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JIPA's View on AI Inventorship The WIPO Conversation on Intellectual Property and Frontier Technologies September 21-22,2022

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I am Kyoko Izumi, and I am speaking on behalf of the Japan Intellectual Property Association, JIPA. JIPA has long expressed its opinion that it is premature to introduce a legislative measure to recognize AI as an inventor. We should continue to discuss the AI inventorship with the following perspectives :

(I) First, we should understand that substantial human involvement is essential when inventing with AI, today and in the foreseeable future.

In the process of building an AI, executing it, evaluating the outputs, and repeating the process of further rebuilding, reexecuting, and reevaluating, significant human involvement takes place, and thereby a desired invention is created. For example, in the DABUS case, Dr. Thaler built the AI called DABUS and executed the AI himself, which led to the creation of the invention. Given that DABUS is an extremely complex system, we assume that a considerable amount of time and effort went into its creation.

(II) Furthermore, we should also understand that the "recognition" of those involved is the key point in the current opinion that the law should be amended to recognize AI as an inventor.

As noted above, Dr. Thaler would have spent a great deal of time in creating the invention, but he was not the inventor. The reason given is that Dr. Thaler was only aware of very general problems related to his inventions, not the specific problems that his inventions would solve. As a result, a situation has arisen in which it is argued that an invention was created despite the absence of a human inventor and that AI should be the inventor in order to protect that invention.

(III) Even if a situation arises which might require to recognize AI as an inventor, if that AI's contribution to the creation of the invention is not worthy of an inventor, we should not recognize such AI as an inventor. No measure should be introduced that could allow any AI to be an inventor when once a person involved in the invention recognizes and declares that he or she is not an inventor.

In order to discuss whether or not the law should be amended to allow AI to be an inventor, not only the recognition of the person involved, but also the technical contribution to that invention by the person involved and AI should be objectively assessed, and criteria will be needed to ensure that this assessment is done accurately. Such criteria can differ among jurisdictions.

Therefore, the first step should be to establish criteria for assessing the technological contribution to inventions by people and AI, evaluate the cases, and then discuss whether the law needs to be amended, taking into account the differences among national legal systems.

We believe that it is premature to amend the law at this stage.