

The ‘Director’s-Forum-on-AI-in-Patenting’ is a Brilliant Idea — especially to the Point.

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This short mail — being a quick & strong answer to the USPTO’s AI initiative launched by Andrei Iancu on 21.08.2019^[552] — comprises only the below brief 2 sections, the headlines of which moreover clearly indicate what they are telling.

I. An Important Clarification: Why the Director’s AI Partnership-Forum is Timely ‘to the Point’.

The reason is evident: AI has originally taken off on its triumphal course in industrial production — now it is penetrating also the mass-market, with the impact on the patent community that it may add to the PE misery an AI misery. Without control, the charm of this type of AI in the patent context may surprise.

The ‘Director’s Forum on AI in patenting’ is probably the only sufficiently authoritative instrument to stay on course with definitively resolving the PE problem, as Andrei Iancu promotes it since in office — by the next version of the USPTO’s 2019 PE-Guideline — and nevertheless optimally unfolding by this AI Partnership forum the enormous socio-economic potentials of US society’s innovativity. Yet, once an illusionary ‘AI patenting stampede’ is on — what AI’s recent triumphal success may trigger any time — it is hard to return to rationality, as the (much smaller) PE stampede for ETCIs patenting just showed (i.e. ignoring the Supreme Court’s ‘framework warning’ instead of leveraging on it, as^[9] and many publications of the FSTP-Project tell). The USPTO’s AI-initiative hence is really to the point — especially as to the many CRISPR-based patent applications^[9,495].

II. My Friday Mail to You Replied already to the 16 AI Questions Asked by the Director’s Forum.

This does not mean that the Director’s AI Forum is superfluous. On the contrary: Exceeding the Section I issue, this Forum is right to the point also as to focusing the US patent community on still another fundamental aspect of AI in patenting: It is AI’s much higher disruptivity than the 12+ AI questions indicate — which hence are no new questions, but the old ones. Thereby, this holds only as the Director’s AI Forum is based on the Supreme Court’s framework requirements — otherwise, AI is next to negligible. This disruptivity is briefly explained in my preceding mail^[9] & in^[508].

For a patent (to be) granted on an ETCI, its AI comprises — by the FSTP-Test implementing & vastly automizing it —

- the “enforceability of its patent-eligibility & patentability” in the USPTO and in US courts,
- its draftability “totally SPL-robust”,
- testing it for (not) being totally SPL-robust, and
- identifying & drafting all sets of still unknown adjacent ETCIs,
- ... **All these AI aspects are disruptive for the respective hitherto necessarily ‘manual’ activities.**

And from these AI implications — evidenced by the FSTP-Test, which any ETCI must pass for being patent-eligible & patentable — follows that they also answer the asked 16 AI questions (using the numbering in^[552,553]). This statement trivially only holds — and the below answers — as the AI used in the FSTP-Test models the 35 USC §§ 112/101/102/103.

- | | |
|---|---|
| 1. <i>What are elements of an AI invention?</i> | Exactly those of the AI inventions in FSTPtech-KR, see ^[552p8] . |
| 2. <i>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?</i> | Exactly those known/applied from/in ‘pre-AI-invention’ patenting. |
| 3. <i>Do current patent laws and regulations regarding^[552] ...?</i> | NO / NONE |
| 4. <i>Should an entity or entities other than^[552] ...?</i> | NO |

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5. see ^[552]	NO
6. see ^[552]	NO
7. see ^[552]	Exactly as known/applied from/in 'pre-AI-invention' patenting.
8. see ^[552]	NO
9. see ^[552]	NO
10. see ^[552]	NO
11. see ^[552]	NO
12. see ^[552]	NO
1. see ^[553]	NO
2. see ^[553]	NO
3. see ^[553]	NO
4. see ^[553]	NO

The final sentence of Laura Peter's guest comment on the USPTO establishing the Director's Forum^[553] implies a very broad question about more advanced AIs related to IPRs. If such an AI should model an SPL broader or tighter than the current US/SPL — as interpreted by the Supreme Court in its line of SPL-framework decisions — the above 16 replies need not be correct as to it, though they may.

