

A legal opinion draft

Issue 1: Inventorship and Ownership

The concept of invention should not be confused with ownership as two different situations. Determines the inventor's early invention, the inventor of the so-called inventor No. 1 . Ownership instead recognizes the right to own such an invention, namely the right to own property. Displays the owner of the patent on behalf of the owner and has the right to restrict others in their use of the intellectual property that is owned by. The inventor doesn't always match the owner and vice versa.

This analysis is intended to mean that the owner has the power to negotiate, have material rights and obligations and to sue in court . The inventor may be the same owner and may be an employee of the institution or organization that owns the invention.

In this case, we're talking about artificial intelligence, which, in my opinion, is as private as patent . The name or general concept B artificial intelligence is a program and assistant to the inventor in order to solve the problem and access to patented

But if artificial intelligence made the invention itself without human intervention ,! Would it be possible for patent offices around the world to accept registration if the inventor is inhuman?! The answer came through the Office of the European Union rejected a request by Mr. Engineer Tyler after I asked to be the "Dabus" is the real inventor in the name because of his invention chosen sectors two EP 18 275 163 and EP 18 275 174 .

My personal answer to this case. :

All relevant intellectual property rights laws may have omitted to mention that the intellectual property owner, whether the inventor or the author, may be human, because of the prevailing belief that he is a human being!! To be able to deal legally . But industrial intelligence and rapid developments in recent years, particularly the patent application Dabus, have changed the concepts. I find that we must be open to our views .

I am therefore proposing that the term "human inventor" be added as a legal article rather than leaving it to judicial interpretations or at the mercy of corporate policy .moreover, the principle of the inventor may be accepted as inhuman, provided that the name of the applicant is added because it is the original.

Proposed text (the applicant must be human, the same inventor, a group of inventors or legal representatives))

Exception (if the applicant is an artificial intelligence non-human Party, the following conditions must be met::

The applicant is a human being who created or legally acted upon the (enhanced) programme

The "moral inventor" programme was fully invented or with a high degree of innovation value .

Issue 2: Patentable Subject Matter and Patentability Guidelines :

Patent laws do not specify what "invention" is. Instead, it provides a non-exhaustive list of why it is not an invention. Although this list does not include methods of artificial intelligence, but it refers to mathematical methods and computer software, which I don't think the subject is eligible for a patent if the claim "this page". "As such" means that the mathematical method or a computer program claimed not devoid of any technical character (i.e., there is no technical solution to technical problems by technical means).

Artistic character, inventions of artistic intelligence

According to the new guidelines (section G-II, 3.3.1), using AI and ML models and computational algorithms for classification, clustering and regression and of dimensions, such as neural networks and algorithms of the genetic machinery vector support and k - means, bending nuclear and analysis of discrimination. These mathematical models and algorithms is in itself of the nature of the mathematical abstract, regardless of whether it can be trained based on training data.

Thus, these laws establish "mathematical methods (abstract idea)" and "computer programs" as a non-patent subject, as stated in the European Union Patent Office (EPO) under paragraph 52 (2) and(3.)

Response to Case 2:

In general according to current laws may be a computer assistant is not qualified as the subject of the patent, but can become a qualified subject of the patent in artificial intelligence if three elements :

Sport method

Auxiliary computer program

The device

After blending these elements above, you must expect the apology saying brand the invention of artificial intelligence possess a special character cannot be developed within the standards conventional in the current laws that were written decades ago .

New legal provisions and provisions must be developed that are somewhat separate from the existing ones .

The terms of the test and the criteria are in need. yes, it needs to be modified.

Add the elements above that are also considered part of the examination standards there is an additional requirement and they may be the basis of obtaining a patent is:

- A technical advantage to solve the problem of invention .
- Look at the invention as a whole if the technical nature is unclear .

Issue 3: Inventive Step or Non-Obviousness

The innovative idea or lack of clarity must have two elements: a new (technical precedent) and a lack of clarity for the relevant skilled person.

The person skilled in the topic of artificial intelligence is engineers, developers, programmers, specialists in the artificial intelligence in all its branches .

And the artificial intelligence is divided into two kinds.:

-Artificial intelligence weak : linked this classification to the difference between programming supervised and controlled so that the assistance that is activated by sound usually have a programmed response.

