

Item 6: Quality of patents, including opposition systems

Sharing session on issues related to the patentability of inventions, such as AI software as computer-implemented inventions, the use of AI as an aid to the creation of inventions or inventions generated independently by AI

Thank you, Mr. Chairman,

The Czech delegation would like to share some thoughts on issues related to the patentability of AI-related inventions.

At the outset, I have to mention, that artificial intelligence is one of the current national priorities of the Czech Republic. We are fully aware of the high importance of AI and its use for the future development and competitiveness of national, European and global economies and societies. Therefore, the National AI Strategy was approved in March 2019. This Strategy specifies a framework of priority objectives and tools to support AI development in the academic, public and private sectors, mutual cooperation and international engagement. The National AI Strategy follows and supports the Innovation Strategy of the Czech Republic 2019–2030 and is mainly linked to its part dedicated to Digital Czech Republic, production and services.

The Innovation Strategy was approved by the Government in February 2019. This is the first time that the policy document includes the individual pillar dedicated to the protection of IP. Based on this Strategy, the IP Office of the Czech Republic is currently working on the IP Protection Concept, where proposed measures will be elaborated strategically and, in more details, to properly implement goals of the IP pillar of the Innovation Strategy.

Therefore, we welcome the launch of the debate on artificial intelligence from the IP perspective at the WIPO, either in the Conversations on IP and AI or under this Committee based on the Spanish and French proposal contained in SCP/31/3. It is important that discussions take place not only on technical or ethical aspects but also on legal aspects and, in particular, in relation to patenting.

We understand AI as a part of technological development process.

In the context of patenting of AI, number of key issues have been identified to be more closely explored in the near future. From our point of view, the most difficult issue for the time being is inventorship. Although AI identifies the problem and proposes its solution without human intervention, the inventor should still be a natural person. We are of the view that the issue of inventorship must be seen in a much broader concept and any revision of general concepts of law must be considered with due account of its impact going far beyond patent law.

Recently, the first AI-related patent applications have been filed with the IP Office of the Czech Republic. In all cases, a natural person was identified as the inventor.

Finally, Mr. Chairman, as for the patentability issues related to AI, the Czech Republic aligns itself with the statement made by Germany on behalf of the EU and its member states.

We are looking forward to continuing discussions on this important topic under this agenda item at the SCP.