

AI Outputs: To protect or not to protect - That is the IP Question

I have worked in the IP field for the past 15 years, and I am convinced that our craft is meant to protect the creativity and originality of human creations and incentivize and reward human innovation and artistic expression. I am currently working as an AI data trainer, and although I know that when we see the responses, designs, or any other output, we might get an emotional response to it, the truth is, behind this output is a lot of human work, training, correcting, perfecting the work of the AI. In the end, what they give us is what we put into it, and as such, their outputs are not original or creative. IP protection should, therefore, not be granted to such creations because they lack the main and most important component, a piece that is crafted from scratch, that is inventive, original, and the result of inspiration, and that can only come from a human.

I would like to cite two examples to exemplify my argument:

In 2018, an artwork created by an AI program called Obvious titled "Edmond de Belamy" was sold at auction for \$432,500. Since the work was generated using a machine learning algorithm trained on portraits throughout history, the AI output does not have an original intent or emotional connection to its creations, and should not be treated like human-generated art that conveys personal expression.

AI models are capable of generating articles, poetry, and stories that mimic human writing styles. Many outputs can be highly coherent and contextually appropriate, but the outputs are derived from existing texts and patterns in data the model has been trained on, raising questions about originality. If the output closely resembles existing works, it can be argued that it lacks the requisite originality for IP protection, as well as the emotional and creative component that is what the IP law is meant to protect.

Ana Cisneros
IP lawyer
Mexico