

July 31, 2014

The Honorable Michelle K. Lee
Deputy Under Secretary of Commerce for Intellectual Property and
Deputy Director of the United States Patent and Trademark Office
United States Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314

Via email to alice_2014@uspto.gov

**RE: Request for Comments and Extension of Comment Period on Examination
Instruction and Guidance Pertaining to Patent Eligible Subject Matter
79 Fed. Reg. 36786 (June 30, 2014)**

Dear Deputy Under Secretary Lee:

The American Intellectual Property Law Association (AIPLA) is pleased to have the opportunity to present comments in response to the request from the U.S. Patent and Trademark Office in the notice “Request for Comments and Extension of Comment Period on Examination Instruction and Guidance Pertaining to Patent Eligible Subject Matter” published in the June 30, 2014 issue of the Federal Register. 79 Fed. Reg. 36786 (the “Request”).

AIPLA is a national bar association with approximately 15,000 members engaged in private and corporate practice, in government service, and in academia. AIPLA members represent a wide and diverse spectrum of individuals, companies and institutions involved directly or indirectly in the practice of patent, copyright and trademark law, as well as other fields of law affecting intellectual property. Our members are concerned with the interests of both owners and users of intellectual property.

AIPLA believes that it was appropriate for the Office to issue guidance to its Examiners in light of the Supreme Court’s decision in *Alice Corporation Pty. Ltd. v. CLS Bank International, et al*, 573 U.S. ___ (2014) (hereinafter (“*Alice*”). We support any effort of the Office to improve patent examination, particularly with respect to compliance with the patent eligibility requirements of 35 U.S.C. §101. Although AIPLA agrees with much of what is said in its preliminary guidance on *Alice*, the preliminary guidance suggests that the PTO may apply the case law in a way that exceeds the scope of Supreme Court precedent.¹

¹ For example, the Preliminary Examination Instructions issued June 25, 2014 misquote *Alice*. The Court did not find that all “fundamental economic practices” are abstract, as noted on page 2 of the instructions. Rather only those that are “long prevalent in our system of commerce and taught in any introductory finance class” were found to be abstract. See *Alice*, (slip op. at 9).

Summary

Writing for a unanimous Court, Justice Thomas explained in *Alice* that the patent claim to a computer-implemented method of using a trusted third party to reduce the risks in settling the obligations between the first and second parties, alone and as such, is a claim to an abstract idea and thus ineligible for patent protection.

The Court repeated many of the principles from its recent decisions on patent eligibility, including the rule that the exclusion of laws of nature, natural phenomena and abstract ideas from patent protection is implied in 35 U.S.C. §101. Justice Thomas also repeated past Court statements that the Court must “tread carefully in construing this exclusionary principle lest it swallow all of patent law,” and that an invention is not rendered ineligible for patent protection simply because it “involves” an abstract concept.

In the end, the Court’s decision in *Alice* introduced no new legal principles for applying the abstract idea exception to patent eligible subject matter and instead found a factual parallel to its previous method patent ineligibility decision in *Bilski v. Kappos*, 130 S.Ct. 3218 (2010).

On their face, the claims before us are drawn to the concept of intermediated settlement, i.e., the use of a third party to mitigate settlement risk. Like the risk hedging in *Bilski*, the concept of intermediated settlement is “ ‘a fundamental economic practice long prevalent in our system of commerce.’ ” * * * The use of a third-party intermediary (or “clearing house”) is also a building block of the modern economy. * * * Thus, intermediated settlement, like hedging, is an “abstract idea” beyond the scope of §101.

And to further highlight the limited scope of the *Alice* decision, Justice Thomas made the following observation:

In any event, we need not labor to delimit the precise contours of the “abstract ideas” category in this case. It is enough to recognize that there is no meaningful distinction between the concept of risk hedging in *Bilski* and the concept of intermediated settlement at issue here. Both are squarely within the realm of “abstract ideas” as we have used that term

With this context in mind, we would like to emphasize several interrelated points underlying most of the specific comments that follow.

There’s been no substantive change in the law. The opinion in *Alice* applies settled principles for applying the abstract idea exception to patent eligibility of process claims, making no substantive changes to that law. It applied pre-existing law and appears to be limited to the particular facts of the case.

