

To: **The United States Patent and Trademark Office (Silicon Valley)**
Attn: **Mr. John Cabeca (Director)**
26 S 4th St
San Jose, CA 95113

From: **Mr. Melvin Watson**
470 Pulaski (Unit 5C)
Brooklyn, NY 11221

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IP (Intellectual Property) & AI (Artificial Intelligence):
“7 CORE RECOMMENDATIONS FOR A FAIR, EFFECTIVE AND BENEFICIAL CO-EXISTENCE”

Dear USPTO (Silicon Valley) Application Guideline Review, Modification and Establishment Personnel,

In concert with your organizations most recent public inquiry, I've drafted this correspondence for the purpose of providing what I believe to be *“a balanced and unbiased perspective, along with recommendations, regarding the patent and trademark filing guidelines that may govern the registration of Intellectual Property (IP) and Artificial Intelligence (AI) hybrid works of the future”*. As a creative, professional and curator of procedural logistics, I strongly believe in the importance of establishing “core considerations” prior to proceeding with the establishment/modification of guidelines and/or legislation related to the vastly evolving, and oftentimes extensively intricate, arenas of thought, creativity, collaboration, ownership and rights.

In the case of IP and AI, the intricacies are far greater with respect to the general consensus regarding the direct correlations the pair could, would and should have in the domains of patent and trademark law establishment and enforcement. With respect to the expanding relevance the pair have to the works/inventions of “all” creatives, and AI's expanding use in various industries, I'd like to propose recommendations for your consideration that are related to the establishment of what I believe should be fair, effective and beneficial guidelines for patents and trademarks with **IP/AI Hybrid Creation/Invention** category qualifications/status.

The proceeding (7) recommendations were drafted with consideration given to works developed in concert with, or that may be affected by, the impending fluid affiliation Intellectual Property and Artificial Intelligence will have with one another in the very near future. The recommendations are primarily related to the patent and trademark protection filing guidelines for works of the **IP/AI Hybrid type**; and the USPTO's application and processing considerations for such requests. Furthermore, the recommendations were drafted with an in-depth consideration of the general public's growing access to AI based products/services; that will undoubtedly serve as a catalyst for their creative endeavors and pursuit of creative protections. My recommendations are as follows:

1. Core Elements of the Work(s)

As with any form of IP registered with the USPTO, a description of the IP/AP Hybrid work(s) should be provided by any applicant seeking registration/protection. However, the description should include detailing that concisely depicts the identity of the work in a manner that can be easily interpreted by USPTO personnel, judicial officials, other creators/inventors and the general public alike. This particular filing guideline would presumably be governed by a character count to encourage conciseness and the applicant's filtering of unnecessarily complex, and excessive, terminology use from the description itself.

2. Core Creation Process (CCP)

This would serve as an essential requirement for the registration of any work with IP/AI Hybrid Creation/Invention category qualifications/status. The CCP would provide an itemized breakdown of the “distinguishing creation components and process” for any work in which an applicant is seeking registration/protection. The CCP would identify, and reinforce, the core elements of the work(s) for which registration/protections are being sought.

The level of detail provided would be at the discretion of the applicant; with the USPTO acknowledging, per its filing guideline details, that CCP details are solely for the organization's application processing and filing considerations; and the extent of detail does *NOT* guarantee patent/trademark status and protection would be issued. In instances of judicial proceeding's related to patent/trademark infringement, the presiding judicial official would utilize the CCP information in a similar manner as the USPTO in order to make an appropriate ruling; with the amount of detail of the CCP *NOT* being a sole determining factor in the ruling itself.

3. Core Filing Territory Profile

This portion of an applicants filing would provide the USPTO with the applicants' core filing territory preference. Core filing territory would be described as a configuration of Industry, Category and Genre; meant to help further distinguish the intended elemental use of both the IP and AI aspects of an applicants work(s). Although seemingly repetitive, the three filter-configurations would serve as supports for one another; in addition to supports for other details contained within an applicants' filing. “*Industry*” would acknowledge both the field of operation/creation of the applicant and/or the intended industry of trade for the work. *Ex: Agriculture, Manufacturing, Retail etc.*

“*Category*” would provide a supporting description of the industry for which a work was created or utilized within. *Ex: “Corn” Agriculture, “Electronic” Manufacturing, “Digital” Retail etc.* “*Genre*” would serve as an extended, and defining, aspect of filing territory by allowing the applicant to designate their own genre for the work itself. This designation would require a brief, but concise, summary of the branch of industry and category for which the work is believed to be an original derivative. *Ex: Corn Agriculture “Processing”, Electronic Manufacturing “Process Assessment”, Digital Retail “Consumer Solutions” etc.*

Presumably, core filing territory would initially serve as a distinguishing component in potential court cases regarding infringement. As the public becomes more aware of core filing territory details, there

would likely be more applicants who'd attempt to file applications for works while listing a core filing territory already within the USPTO's database. Applicants who'd do so wouldn't necessarily be denied protection; but would be required to have differing Elements of Work and Core Creation Process than those of an applicant, or rights holder, with work(s) that have an exact, or similar, Core Filing Territory profile.

4. Core Ownership & Contributors

In an era of expanding creative collaboration, the sheer number of collaborative works for which patent and trademark protection are applied for will certainly grow. Due to the fact the number of contributors to a work can be significant, and range in contribution type, an ownership percentage, designated by the applicant, would be required by the USPTO for determining the ownership of the work itself. Based upon 100% serving as the total ownership ceiling, applicants would be required to list all applicable core ownership parties of the work by name; along with their ownership stake. At least one party would hold a majority ownership stake in the work, differentiated by no less than 1% of the second majority owners' stake, which would designate them as the core owner of the work. The core owner of the work, individual or company, would therefore serve as the lead representative for each additional owner of the work; along with the contributors to the work who may not exactly have ownership stake.

