

2021 AIPPI World Congress – Online
Adopted Resolution
October 22, 2021



Resolution

2021 – Study Question – Patent

Inventiveness and sufficiency of disclosure in AI inventions

Background:

- 1) This Resolution concerns the issues of inventiveness and sufficiency of disclosure of inventions involving Artificial Intelligence (“AI”).
- 2) This Resolution concerns in particular: the definitions of the person skilled in the art and common general knowledge when assessing inventive step or non-obviousness of AI inventions, having regard to the increasing use of AI in the invention process, and the standard of sufficiency of disclosure concerning AI inventions. This resolution does not address examination of the prior art.
- 3) 37 Reports were received from AIPPI's National and Regional Groups and Independent Members, providing detailed information and analysis regarding national and regional laws relating to this Resolution. These Reports were reviewed by the Reporter General Team of AIPPI and distilled into a Summary Report (see links below).
- 4) At the online AIPPI World Congress in October 2021, the subject matter of this Resolution was further discussed within a dedicated Study Committee, and again in a full Plenary Session, following which the present Resolution was adopted by the Executive Committee of AIPPI.

AIPPI resolves that:

Definition of “person skilled in the art”

- 1) The definition of the “person skilled in the art” should be the same for inventions made by or using AI technology and inventions made without the use of AI technology.

- 2) The “person skilled in the art” should be a hypothetical natural person (or team of hypothetical natural persons) and would use AI technology only if that use would have been expected from the average person in the field (or fields) to which the invention relates, at the relevant date.

Common General Knowledge for AI Inventions

- 3) The definition of common general knowledge should not differentiate between inventions made by or using AI technology and inventions made without the use of AI technology.

Laws regarding inventiveness of AI inventions

- 4) International harmonisation of laws regarding inventiveness of AI inventions is desirable.
- 5) When assessing inventive step, the laws should not differentiate between an invention made by or using AI technology and inventions made without the use of AI technology.

Sufficiency of disclosure of AI inventions

- 6) International harmonisation of laws regarding sufficiency of disclosure of AI inventions is desirable.
- 7) The standard of sufficiency of disclosure should be the same for all inventions. When assessing sufficiency of disclosure, laws should not differentiate between inventions made by or using AI technology and inventions made without the use of AI technology.

Use of AI technology by patent offices in patent examination

- 8) Patent offices should not try to reproduce an invention using AI technology during examination.
- 9) AI technology may be used by a human examiner, for example, to search for prior art when assessing a patent application.

Links:

- [Study Guidelines](#)
- [Summary Report](#)
- [Group Reports](#)