

**From:** [Samuel Adams](#)  
**To:** [aipartnership](#)  
**Subject:** EPO Guidelines regarding AI  
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Dear Sirs,

Please consider the following excerpts from the 2018 Guidelines for Examination in the EPO:

"Artificial intelligence and machine learning are based on computational models and algorithms [which] are per se of an abstract mathematical nature, irrespective of whether they can be 'trained' based on training data" ([https://www.epo.org/law-practice/legal-texts/html/guidelines2018/e/g\\_ii\\_3\\_3\\_1.htm](https://www.epo.org/law-practice/legal-texts/html/guidelines2018/e/g_ii_3_3_1.htm)).

This section of the Guidelines goes on to indicate that the criteria used to assess the technical character of mathematical methods is also applied to subject matter directed to artificial intelligence and machine learning. Relevant considerations are specified as follows:

"If the mathematical method does not serve a technical purpose and the claimed technical implementation does not go beyond a generic technical implementation, the mathematical method does not contribute to the technical character of the invention. In such a case, it is not sufficient that the mathematical method is algorithmically more efficient than prior-art mathematical methods" ([https://www.epo.org/law-practice/legal-texts/html/guidelines2018/e/g\\_ii\\_3\\_3.htm](https://www.epo.org/law-practice/legal-texts/html/guidelines2018/e/g_ii_3_3.htm)).

Accordingly, for subject matter directed to machine learning that is not tailored to specific hardware, the applicant typically bears the burden of convincing the EPO Examiner that the subject matter is directed to a technical purpose. If the Examiner cannot be convinced, then it is unlikely to be possible to reach an allowable claim.

Kind regards,  
Sam Adams  
European Patent Attorney