UNITED STATES PATENT AND TRADEMARK OFFICE



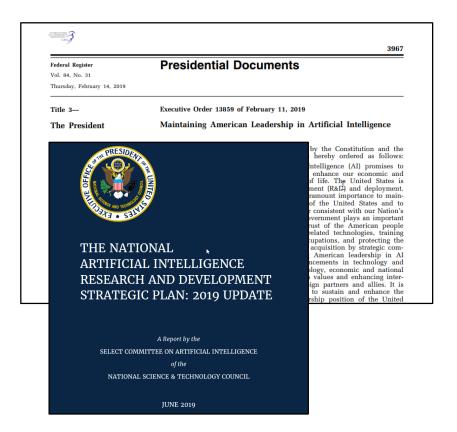
AI Policy Update

Coke Stewart Senior Policy Advisor and Acting Chief of Staff February 6, 2020 Patent Public Advisory Committee quarterly meeting

> UNITED STATES PATENT AND TRADEMARK OFFICE

Al policy is a priority across the government

- February 2019 Executive Order directs the federal government to pursue five pillars for advancing artificial intelligence (AI): (1) promote sustained AI R&D investment, (2) unleash federal Al resources, (3) remove barriers to Al innovation, (4) empower the American worker with AI-focused education and training opportunities, and (5) promote an international environment that is supportive of American AI innovation and its responsible use.
- www.whitehouse.gov/ai/



Regulation of Al

- January 7, 2020 White House OSTP draft memorandum regarding regulatory and non-regulatory oversight of AI developed and deployed outside of the federal government (60-day comment period).
- 10 regulatory principles: promote ... public trust in AI, public participation, scientific integrity and information quality, risk assessment and management, benefits and costs, flexibility, fairness and non-discrimination, disclosure and transparency, safety and security, interagency coordination.
- Goal: "remove impediments to privatesector AI innovation and growth"



Secretary of Transportation Elaine L. Chao inspecting an automated driving system in Ann Arbor, Michigan.



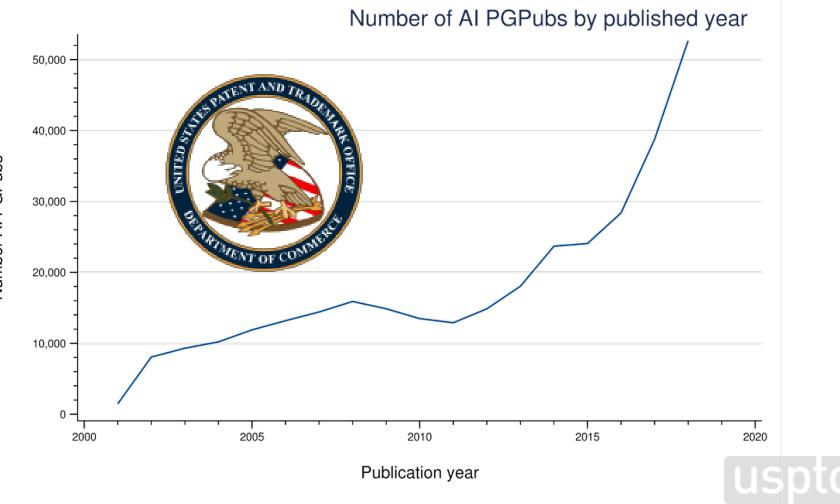
Al policy is a priority at the USPTO

"One of the agency's top priorities is to ensure that the United States maintains its leadership in innovation, especially in emerging technologies such as AI. To that end, the USPTO has been actively engaging with the innovation community and experts in AI to determine whether further guidance is needed to promote the predictability and reliability of IP rights relating to AI technology and to encourage further innovation in and around this critical area." -USPTO Director Andrei Iancu

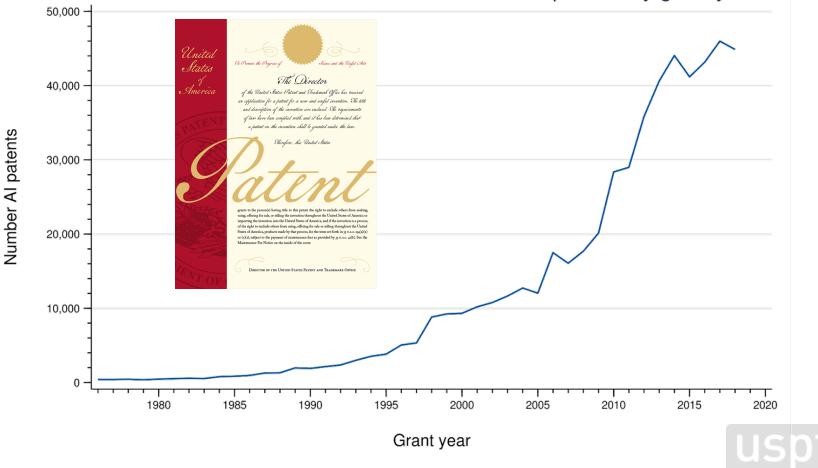


Director lancu visits exhibits showcasing AI technologies at the "Artificial Intelligence: Intellectual Property Considerations" conference on January 31, 2019 at the USPTO. Shown above: A team from University of California, Berkeley demonstrates their patent visualization system, which enables a user to see and manipulate a threedimensional landscape of similar patents. (Photo by Jay Premack/USPTO)





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Number of AI patents by grant year

"Obviously we have dealt with patents in the AI space for a long time. **What is** new now is that some AI machines are claiming to be creating innovation on their own, to some extent independent of human interaction." – USPTO Director Andrei Iancu at **2020 Consumer Electronics Show**, January 8



<u>#USPTO</u> Director Andrei Iancu joins <u>@CTATech</u> 's Michael Petricone at 2 pm PT/5 pm ET to talk patents and <u>#AI</u>. WATCH LIVE: <u>https://bit.ly/35DxR7I</u>. <u>#CES2020</u>

Al raises important policy questions

- Inventorship
- Authorship
- Ownership
- Incentives
- New forms of IP



Two of the images at issue in "monkey selfie" dispute.

