

APPENDIX

The responses generated by the search string are inherently overinclusive and the raw number of results says little about the level of substantive engagement with subject-matter eligibility. A positive search result, for example, could simply mean that the document perfunctorily noted subject-matter eligibility within a boilerplate list of statutory patentability requirements. For each search result, I reviewed keyword hits within the document itself. If at least one keyword hit seemed like it might deal substantively with subject-matter eligibility, I reviewed the document more carefully. If that review confirmed my original characterization, I marked the document “responsive.” The final column in Table A1 includes a few sentences summarizing why each document was ultimately deemed responsive or nonresponsive.¹

1. Of the fifty-four documents coded as “nonresponsive,” one is a false positive: referring to a separate § 101 entirely. Seventeen refer to the correct § 101 but for different reasons than subject-matter eligibility: its bar on double patenting, its inventorship requirement, or its utility requirement. The remaining thirty-six documents refer to subject-matter eligibility (or to § 101 generally without specifying a statutory requirement) but do so only trivially. Some refer to it within lists of general patentability requirements or other considerations, others refer to it as an example of grounds for a PGR or CMB petition, others still refer to eligibility in the context of design patents (outside the scope of § 101), and some refer to it only insofar as it represents an area where the USPTO has been active with guidance.

TABLE A1.
COMPLETE FEDERAL REGISTER SEARCH RESULTS AND DOCUMENT ANALYSIS²

Document		No.	Citation	Link	Responsive	Why (Not) Responsive?
Date	Title					
9/1/94	Notice of Public Hearings and Request for Comments on Patent Protection for Biotechnological Inventions	94-21485	50 Fed. Reg. 169		n	This document references § 101 but focuses on utility not subject matter.
1/3/95	Request for Comments on Proposed Utility Examination Guidelines	94-32314	60 Fed. Reg. 97	1	n	This document focuses entirely on utility, only including one boilerplate line in the instructions to examiners to ensure subject-matter eligibility is met before moving on.
1/23/95	Cross-Appeals in Patent and Trademark Office Disciplinary Proceedings	95-1602	60 Fed. Reg. 4,395		n	This document refers to a separate § 101.155(a) of the C.F.R. with respect to ALJ decisions. Additionally, the 101.155(a) seems to be a typo for 10.155(a).
5/1/95	Revision of Affidavits Under 37 CFR 1.131	95-10501	60 Fed. Reg. 21,043		n	This document references § 101 only in reference to its bar on “double patenting” as it relates to foreign apps and NAFTA treaty.
6/2/95	Request for Comments on Proposed Examination Guidelines for Computer-Implemented Inventions	95-13694	60 Fed. Reg. 28,778	2	y	These proposed guidelines provide presumptions and examples of computer inventions that are or are not patentable subject matter.

2. The Link column indicates when two documents are explicitly part of one single effort. This most commonly occurs when one document is a proposed rule and another is a final rule. The numbers are arbitrary but rows with the same number are explicitly linked.

RULEMAKING § 101

Document		Citation	Link	Responsive	Why (Not) Responsive?	
Date	Title					No.
7/14/95	Utility Examination Guidelines	95-17304	60 Fed. Reg. 36,263	1	n	This document focuses entirely on utility, only includes one boilerplate line in the instructions to examiners to ensure subject-matter eligibility is met before moving on.
8/15/95	Changes to Implement 18-Month Publication of Patent Applications	95-18886	60 Fed. Reg. 42,352		n	This document references § 101 only in reference to its bar on “double patenting.”
10/5/95	Interim Guidelines for Examination of Design Patent Applications for Computer-Generated Icons	95-24777	60 Fed. Reg. 52,169	3	n	This is on statutory subject matter, but for design patents, which fall under § 171, not § 101.
2/28/96	Examination Guidelines for Computer-Related Inventions	96-4140	61 Fed. Reg. 7,478	2	y	This guidance includes a lengthy discussion of § 101, relevant doctrine, and examples as applied to computer-related inventions. It creates explicit statutory “safe harbors” and includes a flowchart for examiners to make § 101 determinations.
3/20/96	Guidelines for Examination of Design Patent Applications for Computer-Generated Icons	96-6655	61 Fed. Reg. 11,380	3	n	This is on statutory subject matter, but for design patents, which fall under § 171, not § 101.
6/13/96	Change in Procedure Relating to an Application Filing Date	96-15049	61 Fed. Reg. 30,040		n	This document announces a change of procedure for how to treat applications with missing pages. Note, however, that in response to a comment asking for clarification under § 112, the PTO notes that it has revised chapter 2100 of the MPEP to set forth guidelines for rejections under sections, including § 101.

