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AI AND INTELLECTUAL PROPERTY: BALANCING INNOVATION WITH PROTECTION

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ABSTRACT

The rapid advancement of artificial intelligence technologies has presented the intellectual property system with several difficulties. Giving AI subject status will have an effect on the system that is centered on natural humans. AI inventions have a challenge when it comes to the object system: determining what should be protected by intellectual property and what qualifies as creative. This paper explores the questions brought up by artificial intelligence (AI) generated works, including those involving ownership and authorship in machine-generated music, literature, and art. With particular attention to the patentability of artificial intelligence, this paper seeks to thoroughly examine the complex relationship between intellectual property rights and these fields. The paper will delve into the changing concepts of authorship and ownership, analyse the role of trademarks in a digitally driven world, look at strategies for protecting trade secrets in the hyperconnected environment, and talk about how patent law applies to inventions made by AI systems. It will also address the ethical issues inherent in IP rights within the AI environment. This will allow your insights on the adjustments and processes required to maintain IP protection principles while promoting innovation. After that, the researcher tries to draw attention to the new legal and regulatory concerns surrounding AI and intellectual property and makes suggestions for legislators, regulators, and AI developers. The paper concludes by summarizing the main conclusions and their consequences for AI and IP law, highlighting upcoming difficulties and prospects in this field.

KEYWORDS

Artificial Intelligence, Intellectual Property, Copyright, Patent, Risk Management, Data Protectors.

INTRODUCTION

Artificial Intelligence (AI) is becoming a fundamental component of contemporary innovation, influencing fields ranging from finance to healthcare. Intellectual Property (IP) regulations have become increasingly complex due to the exponential expansion of AI technologies. There are many fascinating and difficult legal and regulatory ramifications to consider because to the complex link between AI and IP.¹ The legal viewpoint on how AI affects intellectual property rights has emerged as a crucial field of research in this regard. AI's capacity to produce novel ideas, artistic creations, support branding, and uphold intellectual property rights (IPRs) has given rise to challenging legal issues pertaining to protection, infringement, and ownership. Fundamental concerns about patents, copyrights, trademarks, and trade secrets must be addressed as AI-generated innovations and content multiply. The framework for examining the complex interaction between AI and IPRs from a legal perspective is established in this introduction, which also discusses the ramifications, difficulties, and potential solutions resulting from this rapidly changing technological environment. Policymakers, lawyers, and companies trying to navigate this quickly changing field will need to grasp AI's effects on intellectual property rights (IPRs) as it continues to influence innovation and creative expression in the future.²

By delving into the realm of AI-generated works and assessing the effects of AI on conventional IP domains like patents, copyrights, and trademarks, this article clarifies the evolving IP landscape in the context of AI. Additionally, it looks into the moral and legal ramifications of innovation powered by AI, shedding light on the difficult issues of authorship, ownership, and societal impact. In order to achieve these objectives, this essay looks at pertinent international treaties, case law, and policy developments to provide thoughtful solutions for striking a balance between the needs of promoting innovation in the AI era and protecting intellectual property. This paper aims to contribute to the current scholarly discourse on intellectual property rights by carrying out an extensive analysis of the unique challenges presented by artificial intelligence (AI)-generated works and an assessment of the wider consequences of AI-driven innovation. By doing this, it seeks to establish a thorough understanding of the developing relationship between AI and IP while also establishing the

¹ Ubaydullayeva Anna; Artificial Intelligence and Intellectual Property: Navigating the Complexities of Cyber Law; Volume: 1 Issue: 4; 2023; 2.

² Mahima Singh; The Impact of Artificial Intelligence on Intellectual Property Rights in the Legal Perspective; ILE LEX Speculum (ILE LS); 1 (1); 2023.

framework for next studies and the formulation of policy.³

RESEARCH METHODOLOGY

To understand the complex relationship between AI and IP, this study uses a primarily qualitative methodology that includes a thorough literature review and legal analysis. Regulatory frameworks and legislative documents from different countries served as the main sources of data. Secondary data were taken from publications, case law, and academic articles that provide information about how AI and IP are changing. The methodology selected aims to offer a comprehensive comprehension of the intricacies associated with artificial intelligence and intellectual property by combining theoretical and practical study.

REVIEW OF LITERATURE

Discuss the impact of AI on patent law and its role in producing new ideas in Goldsmith, J., & Wu, T. (2018).

G. Rassenfosse and colleagues (2020): Examine how artificial intelligence (AI) systems support creativity and problem-solving in fields including technology design and medication research, highlighting AI's function as a partner in innovation as opposed to a lone creator. While some academics, including Abbott, R. (2021), support expanding inventorship to AI systems as a means of promoting creativity, others voice concerns about weakening patent protections that are centred on humans. While some academics, including Abbott, R. (2021), support expanding inventorship to AI systems as a means of promoting creativity, others voice concerns about weakening patent protections that are centred on humans. In 2019, Samuelson, P.: examines the boundaries of copyright law as they relate to non-human creations.

