

# Intellectual Property versus Artificial Intelligence

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## Abstract

*A topic that is increasingly discussed today, it brings into discussion the advantages and disadvantages of using in the academic environment, the ways in which artificial intelligence can intervene in the process of teaching, learning and developing skills in research / innovation (know-how) and finally, lead to the creation of original products with scientific content.*

*We intend through this study to see if it is necessary to propose the adoption of a set of rules, limiting imposed by the academic environment, or to encourage the freedom of access to artificial intelligence, given that, from a legal point of view, we do not know of any prohibition in this sense, than collateral through the provisions of Law no. 8/1996 on copyright and related rights, supplemented by legislation in the field of industrial property and rules related to academic ethics and deontology, originating from the university charter and the legislation regulating academic research.*

**Key words:** intellectual property (PI), artificial intelligence (AI), ChatGPT

**J.E.L. classification:** O30

## 1. Introduction

International practice has increasingly imposed the specialization and over-specialization of the academic environment, with the allocation in their personal name of huge investments in units of time, even pecuniary, on their part, for the documentation and publication of scientific research, but also through exchange of experience through dialogue held at the highest scientific level.

Not infrequently, dialogue was hampered by long distances between partners, inaccessible language, differences in culture and legislation.

At the same time, for any scientific problem, the only way to fill some gaps in various fields, on the edge of deepening some scientific topics, are still within reach of partnerships between university environments at national and international level.

Today we think more and more, if we will use artificial intelligence to solve research problems or those in the academic environment of teaching and evaluation.

In the legal university environment, one of the main concerns considered is about understanding as closely as possible the will of the legislator, which is in continuous change, in order to adapt to the political will at a given moment, or of a specific period.

The premises from which we start, is that no one can be considered omniscient, more than that, in the legal environment, a field that most often calls on legal specialists/experts approved by legal institutions and who come from all social fields or technical, for carrying out expertise.

## 2. Literature review

The concept of Artificial Intelligence has seen a constant evolution after 1950, reaching today a stage when computers use certain algorithms, which allows them to self-improve through continuous learning, reaching the possibility of quickly answering the questions asked and even creating creative works intellectual property both in the field of copyright and in the field of industrial property.

Jurists have always emphasized the importance of copyright protection over intellectual creation in the historical evolution of humanity, from the first elements of protection to the works created by Artificial Intelligence, insufficiently regulated at the moment.

The rapid tendency to exceed the scope of legal regulations regarding the importance of protecting the act of intellectual creation, from a moral, cultural and economic point of view, affects economic development in general, as long as Artificial Intelligence is not unanimously legislated.

In the field of intellectual property protection with its two branches, copyright (Law No. 8/1996 and the Berne Convention of 1886 revised in 1971) and industrial property (all objects protected and regulated in national legislation - with those regulated by the Paris Convention of 1883), ensure all countries adequate national and international protection. The same cannot be said about Artificial Intelligence (Brăsoveanu 2011).

### **3. Research methodology**

The theoretical context of the study regarding the researched topic, took into account the opinions of some specialists in the field and the research results regarding the evolution of Artificial Intelligence, taking into account the complex nature of development and implementation in social and economic life at the level of the entire society.

The research method took into account the logical analysis between the current regulations regarding the respect of copyright and industrial property and the absence of regulations regarding one of the greatest pressures on humanity - that of globalization, with the component of the information society whose evolution led to the launch of a liberating force of ideas and intellectual creations through the development of Artificial Intelligence (Drăguleanu 2017).

### **4. Findings**

From a legal point of view, the implementation of traditional methods of intellectual property protection faces challenges that highlight the absence of regulations that ensure in the online environment, tools and mechanisms designed to lead to the removal of any violation of rights that can be sanctioned, according to the legislation in the field of intellectual property law, of civil, contraventional law or criminal law.

#### **4.1. Replacing some professions towards a new normality**

The progress of artificial intelligence advances at a dizzying speed, which will lead you to a series of social and economic changes as happened once with the appearance of the computer and the Internet (Preotescu 2023).

If the working class working in manufacturing can rest assured about job security, on social media, opinions are conveyed about a future with visible changes in some intellectual activities, such as: the profession of human resources officers, writers, performers, programmers and even lawyers.

If we speak from the point of view of some legal professions, especially that of a lawyer, the use of artificial intelligence products can contribute to the construction and shortening of the time of creating pleadings for or against and putting written conclusions in a certain subject, but for now there can be no question of replacing them, as is still predicted with their disappearance. Also, chatGPT will not be able to be used soon as a means of evidence in trials, the reluctance of judges being due to doubts about the correctness of the information and the manipulation of that data (Murariu 2023a).

Continuing with the legal profession, which many students dream of as a future based on the knowledge acquired in college and developed through a long practice, is in constant adaptation to current changes.

Life has proven that there are professions that have always changed their status, adapting to real life, especially the body of lawyers who can no longer practice their profession individually, but are organized in Law Firms and now they will have to coexist with artificial intelligence (Murariu 2023b). ChatGPT could not replace you with a lawyer whose qualities of spontaneity in the legal process and presence of mind in concrete situations.

It is also predictable that research in the field of artificial intelligence will continue both nationally and globally in an exponential way, and for now, attempts to cheat on assessments and exams can escape their sanction, for the reason that already, these intentions are one step ahead of the regulations through appropriate legal instruments, to prevent and sanction deviations from the norms of academic ethics and deontology.

The new chatbot with Artificial Intelligence, has the ability to minimize human commands and is defined: "AutoGPT". While ChatGPT is an AI tool that has developed a process capable of generating written content and needs human help to respond to commands, AutoGPT assumes the ability to initiate some searches by itself, can correct itself from mistakes previous and by way of consequence, it is appreciated that it surpasses any human brain.

