



NewMUN: Chapter VI BACKGROUND GUIDE

United Nations Commission for Intellectual Property

Contents

LETTER FROM THE CHAIRS.....	3
AGENDA 1:.....	4
INTRODUCTION.....	4
POSSIBLE SOLUTIONS.....	6
BIBLIOGRAPHY	7
AGENDA 2:.....	8
INTRODUCTION.....	8
DEFINITION OF KEY TERMS.....	8
GENERAL OVERVIEW	8
TIMELINE OF MAJOR EVENTS	9
MAJOR PARTIES INVOLVED	10
PREVIOUSLY ATTEMPTED SOUTIONS.....	11
POSSIBLE SOLUTIONS.....	11
BIBLIOGRAPHY	12

LETTER FROM THE CHAIRS

Greetings, Delegates!

I humbly welcome you all to The United Nations Commission for Intellectual Property (UNCIP) of NEWMUN Chapter VI. Your chairs are Ishaan Binesh and Mihir Anand, and we are as excited as you delegate to participate and be involved in all the discussions and debates that will follow.

In this council, every delegate has been allocated to a country relating to the issues which will be discussed on the conference day. The delegate must research on the topics thoroughly and also know the stance of the country you are allocated to. Research is not the only factor which forms a delegate, but also factors like being diplomatic, being a team person, ready to face challenges or crisis which might arise in a council is what forms a delegate.

The purpose of the background guide is to provide a brief idea on the issues which will be presented during the council. This is only for reference and do not limit your research to the background guide as this shall be checked by the chairs. A delegate must not only be aware of his only delegation but also on the other delegations and identify your allies and rivals.

This council is based on real-life agency, The World Intellectual Property Organization (WIPO) which was specialized by the United Nations on 1974. Its main objectives include fostering innovation and creativity by providing a balanced and effective international IP system that encourages economic development and social progress. This is a brief idea on the origins of the council. This guide should help delegates to start on their research and not to be left behind.

We look forward to having an amazing time with you all,

Ishaan Binesh and Mihir Anand,

UNCIP.

AGENDA 1:

Considering the Ethical and Privacy Issues associated with the Creation and Use of National and International DNA Databases

INTRODUCTION

DNA databases are powerful tools that store genetic information for various purposes. These databases help in solving crimes, identifying human remains, and establishing family relationships. It is also used to track the mitigation pattern of the population and study genetic diseases.

HOW IS DNA STORED?

DNA databases store genetic information by first collecting samples, extracting DNA, and creating digital profiles with unique genetic markers. These profiles are securely stored with encryption measures and metadata in database systems. Matching algorithms compare profiles for identification purposes, with some databases anonymizing data for privacy protection. Strict data retention policies and regulatory compliance ensure ethical handling of genetic information in these databases.

PURPOSE OF DATABASES

DNA databases serve various critical purposes in fields such as forensic investigations, medical research, ancestry testing, and the identification of genetic predispositions to diseases. In forensics, they aid in identifying suspects or victims based on DNA evidence. Medical research relies on DNA databases to study genetic variations and develop personalized treatments. Ancestry testing helps individuals trace their genetic heritage and family connections. DNA databases also assist in understanding inherited diseases and assessing individuals' risks for certain health conditions, contributing to preventive healthcare measures.

EXAMPLE

DNA databases have been instrumental in various cases over the last decades. One specific case where DNA databases proved instrumental was the capture of the "Grim Sleeper" serial killer in Los Angeles, California. Lonnie David Franklin Jr., known as the Grim Sleeper, was linked to a series of murders spanning over two decades. In 2010, a partial DNA match from crime scenes was found to be related to a man in the California state DNA database. This partial match led investigators to Franklin's son, whose DNA profile was in the database due to a felony conviction. Detectives then collected a discarded pizza slice and utensils from a restaurant Franklin had visited to obtain his DNA, which directly matched the DNA evidence from the crime scenes. This case highlighted the crucial role of DNA databases in solving long-standing criminal investigations and bringing perpetrators to justice by using familial DNA searches to identify potential suspects and ultimately leading to their arrest and conviction.

ETHICAL CONCERNS OF DNA DATABASES

The benefits of DNA databases in solving crime and advancing genetic research are undeniable, however there are a few ethical concerns which needs to be addressed. The ethical concerns surrounding DNA databases encompass various issues related to privacy, consent, and discrimination. Informed consent is a significant challenge, as individuals may not fully understand the implications of providing their DNA, including how their genetic data will be utilized. This raises concerns about data privacy, given the sensitive nature of genetic information and the risks of unauthorized access or breaches. Additionally, the potential for genetic discrimination looms large, with individuals at risk of being treated unfairly based on their genetic information in contexts like employment and insurance.

