

**UNITED STATES  
PATENT AND TRADEMARK OFFICE**



# **The FICPI / AIPLA / AIPPI Joint Colloquium on Artificial Intelligence “A Focus on AI and Patent Procurement”**

## **Presenter:**

Deputy Commissioner for Patent Examination Policy Robert Bahr

Date: March 28, 2019

UNITED STATES  
PATENT AND TRADEMARK OFFICE



# Patent eligibility

- Eligibility (35 U.S.C. § 101)
- *Alice/Mayo* two-step framework
  - *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (Jan. 7, 2019)

# Inventorship

- Inventorship—
  - 35 U.S.C. § 100(f) defines inventor as meaning the individual or individuals collectively who invented or discovered the subject matter of the invention
  - 35 U.S.C. § 115 requires oath or declaration from each individual who is an inventor

# Disclosure

- Disclosure (35 U.S.C. § 112)—
  - Examining Computer-Implemented Functional Claim Limitations for Compliance with 35 U.S.C. 112, 84 *Fed. Reg.* 57 (Jan. 7, 2019)

# Nonobviousness

- Nonobviousness—
  - Graham factors for determining nonobviousness
    - scope and content of the prior art
    - differences between the claimed invention and the prior art
    - level of ordinary skill in the art
    - evidence of nonobviousness (“secondary” considerations)

# AI initiatives

- USPTO is exploring use of AI to improve classification, search, and examination of applications
  - RFI: USPTO's Challenge to Improve Patent Search With Artificial Intelligence
- Artificial Intelligence: Intellectual Property Policy Considerations (Jan. 31, 2019)