In essence, this individual or business entity, should be designated by the owner(s) of the mark, and its contributors, "prior" to the filing of an application with the USPTO. A notice of acknowledgment should be drafted and signed by all applicable owners of, and contributors to, the work itself. This acknowledgment would be required by the USPTO for all hybrid-work(s) for which status/protection is being sought. Contributors to the work would be listed within the application details; which would consist of the contributors' name and a detailing of their contribution to the work for which patent/trademark protection is being sought. Contributor information would prove valuable in court proceedings related to infringement; as the parties listed as contributors could potentially provide valuable testimony that further supports both the Core Elements and Core Creation Process details listed within the USPTO application for the work itself. Due to the creative intricacies of IP and AI respectively, there would be no maximum number of "definitive contributors" that could be listed by the applicant.

5. Citing Algorithmic Influences

With more works being created in concert with the use of artificial intelligence at varying degrees, works that do incorporate AI will oftentimes be developmentally influenced by, or be completely comprised of, algorithms. Algorithms vary in type primarily due to the fact creator(s) and/or operator(s) of the AI can establish, and alter, varying parameters for the AI technology to operate within. This could be considered secondary contribution to a works' creation. This is evident from the point of conception for the technology itself. Therefore, applicants applying for patent and trademark status/protection should be required to acknowledge Algorithmic Influence with regard to their works' initial creation. This would serve as a essential qualification necessary for an applicant to be granted IP/AI Hybrid Patent & Trademark protection and rights for their work(s).

When an applicant indicates any portion of their work was created using AI, they would be required to list the name of the AI product, service and/or tools used (if applicable), the creator(s) of the AI, the owner of the AI (if not the same as the creator), date(s)/period(s) of use, and (if applicable) a general

description of the algorithmic parameters used in the creation of the work(s) for which their seeking patent and trademark status/protection. In addition, applicants would be required to provide a copy of the “terms of permitted use granted by the owner and creator of the AI” authorizing use of the AI in the capacity used to create the applicant's work. The “terms should explicitly state that the applicant has sole governing authority over, and exclusive rights to, works created using the AI itself”. For work(s) created using multiple forms of AI, the algorithmic influence guidelines would individually apply to each aspect of AI used.

6. Application Filing, Review, and Patent/Trademark Issuance

Filing an IP/AI Hybrid patent/trademark application with the USPTO, and all associated processes thereafter, would be seamless and efficient. With the factoring of AI into the USPTO's present application process, filing guidelines and procedures would have to be suitable for the accommodation of frequent technological evolution and advancement timelines. This would be necessary to avoid the proverbial “technological expiration” of IP/AI Hybrid works with pending USPTO applications. Patent and trademark filings are often pursued by applicants who look to license and/or distribute their works in some capacity within the rapidly evolving global marketplace; so USPTO processing times would theoretically play an integral role in their ability to confidently do so.

The USPTO application review, correspondence and mark issuance time frames would be essential in ensuring a seamless and efficient process. Therefore, provisions would be made to accommodate expedited filing options for works of the IP/AI Hybrid type. Expedited filing options and the establishment of a USPTO Personnel Team designated to specifically handle patent/trademark filings that involve the use of Artificial Intelligence would ensure this emerging branch of creation receives the tailored attention it requires; leading up to it's complete integration into the general public's understanding, and use, of AI in the creative and inventive forums that patent/trademark protections are generally sought. This integration would undoubtedly include the development of creative and inventive forums that have yet to be established as well.

7. Frequency of Policy/Guideline Reviews, Updates and Establishment

With the continual technological advancements made daily, effectively, efficiently and fairly serving patent and trademark applicants/owners would continue to be a primary focus of the USPTO. With this stated, the USPTO would conduct annual reviews of filing guidelines and patent/trademark laws to ensure provisions are made to appropriately accommodate the vastly expanding range of IP/AI Hybrid works that are sure to emerge over time. Changes and updates to the USPTO filing guidelines, and Patent/Trademark laws, would occur yearly (if feasible); and be made public via email notifications, newsletters, social media and so on. This would reflect the USPTO's commitment to ensuring global awareness, and organizational transparency, are at the forefront of its service.

In closing, I've always strongly believed technology would be a key factor in altering how humanity views creation/invention; while ultimately prompting us to reconsider how we convey, enhance and protect the value a single thought has the moment it emerges from one's mind. In this technological era, we're fortunate to have an array of collaborative minds behind some of the world's most dynamic creative works and inventions. Many of these works have guided humanity's steps in the direction of what could be considered the proverbial fork in the road that is “ how we proceed in the valuing and

protection of intellectual property in the new age". Artificial intelligence is here to stay; and I type this with both cautiousness and enthusiasm in mind. I'm confident most creatives and inventors, regardless of their creative mediums, would share a similar sentiment.

However, the cautiousness should not hinder our embrace of AI; but rather fuel our pro-active approach to ensuring the patent and trademark laws, guidelines and protections of the future are not only effective, but provide reassurance that the core aspect of creation, which lies within the capacity of a human mind, appreciates with both time and evolution of the human race. I would hope my expressed recommendations would serve as a benefit to the USPTO's future approach to establishing the patent and trademark protection guidelines of tomorrow. As an advocate for the fair utilization, trade and protections of creative works/inventions, I genuinely commend your organization's public invitation for insight on the future of IP/AI. Therefore, I'm always open to a continuation of the discussion.

Sincerely,



Mr. Melvin C. Watson

Creative, Professional and Curator of Procedural Logistics

**“Creative fruit can only be harvested when the soil
containing our mental seeds is cultivated and protected.”**

-Mr. Melvin Watson (Mr. Watson)

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