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October 27, 2025

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Executive Office of the President
Eisenhower Executive Office Building
1650 Pennsylvania Avenue
Washington, DC 20504
Attn: Stacey Murphy, Deputy Chief Operations Officer/Security Officer

Submitted via: <https://www.regulations.gov>

Re: Comments in Response to Request for Information on Regulatory Reform on Artificial Intelligence; Docket No. OSTP-TECH-2025-0067

Dear Ms. Murphy:

Intellectual Property Owners Association (IPO) appreciates the opportunity to respond to the Office of Science and Technology Policy's (OSTP) Request for Information on Regulatory Reform on Artificial Intelligence, published in the *Federal Register* on September 26, 2025.¹

IPO is an international trade association representing a "big tent" of diverse companies, law firms, service providers, and individuals in all industries and fields of technology that own, or are interested in, intellectual property rights. IPO membership includes over 125 companies and spans over 30 countries. IPO advocates for effective and affordable IP ownership rights and offers a wide array of services, including supporting member interests relating to legislative and international issues; analyzing current IP issues; providing information and educational services; supporting and advocating for an IP system that enables innovation and creativity; and disseminating information to the public on the importance of IP rights. IPO's vision is the global acceleration of innovation, creativity, and investment necessary to improve lives.

IPO appreciates and supports the OSTP's goal to define the priority policy actions needed to sustain and enhance America's leadership in artificial intelligence (AI) and to ensure that unnecessarily burdensome requirements do not impede private sector AI innovation.

IPO views the clear and consistent application of patent eligibility standards by the U.S. Patent and Trademark Office (USPTO) as key to enabling the development and adoption of AI technologies. IPO also believes that robust technical training on AI technology for patent examiners is critical to supporting high-quality examination of patent applications that include this complex technology. IPO recognizes that there are ongoing efforts to address these issues and IPO reiterates its support for such efforts.

¹ Notice Request for Information; Regulatory Reform on Artificial Intelligence, 90 Fed. Reg. 46,422 (Sept. 26, 2025).

Prior USPTO guidance has created uncertainty and confusion regarding how to apply patent eligibility guidelines governing examination of AI-related patent applications. This uncertainty makes it difficult for innovators to understand how their AI-related inventions will be evaluated by the agency and difficult for patent examiners to apply legal standards consistently, and ultimately imposes substantial needless costs on both innovators and the USPTO itself that could be avoided with clarified guidance around patent eligibility.

Specifically, apparent contradictions between patent eligibility guidance provided by the USPTO in 2019² and subsequent guidance in 2024³ may have led to significant swings in the rate of patent eligibility rejections under 35 U.S.C. § 101 for AI-related inventions.

One source of uncertainty when determining patent eligibility for AI-related innovations is that current USPTO guidance does not establish clear rules for identifying when patent claims are directed to mental processes, mathematical concepts, and certain methods of organizing human activity. Many AI-related inventions, despite involving substantial technical innovations, relate in some way to these categories, but patent examiners do not currently have adequate guidance to distinguish patent-eligible innovation from patent-ineligible innovation in this rapidly evolving area. Instead, determining whether these inventions are patent eligible largely requires patent examiners to extrapolate specific AI-related requirements from a general guidance approach, and in doing so invites subjectivity, unpredictability, and the opportunity for bias and improper hindsight reasoning into the analysis.

The USPTO has recently recognized this concern, issuing a Memorandum that attempts to reconcile seemingly contradictory standards of the previous guidance.⁴ IPO encourages further action to clarify how the patent eligibility standard should be applied during patent examination for AI-related inventions. Clarifying guidance about eligibility of AI-related innovation will avoid regulatory waste and allow innovators to deploy more capital towards research and development in this critical area of innovation. Ultimately this will result in robust and reliable patents that will anchor U.S. global leadership in this area.

IPO also believes that additional training in AI technology will help examiners understand AI-related inventions and apply patentability standards more predictably and consistently with established legal standards. AI involves many complex concepts that were not widely taught when most examiners received their technical education. Additional training would help examiners determine whether AI-related applications satisfy patent eligibility standards, as well as whether they satisfy novelty, obviousness, and written description requirements.

In sum, IPO recognizes the USPTO's recent efforts in this area and encourages further work that can be incorporated in a more permanent form, such as the Manual of Patent Examining Procedure. This will promote consistent application of patentability standards for AI-related

² October 2019 Patent Eligibility Guidance Update, 84 Fed. Reg. 55,942 (Oct. 18, 2019); U.S. PAT. & TRADEMARK OFF., OCTOBER 2019 UPDATE: SUBJECT MATTER ELIGIBILITY app. 2 (2019) (including Example 39: Method for Training a Neural Network for Facial Detection, stating that this method does not recite any judicial exceptions).

³ 2024 Guidance Update on Patent Subject Matter Eligibility, Including on Artificial Intelligence, 89 Fed. Reg. 63,214 (Sept. 17, 2024) (including Example 47: Anomaly Detection [Claim 2], stating that training using “a backpropagation algorithm and a gradient descent algorithm” falls into the category of mathematical concepts).

⁴ Memorandum from Charles Kim, Deputy Comm'r for Pats., to Technology Centers 2100, 2600, and 3600 (Aug. 4, 2025) (distinguishing Example 39 from Example 47 [Claim 2], and providing further guidance on how examiners should evaluate the three categories of judicial exceptions).

innovations. Thank you for your consideration of IPO's views, and we welcome further dialogue and the opportunity to provide additional comments.

Sincerely,

A handwritten signature in black ink that reads "Krish Gupta". The signature is written in a cursive, flowing style.

Krish Gupta
President