REVISED MAY 15, 2020

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

QUESTIONNAIRE ON ARTIFICIAL INTELLIGENCE POLICIES

BACKGROUND

Artificial Intelligence (AI) has become a strategic priority for many governments across the globe. In addition, data are a critical component of AI since AI applications rely upon machine learning techniques that use data for training and validation.

As well as AI capacity building, education and regulatory measures, there is a question whether the established intellectual property (IP) system should be modified to in response to AI developments. WIPO has been requested by Member States to provide a forum for discussion of AI and IP Policy, which also includes data. WIPO has therefore started an open conversation on AI/data and IP, including a draft issues paper[1], and is planning to continue the conversation in Geneva on May 11-12, 2020.

REQUEST FOR INFORMATION

In order to aid this discussion, WIPO is seeking to collate country/regional information regarding strategies, frameworks and legislation of relevance to AI/data and IP.

This questionnaire aims at taking stock of the different national and regional landscapes of legislation and instruments applicable to AI/data and IP.

A summary of the answers provided in this questionnaire will be used to create a publically available resource to facilitate information sharing. Personal information provided, such as contact details of individual persons, will not be made publically available but may be used solely by the Division of AI Policy to share the results of the questionnaire and to gather further information in the future.

Please send the completed questionnaire, including null responses, to ai2ip@wipo.int.

TELL US WHO YOU ARE

Country/Region	Finland
Name of the person completing this survey	Stiina Löytömäki, Anna Vuopala, Mari Komulainen
Organization	Ministry of economic affairs and employment Ministry of education Finnish patent office

[1] https://www.wipo.int/about-ip/en/artificial_intelligence/call_for_comments/index.html

Position	
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NATIONAL AI STRATEGIES

1. Does your country have a national/regional AI strategy in place?

☐ No
☐ x Yes
☐ Draft/proposed only
☐ Do not know

2. If so, does the AI strategy identified in Q1 consider IP?

☐ x No
☐ Yes
☐ Draft/proposed only
☐ Do not know

3. Please provide details of the AI strategy identified in Q1 (name, short description, year, URL, responsible organization name and, if relevant, its relation to IP).

The Finnish AI programme was formally launched in 2017, and its final report delineates an AI strategy for Finland. The report, and hence the cornerstones of the Finnish AI strategy can be found here: https://julkaisut.valtioneuvosto.fi/handle/10024/161688
The programme was set up by the Minister of Economic Affairs Mika Lintilä, and it consisted of a steering group and secretariat that included a large number of representatives from different constituencies. The report lays out eleven key actions ushering Finland into the age of AI. The report analyses actions taken in each of those eleven areas, as well as key lessons learned, and provides for recommendations for the future.

The continuation of Finnish AI programme, titled 'Artificial Intelligence 4.0', is being prepared by the Ministry of economic affairs and employment. This project, undertaken in cooperation with the Finnish Technical Research Center and Business Finland, stresses AI as part of the fourth industrial revolution and aims to combine machine learning and other AI-technologies with a broad range of other digital technologies. The goal is to facilitate positive societal challenge and sustainable development through artificial intelligence and digitalisation. The main focus of this programme is on facilitating and developing sustainable digitalization of the industry, and in particular of such companies that have not yet taken a decisive 'leap' towards digitalization. However, following the outburst of Covid-19 crisis, the question of formulating a digital strategy for the service sector so badly affected by Covid crisis has gained more poignancy.

Finland is also actively participating in the EU-level at first instance with this official position E 24/2020 to the Communication “Shaping Europe's Digital Future”. Among others, Finland states that promotes the EU’s digital policy in accordance with the Government Programme (2019-2023), strengthening the EU’s digital single market and competitiveness and promoting the development of an ethically, economically and socially sustainable data policy and an artificial intelligence policy regulatory framework. In particular, digitalisation implemented in a sustainable manner can also promote the resilience and reliability of society in unexpected crises, such as exceptional circumstances for society and the economy brought about by the current pandemic.

As regards the international dimension, Finland supports the objective of creating international rules for digital trade and the data economy (including trade agreements). It is important that these rules are effective in promoting open digital markets, ensuring international data flows without compromising data protection and promoting consumer confidence in the online environment. A new predictable and favourable framework must be created for investments in digital infrastructure, the cost-effective construction of connections and the development of new technologies and service models. The EU must promote a level playing field in a technologically neutral way on the market without limiting the choices or service provision of individual companies. Investments must also cover the needs related to data transfer, user numbers and capacity during disruptions.

Finland supports the Commission's objective of promoting a safe and open global Internet. Finland stresses that transparency, the management of one’s own data, multilateralism, democracy and equal participation by all stakeholders are the cornerstones of internet governance.

Finland also draws attention to the social impacts of economic and technological change. Education, competence and the prevention of digital exclusion are key factors in this. Digital change requires investments in human capital and, in particular, comprehensive and long-term development of education and competence at all levels of education. Cooperation between research and education must also be intensified. The goal must be equal participation by everyone in the digital revolution.

AI AND IP LEGISLATIVE MEASURES

4. Does your country have any measures/provisions in its IP framework that were specifically enacted for AI (an example would be a modification of copyright law for computer generated works)?

☐ x No
☐ Yes
☐ Draft/proposed only
☐ Do not know

5. Please provide details of the relevant legislative measures/provisions identified in Q4

(name, section, short description, year and URL).

