

## USPTO Launches Automated Search Pilot Program Using AI for Pre-Examination Prior Art Searches

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October 10, 2025

On **October 20, 2025**, the U.S. Patent and Trademark Office (USPTO) will launch a new **Artificial Intelligence Search Automated Pilot (ASAP!) Program** to test the use of artificial intelligence (AI) tools in conducting pre-examination prior art searches for certain utility patent applications.

Under the program<sup>[1]</sup>, the USPTO will use an internal AI system to analyze an application's Cooperative Patent Classification data, specification, and claims to identify and rank potentially relevant prior art. Participating applicants will receive an Automated Search Results Notice (ASRN)—a listing of up to ten references the AI tool determines to be most relevant, ranked from most to least relevant. The ASRN is **not an Office Action** and **does not require a response**, and the references are not made of record, unless later cited by the Examiner or by the applicant in an Information Disclosure Statement. Early identification of relevant references may give applicants an opportunity to assess potential prior art issues and make strategic filing or amendment decisions before examination begins.

Participation requires filing a petition under 37 C.F.R. § 1.182 and paying the petition fee under 37 C.F.R. § 1.17(f)<sup>[2]</sup> at the time of filing an original, noncontinuing, nonprovisional utility application. The pilot will accept at least **1,600 applications** filed between **October 20, 2025, and April 20, 2026**, or until the program reaches capacity.

The USPTO will use data from the pilot to evaluate:

- How early search results influence applicant behavior and prosecution strategy;
- The scalability and accuracy of AI-assisted search tools; and
- The usefulness of automated pre-examination searches for both applicants and examiners.

### Practical Considerations for Applicants

Participation in ASAP! program may offer some applicants an early look at potentially relevant prior art and an opportunity to refine claim scope or prosecution strategy before examination begins. Strategic responses might include filing a preliminary amendment to preempt likely prior art rejections, preparing evidence for potential affidavit practice, requesting deferral of examination, or filing a petition for express abandonment to obtain partial fee refunds (e.g., search and excess claims fees). Because the ASRN does not carry any obligation to respond, applicants can choose whether to act on the information provided. Moreover, it is possible that some ASAP! applicants, e.g., by prudent use of a preliminary amendment in response to the ASRN, may obtain enhanced allowance rates and/or less lengthy prosecution as compared to others who do not employ the pilot.

However, applicants should carefully weigh these potential benefits against the cost of additional attorney time to review and assess the ASRN and the ASAP! petition fee. Applicants seeking to minimize up-front costs or who prefer to rely on the examiner's own search may find limited value in early participation. Those with a duty of candor under 37 C.F.R. § 1.56 may need to assess the references on the ASRN for possible submission in an Information Disclosure Statement. Moreover, it is unclear if any preliminary amendment made by an applicant in response to the ASRN could give rise to disclaimer or prosecution history estoppel, despite the guidance in the notice that the ASRN is not a

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notification of a substantive rejection under 35 U.S.C. § 132.

It also may be tempting to substitute the ASAP! program for a patentability investigation conducted prior to filing, but the ASAP! program does not afford applicants the same advantages. While the petition fees and attorney time to review the references might be lower in cost than a pre-filing patentability evaluation, the latter provides an applicant with an ability to adjust both the application and claims in view of the search results prior to filing. In contrast, an ASAP! petitioner can only adjust claim scope through a preliminary amendment and cannot amend the application in response to the ASRN.

If you have questions about this article or how this program may affect your patent filing strategy, please contact your Miller Canfield attorney or the authors of this alert.

[1] Federal Register :: Automated Search Pilot Program

[2] Small entity - \$180; Large entity - \$450