

Definitions

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1. Should the law define the line between AI-generated and AI-assisted outputs, and if so, how? How much human input should be considered material?

(1) Discussion of AI intellectual property in South Korea

- I would like to briefly introduce the current state of AI intellectual property related activities of the Korean government. The Presidential Council on Intellectual Property launched the “Artificial Intelligence (AI) Special Committee on Intellectual Property” (AI Special Committee) in June 2020. The committee consists of 20 members, including private experts and government officials, and is preparing specific policies by intensively discussing issues related to AI intellectual property. Among the policies, there are discussions on the enactment of the “AI Intellectual Property Special Act. Since 2016, the Korean government has been discussing AI-related copyrights and patent rights with the Ministry of Culture, Sports and Tourism and the Korean Intellectual Property Office.

(2) Approach to AI definition

- The working paper contains a description of “narrow AI” in relation to the definition of “Artificial intelligence (AI)”. If the types of AI are largely divided into two, it can be divided into “narrow AI” and “wide AI”. As described in the document, “narrow AI” is techniques and applications programmed to perform individual tasks.
- On the other hand, “wide AI” means the level at which it can actually think and solve a problem. This AI is perceptual and self-aware as the technology of the future.
- When defining AI as a law, I think we should target the current technology and the current situation rather than the future technology or situation. In other words, the law cannot govern problems that do not yet appear in reality. If you include “wide AI” only with predictions for the future, legal safety can be compromised. Therefore, when defining AI, I think we should target the current AI technology rather than approach it separately as “narrow AI” and “wide AI”.

(3) AI-assisted outputs

- “AI-assisted” outputs are generated with material human intervention and/or direction. In Korea, there is an AI company that makes music, whose AI produces a song within a few tens of minutes. However, it has not yet reached the level of popularity with humans. Therefore, the company hires

composers to enter the composition or chords of the latest musical instruments to make it feel like a trend.

- The company's AI makes songs by itself without human intervention, and also allows AI to create songs through human intervention in order to raise it to a level that modern people can enjoy.
- Therefore, in my opinion, a distinction between AI-generated and AI-assisted outputs is necessary, and I think there will be a difference in terms of legal rights. In AI-assisted outputs case, there is human intervention, so it is a natural outcome that certain rights also exist for humans.
- However, depending on the degree of human involvement, there can be various forms of creation. There can be human-led creation, and there are cases where AI is simply used as a tool. When humans intervene in genre selection, musical instrument composition, song length, and chord composition, this can be considered a material intervention.

2. Which further terms be included in an agreed Glossary, if any?

- "Output" on the working paper is defined as "inventions, works, designs and trademarks".
- In the current copyright law or patent law, the term works or inventions is used. These are the individual expressions of "human" creations. In other words, "inventions, works, designs and trademarks" are the targets of current legal protection.
- As an example of "AI generated output", if AI generated works is introduced into the copyright law in the future, the law must distinguish between human works and AI generated works. This distinction is necessary for users. Therefore, the law needs a means to distinguish between human works and AI generated works.
- Therefore, I ask for a new definition of "Mark" for this distinction. In the past a long time ago, the mark system existed in copyright law, but the requirement was removed under the Berne Convention. Now, when discussing AI creation, the introduction of the "mark" system should be considered as a new function.