



In the Press: Mayo Case Could Clarify Patentability, Expand On Bilski

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Law360, New York (December 02, 2011, 2:57 PM ET) -- The U.S. Supreme Court is set to hear oral arguments on Wednesday in a closely watched case over the patentability of a blood test method that attorneys say could elaborate on last year's Bilski decision in establishing what makes an invention eligible for a patent.

The case raises the question of whether meeting the machine-or-transformation test by itself establishes that an invention covers patent-eligible subject matter, said [Charles Macedo](#) of Amster Rothstein & Ebenstein LLP.

Macedo is one of the authors of an amicus brief in the case on behalf of the New York Intellectual Property Law Association, which supports neither party but argues that "satisfying the machine-or-transformation test should create a safe harbor of patent-eligible subject matter."

"Consistent with the broad scope of Section 101, the type of transformation present in a process is immaterial to determining patent eligibility, because any transformation will carry a claimed invention across the Section 101 threshold," the brief states.