Excerpt from the FSTP-Project's Reference List

Many FSTP-Project mails, including this one, are written in preparation of the textbook^[182] – i.e. are not fully self-explanatory independent of other FSTP-mails.

<p>[2] The term 'Artificial Intelligence' here denotes specific cutting edge deterministic IT & Mathematics areas, e.g. in KnowledgeRepresentation (KR)/ Description Logic (DL)/ Natural Language (NL)/ Semantics/ Semiotics/ (Nonsequential) System Design/..., i.e. a resilient fundament for analyzing 35 USC/SPL by AI-based "Facts Screening/Transforming/Presenting, FSTP"-Technology, developed here, induced by the US Supreme Court's framework decisions^[182]. All the ETCI's meanings, especially Molecular Biology meanings of all 'BIO-prefixed' acronyms, are based on so understood AI.</p> <p>[5] S. Schindler: "Math. Modeling SPL Top-Down vs. Bottom-Up", Yokohama, 2012"</p> <p>[9] S. Schindler: "Patent Business — Before Shake-up", 2045-2047, publ. 29.08.2019"</p> <p>[69] USSC, Transcript of the oral argument in <i>Alice Corp. v. CLS Bank</i>, 31.03.2014".</p> <p>[113] S. Schindler: "The CAFC's Rebellion is Over – The USSC, by Mayo/Biosig/Alice, ...", publ. 07.08.2014".</p> <p>[182] S. Schindler: "Basics of Mathem. Innovation Theory and AI Based Patent Technology", Textbook, in prep.</p> <p>[314] J. Duffy: "Counterproductive Notice in Literalistic v. Peripheral Claiming", U. of Virginia, June 2016".</p> <p>[372] S. Schindler: "IDLS" & KR's, and Easily Drafting&Testing Patents for Robustn., publ., 16.05.2017"</p> <p>[374] Justice Thomas: Friendly Comment, 04.12.2015"</p> <p>[415] S. Schindler: "The USPTO's §101/Biotech WS: Its PE-Test is Too Vague ...", 12.09.2017"</p> <p>[459] S. Schindler: "Andrei Iancu's Promises of More Certainty in USPTO's PE- Decisions – Hope- or Harmful?", publ. 03.05.2018"</p> <p>[468] S. Schindler: "Andrei Iancu's Further Pub. Discuss. about USPTO's Serv.", publ. 11.05.2018"</p> <p>[477] S. Schindler: "Rationality Returns in the US SPL-Drama – it now has a White Knight.", 21.06.2018"</p> <p>[478] A. Iancu: "Remarks delivered at the AEI", 21.06.2018"</p> <p>[479] S. Schindler: "Dropping the BRI-Standard is Necessary! But ...", publ.09.07.2018".</p> <p>[480] S. Schindler: "A Fresh Look at the USPTO's PE-Guidance — ...", publ.19.07.2018".</p> <p>[482] S. Schindler: "Andrei Iancu—After 100+ Days Even Stronger on Track.", publ.25.07.2018"</p> <p>[488] S. Schindler: "UC's vs. Broad/MIT/Harvard's CRISPR Patents&the Supreme Court's Framework", Part I, publ. 20.09..2018")</p> <p>[489] S. Schindler: "UC's vs. Broad/MIT/Harvard's ...", Part II, publ. 25.10..2018")</p> <p>[495] S. Schindler, B. Wittig: "UC's vs. Broad's CRISPR Patents ...", Part III, publ.30.01.2019"</p> <p>[500] S. Schindler: "Andrei Iancu's § 101 Challenge — Becoming his § 101 Success Story? The USPTO's Recent Claim Interpretation May Render <i>Alice's</i> § 101 Test As Patent Champion.", 14.11.2018")</p> <p>[503] S. Schindler, B. Wittig: "UC's vs. Broad's ...", Part IV., 18.03.2019</p> <p>[504] USPTO: The 2019 §§ 101&112 Guidelines, 04.01.2019"</p> <p>[508] B. Wittig, S. Schindler: "UC's vs. Broad/MIT/Harvard's CRISPR Patents & the Supreme Court's Framework — Graphical Support in (M)EETCI Specification', Part V", , to be publ. before the 11.09.2019.