

Akerman Lens

I Want My Patent, ASAP! How AI Is Turbocharging USPTO Exams

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By Trevor Q. Coddington



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Trevor Q. Coddington

The USPTO's new Artificial Intelligence Search Automated Pilot Program (ASAP!) is transforming the patent examination process by leveraging AI to conduct pre-examination prior art searches for utility applications. Under this initiative, applicants now receive an early AI-powered review before substantive examination, which streamlines the overall process and increases efficiency for both applicants and examiners.

The AI tool analyzes the application's specification, claims, and classification to provide a robust foundation for patent evaluation. The program generates an AI-Assisted Search Results Notice (ASRN), delivering applicants a "top ten list" of potential prior art references relevant to their invention. This notice is issued before substantive examination, giving applicants the opportunity to review their claims and address potential issues early in the process.

The AI tool derives contextual information from the Cooperative Patent Classification (CPC), as well as from the application's specification, claims, and abstract. In response to the ASRN, applicants can take several actions, such as filing a preliminary amendment to the claims, marshaling evidence for affidavit practice or notice taken by the USPTO, requesting deferral of examination, or filing petitions, including express abandonment, or seek a refund of certain fees if examination is no longer desired.

Participation in the ASAP! pilot requires filing a specific petition accompanied by a fee (\$180 for small entity) at the time of filing a patent application. The USPTO will use the results to assess outcomes, evaluate scalability, and inform future programs and companion pilots. Overall, ASAP! marks a significant step toward integrating AI into the patent examination workflow, aiming to foster stronger, higher-quality patents by empowering both applicants and examiners with more robust preliminary search tools.

This wave of innovation at the USPTO is further bolstered by a marked shift toward patent-friendly policies, especially in the area of subject matter eligibility for software and AI inventions. The USPTO's updated guidance in August signals a move away from the rigid, rejection-heavy approaches of recent years, providing greater clarity and consistency for inventors. Examiners are now reminded to focus on technical improvements and

practical applications, rather than denying eligibility based on abstract idea rejections alone.

These changes pave the way for stronger, more predictable patent protection for software and AI, reinforcing the USPTO's commitment to supporting innovation in the digital age.

The new pilot will provide applicants with an initial communication identifying a “top ten list” of potential prior art issues in need of attention. By generating an AI-Assisted Search Results Notice (ASRN), ASAP! will afford applicants an early opportunity to assess their claims against the prior art before substantive examination. Indeed, the pilot will look to inform applicants of potential courses of first action responses.

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