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Impact and Application of AI in Governance of Intellectual Property Rights of a Company

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ABSTRACT

The interaction of IPR and AI may result in significant shifts in corporate governance. AI can be used by businesses, for instance, to monitor and defend their intellectual property assets, automate licencing agreements, and identify potential instances of infringement. AI can also be used to evaluate data related to intellectual property rights in order to spot patterns and trends, which can then be utilised to guide strategic decision-making. The combination of intellectual property rights and artificial intelligence can, on the whole, contribute to higher competitiveness, improved decision-making ability, and increased efficiency. Yet, it is absolutely necessary to make certain that these technologies are deployed in an ethical and transparent manner in order to minimise the possibility of adverse effects on corporate governance.

Keywords: Data privacy, good governnace, AI, IPR.

I. INTRODUCTION

Intellectual property rights (IPR) and good corporate governance are two fundamental components that are vital to the flourishing of every company. A firm can improve its competitiveness, reduce the risks it faces, and generate value for its stakeholders if it takes measures to safeguard its intellectual property and adhere to sound principles of corporate governance. A firm's intellectual property rights (IPR) can be a potential threat for the business, particularly if it is embroiled in a legal dispute or if its intellectual property is the target of an infringement. A corporation can better manage these risks and lessen the impact they have on the business if it practises good corporate governance.

It is essential to guarantee that the use of data is managed by data privacy laws and regulations, as AI systems frequently rely on vast volumes of data. Data privacy standards can be outlined in internal policies, which can also give guidelines for the collecting, storage, and use of data. The dynamics of corporate governance can be profoundly influenced by both intellectual

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property rights (IPR) and artificial intelligence (AI).

(A) Research objectives

- To study and examine the Interaction of Intellectual Property Rights of a company and Artificial Intelligence.
- To understand the legal implications of AI and IP for businesses

(B) Review of literature

- **Tokmakov, M. A. (2019)**²In the not-too-distant future, artificial intelligence will move from playing a supporting role in the management of a business to playing a leadership one: the post of AI director (robo-director). The robo-director is able to work at all hours of the day and night, process any information that is made accessible to him, call up and use this information nearly immediately, and carry out its functions without receiving payment. The use of artificial intelligence raises questions about the continued existence of various corporate bodies, most notably supervisory bodies such as boards of directors and audit committees. “honesty” and “impartiality” are likewise indisputable concepts because they are specified by the code (algorithm). On the one hand, this resolves many issues that have been brought up in relation to the corporate liability of managers. On the other hand, this once again suggests shifting responsibility to the members of the corporation who determine whether or not to “appoint” AI to the position of manager.
- **Hilb, M., (2020)**³discusses the repercussions of both the governance of and the governance with artificial intelligence in each of the three horizons, followed by a call to board members to participate actively in comprehending, imagining, and influencing the future of artificial governance, and the discussion concludes with an appeal. As was mentioned earlier, the efficacy of AI is highly dependent on the availability of data. As a result, the regulation of data protection and data access is absolutely necessary to ensure that businesses are able to safeguard sensitive data that is required for making strategic decisions. At the same time, businesses frequently require access to data that is freely available to the public in order to guarantee that all pertinent data points may be taken into consideration when optimising AI. Because of both of these challenges,

² Tokmakov, M. A. (2019). Corporate governance modernization: legal trends and challenges. In *SHS Web of Conferences* (Vol. 71, p. 04011). EDP Sciences.

³ Hilb, M., 2020. Toward artificial governance? The role of artificial intelligence in shaping the future of corporate governance. *Journal of Management and Governance*, 24, pp.851-870.

there is a significant risk that corporations may be unable to fully automate decision making at the board level.

- **Grove, H., Clouse, M., Schaffner (2020)**⁴ Boards of directors, corporate executives, along with other key figures are encouraged to evaluate the risks, difficulties, and opportunities posed by artificial intelligence (AI). This is especially important when considering the public entity as a separate legal personhood, as was advocated by the Committee on Legal Affairs of the European Parliament in 2015. All of these main actors should be monitoring the progress and paying attention to the important advancements in AI in order to facilitate the continued existence of the public as well as other corporations and entities.
- **Jauhiainen, T.(2021)**⁵ Chief executives of companies need to know that their artificial intelligence systems will perform consistently and accurately. The necessity of building governance mechanisms in the audit framework has already been brought to light by a number of studies; nevertheless, the necessity of doing so is equally crucial in the accounting context if AI-based accounting methods are to be employed in a secure manner.

