

VLP Partner David Thibodeau Quoted in the Law360 Article “Patents Are Surviving Challenges Under Alice More Often”

VLP Partner David Thibodeau was quoted in the *Law360* article “Patents Are Surviving Challenges Under Alice More Often.”

The article presented notable trends with respect to how patents are faring against the Alice test in federal court. The 2014 landmark Supreme Court decision, *Alice Corp. v. CLS Bank International*, held that abstract ideas implemented on a computer are not patentable under Section 101 of the Patent Act and laid out a two-part test for determining patent eligibility. The article noted that the ruling is considered among the most important patent decisions in recent history.

The article reported that federal district courts have produced more than 400 decisions involving challenges to patents under Alice, noting that the earliest of these decisions invalidated a number of patents. The author added that some of the newer patents now involved in litigation were likely in the examination process at the U.S. Patent and Trademark Office after the Alice decision, which could mean they’re better prepared for such attacks in court.

Mr. Thibodeau commented, “The claims coming out of the patent office are likely narrower, which makes them less likely to be attacked under 101.”

Mr. Thibodeau also added that it is likely a patent granted in the last three or four years will have claims that are less abstract. “Eventually this trend should lead to fewer patents being knocked out at district court,” he said.

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