Gamification Code:

RECORD

Patent update from around the world

Presented by young members from a number of key jurisdictions

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Patent Update from Around the World
Europe 2026

IER

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Venue

FICPI 2026

G 1/25: description adaptation

Decision of 3 September 2026

G 1/25 attracted exceptional attention

40 amicus curiae submissions

- Both parties opposed a general adaptation duty.
- The EPO President defended the established practice.

Why practitioners cared

- Routine description amendments cost time and money and can introduce unintended limitations.

Oral hearing: 8 May 2026

Decision: 3 September 2026

Outcome G1/25: “[T]he necessity to adapt [...] arises only where, and to the extent that, the inconsistency has legal significance because it leads to non-compliance with a requirement of the EPC.”

G 1/25: no purely formal alignment

Article 84 EPC (clarity): „The claims shall define the matter for which protection is sought. They shall be clear and concise and be supported by the description."

G 1/25: "Article 84 EPC does not require a purely formal concordance between the description [...] and the wording of the claims, nor does it impose a general obligation to remove [...] all matter not reflected in the claims."

G 1/25, reasons, p. 17 (excerpt)

Unclaimed subject matter may remain

- An example outside the claim does not, by itself, create an inconsistency.

What qualifies as an inconsistency?

G 1/24: „The description and drawings shall always be consulted to interpret the claims when assessing the patentability of an invention under Articles 52 to 57 EPC, and not only if the person skilled in the art finds a claim to be unclear or ambiguous when read in isolation."

G 1/25: "[S]tatements in the description [...] suggest an understanding of a claim which is incompatible with the apparent meaning of the claim, and that incompatibility cannot readily be resolved by applying the principles set out in G1/24."

G 1/25, reasons, p. 13 (excerpt)

When must the description be adapted?

"[T]he necessity to adapt [...] arises only where, and to the extent that, the inconsistency has legal significance because it leads to non-compliance with a requirement of the EPC."

G 1/25, reasons, p. 19 (excerpt)

The practical threshold

The skilled person remains in real doubt about the claim's meaning after consulting the description and drawings.

Inventive step at the UPC

A holistic approach under Article 56 EPC

Article 56 EPC permits different methods

Amgen v Sanofi & Regeneron

UPC Court of Appeal

- The EPO and its Boards as well as some national courts (FR, IT, NL) use the problem–solution approach.
- Some national courts already used different methods: Germany and the UK use approaches often described as more holistic.

These methods are guidelines which, when properly applied, “should and generally do lead to the same conclusion”.

How the analytical sequence differs

EPO: begin with a prior-art starting point

Identify distinguishing features and their technical effects. Formulate the objective technical problem relative to that starting point.

UPC: first establish the objective problem

Consider the claim as a whole in the context of the description and drawings, including its technical effects. Then identify realistic prior-art starting points.

Amgen, paras. 127–131; EPO Guidelines, G-VII, 5

Both approaches ask what the skilled person **would** have done and seek to avoid hindsight.

One patent may face both methods

EPO opposition

File within nine months of grant. Revocation has central effect for the European patent.

UPC revocation action or counterclaim

Available where the UPC has jurisdiction. A parallel EPO opposition does not automatically stay the UPC proceedings.