The USPTO is engaging with the public on AI policy

- January 31, 2019 USPTO AI Conference
 - Six panels covering patents, copyrights, trademarks, IP enforcement, international perspectives, and economics
 - Over 200 people attended in person with hundreds online

https://www.uspto.go v/about-us/newsupdates/remarksdirector-iancuartificial-intelligenceintellectual-property

ARTIFICIAL INTELLIGENCE:

Intellectual Property Policy Considerations

- August 27, 2019 RFC on Al/patents
 - Twelve questions touching on topics such as inventorship, eligibility, disclosure, enablement, inventive step, etc.
 - Over 90 comments were received from industry, academia, foreign stakeholders, and individuals

	/Vol. 84, No. 166/Tuesday, August	
Dated: August 22, 2019. Tracey L. Thompson, Acting Deputy Director, Office of Sustainable Fisheries. National Marine Fisheries Service. [FR Doc. 2019–18466 Filed 8–26–19; 8:45 am] BILLING CODE 3510-22-P	patentability issues relating to computer-implemented inventions (e.g., software) are germane to discussions of Al inventions. ¹ Al methods and systems vary in their technical implementation, but rely on a substantial level of development and training by inventors,	running the AI algorithm on the data and obtaining the results. 3. Do current patent laws and regulations regarding inventorship nee to be revised to take into account inventions where an entity or entities other than a natural person contribute
DEPARTMENT OF COMMERCE	developers, and system users. The USPTO has been examining AI	to the conception of an invention? 4. Should an entity or entities other than a natural person, or company to
Patent and Trademark Office	inventions for decades and has issued guidance in many areas that necessarily	which a natural person assigns an invention, be able to own a patent on
[Docket No. PTO-C-2019-0029]	relate to AI inventions. Going forward, the USPTO would like to engage with	the AI invention? For example: Should a company who trains the artificial
Request for Comments on Patenting Artificial Intelligence Inventions	the innovation community and experts in AI to determine whether further	intelligence process that creates the
AGENCY: United States Patent and Trademark Office, Department of Commerce. ACTION: Request for comments.	guidance is needed to promote the predictability and reliability of patenting such inventions and to ensure that appropriate patent protection incentives are in place to encourage further innovation in and around this critical area. I <i>Issues for Comment</i> : The USPTO seeks comments on patenting artificial intelligence inventions. The questions enumerated below are a preliminary guide to aid the USPTO in collecting relevant information to evaluate whether further guidance is needed and assist in the development of any such guidance with respect to patenting artificial intelligence inventions. The questions should not be taken as an indication that the USPTO has taken a position or is predisposed to any particular views. USPTO hese	invention be able to be an owner? 5. Are there any patnet eligibility considerations unique to AI inventions 6. Are there any disclosure-related considerations unique to AI inventions For example, under current practice, written description support for computer-implemented inventions generally require sufficient disclosure an algorithm to perform a claimed function, such that a person of ordinar skill in the art can reasonably conclud that the inventor had possession of the claimed invention. Does there need to be a change in the level of detail an applicant must provide in order to comply with the written description requirement, particularly for deep- learning systems that may have a large number of hidden layers with weights that de volve during the learning/training process without human intervention of knowledge?
SUMMARY: The United States Patent and Trademark Office (USPTO) is interested in gathering information on patent- related issues regarding artificial intelligence inventions for purposes of evaluating whether further examination guidance is needed to promote the reliability and predictability of patenting artificial intelligence inventions. To assist in gathering this information, the USPTO is publishing questions on artificial intelligence inventions to obtain written comments from the public. The questions are designed to cover a variety of topics from patent examination policy to whether new forms of intellectual		



