Epilog to the Patent-Eligibility Problem (Part II)

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The Structure and Titles of Parts I, II, and III of this Epilog

The titles in Part I of this epilog have been modified to better reflect its message. In this short Part II, dealing solely with subsections III.1/.2 of this epilog, only the enhanced FIG1 and CI definition and reference list are repeated from Part I; all numbering continues where Part I left off.

*For *) and **) see Part I*

Part II

III. Evaluating Dependable PE Redundancy in nPE TT0s' *Alice* Tests = TT0s' EDA-Tests

The CAFC is finally accepting most[7.b)] of the Supreme Court's "***Alice* test**"[8.b)], after initially misunderstanding it by ignoring parts of its description in the Supreme Court's *Alice* decision.[2.b)] Yet its now more complete & correct[7.b)] PE-decisions are still of a dangerous "**O-level fixation**"[7.f)/8.d)/8.e)] inviting trouble through other deficiencies[7.c)] – very briefly explained by way of *DDR/Myriad/Enfish/IVT/McRO* and the IEG.[10.c)] Such residual inconsistency generators must also be eliminated from courts' and USPTO's PE decisions about ETCIs.[7.d)] Section III.1 briefly sketches the tedious process of making it to these current residual PE problems.

That also these can be easily eliminated is shown in III.2: The "**EDA-Test**" – hitherto unknown – guides to transforming an nPE TT0 into a PE ETCI[7.f)], by **i)**increasing the notional subtlety of TT0's representation by refining it to its E-level,[7.f)] and **ii)**deriving from TT0's specification its disclosed compound "**inventive *Alice* concept of ETCI**, **inC*Alice***", being defined to be the conjunction of 4 "**PE redundant**" compound inventive A-level concepts, EDA4-7, defined by the EDA-Test (see E*-FIG1): ETCI •)comprises a "**TT0 being NPE**" ∧ •)comprises an "**application of the nature of TT0**"[7.a)] ∧ •)is "**significantly more than TT0**" ∧ •)is "**limited preemptive**". This PE redundancy is dependable[7.g)] as detecting any notional error.[7.f)/[321,91]/1.d)]

Section III.3[321] discusses in detail the "rationalization gaps"[7.e)] in the CAFC's PE decisions and the IEG – due to their currently still incomplete/oversimplifying interpretation of the *Alice* test[2.b)/7.b)]. Finally, III.4 will end this epilog by commenting on how recent •)Supreme Court decisions and •) cognitions[327-329] by academia et al fit the EDA-Test's refinement of ETCIs and its PE redundancy – asked for in[1.d)].

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[7] **.a** The terms •)("**ET**"/"**CT**")"**C**"("**I**") denote the O-level and hence of highly speculative Metaphysics meanings[5.c)] "(**emerging/classic technology**) **claim** (**ed invention**)" to be rationalized; •)the term "**technical teaching**, **TT0**" the E-level fully rational set of TT0-realization-tuples[300/p.5], •)"**PE**"/"**E***" stand for "**patent-eligibility**", "**D***"/"**P***" for "**definiteness**" and "**patentability**".[91,182]

These terms and their meanings are needed for defining the solution of the PE problem of any nPE TT0 by its ETCI in a way discussed on p.9/10 – even with dependable (and hitherto unknown) "**PE redundancy**". All by the Supreme Court and here presented considerations are of sub-physical notional subtlety, hence "model based" – why any "legal-only" approach to the PE problem, always being of O-level notional resolution only, cannot resolve it. Actually, solving the PE problem required MII[273] – in spite of being inspired by the Supreme Court – thus proving the trailblazing capability of Mathematics in SPL precedents about ETCIs, i.e. in handling true innovations.[260]

.b as now meeting almost all Supreme Court stated and *MBA* framework based requirements, especially those legally encoded by its *Alice* test[8.b)] for deciding a CI's satisfaction of 35 USC § 101 – yet still not meeting all of them, e.g. to use the notion of "**inventive concept**, **inC**" for describing the tested CI and thus failing to use the modeling power embodied by inCs, e.g. in[7.c)].