Document		No.	Citation	Link	Responsive	Why (Not) Responsive?
Date	Title					
8/19/96	Miscellaneous Changes in Patent Practice	96-21073	61 Fed. Reg. 42,790		n	This document references § 101 only in reference to its bar on double patenting.
6/15/98	Request for Comments on Interim Guidelines for Examination of Patent Applications Under the 35 U.S.C. 112 para. 1 “Written Description” Requirement	98-15777	63 Fed. Reg. 32,639	5	n	This notice focuses entirely on the written description requirement. It only refers to § 101 offhand as another provision to be considered.
10/5/98	Changes to Implement the Patent Business Goals	98-26429	63 Fed. Reg. 53,498	4	n	This document references § 101 only in reference to its bar on double patenting. Note also references “allowable subject matter,” but only as a taken-for-granted determination on route to discussing corrected drawing filings.
10/4/99	Changes to Implement the Patent Business Goals	99-24922	64 Fed. Reg. 53,772	4	n	This document references § 101 for its restriction on double patenting.
12/21/99	Revised Utility Examination Guidelines; Request for Comments	99-33054	64 Fed. Reg. 71,440	6	n	This document focuses entirely on utility, only includes one boilerplate line in the instructions to examiners to ensure subject-matter eligibility is met before moving on.
12/21/99	Revised Interim Guidelines for Examination of Patent Applications Under the 35 U.S.C. Sec. 112, para. 1 “Written Description” Requirement; Request for Comments	99-33053	64 Fed. Reg. 71,427	5	n	This notice focuses entirely on the written description requirement. It only refers to § 101 offhand as another provision to be considered.

RULEMAKING § 101

Document		Citation	Link	Responsive	Why (Not) Responsive?	
Date	Title					No.
1/21/00	Revised Interim Utility Examination Guidelines; Request for Comments; Correction	00-1461	65 Fed. Reg. 3,425	6	n	This document only notes purely typographical corrections to an earlier (nonresponsive) document.
6/22/00	Notice of Roundtable on Computer-Implemented Business Method Patent Issues	00-15813	65 Fed. Reg. 38,811		y	The topics to be discussed by the roundtable participants will include the eligibility of computer-implemented business method applications for patenting.
9/8/00	Changes to Implement the Patent Business Goals	00-22392	65 Fed. Reg. 54,603	4	n	This document references § 101 only in reference to its bar on double patenting.
1/5/01	Utility Examination Guidelines	01-322	66 Fed. Reg. 1,092	6	y	In addition to the boilerplate language on subject-matter eligibility in the actual guidance, the document engages with (and rejects) calls in several comments to make more substantive changes to eligibility.
1/5/01	Guidelines for Examination of Patent Applications Under the 35 U.S.C. 112, ¶ 1, “Written Description” Requirement	01-323	66 Fed. Reg. 1,099	5	n	This notice focuses entirely on the written description requirement. It only refers to § 101 offhand as another provision to be considered. Comments submitted that referred to subject-matter eligibility were expressly deferred to the utility notice.
3/19/01	Request for Comments on the International Effort to Harmonize the Substantive Requirements of Patent Laws	01-6641	66 Fed. Reg. 15,409		y	This notice requests comments on how the U.S. system compares to international regimes. It includes as one point to consider how the U.S. determines patentable subject matter vs. the “technical contribution” test of other countries.

Document			Citation	Link	Responsive	Why (Not) Responsive?
Date	Title	No.				
9/12/03	Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan	03-23010	68 Fed. Reg. 53,815		n	This document refers to § 101 (subject matter and utility) in a long list of sections that require applicant replies on evidentiary issues. This is to support a broader idea of stipulations between applicant and examiner.
12/12/03	Changes to Representation of Others Before the United States Patent and Trademark Office	03-29150	68 Fed. Reg. 69,441	7	n	This rule is of the procedures for practicing in front of the PTO. It only references § 101 as an example of an attorney advising clients on § 101 as an example of practicing patent law.
6/24/04	Changes to Representation of Others Before the United States Patent and Trademark Office	04-13766	69 Fed. Reg. 35,427	7	n	This rule is of the procedures for practicing in front of the PTO. It only references § 101 as an example of something an attorney must be familiar with, in response to a comment.
12/20/05	Request for Comments on Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility	E5-7552	70 Fed. Reg. 75,451	8	y	This notice requests comments on a set of guidelines specifically geared toward subject-matter eligibility.
6/14/06	Request for Comments on Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility	E6-9300	71 Fed. Reg. 34,307	8	y	This notice extends the comment period for the previous request for comments on a set of guidelines specifically geared toward subject-matter eligibility.

RULEMAKING § 101

Document		No.	Citation	Link	Responsive	Why (Not) Responsive?
Date	Title					
7/30/07	Rules of Practice Before the Board of Patent Appeals and Interferences in Ex Parte Appeals	E7-14645	72 Fed. Reg. 41,472		n	This document lists § 101 only as an example of “other rejections.”
8/10/07	Examination of Patent Applications That Include Claims Containing Alternative Language	E7-15591	72 Fed. Reg. 44,992		n	This document references § 101 only in passing and only with respect to utility.
8/21/07	Changes to Practice for Continued Examination Filings, Patent Applications Containing Patentably Indistinct Claims, and Examination of Claims in Patent Applications	E7-15565	72 Fed. Reg. 46,715		n	§ 101 is referenced in passing for utility and double patenting bars. In responding to one comment, the doc addressed subject-matter eligibility, but only to note that the statutory classes are laid out in § 101, and to respond to different treatment of claims that fall within one or the other distinct classes (not patentability).
8/14/08	Changes to Representation of Others Before the United States Patent and Trademark Office	E8-18109	73 Fed. Reg. 47,649		n	This rule describes procedures for practicing in front of the PTO. It only references § 101 to invoke an attorney advising clients on § 101 as an example of practicing patent law.
9/17/09	Request for Comments on Interim Examination Instructions for Evaluating Patent Subject Matter Eligibility	E9-22420	74 Fed. Reg. 47,780	9	y	This notice requests comments on a set of guidelines specifically geared toward subject-matter eligibility (in response to <i>Bilski</i>).

