

COMMENTS ON THE DRAFT ISSUES PAPER ON INTELLECTUAL PROPERTY POLICY AND ARTIFICIAL INTELLIGENCE PREPARED BY THE WIPO SECRETARIAT

My name is David Adamgbo, I am Lawyer in the firm of Regents and Regal Solicitors and Advocates in Nigeria and these are my personal comments on the draft issues paper on intellectual property policy and artificial intelligence prepared by the World Intellectual Property Organization (WIPO) Secretariat. We have reached another interesting point in our development as humans were we are not just considering the regulation and protection of human activities we are also considering the protection and regulations of the activities of autonomous machines, thereby conferring rights and duties upon autonomous machines.

Several issues have been pointed out on the WIPO draft issue paper on intellectual property policy and artificial intelligence, I'll like to comment on those which my mind permits me at this point to cast my thoughts upon

Issue 1: Inventorship and Ownership

In the case of inventions autonomously generated by AI:

(i) Should the law permit or require that the AI application be named as the inventor or should it be required that a human being be named as the inventor? In the event that a human inventor is required to be named, should the law give indications of the way in which the human inventor should be determined, or should this decision be left to private arrangements, such as corporate policy, with the possibility of judicial review by appeal in accordance with existing laws concerning disputes over inventorship?

It is wrong to punish a man for a crime he did not commit, so also is it wrong to give a man credit for something he didn't do, AI applications or machines could be classified as autonomous machines that are capable of learning from previous actions or experience and improving upon them to make better decisions and improvements on previous actions. Naming a human as an inventor of something developed by AI is giving undue credit to whom it isn't due and stalling the proper understanding of such an invention causing difficulties in any further improvements of such an invention, AI machines have the ability to compute, calculate and make deductions faster than humans, giving a human credit for something done with such leverage is unfair to others who would seek to develop or build upon what has been laid down.

(ii) The inventorship issue also raises the question of who should be recorded as the owner of a patent involving an AI application. Do specific legal provisions need to be introduced to govern the ownership of autonomously generated AI inventions, or should ownership follow from inventorship and any relevant private arrangements, such as corporate policy, concerning attribution of inventorship and ownership?

Laws are put in place to regulate the affairs of humans and also for the protection of humans, intellectual property laws are laws made for the protection of intangible assets born out of human ingenuity. One of the major reasons why individuals register their intellectual property, is to have

a monopoly of sorts over the commercialization and monetization of that asset. If patent rights are given to autonomous machines, who then enjoys the financial dividends obtained from the invention? The fact that machines don't engage in commercial activities for their own benefits rather if they do, it is for the benefits of humans should restrict the granting of patent rights to humans in this case the original inventor or holder of patent rights over the A.I that made the new invention. Legal provisions need to be made that would govern ownership of autonomously generated AI inventions, clearly stating who or what made the invention but vesting ownership over such an invention in a human or corporate body.

(iii) Should the law exclude from the availability of patent protection any invention that has been generated autonomously by an AI application?

The law shouldn't exclude inventions made autonomously by AI from patent protection, doing so could discourage further developments, inventions and improvements on existing technology, rather the same protection given to normal human inventions should be given to autonomously generated inventions by AI, only limiting ownership to humans.