Care must be taken to avoid extending the holding in Alice. The Office does not have substantive rule-making authority. *Merck & Co., Inc. v. Kessler*, 80 F.3d 1543, 1549-1550 (Fed. Cir.1996). Given this constraint, AIPLA urges that the Office exercise caution in instructing Examiners on *Alice* to ensure that adequate attention is given to the factual context of the Court’s reasoning and

to discourage extrapolations that lead to new and unsupported rules of law. The Federal Circuit and many others have struggled over the years to understand and explain the decisions of the Supreme Court on subject matter eligibility, and they have often ended up being corrected by the Supreme Court.

The Office and its examiners must “tread carefully.” Though the Court declined to explain, and thus “delimit,” what an “abstract idea” might be, it also warned, “we tread carefully in construing this exclusionary principle lest it swallow all of patent law.” *Alice*, 573 U.S. ____ (slip. op. at 6) (citing *Diamond v. Chakrabarty*, 447 U.S. 303 (1980)). This is an admonition should be observed by the Office and Examiners alike.

I. *Alice* made no major changes to the framework for determining patent eligibility

The Court’s opinion in *Alice* does not signal a major change in applying the abstract idea exception to patent eligible under 35 U.S.C. § 101. Following well established law, the Court in *Alice* continues to recognize only three judicially created exceptions to the coverage provided by section 101, namely, laws of nature, natural phenomena, and abstract ideas. *Alice*, slip. op. at 5. *Alice* does not appear to have overruled any prior decision of the Court or disavowed any of the reasoning contained in its prior decisions. Indeed, it very much relies on Court precedent in its analysis.

II. *Alice* does not require substantive changes to current examination guidance

Because the Court’s opinion in *Alice* does not signal a major change in assessing patent eligible subject matter under 35 U.S.C. § 101, it should not require a major change in the Office’s past guidance on the “abstract idea” exception to patent eligible subject matter.

III. Prior guidance remains viable; the two-part *Mayo* framework is not exclusive, and may not be appropriate for every claim

The preliminary instructions on *Alice* prepared by the Office² focus on the Court’s statement that the two-part framework set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. ___, 132 S.Ct. 1289 (2012), can be applied to analyze all claims directed to laws of nature, natural phenomena, and abstract ideas for subject matter eligibility under 35 U.S.C. § 101, *Alice*, 573 U.S. at ____ (slip op. at 7). However, the opinion does not say it must be; Justice Thomas writes “we set forth a framework,” not “the framework.”

Rather than mandating use of this framework for analyzing every claim in every case, we read the *Alice* opinion as a flexible approach that is particularly suited to the facts presented. The analyses of the Court in *Bilski*, *Diamond v. Diehr*, 450 U.S. 175 (1981), *Chakrabarty*, *Parker v. Flook*, 437 U.S. 584 (1978), and other subject matter eligibility cases were relied upon and explicitly recognized as good law by the *Alice* Court. See *Alice*, 573 U.S. at ____ (slip op. at 11-16). Therefore, the approaches taken in prior cases appear to remain viable options.

² “Preliminary Examination Instructions in view of the Supreme Court Decision in *Alice Corporation Pty. Ltd. v. CLS Bank International, et al.*” dated June 25, 2014 (“the *Alice* Preliminary Instructions”).

A major flaw in the *Alice* Preliminary Instructions is the assumption that the framework used in *Alice* is now *the one and only* way to analyze all claims for eligibility. Although the *Mayo* two-part framework appears to be a useful framework, it remains just one way of analyzing a claim for eligibility, and nothing in *Alice* indicates that it applies to the exclusion of all other precedent.

In 2010, the Office published its Interim Guidance for Determining Subject Matter Eligibility for Process Claims in View of *Bilski v Kappos* (July 27, 2010) (“*Bilski* Guidelines”). To the extent that *Alice* has not altered the test for determining whether a claim is directed to an abstract idea, the factors weighing toward patent eligibility set forth in that Guidance should still apply to any claim identified as including a fundamental idea. The Court’s decision in *Bilski* overturned the Federal Circuit’s use of the machine-or-transformation test as the *exclusive* test, but endorsed that test as a useful and important clue for eligibility decisions. The 2010 *Bilski* Guidelines repeat that proposition. We thus submit that the machine or transformation test remains a viable clue, and that the factors set forth in the *Bilski* Guidelines of 2010 should continue to be employed. The *Alice* Preliminary Instructions fail to acknowledge this.

