

USPTO Issues Revised Inventorship Guidance, Eliminating Separate Standard for AI-Assisted Inventions

December 12, 2025

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On November 28, 2025, the United States Patent and Trademark Office (USPTO) issued Revised Inventorship Guidance for AI-Assisted Inventions, which rescinds its earlier guidance from February 2024. This new guidance represents a significant clarification in USPTO policy, firmly establishing that Artificial Intelligence (AI) systems are to be treated solely as tools and confirming that the traditional legal standard for inventorship applies to all patent applications, regardless of AI involvement.

Key Change: AI is a Tool, not a Collaborator

Compared to the 2024 Guidance, the 2025 Revised Inventorship Guidance fundamentally changes the framework for evaluating AI-assisted inventions by withdrawing the application of the Federal Circuit's *Pannu* factors in this context.

- **AI as an Instrument:** The USPTO now explicitly emphasizes that AI systems are to be viewed as instruments used by natural persons, much like laboratory equipment, specialized software, or a research database.
- **Withdrawal of *Pannu* Factors:** The 2024 Guidance had implicitly applied the *Pannu* factors (used to determine joint inventorship between multiple natural persons, see *Pannu v. Iolab Corp.*, 155 F.3d 1344, 1351 (Fed. Cir. 1998)) to evaluate whether a human inventor had made a "significant contribution" necessary to overcome the AI's output. The 2025 Guidance clarifies that the *Pannu* factors only apply to collaborations between multiple natural persons. Because an AI system is not a natural person, there is no question of joint inventorship, and thus, the *Pannu* factors are irrelevant.
- **The Single Standard:** The 2025 Guidance dictates that a single, uniform legal standard for inventorship (i.e., the traditional conception test) governs all inventions. The inquiry remains: did a natural person form the "definite and permanent idea of the complete and operative invention"?

Comparison to Rescinded 2024 Guidance

Feature	2024 Guidance (Rescinded)	2025 Guidance (Current)
Pannu Factors Application	Applied. Used the <i>Pannu</i> factors (joint inventorship test) to evaluate the human's contribution against the AI's output.	Withdrawn. <i>Pannu</i> factors only apply to collaborations between multiple natural persons .
AI System Legal View	Considered a non-person entity that potentially contributed to the invention, triggering a joint-inventorship-like analysis.	Consistently viewed as a Tool. Analogous to laboratory equipment, software, or a research database.
Standard for Inventorship	Created a perceived modified standard where the human had to meet a "significant contribution" test to overcome the AI's role.	Single, Uniform Standard. The traditional Conception Test governs all inventions, regardless of AI use. No separate test for AI-assisted inventions exists.
Focus of Inquiry	Whether the human's contribution was " significant " compared to the AI's output.	Whether the human had the " definite and permanent idea " of the claimed invention.

Takeaways and Practice Tips

This new guidance simplifies the legal analysis for inventorship, but it reinforces the need for meticulous documentation during the research and development process. Innovators seeking patent protection should keep the following in mind:

1. **Conception by a human is required:** The ultimate burden remains on the applicant to prove that a human conceived the invention. For any AI-assisted invention, the applicant must clearly demonstrate that the named human inventor possessed the "definite and permanent idea" of the claimed invention.

2. Document the "Inventive Thought": To show that the invention was human-conceived, it may be helpful to meticulously document the human's inventive thought (i.e., the specific problem, the hypothesis, and the core solution) that was encoded in the AI prompt or input, distinguishing it from merely asking the AI system to solve an ill-defined problem.
3. Claims Must Reflect Human Input: The claims should correspond directly to the elements of the invention conceived by the human, including any "inventive judgment" used to select, modify, or integrate the AI's output.

International Priority

The 2025 Guidance also provides clarity for foreign applications, stating that a priority claim to a foreign application naming an AI tool as the sole inventor will not be accepted. Furthermore, for U.S. applications claiming priority to foreign applications filed in countries that allow non-natural persons as joint inventors, the U.S. application's Application Data Sheet (ADS) must only list the natural person(s).

In conclusion, the 2025 Guidance is a clear effort by the USPTO to underscore longstanding precedent that the same legal standard for determining inventorship applies to all inventions, regardless of whether any non-human tools were used in the inventive process. In this context, AI systems are considered as just another tool.

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