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Comparison of Patentability Standards of AI Related Inventions across Jurisdictions: The Role of Patentability Requirements

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Many inventions related to artificial intelligence (AI) are inherently software-based. The handling of software inventions differs from country to country, and the scope of rights patented in Japan is not necessarily patented in the United States or Europe. In this paper, we will explain the precedents and trial decisions regarding the patentability and disclosure requirements for software inventions under the U.S. Patent Act and the European Patent Treaty, as well as the examination standards of the United States Patent and Trademark Office (USPTO) and the European Patent Office (EPO). In addition, through the case studies used in the symposium hosted by the Japan Patent Office (JPO), we will clarify the differences between the examination practices of the USPTO and EPO and the results of patentability judgments with the JPO. Finally, we will examine the reasons why Japan adopts more relaxed standards and the impact of these looser standards on the international patent acquisition strategies of Japan companies and examine the necessity of international harmonization.

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