Business Methods
Customer Partnership Meeting

Subject Matter Eligibility Training Update

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Eligibility Guidance Is Now In the MPEP

• The MPEP has been updated to incorporate the 2014 Interim Eligibility Guidance (IEG) and its updates

• MPEP now replaces the IEG and updates (as of August 2017)
MPEP Organization

• Eligibility guidance is located in Chapter 2100
  – 2103 discusses how the eligibility analysis fits into the overall patent examination process
  – 2104 discusses the requirements of 35 U.S.C. § 101
  – 2105 discusses patentability of living subject matter
  – 2106 and its subparts discuss the subject matter eligibility analysis

• Additional information is located in Chapter 700
  – 706.03 and 706.03(a) discuss subject matter eligibility rejections, and provide appropriate form paragraphs
Examples For Use With MPEP

• Six sets of examples were issued, to explain how to apply the eligibility analysis to various fact patterns.
• Cover technologies including biotechnology, pharmaceuticals, business methods, computer-related inventions, and software.
• Include eligible and ineligible claims, in accordance with case law and based on hypothetical fact patterns.
Subject Matter Eligibility Materials

• Links:
  – Guidance and other materials (including a Quick Reference Sheet and Chart of Subject Matter Eligibility Court Decisions) can be found at: https://www.uspto.gov/patent/laws-and-regulations/examination-policy/subject-matter-eligibility
  – Training materials can be found at: https://www.uspto.gov/patent/laws-and-regulations/examination-policy/training-materials-subject-matter-eligibility
Questions?