

Subject Matter Eligibility Guidance from the Federal Circuit: *Thales Visionix v. United States*

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Both the courts and the Patent and Trademark Office (PTO) have struggled to define the metes and bounds of the subject matter eligibility analysis under 35 U.S.C. § 101. The Court of Appeals for the Federal Circuit's recent decision on March 8, 2017 in *Thales Visionix Inc. v. United States* further clarifies the first step of the eligibility analysis, while confirming the significance of that step.

Under § 101, patent protection is available to “[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.” Patent claims directed to laws of nature, natural phenomena, and abstract ideas, however, are not patent-eligible subject matter. Courts and the PTO evaluate the subject matter eligibility of claims under a two-step framework set forth by the Supreme Court in *Mayo Collaborative Servs. v. Prometheus Labs., Inc.* and *Alice Corp. Pty. Ltd. v. CLS Bank Int’l.* Step one asks “whether the claims at issue are directed to a patent-ineligible concept.” If the claims are not directed to an ineligible concept, then the inquiry ends and the claims are subject matter eligible. If the claims are directed to an ineligible concept, step two of analysis determines if the claims “contain[] an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.”

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