Document		No.	Citation	Link	Responsive	Why (Not) Responsive?
Date	Title					
10/9/09	Additional Period for Comments on Interim Examination Instructions for Evaluating Patent Subject Matter Eligibility	E9-24395	74 Fed. Reg. 52,184	9	y	This notice extends the comment period for the previous request for comments on a set of guidelines specifically geared toward subject-matter eligibility (in response to <i>Bilski</i>).
6/14/10	Request for Comments on Proposed Changes to Restriction Practice in Patent Applications	2010-14136	75 Fed. Reg. 33,584		n	This document only refers to § 101 as an example of where multiple different inventions (being collapsed into one) might differ or might be unpatentable.
6/24/10	Expansion and Extension of the Patent Application Backlog Reduction Stimulus Plan	2010-15306	75 Fed. Reg. 36,063		n	§ 101 referred to only in passing and with respect to double patenting.
7/27/10	Interim Guidance for Determining Subject Matter Eligibility for Process Claims in View of <i>Bilski v. Kappos</i>	2010-18424	75 Fed. Reg. 43,922	9	y	This notice requests comments on a set of guidelines specifically geared toward subject-matter eligibility (in response to <i>Bilski</i>).
2/9/11	Supplementary Examination Guidelines for Determining Compliance With 35 U.S.C. 112 and for Treatment of Related Issues in Patent Applications	2011-2841	76 Fed. Reg. 7,162		n	This document notes subject matter requirements for computer claims are the same as others and merely points to the <i>Bilski</i> subject matter guidance.
11/22/11	Rules of Practice Before the Board of Patent Appeals and Interferences in Ex Parte	2011-29446	76 Fed. Reg. 72,269		n	This document only uses § 101 incidentally as an example of a type of rejection.

RULEMAKING § 101

Document		No.	Citation	Link	Responsive	Why (Not) Responsive?
Date	Title					
1/25/12	Changes to Implement the Supplemental Examination Provisions of the Leahy-Smith America Invents Act and To Revise Reexamination Fees	2012-1480	77 Fed. Reg. 3,666	13	n	This document refers to § 101 several times as an example of something that might be discussed in a supplemental examination.
2/9/12	Rules of Practice for Trials Before the Patent Trial and Appeal Board and Judicial Review of Patent Trial and Appeal Board Decisions	2012-2525	77 Fed. Reg. 6,879	12	n	The document only refers to § 101 and subject-matter eligibility in passing as potential aspects of PGR/CBM.
2/9/12	Practice Guide for Proposed Trial Rules	2012-2523	77 Fed. Reg. 6,867	14	n	This document once notes § 101 as a possible topic for a preliminary response in PGR.
2/10/12	Changes to Implement Transitional Program for Covered Business Method Patents	2012-2532	77 Fed. Reg. 7,080	10 & 11	n	§ 101 discussed in the context of general unpatentability motion practice.
2/10/12	Changes to Implement Post-Grant Review Proceedings	2012-2529	77 Fed. Reg. 7,060	10	n	§ 101/subject matter raised only as examples of petition grounds.
2/10/12	Transitional Program for Covered Business Method Patents-Definition of Technological Invention	2012-2538	77 Fed. Reg. 7,095	10 & 11	n	§ 101/subject matter raised only as examples of petition grounds.
2/10/12	Changes to Implement Derivation Proceedings	2012-2535	77 Fed. Reg. 7,028	15	n	§ 101/subject matter raised only as examples of petition grounds.
2/10/12	Changes to Implement Inter Partes Review Proceedings	2012-2534	77 Fed. Reg. 7,041	10	n	This document cites § 101 as an example of a PGR ground ineligible under IPR.

Document			Citation	Link	Responsive	Why (Not) Responsive?
Date	Title	No.				
7/26/12	Examination Guidelines for Implementing the First Inventor to File Provisions of the Leahy-Smith America Invents Act	2012-17898	77 Fed. Reg. 43,759	16	n	This document focuses on first-to-file; § 101 is brought up for the interesting argument that it could sustain a rejection for incorrect inventorship.
8/14/12	Changes to Implement Inter Partes Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents	2012-17906	77 Fed. Reg. 48,679	10	n	§ 101/subject matter raised only as examples of petition grounds.
8/14/12	Transitional Program for Covered Business Method Patents-Definitions of Covered Business Method Patent and Technological Invention	2012-17904	77 Fed. Reg. 48,733	11	n	The notice responded to (rejected) some comments that suggested importing § 101 subject-matter tests to the determination of CBM eligibility, but did not engage with the substance of § 101.
8/14/12	Rules of Practice for Trials Before the Patent Trial and Appeal Board and Judicial Review of Patent Trial and Appeal Board Decisions	2012-17900	77 Fed. Reg. 48,611	12	n	The document only refers to § 101 and subject-matter eligibility in passing as potential aspects of PGR/CBM.
8/14/12	Changes to Implement the Supplemental Examination Provisions of the Leahy-Smith America Invents Act and To Revise Reexamination Fees	2012-17917	77 Fed. Reg. 48,827	13	n	This document refers to § 101 several times as an example of something that might be discussed in a supplemental examination.
8/14/12	Office Patent Trial Practice Guide	2012-17908	77 Fed. Reg. 48,755	14	n	This document once notes § 101 as a possible topic for a preliminary response in PGR.
9/11/12	Changes to Implement Derivation Proceedings	2012-22204	77 Fed. Reg. 56,067	15	n	§ 101/subject matter raised only as examples of petition grounds.

