No. 25-853

IN THE

Supreme Court of the United States

UNITED SERVICES AUTOMOBILE ASSOCIATION,

Petitioner,

v.

PNC BANK, N.A.,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

In *Alice Corporation Pty. Ltd.* v. *CLS Bank International*, this Court applied the two-step analysis for patent eligibility under 35 U.S.C. § 101 to hold that patent claims reciting "a computer-implemented scheme for mitigating 'settlement risk' … by using a third-party intermediary" were ineligible for patenting. 573 U.S. 208, 212 (2014). At step one of the analysis, the Court held that the claims were "directed to the abstract idea of intermediated settlement," which was "a fundamental economic practice long prevalent in our system of commerce." *Id.* at 219-221 (quotation marks omitted).

In this case, the court of appeals faithfully articulated and applied *Alice*'s step-one analysis, concluding that USAA's patent claims were "directed to the abstract idea of depositing a check." Pet. App. 10a; *see also* Pet. App. 22a ("the abstract idea of check deposits"). The court also held that the claims' bare recitation of a generic mobile device did not change the analysis, as "the device is merely a tool to perform the conventional steps associated with check depositing." Pet. App. 10a.

The questions presented are:

1. Whether USAA's patent claims, which are directed to depositing a check, are directed to an abstract idea at step one of *Alice*'s patent-eligibility analysis.

2. Whether USAA's patent claims—like those in *Alice* itself—remain directed to an abstract idea at step one where they recite a generic computing device merely as a tool to perform well-known steps.

CORPORATE DISCLOSURE STATEMENT

PNC Bank, N.A. is a wholly owned, indirect subsidiary of The PNC Financial Services Group, Inc., which is publicly traded (NYSE: PNC) and does not have a parent corporation.

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INTRODUCTION

Petitioner United Services Automobile Association (USAA) challenges purported bright-line rules that do not exist, in an effort to obtain case-specific relief on questions it did not raise below. USAA's first question presented asks whether the U.S. Court of Appeals for the Federal Circuit improperly treats "concrete technological processes" as abstract ideas that are patent-ineligible under 35 U.S.C. § 101. Pet. i. But the Federal Circuit has never so held, and USAA never challenged the articulation of the abstract idea in this case—not at the panel stage, and not in its unsuccessful petition for rehearing en banc. This Court is a court of review, not of first view, and should not wade into arguments that USAA has developed for the first time in its petition for certiorari.

In any event, USAA's patents are plainly directed to an abstract idea, as they seek to monopolize the basic business practice of depositing a check. The Federal Circuit concluded as much: "the claim is directed to the abstract idea of depositing a check." Pet. App. 10a; *see also* Pet. App. 22a ("the abstract idea of check deposits"). Any faithful application of this Court's Section 101 precedents would hold USAA's claims patent-ineligible because they recite "a fundamental economic practice long prevalent in our system of commerce." *Alice Corp. Pty. Ltd.* v. *CLS Bank Int'l*, 573 U.S. 208, 219 (2014) (quotation marks omitted). That is likely why not a single judge on the panel or the en banc Federal Circuit suggested that USAA's claims were patent-eligible.

To the extent USAA believes that its claims are better described as directed not to depositing a check, but to depositing a check "using a handheld mobile device"

(Pet. 23), that would require this Court to first decide what USAA's claims are "directed to"—a question USAA itself admits "would have limited reach" because "it is difficult to do more than set forth general guidelines for determining what a particular claim is 'directed to.'" Pet. 35. And even if USAA's formulation were correct, this case would still not warrant review, because "merely requiring generic computer implementation fails to transform [an] abstract idea into a patent-eligible invention." *Alice*, 573 U.S. at 212. That is perhaps why USAA devotes much of its petition to discussing other cases that arguably posed difficult questions at the margins of the *Alice* doctrine. But this is not such a case. And even in USAA's selection of recent patent-eligibility cases, this Court denied review in every one in which certiorari was sought.

USAA's second question presented asks whether the Federal Circuit has wrongly held that computer-implemented innovation is patentable only if it improves the computer's functionality. But the Federal Circuit has never announced such a categorical rule. Rather, consistent with *Alice*, the court has recognized that "improv[ing] the functioning of the computer itself" is *one indication* that a patent is not directed to an abstract idea. 573 U.S. at 225. And USAA's assertion that the Federal Circuit has precluded patenting improvements to a user's experience in using a computer is both incorrect and irrelevant, as USAA's patent claims at most recite improving a user's experience of *check deposit*, not the user's experience in using a computer.

Since this Court's unanimous decision in *Alice*, the Court has denied over a dozen petitions seeking its clarification. *Alice* correctly interpreted the Patent Act, and USAA—though barely concealing its disagreement with *Alice*—does not seek its overruling. For centuries,

Anglo-American law has prevented patentees from monopolizing "[l]aws of nature, natural phenomena, and abstract ideas." *Alice*, 573 U.S. at 216 (quotation marks omitted). Based on that longstanding doctrine, *Alice* correctly discerned that Congress adopted Section 101 as a standard, not a bright-line rule. And while reasonable jurists can sometimes disagree regarding a standard's application to a particular case, no Federal Circuit judge voiced any disagreement as to its application to USAA's patents. Beyond arguing that the Court should somehow "clarify" what constitutes an abstract idea at *Alice* step one, USAA does not explain what this Court could say that this Court has not already said or wisely declined to say. The Patent Act, as this Court has long interpreted it, does not grant USAA a monopoly on using generic computer technology to carry out a familiar business transaction like check deposit, and there is no reason for this Court to revisit that case-specific determination.

The Court should deny the petition.

STATEMENT

A. USAA Seeks To Patent Depositing Checks Using Generic Computer Technology

USAA holds numerous patents purporting to cover depositing checks using general-purpose computer technology that USAA did not invent or improve. USAA has sought to monetize its patent portfolio by suing or threatening to sue other banks for patent infringement. USAA was initially able to avoid exposing its patents to appellate review by settling some of its litigations.

PNC Bank, N.A., a national bank based in Pittsburgh, refused to settle. In agency proceedings not at issue here, PNC successfully invalidated all challenged

claims of related USAA patents as obvious in light of prior art. The Federal Circuit affirmed those decisions, and this Court denied USAA's petition for certiorari. *United Servs. Auto. Ass'n* v. *PNC Bank N.A.*, No. 25-149 (U.S. Oct. 6, 2025); *see also United Servs. Auto. Ass'n* v. *PNC Bank N.A.*, No. 23-2171, 2025 WL 339662 (Fed. Cir. Jan. 30, 2025); *United Servs. Auto. Ass'n* v. *PNC Bank N.A.*, No. 23-2244, 2025 WL 706080 (Fed. Cir. Mar. 5, 2025).

This is USAA's second petition for certiorari in its litigation campaign against PNC. USAA's petition involves patent claims held to be patent-ineligible because they recite only an abstract idea—namely, depositing a check—implemented through well-known, generic computer technology.

