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Patent Eligibility: Overcoming Early Litigation Challenges

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This practice note considers strategies that you as the patentee may utilize when facing patent eligibility challenges early in litigation. Although much of the content is generalizable, special attention is given to inventions in the life sciences. In recent years, Section 101 challenges in the life sciences arena focus on claims directed to methods or tools that involve measurement of biological species (diagnostic methods and tools), compositions of matter based on naturally occurring materials, or methods of treatment using compositions that are asserted to be naturally occurring.

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