup>

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<sup>1</sup> No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than the *amicus curiae* or its counsel made a monetary contribution to its preparation or submission. IPO files this brief in accordance with the order issued on October 9, 2012 which states that briefs may be filed without consent or leave of the Court.

<sup>2</sup> IPO procedures require approval of positions in briefs by a two-thirds majority of directors present and voting.

## INTRODUCTION

This case raises fundamental questions concerning the patent eligibility under section 101 of the Patent Act of computer-implemented inventions. In its order in this case dated October 9, 2012, this Court has invited *amici* to respond to two questions that crystallize that issue:

**a. What test should the court adopt to determine whether a computer-implemented invention is a patent ineligible “abstract idea”; and when, if ever, does the presence of a computer in a claim lend patent eligibility to an otherwise patent-ineligible idea?**

**b. In assessing patent eligibility under 35 U.S.C. § 101 of a computer-implemented invention, should it matter whether the invention is claimed as a method, system, or storage medium; and should such claims at times be considered equivalent for § 101 purposes?**

Without taking any position on the particular facts of this case, the IPO welcomes the opportunity to respond to those questions. In doing so, the IPO is not advocating any particular result with respect to the particular dispute in this case, but will endeavor to synthesize the holdings of the Supreme Court in a series of cases culminating in the recent decision in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, S. Ct. 1289(2012), as well as the decisions of this Court, to derive a set of principles and rules that will enable patent practitioners, the PTO and the courts to consistently and predictably determine the patent eligibility of computer-implemented inventions.

## SUMMARY OF ARGUMENT

The following is a brief summary of IPO's response to each of the tests set forth in the October 9, 2012 order:

- a. What test should the court adopt to determine whether a computer-implemented invention is a patent ineligible "abstract idea" and when, if ever, does the presence of a computer in a claim lend patent eligibility to an otherwise patent-ineligible idea?**

The issue of patent eligibility of computer-implemented inventions is crucially important to IPO's members and the broader U.S. economy. Nearly every sector of today's economy depends on innovations in computer-implemented technologies to improve products and services, increase productivity and efficiency, and strengthen competitiveness. As courts assess the patentability of computer-implemented inventions they should take care not to erect barriers to the patentability of new and useful technological advances that would threaten these benefits or impose a higher standard of patentability than is routinely applied to innovations in other fields of technology.

In recent years, both the Supreme Court and this Court have issued a number of rulings which seek to draw the line between patent ineligible abstract ideas and patent eligible implementations of such ideas. In attempting to provide further clarity, this Court should take care not to apply overly formalistic rules or tests whose application to computer-implemented inventions might exclude significant

new and useful inventions from patentability or encourage innovation in claim drafting rather than technology. IPO urges this Court to recognize a few basic principles and guidelines that the Patent and Trademark Office and the courts can apply in determining whether a computer-implemented invention is patentable.

The Court should recognize that all inventions, to some extent, rely on the basic laws of nature and abstract ideas, and that any invention that applies such laws and ideas to achieve a new and useful end is potentially eligible for patent protection. See, *Funk Bros. Seed Co. v. Kalo, Co.*, 333 U.S. 127, 130 (1948). Applying this principle to computer-implemented ideas, the existing precedent suggests two fundamental considerations that the courts should apply in determining whether a specific computer-implemented claim is directed to a new and useful application of an idea as opposed to the idea itself: (1) the computer implementation should be described with sufficient particularity to assure that the claim does not inappropriately preempt the ability of others to use the idea in ways not conceived of by the inventor; and (2) the computer implementation must be a significant contributor to achieving the intended result and not merely a “drafting effort” which merely describes the normal, conventional method to apply the idea.

**b. Should it matter whether the invention is claimed as a method, system, or storage medium; and should such claims at times be considered equivalent for § 101 purposes?**

It is often possible to claim what is essentially the same invention as a computer-implemented “method,” a “system,” or a storage medium containing data and/or computer instructions, and it should not matter in such cases which of those forms has been chosen by the drafter of the claim; selecting one form would inappropriately elevate form over substance. However, it is also true that, in many instances, the use of a particular form can be significant in defining the nature or scope of the invention. Thus, the fact that the same subject matter can sometimes be claimed using different claim forms does not justify ignoring explicit claim limitations when conducting a Section 101 analysis. Rather, the claim as a whole and all limitations, should be assessed.

