July 29, 2024

Katherine K. Vidal
Under Secretary of Commerce for Intellectual Property
Director, United States Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314

AUTM's Comments on the USPTO's Request for Comments Regarding the Impact of the Proliferation of Artificial Intelligence on Prior Art, the Knowledge of a Person Having Ordinary Skill in the Art, and Determinations of Patentability Made in View of the Foregoing (Docket No. PTO-P-2023-0044)

Dear Director Vidal:

AUTM is the non-profit leader in efforts to educate, promote, and inspire professionals to support the further development and distribution of innovations arising from academic research. Our community is comprised of more than 3,000 members who work in more than 800 universities, research centers, hospitals, businesses, and government organizations around the globe.

AUTM's membership has traditionally stemmed—and continues to draw primarily—from academic settings (67%). AUTM members in such academic settings are focused on advancing early-stage inventions and other technologies to the marketplace, primarily through licensing and further development with partners (i.e., implementers). Between 2013 and 2022 (the most recent decade for which we have data), our skilled professionals filed over 160,000 patents for academic inventors and negotiated over 70,000 intellectual property license agreements on behalf of U.S. universities and academic research institutions. Our innovators are active contributors to and users of computer science and AI Tools.

On behalf of our innovators, AUTM members seek, foster, and negotiate the public-private partnerships that move academic innovations from lab to market. These activities lead to the creation and distribution of new products that care for our citizens and our planet, create jobs, and strengthen U.S. global competitiveness. From 1996-2022, products resulting from these AUTM member associated public-private partnerships contributed nearly two trillion dollars to U.S. gross industry output and supported six and a half million jobs.[1]

Preliminary remarks about definitions and the evolution of technology.
"AI" means different things to different people. Here is an excerpt from a July 10, 2024 article "What is AI" by Will Douglas Heaven, Senior Editor for AI at MIT Technology Review[2]:

> "Artificial intelligence is the hottest technology of our time. *But what is it?* It sounds like a stupid question, but it's one that's never been more urgent. Here's the short answer: AI is a catchall term for a set of technologies that make computers do things that are thought to require intelligence when done by people. Think of recognizing faces, understanding speech, driving cars, writing sentences, answering questions, creating pictures. But even that definition contains multitudes. And that right there is the problem. What does it mean for machines to understand speech or write a sentence? What kinds of tasks could we ask such machines to do? And how much should we trust the machines to do them? As this technology moves from prototype to product faster and faster, these have become questions for all of us. But (spoilers!) I don't have the answers. I can't even tell you what AI is. The people making it don't know what AI is either. Not really"

Thus, the definition of "AI," unlike terms like "physics" or "mathematics," is quite fluid and will continue to evolve. Likewise, the expectations of what computer science—including AI—can do will evolve, as will the perspective of PHOSITAs in these fields. Thus, best practices and answers to the questions asked in this RFC must evolve as well.

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[1] See https://autm.net/AUTM/media/About-Tech-Transfer/Documents/BIO-AUTM-EconomiContributions-of-University-Nonprofit-Inventions_14JUN2022.pdf.
[2] See https://www.technologyreview.com/2024/07/10/1094475/what-is-artificial-intelligence-ai-definitive-guide/.

Summary of AUTM's Comments

AUTM has responded to previous RFCs on artificial intelligence from the USPTO and from the U.S. Copyright Office[3] and appreciates this opportunity to comment on additional AI-related matters.

(1) AI Tools and Their Associated Risks

We define "AI Tools" as a combination of hardware and software capable of simulating certain human behaviors, such as problem solving and pattern recognition, significantly faster than unaided humans. We recognize that such AI Tools have the potential to speed up our ability to solve the problems of our time, but also come with certain associated risks ("AI Tool Associated Risks"). AI Tool Associated Risks include risks arising from the i) verisimilitude of the simulations; ii) speed and quantity with which the AI Tool produces output; iii) possibility that humans will over-delegate tasks to AI Tools; and iv) potential for misalignment between the goals programmed into AI Tools and human interests. Real world illustrative examples of these risks include, respectively, i) deep (or extremely difficult to detect) fakes; ii) the defeat of CAPTCHAs[4] by bots; iii) autonomous systems doing harm (e.g. car crashes); and iv) click bait leading to addictive and harmful human behavior.

