

Background Document on Patents and Emerging Technologies: Update of SCP/30/5 (SCP/36/5)

Presentation by the Secretariat

Standing Committee on the Law of Patents
36th session
October 14-18, 2024



Background

- SCP/35 decision for Secretariat to update document SCP/30/5 (Background Document on Patents and Emerging Technologies) by compiling current laws and practices relating to the patentability of AI-related inventions, based on the information received from Member States and regional patent offices.

→ Document SCP/36/5

- Information received from Member States and regional IPOs as well as other sources of information is used.
- Same structure as SCP/30/5: Parts I to IV and Annex

SCP/36/5 Updates: Patentability of AI-related Inventions

I. Introduction

II. Introduction to AI Technology

III. Patent protection of AI-related Invention

IV. AI Technology as a Tool in the Prosecution and Administration of Patent Systems

Annex

(Mostly ref. to conferences on AI)

A. General Considerations

B. Patentable Subject Matter

C. Novelty and Inventive Step

D. Sufficiency of Disclosure and Claims

E. Industrial Applicability

- Fundamental questions have not been changed.
- AI inventions generally considered as a subset of computer-implemented inventions.
- With more guidance provided by IP Offices through, e.g., examples.
- Limited court rulings.
→ *Further development for legal certainty and consistency expected.*

SCP/36/5 Updates: Other updates

I. Introduction

II. Introduction to AI Technology

III. Patent protection of AI-related Invention

IV. AI Technology as a Tool in the Prosecution and Administration of Patent Systems

Annex

Adding a “Generative AI” section.

Minimum update in the “F. Inventorship and Ownership” section (ref. SCP/35/7).

Minimum update in the “A. Tool for the IP Authorities” section (ref. SCP sharing sessions).

List of webpages and publications of WIPO and IPOs dedicated to patents and AI.

SCP/36/5 as a sufficiently updated Background Document.

Thank you for your attention.

