



UNION OF EUROPEAN PRACTITIONERS IN INTELLECTUAL PROPERTY  
UNION EUROPÄISCHER BERATER FÜR GEISTIGES EIGENTUM  
UNION DES PRATICIENS EUROPÉENS EN PROPRIÉTÉ INTELLECTUELLE

Brussels, 14 February 2020

Dear Madam, Sir,

We received your Circular C.8919 dated 13 December 2019, requesting comments and suggestions to a draft Issues Paper identified by WIPO/IP/AI/2/GE/20/1, and listing issues concerning the impact of the development and deployment of Artificial Intelligence, AI, on IP policy.

UNION-IP welcomes this open approach. After consultation with some of our members, UNION-IP would like to briefly respond with some comments directed to the area of Patents.

With regard to Issue 1 (Inventorship and Ownership), section 7(ii), we note that autonomously operating AI applications may not only generate patentable inventions, but may also develop methods, processes and products infringing third parties patents. Here, the issue of liability of AI applications for infringement arises, in particular when AI applications would be given legal personality.

With regard to Issue 3 (Inventive Step or Non-Obviousness), section 9(iv), we note that an additional issue arises, in case the question “Should AI-generated content qualify as prior art?” is answered in the affirmative. This issue may be summarized as “Are there conditions and/or restrictions to apply, e.g. in view of disclosure and plausibility?”.

Yours faithfully,

Hans Mertens  
President of Software And Integrated Circuit Commission

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**Hans Mertens - President Software And Integrated Circuit Commission**

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