What they do is feel or" wipe " things similar to what they already know , and categorize them accordingly.

This is a human-like trait , but this is the basis on which similarities end, as weak artificial intelligence is just a simulation. If you ask Siri to run the air conditioner, it is understood key words such as "on" and "air conditioner", so it will respond by running the air conditioner.

In this species, the human inventor has complete control and supervision that is interfered with by the program or in a small amount . According to the technical precedent of this type, it is in terms of product service in which the invention appears.

- Artificial intelligence strong: this type of classification is based on decentralization, by the inventor of the human, any lack of supervision of the whole programme of artificial intelligence or the presence of supervision is limited and the name of this type (the human brain) .

They classify and use clusters and interconnections to process data. This means that there is no answer programmed for your keywords or your requests, as is evident in artificial intelligence weak, and can not predict the outcome of the programming and functionality to a great extent.

For example, when you talk to a human, you can only assume what someone will have to say.

A common example of strong artificial intelligence is found in games. It is more independent than weak artificial intelligence and can learn to adapt to different situations. Another example of strong artificial intelligence is a poker game that can teach itself to adapt to the skills of the opponents of human overcome.

And I'm inclined to put the product area standard on this type, and finally, the two criteria can be used as mentioned earlier .

According to socks (1), the criterion of a skilled human person with competence from engineers, developers, programmers and possible success in the first category above may be maintained . This is because the inventor has full supervision of the invention and its invention has been inferred from sources and technical precedents that have contributed to the development of its invention .

The second classification is intelligence, for example, the program double DABUS and Mr. Taylor that I had created choose the sectors on its own without human intervention so kinds as possible use the person skilled apologetic non-human and use of the software algorithm alternative to the Skilled Person, ordinary(human) the discovery of the present invention, no inventive step or not .

3 may entail some legal effects by the applicant of a patent if you have been rejected because of the report of the Skilled Person non-human and algorithm trainer .

When making objections about rejection due to artistic precedent, how can he discuss the algorithm

program about the reasons for its rejection? The opinion of these effects will be limited because the report by the algorithm, the trainer will be evaluated by the Office of the Patent and its court submission .

4 - possible, the contents are emerging intelligence industrial standard qualification previous art because it's going to be the result of the service that lead to the invention .

Issue 4 disclosure:

All questions will be answered one at a time.

Disclosure is the adequate disclosure of inventions to the public, which leads a skilled person to expose them and thus becomes a public property .

As a result of the disclosure year, would the invention of your modern may not be eligible for patent protection or industrial design, subject to any grace periods are available only in some countries (e.g., Canada and the United States, but not Europe or summer) still allows you through which to obtain a patent valid.

In the subject disclosure in artificial intelligence privacy and more complex being dependent on several varieties of intelligent industrial data and inputs and outputs there is a difference between not education, intelligence, industrial .

The problem with being enough in most intellectual property laws is, what do you mean enough in the field of artificial intelligence? We may need to divulge and divulge a large amount of information so that a skilled person can learn and violate grandma's condition?

The artificial intelligence generated must reveal large amounts of data and information that are essentially the product of the algorithm itself . Therefore that the disclosure in the artificial intelligence more complex than disclosure of other inventions .

Behind me, the effect of disclosure on artificial intelligence in general does not violate grandma's condition .

On the other hand, there is another problem in the subject of the disclosure artificial intelligence, you might accuse them commercially and thus provided a lot of information considered secrets of the business if disclosed could lose the competitive advantage and lead to loss of business purposes and possible with respect to the violation of the requirement to be scalable to the business and become a non-useful invention .

Finally, disclosure is generally not affect the invention relating to intelligent industrial, but needs large amounts of information to air . Excluding disclosure leading to disclosure of trade secrets that may violate disclosure requirements and competitive advantage has become unhelpful .

Issue 6: composition and ownership

Copyright and neighbouring rights are rights created by creativity , and this creativity emanates from a human mind from memories, natural appearances, real stories, feelings and feelings ... and from a human mind.) . The point of creativity may be an endless feeling . Due to the development of societies and the emergence of technology have become used to some of the inventions artificial intelligence as an aid to the author and especially related rights, serious artists, musicians and films .

