

CLIENT ALERT

USPTO Issues Preliminary Alice Corp. Instructions and Invites Comments

Jul.02.2014

On June 25, 2014, the United States Patent and Trademark (USPTO) issued its *Preliminary Alice Corp. Instructions* on the application of the United States Supreme Court decision in *Alice Corporation Pty. Ltd. v. CLS Bank International, et al.*, No 13-298. The *Preliminary Alice Corp. Instructions* provide guidance to USPTO examiners when determining subject matter eligibility under 35 U.S.C. 101 of claims involving abstract ideas. The USPTO provided the following guidance:

- The USPTO will expand the two-part test set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 56 U.S. ____ (2012) to abstract ideas. Prior to *Alice*, the USPTO only applied the *Mayo* two-part test to claims involving laws of nature. See MPEP 2106.01.
- The USPTO will apply the *Mayo* two-part test across all categories of claims (e.g., product and process claims).
- Finally, the USPTO set forth the *Mayo* two-part test in detail, including several comments and examples.

The USPTO invited comments on the *Preliminary Alice Corp. Instructions*. Comments must be submitted by July 31, 2014, and instructions to provide comments is listed on the USPTO [website](#).

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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