Federal Register/Vol. 84, No. 166/Tuesday, August 27, 2019/Notices 44889 Dated: Anoust 22, 2019 patentability issues relating to running the AI algorithm on the data Tracey L. Thompson, and obtaining the results. 3. Do current patent laws and computer-implemented inventions (e.g., Acting Deputy Director, Office of Sustainable software) are germane to discussions of regulations regarding inventorship need to be revised to take into account ies, National Marine Fisheries Service AI inventions.1 AI methods and systems vary in their technical implementation, [FR Doc. 2019-18466 Filed 8-26-19: 8:45 am] but rely on a substantial level of inventions where an entity or entities BILLING CODE 3510-22-P development and training by inventors, other than a natural person contributed to the conception of an invention? developers, and system users. DEPARTMENT OF COMMERCE The USPTO has been examining AI 4. Should an entity or entities other than a natural person, or company to inventions for decades and has issued Patent and Trademark Office which a natural person assigns an invention, be able to own a patent guidance in many areas that necessarily relate to AI inventions. Going forward, [Docket No. PTO-C-2019-0029] the AI invention? For example: § the USPTO would like to engage with a company who trains the arti intelligence process that creat Request for Comments on Patenting the innovation community and experts in AI to determine whether further tes the Artificial Intelligence Inventions invention be able to be a 5. Are there any pate guidance is needed to promote the AGENCY: United States Patent and t eligibility predictability and reliability of Trademark Office, Department of considerations un ie to AI inventions? patenting such inventions and to ensure 6. Are there a Commerce disclosure-related that appropriate patent protection incentives are in place to encourage consideratio inique to AI inventions? ACTION: Request for comments. , under current practice, ription support for For example further innovation in and around this SUMMARY: The United States Patent and written critical area. Trademark Office (USPTO) is interested r-implemented invention: Issues for Comment: The USPTO in gathering information on patentrally require sufficient disclosure of seeks comments on patenting artificial algorithm to perform a claimed related issues regarding artificial intelligence inventions. The questions function, such that a person of ordinary skill in the art can reasonably conclude intelligence inventions for purposes of enumerated below are a preliminary evaluating whether further examination guide to aid the USPTO in collecti guidance is needed to promote the that the inventor had possession of the relevant information to evaluate claimed invention. Does there need to reliability and predictability of whether further guidance is n ded and be a change in the level of detail an patenting artificial intelligence assist in the development any such applicant must provide in order to inventions. To assist in gathering this guidance with respect to patenting comply with the written description information, the USPTO is publishing artificial intelligence questions on artificial intelligence nventions. The requirement, particularly for deept be taken as an estions should inventions to obtain written comments learning systems that may have a large number of hidden layers with weights indication that the USPTO has taken a from the public. The questions are predisposed to any position or that evolve during the learning/training designed to cover a variety of topics alar views. USPTO welcomes from patent examination policy to process without human intervention or comme knowledge? whether new forms of intellectual ney believe are relevant to this 7. How can patent applications for AI property protection are needed. ic, and is particularly interested in inventions best comply with the DATES: Written comments must be nswers to the following questions: 1. Inventions that utilize AI, as well enablement requirement, particularly received on or before October 11, 2019. given the degree of unpredictability of ADDRESSES: Written comments should certain AI systems? be sent by email to AlPartnership@ 8. Does Al impact the level of a uspto.gov. Comments may also be person of ordinary skill in the art? If so. submitted by postal mail addressed to how? For example: Should asse the Director of the U.S. Patent and of the level of ordinary skill in the art Trademark Office, P.O. Box 1450. reflect the capability possessed by AI? Alexandria VA 22313-1450. Although the AI will be trained and will act; the 9. Are there any prior art comments may be submitted by postal Insiderations unique to AI inventions? mail, the USPTO prefers to receive comments via email. 10. Are there any new forms of intellectual property protections that are Because written comments and needed for AI inventions, such as data testimony will be made available for protection? applied to the data that affects the public inspection, information that a 11. Are there any other issues espondent does not desire to be made pertinent to patenting AI inventions that public, such as a phone number, should not be included in the testimony or natural person can contribute to conception of an AI invention and be 12. Are there any relevant policies or written comments. practices from other major pat agencies that may help inform USPTO's FOR FURTHER INFORMATION CONTACT: eligible to be a named inventor? For policies and practices regarding Office of the Under Secretary and example: Designing the algorithm and/ Director of the USPTO, (571) 272-8600 patenting of AI inventions? or weighting adaptations; structuring

SUPPLEMENTARY INFORMATION: Artificial Intelligence (AI) is increasingly becoming important across a diverse spectrum of technologies and businesses. Because execution of AI invariably requires some form of computer implementation, many of the

the data on which the algorithm runs;

¹ For a discussion of the issues unique to software patents, see Request for Comments and Notice of Roundtable Events for Partnership for Enhancement of Quality of Software-Related Patents, 7a FR 292, 204 (Jan. 3, 2013) (reviewing unique challenges of

Dated: August 21, 2019. Andrei Iancu, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2019-18443 Filed 8-26-19; 8:45 am] BILLING CODE 3510-16-P

1. Inventions that utilize AI, as well as inventions that are developed by AI, have commonly been referred to as "AI inventions." What are elements of an AI invention? For example: The problem to be addressed (*e.g.*, application of AI); the structure of the database on which the AI will be trained and will act; the training of the algorithm on the data; the algorithm itself; the results of the AI invention through an automated process; the policies/weights to be applied to the data that affects the outcome of the results; and/or other elements.



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Federal Register/Vol. 84, No. 166/Tuesday, August 27, 2019/Notices

Dated: August 22, 2019. Tracey L. Thompson, Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service. [FR Doc. 2019-18466 Filed 8-26-19; 845 am] BILING COB 2510-22-P

DEPARTMENT OF COMMERCE Patent and Trademark Office

[Docket No. PTO-C-2019-0029]

Request for Comments on Patenting Artificial Intelligence Inventions AGENCY: United States Patent and

Action: Request for comments.

SUMMARY: The United States Patent and Trademark Office (USPTO) is interested in gathering information on patentrelated issues regarding artificial intelligence inventions for purposes of evaluating whether further examination guidance is needed to promote the reliability and predictability of patenting artificial intelligence inventions. To assist in gathering this information, the USPTO is publishing questions on artificial intelligence inventions to obtain written comments from the public. The questions are designed to cover a variety of topics from patent examination policy to whether new forms of intellectual property protection are needed. DATES: Written comments must be received on or before October 11, 2019.

