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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO-P-2025-0011]

Automated Search Pilot Program

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is implementing the Automated Search Pilot Program to evaluate the impact of sharing the results of an automated search prior to examination of an original, noncontinuing, nonprovisional utility patent application. Conducting an automated search and sending an Automated Search Results Notice (ASRN) to the applicant will provide the applicant with an earlier communication regarding potential prior art issues in their application. To participate in this new pilot procedure, the applicant must file a petition accompanied by a petition fee. With this pilot program, the USPTO aims to ascertain the impact of sharing a pre-examination search report on prosecution by applicants, evaluate the scalability of generating ASRNs, and collect data to inform next steps. This notice is to inform applicants of the pilot program and to provide them with important details regarding the program, including how to participate.

DATES: The Automated Search Pilot Program will accept petitions to participate in the program beginning October 20, 2025, until either April 20, 2026, or the date that each Technology Center (TC) that examines utility applications is docketed at least 200 applications accepted into this program, whichever occurs first. The USPTO's plan is to accept petitions in at least 1,600 patent applications. The USPTO may extend this program to accept petitions to receive an ASRN in

additional patent applications if it determines that more information is needed to evaluate the effectiveness of the program.

The USPTO may, at its sole discretion, terminate this program for any reason, including factors such as workload and resources needed to administer the program, feedback from the public, and effectiveness of the program. The USPTO will publish a notification on its website prior to terminating the program advising the public of when petitions to participate in the program will no longer be accepted.

FOR FURTHER INFORMATION CONTACT: Questions or comments regarding this pilot program may be directed to: Eugenia A. Jones, Senior Legal Advisor, Office of Patent Legal Administration, at 571-272-7727; or Kristie A. Mahone, Senior Legal Advisor, Office of Patent Legal Administration, at 571-272-9016; or *AutomatedSearchPilot@uspto.gov*.

SUPPLEMENTARY INFORMATION: The USPTO is implementing the Automated Search Pilot Program to evaluate the impact of sharing the results of an automated search prior to examination of an application. Applicants who wish to participate in the program must file a petition under 37 CFR 1.182 using the USPTO form discussed in Part II of this notice, accompanied by the petition fee set forth in 37 CFR 1.17(f). If the petition is granted, the USPTO will conduct an automated search and send an Automated Search Results Notice (ASRN) to the applicant. The ASRN will provide the applicant with an earlier communication regarding potential prior art issues in their application. The earlier communication may provide the applicant with an opportunity to assess prior art issues before substantive examination and make a more informed decision on how to proceed with the application. The ASRN also provides a new pathway to identify relevant prior art for patent examiners to improve examination quality and efficiency. Applicants are not required to respond to the ASRN. However, the applicant may opt to place the application in better condition for examination by filing a preliminary amendment, requesting deferral of examination, or filing a petition for express abandonment to seek a refund of certain fees if examination is no longer desired.

The USPTO plans to use the results of this program to ascertain the impact of sharing the results of a pre-examination search on prosecution by applicants, evaluate the scalability of generating ASRNs, and collect data to inform next steps.

Part I. Pilot Program Eligibility

Only original, noncontinuing, nonprovisional utility applications filed under 35 U.S.C. 111(a) on or after October 20, 2025, and on or before April 20, 2026, are eligible to participate in the pilot program. Thus, the following applications will not be included: international applications that have entered the national stage under 35 U.S.C. 371; plant applications; design applications; and reissue applications. In addition, continuing (*i.e.*, continuation, divisional, or continuation-in-part) applications will not be included.

To be eligible for this program, the application must be filed electronically using the USPTO's Patent Center (at <https://patentcenter.uspto.gov>). The specification, claim(s), and abstract of the application must conform to the USPTO requirements for DOCX submission at the time the application is filed.

Applicant must also enroll in the Patent Center Electronic Office (e-Office) Action Program to participate in the Automated Search Pilot Program. Information on how to enroll in the Patent Center e-Office Action program is available at www.uspto.gov/patents/apply/checking-application-status/e-office-action-program.

The USPTO plans to accept at least 1,600 patent applications distributed across the Technology Centers (TCs) that examine utility applications, including at least 200 applications per TC that examines utility applications, but appreciates that participation levels across TCs may vary. Disparities in participation across TCs, such as where the number of applications accepted in some TCs significantly exceeds 200, may prompt early termination of the program.

