

Artificial Intelligence Update

December 2025

Revised USPTO Guidance Clarifies Inventorship Standards for AI-Assisted Inventions

On November 28 the United States Patent and Trademark Office (USPTO) published revised guidance on inventorship for AI-assisted inventions, rescinding its previous 2024 guidance. The revised guidance reaffirms that only natural persons can be named as inventors on patent applications, regardless of the role AI systems play in the inventive process. The guidance also provides clarity for businesses and innovators leveraging AI tools in research and development and outlines implications for priority claims.

The guidance makes clear that AI systems, including generative AI and other computational models, are considered tools used by human inventors and cannot be named as an inventor or a joint inventor on any patent application. The legal standard for inventorship remains unchanged: only a natural person who has conceived an invention may be listed. The concept of “conception” – the formation of a definite and permanent idea in the inventor’s mind – remains the touchstone for determining inventorship.

Traditional joint inventorship principles apply for inventions developed by multiple individuals with AI assistance. The USPTO reiterates that the use of an AI system does not alter the analysis of whether each human contributor qualifies as a joint inventor. Each human contributor must have made a significant contribution to the conception or reduction to practice of the invention. The mere use of AI, like any other research tool or source of information, does not confer inventorship status.

Patent applicants seeking to claim priority to prior-filed domestic or foreign applications must ensure that the same natural person is named as inventor, or that there is at least

one joint inventor in common. Domestic applications cannot claim priority to foreign applications that list an AI system as the sole inventor. If a foreign application names both natural and non-natural persons as inventors, only the natural persons should be listed in the U.S. application.

Companies integrating AI into their R&D processes should review their patent filing practices to ensure compliance with the USPTO’s revised guidance. Inventorship should be carefully assessed to confirm that only natural persons who meet the legal standard for conception are named. When collaborating internationally, businesses must be mindful of differences in foreign patent laws regarding inventorship and ensure that U.S. filings conform to the USPTO’s revised guidance.

FOR MORE INFORMATION

For more information, please contact:

William R. Allen, Ph.D.

513.352.6668

William.Allen@ThompsonHine.com

This advisory bulletin may be reproduced, in whole or in part, with the prior permission of Thompson Hine LLP and acknowledgment of its source and copyright. This publication is intended to inform clients about legal matters of current interest. It is not intended as legal advice. Readers should not act upon the information contained in it without professional counsel.

This document may be considered attorney advertising in some jurisdictions.

© 2025 THOMPSON HINE LLP. ALL RIGHTS RESERVED.