

Subject Matter Eligibility Court Decisions (Formerly Appendix 3)

The tables in this appendix provide further information on selected eligibility cases from the U.S. Supreme Court and the U.S. Court of Appeals for the Federal Circuit. Examiners may find this information useful in identifying those applications that may require a detailed eligibility analysis during examination. It should be noted that the courts' analyses in these decisions do not necessarily employ the *Alice Corp.-Mayo* eligibility framework, which is explained in the *2014 Interim Guidance on Subject Matter Eligibility* (2014 IEG), because most of the cases were decided prior to *Alice Corp.*

For each case (arranged by court and in reverse chronological order), the tables provide the following information:

- (1) a legal citation and, if available, a parallel citation to the U.S.P.Q reporter,
- (2) the U.S. patent number(s) or application number(s) at issue,
- (3) the subject matter of the patent/application,
- (4) whether the claims were eligible or ineligible (note that a finding applies to all claims in the patent/application unless otherwise noted),
- (5) the USPC/CPC classification, and
- (6) a notation of where the case is discussed (if applicable) in the 2014 IEG and/or the eligibility examples. An index to the eligibility examples is provided in Appendix 2.

It is important to remember that each case turns on its own facts. Therefore, the mere fact that a pending application may be similarly classified to a patent or an application in this chart, or have similar subject matter, does not necessarily indicate an eligibility issue. Identification of a judicial exception in a claim merely indicates further analysis for eligibility should be conducted.

The chart will continue to be updated with Federal Circuit precedential decisions, non-precedential decisions with written opinions and non-precedential decisions originating from the Patent Trial and Appeal Board. While non-precedential decisions are not binding precedent on the USPTO, the written opinions provide guidance and persuasive reasoning as outlined in Fed. Cir. R. 32.1(d). Subject matter eligibility affirmances under Fed. Cir. R. 36 will no longer be added to the chart because they provide little benefit to examiners.

NOTE: This appendix is an updated version of the case summary chart that was used in conjunction with the Abstract Idea Workshop Training. Legal citations and more decisions have been added since the training.

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Supreme Court Decisions

Case Name & Citation	Patent(s) or App. No(s).	Title or General Subject Matter	Judicial Conclusion	Classification (USPC & CPC)	Where Discussed
<i>Alice Corp. Pty. Ltd. v. CLS Bank Int'l</i> , 573 U.S. __, 134 S. Ct. 2347, 110 U.S.P.Q.2d 1976 (2014).	5,970,479 6,912,510 7,149,720 7,725,375	Formulation and trading of risk management contracts - <i>Methods, systems, computer readable media</i>	Ineligible '479: asserted claims 33-34. '510, '720, and '375: all claims.	705/37 G06Q10/06	2014 IEG in Section III
<i>Association for Molecular Pathology v. Myriad Genetics, Inc.</i> , 569 U.S. __, 133 S. Ct. 2107, 106 U.S.P.Q.2d 1972 (2013).	5,747,282 5,837,492 5,693,473	Breast and ovarian cancer susceptibility gene - <i>Products</i>	Ineligible '282: claims 1, 5-6 '473: claim 1 '492: claims 1 & 6 Eligible '282: claims 2 & 7 '492: claim 7 (other claims from these patents were addressed in <i>Myriad</i> CAFC and <i>Ambry Genetics</i>)	435/69.1 C07K14/4703	2014 IEG in Section III
<i>Mayo Collaborative Svcs. v. Prometheus Labs.</i> , 566 U.S. __, 132 S. Ct. 1289, 101 U.S.P.Q.2d 1961 (2012).	6,355,623 6,680,302	Optimizing drug therapeutic efficacy for treatment of immune-mediated gastrointestinal disorders - <i>Methods</i>	Ineligible	514/45 G01N33/94	2014 IEG in Section III
<i>Bilski v. Kappos</i> , 561 U.S. 593, 95 U.S.P.Q.2d 1001 (2010).	08/833,892	Energy Risk Management Method - <i>Methods</i>	Ineligible	705/412	2014 IEG in Section IV
<i>Diamond v. Diehr</i> , 450 U.S. 175, 209 U.S.P.Q. 1 (1981)	4,344,142	Direct Digital Control of Rubber Molding Presses - <i>Methods</i>	Eligible	700/198 B29C35/0288	2014 IEG in Section III, Example 25
<i>Diamond v. Chakrabarty</i> , 447 U.S. 303, 206 U.S.P.Q. 193 (1980).	4,259,444	Microorganism having plasmids and preparation thereof - <i>Product and methods</i>	Eligible	435/479 C12N15/00	2014 IEG in Section III
<i>Parker v. Flook</i> , 437 U.S. 584, 19 U.S.P.Q. 193 (1978).	05/194,032	Method for updating alarm limits - <i>Methods</i>	Ineligible	N/A	2014 IEG in Section III, Example 24

