

# Israel Commissioner of Patents: Machine Cannot Be Inventor nor Assignor of a Patent Application

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*Israel Joins US, EPO and UK's Positions, According to Which Machines Cannot Be Considered Inventors or Owners of Patents or Patent Applications*

On March 15, 2023, the Israel Patents Commissioner issued a long-awaited decision in the DABUS[1] matter, in which a machine owned by Dr. Stephen L. Thaler was named as an inventor in two patent applications, one for devices and methods for attracting enhanced attention and the other for a food container. The inventions being stated as invented independently by the DABUS machine. The patent examiner at the Israel Patents Office recognized that a machine can be considered an inventor[2]. However, he also ruled that it cannot be considered a legal entity, and is therefore unqualified to perform any legal action or have any legal rights, such as owning an invention or transferring patent rights.

The Commissioner rejected the appeal on the examiner's decision, though his reasoning was slightly different. Based on a linguistic interpretation of the word "inventor" in Hebrew, he first reversed the ruling that a machine can be considered an inventor. He then held that since a machine cannot be considered an inventor, it does not have any legal right to transfer nor the legal capacity to make such a transfer.

It seems that the Commissioner did not find it necessary to apply the doctrine of accession according to which the fruits of an asset are considered property of the asset's owner – a doctrine much discussed by applicant and examiner. Generally, the Commissioner ponders the application of the purposive interpretation doctrine, which in theory, could support granting certain rights to machines. This would be in line with the global principles of patent law, such as incentivizing innovation and public disclosure of new inventions. However, in light of the current rejection of the possibility to grant rights to machines in the US, EPO and the UK, as well as a lack of an international policy in this matter, the Commissioner found that it is a matter for the legislature to decide.

This decision is but another steppingstone of the DABUS project, led by Professor Ryan Abbot, designed to challenge various the patent related legal systems with the cutting edge legal-technological-epistemological question of recognizing and granting machines with patent rights. Most likely, the challenging of these questions in Israel is not over, and an appeal is on its way.

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[1] DABUS - Device for the Autonomous Bootstrapping of Unified Sentience.

[2] See Examiner's decision in both patent application file wrappers, dated December 27, 2021.

For more information, please contact [Asa Kling](#), head of IP practice at Naschitz Brandes Amir, who contributed to the preparation of this newsletter.