## **ARGUMENT**

### **Point 1**

#### **Computer-Implemented Practical Applications of Otherwise Abstract Ideas Are Eligible for Patent Protection Under Section 101**

**A. A practical and useful application of an abstract idea or law of nature is patentable.**

The Constitution empowers Congress to “promote the Progress of Science and the Useful Arts....” U.S. Const. Art. 1, § 8. Congress has implemented this grant in Section 101 by identifying certain subject matter, the invention or discovery of which may merit a patent: “Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.” 35 U.S.C. § 101. The terms used in Section 101 have been used for over 200 years — since the beginning of the American patent system — to define the scope of patent eligible subject matter. Section 101’s description of patent eligible subject matter is broad, intended by Congress to “include anything under the sun that is made by man.” S. Rep. No. 82-1979 (1952); H.R. Rep. No. 82-1979 (1952). But it is also unquestionably not without boundaries. Most fundamentally, patent eligible subject matter cannot include “laws of nature, physical phenomena, and abstract ideas.” As early as *Le Roy v. Tatham*, 55 U.S. 156 (1852), the Supreme Court explained that “[a]

principle, in the abstract, is a fundamental truth; an original cause; a motive; these cannot be patented, as no one can claim in either of them an exclusive right.” *Id.* at 175. Since then, the principle that abstract ideas are unpatentable has repeatedly been confirmed.

Although the principle is longstanding, its application to specific claims has been challenging. As this Court recently noted, “when it comes to explaining what is to be understood by ‘abstract ideas’ in terms that are something less than abstract, courts have been less successful.” *MySpace, Inc. v. GraphOn Corp.*, 672 F.3d 1250, 1259 (Fed. Cir. 2012); *see also CLS Bank Int’l v. Alice Corp. Pty. Ltd.*, 685 F.3d 1341, 1361 (Prost, J., dissenting) (contending that current “ad-hoc” approaches create “confusion and uncertainty”); Donald S. Chisum, *Weeds and Seeds in the Supreme Court’s Business Method Patents Decision: New Directions for Regulating Patent Scope*, 15 *Lewis & Clark L. Rev.* 11, 14 (2011) (“[The] Section 101 abstract idea preemption inquiry can lead to subjectively-derived, arbitrary and unpredictable results. This uncertainty does substantial harm to the effective operation of the patent system.”).

Despite these challenges, however, it is clear that “a process is not ineligible simply because it contains a law of nature or a mathematical algorithm.” *Diamond v. Diehr*, 450 U.S. 175, 187 (1981) (internal quotation marks omitted). Instead, both the Supreme Court and this Court have indicated that an evaluation of the

patentability of a computer-implemented claim must focus on the substance of the claim as a whole.

As discussed below, there are a number of analytic tools—each derived from case law—that courts should look to in assessing patent eligibility. Key among these is the distinction between the underlying idea and a particular method or device for implementing it to accomplish a useful result. For example, in *Tilghman v. Proctor*, decided in 1880, the Supreme Court articulated the dividing line between eligible and ineligible subject matter as follows:

[The] claim of the patent is not for a mere principle. The chemical principle or scientific fact upon which it is . . . was not discovered by Tilghman. He only claims to have invented *a particular mode* of bringing about the desired chemical union between the fatty elements and water.

*Tilghman*, 102 U.S. 707, 729 (1880) (emphasis added). The Supreme Court drew the same distinction in its 1939 decision in *Mackay Radio*:

While a scientific truth, or the mathematical expression of it, is not a patentable invention, a novel and useful structure created with the aid of knowledge of scientific truth may be.

*Mackay Radio & Telegraph Co. v. Radio Corp. of America*, 306 U.S. 86, 94 (1939). And again in *Funk Brothers*, the Supreme Court decided in 1948:

He who discovers a hitherto unknown phenomenon of nature has no claim to a monopoly

of it which the law recognizes. If there is to be invention from such a discovery, it must come from the application of the law of nature to a new and useful end.”

