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### Recent Supreme Court Patent Decision Could Be Rude Surprise for Tech Firms, Others

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**AUTHORED ARTICLE** | 11.24.2014

*Crain's Cleveland Business*

Michael Garvin, a partner in the Vorys Cleveland office and a member of the litigation group, authored an article for the *Crain's Cleveland Business/Legal Marketing Association (Ohio Chapter) 2014 Legal Guidebook*. The article, titled "Recent Supreme Court Patent Decision Could Be Rude Surprise for Tech Firms, Others," highlighted the potential impact the U.S. Supreme Court's decision in *Alice Corp v. CLS Bank* could have on patent trolls.

#### The article states:

*"In June, the U.S. Supreme Court issued a decision in a case named Alice Corp v. CLS Bank that many in the pitched "industry v. trolls" battle consider a resounding defeat for the trolls.*

*The claimed invention in the patent at issue in CLS covered a computer-implemented method of using a third party, or intermediary, to mitigate settlement risk in international currency trading transactions. In its decision, the Supreme Court held that the claimed method was not patentable because it covered nothing more than an "abstract idea." Long before the decision in CLS, prior decisions of the Supreme Court and other lower federal courts had held that laws of nature, natural phenomena and abstract ideas, standing alone, are not entitled to protection under the federal patent statute, but in certain circumstances if combined with "something more" can be transformed into a patentable invention. The Court determined that the concept of intermediated settlement in currency transactions fell within the category of abstract ideas because it is "a fundamental economic practice long prevalent in our system of commerce." In the portion of its analysis that is sending shock waves through the patent world, the Court then found that simply implementing the abstract idea of intermediated financial settlement with a "generic" or "general purpose" computer cannot transform it to a patentable invention.*

*There's little doubt that CLS represents a victory for the anti-troll forces. Since the CLS decision was issued, lower courts have struck down more than a dozen patents as "patent ineligible," including the following:*

- *A method of providing secure online sales transactions*
- *A computer-based method for converting airline customers' loyalty award credits*
- *A method of predicting human performance based upon genetic testing*
- *A method of facilitating employment searches using anonymous communications*
- *A method of "upselling" products using electronic communications devices*

*It may be hard to mourn the loss of a patent on "upselling" products, but will CLS strip away a critical tool that e-commerce and other computer-based companies have used to protect their innovations?"*

To read the entire article, visit the *Crain's Cleveland Business* [website](#).