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Artificial Intelligence and Patent Legislation

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The Patents Act, 1970 (Act) clearly states the inventor as a 'natural person' with moral and legal responsibility. But in this modern era, artificial intelligence systems show independent inventive ability, which is seen in DABUS (Device for Autonomous Bootstrapping of Unified Sentience). This legislation is under new pressure. This article questions whether India's current patent system can handle AI-made inventions without major changes, examines how leading countries have dealt with the issue, and weighs suggested fixes to align technology with legal rules. India's legislation for the patent stands between strict doctrine and practical innovation. The article suggests that, instead of giving AI the status of inventor, the reforms can clarify who owns AI-created inventions, strengthen the disclosure rules for machine-learning systems and consider new and separate protections. These steps would encourage AI-based innovation while keeping the core principles of patent law intact.

Keywords: *artificial intelligence, inventorship, patentability, dabus, disclosure.*

INTRODUCTION

The inventors conceived in international patents, also known as Patents under the Indian Patent Act 1970, are defined under the Indian law as being a Natural Person representing humans in creating scientific inventions. Justifying the anthropocentric framework, the Act neither recognises non-human creators nor their invention capabilities. The autonomy of machine intelligence or artificial intelligence, as seen in the DABUS patent litigation, must be

addressed. Thus, many countries have uniformly rejected the idea of machine inventorship through their court decisions. In the UK, the Supreme Court Decision in 2023 reaffirmed that 'an inventor can only be a human'. India has followed a similar line of reasoning, as evidenced by India's Patent Office's refusal to name an artificial intelligence system as an inventor for failing to have any legal rights or personhood, resulting in the invention/innovation being placed in a doctrinal void of not having a clear inventor. Through its exploration of the developments in the DABUS case and various approaches adopted by countries around the globe, this Paper will compare India's rigid patent doctrines with those of other countries and will explore the various legal impediments and doctrine barriers faced by AI in obtaining patents, including compliance with patent disclosure requirements and satisfying the technical effect test under the relevant provisions of the Patents Act, particularly Section 3(k) of the Act. The Paper will examine potential reforms, including clarifying the ownership of inventions made by AI and enhancing or creating patent-specific disclosure requirements relating to machine learning, to bring patent law into harmony with innovative technology and address the aforementioned doctrine voids.

THE CURRENT LEGAL FRAMEWORK: INVENTORSHIP UNDER THE PATENTS ACT, 1970

Statutory Definition and Natural Person Requirement: The Patents Act, 1970, does not provide a clear definition of the 'inventor,' which creates confusion that has become more important with the rise of AI systems. Section 2(1)(s)[1] defines 'person' to include natural persons, governments, and other entities; however, Section 6 limits patent applications to 'any person claiming to be the true and first inventor of the invention.' The law's silence on whether 'person' includes non-human entities has led patent offices and courts to assume that only natural persons can be inventors.

The Indian Patent Office's practice follows this reading. In the DABUS application (No. 202017019068), the Controller General objected that DABUS cannot be named as an inventor under Sections 2 and 6[2], because AI does not have legal personhood in patent law. In the case

[1] Patents Act 1970, s 2(1)(s)
[2] Patents Act 1970, ss 2 and 6

of V.B. Mohammed Ibrahim v Alfred Schafranek[3], the court held that only natural persons who can add originality, technical knowledge, and skill to an invention can be inventors.

Patent law separates inventorship and ownership. The inventor is the original owner, but they may have agreed to rights assignment to another party, usually a company or employer. According to Section 6 of the Patents Act 1970[4], an inventor has the legal capacity to sign over rights and to be paid. AI systems can't sign documents, be paid, or have contracts because they aren't legal persons. The SomPrakash Rekhi case (1981)[5] confirmed that legal personhood is necessary to hold legal rights. Since AI does not have the ability own rights or transfer them, this leads to a legal gap that if an AI truly invents something, yet can't own the patent, no one has the legal standing to claim the protection.

