

Stephanie Sivinski in Law 360: 4 Ways Advances in AI Could Challenge Patent Law

October 11, 2018 Stephanie Sivinski

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Haynes Boone Associate [Stephanie Sivinski](#) was quoted in a Law360 article exploring how advances in artificial intelligence (AI) are raising interesting patent law questions.

Here is an excerpt:

Looking further into the future of AI, it is becoming plausible that a machine could devise an invention without any direct input from humans. That would probably not be a physical object, but perhaps a suggestion for a new chemical compound or an optimized method of medical treatment. Recognizing the AI as the inventor of the technology could put patent law into uncharted territory. . . .

Patent law typically refers to the inventor as an "individual," and it's not entirely clear whether that can refer to computers. The law has held that only humans, not corporations, can be inventors, so the same might be true of AI. . . .

However, if AI, not a human being, conceives of the idea, it's possible that no one could get a patent. That may be true even if people made other important contributions to the invention short of the actual inventive spark, since patents can be invalidated for not properly naming all the inventors.

"If AI is unable to be named as an inventor, does it make the invention not patentable at all?" said Sivinski, noting that "AI is at the forefront of where a lot of industries are going, and we want to incentivize creation."

But a revision or reinterpretation of the law allowing AI to be considered an inventor under the law presents its own complications. Presuming we're not yet in the realm of AI sophisticated enough to decide whether to file a lawsuit or license the patent, someone would need to step into the shoes of the AI to enforce its rights.

It may not always be clear who that would be: the company that owns the AI? The other inventors who worked on the project?

"It's fairly complicated and there are so many areas of interaction, so it will take a long time to work through the courts," Sivinski said.

To read the full article, click [here](#). (Subscription required.)