

(iii) Document updating Sections V and VI of Annex to document SCP/35/7 (Artificial Intelligence (AI) and Inventorship).

- Section VI: The “DABUS” Case. The inputs may also include information regarding new cases and decisions on AI as an inventor.

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(1) Latest developments in the DABUS case in Japan

- The applicant submitted a document in August 2020 listing "DABUS, an artificial intelligence that autonomously invented this invention" in the "Name of Inventor" section as stipulated in Article 184 bis5 (1) of the Patent Act. However, the Commissioner of the Japan Patent Office ordered the applicant to correct the name to that of a natural person, stating that only natural persons could be listed as inventors. Since the applicant did not make this correction, the application was rejected in October 2021.
- In response, the applicant argued that the term "invention" as defined by the Patent Act include AI inventions, and added that the name of the inventor is not a required item in applications related to AI inventions. Therefore, they claimed that the disposition in question is unlawful, and filed a lawsuit seeking the cancellation of the disposition in March 2023.
- Although a dismissal ruling was issued by the Tokyo District Court in May 2024, the applicant appealed to the Intellectual Property High Court in June of the same year, and a dismissal ruling was made in January 2025.

(2) Judgement Summary

First Instance Judgement

- The Tokyo District Court dismissed the plaintiff's claims in May 2024, reasoning that the term "inventor" as defined by Patent Act does not include AI, and is limited to natural persons, based on the following two points:
 - ◆ Given that the "invention" defined in the Intellectual Property Basic Act is illustrated as something "that is produced through creative activities by human beings," it can be interpreted that an invention is produced by a natural person.
 - ◆ The term "inventor" as stipulated in Article 36 of the Patent Act inherently assumes that the inventor is a natural person. Furthermore, the term "person who has made an invention" in Article 29 of the same law can receive a patent for that invention, and since AI cannot be the subject of rights, it can be concluded that "the person who has made an invention" refers to a natural person.

Second Instance (Appellate Court) Judgment

- In January 2025, the Intellectual Property High Court dismissed the appellant's claims, reasoning that it is appropriate to interpret that an "invention" eligible for a patent under Patent Act is limited to those for which a natural person is the inventor.
- The "right to obtain a patent" as stipulated in Patent Act arises only when a natural person is the

inventor. There are no provisions that establish procedures for granting patents based on rights other than the "right to obtain a patent," nor are there provisions that assume non-natural persons can be inventors for the purpose of granting patents. Therefore, it is appropriate to conclude that an "invention" eligible for a patent under Patent Act is limited to those for which a natural person is the inventor.