

★★★ <第36回知的財産翻訳検定試験【第19回和文英訳】> ★★★
《 1 級課題 -知財法務実務- 》

【問 1】

Inventions utilizing so-called artificial intelligence (hereinafter abbreviated as "AI inventions") can be understood as technologies related to computers that process data using technical methods such as machine learning, etc. An AI invention can be protected as a product invention in the form of a computer system and a program that causes the computer system to perform data processing, and/or a method invention realized by data processing.

The patentability of AI inventions is determined from the viewpoints of subject matter eligibility, industrial applicability, novelty, inventive step and the like, similarly to ordinary computer-related inventions. One specific point to be noted for AI inventions is a description requirement. The description requirement includes, namely, a support requirement, a definiteness requirement, and an enablement requirement under Article 36 of the Patent Act. The Japan Patent Office (JPO) publishes examples of AI-related technologies on its website. The JPO explains the description requirement for AI inventions as follows:

“Inventions in which AI is implemented in various technical fields generally use training data including multiple types of data for AI machine learning. In this case, in judging whether or not an invention satisfies the description requirement, it must be recognized that a certain relationship, such as correlation, exists between the multiple types of data (hereinafter referred to as "correlation, etc.") based on the description in the detailed description of the invention, or it must be recognized that a correlation exists between the multiple types of data. In this case, in determining whether the description requirement is met, it is required that, based on the detailed description of the invention, the existence of a certain relationship, such as a correlation (hereinafter referred to as "correlation, etc."), between the multiple types of data is recognized, or the existence of some correlation, etc. between the multiple types of data is inferred in view of technical common sense.”

For example, in Patent Opposition No. 2022-700412, the patent in question was revoked on the grounds that "the patent in question was granted for a patent application in which the detailed description of the invention does not meet the requirement stipulated in Article 36(4)(i) of the Patent Act." The reasoning is that the patent does not describe technical matters required for an ordinary person skilled in the art to implement machine learning "based on video image data" instead of machine learning using "user attributes" and "evaluation of one or more indicators for judging

each action" as "training data" as “machine learning” for a learned model as a model for outputting identification information of exercise programs.

【問 2】

Sales and Distribution of Arts

- 1.1 In connection with any Art, Customer may sell only non-exclusive licenses for certain exploitation on the Platform. Any and all copyright and other substantive control right in and to any Art shall be reserved to Customer, and Customer may not offer any transfer of such right or grant of any exclusive license as part of any sale on the Platform. What exploitation license is to be sold shall be selected by Customer from the list provided by Operator in accordance with the procedures designated by Operator.
- 1.2 Any Art shall be exhibited on the Platform for the inducement of a Transaction Agreement with a User, and if any User has made an offer of purchase in accordance with the procedure designated by Operator, such Art shall be transacted under a Transaction Agreement made by and between Customer and such User on the terms and conditions for such sales through the Approved Blockchain, Approved Wallet Service and Approved Smart Contract.
- 1.3 Transaction of any Art on the Platform indispensably requires the use of the Approved Blockchain, Approved Wallet Service and Approved Smart Contract, and no transaction may be made without use of the same. In connection with the Approved Blockchain, Approved Wallet Service and Approved Smart Contract, Customer shall, on its own responsibilities, procure and maintain the service agreements therefor with the third-party service providers that provide such services.
- 1.4 Any Art may be distributed on the Platform if any Purchaser sells such Art to another User after its purchase. Upon distribution, Customer shall be entitled to the Distribution Margin, which shall be distributed to Customer through the Approved Blockchain, Approved Wallet Service and Approved Smart Contract as is the case with the sales proceed of the Art.