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PATENTING ARTIFICIAL INTELLIGENCE AT THE EPO

The European Patent Office (EPO) has now held its first ever conference on the patenting of artificial intelligence (AI). In attendance were over 350 members of industry, academia, user associations, patent law firms, judicial bodies, national patent offices and government bodies.

The conference addressed the ways in which the fast-paced technological advancements of the fourth industrial revolution (4IR) will affect patent offices, namely:

- The protection of AI with patents and other intellectual property rights,
- The use of AI in the development of inventions, and
- The use of AI in the patenting process.

The speakers noted that the latest scope and trends of the current "AI explosion" not only encompass the ICT industry, but also affects the scale and speed of innovation in every field. Indeed, the EPO has seen a very fast growth of 4IR patent applications in the past few years: about 50% of the patent applications received by the EPO in the areas of medical and automotive technology already have a computer-implemented invention (CII) element to them. In this respect, the EPO representatives indicated that the Office now has a stable and reliable approach to CII inventions.

On the topic of achieving the best possible protection for AI, several panelists also discussed the relevance of each stage of an invention: evaluating the invention, drafting the patent application, prosecuting the patent application, and enforcing the patent. Various solutions were proposed, and an extensive discussion took place regarding the need to speed up the patent granting process, provide for patent applications to be published earlier, and adapt the model to confer protection on the business rather than on the inventor. In order to deal with the specifics of AI, the possibility was even raised during the conference of making substantial legislative changes, including changes to the criteria for patentability.

The conference also addressed post-grant issues of AI patents and ownership, as well as the societal and ethical aspects of patents in the field of AI. The question was also addressed of whether, e.g. in the case of autonomous inventions, the person skilled in the art should remain a human being, or whether the definition of this fictional person requires an adjustment.

The EPO concluded by recalling the recent reforms it enacted to improve efficiency and quality, which the EPO believes will help in addressing future challenges, including those offered by the ever-increasing interest in AI patenting activities.

The EPO also announced that it plans to hold a similar conference on patenting blockchain technology, which is yet another field characterized by fast growth and increasing interest from industry.

This conference clearly shows the EPO's interest in tackling the challenges of new technologies as soon as they arise, so as to offer a service that is ever more tailored to the business needs.