ADDFESSES: Written comments should be sent by email to AlParitnership@ uspto.gov. Comments may also be submitted by postal mail addressed to the Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria VA 22313-450. Although comments may be submitted by postal main, hou by a committee of the postal main, hou by a committee of the comments and Because written comments and

Because written comments and testimony will be made available for public inspection, information that a respondent does not desire to be made public, such as a phone number, should not be included in the testimony or written comments.

FOR FURTHER INFORMATION CONTACT: Office of the Under Secretary and Director of the USPTO, (571) 272-8600. SUPPLEMENTARY INFORMATION: Artificial

Intelligence (AI) is increasingly becoming important across a diverse spectrum of technologies and businesses. Because execution of AI invariably requires some form of computer implementation, many of the

patentability issues relating to computer-implemented inventions (e.g., software) are germane to discussions of A linventions.³ Al methods and systems vary in their technical implementation, but rely on a substantial level of development and training by inventors,

developers, and system users. The USFTO has been examining AI institutions for days areas that measured provide the analysis of the transmission of the relate to AI investigation. Going forward, the USFTO would like to engage with the innovation community and experts in AI to determine whether harther predictability and reliability of patenting such inventions and to ensure that appropriate patent protection incentives are in place to encourage critical area.

Issues for Comment: The USPTO seeks comments on patenting artificial intelligence inventions. The questions enumerated below are a preliminary guide to aid the USPTO in collecting relevant information to evaluate whether further guidance is needed and assist in the development of any such guidance with respect to patenting artificial intelligence inventions. The estions should not be taken as an indication that the USPTO has taken a position or is predisposed to any particular views. USPTO welcomes comments from the public on any issues that they believe are relevant to this topic, and is particularly interested in

topic, and is particularly interested in in answers to the following questions: 1. Inventions that utilize AI, as well g as inventions that are developed by AI, have commonly been referred to as "AI inventions." What are elements of an AI p invention? For example: The problem to be addressed (e.g., application of AI); the structure of the database on which methy and the structure of the database on which methy and the structure of the database on which methy and the structure of the database on which methy and the structure of the database on which methy and the structure of the database on which methy and the structure of the database on which methy and the structure of the database on which methy and the structure of the database on which methy and the structure of the database on which methy and the structure of the database on which methy and the structure of the database of the structure of the database of the structure of the database of the structure of the database on which methy and the structure of the database of the structure of the structure of the database of the structure of the structure

the Al will be trained and will act; the training of the algorithm on the data; the algorithm itself; the results of the Al invention through an automated process; the policies/weights to be applied to the data that affects the outcome of the results; and/or other

elements. 2. 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? For example: Designing the algorithm and/ or weighting adaptations; structuring the data on which the algorithm runs;

¹ For a discussion of the issues unique to software patents, see Request for Comments and Notice of Roundtable Events for Patnership for Enhancement Oguality of Software-Related Patents, 78 FR 292, 294 (Jan. 3, 2013) (treviewing unique challenges of software patents). BULUN

running the AI algorithm on the data and obtaining the results. 3. Do current patent laws and regulations regarding inventorship net to be revised to take into account inventions where an entity or entities other than a natural network contribute

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to the conception of an investigat 1. Should an entity or entities other than an entity or entities other than a start and entity or entities of the which a start and person assigns an other and a start and the start and the a company who trains the arguing start a company who trains the arguing start investing a sale to be an owner? 5. Are these any patient at pluinity 6. Are these any thickness-related

considerations unique to AI inventions? For example, under current puration, written description support for compute-inplemented inventions and apprihament of any strain of the function, such that a person of ordinary skill in the art can reasonably conclude that the invente had possession of the batt the invente had possession of the ordinary strains of the strain of the applicant must provide in code to comply with the written description requirement, particularly for deep ponumber of hidden layers with weights that evolve during the learning/training

process without human intervention or knowledge? 7. How can patent applications for AI inventions best comply with the enablement requirement, particularly given the degree of unpredictability of certain AI systems?

8. Does Al impact the level of a person of ordinary skill in the art? If so, how? For example: Should assessment of the level of ordinary skill in the art reflect the capability possessed by Al?

9. Are there any prior art cdnsiderations unique to AI inventions? 10. Are there any new forms of intellectual property protections that are needed for AI inventions, such as data protection?

11. Are there any other issues pertinent to patenting AI inventions that we should examine? 12. Are there any relevant policies or practices from other major patent agencies that may help inform USPTO's

agencies that may help inform USPTO's policies and practices regarding patenting of AI inventions? Dated: August 21, 2019. Andrei Lancu.

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 Patent and Trademark Office.

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 [FR Doc. 2019–18443 Filed 8-26–19; 8:45 am]

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3. Do current patent laws and regulations regarding inventorship need to be revised to take into account inventions where an entity or entities other than a natural person contributed to the conception of an invention?



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further innovation in and around this

Issues for Comment: The USPTO

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Dated: August 22, 2019 Tracey L. Thompson, Acting Deputy Director, Office of Sustainable s. National Marine Fisheries Service [FR Doc. 2019-18466 Filed 8-26-19: 8:45 am] BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE Patent and Trademark Office

[Docket No. PTO-C-2019-0029]

Request for Comments on Patenting Artificial Intelligence Inventions AGENCY: United States Patent and

Trademark Office, Department of Commerce ACTION: Request for comments.

