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
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Patent eligibility

• Eligibility (35 U.S.C. § 101)

• Alice/Mayo two-step framework
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)—
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)