The USPTO will, from time to time, update its website to indicate the total number of petitions to participate in the pilot program that have been received and the total number of petitions granted, including a breakdown of the number of petitions granted per TC. The USPTO will also indicate the expected

closure date of the program, after which no newly filed petitions will be accepted.

Part II. Petition Under 37 CFR 1.182 To Participate in the Pilot Program

To participate in this pilot program, applicant must file a properly signed petition using Form PTO/SB/470, titled “CERTIFICATION AND PETITION UNDER 37 CFR 1.182 TO PARTICIPATE IN THE AUTOMATED SEARCH PILOT PROGRAM.” The form must be filed electronically in Patent Center on the filing date of the application and be accompanied by the petition fee set forth in 37 CFR 1.17(f). Form PTO/SB/470 contains the necessary petition and certifications that the pilot program eligibility conditions discussed in Part I of this notice have been met. Use of the form will enable the USPTO to quickly identify and timely process the petition. Under 5 CFR 1320.3(h), Form PTO/SB/470 does not collect “information” within the meaning of the Paperwork Reduction Act of 1995. The form is available at www.uspto.gov/PatentForms.

The USPTO will not render a decision on the petition until the application has completed pre-examination processing. If the petition is grantable, the USPTO will issue a decision granting the petition indicating that the application has been accepted into the program and that an ASRN will be generated. The decision granting the petition will be separate from the ASRN. If the application does not meet the eligibility requirements for the program, the USPTO will issue a decision dismissing the petition that will notify the applicant that an ASRN will not be generated.

In view of the limited duration of the pilot program and the limited number of applications being accepted into the pilot program, an applicant will not have an opportunity to correct deficiencies in the petition after a petition is dismissed. Applicant may file only a single petition under the pilot program for an application, and a second or subsequent petition filed in the application will be dismissed.

Part III. Automated Search

The automated search will be conducted using an internal Artificial Intelligence (AI) tool. The AI tool uses the classification of the application under the Cooperative Patent Classification (CPC) system, as well as the specification, including the claims and abstract, of the application as contextual information. The AI tool will use the contextual information to find similar information in publicly available

documents located in a number of databases available to the USPTO, including U.S. Patents, U.S. Pre-Grant Publications (PG-Pubs), and Foreign Image and Text (FIT). The FIT database includes publications from a number of foreign patent authorities. The AI tool will rank the returned documents from most to least relevant.

The AI models supporting the automated search are trained using publicly available patent data, including text of patents and published applications, patent classifications, document citations, and human-rated similarity. The training data excludes applicant, inventor, and assignee information because this information may introduce potential biases in the model. The USPTO has implemented measures for the AI tool to ensure data security and maintain patent application confidentiality as required by 35 U.S.C. 122(a). *See New Artificial Intelligence Functionality in PE2E Search*, 1504 OG 359 (November 15, 2022).

Part IV. Automated Search Results Notice

The USPTO will send an ASRN to the applicant and place a copy in the application file. The ASRN is not considered a notification under 35 U.S.C. 132, and the applicant is not required to respond to the ASRN.

The ASRN will include a listing of up to 10 documents returned by the AI tool listed in descending order of relevance as determined by the AI tool. Copies of the documents cited in the ASRN will not be placed in the file. The ASRN will further include a search string that may be entered into the USPTO’s Patent Public Search (PPUBS) tool, available at www.uspto.gov/patents/search/patent-public-search, to easily retrieve copies of the cited U.S. Patents and PG-Pubs. Copies of foreign patent documents are not currently available in PPUBS. Tools for accessing a number of foreign patent documents are available on the USPTO website at www.uspto.gov/patents/search. The ASRN will have content similar to the content of Form PTO-892 and will include the document number, date, inventor name, and CPC information.

Part V. Implementation Information

The ASRN will be generated after the application has undergone pre-examination processing and a petition to participate in the program has been granted, but prior to examination by a USPTO patent examiner. The results of the automated search may inform a decision on how to proceed with the application. For example, the applicant

may file a preliminary amendment under 37 CFR 1.115. Any such preliminary amendment should be submitted as soon as possible to reduce the likelihood that the amendment unduly interferes with preparation of the first Office action. *See* 37 CFR 1.115 and section 714.01(e) of the Manual of Patent Examining Procedure (MPEP) (9th Edition, Rev. 01.2024, November 2024). Alternatively, the applicant may submit a petition for express abandonment under 37 CFR 1.138(d) to seek a refund of the search fee and any excess claims fees, or a request for deferral of examination under 37 CFR 1.103(d). A petition for express abandonment or a request for deferral of examination must be timely submitted. *See* MPEP 711.01, subsection III and MPEP 709, subsection I.