</p>	<p>[510] S. Schindler: "Finally, CAFC & USPTO Started Friendly ...! One Year of Andrei Iancu's Spirit in the USPTO — and All US Legal Patent-Business is of Good-Will.", publ. 05.03.2019."</p> <p>[513] A. Iancu: "Opening Remarks of 14. APLI", USPTO, 21.03.2019.</p> <p>[519] B. Stoll: "Courts Can Resolve Patent Eligibility Problems, Iancu Says", ABA-IPL, 12.04.2019".</p> <p>[520] S. Schindler: "Andrei Iancu Will Resolve the PE-Problem as Required by Incentivizing Innovation", ABA-IPL, 21.04.2019"</p> <p>[526] S. Schindler: "The Congress's New § 101 Initiative Accelerates Consolidating & Improving the PE Notion Vastly Agreed", this mail, publ.15.05.2019"</p> <p>[527] T. Tillis, C.Coons, D. Collins, H. Johnson, S. Stivers: "Press Release", publ. 17.04.2019"</p> <p>[530] A. Iancu: "Statement delivered before the US House Subcommittee on Courts, IP, and the Internet Committee on the Judiciary", DC, 09.05.2019"</p> <p>[536] S. Schindler: "The Congressional Committee's PE Initiative Basically Confirms USPTO's 2019 PE-Guideline — Yet the Latter's Vastly Agreed § 101 Meaning Requires Further Specificity for being PE^[526] —", publ. 30.05.2019"</p> <p>[537] S. Schindler: "The Senate Subcommittee will by its § 101 Enquiry Settle this Issue, with no Vagueness or Clustering in US SPL" publ. 22.06.2019"</p> <p>[540] S. Schindler: "Andrei Iancu's PTO-PE-2019-GuideLine Approaches the Framework — Broadly Agreed! The P. R. by Sens. Tillis & Coons — about the CAFC's PE Uncertainties — Promises Rapid Relief.", publ. 15.07.2019"</p> <p>[541] Tillis, Coons: "What We Learned at Patent Reform Hearings", publ. 24.06.2019"</p> <p>[542] A. Iancu: "The Current State of Innovativity within the Legal System — Views on Evolving Protection for IPRs in the US from the USPTO and the Courts.", NYIPLA, 21.06.2019, publ. 18.07.2019"</p> <p>[543] B. Stoll: "Update on 35 USC § 101 & Recent Legislation", publ. June 2019"</p> <p>[544] Sens. Tillis, Coons: "Statement on key Federal Circuit decision, continued uncertainty about patent eligibility", Press Release, 08.07.2019."</p> <p>[545] S. Schindler, D. Schönberg, J. Schulze, "Metarational and Mathematical Claim Interpretation and Claim Construction for an ETCI", publ. 29.07.2019"</p> <p>[546] CAFC: <i>Athena vs. Mayo</i>, 03.07.2019".</p> <p>[547] R. Davis: "Iancu Says USPTO Patent Eligibility Guidance Bringing Clarity", Law360, 22.072019"</p> <p>[548] B. Stoll, mail,25.07.2019.</p> <p>[549] G. Berkely: "A treatise concerning the principles of human knowledge", 1710.</p> <p>[550] S. Schindler: "A Comment on Two Heavyweight Letters to the Congressional Subcommittee on IP", publ. 05.08.2019"</p> <p>[551] S. Schindler: "The 'Director's-Forum-on-AI-in-Patenting' is a Brilliant Idea — as to the Point." this mail, publ. on 02.09.2019"</p> <p>[552] A. Iancu: "Request for Comments on Patenting Artificial Inventions",21.08.2019"</p> <p>[553] L. Peter: "USPTO announces FRN on artificial intelligence patent issues", 26.08.2019"</p> <p>*) docs & complete Ref. List on www.FSTP-expert-system.com</p>
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