USAA's petition notably spends little time discussing USAA's patents. That is likely because the patents admit that they claim no technological invention and do not purport to solve any technological problem. Rather, as their specifications explain, the patents use generic, existing computer technology to make it easier to deposit a check. 23-1778 C.A.J.A. 268 ('605 patent 2:7-14) ("[T]here is a need for a convenient method of remotely depositing a check while enabling the payee to quickly access the funds from the check. The described embodiments contemplate a system, method and computer-readable medium with computer executable instructions for remotely redeeming a negotiable instrument."); 23-1639 C.A.J.A. 232 ('638 patent 4:21-24) (the claimed invention uses "electronics that … consumers actually own or can easily acquire, such as a general purpose computer, a scanner, and a digital camera"). Indeed, in the court of appeals, USAA described its claims as "enabl[ing] an ordinary consumer device to scan and deposit a check." 23-1778 C.A. Resp. Br. 16.

USAA's patent claims recite no unconventional computing technology. Claim 1 of the '605 patent, which USAA admits is "representative of the asserted claims" (Pet. 10), begins by reciting a "portable device comprising a general purpose computer including a processor coupled to a memory," 23-1778 C.A.J.A. 275 ('605 patent 15:13-14). Claim 1 further recites a "digital camera" and "camera software comprising instructions that … control the digital camera." *Id.* (15:9-10, 15:16-17). USAA has never denied that the portable device, general-purpose computer, processor, memory, digital camera, and camera software in its claim are all generic and non-inventive.

Although USAA refers at length to purported technical challenges in taking images of checks (Pet. 7-10), neither USAA's petition nor its patents recite any specific means for overcoming those challenges. USAA's petition merely asserts the conclusory goal of "*assist*[ing] the member to take a *technically compliant* picture," Pet. 9 (emphasis USAA's), as do its patent claims. Claim 1 of the '605 patent recites only "displaying an instruction on a display … to assist the user in having the digital camera capture the electronic images of the check" and "assisting the user as to an orientation for capturing the electronic images of the check." 23-1778 C.A.J.A. 275 ('605 patent 15:28-32). USAA provides no detail regarding *how* the "instruction" "assists" the user, or which "orientation" would produce what USAA now calls a "*technically compliant*" picture. Pet. 9. The absence of those details is no coincidence. USAA's patents disclose nothing about how to deposit checks using mobile devices. Indeed, the term "mobile device" appears nowhere in USAA's patents outside of the claims.

Finally, although USAA touts using "optical character recognition" (OCR), *see* Pet. 9, that technology was

also well-known at the time. USAA's own expert admitted that USAA did not invent OCR, using OCR on checks, or the other computer components or data-processing steps recited by the claims. 23-1639 C.A.J.A. 5582, 5586. And the patent claims recite no improvement in OCR, but rather simply using OCR to read particular types of information. 23-1778 C.A.J.A. 275 ('605 patent 15:56-61) (claiming the use of OCR for "determining an amount of the check, comparing the determined amount to an amount entered by the user into the portable device, and reading a [magnetic ink character recognition] line of the check").

B. Procedural History

USAA's litigation campaign against PNC was consolidated into two district court cases. In both cases, PNC argued, among other defenses, that USAA's check-deposit claims were patent-ineligible under Section 101, as interpreted by this Court in *Alice*.

The U.S. District Court for the Eastern District of Texas granted summary judgment for USAA on the patent-eligibility issue. The two cases were tried separately in 2022, yielding judgments totaling $218.5 million in the first case and $4.3 million in the second. PNC appealed both judgments to the Federal Circuit, and USAA cross-appealed the $4.3 million judgment, hoping to extract even more money.

On appeal, PNC explained at *Alice* step one that USAA's claims were directed to "the abstract idea of depositing a check." 23-1778 C.A. Opening Br. 18; 23-1639 C.A. Opening Br. 23, 26-27. At *Alice* step two, PNC explained that USAA's claims used only conventional computing devices performing routine data collection, recognition, and processing to carry out the abstract idea of check deposit. PNC also pointed to USAA's expert's

admission that USAA did not invent OCR or the other computer components or data-processing steps recited by the claims. 23-1639 C.A. Opening Br. 49-50. And PNC showed that USAA's attempts to raise factual disputes did not implicate any fact that was *material* to the Section 101 inquiry. 23-1639 C.A. Resp. & Reply Br. 22-25.

A unanimous Federal Circuit panel reversed. At *Alice* step one, the Federal Circuit concluded that "the claim is directed to the abstract idea of depositing a check." Pet. App. 10a; *see also* Pet. App. 22a ("the abstract idea of check deposits"). The Federal Circuit noted that the claims employ "data collection and analysis steps that have been traditionally performed by banks and people depositing checks—namely reviewing checks, recognizing relevant data, checking for errors, and storing the resultant data." Pet. App. 8a-9a; *see also* Pet. App. 20a ("routine and well-known steps taken when depositing checks"). The court also noted that the claims are "drafted in a result-oriented fashion, without the requisite specificity needed to provide a non-abstract technological solution." Pet. App. 9a. To the extent USAA argued that it invented "non-obvious algorithms" to overcome any technical challenges, the court noted that "those algorithms are not found within the claim or the specification." *Id.* Rather, the claims merely provided "a *concept* of improving the check deposit process by using a handheld mobile device." *Id.*; *see also* Pet. App. 21a ("the patents just disclose that these steps happen and discuss them in a results-oriented manner").

The Federal Circuit then analyzed the claims at *Alice* step two. The Federal Circuit noted that the claims recite "nothing more than routine image capture, OCR, and data processing steps—all of which were well-

known and routine." Pet. App. 11a; *see also* Pet. App. 22a ("The claims merely provide for mobile-device implementation of routine or conventional activities long-associated with depositing checks."). The court also noted that the claimed "mobile device" is simply "a piece of generic hardware." Pet. App. 12a; *see also* Pet. App. 22a (rejecting USAA's focus on "the notion of *mobile* check deposits being inventive" because that "simply cabins the abstract idea of check deposits to a particular technological environment, which is insufficient"). Accordingly, the claims involved "only the implementation of routine activities using a generic device." Pet. App. 12a. The court found no genuine disputes of material fact, because there was "ample evidence" that "OCR was known," and "the patent itself touts as a key advantage" its use of unimproved, existing electronics. Pet. App. 13a.

Because the court held USAA's claims patent-ineligible under Section 101, it had no need to address PNC's other arguments or USAA's cross-appeal. Pet. App. 14a, 22a.