Hallucinations, a seemingly credible yet deceptive output, illustrate several of these risks. Hallucinations can be trite, funny, potentially inspiring (real world lab mishaps have been known to lead investigators to interesting places[5]), misleading, or troubling, such as citations to non-existent court cases.[6]

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[3] See May 7, 2024 AUTM's Comments on the USPTO's Inventorship Guidance for AI-Assisted Inventions (Docket No. PTO-P-2023-0043); October 30, 2023 AUTM's comments in response to the US copyright office notice of inquiry and request for comments regarding artificial intelligence and copyright (Docket No. 2023-6; Document No. 2023-18624); May 15, 2023 AUTM's comments in response to the USPTO's request for comments regarding artificial intelligence and inventorship (Docket ID Number PTO-P-2-22-0045); January 10, 2020 AUTM's comments on intellectual property protections for artificial intelligence innovation (Docket No. PTO-C-2019-0038); November 8, 2019 AUTM Comments on patenting artificial intelligence inventions (Docket No. PTO-C-2019-0029).

[4] Completely Automated Public Turing test to tell Computers and Humans Apart.

[5] See https://www.sciencemuseum.org.uk/objects-and-stories/how-was-penicillin-developed.

[6] See *Park v Kim* (Appeal from the United States District Court for the Eastern District of New York No. 20CV02636) available at https://fingfx.thomsonreuters.com/gfx/legaldocs/egvbaanybpq/2nd%20Circuit%20Decision.pdf.

(2) Publications and Disclosures Must Be Associated with a Responsible Human

We take as a starting point the approach leading scientific journals have adopted, namely that there must be a human author associated with a paper/manuscript, and if an AI Tool was used to generate content, this must be disclosed.

We believe USPTO-related disclosures, both patent applications and related art, must similarly be associated with a responsible human author/publisher.[7] In addition, USPTO-related disclosures must be reasonably findable (and accessible once found), as described in MPEP 2128 and authoritatively dated. We think current approaches[8] for posting, sharing, and referencing USPTO-related disclosures are sufficient, but we do provide some suggestions below for ways the USPTO can assist.

Therefore, we define "Disclosure" as a reference, digital or tangible, that is i) associated with at least one human; ii) reasonably findable and accessible per MPEP 2128; and iii) authoritatively dated. Examples of disclosures include patent publications and prior art references.

(3) Requirements to Disclose Use of AI Tools Vary Depending on the Facts/Circumstances of the Use

AUTM favors requiring transparency with respect to the use of AI Tools in Disclosures when the use of such AI Tools is material to patentability. We also favor transparency with respect to the use of such tools when a content-generating AI Tool (e.g. a large language model, such as ChatGPT) is used to draft some of the text submitted to the USPTO. Recent data suggest that up to 5% of academic papers use such programs.[9]

The amount of description that must be provided about the AI Tool depends on its role in the Disclosure and the state of the tool. More description is required if the output of the AI Tool is intended to either support or restrict patentability. Less description is required if its contribution is *de minimis* (e.g. spell checking) or only helped point the human inventors in the right direction. Less description will be required as the AI tools become embedded into the chips that power the devices we use to perform our work. We note that section 103 of the Patent Act provides that

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[7] Directly, on the face of the publication, or via an institutional contact, as is sometimes the case for technical bulletins, spec sheets, user manuals, and the like published from time to time by companies or other organizations.
[8] Our comfort is due in part to communications with two librarians, one of whom is also a software developer working at a major law school. Both, independently, drew our attention to trusted technical field-specific websites, frequented by those with common interests.
[9] See https://www.science.org/content/article/should-researchers-use-ai-write-papers-group-aims-community-driven-standards.

"patentability shall not be negated by the manner in which the invention was made," such that use of an AI Tool must not inherently negate patentability of the resulting invention.

When an AI Tool is itself the subject of the Disclosure, and especially if the Disclosure is a patent application (e.g., a patent application claiming a new or improved AI Tool), then significant description of the AI Tool would be needed.