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<i>Gottschalk v. Benson</i> , 409 U.S. 63, 175 U.S.P.Q. 673 (1972).	04/315,050	Conversion of numerical information - <i>Methods</i>	Ineligible	N/A	2014 IEG in Section IV
<i>Funk Brothers Seed Co. v. Kalo Inoculant Co.</i> , 333 U.S. 127, 131 (1948)	2,200,532	Bacterial inoculant for leguminous plants - <i>Products</i>	Ineligible	C05F 11/08	
<i>Mackay Radio</i> , 306 U.S. 86, 40 U.S.P.Q. 199 (1939).	1,974,387	Antenna - <i>Products</i>	Eligible claims 15 and 16	343/809 H01Q11/06	2014 IEG in Section IV

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Federal Circuit Decisions

Case Name & Citation	Patent(s) or App. No(s).	Title or General Subject Matter	Judicial Conclusion	Classification (USPC & CPC)	Where Discussed
<i>In re Brown</i> , 2015-1852, -- Fed. Appx. – (Fed Cir. April 22, 2016) <i>Non-precedential with opinion</i>	09/795,210	A method of cutting hair	Ineligible	434/94 A45D 44/005	
<i>Genetic Tech. Ltd. V. Merial LLC</i> , -- F.3d – (Fed Cir. April 8, 2016)	5,612,179	Intron sequence analysis method for detection of adjacent and remote locus alleles as haplotypes	Ineligible	435/6 C12Q 1/68	
<i>Chicago Bd. Options Exch., Inc. v. Int'l Sec. Exch., LLC</i> , (Fed Cir. March 25, 2016)* (CBM)	8,266,044 7,980,457 7,356,498	Automated trading exchange system having integrated quote risk monitoring and quote modification services	Ineligible	705/37 G06Q 40/00 235/375 G06F 17/00	
<i>In re Smith</i> , 2015-1664, -- F.3d – (Fed Cir. March 10, 2016)	12/912,410	Method of conducting a blackjack game	Ineligible Claims 1-18	273/292 A63F 1/00	
<i>Mortgage Grader, Inc. v. First Choice Loan Services Inc.</i> , 2015-1415, – F.3d – (Fed. Cir. Jan. 20, 2016)	7,680,728 7,366,694	Method for a borrower to evaluate and/or obtain financing such as a loan - <i>Methods and systems</i>	Ineligible '728: claim 6 '694: claims 1, 2 & 19	705/38 G06Q 30/02 (both patents)	
<i>Vehicle Intelligence & Safety LLC v. Mercedes-Benz USA, LLC</i> , 2015-1411, _ Fed. Appx. _ (Fed. Cir. Dec. 28, 2015). <i>Non-precedential with opinion.</i>	7,394,392	Expert system safety screening of equipment operators - <i>Methods and systems</i>	Ineligible Claims 8, 9, & 11-18	340/576 B60K 28/06	
<i>Retirement Capital Access Management Co., LLC v. U.S. Bancorp</i> , 611 Fed. Appx. 1007 (Fed. Cir. 2015).* (CBM)	6,625,582	Converting a portion of future retirement payments to current benefits - <i>Methods & system</i>	Ineligible Claims 1, 13, 14, 18, 30 & 31	705/35 G06Q 20/10	
<i>In re Karpf</i> , 611 Fed. Appx. 1005 (Fed. Cir. 2015).*	11/074,053	Increasing patient compliance with medical care instructions - <i>Computer readable media</i>	Ineligible (Step 1) Claim 28	705/3 G06F 19/322	

