



MEMORANDUM

DATE: January 28, 2016

TO: All Patent Examiners

FROM: /ROBERT CLARKE/
Robert A. Clarke
Editor, Manual of Patent Examining Procedure

SUBJECT: **Advance Notice of Change to MPEP § 2131.03 – Correction of Information
Pertaining to Anticipation of Ranges**

This memorandum is to provide advance notice of a change that will be made to correct an error in MPEP § 2131.03. In the Ninth Edition, Revision 07-2015 (November 2015), MPEP § 2131.03 was revised to add the word “Approaching” to the title of subsection II; no further changes were made to this MPEP section. This change was inadvertent and was not intended to revise the analysis pertaining to when a prior art range anticipates a claimed range. The title of MPEP § 2131.03, subsection II should read “Prior Art Which Teaches a Range Overlapping or Touching the Claimed Range Anticipates if the Prior Art Range Discloses the Claimed Range with ‘Sufficient Specificity.’” This is consistent with the case law as explained in subsection III of MPEP § 2131.03, which indicates that prior art which teaches a value or range that is very close to, but not overlapping or touching, a claimed range does not anticipate the claimed range. Note that MPEP § 2144.05, subsection I, as revised in the Ninth Edition, Revision 07-2015 (November 2015), discusses the obviousness analysis when a prior art range overlaps, approaches, or is similar to a claimed range.

MPEP § 2131.03 will be corrected in the next revision of the MPEP.