RULEMAKING § 101

Document			Citation	Link	Responsive	Why (Not) Responsive?
Date	Title	No.				
1/15/13	Request for Comments on Preparation of Patent Applications	2013-00690	78 Fed. Reg. 2,960		n	This document notes § 101 as an example of a USPTO internal initiative.
2/14/13	Examination Guidelines for Implementing the First Inventor to File Provisions of the Leahy-Smith America Invents Act	2013-03450	78 Fed. Reg. 11,059	16	n	This document focuses on first-to-file; § 101 is brought up for the interesting argument that it could sustain a rejection for incorrect inventorship. Notes in passing that any uncertainty of § 101 case law is due to subject matter (outside the scope) and that the office has the power to issue interpretive rules in many cases (lists § 101 as an example).
2/14/13	Changes to Implement the First Inventor To File Provisions of the Leahy-Smith America Invents Act	2013-03453	78 Fed. Reg. 11,023	16	n	§ 101 is only brought up as an example of permissible interpretive rulemaking in response to a comment that this rule required notice and comment. Note that this paragraph cites a case (<i>Mikkilineni v. Stoll</i>) for this proposition.
11/29/13	Changes to Implement the Hague Agreement Concerning International Registration of Industrial Designs	2013-28262	78 Fed. Reg. 71,869	18	n	§ 101 is referenced only as to the identity of an inventor.
4/17/14	Notice of Forum on the Guidance for Determining Subject Matter Eligibility of Claims Reciting or Involving Laws of Nature, Natural Phenomena, and Natural Products	2014-08759	79 Fed. Reg. 21,736	17	y	This notice announces a public forum specifically on the issue of subject-matter eligibility.

Document		Citation	Link	Responsive	Why (Not) Responsive?	
Date	Title					No.
6/30/14	Request for Comments and Extension of Comment Period on Examination Instruction and Guidance Pertaining to Patent-Eligible Subject Matter	2014-15352	79 Fed. Reg. 36,786	17	y	This notice extends the comment period for ongoing subject matter comment effort in light of <i>Alice</i> .
12/16/14	2014 Interim Guidance on Patent Subject Matter Eligibility	2014-29414	79 Fed. Reg. 74,618	19	y	This notice requests comments on a set of guidelines specifically geared toward subject-matter eligibility.
2/5/15	Request for Comments on Enhancing Patent Quality	2015-02398	80 Fed. Reg. 6,475		n	This document lists subject-matter-eligibility guidance as a recent example of PTO action.
4/2/15	Changes to Implement the Hague Agreement Concerning International Registration of Industrial Designs	2015-06397	80 Fed. Reg. 17,917	18	n	§ 101 is referenced only as to the identity of an inventor.
7/30/15	July 2015 Update on Subject Matter Eligibility	2015-18628	80 Fed. Reg. 45,429	19	y	This notice requests comments on a set of guidelines specifically geared toward subject-matter eligibility.
5/6/16	May 2016 Subject Matter Eligibility Update	2016-10724	81 Fed. Reg. 27,381	19	y	This notice requests comments on a set of guidelines specifically geared toward subject-matter eligibility.
10/17/16	Notice of Roundtables and Request for Comments Related to Patent Subject Matter Eligibility	2016-24888	81 Fed. Reg. 71,485	20	y	This notice announces a roundtable specifically on the issue of subject-matter eligibility.
11/14/16	Notice of Roundtables and Request for Comments Related to Patent Subject Matter Eligibility; Addition of USPTO HQ Location for Roundtable 2	2016-27279	81 Fed. Reg. 79,463	20	y	This notice expands the previously announced roundtable on the issue of subject-matter eligibility to include a second location.

RULEMAKING § 101

Document			Citation	Link	Responsive	Why (Not) Responsive?
Date	Title	No.				
11/14/17	Setting and Adjusting Patent Fees During Fiscal Year 2017	2017-24390	82 Fed. Reg. 52,780		n	The PTO's guidance on § 101 is listed as a part of examiner training that had a "statistically significant" effect. One comment requested a change in appeal fees due to the "flux" of subject-matter eligibility; this suggestion was rejected.
1/31/18	Manual of Patent Examining Procedure, Ninth Edition, Revision of January 2018	2018-01866	83 Fed. Reg. 4,473		n	The notice actually explicitly requests that any MPEP comments that have to do with subject-matter eligibility be diverted to the email for the appropriate subject matter guidance.
4/20/18	Request for Comments on Determining Whether a Claim Element Is Well-Understood, Routine, Conventional for Purposes of Subject Matter Eligibility	2018-08428	83 Fed. Reg. 17,536		y	This notice requests comments on a set of guidelines specifically geared toward subject-matter eligibility (in response to <i>Berkheimer</i>).
10/29/18	Request for Comments on Motion To Amend Practice and Procedures in Trial Proceedings Under the America Invents Act Before the Patent Trial and Appeal Board	2018-23187	83 Fed. Reg. 54,319		n	In a statistics section, the document notes that the PTAB has denied some motions to amend claims based on § 101.
1/7/19	2019 Revised Patent Subject Matter Eligibility Guidance	2018-28282	84 Fed. Reg. 50		y	This notice requests comments on a set of guidelines specifically geared toward subject-matter eligibility.
1/7/19	Examining Computer-Implemented Functional Claim Limitations for Compliance With 35 U.S.C. 112	2018-28283	84 Fed. Reg. 57		n	This document references § 101 in an example of improper functional claiming as "another statutory requirement."

