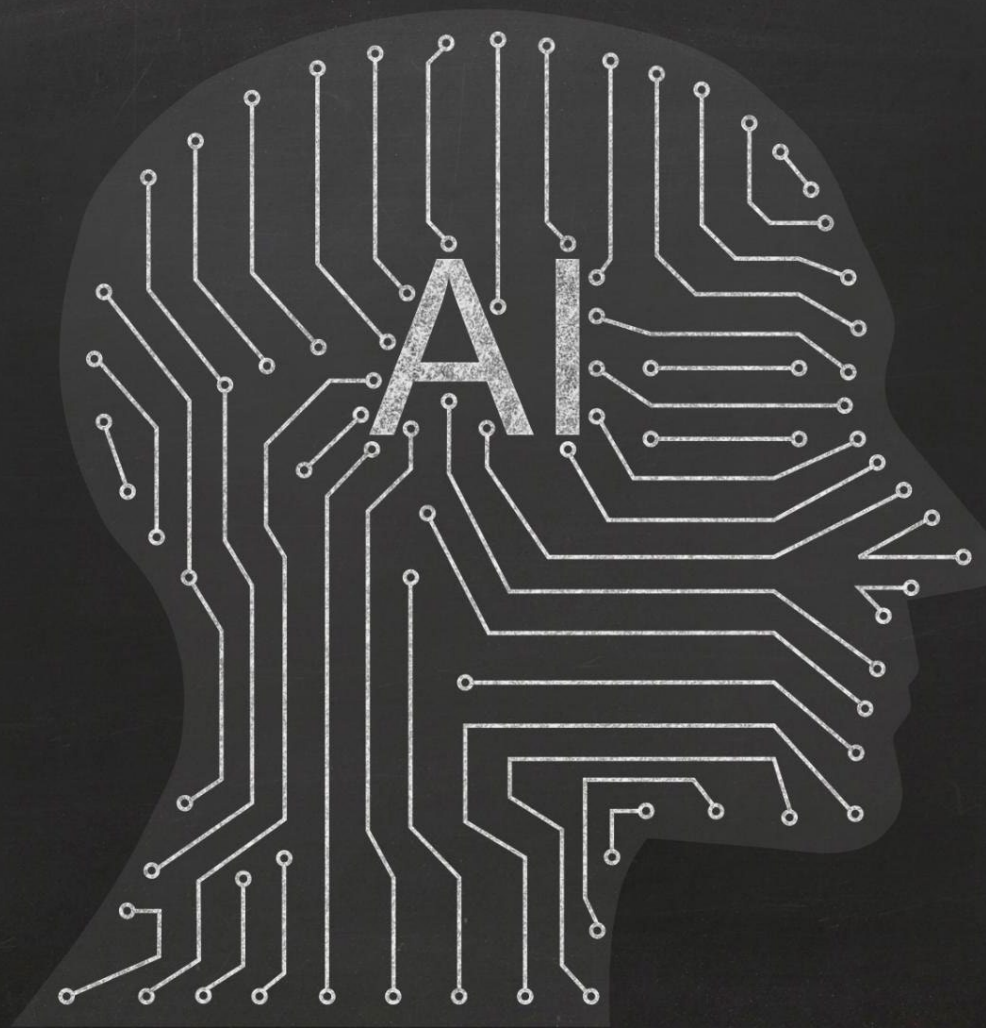


Practical Use of AI in Patent Practice: Drafting, Prosecution, Portfolio Strategy, and Litigation

