

# PUBLIC SUBMISSION

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Request for Comments on Patenting Artificial Intelligence Inventions

**Comment On:** PTO-C-2019-0029-0001

Request for Comments on Patenting Artificial Intelligence Inventions

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## Submitter Information

**Name:** david prokop

**Address:**

20407 NE 35th St.

Sammamish, WA, 98074

**Email:** david@trumedicines.com

**Phone:** 4258365388

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## General Comment

Q1 - What are elements of an AI invention?

A1- There are many algorithms which mix and match the basic 'building blocks' of Ai or machine learning. The novel elements of Ai are the solutions to new problems that can ONLY be solved with Ai. A novel invention is not: faster, cheaper, less data needed to find a solution etc. of a KNOWN problem, these are not novel, just the normal improvements on an invention, the normal course of engineering optimization.

Q2. What are the different ways that a natural person can contribute to conception of an AI invention and be eligible to be a named inventor?

A2- A natural person can discover the problem in a novel way to allow Ai to solve the new problem. A person can structure a problem such that it can be solved by computer software.

Q3-4. Can entities other than a natural person contributed to an invention?

A3-4. Only nature persons can be named as inventors.

Q5. Are there any patent eligibility considerations unique to AI inventions?

A5. Ai is just a machine and should be considered this way, nothing unique about it.

Q6- Does there need to be a change in the level of patent detail?

A6- A high level discussion of the method of the algorithm should be sufficient. Ai will depend on TRADE SECRETS to maintain an inventors IP rights.

Q7. AI inventions best comply with the enablement requirement

A7- The Ai must work at least once, this is reduced to practise. no new standards needed

Q8-Should assessment of the level of ordinary skill in the art reflect the capability possessed by AI?

A8- Invention is an inspired, creative process, so ordinary skill is a difficult attribute to measure, i do not think the reviewer of a patent needs to have an in depth knowledge of Ai science, to appreciate the creative novelty of an invention. They need to understand the invention as much as one can understand a concept such as abstract art.

Q9-Are there any prior art considerations unique to AI inventions?

A9- Yes, i think there are just a few pioneering inventions in Ai, and 95% of future Ai will be based on these few pioneering inventions. This is why i think Ai Patents should have very narrow scope to solve a unique problem. I fee most inventions are small steps forward built on just a few giant leaps of creative thinkers.

Q10-any new forms of intellectual property protections that are needed

A10- No

Q11. other issues?

A11- These has been a history of IP theft and using the court system to bankrupt a sole inventor by a large corporation. An attempt should be made to reduce the cost of litigation for sole inventors to assert their IP rights. The very high cost to defend a patent favours the large corporations which have the money to dominate the patent rights legal system. its quote easy to 'drag a patent' case out for many years and 'bleed' the inventor for money to defend his patent rights.

There should be a determined effort with Ai to 'strip down' the legal 'circus' to:

- a) a 10 page brief one submitted by patent holder and one brief submitted by defendant,
- b) the case should be adjudicated by a panel of 5 judges,
- c) the case must be resolved within 1 year.(no extensions).

Q12- Are there any relevant policies or practices from other major patent agencies that may help inform USPTO's policies

A12- I think the patent office should not be able to cancel a patent once it has been issued. Like the legal system only a 'higher court' can reverse a decision. The patent office should use the same process to 'over-turn' a patent, a patent in dispute should be adjudicated by a "supreme court' of nonpartisan patent judges outside the influence of the patent office.

ie not antoher PTAB.

Sincerely,

David Prokop (multiple patent holder)

CEO

TruMedicines Co.