TABLE A2.
USPTO WEBSITE DOCUMENTS

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
EXAMINATION GUIDANCE							
Manual of Patent Examining Procedure (MPEP)	Manual of Patent Examining Procedure (MPEP)	1/1/18	Separate interactive webpage		83 Fed. Reg. 4,473	They are basically identical: the website simply links to the MPEP and the Fed. Reg. notice points to the MPEP.	This simply links to the separate webpage containing the entire MPEP. The context of the link notes that the Office’s current eligibility guidance is contained therein, except the portions that have since been superseded by the 2019 guidance document.
This chart discusses the sections of the MPEP that are affected by the 2019 PEG. The 2019 PEG revises the procedures for determining whether a claim is directed to a judicial exception (Step 2A in the Office’s eligibility framework).	Chart of MPEP Sections Affected by the 2019 Revised Patent Subject Matter Eligibility Guidance (“2019 PEG”)	1/7/19	PDF				This chart discusses the sections of the MPEP that are affected by the PTO’s 2019 subject-matter-eligibility guidance. Each row of the table is a section of the MPEP, with notes about what might be superseded by the guidance as “portions that may need revision.”

RULEMAKING § 101

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
The 2019 Revised Patent Subject Matter Eligibility Guidance		1/7/19	Links directly to Fed. Reg. PDF		84 Fed. Reg. 50	Identical	This link directs to 84 Fed. Reg. 50, the 2019 eligibility guidance and request for comments.
Memorandum - Recent Subject Matter Eligibility Decision: Vanda Pharmaceuticals Inc. v. West-Ward Pharmaceuticals	Recent Subject Matter Eligibility Decision: Vanda Pharmaceuticals Inc. v. West-Ward Pharmaceuticals	1/7/18	PDF				This is a short memo to the examining corps briefly summarizing the Federal Circuit's decision in <i>Vanda</i> . It notes that the PTO's guidelines are consistent with <i>Vanda</i> with the further understanding of two new conditions. The memo references two previously published examples that before failed Step 2A (moving on to Step 2B) but would now pass Step 2A under <i>Vanda</i> .
Memorandum - Revising 101 Eligibility Procedure in view of Berkheimer v. HP, Inc.		4/19/18	PDF			83 Fed. Reg. 17,536 contains the request for comments and pointed	This is the actual memo that was written to the examining corps in the wake of <i>Berkheimer</i> . The memo summarizes the <i>Berkheimer</i> decision and then

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
							to but did not reproduce the text of the actual <i>Berkheimer</i> memo. This is the actual memo.
Training: Well-Understood, Routine, Conventional Activity May 7, 2018	Subject Matter Eligibility: Well-Understood, Routine, Conventional Activity	4/19/20	PowerPoint	1			This is a PowerPoint providing training to the examining corps. The PowerPoint reiterates general information on eligibility from the MPEP and then walks through the <i>Berkheimer</i> memo.
<i>Federal Register</i> notice requesting comments on the <i>Berkheimer</i> memorandum and other eligibility guidance	Request for Comments on Determining Whether a Claim Element Is Well-Understood, Routine, Conventional for Purposes of Subject Matter Eligibility	4/20/18	Links directly to Fed. Reg. PDF		83 Fed. Reg. 17536	Identical	This link directs to 83 Fed. Reg. 17,536, the <i>Berkheimer</i> memo request for comments.

RULEMAKING § 101

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
Memorandum - Recent Subject Matter Eligibility Decisions: <i>Finjan</i> and <i>Core Wireless</i>	Recent Subject Matter Eligibility Decisions	4/2/18	PDF				This memorandum to the examining corps briefly summarizes the holdings in <i>Finjan</i> and <i>Core Wireless</i> , noting that they are consistent with existing PTO guidance. The memo concludes by listing other recent decisions where the Federal Circuit has found patents to be ineligible under Step 2B.
EXAMPLES							
2019 PEG Examples 37-42	Subject Matter Eligibility Examples: Abstract Ideas	1/7/19	PDF				This document goes through six in-depth examples to illustrate claims that would or would not be patentable under the <i>Alice/Mayo</i> test as described in the 2019 guidance. Each step goes through Steps 1, 2A and 2B.
Abstract idea examples 1-8	Examples: Abstract Ideas	1/27/15	PDF	4			This document goes through eight in-depth