(4) Managing Risks and Discouraging Malicious Disclosures

Notwithstanding their tremendous beneficial uses, AI Tools can also be used in bad faith to create hard-to-detect fraudulent, confusing, or misleading content or to create and then publish an overwhelming amount of content with intent to confuse, mislead or destroy novelty. We identify such uses as "Malicious Disclosures," examples of which include publishing:

i)   fraudulent, confusing, or misleading content with intent to confuse or mislead inventors and the USPTO;
ii)   fraudulent, misleading, or meaningless content in such quantity that locating useful information on important topics of interest is impeded;
iii)   a large quantity of novelty-destroying molecules, structures, methods, processes, or designs with no known utility to, for example, prevent others from claiming related and worthy subject matter; or
iv)   any combination of (i), (ii) and/or (iii).

We favor rules and processes that actively discourage Malicious Disclosures. For example, Malicious Disclosures should be disqualified from use as prior art.

In general, and as will be explored in more detail below, we believe that Disclosures that use an AI Tool in some way and that are not Malicious Disclosures (which we identify as "Good Faith AI Tool Associated Disclosures") should be treated no differently from other Disclosures.

(5) The Effect of an AI Tool on Patentability Should be Determined from the Perspective of a PHOSITA

The hypothetical PHOSITA is in the best position to determine how AI Tools set or reset expectations in a particular field. Our inventors are keenly aware of new technologies and are early adopters of new tools, including AI Tools. We see no need to change or broaden the "analogous art" standard. At some undetermined time in the future, AI Tools may change a PHOSITA's view of what is obvious, enabled, or sufficiently described. We think that the bar for changing that view should be set high, as humans do not possess an unlimited ability to absorb

substantive information. We think that speculation as to when these changes might occur is not helpful. We believe that Disclosures remain the most helpful and objective evidence for sound patentability analyses.

Broadly speaking, we favor increasing computer science and data management capabilities at the USPTO for efficiency, quality, and security purposes. We recommend exploring ways to harmonize approaches to disclosing the use of AI Tools with academic publishers and with international patent offices.

We express appreciation to the USPTO for doing its part to fully and thoughtfully integrate new technologies, such as AI Tools, into our thriving innovation ecosystem.

AUTM's Answers to the RFC's Questions

Q1.1: In what manner, if any, does 35 U.S.C. 102 presume or require that a prior art disclosure be authored and/or published by humans?

> If a content-producing AI Tool was used to generate a prior art Disclosure that is material to patentability,[10] this fact should be disclosed, and at least one responsible human author/publisher identified. The principle of requiring identification of a responsible author/publisher harmonizes with other scientific publications' requirements, which state that "AI Tools cannot be authors because they cannot be accountable for the work."[11] If the publisher or owner differs from the author, then the publisher or owner should also be identified.

Q1.2: In what manner, if any, does non-human authorship of a disclosure affect its availability as prior art under 35 U.S.C. 102?

> We interpret the second part of this question as applying to a non-human *contribution* to prior art content. For any Disclosure that is considered material to patentability, we believe it is reasonable to require a responsible human to identify which parts of a prior art Disclosure an AI Tool contributed and—depending on the circumstances (which we elaborate upon in our answer to your question 4c)—how it contributed to patentability. If the USPTO cannot identify a responsible human associated with the Disclosure, that Disclosure cannot be cited as prior art. Aside from this conditional-

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[10] As per the MPEP 2001 Duty of Disclosure, Candor, and Good Faith [R-08.2017]; see 37 CFR 1.56 Duty to disclose information material to patentability.

[11] See https://www.science.org/content/article/should-researchers-use-ai-write-papers-group-aims-community-driven-standards.

on-materiality transparency requirement, we consider a Good Faith AI Tool Assisted Disclosure to be no different from other prior art Disclosures.

Q 2.1: What types of AI-generated disclosures, if any, would be pertinent to patentability determinations made by the USPTO?

Since the word "disclosure" is broad enough to encompass patent applications, we express concern over the phrase "AI-generated disclosure," as it implies that an AI Tool *alone* could generate the patent application for a patentable invention, which we do not believe is the case.

We distinguish between i) Malicious Disclosures, including those intended to destroy novelty (e.g., by publishing millions of randomly generated molecular structures with no reasonable expectation of utility) and ii) Good Faith AI Tool Assisted Disclosures (which can include published patent applications).