The Ayyangar Committee Report of 1959[6], which was issued before the 1970 Act, emphasised that inventorship recognition serves to ensure moral rights accrue to the actual inventor, that is, the one who has demonstrated intellectual contribution and creativity. This basic idea assumes that only humans can think and act independently, so applying it to autonomous machines is philosophically controversial.

Inventorship and Ownership Disjuncture: Patent law separates inventorship, that is, the determination of who created the invention, from ownership, which is a question of who holds proprietary rights to the patent. In most regimes, ownership vests initially with the inventor but can be assigned through contractual transfer or, in employment contexts, vests with the employer. The inventor is usually the first owner of a patentable invention, unless otherwise agreed. Section 6 of the Indian Act reflects this regime, which presumes that the inventor has legal capacity to execute assignments and receive consideration.

AI systems that do not have legal personality cannot execute instruments of assignment, receive remuneration, and exercise contractual rights. The ratio in Som Prakash Rekhi v Union of India[7] laid down that for having such rights and capacities, the subject must possess legal personality. Without legal personality, AI cannot hold a bundle of rights attendant to ownership, let alone transfer those rights to another entity. This means there is a legal

[3] *V B Mohammed Ibrahim v Alfred Schafranek* AIR 1960 My 173
[4] Patents Act 1970, s 6
[5] *Som Prakash Rekhi v Union of India & Anr* (1981) 1 SCC 449
[6] Ayyangar Committee, *REPORT on the revision of the patents law* (1959)
[7] *Som Prakash Rekhi v Union of India & Anr* (1981) 1 SCC 449

vacuum: if AI is the true inventor but cannot own the patent, who then has standing to obtain patent protection?

COMPARATIVE ANALYSIS OF INTERNATIONAL JURISDICTIONAL APPROACHES

The DABUS Litigation: A Global Divergence –

Dr. Stephen Thaler's DABUS patent applications in fifteen different countries have revealed how differently governments respond to the idea of AI inventorship. The legal decisions show a wide range of approaches:

United Kingdom: In 2023, the United Kingdom supreme court held that an AI system cannot be listed as an inventor. The court explained that under the Patent Act 1977, only a human can be an inventor of a creation based on the intent and the wording of the law. It also clarifies that even if the creations made by AI might still qualify for a patent, the legal right to be named as the inventor must always belong to a person and not a machine.

United States: The U.S. Patent and Trademark Office (USPTO) denied the DABUS patent applications, stating that under 35 U.S.C.101 states that 'individuals' can be inventors, which is a term that does not include machines. Although the Federal Circuit has not given a final ruling, the USPTO's stance matches court decisions in Thaler v Hirshfeld[8], where judges consistently concluded that human input must be involved.

European Union: The European Patent Office (EPO) rejected DABUS's patent applications by stating that only a human can be named as an inventor. The EPO's decision included an important note that Article 52(1) of the EPC[9] allows any invention that is new, useful, and involves an inventive step to be patented. This suggests that if AI cannot be considered as an inventor, then the inventions created with the help of AI can still be eligible for patents through other legal routes.

Justice Beach of the Federal Court of Australia first ruled that AI can be recognised as an inventor, noting that the Patents Act 1990 did not explicitly forbid it. However, this decision was later overruled by the Full Federal Court, and the High Court refused to review the case. As a result, Australia's position now matches that of other Western countries. These reversals

[8] *Thaler v Hirshfeld* [2021] 558 F Supp 3d 238 (E D Va 2021)
[9] Convention on the Grant of European Patents 1973, art 59(2)

reflect the courts' ongoing uncertainty and their tendency to favour human-centred interpretations of inventorship.

South Africa: South Africa stands out as the only country so far to grant a DABUS patent, which it did in 2021 through its Companies and Intellectual Property Commission (CIPC). However, this approval resulted from South Africa's depository patent system, a process that involves little substantive examination, rather than an explicit recognition or acceptance of AI as an inventor.