II. MITIGATING RISKS RELATED TO INFRINGEMENT OF IPR OF A COMPANY

In the event that they are not effectively managed, a company's intellectual property rights (IPR) might represent a substantial risk. A corporation can mitigate the risk of infringement of intellectual property in a number of ways, including the following:

- **Carry out an exhaustive IPR audit:** An IPR audit can assist a company in identifying its intellectual property assets as well as assessing the value of those assets and the potential hazards associated with them. This may involve locating any third-party patents, trademarks, or copyrights that could potentially be harmful to the company.
- **Create a strategy for intellectual property rights (IPR):** The company can, based on the findings of the IPR audit, create a strategy for intellectual property rights (IPR) that specifies how it intends to safeguard its intellectual property and reduce any potential risks. This strategy should include policies and procedures for identifying and responding to potential infringement, as well as guidelines for licencing and enforcing

⁴ Grove, H., Clouse, M., Schaffner, L., & Xu, T. (2020). Monitoring AI progress for corporate governance. *Journal of Governance and Regulation/Volume*, 9(1).

⁵ Jauhiainen, T. (2021). How should corporate governance structures and mechanisms be created to comprise AI-based accounting and its auditing in the future?

the company's intellectual property rights. Additionally, this strategy should include a framework for protecting the company's intellectual property rights.

Maintain a frequent vigilance on the market for potential infractions of your intellectual property rights: It is essential for a business to maintain a vigilance on the market for potential infractions of its intellectual property rights. This can be accomplished by conducting market research, keeping an eye on patent databases, and collaborating with legal professionals to identify possible patent infringers.

- **Legal action should be taken when necessary:** If a corporation discovers that its intellectual property rights have been violated by another party, the company should immediately initiate legal action. The filing of litigation, the dispatching of cease-and-desist letters, or the pursuit of arbitration or mediation are all examples of this course of action.
- **Educate employees:** It is important to educate employees about the significance of preserving intellectual property and how to recognise potential hazards. Employees should also be trained on how to recognise potential risks. Training on intellectual property rights laws and processes, as well as the most effective methods for guarding intellectual property, may be included in this category.
- **Establish strong relationships with suppliers and partners:** In order to guarantee that a company's suppliers and partners are familiar with its intellectual property rights (IPR) rules and processes, the company should maintain good relationships with its suppliers and partners. This has the potential to increase the overall protection of the company's intellectual property rights while also lowering the danger of intellectual property infringement.

A corporation is in a better position to properly manage the risks associated with its intellectual property and to secure its valuable assets if it implements these tactics.

III. ANALYZING DATA RELATED TO INTELLECTUAL PROPERTY RIGHTS OF A COMPANY

AI can be utilised to do an analysis of intellectual property rights (IPR) data in order to uncover trends and patterns, which can then be used to influence strategic decision-making in a number of different ways.

AI may be used to analyse vast volumes of patent data to find trends in patent filings and identify future technologies. This type of analysis is known as patent analysis. After that, businesses can

make use of this data to either discover possible targets for mergers and acquisitions or to inform their research and development initiatives.

- **Analysis of Trademarks:** Artificial intelligence can analyse data on trademarks to find patterns in brand registrations and monitor the possibility of infringement by other businesses.

Businesses can utilise this information to better defend their brands and make decisions about the expansion of their brands that are based on more accurate information.

- **Analysis of Copyright:** Artificial intelligence can be utilised to monitor the internet for possible violations of copyright, identify information that has been pirated, and enforce copyright claims. These details can also serve as a guide for businesses as they devise strategies for the production and dissemination of their content.
- **Agreements About Licensing:** AI has the potential to automate the examination of licencing agreements, making it both quicker and more effective to determine which terms and conditions are essential. Businesses can use this information to negotiate better licencing deals or highlight areas where they need to improve their negotiating skills. Corporations can use this information to negotiate better licencing agreements. AI may assist businesses in gaining useful insights from their IPR data, which enables them to make decisions that are better informed and better safeguards their intellectual property assets.

IV. UNDERSTANDING THE LEGAL IMPLICATIONS OF AI AND IP FOR BUSINESSES

The way in which firms run and handle their intellectual property has been completely transformed as a result of artificial intelligence (AI) (IP). Nonetheless, this results in brand new legal complications and ramifications.