.c as the CAFC has not yet fully "rationalized"[291/2.a)] the *Alice* test.[8.b)] Instead – mistaking[7.b)] the *Alice* test's demanding but clear O-level guidance to the PE problem's solution[s. III.2/1.)] as being this solution[7.f)] – it still uses highly speculative Metaphysics in its PE reasoning.

.d – because they put the socioeconomically extremely important "**National Patent System**, **NPS**" into jeopardy, as *Mayo* explained.

.e The input to the EDA alias refined *Alice* test is an nPE TT0, while its output always is a PE ETCI.

.f The "**PE redundancy**" is principally caused by the *Alice* test's 4 key "**eligibility determining aspects**, **EDA4-7**" defined by the EDA-Test in E*-FIG1, and by any ETCI embodied. If independently of each other checkable – holding for probably all practically relevant ETCIs – it is dependable as detecting any notional error in deriving from the nPE TT0 its PE ETCI as insinuated by the Supreme Court's *Alice* decision.

This notional PE redundancy is principally available & retrievable already by the ETCI's & *Alice* test's O-level representations. Yet practically O-levels' notional resolutions are normally far too vague to this end. Hence, only their E-level refinements – i.e. using *MBA* framework based compound EDA inventive A-level concepts, in turn being E-crC conjunctions – are capable of dependably determining/retrieving/confirming this PE redundancy on the E-level of notional resolution.

Approaching these crucial notions of PE redundancy initially requires some notionally filigree thinking – trained by means of applying them in[321] *DDR/Myriad*[160]*/Enfish/IVT/McRO* – that, once understood, fades away and is replaced by the feeling they are trivialities.

.g Dependability here stands for correct quantifiability [175,182] of this *MBA* framework based PE/E* & D* & P* redundancies.[7.a)]

II.1 The CAFC's Increased Recognition of "Patent-Eligibility" as a Socioeconomic SPL Notion

The Supreme Court's *Alice* decision defines this notion "PE" by its non-procedural *Alice* test and solely on its O-level of notional resolution[244/Sec.V.1], as it is usually practiced today in ETCIs' specifications. The inevitable vagueness of most notions' O-level descriptions[296/2.b)] – amplified by the *Alice* decision's non-procedurality and its reuse of then heavily opposed new notions, e.g. "inventive concept"[7.b)] – initially led the CAFC and the USPTO to non-/misunderstand the reason[8.a)/[III.2/1.)]] for qualifying inventions as PE/nPE. The result was freestyle[8.b)] and by highly speculative Metaphysics driven *Alice* test interpretation, simply ignoring[2.b)] all allegedly undeterminable/incomprehensible notions in its description.[8.c)]

This freestyle and highly speculative understanding of the *Alice* test was broadly carried by the patent community's diffuse refusal to accept the Supreme Court's critics of the CAFC's reluctance to adjust its SPL precedents to the needs of inventors of and investors in ETCIs: For achieving the consistent, predictable, and very robust patent protection of their high human and financial investments – clearly threatened, as any ETCI not derived from a non PE TT0 the way just described,[7.f)] usually is unlimited preemptive. Probably sharing this near truth, courts and the USPTO hence exempted them from patent-eligibility – causing only panic – instead of broadly clarifying the then insufficient perception of the *MBA* framework by reanalyzing it with more scrutiny[1.d)], as this author repeatedly suggested. But it seems that the CAFC is finally getting back on track anyway,[10.c)] although it is not yet quite there.

The tensions that had arisen in the meantime – between, on the one hand, the Supreme Court significantly refining the classical interpretation of SPL in favor of ETCIs' urgent needs and, on the other hand, the CAFC (and USPTO) initially rejecting any such notional refinement of the classical interpretation of 35 USC SPL and instead just adding oversimplifying tests[8.d)] based on their notionally coarse classical interpretation – have started to relax: First with the CAFC's *DDR* decision, then with *Enfish*, most recently with the *IVT and McRO* decisions.[10.c)] They increasingly accept the Supreme Court's socioeconomic refinement of the meaning of 35 USC §101 (and implicitly of §112, which is equally important[197])[E*-FIG3].