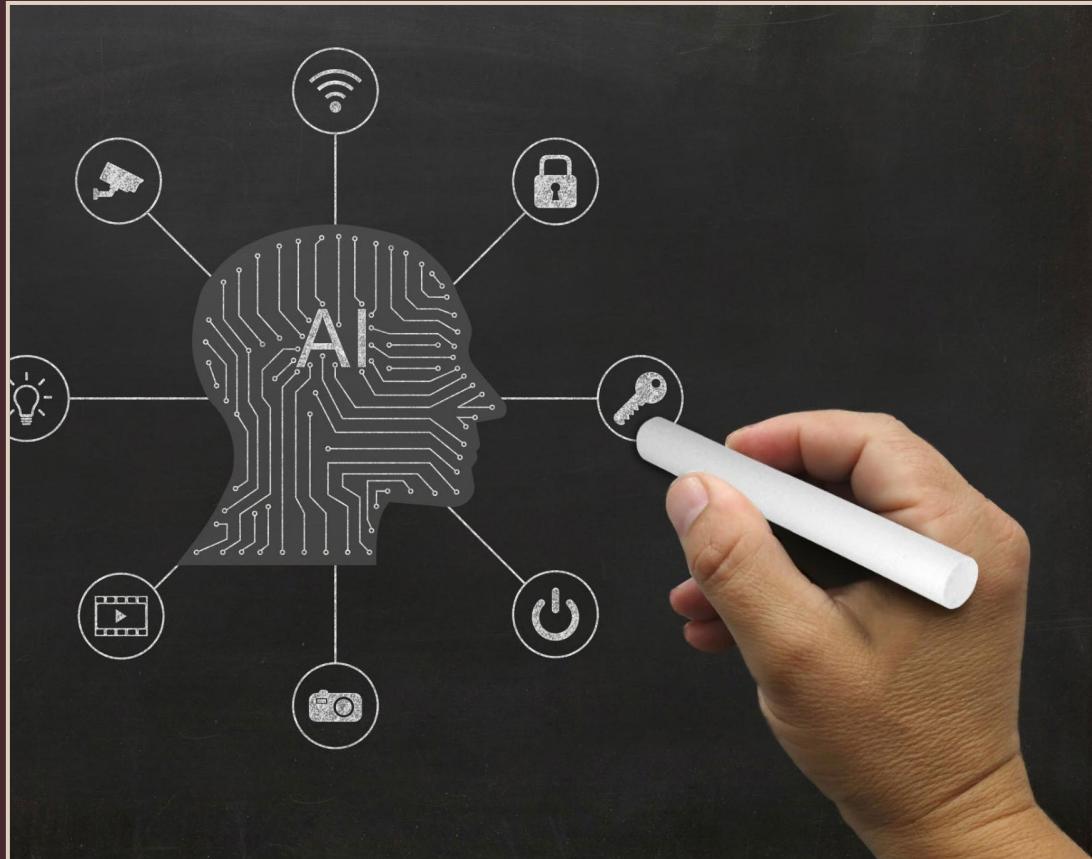
Leveraging artificial intelligence to
enhance patent management



Panel Introduction

Introduction and Context

Practical use of AI in Patent Practice



AI Across the Patent Lifecycle

AI is now a core productivity tool improving drafting; prosecution; portfolio management; patent mining & competitive intelligence; & litigation analysis.

What AI Does Well

AI supports practitioners by helping with repetitive tasks; surfacing patterns, gaps, and alternatives; improving consistency and issue spotting.

What Humans Still Do Best

The practitioner still sets strategy and risk tolerance; applies legal judgment and business context; makes scope decisions that affect estoppel and enforcement.

AI in Patent Drafting

Enhancing Drafting Efficiency and Quality

ASPECT	AI CONTRIBUTION	HUMAN ROLE
Initial Draft	Generate background, summary, and claims	Review and refine for accuracy
Terminology Consistency	Ensure uniform language across sections	Validate technical correctness
Claim Alternatives	Suggest broader/narrower scopes	Strategic selection based on client goals
Risk Mitigation	Highlight potential gaps	Apply judgment to avoid estoppel

Prompting for Patent Drafting: What Actually Works

From “magic button” to repeatable drafting workflow

- AI drafting succeeds with structure, not “magic prompts”
- Break drafting into discrete stages, not one-shot generation
- Prompts should encode:
 - Role
 - Objective
 - Constraints
 - Output format

The Architectural Prompting Model

- **Human (Practitioner):** sets strategy, scope, and risk tolerance
- **AI:** executes narrowly defined drafting tasks
- **Prompts:** act as blueprints, not instructions to “write a patent”

Treat AI like a junior associate with amnesia — highly capable, but no context unless you give it some.

