

12 February 2020

TO WHOM THIS MAY CONCERN:

Greetings!

In response to Ms. Ulrike Till's invitation to participate on the WIPO's public consultation on artificial intelligence (AI) and intellectual property (IP) policy, the following are my answers and queries. I hope I can be of assistance as I find this topic very interesting.

Do you agree with the issues raised in the draft issues paper?

- The issues are good and I truly agree except some which are too broad.

Do you consider there are other areas related to AI that need to be considered in IP policy?

- There are some and I already included in my questions below.

What are the open questions for IP in the AI field for you?

PATENT

ISSUE 1

1. It is basic in law and legal processes that those who have a cause of action are natural persons or juridical/legal entities. What is the classification of an AI?
2. Who can file a patent application for AI, and prosecute the claim in case of opposition and infringement?
3. Is it required by law that the inventor should be a natural person or a juridical/legal entity?
4. Is it required, essential, or necessary in the protection of IP that an AI be named as an inventor?
5. Does it promote transparency if AI should not be named as an inventor? How about the person who made the AI? Should recognition be accorded to her/him considering that the AI would have not been capable of making such an invention without the aid of that human when she/he created the AI?
6. What is the difference between AI and computer programs as in other jurisdictions, the latter are not patentable?

ADDITIONAL ISSUE: INFRINGEMENT

1. In case of infringement, would it be considered as such if the algorithm is copied by another AI without the knowledge of the people using the algorithm or system?

COPYRIGHT

1. Do AI's have a nationality as the Berne Convention is for the protection of copyrights of nationals of the country members? (in relation to previous question no. 1 on patents)

DESIGNS

1. In relation to question no. 1 on Patents, do AI's have a place of domicile as Art. 3 of The Hague Agreement Concerning the International Deposit of Industrial Designs provides that "Nationals of contracting States and persons who, without being nationals of any contracting State, are domiciled or have a real and effective industrial or commercial establishment in the territory of a contracting State may deposit designs at the International Bureau." How do you classify AI based on this for designs solely generated by AI if you want to be named AI's as the author/designer?

ADDITIONAL ISSUE: PURPOSE OF PROTECTION

1. The primary purpose of intellectual property law is "to encourage the creation of a wide variety of intellectual goods for consumers" and as a compensation for this disclosure, the author or inventor will receive a monetary credit or benefit. Granting that WIPO wants to protect the IP's that can be derived from AI's, would this serve that main purpose which is for the benefit of consumers? What is more important, consumers or monetary benefit?
2. Granting that AI's will be considered as sui generis, should we need a separate and another treaty or convention to that effect?
3. If a separate treaty or convention is needed, should we have another set of questions to be given or forum where we could show our concerns?

Truly yours,

Gay Ramos

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