

Andrei Iancu's Further Public Discussion about USPTO's Services

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Summary & Overview

My question^[459] "Andrei Iancu's Promises of More Certainty in USPTO's PE-Decisions – Hope- or Harmful?" got an immediate and positive answer. He was moderating the public part of the PPAC's Quarterly Meeting at the USPTO in Alexandria on 03.05.2018 and opened it by reconfirming his strong words before the AmCham^[466] as to the future quality of the USPTO's services to the public^[459] – unanimously appreciated by all commentators of the US patent community. He was not too shy to run this meeting with an agenda that first presented the USPTO's pertinent key units and their key personnel, thus enabling the PPAC representatives to questioning the USPTO's two main deficiencies – see below – that indeed could not be replied to satisfactorily. High appreciation deserves also the PPAC's chair, Maryleen Jenkins, for her and her crew's very open and very thoughtful discussions. In total this meeting demonstrated the US society's openness at its best – for Andrej Iancu's USPTO just confirmed with its announcement to finally terminate its often disastrous BRI-nonsense.^[e.g.469,160]

This email in ●Section II shows primarily on the USPTO's currently most urgent deficiency, the 'PE-problem' – by AI^[453/1.a] being resolved^{1.a)} rationally^{b)}, as has been publicly communicated^[e.g.160,296,....,202,....,244,....] since 2015/16 – but after first in ●Section I clarifying the USPTO's fundamental notional AI problem with its services, exemplified by its 'search problem': By refining such searches' notional resolutions to a degree enabling focusing them on what makes up PTOs' searches (as opposed to searches for arbitrary items that therefore must not restrict themselves to PTO-search based such AI-refinements) – hitherto not understood by any PTO. This email's ●Section III finally reports quite new tones coming from the USPTO: Its new director emphasized – especially in his words concluding this meeting – synchronizing the USPTO's services with all external feasible cutting edge R&D results – thus opening for any examiner a safe USPTO career of much more charm than the current one has.

I. The Supreme Court's Notional ETCI-Refinement – for Improving PTOs' DB-Searches.

Notional refinement – alias "keep it simple", enabling AI – has been strived for by Plato/Aristotle & Kant, but clearly recognized only by Analytic Philosophy^[e.g.130,218], and is fundamental for IT System Design^[21|278]. It then always meant a 'paradigm refinement' as currently painfully encountered by the US patent community. The FSTP-Project repeatedly communicated this publicly to the US patent community – which hitherto simply rejected it, due to alleged incomprehensibility of the Supreme Court's SPL-framework (or as attempting comprehension then was politically incorrect). By contrast, any qualified system designer, semantic researcher, ... today instantly basically grasps this paradigm refinement (after explaining the higher intellectuality of a robust ETCI patent than that of a CTCI) – in spite of his/her scientific reservations as to the metaphysicality^{b)} of patents.

In robustly patenting ETCIs, the SPL-framework inevitably implies its intellectual refinement (see Section II). Yet, as unknown from CTCIs, with ETCIs it is also not practiced by the USPTO & CAFC^{3.b)}. This is their **BIG FAILURE**.^{c)}

SPL-framework based analyzing/testing an ETCI indispensably requires its O/A/E-KR, as it comprises 3 levels of notional resolution (vulgo: of abstraction, being misleading as we proceed here^{b)} ●from the ETCI's "**original**" metaphysical/-rational level of description, ●over its "**aggregated**" (or "**abstract**") formalization by A-level predicates, ●to its "**elementary**" level of notional resolution, dealing with its 'atomic' notions only). As just mentioned, this is indispensably/necessarily implied by the Supreme Court's SPL-framework^[453] just as by the state of the art in IT System Design specification. In both cases an ETCI's canonical COM(ETCI)-KR models an ETCI's metaphysic-/metaratio-/rationality – whereby the SPL-framework implicitly requires the ETCI's O/A/E-KR^{2.a)}, while IT System Design is not limited to the ETCI's such 'O/A/E-layering'.

1.a by the author – after initially also having been misled by the USPTO's first draft of its Interim PE Guidance in 2014. ^[157]

- b. The meaning of a bold notion shown below on the left determines a property of an item of SPL or of an ETCI. I.e., it is defined as follows:
- **metaphysical** – not "highly speculative" or even "transcendent" (as excluded from SPL), yet being vaguely describable, i.e. recognizable as at least partially amenable to metarationalization, hence describable by an informal "**O-predicate**" located on its **O-level**;
 - **metarational** – being a conjunction of natural IDL-expressions^[e.g.372,390], describing the semantics of parts of O-predicates, i.e. in total a formal "**A(-level)-predicate**" located on its **A-level**;
 - **rational** – being an A-predicate's IDL-expression, i.e. a mathematizable elementary "**E(-level)predicate**" located on its **E-level**;
 - **mathematical** – being an E-predicate in mathematical KR.

c. as it is the reason for the many legally erroneous decisions both institutions^[e.g.453,459].