Perpetua Mwangi

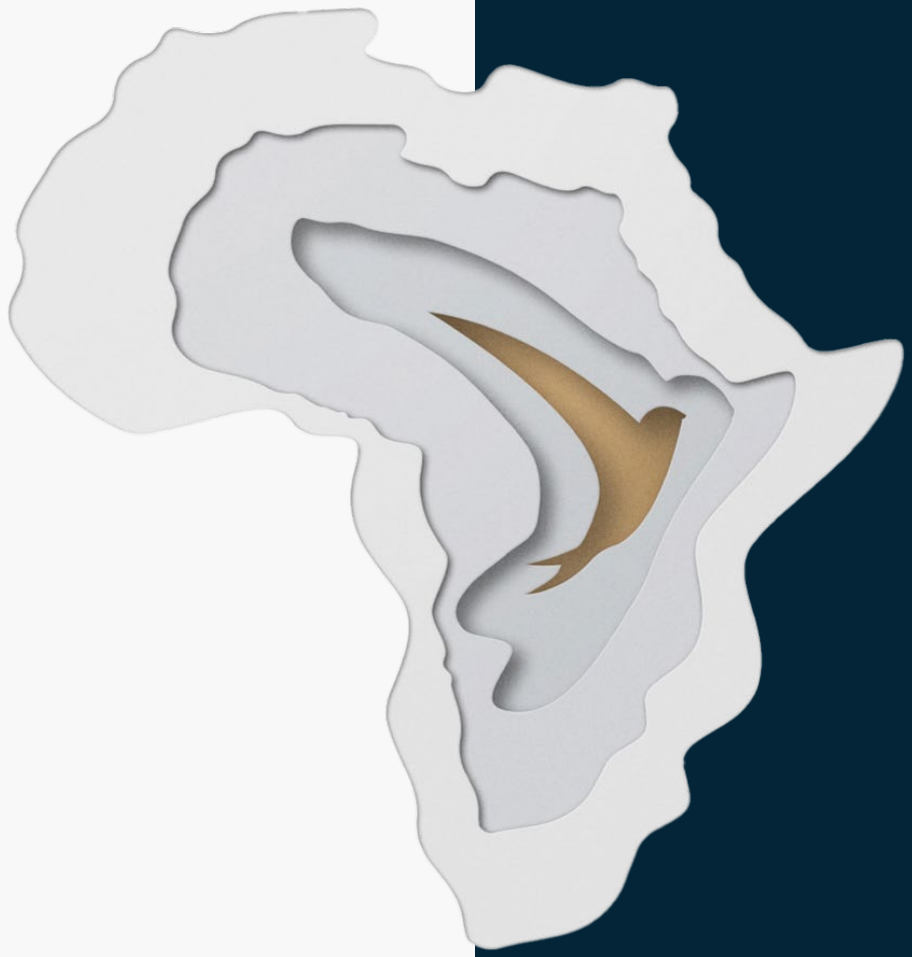
Von Seidels

Patent Update from Africa

Understanding the African Patent Landscape

Presenter: Perpetua Mwangi
Von Seidels Kenya

FICPI Forum, Budapest 2026



Africa is not a one patent market

54

Sovereign states

~1.6b

People today

>2.4b

Projected by 2050

Many

Legal and business environments

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Demographic and economic trajectory

Today

Population:
~1.6 billion

2050

Projected:
>2.4 billion

A large share of the world's future population growth will be in Africa

Young population
Growing middle class
Expanding Consumerism

Rapid urbanisation
Cities concentrate demand, expanding markets & growing purchasing power

Extensive natural resources
Growing regional trade & increasing local production capacity

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Where future patent value is likely to arise

Health & life sciences

Food, agriculture & biotechnology

Key proposition: Africa will not merely consume more over the next 25 years. It will increasingly grow, manufacture, formulate, process, package and distribute more of what it consumes.

Manufacturing, infrastructure & energy

Digital technologies, telecoms & fintech

Consumer & household technologies

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Why Africa matters for innovators and patent owners

- Population growth - 800 million births in Africa in the next 25 years.
- Rapid expansion in different economies
- More local manufacturing and distribution. Won't rely only on imports
- This will result in increased competition and greater need for protection
- In view of many changes and developments, portfolios need to be reviewed periodically

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The African patent-system Architecture

1. **No single African patent system**
   Protection is obtained through national and regional routes.

2. **National systems remain central**
   Major jurisdictions such as South Africa, Nigeria and Egypt use national systems.

3. **Regional routes can be powerful**
   ARIPO and OAPI are useful - but there are differences

4. **PCT phase entry is a bridge**
   Most African countries are PCT members. Exceptions Burundi, DRC and the most notable Ethiopia

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ARIPO

- Combined the member states have a population of 406 million people.
- Regional filing route under Harare Protocol for participating member states
- Applicants designate the individual ARIPO states in which protection is sought.
- Selecting only the countries of strategic importance substantially reduces the filing cost.
- The effect, maintenance and enforcement of the resulting patent remain connected to the designated national territories and applicable national law.
- ARIPO is therefore a regional filing mechanism, not a unitary patent covering all member states.
- It is possible to file national applications. Although it normally cheaper and quicker to make use of the ARIPO system

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OAPI

- Combined the member states have a population of 244 million people.
- A unitary industrial-property system operating across its member states.
- A single OAPI patent automatically extends throughout all OAPI member states; applicants cannot select individual OAPI countries.
- National patent filing is not available as an alternative within OAPI member states.
- Although expensive the OAPI system works well for obtaining patent protection in a large region

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Country Spotlight:

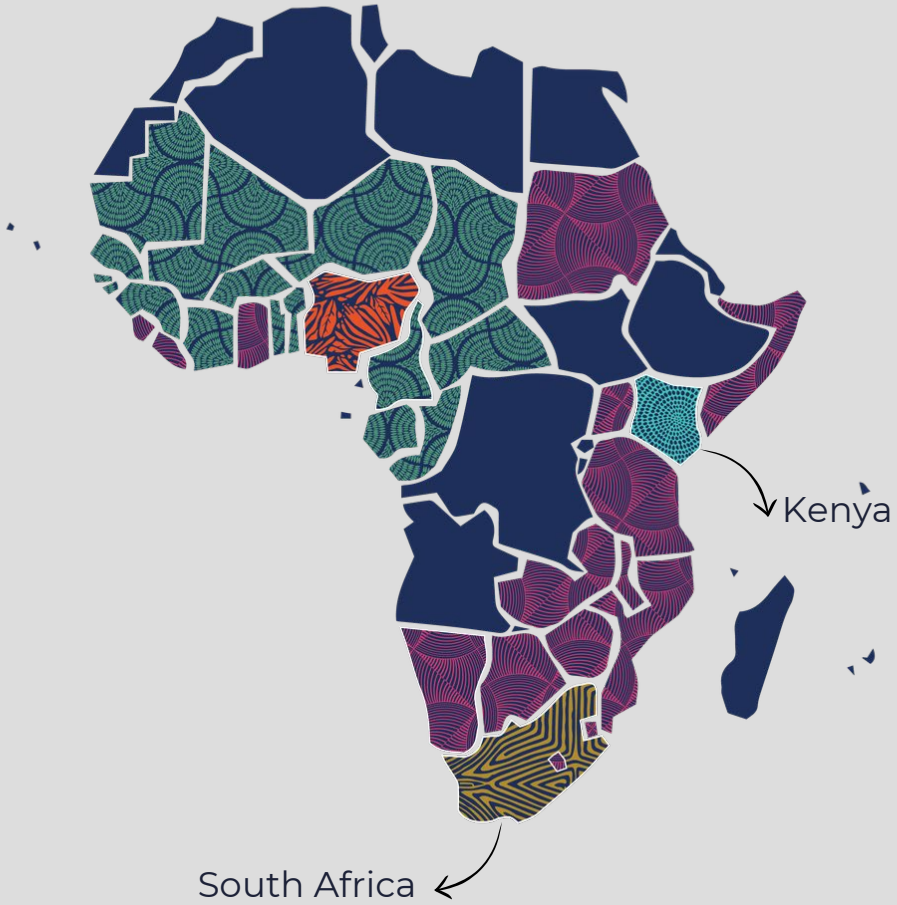
South Africa (65 million people)
Commercially and technologically most important national jurisdiction; depository system with full validity tested during validity challenge or patent enforcement.

Practical Point:
Substantive patent examination is expected to be introduced in the next two years

Kenya (58 million people)
East African commercial hub with national and ARIPO options through Kenyan Intellectual Property Institute (KIPI).

Most products imported into East Africa comes through Kenyan ports

Practical Point:
Substantive patent examination.



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Country Spotlight:

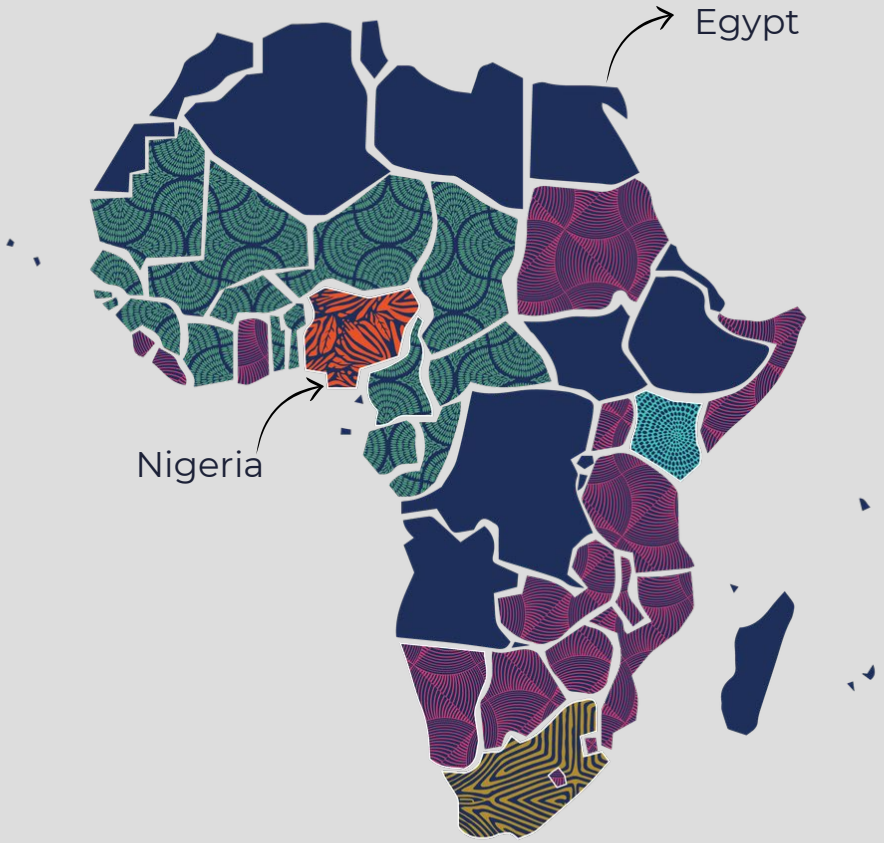
Nigeria (238 million people)
Africa's most populous country and a major consumer market; patent protection is national, not ARIPO or OAPI.