We believe Good Faith AI Tool Assisted Disclosures can be pertinent to patentability determinations, and Malicious Disclosures cannot. Malicious Disclosure should be strongly discouraged. We think it is helpful to screen at least a sample of Disclosures, perhaps at the Office of Initial Patent Examination "OIPE",   for i) AI Tool use and ii) AI Tool caused fraud/hallucination using by reasonably available tools such as RefChecker. The USPTO could then adjust its policies and practices if needed to address submission of such applications.

Q 2.2: How are such disclosures currently being made available to the public? In what other ways, if any, should such disclosures be made available to the public?

We believe there are ample opportunities to make information findable and accessible with trustworthy publication dates. Disclosures can be readily findable and accessible via a DOI (or other standard library reference) and authoritatively dated**.**

Q 3: If a party submits to the Office a printed publication or other evidence that the party knows was AI-generated, should that party notify the USPTO of this fact, and if so, how? What duty, if any, should the party have to determine whether a disclosure was AI-generated?

Yes, a party has a duty to disclose when content used to either support or restrict patentability was created with assistance from an AI Tool.

A disclosing party (e.g., the practitioner filing an IPR) should make a good faith effort to determine whether the content of submissions to the USPTO was generated with assistance from an AI Tool, and if hallucinations or other misleading or incorrect information is present. This is consistent with the Federal Rules of Evidence, which state that "To satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is."[12] The burden to do this is on the party submitting the content, or for content identified by the USPTO, on the USPTO.

The USPTO, perhaps in partnership with NIST, could post and maintain a publicly available AI Tool detection tool. Also, the USPTO could develop and maintain its own tool for detecting incorrect information and hallucinations, which could be used for USPTO internal use to monitor submissions and adjust rules and policies as needed.

Q 4: Should an AI-generated disclosure be treated differently than a non-AI- generated disclosure for prior art purposes? For example:

a. Should the treatment of an AI-generated disclosure as prior art depend on the extent of human contribution to the AI-generated disclosure?

We believe Good Faith AI Tool Assisted Disclosures can be pertinent to patentability determinations and should be treated no differently from other Disclosures.

b. How should the fact that an AI-generated disclosure could include incorrect information (e.g., hallucinations) affect its consideration as a prior art disclosure?

It should be disqualified if the incorrect information is material to patentability. For information that may be incorrect (but this cannot be readily determined), the AI-generated disclosure cannot be the sole source of the questionable information.

c. How does the fact that a disclosure is AI-generated impact other prior art considerations, such as operability, enablement, and public accessibility?

Regarding the subset of Good Faith AI Tool Assisted Disclosures that are patent applications:

If the disclosed invention relies on an AI Tool to support operability, enablement, or written description, then this should be clearly noted. In this circumstance, the description of the AI Tool should be sufficient to enable a

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[12] See Fed. R. Evid. 901 (a).

PHOSITA to practice the claimed invention without undue experimentation.

If such a patent application relies on an AI Tool to support enablement in an unpredictable art, then the AI Tool should be validated relative to the real-world non-AI[13] gold standard, where "gold standard" means the standard that PHOSITAs would agree provides reliable evidence in the relevant art.

Regarding the subset of Good Faith AI Tool Assisted Disclosures that are prior art Disclosures, we repeat that they should be treated no differently from other Disclosures.

Q 5: At what point, if ever, could the volume of AI-generated prior art be sufficient to create an undue barrier to the patentability of inventions? At what point, if ever, could the volume of AI-generated prior art be sufficient to detract from the public accessibility of prior art (i.e., if a PHOSITA exercising reasonable diligence may not be able to locate relevant disclosures)?

Requiring disclosures to be findable and accessible before they can be used as patent-scope-limiting prior art will mitigate concerns that "a PHOSITA exercising reasonable diligence" may not be able to find them. In our experience, our innovators put considerable effort into staying abreast of developments in their field, including trying new tools such as AI Tools when they become available. That said, we recognize the potential for AI-generated prior art to become so voluminous as to make them effectively impossible to find in much the same way as the needle in the haystack. In fact, even examiners miss prior art presently. In such a scenario, careful procedures must be developed to exclude these Disclosures from the prior art. Malicious Disclosures should be discouraged. This is an important topic for international harmonization.

Q 6: Does the term "person" in the PHOSITA assessment presume or require that the "person" is a natural person, i.e., a human?

Yes.

