

Abstract Ideas 2.0

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Although the plain language of section 101 of the Patent Act does not contain any exceptions to its broad definition of patentable subject matter, the Court has consistently held that “abstract ideas,” “laws of nature,” and “natural” or “physical phenomena” are not patentable subject matter. The exact basis for these exceptions the Court has never made entirely clear. In this article, I turn to economics to see if it can help us understand why certain inventions or discoveries should be ineligible for patent protection.