IV. Generalizations and overly broad interpretations should be avoided

The Supreme Court’s fact-dependent decisions on section 101 and the refusal of the Supreme Court to provide concrete guidance on what constitutes an abstract idea highlight the Court’s preference, and perhaps the necessity, to avoid bright line rules. Highly trained lawyers and judges have difficulty in correctly comprehending and applying the Court’s prior decisions in this area, even after intense briefing and debate. Accordingly, the Office should guard against producing training materials that restate, generalize, or simplify the Court’s decisions in a way that produces new rules of law. The *Alice* Preliminary Instructions on *Alice* could be read to do just that.

As an example of error that inevitably creeps into generalizations and restatements, consider that the *Alice* Preliminary Instructions state, “[c]laims that include abstract ideas like these should be examined under Part 2 below to determine whether the abstract idea has been applied in an eligible manner.” (Emphasis added). However, the Court never used the words “include” in connection with part 1 of the two-part *Mayo* framework. Rather it repeatedly used the terms “drawn to” or “directed to.” It reserved the word “recite” to refer to what the claim actually said. The terms “directed to” or “drawn to” signify more than mere inclusion in the claim. As the Court noted in *Alice*, and, “At some level, ‘all inventions . . . embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.’ ” *Alice*, 573 U.S. __ (slip. op. at 6), *quoting Mayo*, 566 U. S. at __ (slip op., at 2).

V. Examiners should be instructed to err on the side of finding eligible subject matter

The Supreme Court recognized a great danger in applying the judicial exceptions to patent eligible subject matter too loosely, lest the exceptions “swallow all of patent law.” *Alice*, 573 U.S. __ (slip. op. at 6) (*citing Mayo*, 566 U.S. at __, slip op. at 2). Such an express statement of caution requires the Office to exercise extreme care when promulgating guidance based on the Court’s decision in *Alice* and to warn examiners to apply the exceptions judiciously.

An interpretation of a judicial exception to patentable subject matter during the examination phase at the Office would likely deprive some inventors of their rights in their inventions forever. Once an inventor abandons his or her patent application based on a section 101 rejection, his or her rights would be completely lost even if the courts later clarify section 101 jurisprudence in a manner that reveals the Office took too broad of a stance as to the scope of the abstract idea exception. Conversely, should it be determined that the Office took the correct or too narrow a stance as to the scope of the abstract idea exception, then no such inappropriate loss of patent rights would occur, and the courts, if necessary, could correct for any improper grant of patent rights. Therefore, the examiner should be instructed to err on the side of caution when considering whether any exception to the patentable subject matter is claimed by the applicant.

VI. The burden rests on the Office to fully support a rejection under section 101 and to take into account evidence submitted by an applicant

As with any rejection, the burden of establishing a *prima facie* case of unpatentability of a claim based under section 101 rests with the examiner. The rejection will require factual evidence to support a finding that claim is directed to an abstract idea. *See, e.g., Alice*, 573 U.S. at __ (slip op. at 9) (The Court cited to an 1896 reference to substantiate its finding that intermediated settlement is “a fundamental economic practice long prevalent in our system of commerce.”)

It will also require evidence and clear reasoning to support a finding that a claim is not directed to something more.

Applicants should be permitted to submit argument and/or evidence (such as a declaration) to rebut an assertion that certain claimed subject matter constitutes a fundamental principle or idea. For example, applicants should be allowed to explain why certain limitations or groups of limitations were not “well-understood, routine, and conventional” to one skilled in the relevant art and/or that the claimed combination yielded unexpected results. *Alice*, 573 U.S. __ (slip. op. at 15) (*quoting Mayo*, 566 U.S. at __ (slip op., at 4)).

VII. Abstract ideas are those that have always existed or been long prevalent

It is important to remember that the *Alice* Court refused to delimit what an abstract idea might be. It warned that “at some level, all inventions embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas” (*Alice*, 573 U.S. at __ (slip op., at 6)(*quoting Mayo*, 566 U.S. at __, slip op., at 2)), and that an invention is not rendered ineligible for patent simply because it “involves” an abstract concept. *Id.*, *citing Diamond v. Diehr*, 450 U.S. 175, 187 (1981). “‘[A]pplication[s]’ of such concepts ‘to a new and useful end,’ we have said, remain eligible for patent protection.” *Id.*, *citing Gottschalk v. Benson*, 409 U.S. 63, 67 (1972).