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
							examples to illustrate claims that would or would not be patentable under the <i>Alice/Mayo</i> test as described in the 2014 interim eligibility guidance.
Nature-based product examples 9-18	Nature-Based Products	12/16/14	PDF	3			This document goes through ten in-depth examples to illustrate nature-based product claims that would or would not be patentable under the <i>Alice/Mayo</i> test as described in the 2014 interim eligibility guidance.
Streamlined examples 19 and 20 (on slides 31 and 32)		3/6/15	PDF	2			This document is actually a PDF of a full set of training slides for the 2014 interim guidance. In the link, it points to slides 31 and 32 as examples of eligible claims that can be examined with a “streamlined analysis” because

RULEMAKING § 101

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
							they “clearly do not seek to tie up any judicial exception.”
Abstract idea examples 21-27	July 2015 Update Appendix 1: Examples	7/20/15	PDF	5			This document goes through seven in-depth examples to illustrate claims that would or would not be patentable under the <i>Alice/Mayo</i> test as described in the 2014 interim eligibility guidance.
Life sciences examples 28-33	Subject Matter Eligibility Examples: Life Sciences	5/4/16	PDF	6			This document goes through ten in-depth examples to illustrate life-science claims that would or would not be patentable under the <i>Alice/Mayo</i> test as described in the 2014 interim eligibility guidance.
Business method examples 34-36	Subject Matter Eligibility Examples: Business Methods	5/4/16	PDF	7			This document goes through ten in-depth examples to illustrate business method claims that

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
							would or would not be patentable under the <i>Allice/Mayo</i> test as described in the 2014 interim eligibility guidance “and the follow-on guidance.”
The index of examples will be updated at a later date.		2/1/18	PDF				This document provides an index of the examples provided in the examples documents through Feb. 2018 (all but the most recent 2019 examples).
OTHER MATERIALS							
Form paragraphs	New Form Paragraphs for Subject Matter Eligibility Rejections under the 2019 Revised Patent Subject Matter Eligibility Guidance	1/7/19	PDF				This document provides several form paragraphs to be used when rejecting an application based on subject-matter eligibility (Steps 1 and 2B). It expressly states that these paragraphs supersede those in the MPEP, because they are compliant with the 2019 PEG.

RULEMAKING § 101

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
Frequently Asked Questions	Frequently Asked Questions (FAQs) on the 2019 Revised Patent Subject Matter Eligibility Guidance (“2019 PEG”)	1/7/19	PDF				This document answers a variety of questions examiners might ask about the 2019 PEG.
Sample Rejection	Sample Rejection of Example 37 - Claim 3 - under the 2019 Revised Patent Subject Matter Eligibility Guidance (“2019 PEG”)	1/8/19	PDF				This document provides sample language for rejecting a claim under the 2019 PEG and uses the new form paragraphs.
Decisions holding claims eligible (quick reference sheet updated July 23, 2018)		7/23/18	PDF				This is a one-page sheet that lists relevant MPEP sections and court decisions for Steps 2A and 2B.
Chart of subject-matter eligibility court decisions		7/23/18	Excel				This spreadsheet lists 12 Supreme Court and 108 Federal Circuit decisions on subject-matter eligibility.

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
TRAINING³							
Subject Matter Eligibility: Well-Understood, Routine, Conventional Activity		4/1/18	PowerPoint	1			This is a PowerPoint providing training to the examining corps. The PowerPoint reiterates general information on eligibility from the MPEP and then walks through the <i>Berkheimer</i> memo.
Exploring Subject Matter Eligibility: Abstract Ideas (posted February 2018), which reviews the Step 2A and 2B analysis in the context of abstract idea example 35	Exploring Subject Matter Eligibility: Abstract Ideas (posted February 2018), which reviews the Step 2A and 2B analysis in the context of abstract idea example 35	2/1/18	Adobe Presenter slideshow (with audio), various PDFs				This item is presented in a number of separate parts that comprised one training session on abstract ideas. The main item is an Adobe Presenter presentation with slides and audio of the training. There is also a separate downloadable document of the slides with notes, a one-page document on how to find caselaw, and a quick

3. Each training bullet is grouped as one row. Submaterials are noted in the Document Description column.

RULEMAKING § 101

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
							reference sheet (which states explicitly it is excerpted from the slides).
Formulating a subject matter eligibility rejection and evaluating the applicant's response (June 2016), also known as Abstract Idea Workshop III	Formulating a subject matter eligibility rejection and evaluating the applicant's response (June 2016), also known as Abstract Idea Workshop III	6/1/16	PDF				This is a set of materials for a workshop on subject-matter-eligibility rejections. It includes a main document with hypothetical claims and a worksheet. Subsequent documents provide worksheet answer keys and an analysis worksheet for the hypothetical claims.
Step 1: Statutory requirements and four categories of invention	35 USC § 101: Statutory Requirements and Four Categories of Invention	8/1/15	PowerPoint				This is a PowerPoint that gives an overview of § 101 requirements generally, including briefly the 2014 interim guidance.
Guidance overview and Steps 2A and 2B	2014 Interim Guidance on Patent Subject Matter Eligibility	3/6/15	Computer based training (Flash), PDF	2			This item is a computer-based training on Steps 2A and 2B as described in the 2014 interim guidance, with a separate document

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
Abstract Idea Workshop I materials (May 2015), for use with abstract idea examples 1-8	Abstract Idea Workshop I materials (May 2015), for use with abstract idea examples 1-8	5/1/15	PDF				for a download of the slides in PDF form. This is a set of PDF materials from the Abstract Idea Workshop I. It includes a chart summarizing (then) recent court cases, as well as a set of worksheets and answer keys.
Abstract Idea Workshop II materials (February 2016), for use with abstract idea examples 21 and 23	Abstract Idea Workshop II materials (February 2016), for use with abstract idea examples 21 and 23	2/1/16	PowerPoint, PDFs				This is a set of PDF materials from the Abstract Idea Workshop II, which trains examiners on the July 2015 eligibility update. It includes a set of slides, a worksheet of examples, and answer keys for the examples.
Analyzing nature-based products materials, for use with nature-based product examples 9-18	Analyzing Nature-Based Products	7/14/15	Computer based training (Flash), PDF				This item is a computer-based training on nature-based products, with a separate document for a download of the slides in PDF form.

