

Determination of Authorship of the Works Created by the Artificial Intelligence

Authors : Vladimir Sharapaev

Abstract : This paper seeks to address the question of the authorship of copyrighted works created solely by the artificial intelligence or with the use thereof, and proposes possible interpretational or legislative solutions to the problems arising from the plurality of the persons potentially involved in the ultimate creation of the work and division of tasks among such persons. Being based on the commonly accepted assumption that a copyrighted work can only be created by a natural person, the paper does not deal with the issues regarding the creativity of the artificial intelligence per se (or the lack thereof), and instead focuses on the distribution of the intellectual property rights potentially belonging to the creators of the artificial intelligence and/or the creators of the content used for the formation of the copyrighted work. Moreover, the technical development and rapid improvement of the AI-based programmes, which tend to be reaching even greater independence on a human being, give rise to the question whether the initial creators of the artificial intelligence can be entitled to the intellectual property rights to the works created by such AI at all. As the juridical practice of some European courts and legal doctrine tends to incline to the latter opinion, indicating that the works created by the AI may not at all enjoy copyright protection, the questions of authorships appear to be causing great concerns among the investors in the development of the relevant technology. Although the technology companies dispose with further instruments of protection of their investments, the risk of the works in question not being copyrighted caused by the inconsistency of the case law and a certain research gap constitutes a highly important issue. In order to assess the possible interpretations, the author adopted a doctrinal and analytical approach to the research, systematically analysing the European and Czech copyright laws and case law in some EU jurisdictions. This study aims to contribute to greater legal certainty regarding the issues of the authorship of the AI-created works and define possible clues for further research.

Keywords : artificial intelligence, copyright, authorship, copyrighted work, intellectual property

Conference Title : ICAIL 2020 : International Conference on Artificial Intelligence and Law

Conference Location : Toronto, Canada

Conference Dates : June 18-19, 2020