

**From:** [Weston, Daniel.](#)  
**To:** [Eligibility2018.](#)  
**Subject:** Public comment on its subject matter eligibility guidance, and particularly its guidance in the Berkheimer memorandum  
**Date:** Wednesday, May 2, 2018 11:25:26 AM

---

Please continue to issue objective standards for assessing patent eligibility. Examiners have been and continue to overgeneralize court decisions and use a “I know when I see it” approach. Examiners routinely ignore any factual distinctions, no matter how significant, between claims under examination and claims invalidated by the courts. Berkheimer is a good first step but more will be needed.

This email message from the law firm of McCarter & English, LLP is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.