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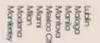
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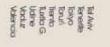














Can Artificial Intelligence be "inventor" or "lawyer"?



Artificial Intelligence (AI) systems are capable of "inventing" as the human intellect could, although the concept of "inventor" requires specific characteristics.

On September 1, Jason Allen, a video game designer, won first prize in a fine art contest at the Colorado State Fair with the work Théâtre D'opéra Spatial, generated by the IA program Midjourney. The award has not been without controversy.

The field of art is not the only field in which AI creations are being a source of disagreements, debate and dilemmas.

In 2019 physicist Dr. Stephen Thaler created the AI program "DABUS" (Device for Autonomous Bootstrapping of Unified Sentience), with which he has carried out a series of inventions. The problem arose when he, when applying for the appropriate patents, pointed out artificial intelligence as the inventor.

The USPTO denied the patent on the grounds that a machine could not be considered an inventor, a decision that was later upheld by the Virginia District Court which concluded that under US law, the inventor must be an "individual" (individual) in the sense of a "natural person".

Thaler appealed to the Federal Courts asking for a broader interpretation of the concept "individual" since, according to his argument, if a legal person or any other "non-human" entity could be considered infringing, in the same way an AI should be considered an inventor. Reinforcing his position, he argued that the possibility of patenting inventions made by AI would encourage innovation.

The Federal Courts, in a very literal interpretation of the rule, considered that in the same way that legal persons cannot be considered "inventors" (it is a different matter) legal persons, neither can AI, but only natural persons.

On September 19, Thaler filed an appeal before the same Court challenging the definition of "individual" and arguing that Section 103 of the US Patent Law states that "patentability will not be denied by the way in which the invention was made." ."

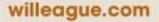
Regardless of what the Court's decision may be, the truth is that if AI were recognized as having the possibility of being an "inventor", this would mean a very profound change in the patent system as we know it.

On the one hand, the system of labor inventions should be adjusted to the new realities since, at present, it does not seem that the case of an invention by AI can even remotely fit.

On the other hand, according to Spanish legislation, the owner of a patent must prove the way in which he has obtained the right, either by employment or commercial relationship with the inventor. Nor does it seem that the case of an invention by an AI is easy to fit here.

Nor is this exempt from social problems, since AI technology is not available to all actors in a sector, so the gap between who can have access to it and who cannot, can widen even more.

The legal field is not left out of the AI either.





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AI programs that, based on forms, can write simple appeals against small infractions and sanctions are already more or less common.

However, the next step is to be able to advise in real time with legal arguments and witty responses.

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In this sense, it has been recent news that DoNotPay, a Californian company established in 2015, offers a million dollars to the lawyer who defends a case before the US Supreme Court simply by repeating the legal arguments that an AI robot transmits through some AirPods.

Undoubtedly, we are facing a great debate that poses many challenges.

So much so, that the Spanish Patent and Trademark Office has recently presented a Study on Artificial Intelligence and the defense of Industrial Property rights in Spain.

Santiago Soler, Valencia

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