As this O/A/E-structure of a COM(ETCI)-KR is key to FSTP-Technology's AI – induced by the Supreme Court's SPL-framework for ETCIs, especially in its *Alice* decision^{2.a)} – it is next repeated in other words:

AI's notional refining of an ETCI's KR comprises 3 levels of notional resolution: •The ETCI's notionally “**original, O-level**” is defined as the original information representation in the ETCI's patent. It enables vaguely identifying N ETCI-elements, the properties of any one modeled by an O-inC, together making up the ETCI, as noted in the coarsest and partly metaphysical notional resolution^{1.b)}. •Its semantically lower “**aggregated, A-level**” of notional resolution of this information about this ETCI, is refined such that it enables a precise yet still compound description of this now metarational ETCI-information by mathematical A-level predicates — precisely specifying the meanings 1-to-1 of the N O-inCs. Finally: •Its lowest “**elementary, E-level**” further refines the ETCI's KR by disaggregating its compound A-inCs (i.e. their compound A-level predicates) into equivalent conjunctions of their rational elementary E-inCs (rational E-level predicates)^[320].

After this declarative description of the whole structure of an ETCI's KR embodied by all of its O/A/E-inCs – completely modeling this ETCI^[271] — the next 3 bullet points outline how this KR is procedurally gained, as ex- and/or implicitly required by the 6 Supreme Court's *MBA* decisions as a whole^[354/11]:

- **1. step:** Create the ETCI's N “**ETCI-elements, X_n**” — being its pillar(s), indicated by keywords in its specification, the same on all 3 levels, and accordingly “separating the ETCI's O-level concerns”^[354,FIG1]. This step is trivial, once the ETCI's specification exists. Prior to that this potentially manifold creative process is highly metaphysical. Input these N O-inCs into the IES^[9.b,283,350,332,320];
- **2. step:** Refine these vague N O-inCs to precise mathematical A-inC-predicates and input them into the IES;
- **3. step:** Refine any of the N A-inCs to a conjunction of its $K \geq N$ E-crC(s)^{c)} – each modeling an ‘atomic’, i.e. ‘non-disaggregatable’/‘unrefinable’ notion disclosed by the ETCI's specification and defined in the “**Innovation Description Language, IDL**”, a syntactically & semantically restricted natural English language, as a ‘conjunction’ of so described E-crCs (and potential E-ncrCs). Input them into the IES^[9.b,283,320,350].

Practical applications of this O/A/E-KR are provided by most FSTP-publications dealing with testing an ETCI for satisfying SPL. To apply this O/A/E-KR in DB-searching for an ETCI's prior art – to often greatly improve the USPTO's searching as reported at this PPAC-/USPTO-meeting – one would use of its canonical COM(ETCI) its ETCI-element-wise clusters of E-level search terms (and their synonyms^{b)}), instead of its current O-level search terms from which these E-clusters are derived^{c)} for an ETCI.

As for any ETCI, the 100%-hit number of such an E-level-cluster-search often is much smaller than the 100%-hit number of the O-level-search, the 100%-exhaust number is then still manageable by the searcher. The efficiency of the E-level-search is much better, and the ‘**prior art gap**^[466,463] – unavoidably to be accepted if proceeding as reported during this meeting (i.e. performing only O-level searches) – dramatically reduced.

^{2. a} Justice Breyer^[69] (as to the pre-*Alice* use of the *Mayo/Bilski/Myriad* framework in PE cases): “*Different judges can have different interpretations. All you're getting is mine, ok? I think it's easy to say that Archimedes can't just go to a boat builder and say, apply my idea [being the natural phenomenon of a boats' water displacement]. All right. Everybody agrees with that. But now we try to take that word "apply" and give content to it. And what I suspect, in my opinion, Mayo did and Bilski and the other cases, is to sketch an outer shell of the content, hoping that the experts, you and the other lawyers and the CAFC, could fill in a little better than we had done the content of that shell...*” (emphasis added^[355])

^b implicitly disclosed by the ETCI's specification for all by it ex- or implicitly disclosed E-level search terms.

^c determined by using the IES and its claim interpretation of the ETCI at issue^[e.g.390,...., 453], i.e. part of its COM(ETCI).

^d in verbal or mathematical KR^[e.g.453,459]. To fully automate this search and guarantee that any document found/hit does comprise this ETCI, the mathematical ETCI-KR would be needed. This is not elaborated on here, as today such mathematized DBs do not yet exist. Although, the USPTO might consider letting such a DB build up automatically for the patents that it grants, thus providing the basis for offering in the long term – in perhaps 10 years – an extremely attractive DB-service for searching cutting-edge ETCIs.