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<i>Versata Development Group, Inc. v. SAP America, Inc.</i> , 793 F.3d 1306, 115 U.S.P.Q.2d 1681 (Fed. Cir. 2015). (CBM)	6,553,350	Pricing products in multi-level product and organizational groups <i>- Methods, system, and computer readable media</i>	Ineligible Claims 17 & 26-29	705/20 G06Q 20/201	
<i>Intellectual Ventures I LLC v. Capital One Bank (USA)</i> , 792 F.3d 1363, 115 U.S.P.Q.2d 1636 (Fed. Cir. 2015).	8,083,137 7,603,382	Administration of financial accounts, and advanced internet interface providing user display access of customized webpages <i>- Methods and Systems</i>	Ineligible '137: claims 5-11 '382: claims 1-5, 16, 17, & 19-22	235/380 G06Q 20/12 707/999.104 G06F 17/30899	
<i>In re Webb</i> , 609 Fed. Appx. 643 (Fed. Cir. 2015).*	12/429,724	Poker games with varying position advantage <i>- Methods</i>	Ineligible	273/292 A63F 3/00157	
<i>Internet Patents Corp. v. Active Network, Inc.</i> , 790 F.3d 1343, 115 U.S.P.Q.2d 1414 (Fed. Cir. 2015).	7,707,505	Dynamic tabs for a graphical user interface <i>- Methods, systems, computer readable media</i>	Ineligible	715/738 G06F 17/30893	
<i>Ariosa Diagnostics, Inc. v. Sequenom, Inc.</i> , 788 F.3d 1371, 115 U.S.P.Q.2d 1152 (Fed. Cir. 2015).	6,258,540	Non-invasive prenatal diagnosis <i>- Methods</i>	Ineligible Claims 1, 2, 4, 5, 8, 19-22, 24 & 25	435/6.12 C12Q 1/6879	
<i>OIP Technologies, Inc. v. Amazon.com, Inc.</i> , 788 F.3d 1359, 115 U.S.P.Q.2d 1090 (Fed. Cir. 2015).	7,970,713	Automatic pricing in electronic commerce <i>- Methods and computer readable media</i>	Ineligible	705/400 G06Q 30/0211	
<i>Content Extraction and Transmission LLC v. Wells Fargo Bank, N.A.</i> , 776 F.3d 1343, 113 U.S.P.Q.2d 1354 (Fed. Cir. 2014).	5,768,416 5,258,855 5,369,508 5,625,465	Scanning and Information Processing Methodology <i>- Methods and machines (interface/system)</i>	Ineligible	382/180 G06K9/2054	

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<i>Univ. of Utah Research Found. v. Amby Genetics Corp.</i> , 774 F.3d 755, 113 U.S.P.Q.2d 1241 (Fed. Cir. 2014). Also known as <i>In re BRCA1- and BRCA2-Based Hereditary Cancer Test Patent Litigation</i> .	5,747,282 5,753,441 5,837,492	Breast and ovarian cancer susceptibility gene - <i>Methods and products</i>	Ineligible '441: claims 1 & 7-8 '282: claims 16-17 '492: claims 29-30 (See also <i>Myriad</i> and <i>Myriad</i> CAFC)	435/69.1 C07K14/4703	
<i>DDR Holdings, LLC v. Hotels.com, L.P.</i> , 773 F.3d 1245, 113 U.S.P.Q.2d 1097 (Fed. Cir. 2014).	7,818,399	Expanding commercial opportunities for internet websites - <i>Methods and system</i>	Eligible Claims 1, 3, 19	709/218 G06Q30/06	2014 IEG in Section IV, Example 2
<i>Ultramercial, Inc. v. Hulu, LLC</i> , 772 F.3d 709, 112 U.S.P.Q.2d 1750 (Fed. Cir. 2014).	7,346,545	Payment of intellectual property royalties by interposed sponsor over a telecommunications network - <i>Methods</i>	Ineligible	705/14.73 G06Q30/02	2014 IEG in Section IV, Example 8
<i>buySAFE, Inc. v. Google, Inc.</i> , 765 F.3d 1350, 112 U.S.P.Q.2d 1093 (Fed. Cir. 2014).	7,644,019	Safe Transaction Guaranty - <i>Methods and computer readable media</i>	Ineligible Claims 1, 14, 39 and 44	705/35 G06Q10/10	2014 IEG in Section IV, Example 7
<i>Planet Bingo, LLC v VKGS LLC</i> , 576 Fed. Appx. 1005 (Fed. Cir. 2014). <i>Unpublished with opinion</i> .	6,398,646 6,656,045	Storing preselected numbers for use in games of bingo - <i>Methods and systems</i>	Ineligible	463/19 G07F17/32	2014 IEG in Section IV, Example 6
<i>Digitech Image Techs., LLC v Electronics for Imaging, Inc.</i> , 758 F.3d 1344, 111 U.S.P.Q.2d 1717 (Fed. Cir. 2014).	6,128,415	Device profiles for use in a digital image processing system - <i>Device profile and methods</i>	Ineligible Claims 1-6, 9-15, 26-31	382/276 G06T1/00	2014 IEG in Section IV, Example 5
<i>In re Roslin Institute (Edinburgh)</i> , 750 F.3d 1333, 110 U.S.P.Q.2d 1668 (Fed. Cir. 2014).	09/225,233	Cloned mammals produced by somatic cell nuclear transfer - <i>Product</i>	Ineligible Claims 155-159 and 164	800/015	

