

USG Response to WIPO’s December 22, 2022 Request for Input on SCP Documents (Part I)

Document	Input
<p>(i) a draft reference document on the exception regarding the use of articles on foreign vessels, aircrafts and land vehicles. The inputs may relate to, for example, relevant court cases, challenges faced by Member States in implementing the exception and the results of the national/regional implementation.</p>	<p>Foreign vessels, aircraft or vehicles: 35 U.S.C. § 272 (as provided in the U.S.’s May 2022 update to WIPO entitled “Certain Aspects of National Patent Laws – Research on US Law”).</p>
<p>(ii) a further study on the sufficiency of disclosure (Part II), relating to inventions having an experimental nature in unpredictable art, such as chemistry and biotechnology, and any other areas that deserve special attention, as proposed in document SCP/31/8 Rev.</p>	<p>MPEP § 2163-Guidelines for the Examination of Patent Applications Under the 35 U.S.C. 112(a) or Pre-AIA 35 U.S.C. 112, first paragraph, “Written Description” Requirement (uspto.gov) and § 2164-The Enablement Requirement (uspto.gov).</p>
<p>(iii) a document compiling information relating to the expedited examination programs of IP offices, including information on Prioritized Examination of COVID-19 related patent applications. Any additional contributions may include, for example, objectives and qualifying grounds for expediting examination programs, institutional arrangements, fees etc. (see document SCP/33/4, Annex).</p>	<p>USPTO presentation (WIPO Doc Code: SCP/34/QUALITY/F), entitled “Sharing session on expedited patent examination mechanisms at IP offices (SCP 33/4),” delivered for SCP, 34th Session, September 26-30, 2022. Since that presentation, the USPTO has done the following: (1) launched a program under the Council for Inclusive Innovation (CI²) to provide an expedited first office action for first-time, micro-entity filers; (2) extended the COVID-19 Prioritized Examination Pilot Program; (3) expanded upon and replaced Patents 4 Patients (Cancer Immunotherapy Pilot Program) with the Cancer Moonshot Expedited Examination Pilot Program; (4) extended and enhanced the Expanded Collaborative Search Pilot (CSP); (5) expanded Patents for Humanity to include a green energy category; and (6) extended the Fast-Track Appeals Pilot Program.</p>
<p>(iv) a compilation on how jurisdictions around the world address the issue of artificial intelligence (AI) inventorship through jurisprudence, legislation and practice. In this context, Member States and Regional Patent Offices are kindly invited to transmit inputs with</p>	<p>The USPTO is seeking stakeholder input on the current state of artificial intelligence (AI) technologies and inventorship issues that may arise in view of the advancement of such technologies. In 2022, the Court of Appeals for the Federal Circuit affirmed a USPTO decision denying petitions to name an AI system as an</p>

<p>regard to the general concept of inventorship, including employee inventors and joint inventors, as well as the application of that concept to inventions by AI.</p>	<p>inventor, finding that an inventor must be a natural person. <i>Thaler v. Vidal</i>, 43 F.4th 1207, 1210 (Fed. Cir. 2022). The court explained, however, that it was not confronted with “the question of whether inventions made by human beings with the assistance of AI are eligible for patent protection.” <i>Id.</i> at 1213.</p>
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