

Vera Suarez in Law360: 'Fed. Circ. Simio Patent Eligibility Ruling May Affect Alice Test'

February 9, 2021 Vera Suarez

PRACTICES Patents, Patent Prosecution and Counseling, Intellectual Property

When determining whether patent claims recite patent-eligible subject matter under Title 35 of the U.S. Code, Section 101, courts follow the two-step framework from the U.S. Supreme Court's 2014 *Alice Corp. v. CLS Bank International* decision.

The first step of the Alice test determines whether the claims are "directed to" an abstract idea. If not, then the claims are patent-eligible. If so, then the second step of the Alice test determines whether the claims contain an "inventive concept" sufficient to transform the abstract idea into a patent eligible application.

The detailed description of the claimed invention is considered in the two-step framework, and the U.S. Court of Appeals for the Federal Circuit's recent opinion in *Simio LLC v. FlexSim Software Products Inc.* may change how the detailed description is reviewed when determining whether the claims are "directed to" an abstract idea in the first step of the Alice test.

Excerpted from *Law360*. To read the full article, click [here](#). (Subscription required)