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<i>Cyberfone Systems, LLC v. CNN Interactive Group, Inc.</i> , 558 Fed. Appx. 988 (Fed. Cir. 2014).	8,019,060	Telephone/transaction entry device and system for entering transaction data into database - <i>Methods and Systems</i>	Ineligible	379/93.01 G06F17/243	2014 IEG in Section IV
<i>SmartGene, Inc. v Advanced Biological Labs.</i> , 555 Fed. Appx. 950 (Fed. Cir. 2014).	6,081,786 6,188,988	Systems, methods and computer program products for guiding the selection of therapeutic treatment regimens - <i>Methods, Systems, Computer Program Products</i>	Ineligible	705/3 G06F19/3443	2014 IEG in Section IV
<i>Accenture Global Services, GmbH v. Guidewire Software</i> , 728 F.3d 1336, 108 U.S.P.Q.2d 1173 (Fed. Cir. 2013).	7,013,284	Component based interface to handle tasks during claim processing - <i>Methods and Systems</i>	Ineligible	705/4 G06Q10/06311	
<i>PerkinElmer Inc. v Intema Ltd.</i> , 496 Fed. Appx. 65, 105 U.S.P.Q.2d 1960 (Fed. Cir. 2012).	6,573,103	Antenatal screening for Down's syndrome - <i>Methods</i>	Ineligible	436/65 G01N33/689	
<i>Association for Molecular Pathology v. USPTO</i> , 689 F.3d 1303, 103 U.S.P.Q.2d 1681 (Fed. Cir. 2012). ("Myriad CAFC")	6,033,857 5,753,441 5,747,282 5,710,001 5,709,999	Breast and ovarian cancer susceptibility gene - <i>Methods</i> This decision's ruling on product claims from various patents was subsequently affirmed-in-part and reversed-in-part by the Supreme Court. See <i>Myriad, supra</i> .	Ineligible '857: claims 1 & 2 '441: claim 1 '001: claim 1 '999: claim 1 Eligible '282: claim 20 (See also <i>Myriad & Ambry Genetics</i>)	435/69.1 C07K14/4703	
<i>Bancorp Services v. Sun Life</i> , 687 F.3d 1266, 103 U.S.P.Q.2d 1425 (Fed. Cir. 2012).	5,926,792 7,249,037	System for managing a stable value protected investment plan - <i>Methods and Computer Readable Media</i>	Ineligible '792: claims 9, 17, 18, 28, and 37 '037: claims 1, 8, 9, 17-21, 27, 28, 37, 42, 49, 52, 60, 63, 66-68, 72-77, 81-83, 87, 88, and 91-95	705/4 G06Q40/00	