The CAFC thus has come closer to the *Alice* test. Yet it is still fixated solely on its and the tested ETCIs' O-level descriptions, thus barring its recognition of notional E-level PE subtleties,[10.c)] clearly hinted at by the Supreme Court in *Alice*. This excludes noticing significant notional gaps between the *Alice* test's current CAFC interpretation and the *Alice* test's correct E-level interpretation, explained eclectically in[2.b)], by the decisive *MBA* framework decisions[1.c)] in Section II.3, and in Section III.2 again – proceeding from "naïve" over "basic" to "dependable" PE thinking, the latter supported by strong redundancy.[1.d)]

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[8] **.a** The Supreme Court's *Alice* decision describes its *Alice* test in its O-level-representation by definition[244,Sec.V.1]. The here refined *Alice* test is described in its E-level-representation also by definition[244,Sec.V.1]. Its meaning is in both knowledge representations the same – on the O-level only vaguely described, yet such that they both together enable and force the pposc to perform this *Alice* test refinement to its exact/precise E-level description.[296/2.b)] The patent community hitherto noticed nothing thereof. Instead, it firmly believes that it is sufficient, for deciding an ETCI's PE/nPE, to check its O-level representation only. As evidenced by the above addressed residual problems in the CAFC's current PE decisions[10.c)], their non-persuasiveness disapproves this (consistency pretending) misbelief. Their clear legal flaws, committed by unnecessarily confusing the Supreme Court's *MBA* framework, will convince the US patent community in probably a short time.

.b and additionally being threatened, from their outset, by their being model-based. In the remainder of this epilog, the term "*Alice* test" denotes its O-level logic expression (as also the patent community unknowingly does).

.c in spite of these notions' clear relations to the Supreme Court decisions preceding *Alice*, which had already reduced this O-level vagueness[7.b)/.e)] to a degree that clearly required their meanings to be at the least what the CAFC is now recognizing by all its above recent decisions.

.d Examples of such oversimplifying tests – rejected by the Supreme Court to be a deficient replacement of the SPL's notional refinement it requires – were e.g. the "Teaching/Suggestion/Motivation, TSM"-test in *KSR*, the "Machine or Transformation, MoT"-test in *Bilski*, in between the "Insoluble Ambiguous"-test in *Biosig*, 2014. The reason of such oversimplifications is here called "**O-level fixation**".[7.e)8.a)]

.e The antagonism between "O-level fixation" (& its implied "**O-level PE**"[7.e)]) and "O-/A-/E-level thinking" (& its implied "**E-level / refined PE**"[296ftn2.b)]) may need some explanation. The meaning of the term "O-/A-/E-level thinking" – for short: "refined" thinking, indispensable for dependably recognizing (notional) PE redundancy"[7.f)] – characterizes what the Supreme Court by its line of *MBA* framework decisions[1.c)] repeatedly implicitly clearly required[1.d)] to be practiced by SPL precedents about ETCIs. By contrast, the meaning of the term "O-level fixation" qualifies SPL precedents about ETCIs as assuming no such A-/E-levels of notionally refined resolution/abstraction were needed [296].

This Supreme Court's *MBA* framework serves also the purpose that § 101 must not unduly hamper creativity as to ETCIs by exempting them from patent-eligibility unnecessarily, i.e. only if they are jeopardizing the NPS by their unlimited preemptivity[*Mayo*] (caused e.g. by their comprising natural phenomena or abstract ideas). In[321] will become evident, why the filigree PE exemption requirements cannot be uniformly described on top of all ETCIs' O-level semantics: These are far too coarse&diverse&complex for enabling these requirements' comprehensible & exact/precise & uniform description. But this is trivially indispensable for achieving unquestionable consistency and predictability in SPL precedents about ETCIs, both in turn known to be indispensable for unfolding the US society's high innovative potentials. Hence, O-level testing quite principally **cannot** resolve the PE problem: It may just help pretend PE decisions are consistent, while they are not.[10.c)]

By contrast, the O-/A-/E-level thinking **can** – as shown in III.2 by the E-level EDA-Test in E*-FIG2. Of particular concern thereby is that this kind of PE testing of an ETCI is fully rational[296/2.b)], in its ETCI representation as well as in its executing all EDA-testj, 1≤j≤7.