The examiner will consider the documents listed on the ASRN “in the same manner as other documents in Office search files are considered by the examiner while conducting a search of the prior art in a proper field of search.” *See* MPEP 609. There is no requirement for the examiner to list the documents from the ASRN on Form PTO-892 unless the document has been relied upon in a prior art rejection. Also, there is no requirement for the applicant to provide a separate listing of the documents. The references listed on the ASRN will appear on the face of the patent if made of record by the examiner on a Form PTO-892 or cited by the applicant on an Information Disclosure Statement in compliance with 37 CFR 1.97 and 1.98. *See* MPEP 707.05 and MPEP 1302.12.

Part VI. Evaluation of the Pilot Program

The pilot program is designed to evaluate the impact of sharing the results of an automated search prior to examination of a patent application. The USPTO will evaluate the scalability of generating and mailing the ASRN, and acquire information to inform next steps. For example, the USPTO may collect data as to the usefulness of the ASRN for applicants in assessing patentability early in the examination process. During or after the pilot program, the USPTO anticipates providing an avenue for participants to provide feedback regarding the pilot program. As applicable, the USPTO will follow the GAO’s Leading Practices for Effective Pilot Design, including (1) establishing clear objectives, (2) collecting relevant data, (3) evaluating outcomes, (4) considering scalability, and (5) ensuring stakeholder communication. *See* GAO, *Data Act: Section 5 Pilot Design Issues Need to Be Addressed to Meet Goal of Reducing*

Recipient Reporting Burden, GAO-16-438 (Washington, DC; April 19, 2016).

John A. Squires,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2025-19493 Filed 10-7-25; 8:45 am]

BILLING CODE 3510-16-P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in the state of New Mexico.

DATES: This determination takes effect on October 8, 2025.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (“DHS”) include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation’s national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109-367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined “operational control” as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate, the President’s Executive Order on Securing Our Borders directs that I take all appropriate action to deploy and construct physical barriers to ensure complete operational control of the southern border of the United States. Executive Order 14165, section 3 (Jan. 20, 2025).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS’s border security mission. One of those authorities is found at section

102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (“IIRIRA”). Public Law 104-208, Div. C, 110 Stat. 3009-546, 3009-554 (Sept. 30, 1996) (8 U.S.C. 1103 note), as amended by the REAL ID Act of 2005, Public Law 109-13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109-367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110-161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated that in carrying out the authority of section 102(a), I provide for the installation of additional fencing, barriers, roads, lighting, cameras, and sensors to achieve and maintain operational control of the border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol El Paso Sector is an area of high illegal entry. Between fiscal year 2021 and July 2025, Border Patrol apprehended over 1,229,400 illegal aliens attempting to enter the United States between border crossings in the El Paso Sector. In that same time period Border Patrol seized over 14,468 pounds of marijuana, over 1,347 pounds of cocaine, over 42 pounds of heroin, over 3,086 pounds of methamphetamine, and over 254 pounds of fentanyl.

Since the President took office, DHS has delivered the most secure border in history. More can and must be done, however. As the statistics cited above demonstrate, the El Paso Sector is an area of high illegal entry where illegal aliens regularly attempt to enter the United States and smuggle illicit drugs, and given my mandate to achieve and maintain operational control of the border, I must use my authority under

section 102 of IIRIRA to install additional barriers and roads in the El Paso Sector. Therefore, DHS will take immediate action to construct additional barriers and roads in a segment of the border in the El Paso Sector. The segment where such construction will occur is referred to herein as the “project area,” which is more specifically described in Section 2 below.

Section 2

I determine that the following area in the vicinity of the United States border, located in the State of New Mexico within the U.S. Border Patrol El Paso Sector, is an area of high illegal entry (the “project area”): Starting at approximately Border Monument 49 and extending north and then east to Border Monument 1.

There is presently an acute and immediate need to construct additional physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project area pursuant to section 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of additional physical barriers and roads in the project area, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of physical barriers and roads (including, but not limited to, accessing the project area, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the project area, all of the following statutes, including all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended: The National Environmental Policy Act (Pub. L. 91-190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93-205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89-665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Pub. L. 113-287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.*, now codified at 54 U.S.C.