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<i>Fort Properties, Inc. v. American Master Lease LLC</i> , 671 F.3d 1317, 101 U.S.P.Q.2d 1785 (Fed. Cir. 2012).	6,292,788	Methods and investment instruments for performing tax-deferred real estate exchanges - <i>Methods</i>	Ineligible	705/36T G06Q30/04	
<i>Dealertrack Inc. v Huber</i> , 674 F.3d 1315, 101 U.S.P.Q.2d 1325 (Fed. Cir. 2012).	7,181,427	Automated credit application system - <i>Methods</i>	Ineligible Claims 1, 3, and 4	705/38 G06Q20/10	2014 IEG in Section IV
<i>Classen Immunotherapies Inc. v. Biogen IDEC</i> , 659 F.3d 1057, 100 U.S.P.Q.2d 1492 (Fed. Cir. 2011).	6,638,739 6,420,139 5,723,283	Method and composition for an early vaccine to protect against both common infectious diseases and chronic immune mediated disorders - <i>Methods</i>	Eligible All claims in '739 and '139 Ineligible All claims in '283	435/69.3 A61K39/295	
<i>Cybersource Corp. v. Retail Decisions, Inc.</i> , 654 F.3d 1366, 99 U.S.P.Q.2d 1690 (Fed. Cir. 2011).	6,029,154	Method and System for Detecting Fraud in a Credit Card Transaction over the Internet - <i>Computer Readable Media and Method</i>	Ineligible Claims 2-3	705/44 G06Q20/027	
<i>Research Corporation Technologies Inc. v. Microsoft Corp.</i> , 627 F.3d 859, 97 U.S.P.Q.2d 1274 (Fed. Cir. 2010).	5,111,310 5,341,228	Method and Apparatus for Halftone Rendering of a Gray Scale Image Using a Blue Noise Mask - <i>Methods</i>	Eligible '310: Claims 1-2 '228: Claim 11	358/3.19 358/534 G06T3/40	2014 IEG in Section IV, Example 3
<i>SiRF Tech. Inc. v. Int'l Trade Commission</i> , 601 F.3d 1319, 94 U.S.P.Q.2d 1607 (Fed. Cir. 2010).	6,417,801 6,937,187	Processing of GPS Signals - <i>Methods</i>	Eligible '801: Claims 1, 2, 11 '187: Claim 1	342/357.62 G01S5/0018	2014 IEG in Section IV, Example 4
<i>In re Ferguson</i> , 558 F.3d 1359, 90 U.S.P.Q.2d 1035 (Fed. Cir. 2009).	09/387,823	New Paradigm for Bringing New Products to Market - <i>Methods and "paradigm"</i>	Ineligible	705/14	

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<i>In re Comiskey</i> , 554 F.3d 967, 89 U.S.P.Q.2d 1641 (Fed. Cir. 2009).	09/461,742	Method and System for Mandatory Arbitration - <i>Methods and System</i>	Ineligible Claims 1-14, 16, 32-43, and 45 (remanded for consideration of eligibility of other claims; application currently pending with amended claims)	705/1	
<i>In re Grams</i> , 888 F.2d 835, 12 U.S.P.Q.2d 1824 (Fed. Cir. 1989).	06/625,247	Method of Diagnosing an Abnormal Condition in an Individual - <i>Methods</i>	Ineligible	436/501	
<i>In re Meyer</i> , 688 F.2d 789, 215 U.S.P.Q. 193 (CCPA 1982).	05/465,574	Process and Apparatus for Identifying Locations of Probable Malfunctions - <i>Methods and System</i>	Ineligible	N/A	
<i>In re Abele</i> , 684 F.2d 902, 214 U.S.P.Q. 682 (CCPA 1982).	4,433,380 04/850,892	Tomographic Scanner - <i>Methods and System</i>	Ineligible Claims 5 and 7 of '892 application (not patent claims) Eligible Claims 6 and 33-47 of '892 application (note claim 6 is renumbered as claim 1 in '380 patent)	382/131 A61B6/032	
<i>In re Maucorps</i> , 609 F.2d 481, 203 U.S.P.Q. 812 (CCPA 1979).	05/536,839	Computer Systems for Optimizing Sales Organizations and Activities - <i>System</i>	Ineligible	N/A	

(*) denotes a Fed. Cir. R. 36 decision originating from the Patent Trial and Appeal Board