The alleged reason, why hitherto this O-level fixation could bar all such power thinking – in PE testing, and quite generally in an ETCI's SPL testing – might be: O-level reasoning is extremely apt to phony arguing about patents and thus facilitates getting conveniently rewarded accordingly. But in substance it is far too "naïve" for surviving the paradigm refinement that the Supreme Court performed by its *MBA* framework for reconciling SPL precedents about ETCIs – that the CAFC in[*Alice*] finally had complained to be non-reconcilable.

III.2 The EDA-Test = Refined *Alice* Test: Construing/Testing for any TT0 its PE ETCI, Dependably[7.f)]

The *Alice* **test's mission** is to determine, for nPE TT0s' CIs, the **minimum** SPL requirement to be met for transforming such nPE TT0's CIs to PE CIswithout jeopardizing the NPS. It is realizable by the "**EDA-Test**", which is easier to apply[10.b)] and – due to its **PE redundancy** – much less error prone than the *Alice* test.[8.b)]

> *This clarification of the Alice test's mission, clearly defined by the Supreme Court's Alice decision, will disruptively render obsolete how the PE problem has hitherto been discussed by the CAFC, by the USPTO, and by the entire patent community. For the PE problem and its solution this mission achieved a that dramatic simplification and practical efficiency increase, as the Supreme Court evidently expected to emerge[1.d)] from its MBA framework[1.c)]. If it were then already found, it had spared today's alternative to it of persuasive naivety – but also highly speculative Metaphysics that was&is felt as its big embarrassment.*

Two remarks convincingly confirm this clarification – with all likelihood being broadly welcome:

- By its mission the Alice test found, for an nPE TT0, the indeed minimal possible restriction to be imposed on it for making its ETCI[7.f)] PE, if construed as the Alice test requires.[9.a)]
- All TT0s share the same redundancy dependably determining their CIs being nPE/PE: The EDA-Test.[9.b)]

This EDA-Test is defined by any TT0's 5 key EDAs disclosed by the TT0's specification,[7.e)] i.e. by the CI's **1.)"nPE TT0"**, **2.)"application of the nature of TT0"**, **3.)"inC^{Alice}"**, **4.)"significantly more than TT0"**, and **5.)"limited preemptivity"**[300,p.5]. All 5 EDAs are introduced by the Supreme Court's *Alice* decision.

Omitting this test's "0-infixes" and "E-prefixes", generate or evaluate by T/F for COM(CI) **::=** CI values of I,N,K^1,...,K^N,K ::=$\sum^{1\le n\le N}$K^n, and definitions ∀A-crCS::={A-crCn |1≤n≤N} and E-crCS::= {crCnk v ncrCnk |1≤n≤N∧1≤k≤K^n }, optionally with user-names, such that in the **EDA-Test** holds, in a CI's **i)**claim interpretation generated by its inventor and in its **ii)**claim construction evaluated by its pposc&examiner, the

