

insights

TYPES NOT MAPPED YET July 17, 2024 | TTR not mapped yet | Benjamin L. Volk Jr.

Ben Volk Discusses USPTO's Recent Guidance for AI Eligibility

Thompson Coburn partner [Ben Volk](#) was quoted in an *IAM* article on the United States Patent and Trademark Office (USPTO's) latest AI subject matter eligibility guidance and how the patent office handles applications for AI technologies.

"Over the past couple of years, it has been like a case-by-case, examiner-by-examiner variation on the conclusions they draw for patent eligibility of AI-related inventions. You will have almost identical claims on very similar inventions in front of different examiners and some examiners will say, 'this is eligible', and other examiners will say, 'this is not eligible'," Ben said. "Now that there is a more detailed set of guidance and examples, I think we should start seeing more uniformity."

He added that one particularly useful part of the 31-page guidance document covers determining eligibility for AI innovations dealing with the judicial exception on mathematical concepts.

[Click here](#) to read the full *IAM* article (subscription required).

In another interview published by *Law360*, Ben noted the USPTO guidance helpfully included scenarios where the office explained that certain types of AI-related inventions either would or would not be eligible for patents, but "when you start getting into the middle of the spectrum, it gets a little grayer." He continued, "We're going to need the courts to produce more examples to really get clarity, but this is certainly more clarity than we had before."

[Click here](#) to read the full *Law360* article.

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