Practical Caution:
Commercial importance may justify filing even without current activities in Nigeria

Importation hub for products into other West African countries.

Egypt (118 million people)
Major North African industrial, pharmaceutical and consumer market with a national patent system.

Strategic Bridge:
Relevant to portfolios spanning North Africa, the Middle East and the Mediterranean.



Practical filing strategy

Three practical take aways

1

Do not select countries solely by population.

Consider market size, income, product demand, manufacturing, importation, distribution, competitors and enforceability.

2

Match the filing route to the commercial objective.

Use OAPI, ARIPO and national filings selectively depending on commercial local realities and opportunities

3

Reassess the portfolio regularly.

African markets, local manufacturing and competitive conditions are developing quickly; a filing strategy designed ten years ago may no longer be appropriate.

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Oxford Economics

Our firm has taken a particular interest in helping clients better understand the African commercial landscape and the available IP protection options. We are working closely with the international economics consultancy Oxford Economics, which has helped us better analyse African economic realities and the opportunities that these may create for intellectual property owners.

We have identified the following broad areas where we believe future patent and IP value is likely to arise:

Heavy Industry in Africa – Von Seidels

Mining Industry in Africa – Von Seidels

Agriculture Industry in Africa – Von Seidels

Light Manufacturing Industry in Africa – Von Seidels

Science and Engineering Industry in Africa – Von Seidels

Healthcare Industry in Africa – Von Seidels

Energy Industry in Africa – Von Seidels

If you would like copies of these documents, please contact pmwangi@vonseidels.com or service@vonseidels.com

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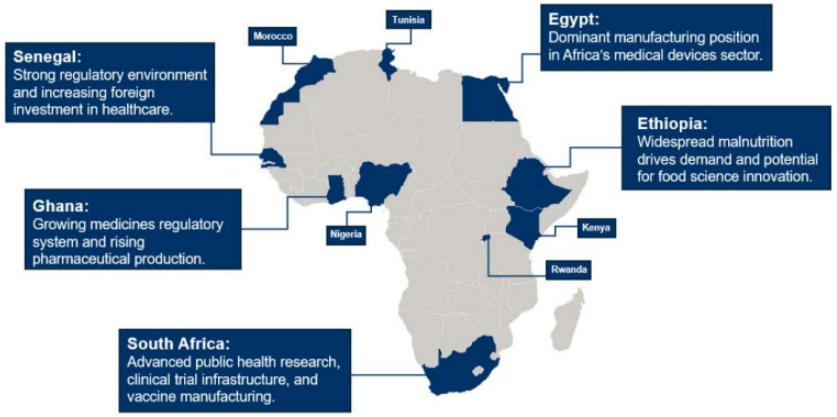
Oxford Economics – Healthcare Sector

IP in Africa: Healthcare

Nearly half of Africa's 1.5 billion people lack regular access to essential medicines, according to World Bank estimates. The African pharmaceutical market relies heavily on imports, with over 70% of pharmaceuticals sourced externally in some regions, while local vaccine production capacity meets less than 1% of demand. Furthermore, the African Development Bank estimates that pharmaceutical spending in Africa is roughly $25 per capita annually, which is six times lower than the global average. Accordingly, African governments are prioritising health security and setting ambitious targets for producing medicines and vaccines. Rapid urbanisation, rising incomes, growing investment in healthcare, and the increasing incidence of chronic lifestyle diseases suggest that healthcare in Africa has a promising future for advancement.



