

EPO: a machine cannot be an inventor

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The inventor designated in a European patent has to be a human being and not a machine. That is the core message of two recent EPO refusals of patent applications in which an AI system was designated as the inventor.

The EPO decisions, concerning the applications [EP 18 275 163](#) and [EP 18 275 174](#), both filed in autumn 2018, were published earlier this week. Oral proceedings were held in November 2019.

As the EPO reported in a [press release](#): 'In both applications a machine called "DABUS", which is described as "a type of connectionist artificial intelligence", is named as the inventor. The applicant stated that he had acquired the right to the European patent from the inventor by being its successor in title, arguing that as the machine's owner, he was assigned any intellectual property rights created by this machine.'



In its decisions, the EPO stated: 'The application designates a machine as the inventor and therefore does not meet the formal requirements under the EPC (Article 81, Rule 19(1) EPC).' And: 'Names given to things may not be equated with names of natural persons. Names given to natural persons, whether composed of a given name and a family name or mononymous, serve not only the function of identifying them but enable them to exercise their rights and form part of their personality. Things have no rights which a name would allow them to exercise.'

The EPO also stated that the understanding of the term inventor as referring to a natural person appears to be an internationally applicable standard, and that various national courts have issued decisions to this effect.

The refusal can be appealed within two months at the EPO Boards of Appeal. The full decisions are available [here](#):

- [EPO decision of 27 January 2020 on EP 18 275 163](#)
- [EPO decision of 27 January 2020 on EP 18 275 174](#)