




# Section 101 considerations

JENNIFER KUHN, MATTERSIGHT CORPORATION AND AUSTIN IPLA AMICUS CHAIR

ALL VIEWS ARE MY OWN, AND NOT AUSTIN IPLA'S OR MATTERSIGHT CORPORATION'S



“Patents are the currency of the  
innovation economy.”

Hon. Ray Chen

# Two Billion Dollars Lost Annually



- ▶ Thompson Reuters estimates that \$2 Billion is spent annually on U.S. patent applications that never issue
- ▶ While it is not possible to precisely track the art areas of these non-issued applications, software related art units are 8 of the 20 lowest allowance rate units

# Low allowance rates=low visibility on forward citations

- ▶ Forward citations by examiners are a key metric of the importance of an issued patent
- ▶ If patents in our art areas never issue, we do not have information about the 102 and 103 rejections that have cited our patents



Software is \$1 Trillion in GDP

# Less than 1% of patents are litigated

- ▶ Patents are used to secure financing and attract investors
- ▶ Patents are licensed: per KPMG (2014), the software industry has a relatively high average royalty rate for patent licenses, compared to other industries.