

Editorial

The first issue of the Stockholm IP Law Review for 2024 arrives amidst significant developments affecting intellectual property rights at both the EU and international levels.

One notable advancement is the implementation of the AI Act, which takes effect on August 1, 2024. Proposed by the Commission in April 2021 and ratified by the European Parliament and the Council in December 2023, the AI Act aims to address potential risks posed to citizens' health, safety, and fundamental rights. It sets forth clear expectations and obligations for developers and users of AI, while also aiming to alleviate the administrative and financial burdens on businesses.

The AI Act establishes a cohesive framework across all EU member states, utilizing a proactive definition of AI and a risk-based methodology.

While the main text of the law does not touch specifically upon copyright issues, it does repeatedly make specific mention to the topic in the text's recitals (from 105 to 109) including:

- Recital 105 of the AI Act which reminds of the relevance of the data mining exceptions to copyright introduced by the Directive (EU) 2019/790.
- Recital 107 which stipulates that providers of AI generative models will be required to provide a detailed summary of the content used for the training, in a comprehensive way that will allow copyright or parties with legitimate interests to exercise and enforce their rights under EU law.

In another milestone, WIPO member states have ratified a pioneering Treaty focused on intellectual property (IP), genetic resources, and associated traditional knowledge, marking a historic achievement that culminated decades of negotiations. This Treaty stands as the first to explore the relationship between IP, genetic resources, and traditional knowledge, and it notably includes provisions aimed directly at protecting Indigenous Peoples and local communities.

Once 15 countries have ratified the Treaty, it will introduce a new international law requirement mandating patent applicants to disclose if their inventions are based on genetic resources or traditional knowledge. A signing ceremony is set to take place later today. Negotiations on this Treaty began in WIPO in 2001, following a proposal from Colombia in 1999 that emphasized the participation of Indigenous communities.

Simultaneously, the legislative process continues regarding the Commission's proposal unveiled on April 23, 2024, which seeks to amend and replace existing pharmaceutical legislation (Regulation 726/2004 and Directive 2001/83/EC) as well as legislation concerning medications for children and rare diseases (Regulation 1901/2006 and Regulation 141/2000/EC).

The proposal aims to achieve several key objectives:

- Ensure all EU patients receive timely and fair access to safe, effective, and affordable medicines.
- Strengthen the security of supply, ensuring medicines are accessible to all patients within the EU.
- Maintain a conducive and innovative climate for pharmaceutical research, development, and production within Europe.
- Promote the environmental sustainability of medicines.
- Tackle antimicrobial resistance (AMR) and pharmaceutical contamination in the environment by adopting a One Health perspective.

Together, these three concurrent developments are pivotal to the ongoing transformation of the contemporary intellectual property rights system while also significantly impacting societal goals, including the ethical use of AI, equitable access to medicines, and acknowledgment of Indigenous communities' contributions to technological progress.

This issue of the Stockholm IP Law Review is representative of the exciting developments in the field of IP.

It is an honor to be able to publish the SIPLR interview with Dr. Martin Müller, the chairman of Technical Board of Appeal 3.5.06, one of the boards dealing with computing technology and artificial intelligence, and Member of the Enlarged Board of Appeal. In this very engaging interview Dr Müller contributes with valuable input on AI's impact in the patent world, as well as a career in the patent system.

Victor Müetter's article "The Protection of Translations under European Copyright Law", explores *how the general requirements for copyright protection developed by the Court of Justice of the European Union apply to translations. This is an interesting and unexplored subject.*