USAA petitioned for panel rehearing and rehearing en banc in both cases. USAA's rehearing petitions did not raise any challenge to the panel's identification of the abstract idea at *Alice* step one. Rather, USAA presented only one question regarding *Alice* step two: whether the step-two inquiry could be decided "as a matter of law at summary judgment" if—as USAA contended—"the patent owner submits expert evidence that the claimed invention was not conventional." C.A. USAA Pet. for Reh'g, at p.v (No. 23-1639), Dkt. 77; *see also* C.A. USAA Pet. for Reh'g, at p.v (No. 23-1778), Dkt. 72 (same).

The Federal Circuit denied rehearing and rehearing en banc, with no judge noting any separate dissent or concurrence. Pet. App. 67a-70a.

REASONS FOR DENYING THE PETITION

I. USAA SEEKS REVIEW OF QUESTIONS IT NEVER PRESENTED TO THE FEDERAL CIRCUIT

The Court should deny USAA's petition for the simple reason that USAA never argued its questions presented to the Federal Circuit. USAA's petition for certiorari is the first time USAA has suggested that the Federal Circuit "cannot determine what constitutes an 'abstract idea'" at step one of *Alice*. Pet. 18. Nor did USAA argue to the Federal Circuit that it applied a "mistaken categorical rule" that "improving a user's experience while using a computer" is patent-ineligible. Pet. 24.

If USAA truly believed that the Federal Circuit panel erred in these ways, it could and should have presented these issues in its rehearing petitions. But USAA's rehearing petitions took no issue with the panel's approach to *Alice* step one or its application to USAA's patent claims. Rather, USAA confined its rehearing petitions to *Alice* step two. Thus, USAA's rehearing requests to the Federal Circuit presented an issue USAA has abandoned on certiorari, and its petition for certiorari presents issues it never put before the Federal Circuit.

This Court is "a court of review, not of first view," and does not ordinarily consider arguments "not addressed by the Court of Appeals." *Cutter* v. *Wilkinson*, 544 U.S. 709, 718 n.7 (2005) (collecting cases). Given that no Federal Circuit judge—not on the panel, and not on the en banc court—had an opportunity to consider

USAA's latest objections, much less suggested that they should be resolved in USAA's favor, this Court should not be the first to consider them. If, as USAA suggests, its questions are of recurring importance, the Court will surely be presented with a case where the Federal Circuit has actually considered them.

II. USAA Seeks Only Case-Specific Review Of The Federal Circuit's Application Of This Court's Precedent

This case would not warrant certiorari even if USAA had preserved the questions it presents. The Federal Circuit correctly articulated and applied this Court's precedent. USAA's petition simply seeks review of a purported "misapplication of a properly stated rule of law." S. Ct. R. 10.

A. The Federal Circuit Correctly Articulated And Applied *Alice*

The advent of programmable general-purpose computers made it possible for creative patent lawyers to draft patent claims that, on their face, recited the use of machines, but simply claimed the use of generic devices executing routine functions to perform calculations, carry out algorithms, or implement fundamental business practices. This Court considered such claims in *Alice*, which involved claims reciting a "computer-implemented scheme for mitigating 'settlement risk' … by using a third-party intermediary." 573 U.S. at 212. This Court held the claims patent-ineligible because they were "drawn to the abstract idea of intermediated settlement, and … merely requiring generic computer implementation fails to transform that abstract idea into a patent-eligible invention." *Id.*

Alice held that the longstanding abstract-ideas exception to patent eligibility is considered in two steps. At step one, courts consider "whether the claims at issue are directed to a patent-ineligible concept." *Alice*, 573 U.S. at 218. The Court expressly declined to provide a rigid test for identifying an "abstract idea." *Id.* at 221. However, the Court made clear that "the abstract-ideas category" is not "confined to 'preexisting, fundamental truth[s]' that 'exis[t] in principle apart from any human action[,]'" but rather includes, for example, a "method of organizing human activity" and a "'fundamental economic practice.'" *Id.* at 220 (quoting *Bilski* v. *Kappos*, 561 U.S. 593, 611 (2010)).

At step two, courts evaluate "the elements of the claim to determine whether it contains an 'inventive concept' sufficient to 'transform' the claimed abstract idea into a patent-eligible application." *Alice*, 573 U.S. at 221 (quoting *Mayo Collaborative Servs.* v. *Prometheus Labs., Inc.*, 566 U.S. 66, 72-73, 80 (2012)). Because the method claims in *Alice* "merely require[d] generic computer implementation," the Court held that they "fail[ed] to transform th[e] abstract idea into a patent-eligible invention." *Id.* Rather, each claim step did "no more than require a generic computer to perform generic computer functions." *Id.* at 225. The same was true of claims reciting "a computer system and computer-readable medium": while they recited "specific hardware," those hardware components were "purely functional and generic." *Id.* at 226. "[N]one of the hardware recited by the system claims 'offer[ed] a meaningful limitation beyond generally linking 'the use of the [method] to a particular technological environment,' that is, implementation via computers.'" *Id.* (quoting *Bilski*, 561 U.S. at 610-611).

USAA does not deny that the Federal Circuit correctly articulated the *Alice* test in this case, nor that the Federal Circuit at least sought to apply it. The Federal Circuit first correctly asked "'whether the claims at issue are directed to a patent-ineligible concept,'" such as an abstract idea. Pet. App. 6a (quoting *Alice*, 573 U.S. at 218). The court then considered "'the elements of each claim both individually and 'as an ordered combination' to determine whether the additional elements 'transform the nature of the claim' into a patent-eligible application.'" *Id.* (quoting *Alice*, 573 U.S. at 217). Thus, while USAA disapproves of the outcome the court reached, USAA simply requests a case-specific correction of a purported misapplication of a properly stated rule of law. This Court "rarely grant[s] review where the thrust of the claim is that a lower court simply erred in applying a settled rule of law to the facts of a particular case." *Salazar-Limon* v. *City of Houston*, 137 S. Ct. 1277, 1278 (2017) (mem.) (Alito, J., concurring in the denial of certiorari).

Besides, this is an easy case under *Alice*. At step one, USAA's patents are directed to "the abstract idea of depositing a check." Pet. App. 10a. USAA does not, and cannot, deny that "depositing a check" is an abstract idea—it is a basic business transaction used since the dawn of modern commercial banking. Pet. App. 8a-9a. Like intermediated settlement, check deposit is "'a fundamental economic practice long prevalent in our system of commerce.'" *Alice*, 573 U.S. at 219-220.

At step two, USAA's claims add nothing to check deposit beyond "wholly generic computer implementation." *Alice*, 573 U.S. at 223-224. As USAA's patents admit, they use "'electronics that … consumers actually own or can easily acquire, such as a general purpose computer, a scanner, and a digital camera.'" Pet. App. 13a

(quoting 23-1639 C.A.J.A. 232 ('638 patent 4:21-24)). That includes the claimed "mobile device," which is simply "a piece of generic hardware." Pet. App. 12a. The patent claims recite no specific technological development, algorithm, or other innovation by which they, in USAA's words, "*assist* the member to take a *technically compliant* picture." Pet. 9. Rather, they simply recite those activities in conclusory, result-oriented terms, without specifying any means for actually achieving the claimed result. For example, claim 1 of the '605 patent—which USAA admits is "representative" of all involved patent claims (Pet. 10)—recites "assisting the user as to an orientation for capturing the electronic images of the check," without specifying any technical means of doing so. 23-1778 C.A.J.A. 275 ('605 patent 15:31-32).