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
Life Sciences Workshop I materials (June 2016), for use with life sciences examples 28-33	Interim Eligibility Guidance: Life Sciences Example Workshop I	6/1/16	PowerPoint, PDFs				This is a set of PDF materials from the life sciences workshop, which trains examiners on the July 2015 eligibility update. It includes a set of slides, a worksheet of examples, and answer keys for the examples.
HOW TO COMMENT							
Comments received in response to the 2014 interim guidance on patent subject matter eligibility	Comments on 2014 Interim Guidance on Patent Subject Matter Eligibility		Separate page with PDFs for each comment			The following comments have been submitted in response to the notice titled “2014 Interim Guidance on Patent Subject Matter Eligibility,” which was published in the <i>Federal Register</i> at 79	This is a separate page that links to PDFs for each comment received.

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
Comments received in response to the July 2015 update: subject matter eligibility	Comments on July 2015 Update on Subject Matter Eligibility		Separate page with PDFs for each comment			Fed. Reg. 74,618. The following comments have been submitted in response to the notice titled “2014 Interim Guidance on Patent Subject Matter Eligibility,” which was published in the <i>Federal Register</i> at 80 Fed. Reg. 45,429.	This is a separate page that links to PDFs for each comment received.
Comments received in response to the May 2016 subject matter eligibility update	Comments received in response to the May 2016 Subject Matter Eligibility Update		Separate page with PDFs for each comment			The following comments have been submitted in response to	This is a separate page that links to PDFs for each comment received.

RULEMAKING § 101

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
						the notice titled “May 2016 Subject Matter Eligibility Update,” which was published in the <i>Federal Register</i> at 81 Fed. Reg. 27,381.	
Comments received in response to the April 2018 request for comments on the <i>Berkheimer</i> memorandum and other eligibility guidance	Comments on Request for Comments on Determining Whether a Claim Element Is Well-Understood, Routine, Conventional for Purposes of Subject Matter Eligibility		Separate page with PDFs for each comment			The following comments have been submitted in response to the request for comments titled “Request for Comments on Determining Whether a Claim Is Well-Under-	This is a separate page that links to PDFs for each comment received.

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
						stood, Routing, Conventional for Purposes of Subject Matter Eligibility,” which was published in the <i>Federal Register</i> at 83 Fed. Reg. 17,536.	
EVENTS							
Forum on January 21, 2015	January 21, 2015 Forum on Patent Subject Matter Eligibility	1/21/15	Separate page				This is a subpage that lists materials for the forum that was held in January 2015; however, most of the underlying links appear to be broken.
Roundtable discussion on November 14, 2016	Patent Subject Matter Eligibility: Roundtable 1	11/14/16	Separate page			Additional details about the roundtables are in a <i>Federal Register</i>	This is a subpage that lists materials for the Roundtable 1 that was held in Nov. 2016. It includes PDFs for the agenda and the slides of

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
						Notice (link is external) published Oct. 17, 2016.	the roundtable presentations.
Roundtable discussion on December 5, 2016	Patent Subject Matter Eligibility: Roundtable 2	12/5/16	Separate page with PDFs			Additional details about the roundtables are in a <i>Federal Register</i> Notice (link is external) published Oct. 17, 2016.	This is a subpage that lists materials for the Roundtable 2 that was held in Dec. 2016. It includes PDFs for the agenda, written comments, the transcript, and the slides of the roundtable presentations, as well as a report that summarized the views obtained from the roundtable.
ARCHIVE							
Preliminary Examination Instructions in view of the Supreme Court Decision in <i>Alice Corporation Pty. Ltd. v. CLS Bank International, et al.</i>	Preliminary Examination Instructions in view of the Supreme Court Decision in <i>Alice Corporation Ply. Ltd. v.</i>	6/25/14	PDF				This memo to the examining corps summarizes the holding of <i>Alice</i> and provides preliminary instructions in the wake of <i>Alice</i> .