Practical Prompting Tips

Tip 1: Use Stage-Based Prompting, Not One-Shot Drafting

- **Bad approach:**

“Draft a [complete] patent application based on this disclosure.”

Better approach (conceptual):

1. Identify the problem the invention solves
2. Articulate the inventive concept at the right abstraction level
3. Lock one or more independent claims
4. Draft embodiments one at a time

Why this matters:

- Prevents narrative drift (catch and correct assumptions/hallucinations early)
- Preserves antecedent basis
- Avoids blended embodiments that later create §112 or estoppel problems

Tip 2: Always Tell the AI What *Not* to Do

Examples of constraints you should include:

- “Do not define terms unless explicitly instructed”
- “Do not use absolute language” (patent profanity)
- “Do not assume undisclosed features”
- “Do not merge embodiments”

Most AI drafting failures aren't hallucinations — they're permission problems.

Tip 3: Role Prompting Is Not Fluff — It's Risk Control

- **Instead of:**

“Draft claims based on X.”

Use:

“Act as a senior U.S. patent attorney specializing in software patents and draft a single independent software method claim based on the identified inventive concept with an emphasis on preserving claim scope and avoiding overly limiting terms.”

Why it matters:

- Tone changes
- Level of abstraction changes
- The AI becomes less eager to “solve” problems by narrowing

Tip 4: Claims-First Prompting Reduces Estoppel Later

- Lock claims before drafting the spec
- Then force the AI to draft descriptions that track claim language exactly
- Validate that every limitation is:
 - Generally described
 - Specifically described
 - Described with optional variations

Estoppel problems usually come from claims outrunning the spec — not the other way around

Tip 5: Use AI Explicitly as a “Gap Spotter,” Not a Decision Maker

Good prompt framing:

“Acting as a senior U.S. patent (litigation) attorney, identify potential written description or enablement gaps between these claims and the specification. Do not propose fixes.”

Human role:

- Decide *whether* to fix
- Decide *how much* to fix
- Decide *where* ambiguity is strategically valuable

Tip 6: Create and Use Prompt Templates

Once you've iterated on your prompts:

- a) Separate your prompt(s) into:
 - Fixed content (your instructions, role, examples, formatting requirements, etc.)
 - Variable content (use placeholders for documents, etc.)
- b) Save the template to your library
- c) Label custom instructions for different clients, jurisdictions, technology fields, etc.
- d) Share and collaborate with colleagues!

AI in Prosecution

Streamlining Office Action Responses

TASK	AI CAPABILITY	BENEFIT
OA Summarization	Condense examiner rejections + prosecution history	Faster comprehension
Argument Generation	Provide draft responses	Accelerates drafting
Examiner Analytics	Identify patterns and tendencies	Improves strategy
Claim Amendment Suggestions	Suggest scope adjustments	Reduces prosecution cycles

AI in Portfolio Management

Strategic Portfolio Analysis and Competitive Intelligence

FUNCTION	AI ROLE	IMPACT
Portfolio Clustering	Group patents by technology	Improves visibility
Gap Analysis	Identify white space	Guides R&D strategy
Prior Art Mining	Semantic and classification search	Enhances search efficiency
Competitive Intelligence	Map competitor portfolios	Supports strategic decisions

AI in Patent Litigation

Litigating Patents

TASK	AI USE	LAWYER LEVERAGE
Patent Analysis	Issue spotting & pressure testing	Shape case theory
Prior Art	Find/map art & test combinations	Define invalidity story
Discovery	Search, review, & flag inconsistencies	Build factual record
Markman & Briefing	Term analysis & drafting assistance	Persuade the court
Experts	Summarize reports & compare positions	Translate technical disputes

Risks, Ethics, and Future Outlook

Governance, Compliance, and Human-AI Collaboration

RISK AREA	CHALLENGE	MITIGATION
Confidentiality	Data exposure via public AI	Use secure enterprise solutions
Inventorship	AI cannot be inventor	Document human contribution
Accuracy	Hallucinations and bias	Maintain attorney oversight
Ethics	Lack of disclosure norms	Adopt transparency best practices
Rules	Compliance with court-specific AI rules	Check local rules & standing orders