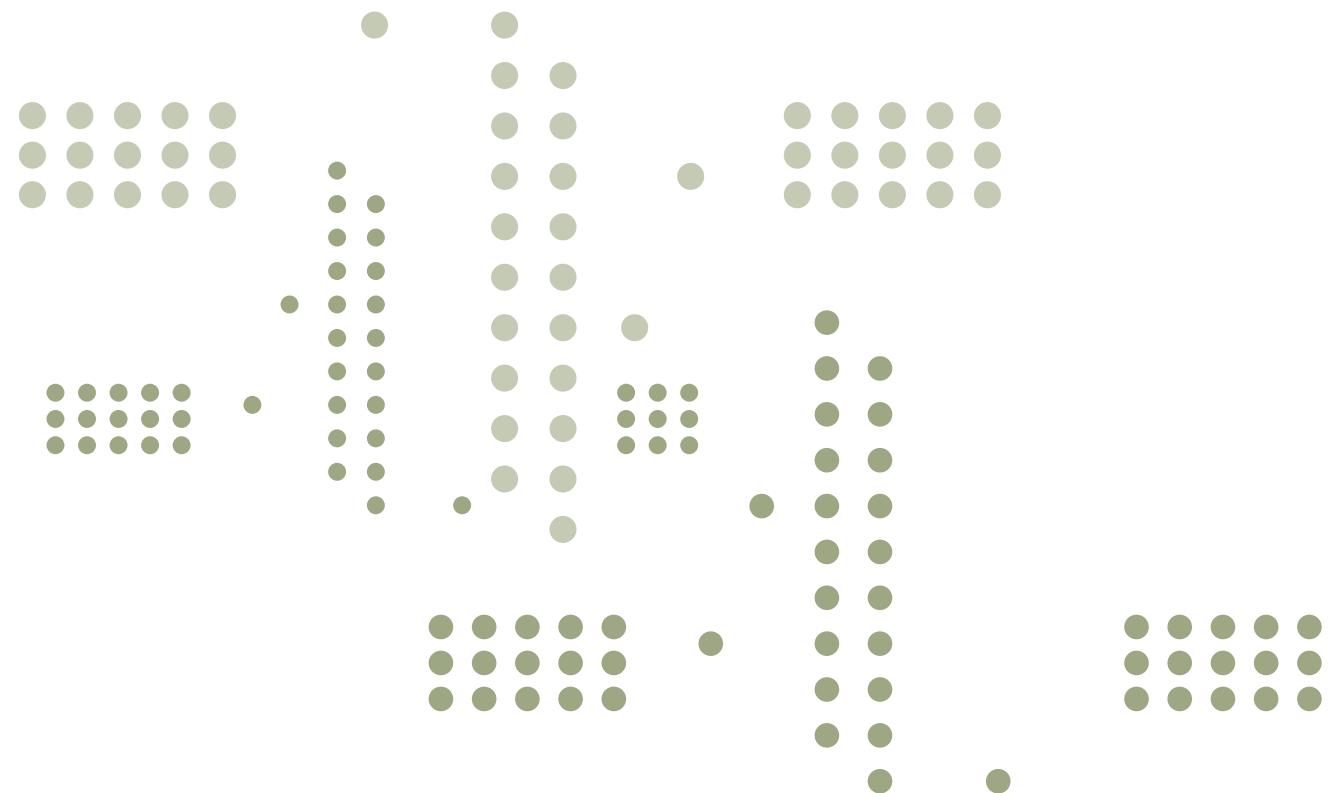
In her article, "Reading between the lines: a glance on how the notion of bad faith is interpreted and applied in the European Union with regards to EU trade marks", Julia Zwiech analyzes the currently applied subjective/objective approach towards the finding of 'bad faith' and puts forward a suggestion that could lead to an increased clarity and objectivity with this regard.

Anna Buss has in her article, "The Challenge of Balancing Artistic Autonomy and AI Training – Evaluating the Effectiveness of the Opt-Out Mechanism under Art 4(3) DSM Directive for Artist Protection", engaged in the debate concerning Article 4 of the DSM Directive and its practical use as a commercial exception for text and data mining.

In her article with the title, "The Requirements of Art. 3(a) and (c) SPC Regulation and Post-grant Amended Patents", Anna Hofmann investigates how procedural and substantive requirements for a patent amendment influence the interpretation and application of articles 3(a) and 3(c) of the SPC Regulation.

We hope you enjoy reading this issue!

Frantzeska Papadopoulou Skarp,
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