



May 15, 2023

Katherine K. Vidal
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
United States Patent and Trademark Office
600 Dulany Street
Alexandria, Virginia 22314

RE: Request for Comments Regarding Artificial Intelligence and Inventorship [[Docket No. PTO-P-2022-0045](#)]

Dear Under Secretary and Director Vidal:

The Alliance for Automotive Innovation (“Auto Innovators”) is pleased to submit comments to the United States Patent and Trademark Office (“USPTO”) in response to its request for comments on artificial intelligence and inventorship. Auto Innovators appreciates the USPTO’s ongoing engagement with stakeholders on the current state of artificial intelligence technologies and inventorship issues that may arise in view of the advancement of such technologies and the role that artificial intelligence plays in the innovation process.

Auto Innovators represents the manufacturers that produce most of the cars and light trucks sold in the U.S., original equipment suppliers, battery makers, technology companies, and other value-chain partners within the automotive ecosystem. Representing approximately 5 percent of the country’s GDP, responsible for supporting 10 million jobs, and driving \$1 trillion in annual economic activity, the automotive industry is the nation’s largest manufacturing sector.

The automotive industry leverages the power of artificial intelligence to integrate driver support features, advanced safety technologies, and automated driving systems into consumer vehicles. These and other technological advances have the potential to protect vulnerable road users, reduce serious injuries and deaths, improve roadway safety, and provide environmental benefits. With this breadth of experience in artificial intelligence innovation, Auto Innovators contends that current patent law is equipped to handle inventorship that involves artificial intelligence technologies. Therefore, USPTO should uphold current law and explicitly state that inventorship is limited to natural persons. Further, the USPTO could adopt rules similar to those of the United States Copyright Office that state that human contributions to inventions are protectable, but artificial intelligence contributions, on their own, are not.

Auto Innovators offers the following additional thoughts for USPTO’s consideration:

- Artificial intelligence systems should not be eligible to be listed as inventors. Allowing such systems to be listed as inventors does not promote or incentivize innovation.
- Artificial intelligence contributions to inventions should have a rebuttable presumption of obviousness. Such a presumption can potentially be rebutted by demonstrating human involvement in testing, adopting, etc.
- With regards to its current guidance on inventorship, USPTO should further clarify that human contributions that meet the standards of patentability on their own remain patentable regardless of artificial intelligence contributions. USPTO should also provide direction on what evidence is helpful in overcoming the proposed presumption of obviousness of artificial intelligence contributions, when such contributions involve subsequent human input. In developing such direction, USPTO should consider hosting public listening sessions and/or workshops to gather stakeholder input.
- Patentability of artificial intelligence inventions that do not present the necessary evidence of human involvement could result in low-quality patent applications produced through machine learning and crowd out a field of innovation.
- As only artificial intelligence inventions that present the necessary evidence of human involvement that overcomes the proposed presumption of obviousness should be patentable, all such inventions should be assigned to the human or organization responsible for the invention. Inventions in which artificial intelligence technologies are used merely as a tool in a step of a process should remain patentable.
- Any issues of enablement of an artificial intelligence model or coded software can be dealt with using the usual patentability requirements.
- Ownership rights should vest solely with natural persons unless another agreement supersedes. Those who create, train, maintain, or own an artificial intelligence system should have no rights to an invention made by that system without human involvement or made by others with that system, similar to how the authors of educational texts have no rights to inventions later made by students educated with those texts.

Thank you for the opportunity to provide input on artificial intelligence and inventorship. Auto Innovators is grateful for USPTO's continued stakeholder engagement on patent-related matters of interest to the automotive industry.

Sincerely,



Tara Hairston
Senior Director, Technology, Innovation, and Mobility Policy