Text and Data Mining Exceptions in Latin America

How are we promoting AI developments in the region?

Matías Jackson | Jackson Bertón Legal

Latin-America countries do not have the necessary copyright exceptions to carry out text and data mining.

National AI strategies are not considering copyright as a dimension for AI development.

Latin-America Copyright Overview

- Civil Law countries: Droit d'auteur

- Closed-list for copyright exceptions

- Multiple regional integration initiatives but with few development on copyright regulation

- Berne Convention + TRIPS Agreements + WIPO internet treaties

- WIPO (2009): 'Countries have not developed a specific set of rules concerning limitations or exceptions to the copyright applicable to the **digital environment'**

Copyright Flexibilities in Latin America

https://accesoalconocimiento.lat/

Text and Data Mining Exception in South America:
Matías Jackson Bertón
GRUR International, Volume 70, Issue 12, December
2021, Pages 1145–1157,
https://doi.org/10.1093/grurint/ikab081

Research Exceptions in Comparative Copyright Law
(2021). Flynn, Palmedo, and Izquierdo. PIJIP/TLS
Research Paper Series no. 72,
https://ssrn.com/abstract=3961017

Flexibilidades al derecho de autor en América Latina

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México
Cuba
Guatemala
Costa Rica
Venezuela
Colombia
Ecuador
Perú
Brasil
Bolivia
Paraguay
Chile
Uruguay
Argentina

South Atlantic Ocean

❓
Leyenda

1000 km

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Ecuador

Article 212 of *Código Ingenios* (Organic Code for the Social Economy of Knowledge, Creativity, and Innovation

Title ≠ Text

Title: Text and Data Mining

Text: Libraries and archives will be exempt from liability for the acts carried out by their users

Lack of evidence on its impact

Observations in LATAM

Lack of specific exceptions for TDM

All of them have education exceptions but in a limited-traditional sense: "quotation" or "education purposes"

Limits reflect how exceptions are still drafted to focus on traditional educational activities and not technology-based processes

Legislation refers to "Exceptions for Research" or "For Personal Study" instead of "Right to Research"

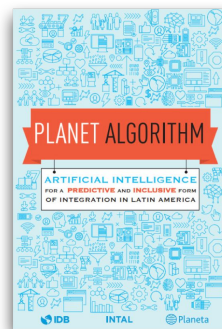# Latin-American interest for AI
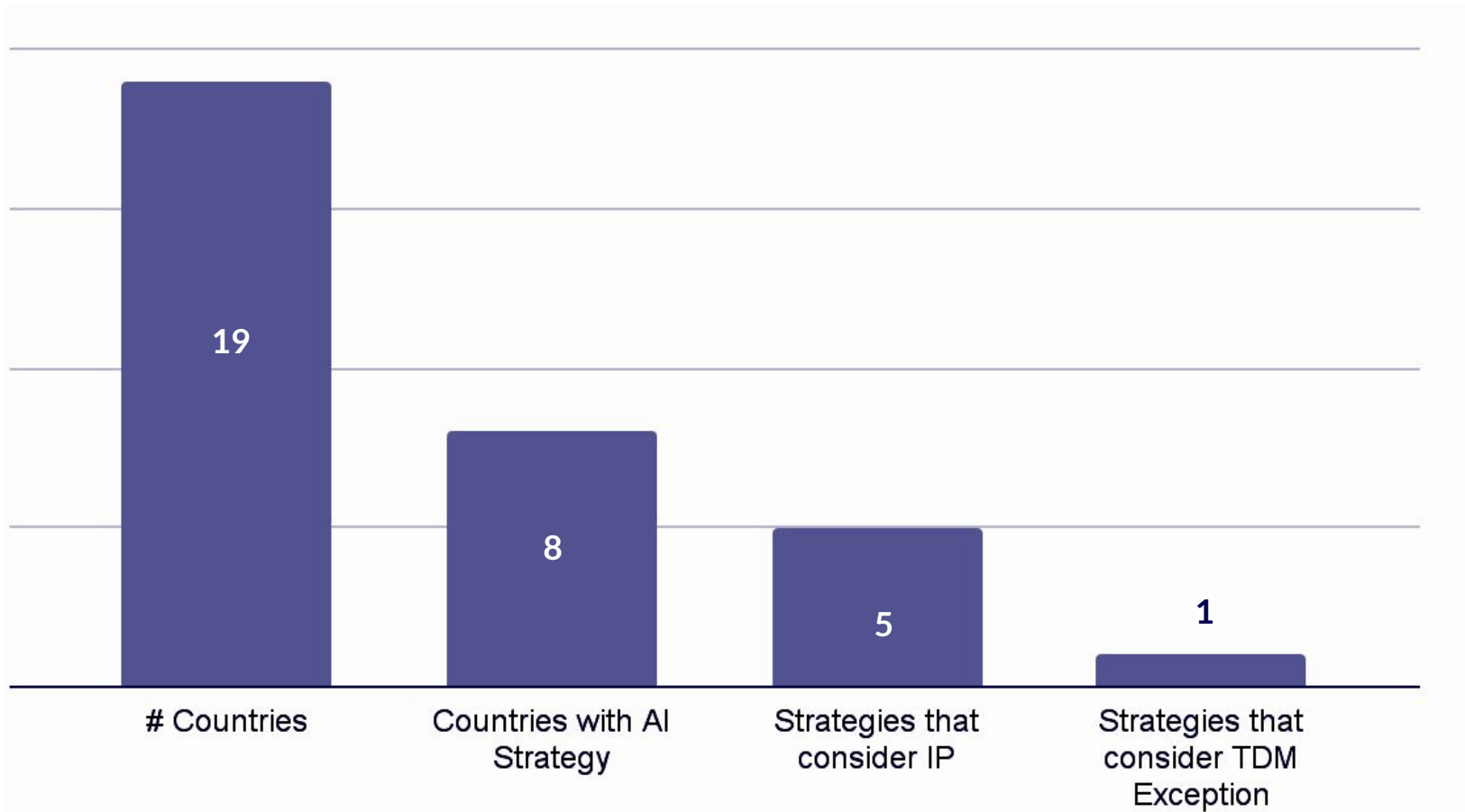*Growing faster than capabilities*

National strategies

IDB, OECD

Regional forums and networks

Between 2011 and 2016 only 3% of academic papers on ML and AI were authored by Latin-Americans

Bar chart values:
- # Countries: 19
- Countries with AI Strategy: 8
- Strategies that consider IP: 5
- Strategies that consider TDM Exception: 1

Source: Artificial Intelligence and Copyright Policies in Latin America, February 2023, Fair Access to Knowledge LATAM

Copyright policy

Artificial Intelligence policy

Policy Recommendations

Copyright must be in their plans (Generative AI is pushing conversations in this direction)

A good start: Follow European roots

Broaden current exceptions for digital uses

Harmonization among countries legislations

Many thanks!

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