
From: Ana Cisneros <anicisneros82@icloud.com>
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To: aipartnership
Subject: Questions regarding IP and artificial intelligence

My name is Ana and I am a Mexican lawyer specialized in IP matters.

To this extent, I would like to give my opinion regarding some questions concerning this matter.

For example, regarding the possible protection of creations made by an AI, I would consider such as not to be considered under the protection of IP. I believe that in any creation made by a machine there is some extent of participation of his or her creator, and it should at most, be considered a “work for hire” type of creation at most.

But since the work created by a machine functions on somewhat automatic responses, in my view there is no true creativity involved in what an AI creates.

The basis of copyright protection for example, is human creativity. I believe that considering a creation made by a machine as a true IP right, will necessarily mean we consider them as equals in terms of the human component, and I believe this should not be the case.

In the case of a patent, I consider that even if the AI may allow processes of creation or even solutions more accessible, there will always be a human component behind this result. And in this scenario the recognition should always rely on a human being.

As for the involvement of a natural person for its recognition as author, I believe any part of involvement should be recognized, because it is at the end of the day, the creativity of the natural person which will allow for the final outcome to become possible, and here is where I believe lies the reason for the IP law to exist; to recognize human creativity in any form possible.

I believe the current laws will require an update in recognizing this difference in order to be able to protect creations and to block possible violations made by an AI. But I consider that by recognizing the natural person still as creator, the involvement of the AI should not be as difficult to regulate.

As for the involvement of AI in trademark decisions, I consider such could ultimately affect the very own subjectivity of IP. We have had always the issue with courts concerning the fact that trademarks are not sold in paper as are lawsuits. It may seem sometimes that two trademarks are alike, but the subjective facts such as where they are sold, what kind of audience they are directed to, and specifically what kind of goods and services they are applied to, may change a decision entirely. I consider this decision should always be made by a natural person.

Kindly let me know if this proves useful.

Regards,
Ana Cisneros.
Enviado desde mi iPhone