



InsideCounsel: Labor: A Look at the USPTO's Examples for Patent Eligibility

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This article is the second installment of a three-part series examining the USPTO's Interim Guidance on Patent Subject Matter Eligibility. The first installment describes the Interim Guidelines' implementation of the Supreme Court's two-part test for determining patent eligibility. Now, we will review examples published by the USPTO of patent-eligible and patent-ineligible claims.

The Interim Guidelines include examples of what constitutes a patent-ineligible law of nature, natural phenomenon and abstract idea, as well as examples of how the two-step test would be applied to claims of several Supreme Court and Federal Circuit cases addressing patent eligibility. On Jan. 27, 2015, the USPTO issued additional examples illustrating how hypothetical claims would be analyzed under the Interim Guidelines. These provide helpful guidance on navigating Section 101 rejections before the USPTO.

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