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To: [Eligibility2019](#)
Subject: Comments on 2019 Revised Guidance
Date: Friday, February 8, 2019 5:28:12 PM

Under prong 2 of the analysis, the guidance states that “a claim that integrates a judicial exception into a practical application will apply, rely on or use the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception.”

The guidance, however, provides no useful explanation of how to determine if a “meaningful limit” has sufficiently limited the judicial exception such as to render it a practical application.

Given that the reason for the judicial exceptions (and, in particular, the abstract idea exception) is to prevent monopolization of abstract ideas (i.e., allowing claims that cover ALL means of achieving a desired result), if a claim recites a specific way of achieving the desired result, this should be considered strong evidence that a meaningful limit has been placed on the judicial expectation.

This is in line with *McRo v. Bandai* (Fed. Cir. 2016). The so-called “McRo Test” states that claims are not directed to an abstract idea if the claim uses limited rules in a process specifically designed to achieve an improved technological result in conventional industry practice. In other words, if the improved technological result was achieved in a specific way, this would render the claim non-abstract. As such, claiming a specific way of achieving the desired result may be one way to show that a “meaningful limit” has been placed on the abstract idea.

If it can be shown that the desired result was achieved in a specific way, as taught by McRo, this fulfills the policy goal of not allowing all ways of achieving the desired result to be monopolized. As such, with respect to an abstract idea, a meaningful limit has been shown to be applied to the abstract idea, rendering the claim as a whole non-abstract.

Sincerely,

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Principal

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