Cohen, J. E. (2021): Addresses the question of whether AI-generated works should be entitled to copyright protection and how much human intervention is required to achieve this. The World Intellectual Property Organization, or WIPO, has been actively interacting with stakeholders to comprehend the effects of AI on intellectual property and to suggest possible changes to the legislation. They recommend gradual changes to the existing IP regimes in their policy papers (e.g., WIPO, 2019) in order to handle the particular difficulties posed by AI. A

³ Chaga Bihari Mahingoda; Intellectual Property Rights in the Era of Artificial Intelligence: Navigating the Challenges and Expanding the Boundaries; 1-2 December; Colombo; 208-209.

review of the literature titled "AI and Intellectual Property (IP): Balancing Innovation with Protection" would examine how IP law and AI technologies interact, highlighting how frameworks for intellectual property are changing quickly to keep up with the technology's advancements and the conflict between encouraging innovation and making sure it has the necessary legal protection.

USE OF ARTIFICIAL INTELLIGENCE IN PLACING PARTICULAR INTELLECTUAL PROPERTY RIGHTS

Patents in Artificial Intelligence: As the primary means of IP protection, patents encourage innovation by giving creators the exclusive right to their inventions. The patent landscape is changing in the AI setting in response to the particular difficulties presented by autonomous machines and algorithm-driven ideas. Determining whether AI-generated inventions are eligible for patents is one of the main issues. There is continuous discussion over whether human intervention is necessary for a creative step and about non-human innovators. Furthermore, the speed at which technology is developing creates questions regarding the validity of patents and the possibility that they will become outdated before they are awarded. In order to overcome these obstacles, patent requirements must be reevaluated, and the changing relationship between inventors and AI systems must be carefully considered.⁴

Copyrights in Artificial Intelligence: Historically, human-authored creative expressions have been the focus of copyright protection. But the distinction between artificial intelligence and human creativity is becoming hazier. AI-generated literature, music, and art raises concerns about authorship and originality. Determining the degree of human interaction necessary for copyright eligibility and the function of the AI system in the creative process present challenges. The methods used by different national and international copyright frameworks to identify works created by artificial intelligence differ. For IP jurisprudence, finding a balance between defending the rights of artists and allowing the free flow of content generated by AI is crucial.⁵

Trademarks and Artificial intelligence: Trademarks are essential for customer recognition and

⁴ H. Ning, "Is It Fair? Is It Competitive? Is It human? Artificial Intelligence and the Extent to which We Can Patent AI-Assisted Inventions," *Journal of Legislation*, vol. 49, no. 2, 2023; pp. 421–448.

⁵ T. Weisenberger and N. Edmunds; "Copyright and AI-generated content: Establishing scope requires more than registration,"; *Lexology*; 15-Aug-2023.

infringement protection since they act as a visual representation of a company's identity. AI-based branding techniques will confront new challenges. With regard to branding techniques, generative architecture and automation have sparked questions about the authenticity and distinctiveness of trademarks made by AI.[10] Furthermore, the sheer amount of content available on the internet and the possibility of consumer confusion highlight the need for creative methods of upholding trademarks and avoiding dilution. Examining AI-specific enforcement methods and re-examining trademark law are essential steps in managing the changing intellectual property (IP) landscape as AI increasingly impacts branding tactics.⁶

CHALLENGES ARISING FROM THE COMBINATION OF ARTIFICIAL INTELLIGENCE AND INTELLECTUAL PROPERTY RIGHTS

In order to safeguard inventive accomplishments and strike a balance between the interests of creators, rights holders, and the general public, the legal framework for intellectual property includes areas like patents, trademarks, copyrights, and trade secrets. However, the current legal framework for intellectual property confronts significant difficulties due to the quick growth of generative artificial intelligence (AI). The core tenets of conventional intellectual property law about invention, originality, and the allocation of rights are seriously challenged by the feature of generative AI, which is autonomous learning and creative capacities. The foundation of the conventional legal system is human creation. But as AI develops the capacity for independent creativity, questions of who owns the copyright to these creations become murkier. The regulations in place do not specifically address the question of whether works produced by non-human entities should be protected by copyright or how to manage scenarios in which AI and humans work together to create art. AI-generated works are difficult to evaluate for originality since they frequently draw on large amounts of pre-existing data and algorithms. There are concerns about the legal relevance of AI-generated works in terms of originality and if these works may be regarded as independent intellectual labour. These problems demand that the legal community adopt new rules and interpretations.⁷

LEGAL RULINGS

There isn't yet a single law or statute that addresses the conflict between AI and IP rights. In order to close the gap left by the lack of regulation, the judiciary has clarified several issues

⁶ P. Famiglietti and C. L. Ellerbach; "Protecting brands in the age of AI," Lexology; 15-Nov-2023.