Even the patent specification describes only off-the-shelf technology, offering the skilled artisan no technical information whatsoever beyond generic computer functions. *E.g.*, 23-1778 C.A.J.A. 269 ('605 patent 3:63-4:1) ("General purpose computers are ubiquitous today and the term should be well understood. A general purpose computer … may be in a desktop or laptop configuration, and generally has the ability to run any number of applications that are written for and compatible with the computer's operating system."); 23-1778 C.A.J.A. 273 ('605 patent 12:60-64) ("The customer may view instructions in the browser, for example instructing the customer to log in, instructing the customer to place a check on or in front of an image capture device, instructing the customer to edit an image, and so forth."); 23-1778 C.A.J.A. 270 ('605 patent 6:35-38) ("Similarly, digital cameras often ship along with software that allows users to move images from the camera to a computer … and may also provide additional functions, such as photo editing functions crop and rotate.").

USAA's patents offer "no fundamental change to how any of the technology functions" nor "any disclosure of technology for depositing a check using a handheld mobile device." Pet. App. 12a-13a. At most, USAA's patent claims recite "data collection and analysis steps that have been traditionally performed by banks and people depositing checks—namely reviewing checks, recognizing relevant data, checking for errors, and storing the resultant data." Pet. App. 8a-9a; *see also* Pet. App. 20a ("routine and well-known steps taken when depositing checks"). Reciting a generic "portable device comprising a general purpose computer," as representative claim 1 of the '605 patent does (23-1778 C.A.J.A. 275 (15:13-15)), is of no moment, as "the mere recitation of a generic computer" or "limiting the use of the abstract idea to a particular technological environment" does not turn an abstract idea into something more. *Alice*, 573 U.S. at 223 (quotation marks omitted).

Finally, that the claimed system is configured to check for errors by "confirming that the deposit can go forward after performing [OCR] on the check" likewise adds nothing new. 23-1778 C.A.J.A. 275 ('605 patent 15:55-57). As the Federal Circuit observed, "[t]he claim recites nothing more than routine image capture, OCR, and data processing steps—all of which were well-known and routine." Pet. App. 11a. Indeed, the specification again describes OCR as a known computer function and does not claim to have improved it, but merely recites its use as a tool to "glean[]" information like a check's routing number or amount. 23-1778 C.A.J.A. 273 ('605 patent 11:27-33).

The uncontroversial nature of the Federal Circuit's analysis—both in articulating the legal test and applying it to USAA's claims—is only reinforced by the court's unanimity. As USAA insists, judges on the Federal

Circuit have not hesitated to speak up when they believe that decisions diverge from this Court's precedent. Yet not one judge dissented from the panel's straightforward decisions or from the denial of USAA's rehearing petitions. USAA's disagreement with that outcome does not warrant this Court's review.

B. USAA's First "Question Presented" Identifies No Issue Warranting Certiorari

Faced with unanimous decisions that correctly applied this Court's settled precedent, USAA asks this Court to decide whether the Federal Circuit has "extended" *Alice* to "prohibit patenting concrete technological processes." Pet. i. Try as USAA might, the decisions below do not have any broader implications requiring this Court's attention. Rather, they were straightforward applications of existing law and did not "extend" the sweep of Section 101's exceptions.

First, the Federal Circuit has never said that "concrete technological processes" are patent-ineligible. On the contrary, the Federal Circuit has upheld numerous computer-implemented inventions that teach specific technical solutions to technical problems. *See*, *e.g.*, *Thales Visionix* v. *United States*, 850 F.3d 1343, 1348-1349 (Fed. Cir. 2017) (claim recited "[an] unconventional configuration of sensors," allowing their use "in a non-conventional manner to reduce errors in measuring the relative position and orientation of a moving object on a moving reference frame"); *Koninklijke KPN N.V.* v. *Gemalto M2M GmbH*, 942 F.3d 1143, 1151 (Fed. Cir. 2019) (claims did "not simply recite, without more, the mere desired result of catching previously undetectable systematic errors, but rather recite[d] a specific solution for accomplishing that goal—i.e., by varying the way check data is generated by modifying the permutation applied

to different data blocks"); *Enfish, LLC* v. *Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) ("We do not read *Alice* to broadly hold that all improvements in computer-related technology are inherently abstract[.]"); *SRI Int'l, Inc.* v. *Cisco Sys., Inc.*, 930 F.3d 1295, 1303 (Fed. Cir. 2019) (upholding claims "directed to using a specific technique … to solve a technological problem arising in computer networks"); *McRO, Inc.* v. *Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016) (although "the rules are embodied in computer software that is processed by general-purpose computers," the patent claim was "focused on a specific asserted improvement in computer animation" and thus not directed to an abstract idea).

Moreover, despite using the word "concrete" several times (Pet. i, 11, 16, 22), USAA never defines it, other than by treating it as an antonym for "abstract." The closest USAA comes to explaining what it means by "concrete technological processes" is embracing Judge Linn's 2017 concurrence in a different case, which asserted that an abstract idea "encompasses *only* 'the kind of basic building block of scientific or technological activity that would foreclose or inhibit future innovation.'" Pet. 22 (quoting *Smart Sys. Innovations, LLC* v. *Chicago Transit Auth.*, 873 F.3d 1364, 1383 (Fed. Cir. 2017) (Linn, J., concurring in part and dissenting in part)). But this Court had previously rejected Judge Linn's position in *Alice*, when it held that the abstract-ideas category also includes a "longstanding commercial practice" that "is a method of organizing human activity, not a truth about the natural world that has always existed." 573 U.S. at 220 (quotation marks omitted). Indeed, under Judge Linn's approach, the claims in *Alice* would have been patent-eligible—which was Judge Linn's position at the time. *See CLS Bank Int'l* v. *Alice Corp. Pty. Ltd*,

717 F.3d 1269, 1333 (Fed. Cir. 2013) (Linn & O'Malley, JJ., dissenting from denial of rehearing en banc) ("[W]e would find all claims at issue in this case patent eligible."). USAA does not explain how the Court could adopt USAA's desired approach without overruling *Alice*, which USAA does not seek.

