

USPTO Issues Guidance on Use of AI Based Tools

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The U.S. Patent and Trademark Office (USPTO) [issued guidance](#) on the use of AI-based tools to prepare and prosecute patent and trademark applications. This announcement supplements the [previous guidance issued in February](#).

The application of existing rules governing the use of AI, including generative AI, before the USPTO entails several considerations and obligations for parties and practitioners. Computer tools, including those employing generative AI, have become common in document drafting, offering features like drafting technical specifications and generating responses to office actions. However, while there's no general obligation to disclose the use of such tools to the USPTO, parties are reminded of their duty to review and verify the accuracy of documents submitted, ensuring compliance with certification requirements and legal standards. This includes confirming the accuracy of citations, ensuring arguments are legally warranted, and disclosing material information, particularly in the patent context, where the use of AI tools may impact inventorship or patentability.

Moreover, beyond document drafting, AI tools may also assist in filing documents with the USPTO, necessitating adherence to rules regarding signatures and authorization. Accessing USPTO systems with AI tools requires caution to avoid violating federal and state laws, USPTO regulations, and policies, particularly regarding confidentiality and national security considerations. Additionally, the USPTO maintains a zero-tolerance policy towards fraud and intentional misconduct, emphasizing the duty of candor and good faith for all individuals associated with proceedings before the office, whether human or AI-driven. Overall, compliance with laws, regulations, precedents, and guidance is crucial for those interacting with the USPTO.

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