SUMMARY: The United States Patent and critical area. Trademark Office (USPTO) is interested in gathering information on patentrelated issues regarding artificial intelligence inventions. The questions intelligence inventions for purposes of enumerated below are a preliminary evaluating whether further examination guide to aid the USPTO in collecting guidance is needed to promote the reliability and predictability of patenting artificial intelligence assist in the development of any such inventions. To assist in gathering this guidance with respect to patenting information, the USPTO is publishing questions on artificial intelligence inventions to obtain written comments from the public. The questions are position or is predisposed to any designed to cover a variety of topics from patent examination policy to whether new forms of intellectual that they believe are relevant to this property protection are needed. DATES: Written comments must be answers to the following questions: 1. Inventions that utilize AI, as well received on or before October 11, 2019.

ADDRESSES: Written comments should be sent by email to AlPartnership@ uspto.gov. Comments may also be submitted by postal mail addressed to the Director of the U.S. Patent and Trademark Office, P.O. Box 1450. Alexandria VA 22313-1450. Although comments may be submitted by postal mail, the USPTO prefers to receive comments via email. Because written comments and

testimony will be made available for applied to the data that affects the public inspection, information that a espondent does not desire to be made elements. public, such as a phone number, should not be included in the testimony or natural person can contribute to written comments. eligible to be a named inventor? For

FOR FURTHER INFORMATION CONTACT: Office of the Under Secretary and Director of the USPTO, (571) 272-8600. or weighting adaptations; structuring SUPPLEMENTARY INFORMATION: Artificial

Intelligence (AI) is increasingly becoming important across a diverse spectrum of technologies and businesses. Because execution of AI invariably requires some form of computer implementation, many of the

patentability issues relating to running the AI algorithm on the data and obtaining the results. 3. Do current patent laws and computer-implemented inventions (e.g., software) are germane to discussions of AI inventions.¹ AI methods and systems regulations regarding inventorship need vary in their technical implementation, to be revised to take into account but rely on a substantial level of inventions where an entity or entities development and training by inventors, other than a natural person contributed to the conception of an invention? developers, and system users. The USPTO has been examining AI 4. Should an entity or entities other

than a natural person, or company to inventions for decades and has issued which a natural person assigns an invention, be able to own a patent on guidance in many areas that necessarily relate to AI inventions. Going forward, the AI invention? For example: Should the USPTO would like to engage with a company who trains the artificial the innovation community and experts intelligence process that creates the in AI to determine whether further invention be able to be an own guidance is needed to promote the 5. Are there any patent eligibility considerations unique to AI inventions? 6. Are there any disclosure-related patenting such inventions and to ensure that appropriate patent protection incentives are in place to encourage

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considerations unique to AI inventions? For example, under current practice, written description support for computer-implemented inventior generally require sufficient disclosure of an algorithm to perform a claimed seeks comments on patenting artificial function, such that a person of ordinary skill in the art can reasonably conclude that the inventor had possession of the

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10. Are there any new forms of tellectual property protections that an eded for AI inventions, such as data 11. Are there any other issues

pertinent to patenting AI inventions that we should examine? 12. Are there any relevant policies or practices from other major patent agencies that may help inform USPTO's policies and practices regarding patenting of AI inventions? Dated: August 21, 2019.

the data on which the algorithm runs; Andrei Iancu, ¹ For a discussion of the issues unique to software Under Secretary of Commerce for Intellectual Prova intrusion of the issues unique to sortway patents, see Request for Comments and Notice of Roundtable Events for Partnership for Enhancemen of Quality of Software-Related Patents, 78 FR 292, 294 (Jan. 3, 2013) (reviewing unique challenges of Property and Director of the United States Patent and Trademark Office. [FR Doc. 2019-18443 Filed 8-26-19; 8:45 am] BILLING CODE 3510-16-P

10. Are there any new forms of intellectual property protections that are needed for AI inventions, such as data protection?



- October 30, 2019 RFC on AI on other IP issues
 - 13 questions touching on topics related to copyright, trademark, trade secret, and data rights
 - Nearly 100 comments were received from industry, academia, foreign stakeholders, and individuals