*Funk Bros. Seed Co. v. Kalo Co.*, 333 U.S. 127, 130 (emphasis added).

In fact, this distinction is so well established in the precedents that the Supreme Court has stated that “[i]t is now commonplace that an application of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection.” *Diamond v. Diehr*, 450 U.S. 175, 187 (U.S. 1981) (citations omitted).

This same dichotomy was addressed again by the Supreme Court in its most recent decision on patent eligibility, in which the Court distinguished between ineligible claims to a law of nature itself and “patent eligible processes that *apply* natural laws.” (emphasis added). As explained by the Court:

The question before us is whether the claims do significantly more than simply describe [the law of nature]. To put the matter more precisely, do the patent claims add enough to their statements of the [law of nature] to allow the processes they describe to qualify as patent eligible processes that apply natural laws?

*Mayo Collaborative Services v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1297 (2012).

**B. The same principles should be applied to computer-implemented inventions as apply to other inventions implemented by machines**

Recognizing that a computer is nothing but a machine that is capable of being configured, either through hardware or software, to perform a wide variety of tasks, it becomes clear that the fundamental issues presented in this case are not significantly different from those arising in some of the earliest cases relating to the use of machines to perform tasks more efficiently than they could be performed by humans. In fact, as early as 1864, the Supreme Court upheld Samuel Morse’s claim for a “system of signs, consisting of dots and spaces, and of dots, spaces and horizontal lines” for manipulating a telegraph key in such a way as to produce a useful communication between two parties. *O’Reilly v. Morse*, 56 U.S. 62, 86 (1854). As an example of one of the earliest electronic communication protocols, Morse’s valid claim is not substantively different from many of the software implemented processes claimed by computer innovators in the Information Age.

These early cases also make it clear that a patent claiming the use of a machine to perform a new and useful task does not necessarily require that the machine itself be novel or specifically designed for that purpose. *Cf. Cochrane v. Deener*, 94 U.S. 780, 788 (1876) (“The machinery pointed out as suitable to perform the process may or may not be new or patentable; whilst the process itself may be altogether new, and produce an entirely new result.”). Indeed, section 100(b) of the Patent Act specifically defines the term patentable “process” to

include “a new use of a known process, *machine*, manufacture, composition of matter, or material.” (Emphasis Added,)

More recently, in *In re Alappat*, this Court held that claims directed to a computer running software that applied basic geometric principles to guide the intensity of pixel displays were patent eligible. *In re Alappat* 33 F.3d 1526, 1545 (Fed. Cir. 1994) (en banc). The computer-implemented invention described in *Alappat* was not a “disembodied mathematical concept” (i.e., an abstract idea) because the claim described a machine that was “programmed to perform *particular functions* pursuant to instructions from program software.” *Id.* at 1544-45 (emphasis added). More recently, this Court confirmed that innovations in software may constitute “functional and palpable applications in the field of computer technology” and therefore fall within the scope of Section 101. *Research Corp. Techs., Inc. v. Microsoft Corp.*, 627 F.3d 859, 868 (Fed. Cir. 2010).

Obviously, over the past half century, computer-implemented inventions have become vastly important to technological advancement. Because much of today’s scientific progress necessarily involves computers, courts should tread carefully in devising categorical rules that might preclude legitimate advances in the computer arts from being patentable. As this Court recently recognized, “modern computer technology offers immense capabilities and a broad range of utilities, much of which embodies significant advances that reside firmly in the

category of patent-eligible subject matter.” *Bancorp Servs., LLC v. Sun Life Assurance Co. of Canada*, 687 F.3d 1266, 1277 (Fed. Cir. 2012).

These advances involve not only physical computer “hardware,” but also the software that turns general purpose hardware into useful machines. Many of the functions historically performed by mechanical assemblies and virtually all of the functionality of hard wired electronic circuitry can be performed today through programmable devices. Most modern telephones, radios and other electronic devices are essentially computers with embedded but modifiable programs installed in non-volatile memory. Software has been described as “the new physical infrastructure of the information age” and should be accorded commensurate protection in the patent system. *Report to the President, “Information Technology Research: Investing in Our Future,”* President’s Information Tech. Advisory Comm. (PITAC), Nat’l Coordination Office for Computing, Info. & Comms. (1999).