Inventive Step and Non-Obviousness Standards –

A primary obstacle to accepting AI as an inventor is deciding what constitutes an 'inventive step,' which is an idea that was not obvious in light of what has come before in the art. Historically, patent law measures 'inventiveness' by looking at the 'person having ordinary skill in the art.' However, as AI was programmed to find solutions that a human would not consider, it is not clear how members of the patent office would determine what a consideration is and what is obvious, for purposes of judging inventive steps. The European Patent Office (EPO) and the U.S. Patent and Trademark Office (USPTO) have begun drafting rules to help address this issue. In its 2024 guidelines[10], the EPO writes that 'inventions assisted by machine learning may need to be assessed differently' because AI thinks differently from humans. Likewise, India's 2025 CRI Guidelines[11] note that a creative step needs to consider the AI systems' independent contribution in the process. This difference in assessment in terms of inventiveness leads to a more fundamentally serious challenge for patent law. Where AI's creativity input is acknowledged to have merit but cannot be named as the inventor, it will inherently be unclear where the merit should be attributed, whether to the programmer, the provider of the data, the user, or the owner of the AI system.

[10] 'Guidance documents' (*United States Patent and Trademark Office*) <https://www.uspto.gov/guidance> accessed 19 January 2026

[11] 'Guidelines for Examination of Computer Related Inventions (CRIs) 2025' (*ipindia*) <https://ipindia.gov.in/writereaddata/Portal/Images/pdf/Draft_CRI_Guidelines_Publication_March2025.pdf> accessed 03 December 2025

INDIA'S SPECIFIC CHALLENGES: SECTION 3(K) EXCLUSIONS AND TECHNICAL EFFECT

Computer-Related Inventions and the Technical Effect Requirement: Framework for eligibility of patent for AI inventions in India operates within Section 3(k)[12] of the Patents Act, which does not include mathematical methods, business methods, computer programs per se, and algorithms for patentability. The restriction applies only to inventions that lack technical effect or technical contribution beyond abstract computation.

India's Guidelines for Examination of Computer Related Inventions (CRI Guidelines, 2025) provide the most modern framework for assessing AI-based inventions. The Guidelines provide a Seven Stambhas Approach for the purpose of evaluating the novelty of an invention and require that machine-learning systems be disclosed in detail, including disclosure of model architecture, training, and validation results. Importantly, the Guidelines note that AI and machine-learning inventions may be patentable if they provide a technical effect such as decreased processing time, increased security, or improved device functionality that is above and beyond the mere automation of a business process.

Judicial Clarification of Technical Effect: In Comviva Technologies Limited v Assistant Controller of Patents[13] (2024), the Court defined the technical effect standard and concluded that it is possible to satisfy the exceptions in Section 3(k) where the invention includes a technical implementation that results in a definitive effect on user experience through device capability, even if it was done with a computer program or communication protocol. This ruling may provide a path to patentability for AI-generated inventions that improve device capabilities, provided there is something more than pure abstract algorithms to their effect. The Doctrine of Technical Effect may allow some software-related innovations, but it does not resolve the matter of inventorship. An AI-generated invention could satisfy the technical effect, but in doing so would still be subject to the human-only inventor restriction. Accordingly, India faces a doctrinal problem: AI inventions may be patentable subject matter, but a vehicle for claiming inventorship is legally blocked.

[12] Patents Act 1970, s 3(k)
[13] *Comviva Technologies Limited v Assistant Controller of Patents & Designs* (2024) (C A (COMM IPD-PAT) 492/2022)

Disclosure Requirements and the Training Data Dilemma: AI-generated inventions create new difficulties in meeting the sufficiency of disclosure rule under Section 10(4)(b) of the Patents Act[14]. This rule states that the patent applicants must clearly describe the best method of carrying out the invention so that a skilled professional can recreate it once the patent expires.

For inventions which are made using machine learning, this is not straightforward. During the application of the patent, details like the AI model's structure, the type of training data used, the parameters and algorithms applied, and how the model was tested must be submitted. However, the information given includes trade secrets, copyrighted material, or personal data that cannot be freely shared.

In its decision in the year of 2024, the European Patent Office ruled that the applicants must provide enough details about the training data characteristics for a skilled person to understand how it produces the desired result, even if the actual dataset is not disclosed.