EDA1:	CI meets § 112, meaning: A-crCS = {A-crCn, ∀1≤n≤N} ::= {$\wedge^{1\le k\le K^n}$(crCnk v ncrCnk), ∀1≤n≤N} ∧ ∧ E-crCS is (new∧useful∧definite∧complete by **i**)) ∧ (new∧useful∧definite by **ii**));	E*-L2/1.
EDA2:	CI is lawfully disclosed, as all crCnk are lawfully disclosed, just as their peer leCnk, with 1≤n≤N ∧ 1≤k≤K^n;	E*-L2/2.
EDA3:	CI is enablingly disclosed, as the implementability ∀ 1≤n≤N A-crCn, embodying all its crCnk 1≤nk≤K^n, is disclosed;	E*-L2/3.
EDA4:	CI comprises an "**nPE TT0**", meaning: scope(crCS^{TT0}) ≠$^+$ Φ;	E*-L2/4.
EDA5:	CI is "**limited preemptive**", meaning: (scope(crCS^{TT0}) ≠$^+$ Φ) ∧ ($\prod^{TT0}$scope(crCS^{CI}) ⊆ scope(crCS^{TT0})) ∧ (crCS^{Alice} ≠ Φ);	E*-L2/5.
EDA6:	CI is – as indicated by "**inC^{Alice}**" – "**significantly more**" than TT0, meaning: crCS^{Alice} ≠ Φ;	E*-L2/6.
EDA7:	CI is an "**application of the nature of TT0** ", meaning: $\prod^{TT0}$scope(crCS^{CI}) ⊆ scope(crCS^{TT0});	E*-L2/7.

E*-FIG2: *The "Alice Test"-Specific Representation of the EDA-Test of an nPE TT0's ETCI (and of its PE Redundancy)*

E*-LEG2*:* The EDA-Test is the "**O-/A-/E-refinement**" of the *Alice* test, just as of the FSTP-Test[10.a)] in FIG1. Yet the EDA-Test is additionally "**ncrC-refined**", as shown by EDA1 in E*-FIG2. Thereby holds: **α)**Any EDAy, 1≤y≤7, is an MII[273] alias mathematical expression made up of E-(n)crCs. **β)**A CI has an EDAy iff the latter's x (n)crCs, x ϵ[1,K], verify its logical expression. **χ)**An ETCI is PE iff it has all 7 EDAy's. **δ)**In a CI's EDA-testing, its ncrCs are also considered, as they facilitate dealing with the nPE phenomenon. While ncrCs do not contribute to TT0's/CI's inventivity – irrelevant in a CI's PE testing[L1/7.-9.] – they facilitate mathematically/rationally modeling the nPE properties of ETCIs' elements Xn's, 1≤n≤N. **ε)**Any statement from Legend1 and applicable to the EDA-Test also holds for E*-Legend1. For the intuitively comprehensible rest see[9.d)] and for more details[321].

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[9] **.a** The reason is that this requirement is truly Solomonic: The Supreme Court thereby performs an unavoidable "bug fix" to SPL precedents about ETCIs – evidently to only § 101, but indeed heavily impacting on also §§ 112 and 102/103[251] – for saving the NPS, which nevertheless may be felt to beembarrassing in its initial alleged obscurity by all the large players in patents' depending economies, but substantively tailoring it such that this bug-fix affects primarily drafting[251] patent specification. The only implied restriction, by this bug-fix, must be[9.b)] •imposed on TT0 by the application A of the nature of TT0 (which a priori exists for TT0 and its ETCI through § 101 anyway), and •transforming the pair <TT0,A> by an inC^{Alice} into an ETCI significantly more than its TT0 for not making also this ETCI nPE (which holds if inC^{Alice} comprises at least one E-crC of <TT0,A> independent of the E-crCs of TT0[2.b)] – see EDA6 – i.e. a requirement to be met by ETCI= <TT0,A> also a priori through §§ 102/103 anyway). Thus, this bug-fix requirement implied by the *MBA* framework implies exclusively logically indispensable ETCIs' representation clarifications in case the TT0s they embody comprise an abstract idea and/or a natural phenomenon and this TT0 still is unlimited preemptive. This meets the interests of all parties in patent economy.

While the CAFC's decisions in *DDR/Enfish/IVT/McRO* are seemingly all in line with the Supreme Court's refined *Alice* alias EDA-Test, they all miss its point, as – except *DDR* – grossly oversimplifying EDA6. This is explained in detail in[10.c)].