How, if at all, does the availability of AI as a tool affect the level of skill of a PHOSITA as AI becomes more prevalent? For example, how does the availability of AI affect the analysis of the PHOSITA factors, such as the rapidity with which innovations are made and the sophistication of the technology?

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[13] At some point in the future, the gold standard itself could possibly be an AI simulation.

Examiners should continue to rely on objective evidence of what is known to a PHOSITA and how that evidence affects patentability when the invention is assessed from the perspective of a PHOSITA. If the tool is findable and accessible to a PHOSITA, then a fellow PHOSITA would be expected to know about it. In our experience, our innovators are early adopters of new tools, including AI Tools.

Q 7: How, if at all, should the USPTO determine which AI Tools are in common use and whether these tools are presumed to be known and used by a PHOSITA in a particular art?

The USPTO could maintain an index of public AI Tools, which their creators chose to post. AI Tools could have their own DOI numbers. It is not helpful for the USPTO to attempt to assess whether or not certain tools are "presumed to be known and used by a PHOSITA in a particular art." Evidence should be objective, such as whether or not the tools are findable and then accessible to a PHOSITA, and what the published information teaches about how such tools can be used in a particular field. As AI evolves and becomes embedded into the chips that power the devices we rely on, however, this index may become impossible or obsolete. In such a case, an alternative approach must be identified.

Q 8: How, if at all, does the availability to a PHOSITA of AI as a tool impact:

a. Whether something is well-known or common knowledge in the art?

If the thing is findable and accessible per MPEP 2128,[14] then it is sufficiently available for use by a PHOSITA in ways that a PHOSITA would reasonably expect it could be used, subject to the volume concerns referenced above.

b. How a PHOSITA would understand the meaning of claim terms?

As above, if an AI Tool is findable and accessible per MPEP 2128, then it is sufficiently available to inform a PHOSITA's view of claim terms if a PHOSITA would find use of the tool in such a way to be reasonable.

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[14]Excerpt of MPEP 2028: "A reference is proven to be a "printed publication" "upon a satisfactory showing that such document has been disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art, exercising reasonable diligence, can locate it." (available at https://www.uspto.gov/web/offices/pac/mpep/s2128.html).

Q 9: In view of the availability to a PHOSITA of AI as a tool, how, if at all, is an obviousness determination affected, including when:

a. Determining whether art is analogous to the claimed invention, given AI's ability to search across art fields? Does the "analogous" art standard still make sense in view of AI's capabilities?

Yes, the "analogous" art standard still makes sense. The U.S. already has a wider scope of art to search than the EU does. There is no need to broaden it further. Science itself broadens "related art." For example, evolutionary biology is now used to engineer enzymes for a variety of nonbiological uses, from cold water laundry detergent to making ethanol from cellulosic waste.

b. Determining whether there is a rationale to modify the prior art, including the example rationales suggested by *KSR* (MPEP 2143, subsection I) (e.g., "obvious to try") or the scientific principle or legal precedent rationales (MPEP 2144)?

Scientists currently seek inspiration from fields outside their own specialties. We suggest that traditional publications can be used to determine "obvious to try," including those that may use AI Tools in their discovery process. There is no need to speculate on what an AI Tool might eventually be able to do. It will happen soon enough, and preprints, which have DOI numbers, are becoming ever more common.

c. Determining whether the modification yields predictable results with a reasonable expectation of success (e.g., how to evaluate the predictability of results in view of the stochasticity (or lack of predictability) of an AI Tool)?

AI Tools found to be at least equivalent to a real-world non-AI gold standard might be considered as demonstrating a reasonable expectation of success, but this will depend on, for example, how AI Tools have been validated and used in that field. AI Tools that have not been validated may be useful to natural people as they try to solve practical problems, but use of such a tool should not alone change the criteria for predictability at the USPTO.

d. Evaluating objective indicia of obviousness or nonobviousness (e.g., commercial success, long felt but unsolved needs, failure of others, simultaneous invention, unexpected results, copying, etc.)?

Evaluating the objective indicia will evolve in due course, as more AI Tools are used and validated. There is no need to speculate how the objective indicia may change now.

In sum, we must exercise care that we do not create a superhuman PHOSITA such that breakthrough technologies are found unpatentable due to obviousness because we have created an unrealistic PHOSITA.