Federal Register/Vol. 84, No. 210/Wednesday, October 30, 2019/Notices 58141			
Atmospheric Administration (NOAA), Commerce. ACTON: Notice of public meeting. SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold a webinar-based meeting with the public to provide information on options available to commercial fishing operators for electronically submitting required Vessel Trip Reports (VTRS) in the Greater Atlantic Region. This is in support of the Council's joint action with the New England Fishery Management Council that could require electronic reporting of VTRs by operators holding commercial fishing permits for species managed by either council that require the submission of VTRs. DATES: The meeting will be held Wednesday, November 20, 2019, from 5:30 p.m. to 7:30 p.m., EST. ADDRESSES: The meeting will be held via webinar (http:// mdfmc.adobeconnect.com/etr_ publicintg) with a telephone audio connection (provided when connecting). Audio only access via conference phone number: 7:65379. Council address: Mid-Atlantic Fishery Management Council, 800 N State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.	Special Accommodations The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date. Authority: 16 U.S.C. 1801 et seq. Dated: October 24, 2019. Tracey L. Thompson,	FOR FURTHER INFORMATION CONTACT: Coke Stewart, Office of the Under Secretary and Director of the USPTO, (571) 272–8600. SUPPLEMENTARY INFORMATION: Artificial Intelligence (Al) technologies are increasingly becoming important across a diverse spectrum of technologies and businesses. Al poses unique challenges in the sphere of intellectual property law. At a January 31, 2019 conference	
	Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service. [FR Doc. 2019–23609 Filed 10–29–19; 8:45 am] BILLING CODE 3510-22–P	on "Artificial Intelligence: Intellectual Property Policy Considerations," USPTO explored a number of those challenges. ¹ On August 27, 2019, the USPTO published a request for comment regarding AI's impacts on	
	DEPARTMENT OF COMMERCE Patent and Trademark Office	comment regimming for a magnetic on patent law and policy. As a continuation of this work, the USPTO is also considering the impact of AI on other intellectual property rights. <i>Issues for Comment</i> : The USPTO seeks comments on the copyright, trademark, and other intellectual property rights issues that may be	
	[Docket No. PTO-C-2019-0038] Request for Comments on Intellectual Property Protection for Artificial Intelligence Innovation		
	AGENCY: United States Patent and Trademark Office, Department of Commerce. ACTION: Request for comments.	impacted by AI. The questions enumerated below are a preliminary guide to aid the USPTO in collecting relevant information to evaluate whether further guidance is needed and	
	SUMMARY: The United States Patent and Trademark Office ("USPTO") is gathering information about the impact of artificial intelligence ("AI") technologies on intellectual property law and policy. To assist in gathering	to assist in the development of any such guidance with respect to intellectual property policy and its relationship with AI. The questions should not be taken as an indication that the USPTO has taken a position, or is predisposed	
FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery	this information, on August 27, 2019, the USPTO published questions related to the impact of artificial intelligence	to any particular views. The USPTO welcomes comments from the public or any issues that they believe are relevant	



Federal Register / Vol. 84, No. 210 / Wednesday, October 30, 2019 / Notices 58141 Atmospheric Administration (NOAA), Special Accommodations FOR FURTHER INFORMATION CONTACT: Coke Stewart, Office of the Under The meeting is physically accessible ACTION: Notice of public meeting. Secretary and Director of the USPTO. to people with disabilities. Requests for (571) 272-8600. anguage interpretation or other SUMMARY: The Mid-Atlantic Fishery auxiliary aid should be directed to M. Management Council (Council) will Jan Saunders, (302) 526-5251, at least 5 Intelligence (AI) technologies are hold a webinar-based meeting with the days prior to the meeting date. public to provide information on Authority: 16 U.S.C. 1801 et seq. ontions available to commercial fishing operators for electronically submitting Dated: October 24, 2019. in the sphere of intellectual property required Vessel Trip Reports (VTRs) in Tracey L. Thompson, law. At a January 31, 2019 conference Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service on "Artificial Intelligence: Intellectual the Greater Atlantic Region. This is in support of the Council's joint action Property Policy Considerations, with the New England Fishery [FR Doc. 2019-23609 Filed 10-29-19; 8:45 am] USPTO explored a number of those Management Council that could require BILLING CODE 3510-22-P challenges.¹ On August 27, 2019, the electronic reporting of VTRs by USPTO published a request for operators holding commercial fishing comment regarding AI's impacts on DEPARTMENT OF COMMERCE permits for species managed by either patent law and policy. As a council that require the submission of continuation of this work, the USPTO is Patent and Trademark Office VTRe also considering the impact of AI on [Docket No. PTO-C-2019-0038] other intellectual property rights. DATES: The meeting will be held Issues for Comment: The USPTO Wednesday, November 20, 2019, from Request for Comments on Intellectual seeks comments on the copyright, 5:30 p.m. to 7:30 p.m., EST. Property Protection for Artificial trademark, and other intellectual ADDRESSES: The meeting will be held Intelligence Innovation property rights issues that may be via webinar (http:// impacted by AI. The questions AGENCY: United States Patent and mafmc adobeconnect com/evtr enumerated below are a preliminary Trademark Office, Department of publicmtg/) with a telephone audio guide to aid the USPTO in collecting connection (provided when connecting). Commerce. ACTION: Request for comments. relevant information to evaluate Audio only access via conference phone number: 1–800–832–0736; Room whether further guidance is needed and SUMMARY: The United States Patent and to assist in the development of any such Number: 5765379. Trademark Office ("USPTO") is guidance with respect to intellectual Council address: Mid-Atlantic Fishery gathering information about the impact property policy and its relationship Management Council, 800 N State St., of artificial intelligence ("AI") with AI. The questions should not be taken as an indication that the OSPTO Suite 201, Dover, DE 19901; telephone: echnologies on intellectual property (302) 674-2331. law and policy. To assist in gathering has taken a position, or is pr FOR FURTHER INFORMATION CONTACT: this information, on August 27, 2019, to any particular view. The USPTO welcomes comments from the public on Christopher M. Moore, Ph.D., Executive the USPTO published questions related Director, Mid-Atlantic Fishery to the impact of artificial intelligence any issues that they believe are relevant Management Council; telephone: (302) inventions on patent law and policy and to this topic, and is particularly 526-5255. The Council's website, asked the public for written comments. sted in answers to the following inter www.mafmc.org also has details on the Those questions cover a variety of estions: 1. Should a work produced by an AI gorithm or process, without the proposed agenda, webinar access, and topics, including whether revisions to briefing materials. intellectual property protection are needed. The present notice extends this SUPPLEMENTARY INFORMATION: The olvement of a natural person inquiry to copyright, trademark, and Council is considering requiring electronic reporting of commercia other intellectual property rights impacted by AI. fishery VTRs in a joint action with the DATES: Written comments must be New England Fishery Management received on or before December 16, Assuming involvement by a natu Council. This action would change the method of transmitting VTRs-the 2019 person is or should be required, what required data elements would not kind of involvement would or should be ADDRESSES: Written comments should sufficient so that the work qualifies for change. Existing regulations requiring that VTRs be completed before arriving be sent by email to AIPartnership@ copyright protection? For example, should it be sufficient if a person (i) uspto.gov. Comments may also be at the dock would not change, but the submitted by postal mail addressed to designed the AI algorithm or process the Director of the U.S. Patent and Trademark Office, P.O. Box 1450, timeline for submitting electronic. reports may change. This meeting will provide a review of approved electronic VTR applications, initial steps that Alexandria, VA 22313-1450. Although the design of the algorithm or process;