.b This remark evidently turns the hitherto PE discussion upside down, as is sooner or later indicated by carefully trying to understand the guidance provided – by the Supreme Court's *Alice* decision, not the earlier *MBA* framework decisions.[1.c)] Nevertheless, nothing is wrong with the approach toward interpreting the *Alice* decision as insinuated by these earlier decisions – they simply provide no guidance for refining the *Alice* test to get it out of Metaphysics and into Rationality[271/2.a].

.c – additionally to "•disclosed by TT0's specification" –

.d
1. **EDA1** ≈ FSTP-test1. I.e., EDA1 has exactly the same meaning as FSTP-test1, except that it also comprises E-ncrCs.
2. **EDA2** ≈ FSTP-test2, whereby the need of the disclosure also of all (n)crCs is elaborated on in[299,321].
3. **EDA3** ≈ FSTP-test3, whereby the need for the enabling disclosure of all (n)crCs is elaborated on in[299,321].
4. **EDA4** evaluating to T means ("**etTm**"): The meaning of the term "scope(crCS^{TT0}) ≠$^+$ Φ" is just "TT0 is nPE", as it comprises an (n)crC being a natural phenomenon or an abstract idea or is itself an abstract idea – thus being unlimited preemptive.
5. **EDA5** etTm**:** The meaning of the term "(scope(crCS^{TT0}) ≠$^+$ Φ) ∧ ($\prod^{TT0}$scope(crCS) ⊆ scope(crCS^{TT0})) ∧ (crCS^{Alice} ≠ Φ)" is just "TT0 is limited preemptive", as defined in[300/p.5].
6. **EDA6** etTm**:** The meaning of the term " crCS^{Alice} ≠ Φ" currently misunderstood by the CAFC, is that explained by[2.b)] and repeated in more detail in[9.c)], by means of its *DDR/Enfish/IVT* decisions, i.e. leaving *Myriad* to[321].
7. **EDA7** etTm**:** The meaning of the term "$\prod^{TT0}$scope(crCS) ⊆ scope(crCS^{TT0})" is just "TT0 is the application of the nature of TT0".

Finalizing[10.a)] this epilog's Part II: Part III will show in detail the shortcomings of recent PE-decisions by the CAFC and USPTO, while E*-FIG3 already puts the results in an "EDA matrix" indicating how close the 5+1 exemplary CAFC + IEG interpretations were/are to the Supreme Court's 7 EDAs.

SC's	35 USC	PE^{MBA} requires from ETCI: [X] CAFC&IEG:	*DDR*/SC	*Myriad*/SC	*Enfish*/SC	*IVT*/SC	*McRO*/SC	IEG/SC
EDA1:	§112	**is correctly BRI^{MBA}- & correctly A-/E-based & & definite & (inventor correct &complete)**	T^{O}/T^{E}	F^{O}/T^{E}	T^{O}/T^{E}	T^{O}/T^{E}	T^{O}/T^{E}	F^{O}/T^{E}
EDA2:	§112	**is lawfully disclosed**	–	–	–	–	–	–
EDA3:	§112	**is lawfully enabled**	–	–	–	–	–	–
EDA4:	§101	**has an nPE invention/TT0**	U^{O}/T^{E}	F^{O}/T^{E}	U^{O}/M^{E}	U^{O}/T^{E}	U^{O}/T^{E}	U^{O}/T^{E}
EDA5:	§101	**is limited preemptive**	U^{O}/T^{E}	F^{O}/T^{E}	U^{O}/M^{E}	U^{O}/T^{E}	U^{O}/T^{E}	M^{O}/T^{E}
EDA6:	§101	**is significantly more than TT0**	U^{O}/T^{E}	F^{O}/T^{E}	M^{O}/M^{E}	M^{O}/T^{E}	U^{O}/T^{E}	M^{O}/T^{E}
EDA7:	§101	**is the application of the nature of TT0**	U^{O}/T^{E}	F^{O}/T^{E}	U^{O}/M^{E}	U^{O}/T^{E}	U^{O}/T^{E}	M^{O}/T^{E}