The familial and ancestral implications of DNA testing further complicate matters, as revelations about family connections may lead to unforeseen personal complications. Furthermore, the potential misuse of ancestry information poses risks of reinforcing racial or ethnic biases. Issues of equity also arise, particularly regarding the disproportionate representation of marginalized groups in DNA databases, which can exacerbate existing societal disparities. The role of these databases in law enforcement invites concerns about surveillance and the risk of wrongful accusations based on genetic information, while questions about data ownership complicate issues of control and rights over genetic data. Ultimately, the long-term storage and use of this sensitive information require transparent policies to address these ethical dilemmas and safeguard individual rights.

EXAMPLES

In 2020, the Havasupai Tribe reached a settlement with Arizona State University regarding the use of their DNA for research without proper consent. The tribe had initially provided DNA samples for diabetes research, but the samples were used for other studies, including those related to migration and ancestry. This case underscores the ethical concerns regarding informed consent and the ownership of genetic data, particularly in the context of Indigenous communities, who often have distinct views on genetic research tied to their cultural identity.

In 2021, concerns were raised about the potential for genetic discrimination following the launch of a new feature by 23andMe that provided users with insights into their genetic predisposition to certain health conditions. Critics pointed out that this information could potentially be used by employers or insurance companies to discriminate against individuals based on their genetic risks, despite protections like GINA. This situation reflects ongoing worries about how genetic information may impact individuals' access to opportunities and services.

POSSIBLE SOLUTIONS

To prevent these unethical uses of DNA databases, some of the solutions suggested are:

- **Transparency and Accountability-** Specifically, in relation to DNA databases, ensure that there is transparency as to policies and practices of police forces and other bodies on handing over and sharing. Put mechanisms for accountability and oversight in place to monitor compliance with ethical standards.
- **Public Awareness and Education-** Raise public awareness about DNA databases, the threats to privacy, and the ethical dimensions concerning genetic data. Educate and disseminate resources on how individuals can best make decisions about the sharing of their genetic information.
- **Informed Consent-** Ensure that DNA collection, storage, and uses require informed consent, in which there is a clear explanation of the ways the DNA material will be used, so people are aware of how their genetic information will be used, with an option to make informed decisions about sharing their information.

SUGGESTED MODERATED CAUCUS TOPICS

- Facilitating international collaboration and frameworks for responsible information sharing across borders in DNA databases.
- Promoting transparency and establishing accountability mechanisms for the responsible use of genetic data in DNA databases.
- Enhancing data security and encryption protocols to safeguard genetic information in national and international DNA databases.
- Establishing policies for data retention and deletion to balance investigative needs with privacy rights in DNA databases.

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AGENDA 2:

Intellectual Property and Artificial Intelligence: Addressing the legal and ethical implications of AI-generated content, patenting AI innovations, and ensuring fair use.

INTRODUCTION

Artificial Intelligence (AI) has changed the world forever and has impacted almost everything in our lives. The rapid growth of AI has led to the use of AI to generate content, invent new technologies, create apps, and even create art which has brought about complex issues, especially in the world of intellectual property (IP), and has raised the question of who owns these creations. Traditional IP laws in place today do not address the uniqueness of AI-generated content because they were not designed to address them in the first place. Our interpretation of these laws to answer the question of who owns these creations becomes more and more unclear and leads to legal and ethical dilemmas.

DEFINITION OF KEY TERMS

- **AI-generated Content:** Creative works, inventions, or data outputs produced by AI systems with minimal or no human intervention.
- **Intellectual Property (IP):** Creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names, and images that are protected by legal property rights such as patents, copyrights, etc.
- **Fair Use:** A legal doctrine that allows limited use of copyright material without having to first get permission from the copyright holder.

GENERAL OVERVIEW

The biggest challenge globally is to govern and determine who owns AI-generated content. As AI-generated creations that compete with human creativity increase, the

uncertainty of these creations' rights poses a big threat to the current IP regulatory frameworks and existing legal structures.

And patenting AI innovations adds to the complexity of the issue.

Traditional patent laws were not designed with the ambiguity of AI creations in mind as only human inventions were the norm back then and the application of these frameworks to AI-driven innovations questions the criteria for innovation and originality required to own these creations.

Another issue with AI-generated inventions is fair use. Fair use is important as it provides a level playing field for all individuals and organizations using AI-generated content and builds trust and credibility which is much needed in this AI-generated innovations world. On the other hand, fair use in the age of AI requires rethinking existing copyright laws and implementing new measures that balance innovation with creators' rights. Which even involves working with those who don't believe in using AI to generate such content which is largely due to the legal and ethical implications of AI-generated content and innovations like ownership, data privacy, defamation and misinformation, algorithmic bias from dealing with current data with such biases present, liability over the decisions made by AI as it becomes more autonomous and probably the most worrying of all- job displacement.

