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Intellectual Property Alert

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USPTO extends AI-driven prior art search pilot and waives petition fee

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The USPTO extended its Artificial Intelligence Search Automated Pilot Program (ASAP!) through June 1, 2026, waived the petition fee, and doubled the program's intake target.



What's the impact?

- Director Squires has described ASAP! as the first of many planned AI pilots in patent examination.
- Participation in ASAP! is now fee-free through June 1, 2026, with the program's intake target increased to 3,200 applications.
- The Automated Search Results Notice (ASRN) uses the application's classification, specification, claims, and abstract as contextual input to an internal AI tool and becomes part of the file wrapper upon publication.

On April 16, 2026, the United States Patent and Trademark Office (USPTO) [announced changes](#) to its Artificial Intelligence Search Automated Pilot Program (ASAP!), an initiative launched by *Federal Register* notice ([90 FR 48161](#)) on October 8, 2025, with petitions accepted beginning October 20, 2025. The Office extended the petition window through June 1, 2026, increased the

program's target from approximately 1,600 applications to at least 3,200, and waived the petition fee under 37 C.F.R. § 1.17(f) for petitions filed on or after March 23, 2026. As of April 16, 2026, 169 petitions had been filed across all Technology Centers, with 76 granted.

Background

Under ASAP!, an eligible application is subjected to an automated prior art search before an examiner is assigned. The USPTO's internal AI tool uses the Cooperative Patent Classification designation together with the specification, including the claims and abstract, as contextual information, and searches across US patents, US pre-grant publications, and the Foreign Image and Text (FIT) database of foreign patent documents. Results are delivered to the applicant in an Automated Search Results Notice (ASRN) listing up to 10 documents in descending order of relevance, together with a search string that may be entered into the USPTO's Patent Public Search tool. The USPTO has published a sample ASRN on the program's web page.

The ASRN is not considered a notification under 35 U.S.C. § 132 and does not require a response. An applicant who receives an ASRN may take no action, file a preliminary amendment under 37 C.F.R. § 1.115, request deferral of examination under 37 C.F.R. § 1.103(d), or expressly abandon the application under 37 C.F.R. § 1.138(d) to recover the search fee and any excess-claims fees. According to the USPTO, the examiner ultimately assigned to the application will consider the documents listed on the ASRN "in the same manner as other documents in Office search files," and is not required to list ASRN references on a PTO-892 form unless a reference is relied upon in a rejection.

Only original, noncontinuing, nonprovisional utility applications filed under 35 U.S.C. § 111(a) are eligible. National-stage entries of PCT applications under 35 U.S.C. § 371, continuing applications, reissue applications, plant applications, and design applications are excluded. ASAP! may be combined with Track One prioritized examination.

The April 16 changes

Three parameters were modified: the petition fee has been waived for petitions filed on or after March 23, 2026; the program's target has increased from approximately 1,600 accepted applications (200 per Technology Center) to at least 3,200 (400 per Technology Center); and the Office will accept petitions until the earlier of June 1, 2026, or the date each Technology Center is docketed with 400 accepted applications. The petition must still be filed electronically in the Patent Center on the filing date of the application, using Form PTO/SB/470, with the specification, claims, and abstract conforming to USPTO requirements for DOCX submission. Applicants must also be enrolled in the Patent Center Electronic Office (e-Office) Action Program. The program's eligibility criteria, mechanics, ASRN format, and examiner treatment of the ASRN are unchanged.

Implications for applicants

The fee waiver and expanded intake improve the cost-benefit balance of participation for applicants filing eligible utility applications during the remaining program window. Several features of the program warrant advance planning.

First, because the AI tool uses the specification, claims, and abstract as contextual information to identify similar references across the designated databases, the automated search is analytically distinct from an examiner-conducted search of the broadest reasonable interpretation of the claims during substantive examination. As a result, references listed on an ASRN may differ in scope and emphasis from those an examiner would surface during examination, and an ASRN is best understood as a supplemental early view rather than a preview of the examiner's search.

Second, although the USPTO's program FAQs state that applicants are not required to list ASRN documents on an Information Disclosure Statement, the duty of candor under 37 C.F.R. § 1.56 applies to each reference known to an individual associated with the filing or prosecution of the application. MPEP § 2001.06 provides that applicants and other individuals have a duty to disclose to the USPTO "all material information they are aware of regardless of the source of or how they become aware of the information." Once counsel has reviewed an ASRN, a reference-by-reference materiality assessment remains appropriate. The USPTO's FAQs also indicate that references cited in an ASRN that were not made of record on a PTO-892 or a compliant IDS will not necessarily be considered by an examiner in a continuing application; applicants who wish such references to be considered in a continuing application should submit a compliant IDS.

Third, any preliminary amendment filed in response to an ASRN becomes part of the prosecution record and is publicly available in the file wrapper once the application publishes. Amendments narrowing claim scope in response to AI-surfaced prior art may be relevant to prosecution-history analysis in subsequent infringement proceedings, warranting coordination between prosecution and litigation counsel before any substantive response.

The USPTO's broader AI initiatives

ASAP! is one of several AI-assisted tools the USPTO has deployed under Director John A. Squires. In announcing the program on October 8, 2025, Director Squires [described ASAP!](#) as "the first of many planned AI pilots designed to help examiners and applicants alike ensure their patents are born strong." In his [March 25, 2026, testimony](#) before the House Judiciary Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet, Director Squires described the USPTO's AI search assistant as delivering "a top ten list of prior art—before the first office action—providing quicker pathways to allowance."

Key takeaways

The April 16 changes materially improve the cost-benefit balance of ASAP! participation for applicants filing eligible utility applications during the remaining program window. Applicants with pending or planned filings may find an early view of prior art useful. Because Director Squires has described ASAP! as “the first of many planned AI pilots,” further participation decisions may warrant renewed consideration as additional tools are announced.

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