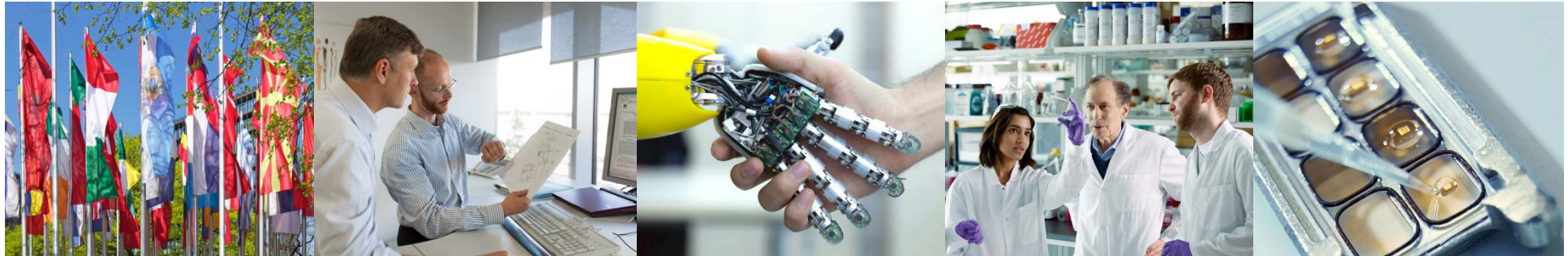




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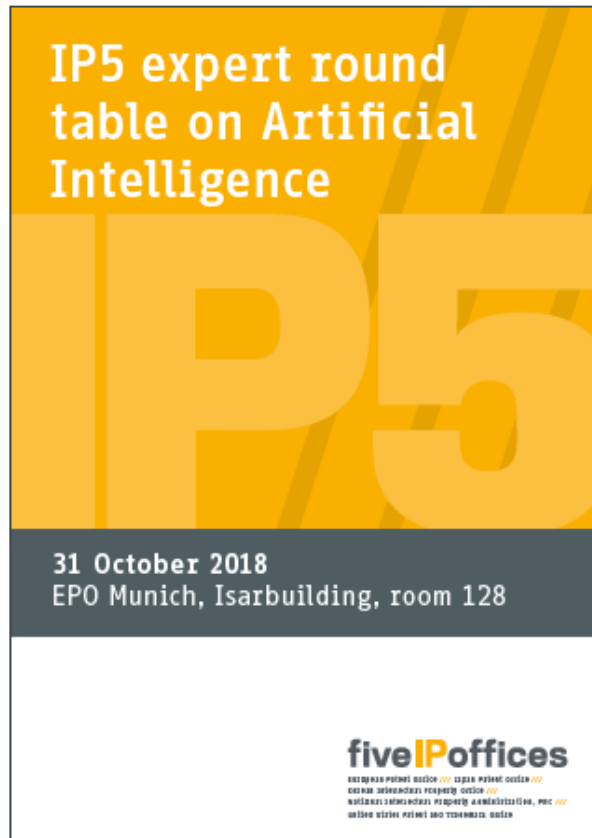
Report on outcome of IP5 expert round table on artificial intelligence

IP5 ICG, The Hague, 16 January 2019



16 January 2019

Objective



- IP5 Heads (June 2018) identified AI as one of the strategic priorities for the IP5 and mandated offices to:
 - explore impact of AI on the patent system
 - promote common understanding on legal practices in the field of AI
 - prepare further discussions at IP5 Deputy Heads/Heads level
 - develop/discuss policy options

Roundtable agenda

- Inventorship/ownership
- Patent eligibility
- Sufficiency of disclosure
- Inventiveness
- Wrap-up / next steps

Inventorship/ownership – discussion points

- Types of AI inventions: utilising AI and developed by AI
- Concept of inventor: natural person
- Rationale: patent system to support human progress facilitated by human activity
- AI as a tool for creating inventions
- Designation of inventor: natural person; designation of AI could in some jurisdictions lead to issues during prosecution

Patent eligibility – discussion points

- Patentability for AI: no specific rules for inventions in the field of AI, regular patentability criteria apply, AI inventions treated as CII in some jurisdictions
- Eligibility of implemented algorithms: depends on the how the invention is claimed, its use and claim construction, i.e. how it is written in the claim

Sufficiency of disclosure – discussion points

- Requirement of sufficiency of disclosure: fully applicable
- Define where the contribution lies and fully disclose such
- Promote reproducibility, repeatability, predictability
- Prevent insufficient description of essential subject matter
- Person skilled in the art: human; takes account of several factors including the wide spread use of AI

Inventiveness – discussion points

- No separate inventiveness standard needed or used for AI inventions, despite the different types of AI inventions
- All the features of the invention must be taken into account for the assessment of inventiveness
- Concept of the person skilled in the art unaffected

Next steps

- Summary report to be submitted for approval by the IP5 Deputy Heads (April 2019) and endorsement by the Heads of Office (June 2019)
- IP5 Industry feedback to be invited
- Publication on the IP5 website following endorsement
- Further steps to be discussed:
 - need for IP5 AI Task Force?
 - other AI relevant topics to be explored?



Thank you for your attention!