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# CHALLENGES AND THE INTERCONNECTION OF THE INTELLECTUAL PROPERTY RIGHTS WITH ARTIFICIAL INTELLIGENCE

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## ABSTRACT

The title of the project for the purpose of the research study is “Challenges and the interconnection of the Intellectual Property rights with Artificial Intelligence”. The research paper tends to address the issue of the Ip rights in the growing trend of the Artificial Intelligence regime. The research paper intends to do a selective analysis of the various ip rights like patent, trademark, copyright with the artificial Intelligence .The project also tends to a do case based analysis in order to find out the approach of the judiciary . A different issue that is considered with regards to simulated intelligence and IPRs is the reasonable trouble of the patentability of computer based intelligence frameworks with regards to the topic qualification standard. In many locales, calculations without anyone else qualify as an ambiguous framework lacking specialized character, and consequently can't be ensured under the IP laws, except if it has been given a specialized character as compelling programming. Nonetheless, because of the adjustments in innovation and rising applications, IP controllers in various nations have additionally thought of rules in regards to assessment, and activities to support patent assurance in these territories of innovation. They give lucidity over the qualification of calculations that can go under the domain of patentability, for them to then be tried on benefits like curiosity and enablement.

Another significant discussion is on issues identified with proprietorship/client/origin privileges of substance, and creations that are self-governingly produced by man-made intelligence frameworks. At the current phase of advancement, however, instances of substance created by totally self-sufficient artificial intelligence frameworks are rare; we are still a serious route from 'autonomous acting' PCs being more omnipresent in the public eye. In any case, this offers ascend to a discussion about the patentability/copyrightability of the innovations and substance that is made utilizing artificial intelligence frameworks as a device.

**KEYWORDS:-** patent, copyright, artificial intelligence, innovation, proprietorship.

## **1.INTRODUCTION:**

The transformation of the local area abundance from the actual belonging to nonphysical belonging like licenses and brand names has outlined worldwide rivalry and high interest in innovative work. Man-made reasoning assumes a significant part in the Licensed innovation area. Computerized reasoning is utilized in different field of IPR like hunt and investigation, drafting and patent security, for example, simulated intelligence based results of TurboPatent's for example RoboReview and RapidResponse; which perform patent filings and patent survey measure. In any case, the advancement of Man-made reasoning frameworks as a methods for development steer inner conflict for innovators across the globe since patent creation gives work to many. Man-made reasoning is a production of human brain executed utilizing numerical calculations and figurings to settle on choices utilizing continuous information, for example, Roboreview is a mixture of calculations intended to consequently audit patent applications and altered cases for curiosity, patentability, guarantee support, and so forth Consequently, a development made by Computerized reasoning is a gathering of calculations and equations with no rationale of tackling an issue; they are intended to impersonate the human idea which prompts creation.

## **2.AI SYSTEMS AND INDIAN PATENT LAW:-**

In the Indian Patent framework as per the arrangements of Segment 3(k) of the Licenses Act 1970, PC programs, numerical formulae, and business techniques are considered as non-patentable innovations. Consequently, licenses involve meeting the product patent qualification test melded with equipment perspectives, working technique to be conceded under Indian patent law. To mount simulated intelligence advancements in India wide spotlight ought to be laid on reconditioning patent law asserting man-made intelligence developments since India has a gigantic ascent in patent filings because of blooming of start-up's in movement of Computerized reasoning frameworks .<sup>1</sup>

Licenses are the elite rights conceded over creations item or interaction, that gives another method of accomplishing something and which isn't self-evident and one of a kind in nature. The connection among artificial intelligence and patent emerges from the way that developments today can be independently created by simulated intelligence. It should be remembered that licenses innovation that have to do with computer based intelligence have been asserted by the people progressively and is presently turning into an issue of ethical quality whether it ought to be kept on permitting that to occur, should people guarantee these creations and have the option to abuse them. Thus, computerassisted developments and their treatment under patent laws has been the subject of protracted conversations in numerous nations around the globe.