India's 2025 CRI Guidelines take a similar approach, asking applicants to include:

- The algorithm's design and structure.
- The nature and size of input/output data.
- How was the AI trained and tested?
- The parameters and control methods used.
- The results show technical improvement.

While these rules of disclosure promote transparency, they could discourage innovation by forcing inventors to reveal valuable competitive secrets at the same time. On the other hand, if disclosure standards are too lenient, then they would weaken the basic trade-off in patent law, which grants exclusive rights in return for sharing knowledge. India must carefully find a balance between these two concerns.

The DABUS Case in India: Current Status and Implications: In 2020, Dr. Stephen Thaler filed a DABUS patent application No. 202017019068[15] with the Indian Patent Office, naming

[14] Patents Act 1970, s 10(4)(b)
[15] 'DABUS CASE ARRIVING ON INDIA: PART 1' (*European Commission*, 14 February 2025) <https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/dabus-case-arriving-india-part-1-2025-02-14_en> accessed 04 December 2025

DABUS as the only inventor for two inventions: a food container designed for robotic use and a flashing light meant to attract attention. However, on October 26 2021, the Controller General issued a First Examination Report (FER) objecting to the application of the product under Section 2 and Section 6 of the Patents Act, stating that an AI system cannot be recognised as the true and first inventor.

An opposition was later filed by Dr Kankanala, who argued that the Patents Act is meant to protect human creativity and not inventions generated by machines. He also claimed that the application did not meet disclosure requirements because it failed to explain the working process and training data of DABUS.

In response, Thaler admitted that the law refers to inventors as natural persons but argued that the term 'person' under Section 2(1)(s)[16] could include non-human entities. He maintained that patent law's purpose is to prevent corporations and not autonomous AI from claiming inventorship and that excluding AI outright ignores modern innovation. He claimed that, being the owner of DABUS, he holds the rights to its inventions through the concept of 'accession' under property law, similar to owning the fruit produced by one's tree or an item made by one's machine.

As of November 2025, the application is still under examination, and there is no final decision from the Controller. This long delay shows the legal uncertainty and hesitation to set a precedent on AI inventorship without clear legislative direction.

Implications for Indian Patent Policy: The DABUS application has prompted policy discussion within the Indian Government. The 2021 report of the Parliamentary Standing Committee on Commerce regarding the Intellectual Property Rights regime, recommended the lawmaking SPPOs, to consider revisiting to provide for recognition by the Patents Act of AI as an inventor and owner. The Committee found that the Patents Act predates AI, and is not well equipped to facilitate inventorship… and ownership by Artificial Intelligence. The recommendations did not extend to specific legislative proposals, but despite that, the recommendations were all at a policy level. Importantly, neither the 2021 Standing Committee report nor any subsequent statements by the government have made any proposal which extends inventorship status to AI as either an individual inventor or a joint

[16] Patents Act 1970, s 2(1)(s)

inventor. Discourse has surfaced, however, to discuss different proposals that do not resort to identifying AI as an inventor, such as sui generis protection mechanisms, lucidly establishing authorship and ownership to the AI's developer or user, requiring disclosures related to AI Although the question is still alive in different academic forums, it appears that new scholarship or discourse as identified will not prompt a broad policy action related to inventorship and ownership for AI in the near future.

PROPOSED REFORMS: RECONCILING AI INNOVATION WITH PATENT DOCTRINE

The 'Innovation Oversight' Approach: Instead of revising the meaning of 'inventor,' which incorporates AI, certain scholars have put forth a model of 'Innovation Oversight,' which centres the human role of direction and decision making in the role of AI-assisted invention.

The Model includes the following:

1. Patent examiners would evaluate the extent of a human's oversight and contribution to the invention. If a human were to play an important role by setting the problem, selecting the model, preparing the training data, or evaluating the outputs, then the human would be the inventor.
2. Section 50 of the Patents Act[17] would account for joint owners of the patent between the AI developer and the AI user (with contributions from each other).
3. There would be clear rules for the generic cases. In particular, if an employee, through the use of AI, creates inventions, the employer should have the patents for those inventions (just like Section 17 of the Copyright Act currently provides). If a non-owner user of licensed AI creates inventions, that user is the inventor.

