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An Intellectual Property Law Update

Bodman PLC **January 9, 2026**

Protecting AI-Assisted Innovation: Navigating USPTO Guidance and Compliance

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Artificial intelligence is revolutionizing innovation across industries, from predictive testing that simulates thousands of virtual manufacturing scenarios to generative design that engineers lightweight, high-performance automotive components. As these AI technologies accelerate development, one question remains critical: Who is the inventor?

The answer matters because inventorship is not a mere formality. It determines patent validity and ownership, which are the foundation of any effective intellectual property strategy. Under U.S. law and the USPTO's most recent guidance, inventorship remains strictly human. AI may assist the inventive process, but it does not conceive inventions. Companies leveraging AI in R&D must align their processes with legal standards to safeguard their most valuable intellectual property assets.

Key Takeaways

- **Inventorship remains human-only:** AI cannot be named an inventor under U.S. law. Human conception is required.
- **Ownership depends on inventorship:** Incorrect inventorship can jeopardize patent validity and ownership. Clear agreements and documentation are essential.
- **Best practices preserve value:** Train teams, document contributions, and involve IP counsel early.

Inventorship: The Legal Standard

Under established Federal Circuit case law, inventorship centers around "conception," defined as the formation in a human mind of a definite and permanent idea of the complete and operative invention. Conception is complete when the inventor has a specific, settled idea – a particular solution to the problem at hand – not just a general goal or research plan. The USPTO's revised guidance from November 2025 reaffirms this standard,

explicitly rescinding the February 2024 guidance and clarifying that AI cannot be an inventor, only natural persons qualify.

The USPTO further confirmed that the use of AI is analogous to using any other tool that assists in the inventive process. When a single person is involved in creating an invention, regardless of AI involvement, the same conception standard applies. When multiple people are involved, traditional joint inventorship principles under the *Pannu* factors still require that each inventor make a "significant contribution" to the inventive concept.

In practical terms, AI-assisted development can produce patentable inventions so long as there is human conception. Engineers who use AI to run routine simulations or generate designs without defining a specific problem or solution are not inventors merely by operating the AI tool. To qualify as inventors, they must contribute to the inventive thought, such as by defining critical design constraints for addressing a specific problem or selecting or modifying AI-generated outputs to arrive at a definite and operative solution. This is a fact-specific analysis where deliberate human decisions and refinements are the types of contributions that will support conception for inventorship purposes. Contemporaneous documentation reflecting clear inventive thought can help clarify inventorship and safeguard patent validity, particularly in AI-assisted innovation.

Ownership Flows from Inventorship

Patent ownership originates with the inventor as a matter of law. As a result, errors in inventorship are not merely technical defects. They can undermine assignments, cloud title, and in some cases render a patent unenforceable. In the context of AI-assisted innovation, where multiple contributors and automated tools may be involved, the risk of misidentifying inventors is heightened.

If a patent names an incorrect set of inventors, any subsequent assignment to a company may be incomplete or defective, particularly if a true human inventor was omitted. This can create vulnerabilities in enforcement, licensing, and transactions, even years after a patent issues. For organizations deploying AI tools in research and development, clear alignment between inventorship determinations and ownership is essential. This can be done with clean, accurate documentation of inventorship and assignment.

Strategic Implications and Best Practices

AI-driven innovation offers faster development cycles and meaningful competitive advantages. However, missteps in inventorship or ownership can quickly erode that advantage. Organizations that proactively align their policies, workflows, and documentation with USPTO guidance are better positioned to protect AI-assisted innovation and preserve long-term IP value.

To do so, companies should adopt the following best practices:

- **Educate technical teams on inventorship standards**, with a clear emphasis on the requirement of human conception and the limited legal role of AI as a tool.

- **Standardize invention disclosure processes** to capture human contributions and the way AI tools were used during development.
- **Embed IP review checkpoints into R&D workflows** to assess inventorship and ownership issues early, before patent filing decisions are made.
- **Align employment, contractor, and IP policies** to ensure proper assignment of inventions conceived by human contributors, regardless of AI involvement.
- **Engage IP counsel early and often** to guide disclosures, confirm compliance with USPTO guidance, and reduce downstream enforcement risk.

The Bottom Line:

AI can accelerate innovation, but patents still depend on human inventorship. By aligning R&D processes with USPTO guidance and implementing strong documentation and ownership policies, companies can protect their intellectual property and maintain a competitive edge.

Please contact the author or any member of Bodman's Patent Practice Group for more information on securing patent protection and developing comprehensive patent strategies. Bodman cannot respond to your questions or receive information from you without establishing an attorney-client relationship and clearing potential conflicts with other clients. Thank you for your patience and understanding.

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