Is there any meaningful guidance that can be given on what constitutes an abstract idea, beyond those specific things that the Court has previously said constitute abstract ideas?

No, but it is worth noting that the Court in *Alice*, *Flook*, and *Bilski*, in deciding whether what was being claimed was merely an abstract idea, looked to whether the claimed subject matter had long been prevalent in commerce.

The *Alice* Court described the *Bilski* holding as:

“[A]ll members of the Court agree[d]” that the patent at issue in *Bilski* claimed an “abstract idea.” ... The Court explained that “[h]edging is a fundamental economic practice long prevalent in our system of commerce and taught in any introductory finance class.”

Alice, slip. op. at 8. The Court made a similar analysis to find that the invention in *Alice* was also to an abstract idea because it was long prevalent in our system of commerce:

Like the risk hedging in *Bilski*, the concept of intermediated settlement is “ ‘a fundamental economic practice long prevalent in our system of commerce.’ ” Thus, intermediated settlement, like hedging, is an “abstract idea” beyond the scope of §101.”

Alice slip. op. at 9. In *Flook*, the Court similarly reached the conclusion that the algorithm for updating alarm limits was an abstract idea because it always existed. *See Flook*, 437 U. S. at 594 n.15. Laws of nature and abstract ideas can be said to have always existed.

Putting aside the debate on whether the Court is improperly conflating eligibility with novelty and obviousness, the Court has, when determining whether a claim is drawn to an abstract idea, relied on the fact that the abstract idea involved subject matter that either was long prevalent or had always existed. Though the Court does not state that an abstract idea will *only* involve long prevalent or always existing subject matter, its decisions to date have shared these characteristics. It is understandable that there is a temporal aspect to one’s perspective on innovation. Today’s “teeter totter” is a commonplace children’s toy, but deep in human history it was the embodiment of the “lever,” one of the simple machines that might have been patentable when first conceived.³

In our opinion, given the complexity of the issue, examiners should be instructed to base their threshold assessment of patent eligibility only on what the case law has identified as abstract ideas, or on a determination that the claim as a whole is drawn to a long prevalent or always existing idea, based a compelling and clear rationale, supported by evidence.

However, we do not suggest that an inquiry about eligibility should turn into a novelty or obviousness analysis. The Court asks only whether a claim is directed to a “fundamental truth” or to an “idea of itself” — a “building block for human ingenuity.” It would be absurd to suggest that a claim or elements of a claim are fundamental truths or an “idea of itself” simply because they are not novel.

VIII. Claim as a whole must be considered when evaluated whether it is directed to an abstract idea

³ See further discussion below. A claim to a simple teeter-totter machine today would still remain a viable application of a basic lever under section 101, but would obviously be rejected under section 102 (if not 103) as a long-existing machine.

Examiners must be instructed that an assessment of whether a particular claim is directed to an abstract idea is a fact specific inquiry, not subject to generalization or broad exclusionary rules, and must take into account all limitations, both individually and in the claimed combination. See *Alice*, slip. op. at fn. 3.

In the second step of the two part *Mayo* framework, the Court in *Alice* considers elements of each claim, both “individually and “as ordered combination,” for purposes only of determining whether the additional elements “transform the nature of the claim” into an patent-eligible application of the abstract idea by ensuring that the “patent in practice amounts to significantly more in practice than a patent upon the [ineligible concept itself]” *Id.* (quoting *Mayo*, 566 U.S. ___ (slip op., at 3)

However, in doing so, the Court is not parsing the claim. It notes that this framework is consistent with the “general rule that patent claims ‘must be considered as a whole,’” as required by *Diehr*, 450 U.S. at 188, at fn. 3.

IX. Guidance to examiners should emphasize adherence to the concrete examples of “abstract idea” found in current case law as opposed to any extension of or addition to the narrow pool of ineligible subject matter

The lack of a definition of an “abstract idea” has led to much confusion in the law and has made (and will likely continue to make) the determination of patent eligible subject matter very difficult. Examiner’s should be urged not to take this an opportunity make new law, but instead to closely hew to the examples from the case law and, at the same time, recognize that those decisions must, given the broad guidelines and flexible rules favored by the Court, be limited to the particular facts. Generalization and interpolation of them should be avoided.

