



# Korea's Perspective on AI Inventorship KIPO's Position, Practical Issues, and Future Challenges

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# KIPO's Official Position

(Korean Intellectual Property Office)

## No AI Inventorship

**KIPO does not currently recognize AI as an inventor.**

### Legal Basis

The Korean Patent Act is interpreted to limit inventorship to "**natural persons.**"

### Current Status

There has been no official institutional discussion on AI inventorship since the DABUS case.

# The Legal Basis

## Korean Patent Act

### Article 33 (Persons Entitled to Patent)

**(1) Any person who has made an invention or his/her successor shall be entitled to a patent...**

#### Full Text of the Provision (Article 33(1)):

"Article 33 (Persons Entitled to Patent) (1) Any **person** who has made an invention or his or her successor shall be entitled to a patent under this Act: *Provided*, That no employee of the Korean Intellectual Property Office or the Korean Intellectual Property Trial and Appeal Board is entitled to a patent while in service, except by inheritance or bequest."

### Legal Interpretation:

The term "**person**" is consistently interpreted by KIPO and Korean courts to mean a "**natural person**" only.

# KIPO's Current Research Focus

## AI-Assisted

## Invention

KIPO is now studying the "degree of human contribution" required.

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### Key Issue

If a human using AI does not make a "**significant contribution**" to the invention's conception, that person also cannot be an inventor (Ref: *Pannu v. Iolab Corp.*).

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### Research Goal

To establish standards for the **level of human contribution** needed for recognition in AI-assisted inventions.

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### Timeline

Research results are expected **early next year (2026)**.

# Practical Issue (1)

## The "Inventorship Gap"

A "patentability gap" arises if neither the human nor the AI qualifies as an inventor.

### Result:

The invention cannot be patented.

### Risk Scenarios:

1. **If Disclosed:** The invention may enter the **public domain** if it was disclosed during the patent application process.
2. **If Not Disclosed:** Patentability gap, or a later, independent (human) inventor could still obtain a valid patent for the same invention.

### Implication:

It is crucial to determine if a valid inventor exists prior to disclosure.

# Practical Issue (2)

## Examination & The AI Act

It is difficult for patent examiners to distinguish human vs. AI contributions.



### The Challenge

Examiners often cannot separate the human's input from the AI's output based on the application alone.



### Potential Solution

The "Framework Act on Artificial Intelligence"

#### The Framework Act on Artificial Intelligence:

- This act imposes **transparency obligations** on AI providers.
- It requires indicating when an output has been generated by AI (e.g., via invisible watermarking).
- **Expected Benefit:** This may help examiners distinguish the **human's creative input** during examination.

# The Debate in Korea (1)

## Arguments for AI

### Legislative Status:

#### Patent Law:

No bill has been introduced.

#### Copyright Law:

A bill to recognize AI as an *author* was proposed but lapsed.

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**Opinions on AI inventorship in Korea are divided.**

### Arguments from Supporters:

#### 1 Stimulates Innovation

Encourages developers to create better AI systems.

#### 2 Legal Flexibility

The legislature *can* extend the concept of legal personality to AI.

#### 3 Prevents a "Legislative Gap"

Protects inventions where human involvement is minimal but the invention is still patentable.

# The Debate in Korea (2)

## Arguments Against & Concerns

Opponents warn against "human liability evasion" and "hindering innovation."

### Arguments from Opponents:

Granting legal personality to AI could be misused as an excuse for "**human liability evasion**" (e.g., compensation for damages or responsibility).

### Pragmatic Alternative:

Instead of full 'legal personhood,' consider a limited legal status via registration (similar to associations without corporate personality).

### Concerns from a Public Welfare Perspective:

- Recognizing AI as an inventor **could hinder innovation**.
- **Reason?** Patent rights would be attributed to **AI owners (corporations)**, strengthening a user-centric model.
- This **reduces the motivation for individual (human) creativity**.
- **Risk:** It could be exploited to **evade the obligation to compensate for employee inventions**.

# Future Directions

## Urgency

The rapid advancement of AI makes this discussion both urgent and necessary.

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## Key Challenge: International Asymmetry

If only one jurisdiction recognizes AI inventorship, it will lead to chaos in global patent registration and protection.

### Final Goal:

We must work toward **global legal convergence** on the future of AI inventorship.



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# About the Speaker

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