The UK Court looks to follow choices of the European Patent Office's Sheets of Allure. The EPO has of late remembered explicit direction for man-made intelligence to its Rules. As in other key wards (for example China, Japan, Korea and the USA), calculations generally face amazing challenges to patentability. The EPO embraces the technique that man-made intelligence computational models and calculations are dodged from patentability, except if they add up to a PC program having a "further specialized impact" going past the "ordinary" actual connections between the program and the PC on which it is run. For the present, both the EPO and the UK Licensed innovation Office, practically speaking, require human innovators to be named as a feature of the patent application measure, yet this need isn't maintained up by punishments for counterfeit or bogus announcements (not at all like in the US framework), and there is no commitment to reveal the job of any imaginative simulated intelligence occupied with the making of a development.

The US Patent and Brand name Office (USPTO) has concluded that artificial intelligence structures can't be credited as a maker or creator in a patent. Among the USPTO's disputes is the way that US patent law more than once insinuates pioneers using humanlike terms, for instance, "whoever" and pronouns like "himself " and "herself. The gathering behind the applications had fought that the law's references to a maker as an "individual" could be applied to a machine; anyway the USPTO said this interpretation was unnecessarily wide. "Under current law, just regular people might be named as a creator in a patent application".

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<sup>1</sup> Available at <https://cms.law/en/int/publication/artificial-intelligence-questions-of-ownership> accessed on 23.3.2021, at 7:00P.M

Many have contended that licenses give motivating forces to advancement, venture and creation and that granting patent rights to programming can energize interest in software-related explore and additionally advance development. Some have additionally recommended that licenses ought not be granted to any product.<sup>2</sup>

### **3.AI AND COPYRIGHT**

Copyright is a select right conceded to makers for their innovative works like scholarly work, imaginative work and so forth. The contention which emerges among artificial intelligence and copyright is that if the innovative work delivered by the machines are not brought under the ambit of copyright or are not permitted to accomplish copyright, the copyright framework will be seen as a framework which supports human imagination over machine innovativeness while if copyright security will be concurred to the artificial intelligence produced machines, it will in general be viewed as a framework which spots equivalent worth on human inventiveness and machine innovativeness. Correspondingly, it is seen that since 1970s PC created craftsmanships have pulled in a great deal of consideration. By far most of these PC delivered fine arts are relied vivaciously upon the software engineer who gives the commitment to creation of the work. Regardless, with imaginative movement, computer based intelligence has created to the extent that it is good for comprehension and making yields with no human impedance. Prior responsibility for PC produced work was not in picture since PC was only an apparatus to help the innovative cycle however with the most recent artificial intelligence frameworks, machines or PCs are not simply an instrument of help rather are equipped for taking numerous choices engaged with inventive interaction without human mediation. This issue is being managed in the vast majority of the nations by ascribing the origin or responsibility for works to the maker of such machines. Laws of the vast majority of the nations give copyright to work made simply by a person.

Copyright is a basic piece of licensed innovation rights. It is a legitimate right conceded to the maker of a unique work, permitting him/her select rights for its utilization and dispersion. The reasoning and support behind this was the thought that the creator is an originator converged with Locke's financial hypothesis of possessive individualism.<sup>11</sup> For the most part, for an award of a copyright, satisfaction of two fundamental highlights is required. First and foremost, the work ought to be in a substantial structure, and also, it ought to be unique. Improving efficiency and reducing risk.<sup>3</sup>

### **4.AI AND TRADEMARK**

A brand name is a sign fit for recognizing the merchandise or administrations of one undertaking from those of different endeavors. Brand names are secured by licensed innovation rights. Till date, there is just a single legitimate case with respect to the collaboration among man-made intelligence and brand names. On account of Restorative Fighters and Lavish v Amazon.co.uk and Amazon EU ([2014] EWHC 181 (Ch), the court has condemned the Amazon for encroaching upon the Rich brand names. Amazon brought the catchphrase Rich from the Google through offering measure. Furthermore, when "Rich" is looked on the Google web index, Google diverts the connection of the Amazon site dependent on the catchphrase. Regardless of whether the Lavish word is looked on the Amazon's site, the computer based intelligence of the site is recommending the comparable items rather the Rich items. In spite of the fact that there is no offer of Lavish items on the site however simulated intelligence item framework is proposing the comparative items dependent on the watchword search on the site which is an obvious sign of encroachment. Also, court expected that Amazon is to take responsibility for the encroachment. Such prosecutions will undoubtedly rise once simulated intelligence turns into a shopper.

