Dear Under Secretary Kappos:


Rule 42.301(b) gives a broad interpretation of what is covered by the covered business method patent program. The practice guide for proposed trial rules (Fed. Reg. 77(27) 6873, col. 1) discusses examples of what constitutes technological inventions. The Office should better consolidate analysis of rules or provide the same examples in different notices to collect all relevant information in one place. In the case of the practice guide, the analysis conflates the law of obviousness with statutory subject matter. For example, the analysis discusses “known technologies.” A computer programmed to perform a particular function is not a known technology. Portions of the computer might be known, but not the particular configuration of the computer. Irrespective, discussion of obviousness should not play a part in a discussion of whether a claim recites statutory subject matter.

Very truly yours,

Schwegman, Lundberg and Woessner, P.A.

Lissi Mojica  Tim Bianchi   Michael Lynch  Bradley Forrest
Stephen C. Durant  Tom Reynolds  Gary Speier  Robin Chadwick
Kevin Greenleaf