

Czech Republic

Inputs for the preparation of an updated document SCP/35/7 on Artificial Intelligence and Inventorship

As for the rules regarding inventorship in connection with artificial intelligence, we refer to our 2023 submission:

According to Section 8 paragraphs (1) and (2) of Act No. 527/1990 Coll. on Inventions and Rationalisation Proposals, as amended, (the Patent Act), the right to a patent belongs to the inventor or his/her successor(s) in title. The inventor is the person who has made the invention by means of his/her own creative work.

The right to a patent is connected to the personal activity of a natural person and arises from the creation of an invention by the inventor's own creative work. Therefore, it is not possible to contractually agree or exclude the establishment of the right to a patent.

The right to a patent has two components. The first is the property component, which makes it possible to dispose of the invention (for example, apply for patent protection or transfer the right to another person). The second component has a personality dimension and represents the right to inventorship, i.e. the right of the inventor to be or vice versa not to be identified as the inventor of the given invention.

The inventor can always only be a natural person, one or more, who achieved a result in the form of an invention through his/her/their own creative activity. According to the Explanatory Note to the Patent Act, the successor(s) in title of the inventor is the person to whom the inventor has transferred his/her right, or to whom this right has passed (e.g. the heir(s) of the inventor or the employer in the case of an employee invention). Thus, a natural person or a legal entity can become a successor in title.

According to Section 25 paragraph (1) of the Patent Act, the name of the inventor must be mentioned in the patent application. However, in accordance with paragraph (2) of this Section, at the request of the inventor, the Industrial Property Office of the Czech Republic (the IPO CZ) will not mention his/her name when publishing the patent application and when announcing the grant of a patent.

With respect to AI inventions, the same rules for inventorship, as described above, apply. The IPO CZ is not aware of any national court judgements regarding the interpretation of inventorship in the case of filing a patent application by artificial intelligence. Nevertheless, we constantly monitor all decisions taken by the European Patent Office on this issue.

There are no updates to share.