



ARE Patent Litigation Alert: NYIPLA Files Amicus Brief in *Mayo v. Prometheus*

September 8, 2011

Author(s): Anthony F. Lo Cicero, Charles R. Macedo

On September 8, 2011, the New York Intellectual Property Law Association ("NYIPLA") filed an amicus brief with the U.S. Supreme Court in *Prometheus Labs., Inc. v. Mayo Collaborative Servs.*, 628 F.3d 1347 (Fed. Cir. 2010). ([Click here for a copy](#)). As reported in an earlier ARELAW Alert (see <http://www.arelaw.com/publications/view/prometheusmayo/>), the Supreme Court granted certiorari for a second time in this case involving the patent-eligibility of claims directed to diagnosing and treating of patients using the drugs AZT and 6-MP.

While the NYIPLA does not support either side in the case, and does not offer any opinions on the merits of the claims at issue, its brief urges the Supreme Court to continue to apply the broad guidelines set forth in *Bilski v. Kappos*, 561 U.S. ___, 130 S. Ct. 3218 (2010) and to avoid imposing any further limitations on patent-eligible processes beyond the broad principles set forth in *Bilski*. The NYIPLA also urged the Supreme Court to recognize that patents are an important and valuable part of the U.S. economy and promote the progress of the useful arts.

Anthony F. Lo Cicero, Second Vice President of the NYIPLA, and Charles R. Macedo, partners at Amster, Rothstein & Ebenstein LLP appeared on the brief, as along with Ronald M. Daignault, counsel of record, and Matthew B. McFarlane from Robbins, Kaplan, Miller & Ciresi LLP.

NYIPLA is a professional association of more than 1,500 attorneys whose interests and practices lie in the areas of patent, copyright, trademark, trade secret and other intellectual property law.

We will continue to report on the progress of this case and of other Section 101 cases on our website. For more information, please contact one of our attorneys.

* [Anthony F. Lo Cicero](#) and [Charles R. Macedo](#) are partners at Amster, Rothstein & Ebenstein LLP. Their practice specializes in intellectual property issues, including litigating patent, trademark and other intellectual property disputes. The authors may be reached at alocicero@arelaw.com



and cmacedo@arelaw.com.

Mr. Lo Cicero is the Second Vice President of the New York Intellectual Property Law Association, and Mr. Macedo is also the author of [*The Corporate Insider's Guide to U.S. Patent Practice*](#), published by Oxford University Press in 2009.