

Dr. Anson CJ

Assistant Professor

Inter University Centre for IPR Studies
Cochin University of Science and Technology
Kochi, Kerala, India

Issues

Issue: Sensors, Equations, AI technology and IP

Sensors are the eye for AI in mechanical devices and a group of researchers are vested their time for inventing different types of sensors for sensing different types of waves and variations. Applications of these type of sensors extended to sea to space. Many of these sensors have patents and about to get patents if the software is making logic out of sensor data. Mixing of two technology for making commands should be not be considered as innovation and invention.

Issue: Novelty

A new sensor which have a capacity to sense a new wave and have a capacity to convert that variations to machine readable (numeric values in most cases) form have inventive step and novelty but making commands out of the machine readable variations is purely algorithmic and mathematical works. If algorithms and mathematical works are getting patents through AI public domain will shrink drastically. When Locke theory was adopted public domain was fundamentally supported since the society has the freedom to enjoy that.

Questions

1. Whether AI patents will reduce public domain like algorithms and mathematical formulae since most of the AI technology is using this?
2. How AI technology can be justified for patents since they are using sensors (patented) as input and mathematical formulae as commands
3. Can we allow patents for mixing of two technologies like sensor technologies and algorithmic modelling?
4. Whether AI technology will incentivise creativity since it is looping one technology with commands or instructions?

5. If we are taking AI alone; means excluding sensors and command looping, it's purely software part or algorithm part of finding the matching results. Whether that can be justified as inventive step or novelty?

(e.g.: suppose someone is searching for a well which has water in a dry season and he has a database of wells in that region which has water in the dry season. Projecting that list and taking water from there is logic.

When AI comes, all motor pumps will be connected to database and water sensors will be connected to software. Water sensor equals to one then the respective water pump will start working. It's a pure mathematical program of finding matching or coupling it.)

Dr Anson C J
Assistant Professor
Inter University centre for IPR studies
Cochin University of science and Technology

Issue 3: Inventive Step or Non-Obviousness

1. A condition of patentability is that the invention involves an inventive step or be non-obvious. The standard applied for assessing non-obviousness is whether the invention would be obvious to a person skilled in the relevant art to which the invention belongs.

- (i) In the context of AI inventions, what art does the standard refer to? Should the art be the field of technology of the product or service that emerges as the invention from the AI application?

'Standard' refers to AI must be clear since it provides a differentiation between patentable and Non-patentable AI. Loading from a database and projecting things based on the filter or search engine capacity will not make a 'standard' rather something which is logically building from multiple sources and creates 'quick decisions to action' makes a AI a standard one.

Eg: A car with AI to control entire processes.

- (ii) Should the standard of a person skilled in the art be maintained where the invention is autonomously generated by an AI application or should consideration be given to replacing the person by an algorithm trained with data from a designated field of art?

Considering labor as soul of inventions and brain as the logic of creating things, AI inventions are purely working on the databases and log files. We cannot consider something is working on database or from log files as inventive or non-obviousness since the creativity will become two tier, if we do so.

Eg: If someone have created a database (copyright) and another AI is working on that database; inventive step is only loading of database with searching. This cannot be treated as inventive step. Loading from database and mere representation cannot be justified as inventive step or Non-obviousness.

"we must exclude AI inventions which are projecting information from stored database"

- (iii) What implications will having an AI replacing a person skilled in the art have on the determination of the prior art base?

Man with his abilities to create something will deteriorate since the AI creativity have multi axis of making things. The 'beauty of human creativity' is sometimes its mistake or imperfection in creativity (handicrafts) but the AI will replace imperfection or mistake in creativity with perfection, this can lead to a market where only developed world products are available.

Eg: Crafts from developed world to developing world-

- (iv) Should AI-generated content qualify as prior art?

The context of question is leading to patent -

It should qualify as prior art no doubt about it

From this section one strategy is clear from the west:

"AI and intellectual property is an approach to propertise copyrighted material to patents"

Now, they have database with copyrighted protection in order to utilise this data patents with AI is the best option.

Same time; AI is welcome development provided it can use multiple sources to handle one machine and can take decision and action.