This system does not touch the legal rule that only a natural person may be an inventor, while it provides a practical way of fairly assigning the rights. It also considers that human input, such as defining a problem, choosing data, or interpreting AI outputs, is almost always part of the process that keeps inventorship tied to human creativity while still acknowledging the role of AI.

[17] Patents Act 1970, s 50

Unique Protection for AI-Generated Inventions: Another effective reform is that a whole new intellectual property framework could be created specifically for inventions generated by artificial intelligence, which is distinct from traditional patent law.

This proposed system is termed 'AI Invention Protection,' which could have the following characteristics:

Shorter Protection Terms: Rights would be preserved for 10-15 years instead of the usual 20 years - this shorter protection would reflect the reality that AI-generated innovations typically become obsolete more quickly.

Mandatory Licensing: If compulsory licensing were utilised, then the public would have sufficient access to essential AI technologies foundational to society.

Additional Requirements related to Disclosure: The applicants would provide extensive information concerning the architecture of the AI model and the training data, while protecting legitimate trade secrets.

Ownership Clarity: Ownership could automatically go to the AI developer or user, as long as they properly register the invention and submit sufficient documentation. While this unique system would avoid expanding the traditional patent law to cover AI inventors, it could also cause new problems. For example, inventors might try to register the same AI-generated invention under both systems or choose whichever gives them more benefits, leading to confusion and inconsistency in the protection framework.

CLARIFICATION OF OWNERSHIP ATTRIBUTION THROUGH STATUTORY AMENDMENT

A more modest reform could be to amend the Patents Act in a way that states who would be the owner of inventions developed with the aid of AI, but does not alter the rule that only humans can be the inventors.

A potential amendment to Section 6 could include:

If an invention is developed by an artificial intelligence system entirely independently, and no human has made a substantial contribution to the inventive idea, the owner of the AI system may file an application for a patent, provided,

(a) The applicant can prove ownership or control of the AI system;

(b) The applicant can show that no human can be considered the 'true and first inventor' in accordance with the law; and

(c) The applicant meets all disclosure requirements about the design, training data and methodology used by the AI system to generate outputs.

This amendment would retain the position that humans are the only inventors, while providing a mechanism for owners of the AI to claim rights in inventions made entirely by them. Courts would still have to interpret the phrase 'substantial human contribution', but this proposal would provide more certainty and consistency than the current state of affairs in the law.

Enhanced Disclosure Standards for Machine-Learning Systems –

With emerging international practice (EPO, USPTO), India should adopt the enhanced disclosure requirements specific to machine-learning inventions. The Patents Rules, 2003 could be amended, which requires:

Technical Specification of Model Architecture: Sufficient detail to enable reproduction by a skilled AI researcher.

Training Data characterisation: Information regarding data scope, quality, and preprocessing sufficient to enable reproduction without proprietary datasets.

Validation and Performance Metrics: Evidence that the model achieves claimed technical effects under specified conditions.

Failure Analysis: Disclosure of known limitations and failure modes.

These requirements would address the problem with disclosure while accommodating legitimate protection for their trade secrets.

COMPARATIVE REFORM TRAJECTORIES

European Patent Office's Adaptive Approach: The EPO has incrementally adapted its examination practices and guidelines without formal statutory amendment. The 2024 guidelines on AI patent applications establish presumptions:

(1) AI-generated works are eligible to apply for a patent if they demonstrate a technical effect;

(2) the disclosure requirement is satisfied through specification of model characteristics rather than dataset disclosure;

(3) The inventive step assessment recognises AI's thinking ability while keeping human-based standards for judging what is considered obvious.

Importantly, the EPO has not definitively settled the issue of inventorship but has allowed applicants to list human contributors such as programmers, data handlers, or system operators even when the AI system carried out the creative process. This stance shifts the debate from a strict legal rule to a question of evidence: identifying who exercised enough control and decision-making authority over how the AI functioned.