- **Ownership of intellectual property generated by AI:** AI algorithms and systems are able to generate new and original works, which may be eligible for protection under intellectual property laws. Yet, establishing who the owner of such works actually is can be a difficult task. In most cases, the employee's employer will be the owner of the intellectual property rights to any AI-generated works that are created over the course of their employment. If, on the other hand, the AI system was built by a third party, determining who owns the intellectual property rights associated with it may be more difficult and call for a careful review of the licence agreement or contract.
- **Patentability of inventions developed by AI:** Artificial intelligence is being utilised

more and more to develop new inventions and improve current ones. Nonetheless, evaluating whether or not an AI-generated innovation is patentable can be a challenging task. In order to be eligible for a patent, an innovation needs to be first of its kind, not easily guessed, and practical. It is possible that an invention that is wholly generated by an AI system will not satisfy the condition of being non-obvious. This is because the invention may be based on data or algorithms that already exist.

Responsibility for material generated by AI Algorithms and systems that use AI can be programmed to generate content such as text, photos, and videos. This content can then be used in a variety of contexts. Nonetheless, this brings up problems regarding who is responsible for any content that violates someone's rights or is damaging to others. If the AI developer or user knew about the possibility of infringing someone else's rights or causing injury, they could be held accountable in particular situations.

AI systems rely on enormous volumes of data in order to learn and make choices, therefore protecting users' privacy and data is essential. There is a possibility that this data contains personally identifiable information, which is protected by applicable laws. When it comes to the collection and processing of personal data, companies have a duty to ensure that they are in compliance with any data protection rules that are in effect, such as the General Data Protection Regulation (GDPR) in the European Union.

Artificial intelligence (AI) algorithms have the potential to be biased and discriminatory, particularly if they are trained on data that is themselves skewed.⁶ If the prejudice leads to discrimination against some people or some groups of people, this could have serious legal repercussions. Companies have a responsibility to guarantee that their artificial intelligence (AI) systems are free from bias and discrimination, and they must be able to explain the decision-making process of their AI.

The Indian Patent Act of 1970, the Copyright Act of 1957, and the Information Technology Act of 2000 all regulate the legal ramifications of AI and IP for enterprises in India. Some important legal issues for Indian companies utilizing AI in their intellectual property strategy are as follows:

- **AI-generated intellectual property rights:** When it comes to determining who owns AI-generated intellectual property in India, the situation is as nuanced as it is anywhere else. In most cases, the employer will be the one to claim ownership of any intellectual

⁶ Hilb, M., 2020. Toward artificial governance? The role of artificial intelligence in shaping the future of corporate governance. *Journal of Management and Governance*, 24, pp.851-870.

property developed by an employee using AI while on the clock. Nevertheless, determining who owns the intellectual property (IP) rights may be more nuanced if the AI system was built by a third party and a licence arrangement or contract is in place.

- **Inventions made possible by artificial intelligence:** Patent protection for AI-based innovations in India is consistent with international practice. A patent is only granted for innovations that meet three criteria: they must be new, surprising, and practical. If an AI-generated innovation is based on preexisting data or methods, it may fail to pass muster as non-obvious. As a result, firms should check whether or not their AI-generated innovations are patentable.

V. CONCLUSION

A corporation with strong corporate governance is one that conducts its business in an ethical and responsible manner, as well as one that is accountable to the various stakeholders it serves. The safeguarding of intellectual property is an essential component of responsible business administration.

A robust protection of intellectual property rights can give a firm with a competitive advantage, which can boost both the business's revenue and its reputation. Through the creation of value for many stakeholders, this can help contribute to excellent corporate governance.

In order for a business to ensure the safety of its intellectual property, it may be necessary for the company to put into place specific corporate governance measures, such as internal controls, policies, and procedures. This can assist ensure that the company's intellectual property is protected and that workers are aware of their duties with regard to protecting the company's intellectual property.

In general, the combination of AI and IPR can improve the ability of key management personnel (KMPs) to make informed decisions regarding the intellectual property assets of the firm, hence lowering risks and raising the company's level of competitiveness. AI algorithms and systems may be instructed to produce media like text, photos, and videos, but this capability comes with legal responsibilities. Yet, this leads to concerns regarding who should have the responsibility for removing or fixing any potentially offensive material. Online platforms that host user-generated material are shielded from legal action thanks to India's Information Technology (Intermediary Guidelines) Regulations, 2011. Aware of the possibility of violation or injury, however, the AI creator or user may be held accountable.

Personal Data Protection Bill, 2019, India's sweeping data protection law, is set to go into effect

in the near future, providing much-needed protections for individual's privacy and sensitive information. Businesses face a number of requirements in regards to the acquisition, use, and storage of personal information as a result of statutory provisions. Businesses in India need to check that their artificial intelligence systems are up to par.