E*-FIG3: *The E*-Matrix – Comparing the Supreme Court's Alice Test to its Interpretations by CAFC and IEG*

E*-Legend3*: ●)The above E*-Matrix is a quickly and mostly by heart written preview of Part III, i.e. it will be slightly changed there. ●)EDA2/3 are held to be irrelevant here (though taken far too easy by courts and the USPTO[299]). ●)Any CAFC/IEG decision's column has a co-analysis enabling identifying the EDA gaps[321] between this decision's then *Alice* test interpretation & the Supreme Court's.[2.b)7.b)] ●)The IEG column represents the IEG's "two-step" test, and its entries indicate that it, by its BRI^{PTO}, ignores EDA1 – i.e., quite fundamentally contradicts the Supreme Court as to definiteness and hence also the CAFC, which has practised the BRI^{PHI} since *DDR* (though only on the O-level), i.e. almost the BRI^{MBA}[72,258] ●)While the entries T(rue)/F(alse)/M(issing)/U(nclear) of the E*-Matrix are self-explanatory, an "O"/"E" postfix indicates, for this EDA, the O-/E-level it is checked on. ●)A case is completely&correctly rationalized, i.e. dependably refined *Alice*/EDA tested to be PE, if its column's entries all are T^{E}.

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[10] **.a)** The part of the FSTP-Test of E*-FIG1/-Legend1 checking a CI for its being PE as of §§ 112/101 and the *MBA* framework.

1) (a) generate/input: COM(CI) **::=** CI **::=** see the EDA-Test;			
(b)-(d)	***Biosig*-test**	**is passed**	see the EDA-Test;
2)			see the EDA-Test;
3)			see the EDA-Test;
4) justof:	***Bilski*-test**	**is passed:**	iff scope(crCS^{TT0}) $\neq^{+}$ Φ; **≅ I**
5) justof:	***Mayo*-IMyriad-IAlice(=significantly more)-test**	**is passed:**	iff crCS^{Alice} ≠ Φ; **≅ II**
6) justof:	**application-of-the-nature-of-TT0-test**	**is passed:**	iff ∏^{TT0}scope(crCS^{CI}) ⊆ scope(crCS^{TT0}) **≅ III**
7) justof:	**limited-preemptive-test**	**is passed:**	iff **I** ∧ **II** ∧ **III** = T;

E*-FIG1: *The "MBA Framework"-Specific Representation of the Non-Redundant EDA-Test of ETCIs (≡FSTP-Test) for being PE*

E*-Legend1: The part of the FSTP-Test shown by E*-FIG1 defines finer PE limits for the (ET)CI being tested than the ones shown by FIG1.

Indeed, by the renewed analysis of the *Alice* test[7.b)] for its rewording for the EDA-Test in E*-FIG2, it turned out that abstracting from ncrCs in E-crCS and the "nature of TT0"-property of A might misrepresent the *Alice* test. I.e.: This notionally coarsened abstraction – by not verifying EDA6/7 for CIs might qualify them as patent-eligible, which by the fully refined *Alice*- alias EDA-Test don't deserve it. The result were that by this incomplete *Alice* test unlimited preemptive CI's are PE, thus threatening the NPS, as the Supreme Court in *Mayo* taught.

.b) The EDA-Test is easier than applying α)IEG's "two-step" test with its highly speculative metaphysical questions, whether "TT0 is directed to a patentability exemption" (not refining[1.d)] the *Alice* test but misunderstanding it[2.b)/7.b)]) or β)the FSTP test with its rigorous focus on the Supreme Court's SPL precedents,[1.c)] which by the patent community is seen as being incomprehensible.