The Office is encouraged to make sure that any examples it gives to examiners closely comport to the case law. The “examples” of “abstract ideas” should be subjugated to categories, as in the *Bilski* Guidelines. The examiners should be discouraged from labeling concepts outside of the enumerated categories as abstract. These categories should be periodically revisited as the case law develops. Specific examples are provided in the Office’s section 101 Training from August of 2012.

X. A complete examination is required

As recognized in the *Alice* Preliminary Instructions, “regardless of whether a rejection under § 101” is to be set forth in an office action, an examiner must still “determine patentability in accordance with the other requirements of 35 U.S.C. § 101 (utility and double patenting), non-statutory double patenting, and §§ 112, 102, and 103.”

As AIPLA has stated before:

AIPLA commends the Office for emphasizing that examiner should state all non-cumulative reasons and bases for rejecting claims under 35 U.S.C. §§ 101, 102, 103 and 112 during the initial review of the application, and should not rely solely

on rejections under section 101. It has been AIPLA's position that section 101 is only one test of patentability, and that claims which have subject matter eligibility issues under section 101 often have related issues under sections 102, 103 or 112.

AIPLA Comments on the Interim Guidance for Determining Subject Matter Eligibility for Process Claims in View of *Bilski v. Kappos*, September 27, 2010.

AIPLA is concerned that the *Alice* Preliminary Instructions suggest or require that a section 101 statutory subject matter evaluation must or should be performed before an examiner examines a claim for compliance with the other requirements set forth in the patent law. In this regard, the *Alice* Preliminary Instructions state “After conducting the two-part analysis, proceed with examination of the claim, regardless of whether a rejection under § 101 has been made, to determine patentability in accordance with the other requirements of 35 U.S.C. § 101 (utility and double patenting), non-statutory double patenting, and §§ 112, 102, and 103.”

To the contrary, given the burden on the Office to set forth a *prima facie* case that a claim is directed to an abstract idea with citation to appropriate evidentiary support, it is AIPLA's opinion that before such a burden could be satisfied, an examiner would first have to perform an analysis under sections 102 and 103 to first identify the relevant prior art and the differences between the claimed subject matter and the prior art. Depending on the age and the pervasiveness of the art uncovered, then claimed subject matter found to fail sections 101 and 103 might also be found to be directed to a fundamental idea.

Furthermore and perhaps most important, rejecting claims under section 101 risks the broad rejection of whole swaths of inventions. AIPLA suggests that the more prudent (and frankly more supportable) course is to narrowly tailor rejections under sections 102, 103, and 112, based upon a detailed, factual record. If, however, a claimed invention expresses something that is so prevalent and long-standing, or that merely expresses basic scientific or economic principles, then it should be straightforward to simply reject the proposed claim under those narrower, tailored grounds.

XI. Each claim type should receive a separate analysis for “something more”

Guidance given to examiners should emphasize the need for a separate analysis for each claim type. Different claim types should not be grouped together unless the Applicant expressly concedes to such treatment.

As noted by Judge Moore in the *en banc* Federal Circuit *Alice* decision, *Bilski* and *Prometheus* follow on a long line of Supreme Court cases that distinguish between machine claims and method claims on the basis that a machine covers an application of any underlying idea rather than the idea itself. For example, although a claim's statutory class is not dispositive of the § 101 inquiry, the Supreme Court explained in *Burr v. Duryee* that a machine is a concrete thing, not an idea:

A machine is a concrete thing, consisting of parts, or of certain devices and combinations of devices. The principle of a machine is properly defined to be 'its

mode of operations,' or that peculiar combination of devices which distinguish it from other machines. A machine is not a principle or an idea.

68 U.S. (1 Wall.) 531, 570, 17 L. Ed. 650 (1863). In other words, the requirement of specifying the particular limitations and structure of a claimed machine meaningfully limits the claim, such that it amounts to more than the principle or idea that it embodies. The Court later reiterated this distinction, stating that "[a] machine is a thing. A process is an act, or a mode of acting. The one is visible to the eye,--an object of perpetual observation. The other is a conception of the mind, seen only by its effects when being executed or performed." *Expanded Metal Co. v. Bradford*, 214 U.S. 366, 384, 29 S. Ct. 652, 53 L. Ed. 1034, 1909 Dec. Comm'r Pat. 521 (1909) (quoting *Tilghman v. Proctor*, 102 U.S. 707, 728, 26 L. Ed. 279, 1881 Dec. Comm'r Pat. 163 (1880)).

