

Who should own AI-generated works?

Lessons from recent developments in patent law

BY PROF JYH-ANN LEE AND DR. RITA MATULIONYTE AND

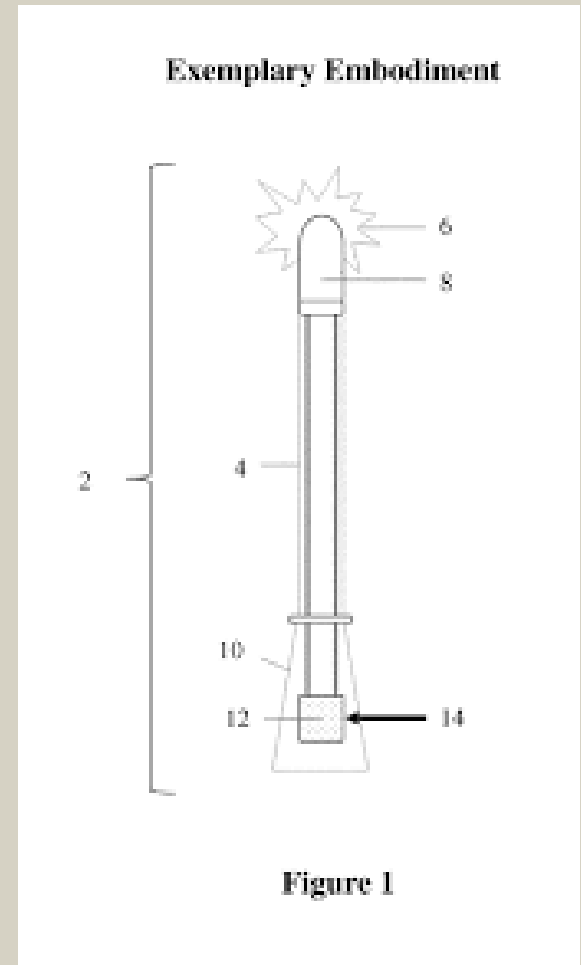
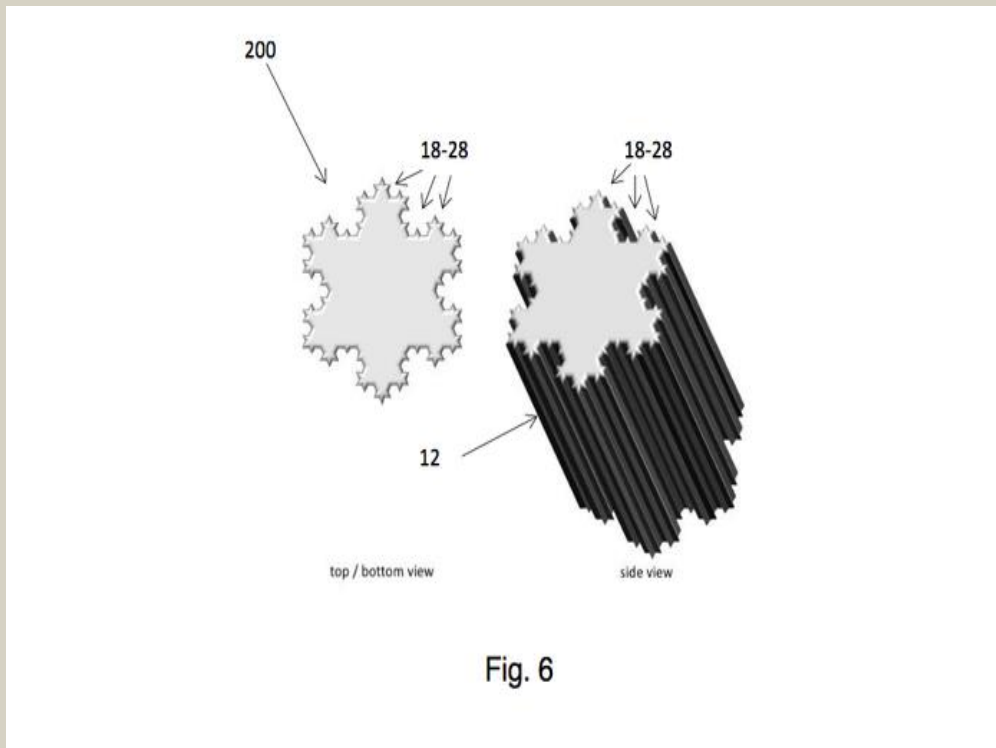