So as you can see international cooperation is key to addressing these issues. As AI's creations go across borders, a global approach is needed to address these legal and ethical implications. This requires the united and collaborative effort of governments of the world, tech companies, legal experts, and civil society to ensure that the policies created promote innovation while protecting the rights of all parties involved.

TIMELINE OF MAJOR EVENTS

- 1997: IBM's Deep Blue defeats world chess champion Garry Kasparov, AI beats human. This is the first time AI beats the smartest human at that time, in effect AI beats humanity and this raises questions about AI replacing human minds and the ethical implications of AI systems.
- 2000s: AI is used in creative industries like music and art. This raises questions about authorship and copyrights and the legal framework surrounding this was underdeveloped. At the same time, the globalization of AI innovations leads to increased patent filings in Europe, Japan, China, and other regions.
- 2018: EU introduces General Data Protection Regulation or GDPR which states that individuals have the right to "meaningful information about the logic involved" in AI decision-making that affects them, in effect organizations

must provide a clear understanding of how AI systems arrive at a certain decision.

- 2019: World Intellectual Property Organisation (WIPO) launches initiatives to study the impact of AI on IP laws.
- 2020: DABUS AI applications are rejected as an inventor for “Food container and devices and methods for attracting enhanced attention” by US, UK, and European patent offices on the ground that the inventor DABUS is not human. In the same year.
- 2021: South Africa grants patents listing DABUS AI as the inventor and sparks more debate on AI and patent law.
- 2024: EU AI Act comes into force and will be effective from August 2026 which aims to regulate AI by ensuring legal, ethical, and safety barriers are not breached, especially in high-risk applications.

KEY ISSUES

- Who owns AI-generated content? The developer of the AI, the AI itself, or the person who inputs the prompts? Existing copyright laws do not provide a clear answer to this question.
- Patenting AI can be tricky because many AI concepts are abstract. There are questions about whether AI-generated inventions meet the novelty, non-obviousness, and utility requirements for patentability.
- AI models can be biased if the data they are trained on is biased. This means discriminatory or harmful content will be generated.
- Job Displacement: The speed at which AI can generate content as well as its economic efficiency poses a threat to jobs in industries where humans are relied upon for generating content.
- Lack of Accountability: As AI gets more autonomous, it will be hard to hold people accountable for their actions.
- AI-Generated Content: The fair use doctrine allows for limited use of copyrighted material without permission. But what are the boundaries of fair use in this case?
- AI-Generated Parodies and Satires: AI can create parodies and satires of copyrighted works. How do we determine if they are fair use?

MAJOR PARTIES INVOLVED

- National Governments: Set and enforce IP laws, and adapt to the AI challenge. Governments also play a role in international IP coordination.

- International Organizations: WIPO and WTO are central to global IP policy and international standards.
- AI Developers and Tech Companies: Creating AI systems and impacted by IP laws on AI-generated content and innovation.
- Creators and Rights Holders: Individuals and organizations that create and hold IP rights are impacted by how AI-generated content is treated in law.
- Lawyers and Academics: Provide analysis and insights on the AI/IP intersection, and influence policy and public debate.

PREVIOUSLY ATTEMPTED SOLUTIONS

- GDPR: While primarily about data protection, GDPR has some provisions that touch on AI-related topics like the right to be informed about automated decision-making and the right to rectification.
- Montreal Declaration for Responsible AI Development: This declaration has principles for responsible AI development, human well-being, inclusivity, and fairness.
- IP Law Amendments: Many countries are amending their IP laws to include AI-generated content, but approaches vary widely.
- Case Law: Courts are still figuring out the patentability of AI-related inventions. Cases like *Alice Corp. v. CLS Bank International* (2014) have given guidance on the patentability of abstract ideas including some AI concepts.
- California Consumer Privacy Act (CCPA): Like GDPR, CCPA has provisions around decision-making and the right to know what personal information is collected and used.

POTENTIAL SOLUTIONS

- International Coordination: Having international standards and guidelines for AI can bring consistency and global best practices.
- Risk Assessment: The introduction of policies that will require developers to conduct risk assessments before the deployment of AI systems which ensures the safety and transparency of applications in the long run.
- Global AI Standards: Create standards that address AI-specific challenges so we can have consistency and fairness across borders.
- Revisit Fair Use: Update the fair use doctrine to reflect the world of AI and balance creator rights with AI development needs.

- AI Ethics Committees: Establishing independent committees to guide ethical AI development and deployment.
- Public Participation: Encouraging public participation in the development and regulation of AI.

POTENTIAL DEBATE TOPICS

- Should AI content be copyrightable and if so who owns the rights?
- What are the criteria for patenting AI inventions?
- How does fair use apply to AI content? Should there be exceptions?
- How do we address bias in AI content, especially in hiring
- Job Displacement: What are the ethics of AI job displacement? How do we mitigate the damage?

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