Applicable fields of industry:

- Biotechnology & Pharmaceuticals
- Medical Devices & Therapeutics
- Food Science & Nutrition

	Nominal GDP ($bn, 2025)	GDP growth (%, average 2025-2027)	Population (million, 2025)	Urban population (million, 2025)	Public health expenditure per capita ($)	Public health expenditure (% of GDP)	Out of pocket health spending ($ per capita, 2024)	Life expectancy at birth (years)
South Africa	419.7	1.2	64.7	45.3	569.8	8.8	38.2	66.1
Egypt	395.9	4.5	118.4	51.4	171.0	4.7	92.0	71.6
Nigeria	287.5	3.6	237.5	132.6	90.9	4.3	69.2	54.5
Morocco	174.9	3.7	38.4	25.1	199.2	5.7	85.7	75.3
Kenya	136.1	4.4	57.5	18.5	90.4	4.3	21.9	63.7
Ethiopia	119.6	6.4	135.5	32.7	27.1	2.9	12.1	67.3
Ghana	108.6	4.6	35.1	21.2	82.3	3.7	20.6	65.5
Tunisia	55.4	1.8	12.3	8.8	265.9	7.0	90.0	76.5
Senegal	36.1	6.1	18.9	9.5	63.7	4.1	31.1	68.7
Rwanda	14.8	7.1	14.6	3.0	76.8	7.9	7.4	67.8
	Total: $1.7 trillion	**Average: 4.3% p.a.**	**Total: 733 million**	**Total: 348 million**	**Average: $163**	**Average: 5.3%**	**Average: $47**	**Average: 67.7**

Sources: Oxford Economics Africa, World Bank, Haver Analytics, United Nations

Key message

Adaptive patent strategy

Growth - 800 million people

AFRICA IS NOT JUST ANOTHER OPTION FOR PATENT OWNERS

IT WILL BECOME INCREASINGLY RELEVANT AND IMPORTANT AS A STRATEGIC REGION, BUT WILL REQUIRE MINDFUL NAVIGATION

Changing economic environments

Young consumers

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Thank you

Questions?

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BANNER WITCOFF

USPTO § 101 Policy Under Director Squires: Implications for Drafting & Prosecuting AI Inventions

Reilley Keane

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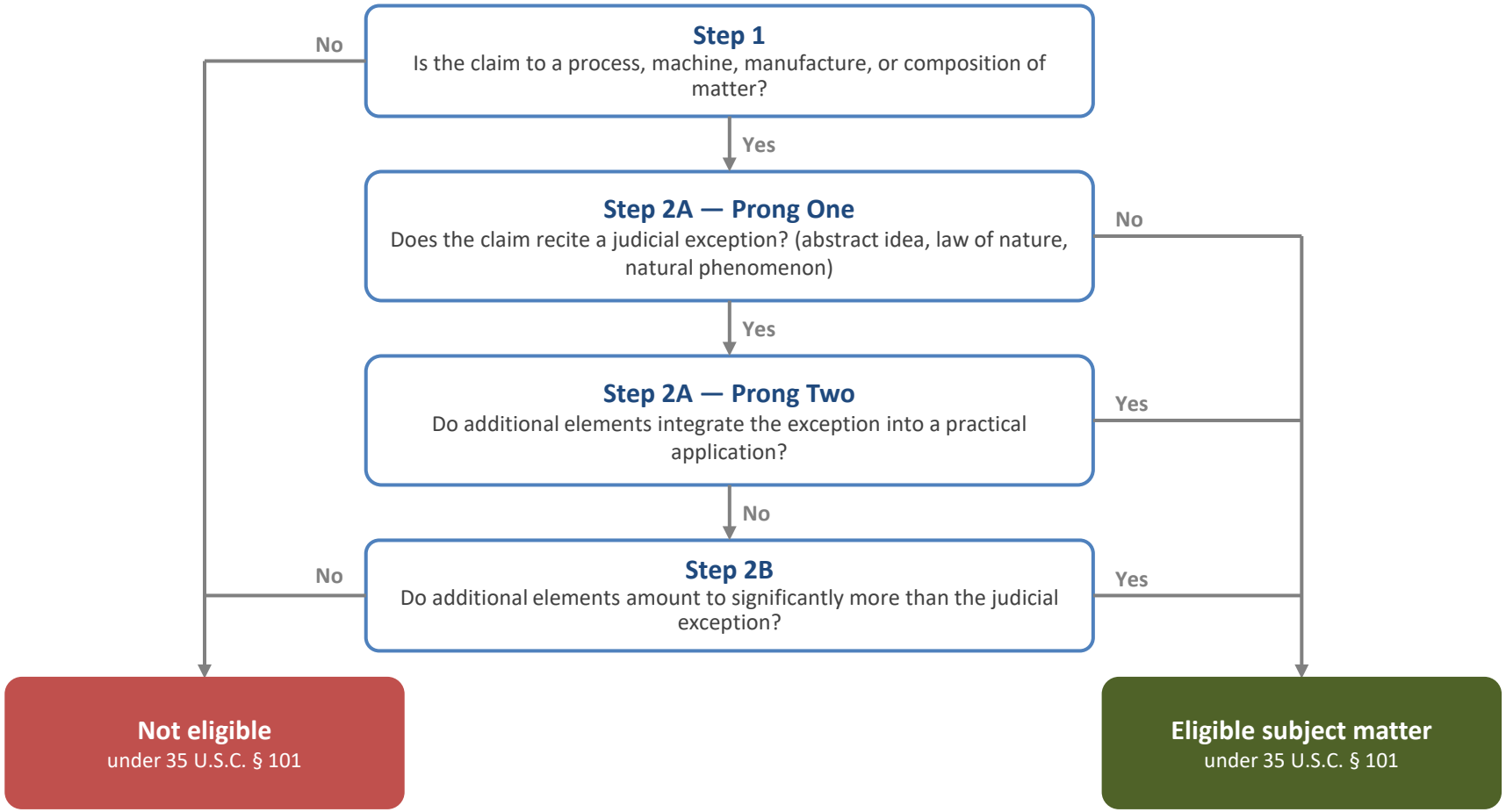
§ 101 Policy Framing Under Director Squires