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
	CLS Bank International, et al.						
2014 Procedure For Subject Matter Eligibility Analysis Of Claims Reciting Or Involving Laws Of Nature/Natural Principles, Natural Phenomena, And/Or Natural Products	2014 Procedure For Subject Matter Eligibility Analysis Of Claims Reciting Or Involving Laws Of Nature/Natural Principles, Natural Phenomena, And/Or Natural Products	3/1/14	PDF				This link appears to be broken. It seems to link to a memo put out in the wake of <i>Mayo/Myriad</i> . A bullet below provides a working link, however, to a separate page that links to related feedback, including written comments and a forum on May 9, 2014.
2012 Interim Procedure for Subject Matter Eligibility Analysis of Process Claims Involving Laws of Nature	2012 Interim Procedure for Subject Matter Eligibility Analysis of Process Claims Involving Laws of Nature	7/3/12	PDF				This memo to the examining corps responds to <i>Mayo</i> . It expressly supersedes a Mar. 21, 2012 memo on the <i>Mayo</i> decision.
Supreme Court Decision in <i>Bilski v. Kappos</i> (signed June 28, 2010)	Supreme Court Decision in <i>Bilski v. Kappos</i>	6/28/10	PDF				This memo to the examining corps summarizes <i>Bilski</i> but does not provide specific guidance to examiners except to generally reaffirm the machine-or-

RULEMAKING § 101

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
							transformation test “as a tool.”
Interim Examination Instructions For Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101		8/24/09	PDF				This memo to the examining corps provided interim guidance while the Supreme Court considered <i>Bilski</i> .
EXAMINATION GUIDANCE BY DATE OF ISSUANCE							
2014 IEG	2014 Interim Guidance on Patent Subject Matter Eligibility	12/16/14	Links directly to Fed. Reg. PDF				This link directs to the 2014 guidance at 79 Fed. Reg. 74,618.
2014 IEG quick reference sheet	2014 Interim Eligibility Guidance Quick Reference Sheet	12/1/14	PDF				This quick reference sheet summarizes the 2014 interim guidance.
Nature-based product examples		12/16/14	PDF	3			
Abstract idea examples		1/27/15	PDF	4			
July 2015 update: subject matter eligibility	July 2015 Update: Subject Matter Eligibility	7/30/15	PDF			Yes, there was a Fed. Reg. notice.	This document is a July 2015 update to the 2014 IEG. It claims to have revised the guidelines in response to six main themes

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
July 2015 update Appendix 1 examples	July 2015 Update Appendix 1: Examples	7/30/15	PDF	5			from over sixty comments.
July 2015 update Appendix 2	July 2015 Update Appendix 2: Index of Eligibility Examples	7/30/15	PDF				This document provides an index of the examples provided in the examples documents through July 2015.
July 2015 update Appendix 3	July 2015 Update Appendix 3: Subject Matter Eligibility Court Decisions	11/4/15	PDF				This document is a list of selected eligibility cases from the U.S. Supreme Court and the Federal Circuit as of November 2015.
July 2015 update: interim eligibility guidance quick reference sheet	July 2015 Update: Interim Eligibility Guidance Quick Reference Sheet		PDF				This document is a quick reference sheet that summarizes the July 2015 update.
May 2016 update: memorandum	Formulating a Subject Matter Eligibility Rejection and Evaluating the Applicant's Response to a Subject	5/4/16	PDF			This is the memo announced by 81 Fed. Reg. 27,381.	This memo to the examining corps provides an update to the 2014 guidance and the July 2015 update.

RULEMAKING § 101

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
	Matter Eligibility Rejection						
<i>Federal Register</i> notice	May 2016 Subject Matter Eligibility Update	5/4/16	Links directly to Fed. Reg. PDF		81 Fed. Reg. 27,381		This link directs to 81 Fed. Reg. 27,381, the request for comments on the May 2016 update.
May 2016 update: subject matter eligibility examples: life sciences	Subject Matter Eligibility Examples: Life Sciences	5/4/16	PDF	6			
May 2016 update: index of eligibility examples	Index of Eligibility Examples	5/4/16	PDF				This is an index of eligibility examples as of May 4, 2016.
May 2016 Update: subject matter eligibility court decisions (formerly Appendix 3)	Subject Matter Eligibility Court Decisions (formerly Appendix 3). The tables in this appendix provide further information on selected eligibility cases	7/14/16	PDF				This is an index of relevant cases as of July 14, 2016.
Enfish, LLC v. Microsoft Corp. and TLI Communications LLC v. A.V. Automotive, LLC		5/19/16					This link appears to be broken; it leads instead to the index of court decisions.

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
Rapid Litigation Management v. CellzDirect and Sequenom v. Ariosa	Recent Subject Matter Eligibility Rulings (Rapid Litigation Management v. CellzDirect and Sequenom v. Ariosa)	7/14/16	PDF				This is a memo to the examining corps that describes the recent rulings in <i>Rapid</i> and <i>Sequenom</i> . The memo concludes that current guidance is consistent with these decisions.
McRO, Inc. dba Planet Blue v. Bandai Namco Games America Inc. and BASCOM Global Internet Services v. AT&T Mobility LLC		11/2/16	PDF				This is a memo to the examining corps that describes the recent rulings in <i>McRo</i> and <i>BASCOM</i> , and how examiners should apply them.
This update contains new subject matter eligibility examples	Subject Matter Eligibility Examples: Business Methods		PDF	7			
December 2016 Interim Eligibility Quick Reference Sheet			PDF				This is a quick reference sheet to accompany the update on business methods.
Case law chart			Excel				This is an earlier version of the case law spreadsheet.

RULEMAKING § 101

Link Keyword and Context	Document			Duplicate	Fed. Reg. Equivalent	Fed. Reg. Related	Document Description
	Title	Date	Format				
Index of examples			PDF				This is the index of exam- ples as of Feb. 2018.