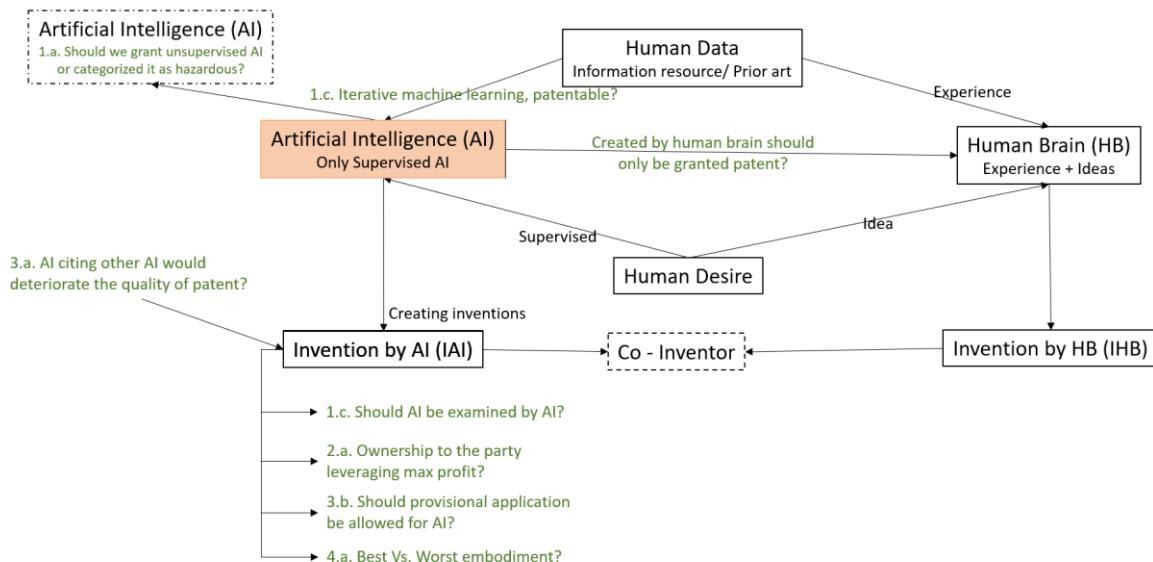


Advent of AI and its impact on Patent Law



Patent system has following important component:

1. Patentable subject matter and patentability guidelines
 - a. Can we stop grant any patent software all together as is followed in the India? Can reject all AI patent on the premise that all AI will use basic modus operandi of data collection, standardization, re-iterative/self-machine learning, data organization, data processing and finally output as desired by human brain?
 - b. Even we start granting patent to AI generated Patent, can we restrict it to the AI which generates invention as per desire of human being, that is to say under supervised conditions only? As under unsupervised AI can be threat to the humanity and it should be categorized under “destructible/hazardous invention”.
 - c. Does examination of such patent require AI system as examiner to comprehend all prior art which is cited by AI invention?
2. Inventorship and ownership:
 - a. If we grant patent to AI as inventor, can it be assigned to party who will get maximum profit through commercialization. So, can ownership be decided upon Coase Theorem?
3. Inventive step or non-obviousness
 - a. Does AI patent application citing other AI application would deteriorate the quality of invention as even a minor logical tweak would lead to another innovation whether it is useful or not? So, in such cases do we need to insert the provision like section 3d of Indian patent act (which targets applications related to chemicals)? This point is especially important to avoid patent evergreening and patent troll caused by non-practising entity.
 - b. Does provisional application should be allowed to AI applications as mere submission of idea to claim earliest priority date will give a years' time to broad the scope of claims to an unlimited extent? Complexities enhances when CIP/divisional applications are filed.
4. Disclosure
 - a. Best vs. Worst embodiment: AI are considered to be opaque and often as black boxes so; will non-explainable AI reduce transparency in patents system? That is to say- Does AI application will disclose worst embodiment while keeping the best embodiment undisclosed and obtain patent without full disclosure.