- The USPTO is signaling a **pro-innovation, pro-patent stance**
- “Open for business” for emerging tech (AI, crypto, diagnostics)
- § 101 is being **re-centered, not re-written**
- Focus: enabling protection of **applied technologies**

John A. Squires; Under Secretary of Commerce for Intellectual Property, and Director of the USPTO

Quick Refresher - § 101 Decision Process



Pre-Squires Foundation

- Guidance still in effect
  - 2024 Patent Subject Matter Eligibility Guidance Update Including on AI (2024 AI SME Update) (July 17, 2024)
  - AI eligibility examples 47-49

- Key Principles
  - AI often involves mathematical concepts and data processing
  - Eligibility turns on **practical application and technological improvement**

- Reinforced by Reminders (Aug. 4, 2025)
  - Confirms proper step 2A/2B analysis
  - Preponderance of the evidence

Ex Parte Desjardins

- **The application**
  - Appl. No. 16/319,040 (DeepMind Technologies Ltd.); training a machine learning model on a new task while protecting performance on the prior task
- **Board Decision on Appeal (Mar. 4, 2025)**
  - Affirmed the § 103 rejection of claims 1-6 and 8-20
  - Entered a new ground of rejection under § 101 *sua sponte*
- **Appeals Review Panel convened (Sept. 26, 2025)**
  - Panel included Director Squires
- **Outcome**
  - New ground of § 101 rejection vacated; Board's other decisions undisturbed - the § 103 rejection still stands

Claim in Focus: Ex parte Desjardins

PRONG ONE • Recites an abstract idea

"computing … an approximation of a posterior distribution over possible values of the plurality of parameters"

PRONG TWO • Integrates it into a practical application

"adjust the first values of the plurality of parameters to optimize performance . . . on the second machine learning task while protecting performance of the machine learning model on the first machine learning task"

Spec. ¶ 21 supplied the improvement

Learning tasks in succession while protecting prior knowledge; less storage capacity; reduced system complexity — but the claim itself had to reflect it.

Drafting lesson: name the technical improvement in the specification, then put a limitation in the claim that performs it.

