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KEY TAKEAWAYS | REQUIRING HUMAN INVENTORSHIP

Opportunities to Advise Whether to Prohibit, Permit, or Require Listing an AI Algorithm as an Inventor - Eastern District of Virginia & European Patent Office

Dr. Stephen Thaler created an AI algorithm (named DABUS) that includes multiple neural networks trained in different linguistic subspaces that connect dynamically in a manner based on controlled chaos. DABUS also includes a novelty filter. Dr. Thaler filed multiple patent applications based on outputs generated by DABUS, and the applications listed DABUS as being the only inventor.

1

Patent offices in Europe and the United States have indicated that this is impermissible. Dr. Thaler appealed these decisions to the Board of Appeals at the Europe (EP3564144) and the United States District Court for the Eastern District of Virginia (*Thaler v. Iancu, et al,* 1:20-cv-00903).

2

The hearing date for the U.S. DABUS case is set for March 29, 2021. Thus, it is reasonably likely that ***amicus briefs submitted by mid-March*** will be considered. In Europe, the EPO has until May 1, 2021 to submit comments. Thus, it is reasonably likely that ***third party observations submitted before May 1, 2021*** will be considered.

3

We recommend that parties who regularly use or develop AI in their innovation pipelines to consider this opportunity. It may be particularly important and helpful for the courts to receive input from "friends" (via an amicus brief or Third Party Observation) that dives into the current power of artificial intelligence algorithms, the potential capabilities of artificial intelligence algorithms, and/or how various inventorship requirements (that may prohibit, permit, or require listing an AI algorithm in defined circumstances) have the potential to influence innovation.

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Read more at: https://www.ipwatchdog.com/2021/02/11/require-human-inventorship-submit-amicus-brief-march/id=129922/

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