Andrei Iancu's Serious § 101 Challenge — Becoming his § 101 Success Story?
The USPTO's Recent Claim Interpretation May Render *Alice's* § 101 Test as Patent Champion.

Sigram Schindler
TU Berlin & TELES Patent Rights International GmbH
www.fstp-expert-system.com

The USPTO's 'old' claim interpretation, the "**Broadest Reasonable Interpretation**, **BRI**" [1.a)], insinuated for an ETCI's patent(-application) a for inventors and investors disastrous PE-deficiency, fortunately untrue[e)f)]: That an ETCI can only be determined PE if it is BRI interpreted — solely by the USPTO's will[479,480]. By its pertinacious repeating this untruth, it practically barred the established SPL-experts from finding the PE-solution, as the BRI totally ignored the key feature(s) **A** (and **B**) of PE[c)] – as the Supreme Court asked for it[d)] and it by the PE-analysis in *Alice* explicitly outlined (as explained below).

The USPTO has recently induced — after all the permanent public complaints about BRI's many misleadings in claim interpretations[e)f)], by its eventually having changed over to the "***Phillips***" claim interpretation[482], and as of[c)] — the key cognition: That clarifying **A** (and **B**) is crucial for consensually ending the PE-dilemma. This clear 'de novo' interpretation of the terms '***application***' and '**inventive** ^{Alice}**concept**" on page 7 in *Alice's* PE-analysis (after having announced both by[d)]) mandatorily leads to these terms' meanings consistent to the Supreme Court's pertinent elaborations in ●*Mayo* and ●*Myriad*'s final pages: This very wide interpretation of the framework's key term '***application***'[g)], as refined by the Supreme Court in its *Alice* decision, namely ideally complements the notion of '***inventive concept***'[495ftn3.c)] — for clarity called "**inventive** ^{Alice}***concept***"[g)]. It indeed eliminates the by the Supreme Court in *Bilski/Mayo/Myriad* clearly identified big problem of ETCIs' patenting — that their total preemptivity threatens the entire US patent system — and amazingly achieves this by minimal invasivity into it[480]).

In total[b)]: For an ETCI its embedded ^{n}PE 'invention' and an its (just defined) "***application***", many to the latter belonging "**inventive** ^{Alice}***concepts***, **y**" can easily be determined (if there is a y, *Alice* requires for an ETCI only 1 pair <y, *application*>), as y may comprise — additional to its mandatory set of ETCI concepts — any concept basically independent[488ftn1.b)] only of its ^{n}PE invention[488ftn2.b)] and only such concepts. Note that any such y identifies not only its single "**primary**" application[h)] belonging to y, but usually a set of "**secondary**" applications[i)] belonging to these additional inventive ^{Alice}concepts[495].

I.e.: Andrei Iancu's new claim interpretation launched the consensual termination process of the § 101 dilemma.

1.a By the definition of an element of a claim's BRI[483] this element is an interpretation of this claim iff it is an interpretation of this claim in its light — whereby this 'claim's light' is an indefinite as transcendental term[489ftn2)]. Alone this property of the meaning of the term BRI must exclude its use in patenting business. By contrast, this claim's *Phillips* interpretation is defined metarationally, as this interpretation's definition comprises only metarational terms[489ftn2)].

.b W.l.o.g. and solely for brevity, this mail assumes that there are no ETCIs with identical or synonymous COM(ETCI)s[489/Figs.a) and b)].

.c In hindsight and by the *Phillips* claim interpretation[488] of an ETCI, the wording of the paragraph[d)] — referring to the PE-problem — shows that the Supreme Court had recognized already at its *Alice* hearing that **A)** the application(s) of the ^{n}PE invention embedded in the ETCI at issue would play the key role in solving the PE-problem, as **B)** in *Bilski/Mayo/Myriad/Biosig* required, based on the ETCI's 'inventive ^{Alice}concepts', and here is elucidated. **The Supreme Court thereby nowhere required that an ETCI has only a single pair <application, inventive** ^{Alice}**concept> — which is the message of this mail, is of decisive importance for inventors and investors, and implied by the Supreme Court's framework**.

An example: Let the patent(-application) at issue deal with an ETCI being a 'pharmaceutical application, A' of an ^{n}PE invention, as *Alice's* PE-analysis assumes (see above). The BRI — since decades used by the entire patent community solely for finding a single obvious interpretation put together by prior art disclosures rendering this ETCI anticipated — would analogously search for one pair <application, inventive ^{Alice}concept> only, which now would render this ETCI PE. And: The USPTO just as the CAFC nowhere mentioned that having several such pairs may be very advantageous as of so increased economic potential. Thus, the BRI is for inventors & investors very disincentivizing'. I.e., it contradicts the Supreme Court's requirement to foster 'innovative activities of inventors and investors (see its *Mayo* decision).

By contrast to the BRI, the *Phillips* claim interpretation is in line with the *Alice's* PE-analysis: The interpretation's of its wording has a meaning."*… **that is sufficient to ensure that the patent in practice** [i.e. the ETCI] **amounts to significantly more than a patent upon the [ineligible concept] itself.**"*). And it enables by *Alice's* PE-analysis to distinguish, for an ETCI, between its '**primary & secondary application(s)**' — as explained in the main text.

.d **Justice Breyer**[69]: "*Different judges can have different interpretations. All you're getting is mine, ok? I think it's easy to say that Archimedes can't just go to a boat builder and say, apply my idea **[**i.e. the natural phenomenon of a boats' water displacement**]** …. Everybody agrees with that. But now we try to take that word "**apply**" and give content to it. And what I suspect, in my opinion, Mayo did and Bilski and the other cases, is to sketch an outer shell **[**i.e. framework**]** of the content, **hoping that the experts, you and the other lawyers and the CAFC, could fill in a little better than we had done the content of that shell…**"* **[highlights added]**

.e **Justice Ginsberg**[81,127] (as to the BRI's untenability): "*It cannot be sufficient that a court can* [always] *ascribe* ***some*** *meaning to a patent's claims ... post hoc",* as the Constitution authorized "*…to inventors the exclusive right to* ***their*** *discoveries, ..*" **[highlights added]**

.f **Chief Justice Roberts**[279] (as to the coexistence of the BRI[USPTO] and the BRI[CAFC[56]]): "*…it's a very extraordinary animal in legal culture to have two different proceedings addressing the same question that lead to different results. …. I'm sorry. It just seems to me that's a* ***bizarre way to decide a legal question*** *…*" **[highlights added]**

.g This entire set of inventive ^{Alice}*concepts* just as any subset of it is also called this ETCI's inventive concept.

.h — by *Alice*'s PE-analysis of an ETCI and its thereby first and/or incidentally encountered primary application (of ETCI's embedded ^{n}PE invention meeting the additional requirements ex- and/or implicitly stated by this ETCI's PE-analysis —

.i The width of this '***application***' understanding in *Alice's* PE-Test would — with all likelihood — render it totally consensual in the patent community, especially for patent(-application)s in the CRISPR and alike R&D and investment areas, because of their numerous applications (provided their ETCIs specify them).

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[2] AIT: "Advanced Information Sciences & Technologies" or "Artificial Intelligence Technology" denotes cutting edge IT areas, e.g. Knowledge Representation(KR)/ Description Logic (DL)/ Natural Language (NL)/ Semantics/ Semiotics/ System Design/… just as MAI & MKR: "Mathematical Artificial Intelligence & Mathematical Knowledge Representation", i.e. the resilient fundament of AI, AIT, and "Facts Screening/Transforming/Presenting, FSTP"-Technology, both developed here.— currently much of the latter still in a 'status nascendi'[182]

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