Affording patent protection to computer software innovations advances the goals of the Patent Act. “[B]oth economic theory and practical experience suggest that the availability of patents for software promotes innovation by supplying (additional) incentives to inventors.” Julie E. Cohen and Mark A. Lemley, *Patent Scope and Innovation in the Software Industry*, 89 Cal. L. Rev. 1, 5 (2001); see also Bradford L. Smith and Susan O. Mann, *Innovation and Intellectual Property*

*Protection in the Software Industry: An Emerging Role for Patents*, 71 U. Chi. L. Rev. 241, 244 (2004) (“[P]atent protection for software provides a desirable form of protection for many forms of software innovation and may offer a more effective mechanism than either copyright or trade secret law for balancing incentives for innovation against the goals of interoperability and transparency.”)

These principles have been recognized by the decisions of this Court, which have consistently recognized that advances in computer technology are appropriate candidates for patent protection. For example in *Research Corporation Technologies, Inc. v. Microsoft Corp.* 627 F.3d 859 (Fed. Cir. 2010), this Court upheld the patentability of a claimed method “for rendering a halftone image of a digital image by comparing, pixel by pixel, the digital image against a blue noise mask” because the invention “presents functional and palpable applications in the field of computer technology.” *Id.* at 627 F.3d at 868. The Court further noted that “inventions with specific applications or improvements to technologies in the marketplace are not likely to be so abstract that they override the statutory language and framework of the Patent Act.” *Id.*; see also *Fort Props., Inc. v. Am. Master Lease, LLC*, 671 F.3d 1317, 1323 (Fed. Cir. 2012) (an invention that “itself involved advances in computer technology . . . [is] sufficient to qualify the claims for patent eligibility under § 101.”) (internal citation omitted).

In sum, it has been well established from the earliest days of patent jurisprudence that a method or system that permits or enables a machine to perform a new and useful task is eligible for patent protection and this principle applies to computers at least to the same extent as any other manmade devices.

**C. A claim for a computer-implemented abstract idea must describe the use of the computer with sufficient detail to avoid preempting other uses of the idea and the computer implementation must be a meaningful and significant element of the invention**

Although there is little controversy as to the patentability of advances in computer technology itself, the use of computers to implement ideas that would otherwise be deemed patent ineligible abstract ideas raises an additional issue: what is required to convert a claim from one that merely states a law of nature to one that provides a new and useful application of that idea? As the Supreme Court stated in *Prometheus*, “to transform an unpatentable law of nature into a patent eligible application of such a law, one must do more than simply state the law of nature while adding the words ‘apply it.’” *Prometheus*, 132 S. Ct. 1289, 1294 (2012). *See also Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012) (“Simply adding a ‘computer aided’ limitation to a claim covering an abstract concept, without more, is insufficient to render the claim patent eligible.”). However, the cases also make it clear that a computer-implemented invention will not be deemed a mere abstract idea if the computer implementation is described

with sufficient particularity to insure that the claim does not monopolize other uses of the idea that were not conceived of by the inventor.

The need for specificity can be traced to the Court's seminal and oft quoted decision in *O'Reilly v. Morse*, in which the Court held ineligible Morse's claim to the use of "electro magnetism, however developed for marking or printing intelligible characters, signs, or letters, at any distances." *O'Reilly v. Morse*, 15 U.S. 62, 112, stating:

"If this claim can be maintained, it matters not by what process or machinery the result is accomplished. For aught that we now know, some future inventor, in the onward march of science, may discover a mode of writing or printing at a distance by means of the electric or galvanic current, without using any part of the process or combination set forth in the plaintiff's specification. His invention may be less complicated -- less liable to get out of order -- less expensive in construction, and in its operation. But yet, if it is covered by this patent, the inventor could not use it, nor the public have the benefit of it, without the permission of this patentee."

