

## Vera Suarez in World IP Review: ‘Lawyers Hail USPTO’s Bid to Resolve Patent Eligibility Muddle’

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July 14, 2021 Vera Suarez

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*World IP Review* interviewed Haynes Boone Partner [Vera Suarez](#) about the U.S. Patent and Trademark Office’s (USPTO’s) call for comments about patent eligibility laws, in light of U.S. Supreme Court rulings that have raised questions about patent eligibility.

Here is an excerpt:

IP lawyers have welcomed the USPTO’s call for comments on patent eligibility laws in the wake of concerns that controversial rulings over the past decade have negatively affected innovation.

In a notice released on Friday, July 9, the office confirmed that it will ask a variety of stakeholders to weigh in on interpretations of Section 101 of the Patent Act.

The development follows a call from lawmakers to address issues surrounding patent eligibility, following the uncertainties stemming from the U.S. Supreme Court’s decisions in *Alice Corp v. CLS Bank International* (2014) and *Mayo Collaborative Services v. Prometheus Laboratories* (2012).

These rulings held that “laws of nature, natural phenomena, and abstract ideas” are not eligible for patent protection....

According to lawyers, this action forms part of a broader push for the USPTO to address the fundamental question of what subject matter can and cannot be patented and to break down what questions remain following the establishment of the [Alice/Mayo framework](#).

According to Haynes Boone Partner Vera Suarez, the USPTO tried to tackle patent eligibility issues when it released its updated guidance in 2019, but the courts have failed to follow it.

“Instead, the courts seem to be making it more difficult to prove patent eligibility. The comments received will probably reflect what patent practitioners already know, which is that the *Alice/Mayo* framework has resulted in increased uncertainty and cost surrounding certain types of patent applications,” she explained.

### Section 101 Deadlock

However, while lawyers welcomed the USPTO’s move, they felt that it was unlikely to herald a significant future overhaul of patenting laws.

“I’m happy to see that there is interest in addressing these issues, but I’d be surprised if Congress comes together to pass any legislation regarding patent subject matter eligibility,” agreed Suarez.

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