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Request for Comments on Intellectual Property Protection for Artificial Intelligence Innovation

Comment On: PTO-C-2019-0038-0001

Intellectual Property Protection for Artificial Intelligence Innovation

Document: PTO-C-2019-0038-DRAFT-0008

Comment on FR Doc # 2019-23638

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Organization: Council Exchange Board of Trade

General Comment

The Council Exchange considers the actions of the USPTO with regards to intellectual property (IP) laws and policy as a lever to incentivize economic performance. Furthermore human creativity, vision and interaction is the canonical basis point for IP property ownership and the core basis point for federal protection. Artificial Intelligence is not new, however, what is new is the convergence between technology capacity, new methods of invention, the diffusion of innovation and the empirical spectrum of change found in AI including defining features like data, models, security and infrastructure.

Copyrighted work, which is designed to protect original creativity is framed by the human experience of a prior mental construct. A human act that is incentivized by some kind of perceived payoff. Human decision makers are creating artificial intelligence tools and applications and industry driven innovation is best sourced as both original and available for copyright exclusively by humans, or companies to which a human assigns a copyrighted work.

The Supreme Court (*Burrow-Giles Lithographic Co. v. Sarony*, 111 U.S. 53 (1884)) decided to extend copyright protection to photography, based on the precept that as long as the original form of his/her own mental conception that it did not matter that the resulting image was not a direct result of his/her own work (work was produced by a machine). The divergence between machine intelligence and human ideation continues to be a heuristic hypotheses limited by the advancement in technologies. AI copyright law policies must continue to be framed by ideas in the mind of the author and justified when the method of invention is known and results can be connected to a visible expression.

Computer generated works potentially could have multiple authors. Precedent illuminates that the author is best described by the individual who has done the "lion's share" of the work. AI brings to bear patterns sourced from

data and results could be considered not a component of human preconception. As policies are being considered it is important to align the notion of authorship with the advancement in human understanding of predictive analytics.

Finally the concept of "lion share" and opportunities for AI in governing structures could allow for a "body of authors" to give prior contemplation of predictable algorithms that provide "normative rails", particularly in social networking frameworks, that allow intelligent computer generated output as a visual expression and as an internal control should be able to qualify for a copyright and ownership assigned to a governing body or a unifying entity that represents the governing body.

Attachments

TheNatureofAI.USPO.PublicComment.Final



DECEMBER 2019

The Nature of AI

Understanding the converging impact on prevailing ideas of lion's share, risk and ownership for federal Artificial Intelligence policies that work to canonize the relationship between human incentives and property rights.

Submitted By

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U.S. DEPARTMENT OF COMMERCE - United States Patent and Trademark Office

[Docket No. PTO-C-2019-0038]

Request for Comments on Intellectual Property Protection for
Artificial Intelligence Innovation

Public Comment Summary

<http://bit.ly/aiuspto>
Click on link above to view docket

The United States Patent and Trademark Office (“USPTO”) is gathering information about the impact of artificial intelligence (“AI”) technologies on intellectual property law and policy. To assist in gathering this information, on August 27, 2019, the USPTO published questions related to the impact of artificial intelligence inventions on patent law and policy and asked the public for written comments. Those questions cover a variety of topics, including whether revisions to intellectual property protection are needed. The present notice extends this inquiry to copyright, trademark, and other intellectual property rights impacted by AI.

Request for Comments on Intellectual Property Protection for Artificial Intelligence Innovation

[Docket No. PTO-C-2019-0038]

Selected issue for public comment: The USPTO seeks comments on the copyright, trademark, and other intellectual property rights issues that may be impacted by AI. The question enumerated below was offered by the USPTO as one of thirteen used as a preliminary guide to aid the USPTO in collecting relevant information to evaluate whether further guidance is needed and to assist in the development of any such guidance with respect to intellectual property policy and its relationship with AI. (click to view docket - <http://bit.ly/aiuspto>)

Question 5

Should an entity or entities other than a natural person, or company to which a natural person assigns a copyrighted work, be able to own the copyright on the AI work?

The Nature of AI

Question 5 - Industry Public Comment

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Council Exchange Board of Trade

Public Comment Submitted by the Looking Forward Research & Development Directorate

- Serves the 65,000 Minority Technology Companies
- \$100 Billion of combined annual sales
- Over 500,000 employees
- Design-Based, Scale-Up Applied Research
- Website: www.council.exchange

Public Comment

Request for Comments on Intellectual Property Protection for Artificial Intelligence Innovation Question 5

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