Ex Parte Desjardins (Takeaways)

- Claims may recite an abstract idea, but remain eligible if integrated into a technical improvement

- Technical improvements to how the system operates:
  - Reduced storage
  - Reduced complexity
  - Preserving learning knowledge (avoiding “catastrophic forgetting”)

- Instructions to Examiners
  - Evaluate claims as a whole
  - Avoid oversimplification and “high-level generality” analysis

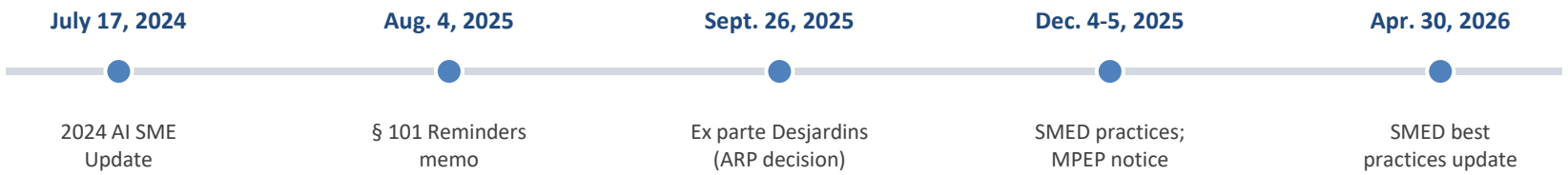
- Policy signal: warning against excluding AI from patent protection

MPEP Update in the Wake of Desjardins

- *Advance notice of change to the MPEP in light of Ex Parte Desjardins (Dec. 5, 2025)*

- Eligibility requires:
  - Spec **describes** technical improvement
  - Claims **reflect** the technical improvement

- Stronger emphasis on **specification-driven eligibility**



New Tool: Subject Matter Eligibility Declarations (SMED)

- USPTO issued further explanation and best practices
  - Best practices for submission of Rule 132 SMEDs; Dec. 4, 2025 and Apr. 30, 2026
- What are they?
  - Declarations providing **objective evidence** of technological improvement
- SMED = **"constructive model"** for software/AI inventions
- Best practices
  - File separately from § 103 declarations
  - Ensure:
    - Nexus to claims
    - No supplementation of specification

Practical Impacts for Drafting AI Applications

- Describe explicit **performance improvements**

- Include explanation of:
  - System operation
  - Model behavior
  - Parameter adjustment

- Provide technical detail tied to:
  - Efficiency
  - Storage
  - Learning improvements

- Avoid purely functional or abstract descriptions

Practical Impacts: Prosecuting AI Applications

- Focus arguments on:
  - **Technical improvement**
  - Not just application of AI
- Leverage:
  - Specification
  - SMEDs
- Strategic shift – focus less on “not abstract”, more on “improves how the technology operates”

Key Takeaways

- No overhaul of Alice, but a clear recalibration in application

- Key themes
  - Improvement based eligibility
  - AI-friendly § 101 application
  - Rise of evidentiary practice (SMEDs)

- USPTO is enabling **AI patent protection**, but expects **clear technical narratives grounded in the specification**
  - In some instances, this may be reinforced by evidence

Questions?

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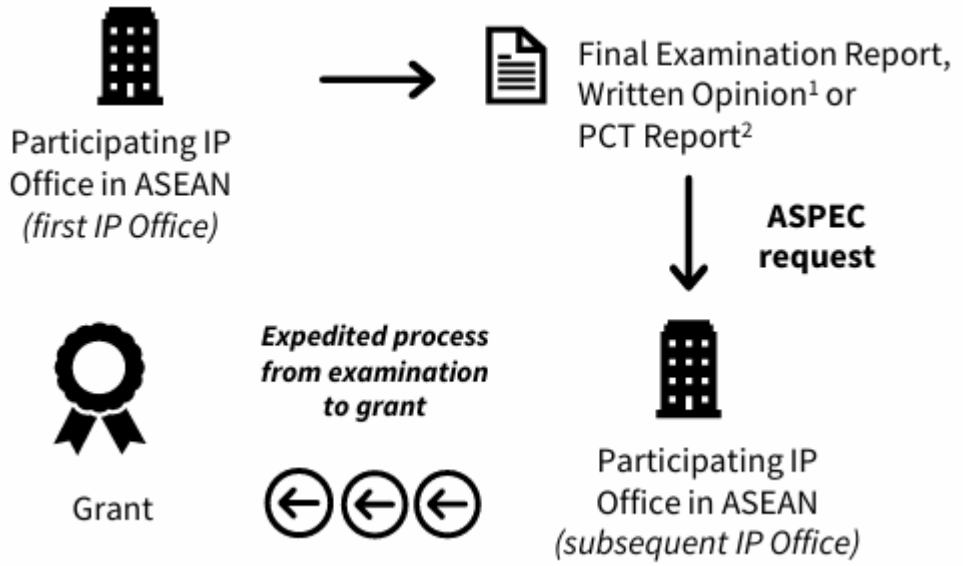
ASEAN Patent Examination Co-operation