<sup>2</sup> Available at <https://www.lexology.com/library/detail.aspx?g=d5acda9a-7e17-4a0e-b9a1-34bd4a8b4248> accessed on 23.3.2021, at 7:00P.M

<sup>3</sup> Available at J.P.Mishra, An Introduction to Intellectual Property Rights, Second Edition, Central Law Publications, 2009, accessed on 23.3.2021, at 7:00P.M

Man-made intelligence is probably going to present colossal number of difficulties however the establishment of brand name is solid and can't be shake effectively as long as there exists a passionate associate among brands and the shoppers.<sup>4</sup>

## 5.CASE LAWS :-

### A.CASES ON AI AND COPYRIGHT

The US court in Feist Distributions v. Rustic Telephone utility Organization [499 U.S. 340 1991] held that the intellectual property law just ensures the products of scholarly work that are established in the imaginative forces of the psyche.

In an another case under the watchful eye of US circuit court, Naruto v Slater No. 16-15469 [9th Cir. 2018], the 10th Circuit avowed the region court's excusal of copyright encroachment claims brought by a monkey over selfies he took on a natural life photographic artist's unattended camera. Naruto, a peaked macaque, took a few photographs of himself on the camera, and the photographic artist and Untamed life Characters consequently distributed the Monkey Selfies in a book. PETA recorded suit as next companion to Naruto, claiming copyright encroachment. Naruto was the creator and proprietor of the photos and had endured concrete and particularized financial damages however the board held that Naruto needed legal standing on the grounds that the Copyright Act didn't explicitly approve creatures to document copyright encroachment suits.

In US Court in Bleistein v. Donaldson Lithographing [188 U.S. 239], depicted the uniqueness of human character and indicated something similar to be an essential to allow a copyright though in Alfred Chime and Co. v. Catalda Expressive arts [191 F. 2d 99 (2d Cir. 1951), the Court brought down the norm for creativity and held that it should not be duplicated from some other imaginative work of comparative character with the goal for it to be unique. This judgment came out to be good for guaranteeing copyrights for computer based intelligence produced works, since such works were clearly not duplicated, yet inferred through programming and calculations. Notwithstanding, the absence of a complete point of view on these issue keeps on influencing the imminent right holders.

In an Australian case, Acohs Pty Ltd v Ucorp Pty Ltd [2012] FCAFC 16], court proclaimed that a work created with the mediation of a PC couldn't be secured by copyright since it was not delivered by a human. Likewise in Europe the Courtroom of the European Association (CJEU) has additionally proclaimed on different events, especially in its milestone Infopaq choice (C-5/08 Infopaq Worldwide A/S v Danske Dagbaldes Forening), that copyright just applies to unique works, and that innovation should mirror the "creator's own scholarly creation." This is typically perceived as implying that a unique work should mirror the creator's character, which obviously implies that a human creator is vital for a copyright work to exist.

In the English instance of Nova Creations v Mazooma Games[2007] EWCA Civ 219, the Court of Allure needed to settle on the initiation of a PC game, and announced that a player's information "isn't imaginative in nature and he has contributed no ability or work of an imaginative kind". So considering client activity one case at a time case could be one potential answer for the issue. In this way, UK has taken a commonsense position, it has extended its intellectual property laws to perceive PC produced works and they have appointed origin of PC produced works to the people by whom the game plan important for the production of work was attempted.<sup>5</sup>

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<sup>4</sup> Available at <https://indiaai.gov.in/ai-standards/ai-and-intellectual-property-rights> accessed on 23.3.2021, at 7:00P.M

<sup>5</sup> 1. V.K. Ahuja, Law Relating to Intellectual Property Rights, First Edition, LexisNexis Butterworths Wadhwa, 2012.

## **B. CASES ON AI AND PATENT**

The Supreme Court of US in *Jewel v. Diehr*, 450 U.S. 175 (1981) held that patent cases that are coordinated to extract thoughts (for example a numerical calculation), characteristic wonders or laws of nature are not qualified for patent security, the court additionally clarified that "they are the essential devices of logical and mechanical work," and that conceding syndications on those apparatuses through patent rights may hinder development. The High Court, in *Alice Partnership Pty. Ltd. v. CLS Bank Worldwide* [134 S. Ct. 2347], as of late made it more trying for candidates to get licenses on programming or "PC executed creations" The cooperation between Patent laws and simulated intelligence is expanding in the present mechanical world. As represented in the past piece of this paper, artificial intelligence has been utilized widely to work on the execution of fundamental capacities and essentially decrease human exertion. At a snappy look, simulated intelligence empowered frameworks appear to be working in a style similar to straightforward adding machines and such contraptions. Notwithstanding, it capacities in a considerably more muddled way. Today, man-made intelligence empowered frameworks are prepared to perform errands dependent on their own key learnings, making the chance of them imagining something. While this is a tremendous advancement from a mechanical viewpoint, it suggests new testing conversation starters from a legitimate outlook, i.e., from the point of view of patent law. This piece of the paper will initially analyze the idea of licenses, moving onto its connection with man-made intelligence frameworks, and at last clarifying the issues presented by this collaboration.<sup>6</sup>

