

### **Rapid Litigation Management - Workman Nydegger** from **Workman Nydegger**

Recently, the Federal Circuit held that a method for preparing hepatocytes was patent-eligible concept in the case *Rapid Litigation Management v. Cellzdirect*. Preparing and preserving hepatocytes is extremely useful and important for biomedical research because of the cell's usefulness in testing, diagnosing, and treatment purposes. For example, hepatocytes can be used to test how drugs are metabolized by the liver and to measure a drug's toxicity. The prior invention of preserving hepatocytes involved a technique called cryopreservation which involved the method of freezing the cells then thawing them when needed to recover the viable cells. However, this method had the problem of damaging cells leading to poor recovery number of viable cells. The new invention by the '929 patent involved preparing frozen hepatocytes that can be thawed and re-frozen (at least twice) while remaining viable which increased the number of viable cells.

The district court of Illinois held that this new method of preserving hepatocytes was invalid because this is "natural law" and inventors simply applied a law of nature- the natural ability of some cells to survive multiple freezing and thawing cycles. On appeal, the case was decided by the Federal circuit which disagreed with the District Court decision. The Federal Circuit explained that the method claim directed to a new and useful laboratory technique for preserving hepatocytes. The court added that a true application of the Mayo/Alice system would decimate the patent system. Just because the inventors applied the natural ability of a subject matter to do something into your method claim does not necessary make the claim directed to that natural ability. For example, treating cancer with chemotherapy where we use cancer's inability to survive chemotherapy. This court holding is beneficial for broadening and opening the ability of biomedical researchers to patent their method invention.