This discovery could rightly affect the professions mentioned in the previous title. In theory, it is not wrong to mention that "ChatGpt has speeded up work, and AutoGPT will revolutionize it" (Euronews 2023).

"ChatGPT will redefine the future of academic research. But most academics don't know how to use it intelligently," recently wrote Mushtaq Bilal, a postdoctoral researcher at the University of Southern Denmark (). Further author Mushtaq Bilal, researcher stated: "There are two camps in academia. The first is early adopters of AI, and the second is professors and academics who believe AI is corrupting academic integrity" (Bello 2023).

#### **4.2. Intellectual property at the intersection with artificial intelligence**

In the framework of intellectual property, two major areas are considered that compose it - copyright (over literary, artistic and scientific works, including software and databases) and industrial property right [Technical creations (inventions, utility models), Aesthetic creations (designs, distinctive signs associated with products, brand, trade name, geographical indication) and Protection against unfair competition] (Anechitoae 2019).

The protection of intellectual property is an essential element of the development process, a condition of human progress. The activity of creation, of making products of the spirit is the condition of development (Roş V. 2016).

There is currently no universal legal definition of artificial intelligence. It is appreciated in the specialized literature as a discipline of computer science, for which it is considered that the intervention of human intelligence is needed (Tas Agency 2021).

On Wednesday (14/06/2023), the European Parliament adopted its negotiating position on the Artificial Intelligence (AI) Law by 499 votes to 28 with 93 abstentions ahead of discussions with EU member states on the final form of the law. The rules would ensure that artificial intelligence developed and used in Europe is fully in line with EU rights and values, including human supervision, safety, privacy, transparency, non-discrimination and social and environmental well-being (News European Parliament, 2023). Negotiations with the Council are now expected on the final form of the law, which looks at the future of Europe in the processes related to Artificial Intelligence

Specifically, Artificial Intelligence refers to algorithms based on which a computer is helped to develop its answer to calculation tasks, using machine learning methods.

Artificial intelligence is currently fueling major innovations in technology and business, being used in a wide range of industries and impacting almost every aspect of intellectual creation.

For legal reasons, the two fields cannot be confused: the intellectual creation of humans with artificial creation, in terms of works/inventions created by humans and those created with the help of AI.

Human-made intellectual creations are already protected through existing IP legislation, such as patents, copyrights, industrial designs, trade secrets, etc.

From this perspective, IP5 representatives (IP5 Members) provided a Report on Artificial Intelligence in which they expressed their viability for three categories of inventions that are created with the help of artificial intelligence: 1) inventions created by a natural person, who use artificial intelligence to verify and certify a technical result; 2) inventions created with the help of artificial intelligence, because the natural person identifies the technical problem and artificial intelligence solves it, and 3) inventions created autonomously and independently by artificial intelligence. In practice, the difference between an assistant robot and a creator robot is clear (Dominte N. R. 2019).

However, the representatives of all IP5 jurisdictions have ruled that the inventor must be a natural person, even though it may sometimes be difficult for the office examining the patent application to identify precisely whether the author of the technical creation was a human being or artificial intelligence (Report of the IP5, 2018).

## 5. Conclusions

The Rector of the Timișoara Politehnica University, Mr. Ph.D. Eng. Florin Drăgan, appreciates that it is not possible to prohibit the use of ChatGPT or other similar applications to generate content in response to the requirements of taking exams, but a set of rules and application norms must be created so that students know how can use these tools, what is allowed and what is not allowed.

It remains the task of the teaching staff, when they have the suspicion that a student has used a text generated by artificial intelligence tools, without mentioning it according to the citation norms, they have the obligation to use applications that recognize this fact.

Students are helped by this advanced technology by shortening the time it takes to find an answer to a given problem with a single "search", but they lose the variety of answers found in multiple articles, thereby losing the opportunity to enrich their knowledge in the field approached, via Google search (which also released a replica titled "Bard").

In the academic environment, the teaching staff must adapt the ways of carrying out the activities, provided in the subject sheets, with additional measures for teaching and evaluating students, with additional time allocated to partial or final oral evaluations, and the use of content detection solutions generated by applications using artificial intelligence (Cybersecurity 2023).

While the authorities in public schools and universities in the USA, citing the intention to protect "academic honesty", have prohibited both pupils/students and teachers from using tools with Artificial Intelligence (Hângănuț R. 2023), we can say that most teaching staff with experience in the educational act, they have learned the ways in which their vigilance is tried to be deceived and they expect as a challenge to detect the intention to defraud the exams.

Artificial intelligence (AI) will develop a new tool for education and revolutionize education, but it will not be able to replace the concepts of learning about the world and life, in relation to the requirements of the areas addressed.

A quick intervention from a legal point of view is expected, from the European Union but also from the countries across the Atlantic for an urgent regulation in this field.

The negotiations started between the European Parliament and the member states, on 14.06.2023, for the adoption of a law in the field of Artificial Intelligence, as a result of the development of Artificial Intelligence, there are good chances that an agreement will be reached by the end of 2023, but which will only come into force after 2026.

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- \* \* \* IP5 members are: European Patent Office, Japan Patent Office, Korean Intellectual Property Office, National Intellectual Property Office of the People's Republic of China and United States Patent and Trademark Office.
- \* \* \* *Report of the IP5 expert round table on artificial intelligence*, EPO, Munich, 31 October 2018 [https://www.fiveipoffices.org/material/AI\\_roundtable\\_2018\\_report\\_](https://www.fiveipoffices.org/material/AI_roundtable_2018_report_) [Accessed 10.06.2023].