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ARTIFICIAL INTELLIGENCE IN THE SYSTEM OF INTELLECTUAL PROPERTY RIGHT OBJECTS

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Recently, we are often confronted with the concept of “artificial intelligence”, but do not always understand its essence, because we cannot fully understand how this mechanism works. However, it is obvious that artificial intelligence is the result of intellectual, creative human activity. There are many theories on the interpretation of this concept; there are positions that argue that it is the individual, others – that it is the object of law. We will attempt to understand this concept.

It is clear that artificial intelligence did not arise by itself; it was created by a human being. This is a kind of technical solution. Accordingly, if it is the result of creative, intellectual activity of a person, such a result can be attributed to the objects of intellectual property law, and therefore to the objects of civil law. In this regard, we consider appropriate the proposal to include artificial intelligence in the civil right objects, which is proposed in the Concept of Updating the Civil Code of Ukraine [1, p. 10].

Positions that try to prove that artificial intelligence is a separate individual, we consider false and unfounded. The fact that artificial intelligence is capable of “self-learning” does not mean that it is a human being. A person is distinguished by the ability to create, feelings, sensations, etc., to gain knowledge based on experience, while artificial intelligence reproduces the underlying algorithms, but is not aware of the programmed actions. Artificial intelligence is capable of gaining experience, but it does not form its own experience. It is not capable of making its own decisions. Artificial intelligence cannot enter into civil legal relations and be responsible for the results of “its actions”. Paintings created by artificial intelligence are the result of programming it to create certain actions, not the result of creative activity.

The very concept of “artificial intelligence” is considered conditional. In the Explanatory Dictionary of the Ukrainian language, the word “intellect” is interpreted as: “1. Mind, ability to think. 2. Level of mental development” [2, p. 163]. The word “artificial” has several meanings and, in particular, is interpreted as: “1. Unnatural, made like the real thing. 2. Similar to natural. 3. Contrived, fictional, false” [2, p. 533]. However, artificial (similar to natural) thinking does not happen. Artificial intelligence cannot think, it is a programmed object.

We agree with the decision of the US District Court of the Eastern District of Virginia in the case of inventions “created” by the artificial intelligence system DABUS. Dr. Stephen Thaler is the author of this artificial intelligence. In patent applications for the results of the “activity” of artificial intelligence DABUS, Stephen Thaler noted himself as the applicant, but the DABUS system mentioned as the author. The court ruled that artificial intelligence algorithms could not be specified as inventors in U.S. patents. Interestingly, the Republic of South Africa issued a patent, based on the results of a formal examination, in which a system of artificial intelligence identified as the inventor [3].

On the one hand, it is obvious that Stephen Thaler did not want to call himself the inventor, so as not to mislead others about the identity of the author. However, according to the legislation in the field of intellectual property, the inventor can be recognized only as a person who has made a creative contribution to the creation of the result. How to be in this situation? We believe that because the author of the DABUS artificial intelligence system is Stephen Thaler, he can potentially be considered the inventor of the results of DABUS “activities”, in that an artificial intelligence system with programmed data, in particular the various inventions, can automatically select potential patentable results. However, there are other options that are possible in this case – either not to recognize such results of artificial intelligence “activity” as inventions, or to provide in patent applications the possibility of indicating that the result is not created by a man, but selected by artificial intelligence. This can simplify life and provide reliable information about the origin of the invention.

The question is, to which group of intellectual property rights can artificial intelligence be attributed? We believe that artificial intelligence technologies belong to the objects of patent law, in particular to inventions. Also, certain artificial intelligence technologies, if they are not obvious in the usual perception of another person, can be protected as know-how by ensuring confidentiality. Although the computer program is protected as a work of literature, i.e. as an object of copyright, we do not consider it appropriate to protect artificial intelligence solely as an object of copyright. Copyright

protects the form of expression of the result, but not its essence. Therefore, copyright is not enough to ensure proper protection of artificial intelligence.

Due to the fact that the future lies in artificial intelligence, we consider it necessary to provide for the possibility of indicating in applications for registration of intellectual property objects the information that the result was created by an artificial intelligence system, but with a mandatory indication of the author-developer of such artificial intelligence. This will allow for providing reliable information, because a developer of artificial intelligence cannot always predict the results of “activities” of such creation, respectively, it is not always objective to consider him as the author of such results of artificial intelligence. At the same time, artificial intelligence is the result of the activities of its author, respectively, because it is a programmed object, it cannot be unambiguously considered the author of all results that it will achieve because of such programming.

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РОЗПОДІЛ СУДОВИХ ВИТРАТ ПРИ РОЗГЛЯДІ СПРАВИ СУДОМ НЕНАЛЕЖНОЇ ЮРИСДИКЦІЇ

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В юридичній літературі під судовими витратами зазвичай розуміють витрати осіб, які беруть участь у розгляді справи, а у випадках їх звільнення від сплати судових витрат – держав, які вони несуть у зв'язку з розглядом та вирішенням конкретної справи. Основним призначенням інституту судових витрат є відшкодування учасникам процесу витрат, пов'язаних із розглядом справи: оплата правової допомоги,