That said, USAA has no difficulty disparaging *Alice* as setting forth a "judge-made exception," a "judicial gloss," and "driven by policy concerns." Pet. 1, 16, 33. But this Court simply interpreted the Patent Act in light of longstanding doctrine that formed the backdrop of Congress's enactment of Section 101. *Alice* built on centuries of U.S. and English patent doctrine, with roots preceding the Founding, that refused to grant patents on abstract ideas. Congress's first patent statute contained many provisions "derived from the principles and practices, which ha[d] prevailed in … England." *Pennock* v. *Dialogue*, 27 U.S. (2 Pet.) 1, 18 (1829). One of those English principles was that "[a] patent cannot be for a mere principle … that is, for an elementary truth." 16 U.S. App. Note II, at 15 ¶4 (1818) (Story, J.) ("On the Patent Laws").[1]

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[1] *See also Hornblower* v. *Boulton*, 101 Eng. Rep. 1285, 1289 (K.B. 1799) (Grose, J.) ("I am not prepared to say that a patent for a mere principle was intended to be comprehended within [the patent statute]."); *id.* at 1291 (Lawrence, J.) ("[M]ere abstract principles are [not] the subject of a patent."); *Boulton* v. *Bull*, 126 Eng. Rep. 651, 661 (K.B. 1795) (Heath, J.) (noting as "the clearest positions of law respecting patents for machinery" that "the organization of a machine may be the subject of a patent, but principles cannot"); *id.* at 662-663 (Buller, J.) ("[I]f the principle alone be the foundation of the patent, though the addition may be a great improvement, (as it certainly is,) yet the patent must be void ab initio."); *id.* at 667 (Eyre, C.J.) ("Undoubtedly there can be no patent for a mere principle[.]").

This Court, following English practice, repeatedly held abstract ideas patent-ineligible. *See Rubber-Tip Pencil Co.* v. *Howard*, 87 U.S. (20 Wall.) 498, 507 (1874) ("An idea of itself is not patentable[.]"); *O'Reilly* v. *Morse*, 56 U.S. (15 How.) 62, 115 (1853) ("[A] patent for a principle" is void.); *Le Roy* v. *Tatham*, 55 U.S. (14 How.) 156, 175 (1852) ("A principle, in the abstract … cannot be patented."). When Congress enacted the modern Patent Act, it incorporated "the old soil" treating abstract ideas as ineligible for patenting. *Taggart* v. *Lorenzen*, 587 U.S. 554, 560 (2019); *see also Alice*, 573 U.S. at 216 ("We have interpreted § 101 and its predecessors in light of this exception for more than 150 years."); *Mackay Radio & Tel. Co.* v. *Radio Corp. of Am.*, 306 U.S. 86, 94 (1939); *Funk Bros. Seed Co.* v. *Kalo Inoculant Co.*, 333 U.S. 127, 130 (1948); *Gottschalk* v. *Benson*, 409 U.S. 63, 67 (1972); *Parker* v. *Flook*, 437 U.S. 584, 588-590 (1978); *Diamond* v. *Chakrabarty*, 447 U.S. 303, 309 (1980); *Bilski* v. *Kappos*, 561 U.S. 593, 601-602 (2010); *Mayo*, 566 U.S. at 70-71; *Association for Molecular Pathology* v. *Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013).

In sum, USAA's petition neither asks this Court to overrule *Alice* nor proposes any modification to precedent other than approaches the Court has already considered and rejected. And even if USAA had asked this Court to change the law, this case is not a proper vehicle for doing so. *See infra* Part III.

Second, USAA's quarrel with the Federal Circuit's articulation of the abstract idea ignores the court's conclusion that USAA's claims are "directed to the abstract idea of depositing a check." Pet. App. 10a; *see also* Pet. App. 22a ("the abstract idea of check deposits"). USAA's petition does not dispute that check deposit is a fundamental economic practice and thus an abstract

idea. At step two, the Federal Circuit held that "the mobile device is a piece of generic hardware," and that the patents' use of a mobile device to deposit checks "is not inventive" and is "only the implementation of routine activities using a generic device." Pet. App. 12a. USAA's petition does not dispute that conclusion either—indeed, it presents no step-two question at all. The Federal Circuit's substantive analysis was accordingly sound at both steps, as USAA cannot monopolize check deposit by "adding the words 'apply it on a computer'" or on a mobile device. *Alice*, 573 U.S. at 223-224.

Although the Federal Circuit elsewhere described the abstract idea as "depositing a check using a mobile device" (Pet. App. 7a, 20a), that characterization properly reflects that adding a generic computing device like a mobile phone to routine business transaction steps does not save the claims from abstraction. Pet. App. 9a ("The addition of a handheld mobile device to carry out these routine steps does not make the claim any less abstract."). Neither does confining the abstract idea of check deposit "to a particular technological environment," such as a mobile device. Pet. App. 22a; *Alice*, 573 U.S. at 226.

To the extent USAA's argument turns on the assertion that its claims are not "directed to the abstract idea of depositing a check," Pet. App. 10a, but rather to "the abstract idea of depositing a check using a handheld mobile device," Pet. App. 7a, this Court would first have to decide which formulation better describes what USAA's claims are "directed to." But USAA does not ask this Court to decide that question, and indeed admits that "a holding on *that* question would have limited reach" because "it is difficult to do more than set forth general guidelines for determining what a particular claim is 'directed to.'" Pet. 35. In any event, the specification itself

describes the invention as an improvement to check deposit, not to mobile devices. *E.g.*, 23-1778 C.A.J.A. 268 ('605 patent 2:7-9) ("[T]here is a need for a convenient method of remotely depositing a check while enabling the payee to quickly access the funds from the check."); *id.* ('605 patent 2:10-14) (invention's embodiments are a system, method, and instructions "for remotely redeeming a negotiable instrument").[2]

Perhaps USAA's argument is that, because a generic mobile device is a tangible object, the Federal Circuit was wrong to even mention it in the *Alice* step-one analysis and should instead have considered only whether it added something inventive at *Alice* step two. But USAA does not explain how revising the lower court opinions in that way would be worth this Court's time, given that the result would unquestionably remain the same. The Federal Circuit has already concluded at step one that the claims are directed to "the abstract idea of depositing a check." Pet. App. 10a. And the use of a generic mobile device cannot salvage the claim at step two. This Court does not grant review to edit lower court opinions, and particularly not to fix inconsequential asserted errors that the petitioner never raised below. Because the Federal Circuit reached conclusions at both steps of *Alice* that USAA's petition does not dispute, further review would serve no purpose.

Third, USAA's assertion of systemic problems in the Federal Circuit's abstract-ideas jurisprudence (Pet.

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[2] Notably, representative claim 1 of the '605 patent is not even limited to use of a "handheld mobile device," but rather recites a "*portable* device." 23-1778 C.A.J.A. 275 ('605 patent 15:13) (emphasis added). The district court construed "portable device" as any "computing device capable of being easily moved manually," including a "laptop computer." 23-1778 C.A.J.A. 18, 20.