*See, also, e.g. Prometheus*, 132 S. Ct. at 1294 ("[U]pholding the patents would risk disproportionately tying up the use of the underlying [abstract ideas or] natural laws, inhibiting their use in the making of further discoveries."); *In re Bilski*, 130 S. Ct. 3218, 3231 (2010) ("Allowing petitioners to patent risk hedging would preempt use of this approach in all fields, and would effectively grant a monopoly over an abstract idea.").

In its recent decision in *Prometheus*, the Supreme Court also made it clear that, in order to be effective in distinguishing a practical implementation from an abstract idea, the additional limitations must also be “meaningful,” and not merely “a drafting effort” that adds nothing of substance to the abstract idea itself. Thus, in that case, the Court held that claim limitations describing standard testing procedures that were so conventional and ordinary, both in themselves and in combination, that they contributed nothing of significance to the invention, and were insufficient to render the claims eligible for a patent.

These instructions add nothing specific to the laws of nature other than what is well-understood, routine, conventional activity, previously engaged in by those in the field. And since they are steps that must be taken in order to apply the laws in question, the effect is simply to tell doctors to apply the law somehow when treating their patients.

*Prometheus*, 132 S.Ct., 1289, 1299-1300.<sup>3</sup>

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<sup>3</sup> Importantly, the Supreme Court’s decision to disregard “conventional” techniques is fundamentally different from the application of Sections 102 and 103 Patent Act to reject claims that have been previously disclosed or obvious from all of the prior art that was in existence at the time of the filing. Rather, the examples provided by the Court suggest that these limitations are insufficient because they constitute either a necessary step in *any* application of the law of nature or are so ordinary and well-known as to amount to only a pretextual or trivial limitation on the effective scope of the claim.

Although the claims at issue in *Prometheus* did not involve computers, this Court has applied similar reasoning to computer-implemented inventions, requiring the computer-related elements of a claim be meaningful and significant as a key indicium of patent eligibility. For example, in *SiRF Technologies, Inc. v. International Trade Commission* this Court held claims patent-eligible where the computer technology involved was essential to the execution of the claims, such that they “could not be performed without the use of a GPS receiver.” 601 F.3d 1319, 1332 (Fed. Cir. 2010). As this Court explained, the addition of computing machinery meaningfully will establish eligibility when it “play[s] a significant part in permitting the claimed method to be performed, rather than function[ing] solely as an obvious mechanism for permitting a solution to be achieved more quickly, i.e., through the utilization of a computer for performing calculations.” *Id.* at 1333.

By contrast, in *Bancorp Services, LLC v. Sun Life Assurance Co. of Canada*, this Court rejected claims disclosing methods for administering and tracking the value of life insurance policies in separate accounts where the computer was not integral to the claimed methods. 687 F.3d. 1266, 1278. This Court first recognized that these claims did not “represent[] improvements to computer technologies in the marketplace.” *Id.* at 1279. Nor was the generic recitation of claim limitations such as a “calculator” or “digital storage” sufficient to effectuate a specific implementation. “To salvage an otherwise patent-ineligible process, a computer

must be *integral to the claimed invention*, facilitating the process in a way that a person making calculations or computations could not.” *Id.* at 1278 (emphasis added).

In contrast, if the claim describes a specific implementation of the idea by means of a computer, it is most likely directed to eligible subject matter. As the Federal Circuit explained in *In re Alappat* and subsequent cases, a claim that adequately describes such a specific implementation “is not a disembodied mathematical concept which may be characterized as an “abstract idea,” but rather a specific machine. . . .” 33 F.3d 1526, 1544 (Fed. Cir. 1994).

In analyzing whether computer-related limitations render otherwise abstract claims patent eligible, courts should take care to read the claim in its entirety. *Any* computer-related limitation can be distilled into a series of seemingly “old” or “conventional” steps, such as performance of arithmetic calculations, storing data, transmitting data, etc. Piecemeal interpretation of claims is improper because it can trivialize any computer implementation of an abstract idea, no matter how detailed or specific the implementation. Even if its individual components may seem ordinary, the combination, sequence and details of a computer based implementation of an idea may nevertheless be sufficiently significant to render it patent eligible. As the Supreme Court stated in *Diehr*:

It is inappropriate to dissect the claims into  
old and new elements and then to ignore the

presence of the old elements in the analysis. This is particularly true in a process claim because a new combination of steps in a process may be patentable even though all the constituents of the combination were well known and in common use before the combination was made. The “novelty” of any element or steps in a process, or even of the process itself, is of no relevance in determining whether the subject matter of a claim falls within the § 101 categories of possibly patentable subject matter.

