

From: Kirsten Zewers [e-mail address redacted]

Sent: Monday, September 27, 2010 4:34 PM

To: Bilski_Guidance

Cc: [e-mail address redacted]

Subject: Comments on Interim Guidance for Determining Subject Matter Eligibility for Process Claims in View of Bilski v. Kappos

Dear Ms. Dennisson,

Please find IPO's comments attached. Feel free to contact us with any questions or comments. Thank you.

Best,
Kirsten

KIRSTEN E. ZEWERS, ESQ.
Government Relations Counsel
Intellectual Property Owners Association
[e-mail address redacted]
202-507-4512



September 27, 2010

The Honorable David J. Kappos
Under Secretary of Commerce for Intellectual Property
and Director of the U.S. Patent and Trademark Office
Mail Stop Comments
P.O. Box 1450
Alexandria, VA 22313-1450
Attention: Caroline Dennison

Via email: Bilski_Guidance@uspto.gov

Re: Comments on Interim Guidance for Determining Subject Matter Eligibility for Process Claims in View of Bilski v. Kappos

Dear Under Secretary Kappos:

Intellectual Property Owners Association ("IPO") submits the following comments on the Interim Guidance for Determining Subject Matter Eligibility for Process Claims in View of Bilski v. Kappos, published in the Federal Register on July 27, 2010. We thank you for the opportunity to provide these comments.

IPO is a trade association representing companies and individuals in all industries and fields of technology who own or are interested in intellectual property rights. IPO's membership includes more than 200 companies and over 11,000 individuals who are involved in the association either through their companies or as inventor, author, executive, law firm or attorney members.

In its brief to the Supreme Court in Bilski v. Kappos, IPO stated that while the machine-or-transformation test is one useful approach for determining whether a claimed process falls within § 101, it should not be the exclusive test. As the Interim Guidance explains, the Supreme Court held just that. Bilski v. Kappos, 561 U.S. ___ (2010), slip op. at 8. In light of the Court's decision, we believe that the Interim Guidance will be useful to examiners and practitioners, with specific comments set forth in the attached Appendix.

Because the Interim Guidance is a supplement to the previously issued August 2009 Interim Instructions, the comments previously submitted by IPO in response to the August 2009 Interim Instructions dated September 28, 2009, are incorporated by reference. As stated in IPO's previously submitted comments, it would be helpful for the USPTO to make a statement regarding what processes or training will be implemented to ensure consistent application of this Interim Guidance.

Sincerely,

Douglas K. Norman (handwritten signature)

Douglas K. Norman
President

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