20-22) is mistaken. At the outset, USAA's position is belied by the fact that this Court denied certiorari in all of the cases USAA cites where a petition was filed. *Recentive Analytics, Inc.* v. *Fox Corp.*, 134 F.4th 1205 (Fed. Cir. 2025), *cert. denied*, 146 S. Ct. 891 (2025) (mem.); *Yu* v. *Apple Inc.*, 1 F.4th 1043 (Fed. Cir. 2021), *cert. denied*, 142 S. Ct. 1113 (2022) (mem.); *Chamberlain Grp., Inc.* v. *Techtronic Indus. Co.*, 935 F.3d 1341 (Fed. Cir. 2019), *cert. denied*, 141 S. Ct. 241 (2020) (mem.); *Affinity Labs of Tex., LLC* v. *Amazon.com Inc.*, 838 F.3d 1266 (Fed. Cir. 2016), *cert. denied*, 581 U.S. 919 (2017).

Moreover, USAA's cases all fall squarely within the Court's longstanding patent-eligibility guidance. For over 170 years, this Court has held that patents may not claim a result without specifying any technical means for achieving that result.[3] All of USAA's cited cases involve patents that suffered from that fatal defect. One purported invention "simply demand[ed] the production of a desired result … without any limitation on how to produce that result." *Interval Licensing LLC* v. *AOL, Inc.*, 896 F.3d 1335, 1345 (Fed. Cir. 2018). Another involved claims "directed to a result or effect that is the abstract idea and merely invoke[d] generic processes and machinery rather than a specific means or method." *Yu*, 1 F.4th at 1043 (quotation marks and citation omitted). The

[3] *E.g.*, *The Telephone Cases*, 126 U.S. 1, 534 (1888) (prohibiting patent claims directed to a given result "distinct from the process or machinery necessary to produce it"); *O'Reilly*, 56 U.S. (15 How.) at 86, 113 (rejecting claim directed toward "electromagnetism, however developed, for making or printing intelligible characters, letters, or signs" because "it matters not by what process or machinery the result is accomplished"); *Le Roy*, 55 U.S. (14 How.) at 175 ("A patent is not good for an effect, or the result of a certain process" because this "would prohibit other persons from making the same thing by any means whatsoever.").

patents in USAA's other cited cases were similarly flawed. *See, e.g.*, *Recentive*, 134 F.4th at 1213 ("Allowing a claim that functionally describes a mere concept without disclosing how to implement that concept risks defeating the very purpose of the patent system."); *Affinity*, 838 F.3d at 1269 ("The specification describes the function of streaming content to a wireless device, but not a specific means for performing that function."); *Longitude Licensing Ltd.* v. *Google LLC*, 24-1202, 2025 WL 1249136, at *4 (Fed. Cir. Apr. 30, 2025) (claim was "framed entirely in functional, results-oriented terms."); *Aftechmobile Inc.* v. *Salesforce.com, Inc.*, 853 F. App'x 669, 669 (Fed. Cir. 2021) (per curiam) ("The recitation of desired functions without corresponding recitations on how to achieve or implement those functions leaves the claims devoid of anything but the abstract idea."); *Interval Licensing*, 896 F.3d at 1345 ("[B]road, result-oriented" claim language "demand[ed] the production of a desired result … without any limitation on how to produce that result."); *Chamberlain*, 935 F.3d at 1348 ("[N]o specific manner of performing the abstract idea is recited in these claims.").

Likewise, most of USAA's cases applied *Alice*'s instruction that longstanding "method[s] of organizing human activity" constitute abstract ideas. 573 U.S. at 220; *see also Recentive*, 134 F.4th at 1213 ("[B]efore the introduction of machine learning, event planners looked to … 'event parameters' …."); *Yu*, 1 F.4th at 1043 ("[T]he idea and practice … has been known by photographers for over a century"); *Affinity*, 838 F.3d at 1270 ("'well-known business practices'"); *Interval Licensing*, 896 F.3d at 1344 (claims directed to "'basic and longstanding practice'").

All of USAA's cases also applied this Court's command that "generic computer implementation" is not

sufficient to render claims non-abstract. *Alice*, 573 U.S. at 221; *see also Recentive*, 134 F.4th at 1212 n.4 ("generic computing machines and processors"); *Yu*, 1 F.4th at 1043 ("'generic processes and machinery'"); *Chamberlain*, 935 F.3d at 1349 ("conventional components, all recited in a generic way"); *Affinity*, 838 F.3d at 1270 ("conventional computer components"); *Interval Licensing*, 896 F.3d at 1345 ("generic, pre-existing computer functionality"); *Longitude*, 2025 WL 1249136, at *2 ("generic computing components"); *Aftechmobile*, 853 F. App'x at 669 ("generic computer storage medium and … generic computer processor").

USAA thus does not identify any Federal Circuit holding inconsistent with *Alice*, nor any actual disagreement of principle on which *Alice* has not already provided guidance. Instead, USAA objects to the Federal Circuit's application of *Alice*'s settled standard to particular patent claims. USAA's request for case-specific reconsideration of the step-one analysis here warrants denial, just as the Court denied certiorari in the other cases USAA cites.

C. USAA's Second "Question Presented" Is Not In Fact Presented, And Likewise Does Not Warrant Review

USAA formulates its second question presented as "[w]hether the Federal Circuit has wrongly held that, as a matter of law, a computer-implemented technological invention is patent-eligible only if it claims improvements to computer functionality itself." Pet. i. That question has an easy answer: The Federal Circuit has never so held, and there is no reason for this Court to review a question so phrased.

Contrary to USAA's assertion, the Federal Circuit has held computer-implemented processes non-abstract

when they "specify how interactions with the Internet are manipulated to yield a desired result." *DDR Holdings, LLC* v. *Hotels.com, L.P.*, 773 F.3d 1245, 1258 (Fed. Cir. 2014) (addressing claims directed to "a composite web page that displays product information from the third-party merchant, but retains the host website's 'look and feel'"). Likewise, the Federal Circuit has upheld computer-implemented processes that use a "specific combination" of elements to "provide a technical improvement" to a system. *EcoServices, LLC* v. *Certified Aviation Servs., LLC*, 830 F. App'x 634, 643 (Fed. Cir. 2020) (addressing claims directed to a specific system for improving jet engine washing).

In the same vein, the Federal Circuit recently elaborated on "several related meanings" for abstractness and non-abstractness, confirming multiple other ways for patentees to show that advances in computer-implemented processes are patent-eligible. *GoTV Streaming, LLC* v. *Netflix, Inc.*, 166 F.4th 1053, 1063 (Fed. Cir. 2026). For example, patentees can point to the "concreteness of mechanisms for how to achieve desired results." *Id.*; *see also, e.g.*, *Core Wireless Licensing S.A.R.L.* v. *LG Elecs., Inc.*, 880 F.3d 1356,1363 (Fed. Cir. 2018) (upholding claims "directed to a particular manner of summarizing and presenting information in electronic devices"); *McRO*, 837 F.3d at 1315 ("The claimed process uses a combined order of specific rules that renders information into a specific format that is then used and applied to create desired results: a sequence of synchronized, animated characters."). Alternatively, patent-eligible claims may involve "new hardware, whether at the server end, the wireless device end, or the networks that connect them." *GoTV*, 166 F.4th at 1065.