## **C. PAST, PRESENT, AND FUTURE OF ARTIFICIAL INTELLIGENCE**

Man-made brainpower (man-made intelligence) is the blend of science and designing to make astute machines that can respond and take care of issues like people. Long stretches of fast and complex advancement have permitted computer based intelligence to fill essentially in its ability and capacity to copy human capacities to the point that the primary center has moved from learning human capacities to improving practical effectiveness. In 1996, *Dark Blue*, a chess-playing artificial intelligence PC created by IBM, beat the prevailing best on the planet—a human—in a round of chess. After twenty years, *AlphaGo*, created by *Letter set Inc.*, crushed the world's best player of the prepackaged game *Go*.

With such astounding development showing up instantly, simulated intelligence has raised public concerns in regards to the eccentric insight and abilities of machines learning at progressively outstanding rates, and what protected innovation (IP) suggestions may emerge sooner rather than later.

## **D. LEGISLATION**

Because of their dynamic nature and humanity's proceeded with new manifestations, it is entirely expected to see IP laws changed and refreshed every once in a while. Authoritative changes to existing IP laws may be needed to set up guidelines for IP works made exclusively by man-made intelligence to choose which manifestations ought to dwell in the public area, and which gatherings ought to be entitled and perceived as the proprietors of IP coming about because of the creation by simulated intelligence. A proposed venture toward overseeing man-made intelligence is for all nations to perceive similar limits and basics of computer based intelligence manifestations and develop enactment covering every country's administrative structure and cures.

## **E. REMARKABLE ISSUES FOR REQUIREMENT AND ENCROACHMENT**

One difficulty while carrying out PC based knowledge licenses is that it is routinely not acceptable how a man-made insight system truly works, so it very well may be difficult to develop and show infringement. While a couple of columnists have proposed likely plans (for instance exchanged loads of affirmation), none has gained immense traction.

Another sound conversation exists around the genuineness of using pariah copyright-tied down substance to plan PC based insight structures, with changing systems already emerging in different countries.

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<sup>6</sup> Available at <https://www.jdsupra.com/legalnews/artificial-intelligence-and-19187/> accessed on 23.3.2021, at 7:00P.M

## **F. IP INSURANCE FOR SIMULATED INTELLIGENCE FRAMEWORKS**

"Man-made cognizance" is generally used to suggest development that does tasks that consistently need human knowledge. Here, we base on computer based intelligence, a subset of man-made knowledge that enables laptops to acquire from data without being unequivocally altered. A computer based intelligence structure routinely includes a computational model reliant on an estimation (or count stack) with a dataset to set it up. Licenses give partnership affirmation to developments. The essential limit to securing man-made intelligence, and other man-made insight systems, is that, in numerous countries, including the U.K. additionally, US, dynamic mathematical procedures are not patentable.

While the position contrasts starting with one country then onto the next, licenses are conventionally open just if the improvement is a utilization of the mathematical procedure with a particular effect outside the PC (for instance controlling antilock easing back down or restoring curved mechanized pictures), similarly as being new, non-undeniable and accommodating. Despite these snags, a 2019 World Authorized advancement Office report communicates that the amounts of PC based insight patent applications have been creating by a typical of 28% year-on-year since 2012. The item code fundamental the computerized reasoning system may be guaranteed by insightful copyright, in spite of the way that its helpfulness and covered up counts may not (as copyright gets the affirmation of musings and not just the contemplations).<sup>7</sup>

Planning datasets may in like manner be gotten by conceptual copyright if they are satisfactorily imaginative and, in the European Affiliation, possibly moreover by the diverse "sui generis" data base right in case they have been needy upon satisfactory endeavor. All parts of a man-made brainpower system (code, figurings, data, etc) may contain restrictive benefits if they are kept hidden.