ASPEC

- Launched in June 2009
- Regional patent work-sharing programme among nine IP Offices: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, the Philippines, Singapore, Thailand, and Viet Nam.
- Accelerate patent prosecution, but
  - Sequential
  - No committed timelines
  - Low harmonisation



ASEAN Patent Examination Co-operation Plus

ASPEC+

- Launched in April 2026
- From sequential reliance to parallel collaboration
- Selected IP offices work together before issuing respective 1st OAs
- Committed timeline: 1st OA within 10 to 14 months
- Outcome: Aligned search and examination results where possible
    - Corresponding search and exam results is non-binding

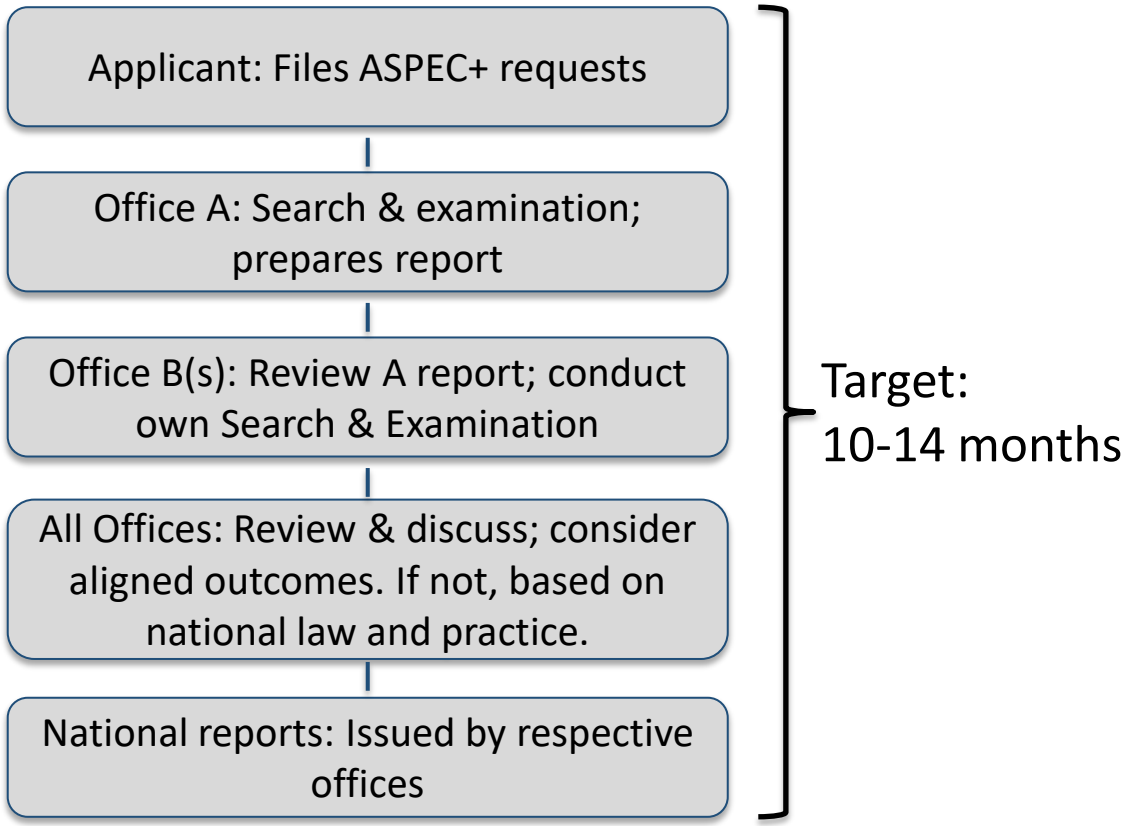
How ASPEC+ Works

Important:

a) Corresponding applications

b) Examination has not started

c) Claim sets are identical or sufficiently correspond to each other



Coordination improves consistency, but national law still controls.

Practice Notes on ASPEC+

- Differing timelines for requesting examination
    - Coordinate examination filing request based on earliest deadline.
- Pick a strong Office A
    - Quality and speed of the lead office's search and examination will influence the usefulness of the process.
- Align claims early – medical use claims
- Malaysia: only available only as an Office B. Does not apply for divisional applications.
- Philippines: Does not apply for pharmaceutical patent applications.
- Choosing ASPEC or ASPEC+ based on prosecution stage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