Q 10: How, if at all, does the recency of the information used to train an AI model or that ingested by an AI model impact the PHOSITA assessment when that assessment may focus on an earlier point in time (e.g., the effective filing date of the claimed invention for an application examined under the First-Inventor-to-File provisions of the America Invents Act)?

> The PHOSITA assessment should be as of the priority date of the invention, which is consistent with other PHOSITA assessments that are made during the examination process.
>
> Recency may matter if both i) the updated information/training set and ii) the code for the AI Tool is publicly available before the priority date of the claimed invention. It is an open question if the examiner should assume a PHOSITA would retrain publicly available models with newly publicly available data (available prior to the priority date). Our initial thought on this matter is that it would depend on common practices in the field.

Q 11: How, if at all, does the availability to a PHOSITA of AI as a tool impact the enablement determination under 35 U.S.C. 112(a)? Specifically, how does it impact the consideration of the *In re Wands* factors (MPEP 2164.01(a)) in ascertaining whether the experimentation required to enable the full scope of the claimed invention is reasonable or undue?

> AI Tools found to be at least equivalent to a real-world non-AI gold standard may eventually be considered as demonstrating enablement in an unpredictable art. AI Tools that have not been validated may not be used to demonstrate enablement in an unpredictable art. We suggest the USPTO consider requiring the labeling of examples as i) prophetic, ii) real world or iii) in silico, where in silico includes—but is not limited to—generated with assistance from an AI Tool.

Q 12: What guidance from the USPTO on the impact of AI on prior art and on the knowledge of a PHOSITA, in connection with patentability determinations made by the Office, would be helpful?

The USPTO could note that Disclosures must i) be associated with a responsible human and ii) be both findable and accessible per MPEP 2128 if the associated responsible people want the Disclosure to have the potential to be used as prior art and that could limit the scope of patentability of future inventions. The USPTO could clarify that describing an AI Tool in a particular patent or patent application is only required when such description is material to assessing the patentability of that patent or patent application.

Q 13: In addition to the considerations discussed above, in what other ways, if any, does the proliferation of AI impact patentability determinations made by the Office (e.g., under 35 U.S.C. 101, 102, 103, 112, etc.)?

See our response to 4c, 9c, 9d, and 11. In five years, fifty years, or one hundred and fifty years, computer models may very well change our view of what constitutes an obvious, enabled, or sufficiently described invention. However, the time scale and scope of when this will occur is completely unpredictable, and speculation as to when these changes might take place is not helpful. We suggest that publications remain the most helpful and objective evidence for patentability analysis. We suggest that validated AI Tools, tools that predict outcomes as well as a real-world non-AI gold standard in a particular area, might eventually be used to enable an invention.

Q 14: Are there any laws or practices in other countries that effectively address any of the questions above? If so, please identify them and explain how they can be adapted to fit within the framework of U.S. patent law.

At this point, we believe that each country should experiment with different approaches and identify best practices that can be shared as appropriate. It is early enough that the "laboratory" model is the best approach at present.

The above notwithstanding, AUTM notes the EPO Data Science team (see https://www.epo.org/en/news-events/in-focus/ict/artificial-intelligence). We suggest such a similarly dedicated team at the USPTO can be helpful in several ways, from increasing knowledge about computational sciences and keeping current with this rapidly evolving field, to enhancing patent office data security and streamlining administrative functions.

Q 15: Should title 35 of the U.S. Code be amended to account for any of the considerations set forth in this notice, and if so, what specific amendments do you propose, and why?

We have no suggestions regarding amending title 35 of U.S. code at this time.

To guide future updates of policies, regulations, or laws, it will be helpful to have data on the sources of prior art references cited during patent prosecution, including IPR processes (and litigation, when possible). It would be helpful to know if particularly important references, including posted AI Tools, were straightforward to find and use, as well as if and how such AI Tools were cited during prosecution or enforcement.

In addition, we note that some computer programs are easier to use or more ubiquitous than others. Thus, there may be a need to update the meaning of "availability" when applied to computer programs including AI Tools. It may be useful to clarify that "available" in the context of software and AI Tools means that the PHOSITA in the applicable art (which may not be computer science per se) can make use of the posted software or AI Tool.

In conclusion, we appreciate the opportunity to submit these comments and continue our ongoing and productive communication with the USPTO.

Sincerely,

Stephen J. Susalka, Ph.D.
Chief Executive Officer