

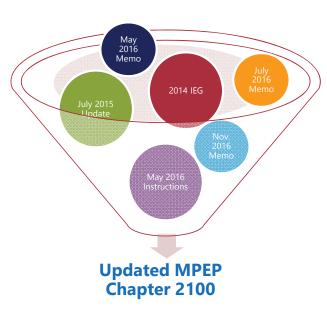
# Subject Matter Eligibility: Guidance & Examination Resources

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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)



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## **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

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#### **MPEP WALK-THROUGH**

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## **The Eligibility Analysis**

- MPEP 2106 discusses the eligibility analysis
  - I. Explains the two criteria for subject matter eligibility: the claimed invention must be to a statutory category (Step 1) and qualify as patent-eligible subject matter (Step 2 aka the Alice/Mayo test)
  - II. Stresses the importance of establishing the broadest reasonable interpretation (BRI) of the claim prior to the eligibility analysis
  - III. Provides guidance on the analysis as a whole and introduces the flowchart



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