

# IPO Daily News™

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## ***ALICE* AND PATENT DOOMSDAY IN THE NEW YEAR**

The biggest patent event last year was the U.S. Supreme Court's *Alice Corp.* opinion. In that case, the court said claims directed to abstract ideas are patent-ineligible, but failed to provide any real direction. As a result of *Alice*, lower tribunals are finding patents invalid every week. Some IPO members claim *Alice* will bring doomsday for the patent system in the new year. Others say such dire predictions are nonsense.

The doomsday scenario goes something like this: The new uncertainty over abstract ideas starts to extend even beyond the vast area of software and business method-related inventions. Hundreds of thousands of patents are thought to be worthless. Companies start cutting back patent filings and stop paying patent maintenance fees to the USPTO, which faces a cash squeeze and hikes fees. The system spirals downward.

An alternative view is that the system is thriving, and will continue to do so. U.S. patent filings were up about 4 percent last year. The USPTO is reducing its backlog. The new PTAB proceedings seem to be working, albeit imperfectly. The number of patent suits filed in district courts declined in 2014, and some think frivolous suits in particular are on the decline. *Alice*, which will be clarified as courts continue to apply it, will provide a needed check to keep subject-matter-ineligible patents from issuing.

We believe patent doomsday is unlikely. We certainly hope so. But we urge the best minds to focus on reducing the new uncertainty.