⁷ Jiahao Ni; Intellectual Property Protection Dilemmas and Legal Response Strategies Under the Perspective of Generative Artificial Intelligence; Volume 28; 2024; 855.

through rulings and is making a substantial contribution to understanding AI's claims regarding IP rights.

As per the 2021 Delhi High Court (HC) verdict in the case of *"M/S V-Guard Industries Ltd v/s The Registrar of Trademarks & Anr,"* it is not appropriate to identify an AI system as the legitimate proprietor of a brand. The court concluded that the "Trade Marks Act" of 1999's provisions only allow individuals to apply for and gain trademark ownership, so disqualifying artificial intelligence systems from the Act's recognition as legal entities.⁸

The Delhi High Court issued a ruling in the case of *"Nippon Steel Corporation v/s UOI,"* holding that computer programs that generate novelties or discoveries are not entitled to patent protection because they could not have been imagined by a person. According to the Delhi High Court's ruling in the case of *"Dr. Alaka Sharma v. UOI,"* an AI-generated portrait is ineligible for trademark registration under the Trademarks Act. The court concluded that the AI-generated image did not satisfy the necessary requirements for originality, which served as the basis for this decision. Since the process of identifying and eliminating unlawful content from social media platforms using AI-driven algorithms does not require the duplication of intellectual material, the Delhi High Court held in the matter of *"My Space Inc. v/s Super Cassettes Industries Ltd"* that the Copyright Act's restrictions are not broken by this kind of use.⁹

AI has been utilized by Indian courts to change precedent-setting decisions. In the matter of *"Justice K.S. Puttaswamy (Retd.) v/s UOI,"* the Indian Supreme Court declared that the right to privacy is a fundamental freedom on par with the rights to life and personal freedom protected by Article 21 of the Indian Constitution. The application of artificial intelligence in data processing and monitoring—two activities that jeopardize people's right to privacy—may be impacted by this decision. Several of India's most important court decisions have been impacted by AI. Recent court decisions have addressed issues like privacy, face recognition, autonomous driving liability, and bias and discrimination resulting from artificial intelligence. Since AI has the potential to have negative effects, India's legal system is trying to establish safeguards to deal with the legal problems resulting from it.

⁸ <https://niti.gov.in/national-strategy-artificial-intelligence> [Accessed 8th September, 2024].

⁹ Dr. Sushma Singh, Ms. Anushka Singh; Intellectual Property Rights and Artificial Intelligence: Contemporary Convergence and Probable Challenges; 2023; 1281-1283.

CONCLUSION

In summary, this study emphasizes how important it is to strike a balance between protecting intellectual property rights and promoting innovation in the rapidly developing field of artificial intelligence. This discussion offers a critical chance to mould intellectual property laws based on moral principles and public safety concerns. The public interest will be best served by flexible policies that prioritize responsible innovation, multi-stakeholder participation, and proportionality of protections. AI systems' intellectual property rights shouldn't be disregarded in the near future just because they don't have legal or human persons. It would be against people's rights to deny them the things that any law-abiding citizen of any country can do. Incorporating all types of scientific findings would be necessary to achieve inclusive development in the future. This suggests that the development of this phenomenon depends on the incorporation of robots, machines, and AI systems. Humanity has actively chosen to move toward a future in which artificial intelligence rules civilization. The time is ripe for ushering in a new era marked by a worldwide Renaissance. Ensuring proper supervision requires the creation of a regulatory framework for managing AIs. This framework ought to specify the general moral guidelines that must be adhered to when building and developing AI systems, as well as the rights and obligations that AI developers and creators have.¹⁰

It is hoped that suitable legal and monetary rules would be adopted soon, as there are now no applicable legal constraints. These recommendations will ensure that the necessary safety precautions are taken while also advancing AI. Best practices and standardization should allow for customisation in a variety of scenarios while fostering accountability, safety, and openness. As technology develop in unanticipated ways, it will be essential to continuously reevaluate the guiding concepts and regulations. In the end, the opportunities and dangers presented by developing generative AI call for a logical, fact-based approach to intellectual property laws that both encourages innovation and guarantees fair access to and distribution of benefits.

¹⁰ Dr. Sushma Singh, Ms. Anushka Singh; Intellectual Property Rights and Artificial Intelligence: Contemporary Convergence and Probable Challenges; 2023; 1283.