

USPTO Issues Revised Guidance on Patent Eligibility

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DC Client Alert

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The U.S. Patent and Trademark Office (PTO) has released revised its Interim Guidance on Patent Subject Matter Eligibility to be used in determining patent eligibility under 35 U.S.C. § 101.1 The Guidance is based on the Supreme Court's holdings in the Alice v. CLS Bank, Association for Molecular Pathology v. Myriad Genetics, and Mayo v. Prometheus cases, all relating to judge-made exceptions that preclude issuing patents covering laws of nature, natural phenomena, or abstract ideas. It supplements the June 25, 2014 guidelines in view of Alice and supersedes the March 4, 2014 guidelines produced in light of Mayo and Myriad. The Guidance outlines the procedure to be used by examiners to determine if a claim is eligible for patent protection. Claims are now subject to a two-step test to determine eligibility.