would be necessary for commercial operators to begin reporting electronically, and a demonstration of two of the most popular electronic reporting applications (with limited time for questions) to convey information on the process involved for commercial operators to report VTRs electronically.

comments may be submitted by postal mail, the USPTO prefers to receive comments via email. Because written comments and

testimony will be made available for public inspection, information that a espondent does not desire to be made public, such as a phone number, should not be included in the testimony or written comments.

SUPPLEMENTARY INFORMATION: Artificial increasingly becoming important across a diverse spectrum of technologies and businesses. AI poses unique challenges

that created the work; (ii) contributed to (iii) chose data used by the algorithm for training or otherwise; (iv) caused the AI algorithm or process to be used to yield the work; or (v) engaged in some specific combination of the foregoing

A videotape of the entire conference, along with the agenda and an overview of the conference, are available at https://www.uspto.gov/about-us/events. artificial-intelligence-intellectual-property-policy-

1. Should a work produced by an AI algorithm or process, without the involvement of a natural person contributing expression to the resulting work, qualify as a work of authorship protectable under U.S. copyright law? Why or why not?



8. How, if at all, does AI impact trademark law? Is the existing statutory language in the Lanham Act adequate to address the use of AI in the marketplace?

Federal Register/Vol. 84, No. 210/Wednesday, October 30, 2019/Notices 58142 activities? Are there other contributions Dated: October 23, 2019. DEPARTMENT OF EDUCATION a person could make in a potentially Andrei Iancu, [Docket No.: ED-2019-ICCD-0093] copyrightable AI-generated work in order to be considered an "author"? Under Secretary of Commerce for Intellectual Property and Director of the United States Agency Information Collection 3. To the extent an AI algorithm or Patent and Trademark Office. Activities: Submission to the Office of process learns its function(s) by IFR Doc. 2019-23638 Filed 10-29-19; 8:45 am] Management and Budget for Review ingesting large volumes of copyrighted and Approval; Comment Request; BILLING CODE 3510-16-P material, does the existing statutory Ronald E. McNair Postbaccala language (e.g., the fair use doctrine) and Achievement Program Annual related case law adequately address the Performance Report legality of making such use? Should COMMODITY FUTURES TRADING AGENCY: Office of Postsecondary authors be recognized for this type of COMMISSION Education (OPE), Department of use of their works? If so, how? Education (ED) 4. Are current laws for assigning Sunshine Act Meetings ACTION: Notice. liability for copyright infringement adequate to address a situation in which TIME AND DATE: 10:00 a.m., Tuesday, SUMMARY: In accordance with the an AI process creates a work that November 5, 2019. Paperwork Reduction Act of 1995, ED is infringes a copyrighted work? PLACE: CFTC Headquarters, Lobbyproposing a revision of an existing 5. Should an entity or entities other information collection. Level Hearing Room, Three Lafayette than a natural person, or company to DATES: Interested persons are invited to Centre, 1155 21st Street NW, which a natural person assigns a submit comments on or before Washington, DC. copyrighted work, be able to own the November 29, 2019. copyright on the AI work? For example: STATUS: Open. ADDRESSES: To access and review all the Should a company who trains the documents related to the information MATTERS TO BE CONSIDERED: The artificial intelligence process that collection listed in this notice, please Commodity Futures Trading creates the work be able to be an owner? use http://www.regulations.gov by searching the Docket ID number ED-Commission ("Commission" or 6. Are there other copyright issues "CFTC") will hold this meeting to ed to be addressed to promote the 2019-ICCD-0093. Comments submitted consider the following matters: goals of copyright law in connection in response to this notice should be Proposed Rule—Correcting submitted electronically through the with the use of Amendment to Commission Regulation 7. Would the use of Ar in Federal eRulemaking Portal at http:// demark 160.30 (Privacy of Consumer Financial www.regulations.gov by selecting the Docket ID number or via postal mail, searching impact the regist Information) trademarks? If so, how? Foreign Board of Trade (FBOT) commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason Applications of Euronext Amsterdam, ronext Paris, and European Energy ED will temporarily accept comments at Exchange; and ICDocketMgr@ed.gov. Please include the docket ID number and the title of the • Other Commission business. 9 How if at all does AI impact the The agenda for this meeting will be information collection request when need to protect databases and data sets? requesting documents or submitting available to the public and posted on Are existing laws adequate to protect the Commission's website at https:// comments. Please note that comments such data? www.cftc.gov. In the event that the time, submitted by fax or email and those 10. How, if at all, does AI impac date, or place of this meeting changes, submitted after the comment period will trade secret law? Is the Defend Trade not be accepted. Written requests for an announcement of the change, along Secrets Act (DTSA), 18 U.S.C. 1836 et information or comments submitted by with the new time, date, or place of the seq., adequate to address the use of AI postal mail or delivery should be meeting, will be posted on the in the marketplace? addressed to the Director of the Commission's website. 11. Do any laws, policies, or practices Information Collection Clearance CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, Secretary of the 550 12th Street SW, PCP, Room 9086, need to change in order to ensure an appropriate balance between aintaining trade secrets on the one Commission, 202-418-5964. Washington, DC 20202-0023. hand and obtaining patents, copyrights, FOR FURTHER INFORMATION CONTACT: For Authority: 5 U.S.C. 552b. or other forms of intellectual property specific questions related to collection Dated: October 28, 2019. protection related to AI on the other activities, please contact Carmen Christopher Kirkpatrick, 12. Are there any other AI-related Gordon, 202-453-7311. issues pertinent to intellectual property Secretary of the Commission SUPPLEMENTARY INFORMATION: The [FR Doc. 2019-23810 Filed 10-28-19; 4:15 pm] rights (other than those related to patent Department of Education (ED), in rights) that the USPTO should examine? BILLING CODE 6351-01-P accordance with the Panerwork 13. Are there any relevant policies or Reduction Act of 1995 (PRA) (44 U.S.C. practices from intellectual property 3506(c)(2)(A)), provides the general agencies or legal systems in other public and Federal agencies with an countries that may help inform opportunity to comment on proposed. USPTO's policies and practices revised, and continuing collections of information. This helps the Department regarding intellectual property rights (other than those related to patent assess the impact of its information collection requirements and minimize