II. This Supreme Court's Notional ETCI-Refinement is Even Indispensable for Robust PE-/PA-Determination.

FSTP-Technology has shown that for any ETCI, its FSTP-Test^[459], and its 9 conditions' conjunction holds:

ETCI satisfies SPL $\Leftrightarrow \exists \text{EcrCS} \wedge \text{it passes the FSTP-Test} \Leftrightarrow \exists \text{EcrCS} \wedge \text{on it } \bigwedge_{1 \leq i \leq 9} \text{condition}^i = \text{T}^{\text{3.a}}$, implying:

If an ETCI's EcrCS is unknown then it is rationally^{1.b)} not determinable whether the ETCI is PE and PA.^{b)}

III. This AI in the USPTO's Services – Charming to All USPTO Personnel and All the US Innovation Community.

Both preceding Sections provided technical comments on Andrei Iancu's key objectives for the USPTO's SPL-services to the public, i.e. for its long known search service and for its patent(application) analyzing service, both currently being unsatisfactory. These comments explicitly recommend using AI^[453/1.a)] for realizing these suggested semantical improvements of both services and implicitly assume – as required by the current state of the art– that they are interactively delivered over the Internet^{c)} by the USPTO to its customers, in real-time cooperations of both parties. The terms AI & Internet were not explicitly addressed in this meeting, yet are evident consequences of some of both parties' discussions^{d)}.

In contrast to such semantics, here the IES's market potential is briefly clarified: It is just excellent – the reason being its worldwide •uniqueness of the IES in innovation business^{e)}, •absolute absence of any pertinent prior art, •totally unexpected power^[e.g.459] in designing absolutely robust ETCIs and drafting&examining patent(application)s of ETCIs, •several hundred thousand inventors/examiners/experts/patent-lawyers/R&D-managers/.../judges dealing with and depending on these 3 activities, •billions of US\$ invested yearly in the innovation business R&D, and •its AI-driven UI's uniqueness in greatly facilitating familiarizing/qualifying the very large number of owners of jobs threatened by technological progress^{f)} to increase their future productivity by a multiple, i.e. to achieve their safe professional careers.

Due to its/these exciting 'unique selling points', the IES has the potential to trigger a landslide of socioeconomic dimension if marketed by an enterprise that has the enormous resources, in particular the manpower, for individually qualifying this potentially huge number of customers. The USPTO may by the size, qualification, and organization primarily of its examiner corps be in the best position to get prepared quickly to start qualifying the bulk of the US patent community by the middle of next year in using the AI of SPL-flavor – normally by its examiners using the IES for user communication (and the FSTP-Technique's patent-application acceleration^[5]). This would require qualifying by then a small group of selected examiners in 1-2 weeks (2-3 hours daily), plus private/self-

^{3. a} The formal proof of this equivalence statement follows from^[300,....]. It trivially implies the following 1-line proof of the title.

^b as correctly interpreted by the Supreme Court's framework. **NOTE:** For an ETCI patent, the CAFC-/USPTO-interpretations – just as the classic SPL-interpretation – know no notional refinements of its claim interpretation^[459/p.1] and hence no EcrCS.

^c This IES-service is not the USPTO's (reported at this meeting) PE2E service – used USPTO internally and in its PTO2PTO-cooperations.

^d To make such discussions more concrete, the implementation state of the IES^[e.g.443,....], capable of providing/supporting these services, has already been indicated in^[e.g.459]: Its prototype's end-to-end-service ('E2E-service') – preliminarily called IES/E2E-service – will become available at the latest by July 1, 2018, together with its structural actual IES/UI-description^[443], its corresponding IES/UI-Primer^[444], and exemplary FSTP-Tests of at least the *DDR*, *Myriad*, and *Berkheimer* ETCIs⁹⁾ (stored on the IES prototype).^[459]

^e The current uniqueness of the IES will be upheld for several years. The reason is that worldwide the set of qualified scientists familiar with the knowledge areas identified in^[459/2.a)] – colloquially occasionally called 'dinosaurs of general education' – is practically empty: During the more than 10 years the author has researched in the compound area here at issue and the several dozen conferences dealing with one of this compound area's subareas that he attended, he didn't meet a single other scientist at least a bit interested in all these subareas, not to mention publishing so much as a single research result covering this compound area. I.e., the FSTP-Project is worldwide the only R&D project covering this specific compound knowledge area. And today and in the near future there is no alternative way – to the FSTP one – of scientifying AI/SPL, which is indispensable for robust patenting.

^f – i.e. that in all likelihood will sooner or later be destroyed by AI, which here is countered by qualifying the IES user to use such a future interactive and (semi-)automatic AI-system (that he/she hitherto has not seen as such intelligent systems as the IES do not yet exist, but nevertheless will become ubiquitous soon, i.e. in any area of life sooner or later) –

controlled individual training – which then would qualify all interested examiners in larger chunks, one-by-one. This part of the examiner corps would start offering this AI/SPL-qualification on different qualification levels to anyone who applies for it from the huge patents-oriented innovation crowd, i.e. to several million AI/SPL-candidates. Of them yearly about the number of first time patent applicants may wish to go through this AI/SPL-qualification.

Proceeding this way might please the USPTO's examiners and would dramatically increase the US society's creativity.

The FSTP-Project's Reference List

FSTP = Facts Screening/Transforming/Presenting (Version of 09.05.2018¹)

Most of the FSTP-Project papers below are written in preparation of the textbook⁽¹⁸²⁾ – i.e. are not fully self-explanatory independent of their predecessors.

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