For example, the U.K. at present permits "text and data assessment for non-business research". The new EU Copyright Request (to be executed in EU Part States before June 2021) follows this strategy and besides orders a more broad exclusion for business data mining, anyway exactly where the significant rightsholder has not stopped.

Then again, following the Google Books case, the more versatile U.S. assurance to copyright infringement of "sensible use" is most likely going to permit use of untouchable substance to get ready PC based insight systems, given such use is enough uncommon and doesn't battle with the main works.

These differentiations will continue causing cerebral agonies for overall associations and legitimate counsels something very similar, similarly as perhaps affecting the zone of the accompanying surge of reenacted knowledge movements.

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<sup>7</sup> Available at <https://www.analyticsinsight.net/artificial-intelligences-role-in-the-field-of-intellectual-property/> accessed on 23.3.2021, at 7:00P.M

## **G. CREATION AND PROPRIETORSHIP DIFFICULTIES**

Since artificial intelligence can deliver verse and work of art, create 3D printing, and create developments with no human contribution, worries about possession have been raised. Since artificial intelligence can make works that would somehow or another be perceived as IP made by a human, individuals have begun to find out if computer based intelligence merits a unique status in IP. As per that, would the product developer(s) of an artificial intelligence be qualified for the work made by that simulated intelligence? Furthermore, if the client of the artificial intelligence persistently inputs new wellsprings of data for the simulated intelligence to get the hang of, bringing about recently made IP, would the client be qualified for own the made IP? <sup>8</sup>

Right now, to be secured under intellectual property law, work should begin from a creator's own adequate abilities, work, and judgment. This law represents an extraordinary test when attempting to decide if simulated intelligence has utilized these variables adequately to create such work. Moreover, for a patent to be without a doubt, an innovation should incorporate curiosity, imaginative advances, and pertinence. The advancing idea of simulated intelligence, worked to improve on human exertion, offers new answers for existing issues that could therefore bring about qualifying as patentable innovations.

While the contention on the acknowledgment of artificial intelligence manifestations isn't yet settled, the point has persistently raised other considerable issues. For instance, regardless of whether simulated intelligence had the option to get IP acknowledgment, who might have the option to market the elite rights? Likewise, if possession is given to the simulated intelligence engineer as a compensation for exertion and venture, for what reason would the designer—included uniquely during the info stage—be remunerated for the last yield stage also? At last, if the last alternative is for works delivered by artificial intelligence to fall into the public space, for what reason would engineers set forth the psychological and monetary endeavors to create man-made intelligence with power?

## **H. CONCLUSION**

To exemplify, it very well may be reasoned that Man-made brainpower frameworks will outline the fate of developments. Man-made reasoning absolutely has the size to improve the extent of development to outstanding levels. As presented by the Niti Aayog conversation paper 2018: medical services, agribusiness, training, foundation, and transportation will be massively profited by simulated intelligence frameworks, and we have as of late noticed the Man-made consciousness frameworks are utilized as an instrument in Covid pandemic. Man-made brainpower frameworks are utilized for help with research, drug disclosure, cordiality and following of patients, for instance, the Public authority of India has dispatched MyGov Crown Helpdesk chatbot that chips away at Computerized reasoning to give exact insights concerning the Covid to individuals. The early stage estimation of computer based intelligence to computerize, advance, improve and secure will empower eccentric changes to human edification. The hopeful recuperation from the pandemic is to use artificial intelligence advances and applications to enhance. Man-made consciousness frameworks suggest to be outfitted in India to push the patent filings overhead. To meet the zenith of man-made intelligence advancements and get licenses identified with computer based intelligence one should remember the patentability rules under segment 3 (k) of the Indian Patent Demonstration and visualize a methodology for patent drafting to yield the insurances in Man-made brainpower frameworks creations. To encourage quicker tasks in patent office Computerized reasoning should be presented for application documenting, electronic information handling, screening, characterization, distribution, assessment, resistance, hearings, and rebuilding of patent. Since the need of great importance is to develop and achieve statures.

<sup>8</sup> Available at <https://www.ijlmh.com/wp-content/uploads/2019/03/Artificial-Intelligence-And-Intellectual-Property-Laws-In-India-Is-It-Time-For-Renaissance.pdf> accessed on 23.3.2021, at 7:00P.M

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