Of course, an improvement in computer functionality may be a strong *indication* that patent claims are

directed to a non-abstract invention. *Alice*, 573 U.S. at 225 (computer-based method claims that did not "purport to improve the functioning of the computer itself" were ineligible). But whether claims involve an improvement in computer functionality is not the end of the matter.

USAA later formulates its second question differently: whether "'improving a user's experience while using a computer' is … categorically patent-ineligible." Pet. 24. The Federal Circuit has never drawn that bright line either, and it would not matter if it had, because no such rule was applied here. USAA does not contend that its patents improve a user's experience while using a computer. Rather, as the Federal Circuit noted, USAA's claims purport to "improve the user's experience of *depositing a check* by allowing the use of familiar and easily acquired electronics." Pet. App. 10a (emphasis added). It will often be the case that using generic computing devices will "improve the user's experience" of a well-known business transaction. Indeed, the patent claims in *Alice* no doubt improved the user's experience of intermediated settlement. But they were still patent-ineligible, because they "amount[ed] to 'nothing significantly more' than an instruction to apply the abstract idea of intermediated settlement using some unspecified, generic computer." *Alice*, 573 U.S. at 225-226. The same is true of USAA's efforts to apply the abstract idea of check deposit using an unspecified, generic device that is "merely a tool to perform the conventional steps associated with check depositing." Pet. App. 10a.

The cases USAA cites (Pet. 28) do not establish either of the two categorical rules USAA asserts under its second question presented. Rather, in those cases, the patentee argued that its patent claims *did* improve

computer functionality—an argument USAA does not make about its own claims. In *Customedia Technologies, LLC* v. *Dish Network Corporation*, the court remarked that, "[n]ot infrequently, patentees … latch on to the language from *Alice* and claim that their claims … 'improve the functioning of the computer itself.'" 951 F.3d 1359, 1362 (Fed. Cir. 2020). The court then noted that "improving a user's experience while using a computer application is not, without more, sufficient to render the claims directed to an improvement in computer functionality." *Id.* at 1365. Nothing in that articulation suggests that only improvements in computer functionality are patent-eligible, nor does it prohibit patenting improvements in user experience (as the words "without more" indicate). Rather, the Federal Circuit merely distinguished user-experience improvements "without more" from the category of improvements in computer functionality frequently invoked by patentees.

The patentee in *Simio, LLC* v. *FlexSim Software Products, Inc.*, likewise argued that its claims "improve[d] on the functionality of prior simulation systems." 983 F.3d 1353, 1361 (Fed. Cir. 2020). As the court explained, the patentee's argument was really about a bare improvement to the user's experience, not the alleged improvement in computer functionality. *See id.* Again, that reasoning does not suggest that all improvements in user experience are patent-ineligible; it merely held the particular improvement at issue insufficient to support the patentee's argument that the claims improved computer functionality.

Another case cited by USAA likewise involved claims that the patentee argued recited "a nonabstract computer-functionality improvement." *Mobile Acuity Ltd.* v. *Blippar Ltd.*, 110 F.4th 1280, 1294 (Fed. Cir. 2024). The Federal Circuit rejected that argument

because the claims were, "at best," directed to improving the user's experience. *Id.* But that language merely explained why the patentee's assertion of a "'computer-functionality improvement'" lacked merit; it was not the sole reason for the claims' ineligibility. Rather, the claims were ineligible because they "consist[ed] solely of result-oriented, functional language and omit[ted] any specific requirements as to how the[] steps of information manipulation [we]re performed." *Id.* at 1292-1293.

Finally, USAA asserts, without elaboration, that the Federal Circuit "[blew] past the factual record" in this case (Pet. 25), but it did no such thing. The Federal Circuit addressed USAA's factual arguments in its *Alice* step-two analysis, where it explained that USAA raised no genuine disputes of *material* fact. Pet. App. 13a. The only potentially material factual question was whether the claim elements other than the abstract idea of check deposit contained anything beyond "well-understood, routine, conventional activit[ies] previously known to the industry." *Alice*, 573 U.S. at 225 (quotation marks omitted). But the record contained "ample evidence" that "OCR was known." Pet. App. 13a; *see also* 23-1639 C.A.J.A. 5585-5586 (USAA's expert admitting that OCR existed by 2006). The patents themselves do not assert any innovation in OCR, camera technology, mobile phones, or networking technology. *Supra* pp.4-6. On the contrary, the patents boast that they apply ubiquitous technology in a well-known manner. Pet. App. 13a; 23-1639 C.A.J.A. 232 ('638 patent 4:20-24) ("A particular advantage … is its ability to operate in conjunction with electronics that today's consumers actually own or can easily acquire, such as a general purpose computer, a scanner, and a digital camera.").

USAA's "expert evidence" (Pet. 15) likewise asserted only that it was purportedly unconventional to use these well-known computing techniques to deposit checks, *i.e.*, to carry out the abstract idea. *E.g.*, 23-1639 C.A.J.A. 6308 (asserting unconventionality of using well-known technology "to capture a check image" or for "check deposit"); 23-1778 C.A.J.A. 8991 (asserting that it was unconventional to "deposit checks using an ordinary, general-purpose device"). But that is immaterial, just as it was immaterial in *Alice* whether it was unconventional to use a generic computer to perform intermediated settlement. The point was that the claims added only "a handful of generic computer components configured to implement the [abstract] idea." *Alice*, 573 U.S. at 226. The same is true of USAA's claims, and none of USAA's misdirected expert testimony raised a genuine question to the contrary.[4]

III. USAA Offers No Beneficial Way For This Court To "Clarify" *Alice*, Nor Is This Case A Good Vehicle For Doing So

Since *Alice*, this Court has denied over a dozen petitions that, like USAA's, sought to alter the Federal Circuit's application of Section 101.[5] USAA tries to argue

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[4] This may well explain why USAA's petition for certiorari does not develop any meaningful argument about the Federal Circuit's analysis at *Alice* step two, despite having focused exclusively on step two when seeking rehearing en banc. *Supra* p.8.