6. Is there any case law relevant to AI and IP in your country/region?

☐ x No
☐ Yes
☐ Do not know

7. Please provide details of the decision(s) relating to Q6 (name, short description of subject matter, year and URL).

EXAMINATION GUIDELINES

8. Has your country's IP office (or other IP registration body) amended its examination guidelines and procedures due to AI-related inventions or works?

☐ No
☐ x Yes
☐ Draft/proposed only
☐ Do not know

9. Please provide details of the relevant guidelines and sections identified in Q8 (name, short description, year and URL)

Patenttikäsikirja. PRH patent manual, January 2020, section I.4.3 (pp. 145-147), especially subsection ”Keinoäly ja koneoppiminen”. URL: https://www.prh.fi/stc/attachments/patentinliitteet/4palvelutjatietokannat/Patenttikasikirja.pdf

The guidance in the Patenttikäsikirja is in Finnish, but it is in line with the guidance in EPO Guidelines for Examination, section G-II-3.3 and especially subsection G-II-3.3.1.

DATA RIGHTS

10. Does your country/region have any legislative measures/provisions for database rights?

☐ No
☐x Yes - enacted law
☐ Draft/proposed law only
☐ Do not know

11. Please provide details of the relevant legislative measures/provisions identified in Q10 (name, short description, year and URL).

The IP related legislation on databases is comprised of copyright database rights and "sui generis" database rights. The former is based on the Finnish copyright Act (404/1961), section 1§ and 5 § on compilations. According to these provisions a person who, by combining works or parts of works, creates a literary or artistic work of compilation shall have copyright therein, but his right shall be without prejudice to the rights in the individual works. In the case of compilation copyright, the compiler does not receive copyright in the underlying material, but only in the selection, coordination, or arrangement of that material. And if it is mere "data" it is not protected by this right.

The sui generis database right is also part of so called neighboring rights in Finland, and protected under section 49 § of the Copyright Act. According to this provision a (1) producer of a catalogue and a database is a a person who has made 1) a catalogue, a table, a program or any other product in which a large number of information items are compiled, or 2) a database the obtaining, verification or presentation of which has required substantial investment, shall have the exclusive right to control the whole or, in qualitative or quantitative terms, a substantial part thereof, by making copies of it and by making it available to the public.

(2) The right conferred by subsection 1 above shall subsist until 15 years have elapsed from the year in which the product was completed or, if the product was made available to the public before the end of that time, until 15 years have elapsed from the year in which the product was made available to the public for the firsttime.

(3) A product referred to in subsection 1 above shall be correspondingly governed by the provisions of sections 2(2−4), 7−9, 11(2−5), 12(1, 2 and 4), 13, 13a, 14(1, 3 and 4), 15, 16, 16a−16e, 17, 18, 19(1, 2 and 5), 22, 25b−25d, 25f−25i, 25j(4−5), 25l, 26 and 27−29. If the product or a part thereof is subject to copyright, that right may be invoked. (607/2015)(4) Any contractual provision under which the maker of the product that has been made public, referred to in subsection 1 above, prevents the lawful user from using insubstantial parts of its contents, evaluated qualitatively or quantitatively, for any purpose whatsoever, or restricts such a use, shall be without effect.

As a result (of the sui generis database right), the database creator will be granted legal protection from unauthorised extraction and/or re-utilisation of all or of a substantial part of the contents of the database. It extends to the construction and scheme of the database and never to the information contained therein.

Neither form of protection available under Finnish and EU legislation on databases extend to the data or information itself.

https://www.finlex.fi/en/laki/kaannokset/1961/en19610404_20150608.pdf

The first evaluation of the EU data base directive was made in 2005. The second evaluation of the Database Directive was published on 25 April 2018, as part of the third data package. The main purpose of the evaluation was to assess the effectiveness, efficiency, relevance, coherence and EU added value of the Directive, and in particular of the "sui generis" right, analyzing whether it remains fit for purpose in the new legal, economic and technological environment.

The only protection that directly protects data (not data ownership though) is based on Art. 7 of the Information Society Directive that in its implementation of the WIPO Copyright treaty and WIPO Performances and Phonograms treaty provides protection against removal and alteration of rights management information, i.e. codes and identifiers corresponding to a work, its rightholder or a right they have been provided according to national law.

Databases and computer programs are the focus of a study commissioned as part of the development of a new IP strategy 2025, that just has started in Finland. The government has found that computer programs and databases and various IT applications related to inventions are used in addition to innovation and invention activities without actually being monitored or documented.

12. Does your country recognize any rights or ownership in data?

☐ x No
☐ Yes
☐ Draft/proposed only
☐ Do not know

13. Please provide details of the relevant legislative measures/provisions identified in Q12 (name, short description, year and URL).

14. Does any AI strategy identified in Q1 or other strategy consider data and any creation of a *sui generis* right for data and/or databases?

☐ x No
☐ Yes
☐ Draft/proposed only
☐ Do not know

15. Please provide details of the data strategy identified in Q14 (name, short description, year, URL and responsible organization name).

The DSM Directive aims to clarify copyright protection to literary works and the ability to do "text and data mining".

OTHER AI AND IP RELATED INFORMATION

16. Please provide details of any other related processes related to AI/data and IP undertaken in your county/region, for example, public consultation processes, guidance notes for legislative interpretation, policy guidance, communications, working groups, etc. (name, short description, year and URL).

YOUR COUNTRY'S CONTACT OFFICE FOR AI (IF ANY)

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