The *Alice* test[7.b)] in its original wording, defining ETCIs being PE, is not a test at all – what the *Alice* decision nowhere assumes, as it describes it declaratively (i.e. not procedurally/algorithmically), by the logic conjunction of the 4 last lines' right expressions in *Alice* test's EDA representation. But, a logic conjunction per se is not procedural alias executable, in spite of its trivial transformability into an algorithm evaluating it if all its summands are evaluable, which is not the case, here: The patent community complains the *Alice* decision would nowhere explain, what the meaning is of this logic conjunction's terms. But this is not really true: The *Alice* decision implicitly clearly provided this missing link by explicitly describing the *Alice* test's mission – from which directly follows this meaning (as shown by[E*-LEG2/EDA5]).

Yet, the patent community has hitherto been vastly ignoring *Alice* test's mission – i.e. the Supreme Court's explicit reasoning about its philosophy of interpreting 35 USC §101 as required by the socioeconomic charter of the US Constitution. I.e.: the patent community never considered the Supreme Court's *MBA* framework from this point of view – that the Supreme Court's *MBA* framework solves ETCIs' PE problem of hidden risks for the NPS, as caused by their unlimited preemptivity[*Mayo*] unfairly preempting also inventions, which themselves are applications of these TT0s. The counter measure excluding such occurrences is to include these TT0s' applications in their scopes (EDA6).

The Supreme Court addressed this fundamental problem by all its *MBA* framework decisions[1.c)] – yet in *KSR*/*Biosig* very implicitly, only.

.c) The clarification of the intricacies that the PE problem embodies has created awareness of the indispensable diversity and painstakingness in dealing with the ETCIs' PE problem, which necessitates the MII for everyday legal business with ETCIs as indeed greatly simplified by the Supreme Court's *MBA* framework. E*-FIG3 shows, which of the intricacies – correctly dealt with by the E-level EDAs provided by the refined *Alice*/EDA-Test (and in the future conveyed to their users by the MII) – are taken into account by the recent CAFC decisions' interpretation of the *Alice* test[8.b)]. Its M-/U-comments on its EDA6/7-lines show that these 2 intricacies, correctly dealt with by the *Alice* test, didn't yet make it into its current CAFC interpretation, i.e. are truly missing or at best unclear in the current CAFC decision. Its incompletely refined *Alice* interpretation represents a serious legal error, as explained in[10.a)] by E*-Legend1, based on the missing/unclear FSTP-test6/7 (in the FSTP-Test just 1 test as there redundancy is not an issue) alias EDA6/7 – as briefly explained next – whereby the M/U clearly indicates that the CAFC has failed precisely understanding the meaning of the *Mayo*/*Alice* terms "scope", "preemptivity", "inventive (Alice) concept" "nature of a CI/TT0" and its being "much more" – as these vague O-level notions nowhere were hitherto defined by precise E-level notions.
For brevity only of the most crucial EDA6 is explained, i.e. why it is qualified in *DDR*/*McRO* as U dealt with and in *Enfish*/*IVT* even as M. This explanation is straightforward only in *DDR* (and works in *McRO* almost the same way), while *DDR's*/*McRO's* weakness causing the U in *Enfish*/*IVT* degenerate to a lip-service – although all 4 opinions may easily be fixed, and thus these CAFC decisions are in principle ok.

This weakness is that both opinions don't really qualify their inventive *Alice* concepts as independent of the E-crCs of their TT0's[2.b)] – and promptly fail as they are not – while in truth TT0's inventive *Alice* concept in *DDR* is disclosed, namely to be of independent new semantics (being "new type of Internet business enabling", almost hit in the opinion). Similar problems evidently occurred with *Enfish*/*IVT*/*McRO*.

The FSTP-Project's Reference List

FSTP = Facts Screening/Transforming/Presenting (Version of 19.9.2016[?])

Most of the FSTP-Project papers below are written in preparation of the text book [182] – i.e. are not intended to be fully self-explaining independently of their predecessors.

[2] AIT: "Advanced Information Technology" alias "Artificial Intelligence Technology" denotes cutting edge IT areas, e.g. KnowledgeeRepresentation/Description Logic/Natural Language (NL)/Semantics/Semiotics/System Design, just as MAI: "Mathematical Artificial Intelligence", the resilient fundament of AIT.

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