Option 3: 'AI owner' as the owner of AI-generated outputs

DABUS case: facts



AI 'DABUS'



- **shape-changing drink container**
- **flashing light that mimics brain activity**



(12) INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

(19) World Intellectual Property Organization
International Bureau



(10) International Publication Number
WO 2020/079499 A1

(43) International Publication Date
23 April 2020 (23.04.2020)

(51) International Patent Classification:

<i>B65D 6/02</i> (2006.01)	<i>B65D 21/02</i> (2006.01)
<i>B65D 8/00</i> (2006.01)	<i>B65D 1/02</i> (2006.01)
<i>B65D 6/00</i> (2006.01)	<i>A61M 16/00</i> (2006.01)
<i>B65D 13/02</i> (2006.01)	<i>A61M 21/00</i> (2006.01)

(71) Applicant: **THALER, Stephen L.** [US/US]; 1767 Waterfall Dr., St Charles, Missouri 63303 (US).

(72) Inventor: **DABUS, The invention was autonomously generated by an artificial intelligence**; 1767 Waterfall Dr., St Charles, Missouri 63303 (US).

(21) International Application Number:

PCT/IB2019/057809

(74) Agent: **ABBOTT, Ryan**; 11601 Wilshire Blvd #2080, Los Angel, CA 90024 (US).

(22) International Filing Date:

17 September 2019 (17.09.2019)

(81) Designated States (*unless otherwise indicated, for every kind of national protection available*): AE, AG, AL, AM, AO, AT, AU, AZ, BA, BB, BG, BH, BN, BR, BW, BY, BZ, CA, CH, CL, CN, CO, CR, CU, CZ, DE, DJ, DK, DM, DO, DZ, EC, EE, EG, ES, FI, GB, GD, GE, GH, GM, GT, HN, HR, HU, ID, IL, IN, IR, IS, JO, JP, KE, KG, KH, KN, KP, KR, KW, KZ, LA, LC, LK, LR, LS, LU, LY, MA, MD, ME, MG, MK, MN, MW, MX, MY, MZ, NA, NG, NI, NO, NZ, OM, PA, PE, PG, PH, PL, PT, QA, RO, RS, RU, RW, SA,

(25) Filing Language:

English

(26) Publication Language:

English

(30) Priority Data:

18275163.6	17 October 2018 (17.10.2018)	EP
18275174.3	07 November 2018 (07.11.2018)	EP

(54) Title: FOOD CONTAINER AND DEVICES AND METHODS FOR ATTRACTING ENHANCED ATTENTION



UK
US
EPO
Germany
Australia
Etc.



-
1. AI can be an inventor
 - 2. AI owner is an owner
of AI-generated
inventions**

The owner of
the apple tree
owns the
apples



Apple

-
- Smith J, High Court of England and Wales:
 - Yes, but not in IP law
 - Why don't Dr Thaler claim inventorship?



‘AI owner as an owner of AI-generated content’
in copyright law?

Advantages



IBM Watson



Owner has incentive to make AI available for users



‘AI owner’ is easier to define – more legal certainty and foreseeability

Advantages - cont



Co-ownership issue is less likely to arise



No problem of AI-generated content falling into public domain

Challenge

Market is likely to fix a
problem to a large extent



Conclusions

-
- If we compare ‘AI owner’ rule to other options
 - Has a number of advantages – increasing legal certainty and reducing transaction costs
 - Problematic in commercial licensing situations
 - Overall – worth adding to the discussion

THANK YOU!