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<AI Update>

AI Inventorship: IP High Court in Japan Rules AI Cannot Be Listed as Inventor

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Executive Summary

A recent ruling has reinforced that judicial interpretation alone cannot extend inventorship to AI systems under existing patent law. On January 30, 2025, the Japanese Intellectual Property High Court ruled that AI-generated inventions cannot receive patent protection under the current Japanese patent law.¹ The Court held that the current Patent Act only provides a framework for granting patents for inventions made by natural persons, both in terms of rights and procedures. This decision comes amid the global debate on AI-generated intellectual property and is aligned with similar rulings in other major jurisdictions.

This ruling takes on particular significance as AI technologies rapidly evolve. With the accelerating development of generative AI and AI agents, both innovators and legal systems worldwide face the increasingly pressing question of whether and how patent regimes should adapt to address innovations where AI functions autonomously in the inventive process.

Case Background

This case is part of the internationally renowned “DABUS” litigation—a globally significant test case for AI inventorship that has been pursued in many countries and regions including the US, UK, EU member states, Australia, South Africa, and China.² DABUS (Device for the Autonomous Bootstrapping of Unified Sentience) is an AI system developed by Dr. Stephen Thaler.

The plaintiff filed an international patent application under the Patent Cooperation Treaty (PCT) for an invention titled “food container and devices and methods for attracting enhanced attention”, claiming priority based on a European Patent Office filing.³ In the national patent application⁴ documents, the plaintiff listed “DABUS, an artificial intelligence that autonomously generated this invention” as the inventor.

The Japan Patent Office (JPO) ordered the plaintiff to amend the application to list a natural person as the inventor. The plaintiff refused, arguing that “inventions” under the Patent Act include those autonomously created by AI without human intervention, and therefore, the inventor’s name was not a requirement for such applications.

¹ Case No. 2024 (Gyo-ko) No. 10006. As of March 13, 2025, the Japanese version of the judgment is available on the court’s [website](#).

² According to the official website of [The Artificial Inventor Project](#), patent applications filed in South Africa, the United Kingdom, Europe, Germany, Israel, South Korea, Japan, New Zealand, China, the United States, Australia, Canada, Saudi Arabia, Taiwan, Brazil, India, Singapore, and Switzerland as of the present time.

³ [WO 2020/079499 A1](#); PCT/IB2019/057809

⁴ Application No. JP 2020-543051

Consequently, the JPO dismissed the application.

After an unsuccessful administrative review, the plaintiff filed a lawsuit with the Tokyo District Court. The District Court ruled against the plaintiff, holding that “the ‘inventor’ as provided in the Patent Act should be interpreted as being limited to natural persons.”⁵ The plaintiff subsequently appealed to the IP High Court.

The IP High Court’s Ruling

Key Issues Addressed

The IP High Court identified two central questions:

1. Whether “inventions” protected by patent rights are limited to those made by natural persons⁶
2. Whether listing the “inventor’s name” is a mandatory requirement in the national phase documents for international patent applications

Analysis of Patent Law’s Dual Nature

The Court specifically concluded that “current patent law only recognizes and establishes procedures for granting patent rights for inventions where a natural person is the inventor.”

The Court began by analyzing the Japanese Patent Act as having dual characteristics: as substantive law defining the requirements and effects of patent rights, and as procedural law establishing the framework for granting those rights.⁷

The Court conducted a systematic analysis of provisions relating to the establishment and original attribution of the right to obtain a patent. It specifically examined Article 29(1) (regarding attribution when a natural person makes an invention) and Article 35(3) (regarding attribution to employers for work-for-hire inventions). The Court also compared the terminology used in various application documents, contrasting “*Shimei*” (i.e., a name for a natural person) required for inventors with “*Meisho*” (i.e., a name typically used for an entity) specified for patent applicants or patentees, noting that this distinction further supports the Court’s interpretation that inventors must be natural persons.

The Court noted that no other provisions exist regarding the establishment or original attribution of the right to obtain a patent, concluding that “under the Patent Act, the right to obtain a patent is only established when a natural person is the inventor.”

Importantly, the Court concluded that “current patent law only recognizes and establishes procedures for granting patent rights for inventions where a natural person is the inventor. Therefore, AI-generated inventions cannot be granted patents under this law. Thus, without even determining whether AI-generated inventions fall within the concept of ‘invention’ under patent law, the plaintiff’s claim that patent grants are possible for AI-generated inventions under the Patent Act is groundless.”

Rejection of Plaintiff’s Arguments

The Court addressed the plaintiff’s argument that the concept of “invention” under the Patent Act itself is not limited to cases where a natural person is the inventor. The Court determined that even if this interpretation were to be accepted, the current Patent Act provides no procedural pathway to grant patent rights for “inventions” where the inventor lacks legal capacity.

In addition, the Court emphasized that the interpretation of the Patent Act must be based on the wording of Article

⁵ *Case No. 2023 (Gyo-U) No. 5001*. For more information on the Tokyo District Court decision, please see our newsletter: **June, 2024, Technology Law Update No. 2, IP Law Update No. 5, “Recent Ruling from Tokyo District Court: AI Does Not Qualify as Inventor”** (last accessed: March 17, 2025).