*Diehr*, 450 U.S. 175 (1981)

## **Point 2**

### **There Should Be No Absolute Rule as to the Significance of the Form of a Claim in Assessing Patent Eligibility**

As noted above, it is not uncommon for persons drafting claims for computer-implemented inventions to define the invention in terms of the method steps performed by the computer, the system that implements those steps or the media on which the instructions and data necessary to implement the steps are stored. In such cases, there is no sound basis for treating these equivalent claims differently in assessing eligibility and to do so would inappropriately elevate form over substance.

This does not mean, however, that differences in claim language and claiming practice will always be irrelevant or inconsequential when determining the scope of the claimed subject matter; it is entirely possible that each of those aspects of a computerized process: the steps performed, the physical configuration

of the system and the nature and location of the storage media, may have a separate and independent significance to the claimed implementation and it would be entirely improper to ignore them. In assessing patent eligibility, as in other forms of validity, one must consider not only those elements that are “novel” or “inventive,” but whether all of the elements combined constitute a patentable invention

Accordingly, while the claim form is not dispositive in determining eligibility, this does not relieve courts of their obligation to carefully construe claim language or to consider the claim as a whole in determining whether it is directed to statutory subject matter. In particular, courts should take into account all limitations included by the applicant and should avoid basing the determination of eligibility on a dissection of claim elements or on the court’s subjective view of the “essence” or “heart” of the invention. Ultimately, it is the language of the claims alone that define the invention. *See Cont’l Paper Bag Co. v. E. Paper Bag Co.*, 210 U.S. 405, 419 (1908) (“the claims measure the invention”); *Aro Mfg. Co. v. Convertible Top Replacement Co.*, 365 U.S. 336, 345 (1961) (“There is no legally recognizable or protected ‘essential’ element, ‘gist’ or ‘heart’ of the invention in a combination patent.”).

In sum, claims that are, in fact, directed to the same subject matter should—regardless of claim form—be treated the same in assessing patent eligibility under

Section 101. But courts must be careful to consider the entire claim and may not ignore substantive differences between claims when analyzing the claimed subject matter for purposes of the eligibility analysis.

## CONCLUSION

Over the last 50 years, computers and other programmable devices have become the principal means to perform the type of functions that have historically been performed by many mechanical devices or hard-wired circuitry, and it is critical to preserve patent protection for inventors who contrive ways to harness the capabilities of computers to perform new and useful functions. Computer implemented inventions, like all technological advances, rely on fundamental laws of nature and abstract principles. Relying on fundamental laws of nature and abstract principles have never been and should not become, a barrier to patentability. So long as an invention claims a specific and practical implementation of computer technology to accomplish a new and useful goal, and complies with the fundamental requirements imposed by the courts on all inventions, it should be eligible for patent protection under section 101 of the Patent Act.

Respectfully submitted,

  
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# **APPENDIX**

## APPENDIX

### Members of the Board of Directors Intellectual Property Owners Association<sup>i</sup>

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Bernard J. Graves, Jr.  
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<sup>1</sup> IPO procedures require approval of positions in briefs by a two-thirds majority of directors present and voting.

**United States Court of Appeals  
for the Federal Circuit**  
CLS BANK v. ALICE CORPORATION, 2011-1301

**CERTIFICATE OF SERVICE**

I, John C. Kruesi, Jr., being duly sworn according to the law and being over the age of 18, upon my oath depose and say:

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December 7, 2012

  
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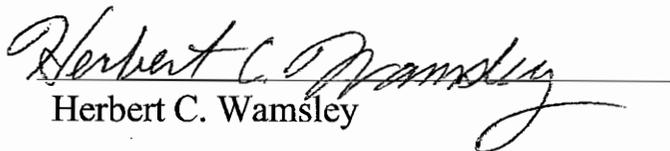
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Date: September 24, 2012

  
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