10. How, if at all, does AI impact trade secret law? Is the Defend Trade Secrets Act (DTSA), 18 U.S.C. 1836 *et seq.*, adequate to address the use of AI in the marketplace?

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ADDRESSES: To access and review all the Should a company who trains the documents related to the information MATTERS TO BE CONSIDERED: The artificial intelligence process that collection listed in this notice, please Commodity Futures Trading creates the work be able to be an owner? use http://www.regulations.gov by searching the Docket ID number ED-Commission ("Commission" or 6. Are there other copyright issues "CFTC") will hold this meeting to that need to be addressed to promote the 2019-ICCD-0093. Comments submitted consider the following matters: goals of copyright law in connection in response to this notice should be Proposed Rule—Correcting submitted electronically through the with the use of AI? Amendment to Commission Regulation 7. Would the use of AI in trademark Federal eRulemaking Portal at http:// 160.30 (Privacy of Consumer Financial www.regulations.gov by selecting the Docket ID number or via postal mail, searching impact the registrablity of Information) trademarks? If so, how? commercial delivery, or hand delivery. 8. How, if at all, does AI impact Foreign Board of Trade (FBOT) If the regulations.gov site is not available to the public for any reason, rademark law? Is the existing statutory Applications of Euronext Amsterdam, uage in the Lanham Act adequate to onext Paris, and European Energy ED will temporarily accept comments at the use of AI in the Exchange; and ICDocketMgr@ed.gov. Please include the docket ID number and the title of the marketpl • Other Commission business. 9. How, if at all, o AI impact the The agenda for this meeting will be information collection request when need to protect databases and data sets? requesting documents or submitting available to the public and posted on Are existing laws adequate to p the Commission's website at https:// comments. Please note that comments such data? www.cftc.gov. In the event that the time, submitted by fax or email and those 10. How, if at all, does AI impa date, or place of this meeting changes, submitted after the comment period will not be accepted. Written requests for an announcement of the change, along information or comments submitted by with the new time, date, or place of the postal mail or delivery should be meeting, will be posted on the addressed to the Director of the Commission's website. 11. Do any laws, policies, or practices Information Collection Clearance CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, Secretary of the 550 12th Street SW, PCP, Room 9086, need to change in order to ensure an appropriate balance between aintaining trade secrets on the one Commission, 202-418-5964. Washington, DC 20202-0023. hand and obtaining patents, copyrights, FOR FURTHER INFORMATION CONTACT: For Authority: 5 U.S.C. 552b. or other forms of intellectual property specific questions related to collection Dated: October 28, 2019. protection related to AI on the other activities, please contact Carmen Christopher Kirkpatrick, 12. Are there any other AI-related Gordon, 202-453-7311. issues pertinent to intellectual property Secretary of the Commission SUPPLEMENTARY INFORMATION: The [FR Doc. 2019-23810 Filed 10-28-19: 4:15 pm] rights (other than those related to patent Department of Education (ED), in rights) that the USPTO should examine? BILLING CODE 6351-01-P accordance with the Panerwork 13. 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USPTO AI policy update

• Next steps:

- The USPTO is in the process of reviewing the public comments and will issue a report as early as spring 2020
- Public comments will be published with the report



Questions and comments

Coke Stewart

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