⁶ It is worth noting that the Tokyo District Court framed the issue slightly differently, identifying the key question as “whether ‘inventor’ under the Patent Act is limited to natural persons.” This framing focused on the nature of the “inventor” itself, while the IP High Court’s framing addresses whether inventions can be “protected” by patent rights.

⁷ The Court specifically cited Articles 1 and 66(1) of the Patent Act in its analysis.

29(1) and its consistency with other provisions, concluding that “person who has made an invention” refers to a natural person. The Court further noted that there is no avenue within the current legal framework to grant patent rights to entities lacking legal capacity, including AI systems.

Civil Code Arguments Also Rejected

The plaintiff also argued that as the creator and manager of DABUS, they had rights to the patent application based on Civil Code provisions for the right to fruits (beneficial ownership of products derived from property). Specifically, they invoked the provisions applicable to possessors in good faith (Civil Code Articles 189(1) and 205) and owners (Civil Code Articles 206 and 89(1)).

The Court rejected this argument on three grounds:

1. AI is not a tangible object and cannot be subject to ownership rights
2. Even if an AI user were considered a person exercising property rights under the Civil Code, “the right to obtain a patent for an AI-generated invention” does not qualify as “fruits” since no foundational right exists. Specifically, the Court noted that the right to obtain a patent for an AI-generated invention does not constitute either “products derived from a thing in accordance with its intended purpose” or “money or other things to be obtained as compensation for the use of a thing” under Civil Code Article 88(1) and (2) respectively
3. Rights not recognized under the Patent Act cannot be created through Civil Code provisions

This reasoning differed notably from the Tokyo District Court’s approach, which had rejected the Civil Code argument by stating that while the Civil Code might specify who can acquire fruits, it “does not directly identify the inventive entity of the patent right itself that generates the fruits.”

Inventor’s Name as Mandatory Requirement

Based on the relevant Patent Act provisions,⁸ the Court held that the “inventor’s name” is indeed a mandatory element in national phase documents for international patent applications.

The Court rejected the plaintiff’s argument that for AI-generated invention applications, the inventor’s name should not be mandatory. It noted that since current patent law presupposes inventors to be natural persons, it is a logical consequence that the inventor’s name be required to be that of a natural person.

Addressing Practical Concerns

The Court acknowledged the practical issues raised by the plaintiff, including the potential increase in applications falsely naming natural persons as inventors and the difficulty in invalidating such patents. However, it determined that these issues reflect gaps in the current legal framework rather than justify a reinterpretation of existing law.

The Court noted that misappropriation applications can be grounds for patent rejection decisions and can be asserted as patent invalidity defenses in infringement litigation. While recognizing that there might be no interested party with standing to request patent invalidation for AI-generated inventions, the Court viewed this as a situation not contemplated by current law, rather than grounds for changing its interpretation.

Legislative Considerations

The IP High Court acknowledged that whether to grant patent rights for AI-generated inventions requires comprehensive policy discussions that cannot be resolved through judicial interpretation alone. The Court recognized this as a matter that should be examined as part of legislative policy considerations rather than one that warranted a reinterpretation of current law.

The Court specifically emphasized that “patent rights are not inherent natural rights, but rather rights granted

⁸ The relevant provisions are: Patent Act, Article 184-5(1) main clause and item (2); Article 184-5(2) main clause and item (3); and Patent Act Enforcement Regulations, Article 38-5(1).

based on the Patent Act, which aims to ‘encourage inventions and thereby contribute to the development of industry.’ The design of such a system should be discussed from the perspective of national industrial policy, including aspects of international cooperation.” This statement clearly positions patent protection as a policy instrument established to achieve specific industrial development goals rather than an absolute right.

Comparison of District Court and High Court Approaches

While both courts reached the same conclusion—that AI cannot be listed as an inventor under current Japanese patent law—their reasoning differed in important ways.

The Tokyo District Court focused primarily on interpreting the concept of “inventor” itself, concluding that this term is limited to natural persons, after considering the Intellectual Property Basic Act, various Patent Act provisions, and the impracticalities that would arise if “inventor” were interpreted to include AI.

In contrast, the IP High Court approached the issue by examining the Patent Act’s dual nature as both substantive and procedural law. It concluded that the current legal framework only recognizes and establishes procedures for granting patent rights when a natural person is the inventor, leaving no avenue for inventions made by entities lacking legal capacity (including AI systems), regardless of whether they conceptually qualify as “inventions” under the law. Notably, the Court deliberately avoided making any determination on whether AI-generated inventions conceptually qualify as “inventions” under the law. This approach allowed the Court to resolve the case without addressing this more fundamental question.

Conclusion

This ruling highlights an important challenge facing patent systems: how to align established legal frameworks designed for human inventors with the reality of increasingly autonomous AI systems. The distinction between AI as a tool that assists human inventors versus AI as an autonomous creator will require careful analysis as the technology continues to evolve. While the former can be addressed within existing frameworks, the latter may eventually necessitate legislative discussions to update the patent system.

Any development of the patent system must balance two important interests: maintaining the Patent Act’s foundational purpose of “encouraging inventions through protection and utilization,” while establishing clear rules that address the specific characteristics of AI-generated innovations. Such clarity will benefit both legal practitioners and innovators as AI continues to play a growing role in technological advancement.

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