Meaningful limitations added to system or apparatus claims should thus be accorded their appropriate weight, irrespective of the treatment of counterpart method claims. Again, to use the teeter-totter example, for section 101 purposes the addition of seats and handles to a basic lever should be enough for the proposed claim to satisfy section 101. Of course, as noted, such a claim, without more, would be properly rejected as anticipated.

XII. The “something more” requirement must consider a claim as a whole

Any consideration of the claim elements to establish “something more” under Part 2 of the *Mayo* framework should consider the claims as a whole, it being “inappropriate to dissect the claims into old and new elements and then to ignore the presence of the old elements in the analysis” as noted by the Court in *Diehr*. 450 U.S. at 188.

Based on the admonition in *Diehr*, Office guidance to examiners should warn against parsing of claims as was done under the *Freeman-Walter-Abele* test, which was discredited by the Federal Circuit in its *en banc Bilski* opinion.

The emphasis of the “something more” analysis should be on the breadth of a claim. As the Court noted in *Alice*, the Court has described “the concern that drives this exclusionary principle as one of pre-emption.” *Alice*, slip op. at 5. Thus, once the identified abstract idea is practically applied so as not to preempt the underlying abstract idea, that is the end of the analysis. Examiners should be discouraged from simply asking for “significantly more” as the open-endedness of such an inquiry may lead the examiner to demand “significantly more” than the law requires to satisfy the requirements of § 101. What is required is that the element or combination of elements is “sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.” *Alice*, slip op. at 7 (citing *Mayo*).

The only concrete guidance from the Court in *Alice* on this point is that a mere recitation of a general purpose computer that amounts to nothing more than a mere instruction to implement an abstract idea on a computer cannot transform a patent-ineligible abstract idea. *Id.*, 575 U.S. ___, Slip op. at 13. In *Alice* this tantamount to a field of use limitation in the case of the claims at issue, as there was nothing else in the claims but the abstract idea. This does not, however, mean that a recitation of a general purpose computer cannot ever be one of the elements or combination of elements that add that “something more.” Such recitations remain part of the claim. Therefore,

examiners should be instructed that they cannot simply disregard the presence of a general purpose computer, but rather only must find that the “something more” is not present when the claim merely instructs, without more, application of an abstract idea on a general purpose computer.

Although the Court held that changing the format of the claim from a method to a machine or article did not change the analysis in *Alice*, it did not hold that the format of the claim is always irrelevant, or that the statutory categories of claims are interchangeable.

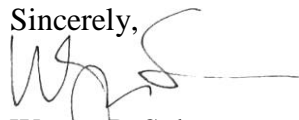
Further guidance from the PTO should specifically instruct examiners that meritorious inventions with claims that do not preempt the use of abstract ideas should continue to be afforded patent protection, whether the invention is implemented in software as a method, on a computer, or by any other means within the statutory categories of invention under § 101. Guidance on this issue should, in our opinion, be primarily in the form of examples taken from court decisions as to what constitutes “meaningful limitations” that constitute the “something more” than an “abstract idea.”

Conclusion

Though no major changes are needed to the *Bilski* Guidelines in view of the Supreme Court’s *Alice* decision, the *Alice* Preliminary Instructions could provide more directed guidance to examiners by reemphasizing the use of the eligibility factors, emphasizing the requirement to provide evidence supporting assertions that the subject matter of a claim is directed to an abstract or fundamental idea, emphasizing the analysis of the claims as a whole, emphasizing a complete analysis of the claims under all statutory sections including § 102 and § 103, providing case law guidance as to what is and is not an “abstract idea,” providing examples within the guideposts of the case law, and reemphasizing the separate analysis of each claim.

AIPLA appreciates the opportunity to comment in response to the Request. We would be pleased to answer any questions these comments may raise and look forward to participation in continuing efforts to enhance the examination process and help ensure that all inventions receive thorough examinations of the highest quality.

Sincerely,



Wayne P. Sobon

President

American Intellectual Property Law Association