[5] *E.g.*, *Eolas Techs. Inc.* v. *Amazon.com*, 145 S. Ct. 149 (2024); *CareDx, Inc.* v. *Natera, Inc.*, 144 S. Ct. 248 (2023); *Tropp* v. *Travel Sentry, Inc.*, 143 S. Ct. 2483 (2023); *Interactive Wearables, LLC* v. *Polar Electro Oy*, 143 S. Ct. 2482 (2023); *American Axle & Mfg., Inc.* v. *Neapco Holdings LLC*, 142 S. Ct. 2902 (2022); *Ariosa Diagnostics, Inc.* v. *Illumina, Inc.*, 141 S. Ct. 2171 (2021); *Consumer 2.0, Inc.* v. *Tenant Turner, Inc.*, 141 S. Ct. 876 (2020); C*hamberlain Grp., Inc.* v. *Techtronic Indus. Co.*, 141 S. Ct. 241 (2020); *Power Analytics*

that this case is a better vehicle to "clarify" what constitutes an "abstract idea," yet it offers this Court no meaningful way to do so except for ways this Court has already soundly rejected. And, while certain cases—such as those at the frontier of medical diagonistic discoveries—might be vehicles for exploring hard questions at the boundaries of Section 101, a dispute regarding depositing checks presents no such questions. *See, e.g.*, *Ariosa Diagnostics, Inc.* v. *Sequenom, Inc.*, 809 F.3d 1282, 1289 (Fed. Cir. 2015) (Dyk, J., concurring) (the "*Alice* framework works well with respect to abstract ideas" but proves more challenging "in the life sciences" as applied to "new diagnostic and therapeutic methods"), *cert. denied*, 579 U.S. 928 (2016); Eisenberg, *Diagnostics Need Not Apply*, 21 B.U. J. Sci. & Tech. L. 256, 256-257 (2015) (observing the "obstacles to patenting diagnostic methods under [current] law").

USAA complains that this Court has not previously "defined" abstract ideas. Pet. 18. But *Alice* well-advisedly declined to "delimit the precise contours of the 'abstract ideas' category." 573 U.S. at 221. There is no bright-line rule that can define what constitutes an abstract idea for all cases, given Section 101's application to all patents in all technological fields. *See Amdocs (Isr.) Ltd.* v. *Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016) ("[T]he problem with articulating a single, universal definition of 'abstract idea' is that it is difficult to fashion a workable definition to be applied to as-yet-unknown cases with as-yet unknown inventions.").

Corp. v. *Operation Tech., Inc.*, 589 U.S. 1132 (2020); *Reese* v. *Sprint Nextel Corp.*, 589 U.S. 1275 (2020); *Hikma Pharms. USA Inc.* v. *Vanda Pharms. Inc.*, 589 U.S. 1132 (2020); *HP Inc.* v. *Berkheimer*, 589 U.S. 1132 (2020); *Cleveland Clinic Found.* v. *True Health Diagnostics LLC*, 584 U.S. 1032 (2018); *Hemopet* v. *Hill's Pet Nutrition, Inc.*, 578 U.S. 923 (2016); *see also supra* p.21.

Indeed, the Court has often rejected judicial attempts to engraft bright-line rules onto patent doctrines that call for the exercise of judgment in individual cases. *E.g.*, *KSR Int'l Co.* v. *Teleflex Inc.*, 550 U.S. 398, 419 (2007) (reversing the Federal Circuit for "transform[ing] [a] general principle into a rigid rule"); *Octane Fitness, LLC* v. *ICON Health & Fitness, Inc.*, 572 U.S. 545, 554-555 (2014) (Federal Circuit erred by adopting an "overly rigid" rule when "'there is no precise rule or formula'" under the Patent Act (alterations and citation omitted)); *Halo Elecs., Inc.* v. *Pulse Elecs., Inc.*, 579 U.S. 93, 103 (2016) (per curiam) (same).

Here, Congress's legislation regarding patent eligibility—enacted against the backdrop of centuries of doctrine (*supra* pp.17-18)—amply justified this Court's decision to follow a flexible standard, rather than crafting strict definitions. Of course, the use of a standard does not mean that the abstract-ideas exception is arbitrary. Rather, courts apply "the classic common law methodology" by "examin[ing] earlier cases in which a similar or parallel descriptive nature can be seen." *Amdocs*, 841 F.3d at 1294. Commentators have thus recognized that this Court's and the Federal Circuit's precedents provide patent owners meaningful guidance for prosecuting their patents. *See* Lemley, *Patent Law's (Short-Lived?) Era of Normalcy* 23 (Nov. 25, 2025) (case law provides "a predictable standard under which … IT patents that seem to involve real technology survive a § 101 challenge, while those that simply claim the idea itself in functional terms without a new technological implementation are likely to fail").[6]

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[6] *Available at* https://law.stanford.edu/wp-content/uploads/2026/02/ssrn-5289822.pdf.

That is the same approach this Court has applied for other statutes that set forth standards rather than bright lines, such as the antitrust rule of reason, regarding which decisionmakers must consider "'all of the circumstances of a case,'" *NCAA* v. *Alston*, 594 U.S. 69, 97 (2021), or copyright law's fair-use doctrine, regarding which this Court has explained that "[t]he task is not to be simplified with bright-line rules, for the statute, like the doctrine it recognizes, calls for case-by-case analysis," *Campbell* v. *Acuff-Rose Music, Inc.*, 510 U.S. 569, 577 (1994). That Congress did likewise in Section 101, as *Alice* recognized, is a feature of the statute that this Court should continue to respect.

This Court will never satisfy every commentator or litigant who seeks more precision than Congress has chosen to provide in Section 101. Indeed, USAA itself never explains what more this Court can or should say beyond what *Alice* already said—other than perhaps repeating that "abstract" does not mean "concrete." At bottom, USAA simply wants the Court to develop *some* unspecified rule that would reverse the decisions below. Yet any such rule would run counter to centuries of history and this Court's recognition that Section 101 imposes a flexible standard, not a bright line.

Of course, Congress can always alter Section 101, and as USAA acknowledges, Congress has repeatedly considered whether to do so. Pet. 33-34. USAA cites calls to action that are directed to Congress, not to this Court. *E.g.*, *Berkheimer* v. *HP Inc.*, 890 F.3d 1369, 1374-1376 (Fed. Cir. 2018) (Lourie, J., concurring in denial of rehearing en banc) ("I believe the law needs clarification by higher authority, perhaps by Congress[. …] Individual cases, whether heard by this court or the Supreme Court, are imperfect vehicles for enunciating broad principles because they are limited to the facts presented.").

USAA bemoans that "a divide among stakeholders" has so far frozen legislative action, Pet. 34, but a longstanding statutory interpretation on which interested constituencies remain divided is precisely the sort of issue that should be left to Congress.

If this Court were nonetheless interested in revisiting the "abstract idea" analysis at *Alice* step one, it should choose a case that actually divides the Federal Circuit, involving a technology that is more susceptible to reasonable dispute regarding patent eligibility. The centuries-old concept of depositing checks is, by contrast, plainly not patent-eligible—even if executed with mobile devices. Not a single Federal Circuit judge at either the panel or the rehearing stage suggested otherwise. And USAA did not present an argument regarding the abstract-ideas category at *Alice* step one in seeking rehearing en banc. While edge cases of patent eligibility may exist, this is not one of them.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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