But the questions are, is it possible that artificial intelligence is an original and has legal protection under copyright protection laws?

1 - artificial intelligence can not be the author of the original must be exclusively by the author human just because gods don't have problems or feelings authentic in itself, and legally you can't think about and discuss their rights and the representative of the human, just think of the chaos .

If we agree in dispute with the opinion that artificial intelligence should be given the right to be an original author?! You must first recognize the legal personality does not, and that means not really thinking and home work. financial obligations subject to this impossible to achieve .

3 - the legal 50 years after death do you program artificial intelligence die? I imagine the debate on this subject must be stopped because copyright in general is human, and it goes from words to an infinite creative idea .

An exception is made if the human author and the author of the right assisted the artificial intelligence by making literary works, for example the Khwarizmi programme to help it develop musical notes .at that time, the human author's right can be recognized. Computer programs are protected by copyright and differ from the protection of industrial intelligence .

Issue 7: Infringement and Exceptions

1 - the copyright and neighbouring rights are the inherent rights derived from the written record only protect a word turned if the idea of creative if you use them without the owner's permission is considered a violation of copyright . And applications of artificial intelligence should be in the author's ear, but excluded from that right. :

- If automatic education uses the principle of equitable use as in the American Copyright Act .
- Educational purposes in schools, universities, research centers, and without commercial benefit .

2 - as we mentioned earlier in question No. (1) if the event of expiration without the owner's permission and for commercial purposes leads to a violation of copyright even if it was without the knowledge of the device . It may result in fines and suspension if such data continue to violate copyright .

3 - this type of business is not considered a violation of copyright as long as not for commercial purposes and is limited within the Fair Use Doctrine and the business of the country .

4 - we must distinguish between the first scenario the machine derived from the artificial intelligence that produces your data and enforce copyright without intending any reached results lead to the creation of the violation. The second scenario was provided with data violating copyright in the first place . . The first scenario considered a violation of copyright, and the second not .

5. the license must be from the right of the copyright owner or his nominee, and therefore is considered a violation of copyright and are not entitled to the license.

Differences of opinion : we must differentiate between patent artificial intelligence or concrete education that rely on different standards of copyright law and one of its elements the industrial application commercially and I used part of the patent violation of the right of publishing and community . The standards I set are to solve the problem.:

A. patent if the data do not violate the rights of the author but the device without deliberately produce a solution to the problem may violate copyright and the community in general is not a violation according to the standard of good faith .

B - if the invention after the use of the data violates the realization of the right of publication and is considered a violation of copyright and software due to use of the invention did not reach results and solve the problem if not used this data . There are several effects which could invalidate the patent being used in bad faith and is not only a violation of copyright . If the amount of data or program the user space does not patent its effect only on the violation of copyright and community.

Issue 8: deep Fake

This case is very important and a number of intellectual property laws have established patent exceptions that are not contrary to public order, morality and national security . Are find some of the software used artificial intelligence such as counterfeiting sounds and the use of technology for deep learning may lead to the misuse of hand patent law, is considered "not useful" if the reason for the use of its bad faith . For example, if the use of technology to improve the picture or watch the movies he uses the element of human participation risk previously and has been replaced by the programme makes it possible to do it safely and don't like that kind of fakery is not considered against the law, a patent is considered useful . For example, if you were to invent a program to create musical notes by The Musical old, like Chopin or Beethoven considered this work the new really violate the copyrights .

Conclusion and proposals

Artificial intelligence is becoming of great importance and develop at a significant pace and we need our lives to normal and the output of commercial, scientific and large, and enters all the scope of our lives and unfortunately the current laws that have been legislation by tens of years in spite of so many changes has significant gaps come this kind of important inventions .

The industrial intelligence patent considered it a special type such as the Bio tech patent. That also does not depend per se ineligible for the reading being the result of the discovery of nature, but the standard converted by the laboratory using a technical patent . Artificial intelligence have developed legal provisions and recognition as a separate type of patent and term of artificial intelligence in the legal provisions and clear to get away from thinking of beauty .

The second suggestion: can be considered in accordance with the provisions of law existing patent artificial intelligence within the category of the industrial model being doesn't need a substantive examination of some of the laws or scans the subject is complex .

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