

A Global Future Issue in Impact on Artificial Intelligence on Intellectual Property Rights

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Abstract

Artificial intelligence (AI) has evolved in the shape of innovation and creation of mind. It is supposed to develop the creation in the daily life in future. Newly created AI technologies has a new experience for making opportunity in arts, creativity, industrial field, and for newly invented invention. There are social economic and ethical implementation that are need to addressed and need policy to adjust accordingly. Likewise, WIPO has a public consultation measure to encourage technological invention. Intellectual property always has a relationship between the technology and their policies to adapt pace with technology and cultural changes. AI has a potential power to develop the IP, issues against the basic question of inventor, author, and owner for the infringement. We came to know that the technological development of AI has attention to the policy makers in order to ensure the development of the Intellectual property regimes, and to the greater extent to mitigate harmful social, economic and ethical implication.

Keywords: Artificial intelligence, WIPO, Intellectual property law

Introduction:

In the ancient period, we have seen uncontrolled development of Artificial Intelligence (AI) and it is something different and incapable of performing tasks like making calculating complex tasks¹. In brief in future development, AI can able to do a task like human beings, and even it can do more than that. But still, there is a lot of obscure in AI and there are many positive and negative feedback regarding AI and it is the main debate nowadays². Even though there is no proper definition for AI but the basic understanding is about the development of machines and software which can carry through functions mainly for Human intelligence.

¹ Calvin Nathan & Leung Jade, 2010. Who owns artificial intelligence? A preliminary analysis of corporate intellectual strategies and why they matter, <https://www.fhi.ox.ac.uk/wp>

² Tripathi swapnil and Ghatak Chandni, 2018 Artificial intelligence and IP Christ University journal, 7(1)83-97, <http://core.ac.uk/download/pdf/236436865.pdf>

There is undoubtedly known that Intellectual property has been and it also not remained unexpected by AI and the convergence of AI and Intellectual Property might have two faces. One part of Intellectual Property can prove as an asset in this field, but another side threatens us³.

The paper will speak about the future impacts of AI and Intellectual property law mainly with the copyright and patent. It also discusses the responsibility for breach of Intellectual Property Rights⁴.

Future Impacts of Artificial Intelligence on Intellectual Property Rights:

Even though AI has progressed to the point that it can perform activities that once required human ability⁵, and as progress in the field of artificial intelligence continues to be made, the potential for its future utility is staggering. Yet, it's important to keep in mind that, despite the obvious advantages, this is a machine built for the sole purpose of carrying out predetermined duties, and there have been cases where it has escaped the programmer's oversight and begun acting autonomously. These actions can be beneficial or harmful, but once an AI system or programmer begins carrying them out on its own, it becomes difficult to stop it.⁶

There has been a lot of progress in the study of artificial intelligence, but many questions remain unanswered; hopefully, these will be answered in the not-too-distant future, and we'll have a clearer idea of how AI can be used in people's daily lives and in the creation of new technologies.

Artificial Intelligences and Patent :

The Convergences of Artificial Intelligence and Patent Laws are too improved nowadays. One part of AI will show assert for Patent Protections patent search, search tools and also make awareness between the inventors at initial stage of the invention, whenever they existing a parallel ideas or not⁷. Patent protection is all about the new invention and innovation of products and AI obtain capable of having Human intelligence willing to do inventions without the help of Human knowledge. On the Subject of Patent and AI, we should elaborately look after certain specific areas.

There is a worldwide conflict using AI machines and Programs. The fact that if any weapon is being created by an AI machine or program, there is ambiguity as to who will acquire the patent for the same is outside the scope of this article, but this argument as to how Artificial Intelligence will be governed under International Humanitarian Law cannot be ignored.

According to Medical and Pharmacy Sector, when it comes to Patents, the pharmaceutical industry or newly developed medicines are of the higher importance. Nowadays there is a situation that

³ Tripathi swapnil and Ghatak Chandni, 2018 Artificial intelligence and IP Christ University journal, 7(1)83-97, <http://core.ac.uk/download/pdf/236436865.pdf>

⁴ Renard Castets Celine, 2020. The intersection between AI & IP: Conflict or Complementarity, IIC- International Review of Intellectual Property and Competition Law, 51, 141-143, <https://link.springer.com/article/10.1007/s40319-020-00908-z>

⁵ Maheshwari Anmol, 2019. Dawn of Artificial Intelligence changing the face of patent regime, amity, International journal of judicial science, 5, 126-135, https://www.researchgate.net/deref/https%3A%2F%2Ffamily.edu%2FUserFiles%2Ffaibs%2F0dba2019%2520AIJS_123-end.pdf

⁶ Shabbir Jahanzaib and Anwer Tarique, 2015., Artificial Intelligence and its Role in Near Future. Journal of Latex Class Files, 14(8), <https://arxiv.org/pdf/1804.01396.pdf>

⁷ Anonymous, Artificial Intelligence Collides with Patent Law, (2018)

if AI created a medicine successfully, then there will rise an issue of granting patent⁸. For Example, In the present Situation where everyone has been looking for the vaccine for COVID-19 Pandemic period and that time if AI invented the new vaccine for the COVID-19 at that time there will be a lot of ambiguity arises between them for granting patent.