China's Expansive Subject Matter Eligibility: The revised patent guidelines in China in 2023 have significantly broadened the scope of protection for computer-related inventions, especially covering AI and machine-learning algorithms that improve the performance of computer systems. Basically, the guidelines make the inventions related to AI patentable, provided they make a clear technical contribution. However, they do not identify who should be recognised as the inventor, which leaves questions open regarding ownership and attribution of AI-generated inventions.

India's Intermediate Position: India has a middle-ground position in the debate. Although the CRI Guidelines of 2025 again accepted the point that an invention created with AI can be qualified for patents, provided it exhibits a clear technical effect, the Patents Act does not specify who the inventor is in such cases. This leads to an imbalance whereby whether an invention meets the technical threshold to overcome the exclusions set up under Section 3(k)[18], yet a patent cannot be granted when an AI is mentioned as the inventor. This

[18] Patents Act 1970, s 3(k)

practically translates into a position whereby applications are rejected with no full consideration of their technical merit, which results in an outcome that fails to promote AI-driven innovation and leaves the legal framework unresolved.

Reconciling Innovation Incentives with Doctrinal Coherence: The key question occupying the discussion surrounding AI inventorship is what the patent system is designed to achieve. Generally speaking, the purpose of patents is to incentivise human innovation with an exclusive right to something invented by a human being. As AI systems do not have a human interest or a need for incentives, this raises the real issue of whether, in some way, we will provide patent law the ability to recognise AI as an inventor or provide some clarification that ownership of the invention generated by an AI system would belong to the human or entity that possesses and controls the AI system.

Generally, viewing the matter traditionally, AI does not require motivation - it functions on its coding. Thus, any incentive lies with the human or individuals who develop, operate, or fund AI. Patent protection or rewards as an incentive are for the individuals involved with the AI development.

Generally, patent protection hinges both on the actual human developer, who typically seeks to commercialise his/her own invention and the human entity (or AI user) that seeks exclusive rights to any output from the AI system and for investors, returns made on the ownership of the protected invention.

Thus, reforming the law to include AI as an inventor is neither necessary nor warranted, and there are ways to clarify ownership rights without the reform that would delineate different prescriptions for ownership based on the power of either an AI user/developer and their contractual obligations. Prescribing ownership to an owner of the system best accomplishes the goal of providing certainty for AI ownership while being accretive to these advances in technology.

The second purpose of patent law, to disseminate technological information for the public benefit post-patent, shall also remain intact. Even if the inventor is in part an AI, the human owner of the patent would still be subject to disclosure requirements, and the public will benefit from the invention.

CONCLUSION

The Patents Act 1970 is inherently at variance with recognising AI systems as inventors, reflecting its genealogy centred on human beings and the attribution of legal agency only to natural persons. This incompatibility may not imply that inventions made by AI systems are not protectable by patent.

Rather, reforms need to be specifically oriented to reinforce at least three key objectives:

First, provide clarity on ownership attribution in respect of Section 6 of the Patents Act by statutory amendment, making clear that where an invention is autonomously generated by an AI system, the owner or operator of that system may apply for patent protection, provided statutory disclosure and other requirements are satisfied. This avoids forcing AI into a false inventorship category while enabling patent protection.

Second, disclosure requirements specific to machine-learning inventions by amendment of the Patents Rules should detail that technical information about model architecture, training methodology, and performance characteristics should be disclosed. This framework for disclosure will balance the incentive to create against legitimate protection for trade secrets.

Third, adopt interpretive guidance through revised CRI Guidelines, which capture how human engagement with AI-generated innovation shapes inventorship. It's generally assumed that if an employee uses a company's AI to create an invention, the company owns the patent. But if a person uses an outside AI tool on their own, that person is considered the inventor.

In conclusion, these reforms would advance the goal of reconciling an Indian patent regime to technological reality without importing conceptual incoherence. The reforms would also acknowledge that AI, which can perform generative functions, could still be factored into patent law's anchoring in human agency, motivation, and moral claim. By clarifying avenues for ownership and patentability, rather than distorting what is necessary of inventorship, India could demonstrate thought leadership in AI innovation policy that encourages technological advancement while maintaining doctrinal integrity.