**Lee & Hayes, P.C.'s Comments on Examining Computer-Implemented Functional Claim Limitations for Compliance with 35 U.S.C. 112**

The patent practitioners at Lee & Hayes generally agree with and support the Office's January 7, 2019 Guidance on Examining Computer-Implemented Functional Claim Limitations for Compliance with 35 U.S.C. 112.

We suggest that if an examiner asserts that the claim, or a claim element, is purely functional, without any structural limitation or support, the examiner should identify the element, identify any disclosure in the specification which might support that element, and explain why that disclosure does not provide any necessary structural support for that element. The 112 Guidelines should also state that if this procedure is not followed then the next action should be a non-final action.

**Susan Moss** | Lee & Hayes
Patent Attorney