Whether it will be given to the AI machine or programme, the programmer who designed that machine, or the person who purchased the vaccine, it might go any of these places. If this problem isn't solved, we won't be able to figure out how to provide the vaccine to other countries or how much it should cost, and none of those things will be possible. As a result, there is a requirement to put an end to problems of this nature as soon as possible.

While comparing with the technologies, In day-to-day life there are newly coming up the invention and new patent laws is all about the innovation and invention of products. As discussed earlier, there are clear view in that point that have the patent in case of newly invention invented by a AI machine or programmer, Whether the patent will be with the machine or with the programmed person.

Artificial Intelligence and Traditional Knowledge :

Traditional knowledge is something different which has been acquired or followed from ancient period. The Knowledge has been followed form one generation to another generation. There can be instant wherein AI can infringe traditional knowledge wherein it takes abstract form the traditional knowledge⁹ that are already accessible. As in the point of view in above case, there is a possibility for the violation of traditional knowledge by the AI machine and program by a part of rich heritage of many group.

Artificial Intelligence and Copyright :

In the term, the copyright is exclusive right to the author either the work should be original work or the work should be literary, artistic, dramatic works, and any software¹⁰. There is convergence of AI and Copyright¹¹ is not new and it has been going form past, but nowadays there is no dispute pertaining to the facts which have copyright over the works idea and expression or the work beyond to the programmer but with the development in AI and we are creating machines with human intelligence with the capable if original work. Machine learning is something new which is falls within the ambit of AI and which data is begin with the machine or program and the AI machine becomes capable of creating original work that in independent of any human begin.

Hence, the growth of AI has also led to many ambiguities as far as copyright is concerned and there is need to clear their rules and policies otherwise there is high point of disputes in this regard.

⁸ Shabbir Jahanzaib and Anwer Tarique, 2015., Artificial Intelligence and its Role in Near Future, Journal of Latex Class Files, 14(8), <https://arxiv.org/pdf/1804.01396.pdf> Guadamuz, 2017. Artificial Intelligence and Copyright, https://www.wipo.int/wipo_magazine/en/2017/05/article_0003.html

⁹ WIPO, Traditional Knowledge, <https://www.wipo.int/tk/en/>

¹⁰ Abbott Ryan, 2019. Artificial Intelligence, Big Data and Intellectual Property: Protecting Computer- Generated Works in the United Kingdom, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3064213

¹¹ Margoni, 2018. Artificial Intelligence, Machine Learning and EU copyright law: Who owns AI?, <https://www.create.ac.uk/artificial-intelligence-machine-learning-and-eu-copyright-law-who-owns-ai/>

Infringement:

When there is a breach of intellectual property rights caused by an AI machine or a programmer, this is one of the most hotly contested issues in the industry. Who is liable? If the machine itself will be accountable, whether the programmer who created the programme will be responsible, or whether someone else will be responsible. Regarding this particular point, there is still some room for interpretation.

If the programmer knows that the machine will likely infringe the IP, then the liability will fall upon the programmer in such a case as there was knowledge or intention of infringing the IP by the programmer. If the AI machine or programme still infringes the IP, then it will be difficult to determine who will be responsible for the infringement because the programmer knew or intended to infringe the IP.

As a result, this is still another facet that is unclear, and there is a gap in the information that has to be filled in order to ascertain whether or not the AI machine or programme is liable. In the event that the infraction is of a nature that results in criminal liability being incurred, it is not clear how the AI will be held individually liable for any crimes committed.

As we have seen in the previous points, the problems with liability are of significant significance and need to be resolved, failing to do so would result in a great deal of contention and misunderstanding.

Conclusion:

There is not even the smallest trace of doubt that Artificial Intelligence can sure to prove to be an asset in the field of intellectual property to a certain extent it can do many inventions that can take any human to do or can help in the development of the nations but then there are so many lacunae and ambiguity regarding using AI and intellectual property but then AI can also prove to be a threat as there are many issues of determining the liability in case of violation.

Artificial Intelligence can do much invention. There is a requirement for policies and rules concerning artificial intelligence, as well as a method to determine who will be liable for what. In addition, there is a need for clarification regarding who will hold the copyright, patent, or any other intellectual property rights associated with the work or invention of AI.

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