

Kluwer Patent Blog

EPO: a machine cannot be an inventor

Kluwer Patent blogger · Wednesday, January 29th, 2020

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](#)

To make sure you do not miss out on regular updates from the Kluwer Patent Blog, please [subscribe here](#).

Kluwer IP Law

The **2022 Future Ready Lawyer survey** showed that 79% of lawyers think that the importance of legal technology will increase for next year. With Kluwer IP Law you can navigate the increasingly global practice of IP law with specialized, local and cross-border information and tools from every preferred location. Are you, as an IP professional, ready for the future?

Learn how **Kluwer IP Law** can support you.

79% of the lawyers think that the importance of legal technology will increase for next year.

Drive change with Kluwer IP Law.

The master resource for Intellectual Property rights and registration.



2022 SURVEY REPORT
The Wolters Kluwer Future Ready Lawyer
Leading change

This entry was posted on Wednesday, January 29th, 2020 at 6:13 pm and is filed under [AI](#), [EPC](#), [EPO Decision](#)

You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. Both comments and pings are currently closed.