

## **The Assessment on Mental Steps in Patent Law: Focused on the U.S. and Taiwan**

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### **Abstract**

At the beginning of the American patent system, the grant of patent is only to material subject matter for the innovation. Later, the initial concept of the patent system is renovated to grant process patents based on that they are the steps or methods to manufacture material objects at that time. The issue occurs when a claimed invention is not directed to material subject matter, and is not clear for what it claims. With the increasing of varieties of technology, some inventions involving mental processes or steps apply for patents. Can they be deemed to be eligible subject matter under patent laws? The called mental steps are spiritual activities of human involving in the invention, which are not material subject matter. There is no statute to exclude “mental steps” in U.S. patent laws; however, they are often raised inquiries about the patent eligibility in the patent practice. The Taiwan Patent Act had been listed that an invention with analytic and memorial capabilities of human is patent-illegible, but later amendment had eliminated this soon. The subject matter should have an eligible status based on the legal principles and rules ; however, they are still listed as ineligible subject matter that does not meet the definition of invention within the guidelines of patent examination. This article will trace back to those cases relating to mental steps in the United States, and analyze the judicial viewpoints and judgement over time, as well as those in Taiwan. This article hopes to clarify the legal status for mental steps, as well as the current way to deal with the specific subject matter in the claimed invention.

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