

Protecting IP in AI-related Collaborations & Agreements

Collaboration between data providers, developers, public institutions, life sciences and healthcare providers is common in digital health. But in entering into collaborations, companies must ensure appropriate treatment of intellectual property, know-how, trade secrets and confidential information. In particular, how IP is protected and exploited at the end of the agreement.

Legal mechanisms



- ✓ Investigate IP infringement risk, especially in training data;
- ✓ Carefully document AI use and programs to formalize IP protection for AI inventions
- ✓ Implement non-disclosure agreements in relevant contracts;
- ✓ Secure physical and digital access to proprietary information;
- ✓ Implement policies that take into consideration the security capabilities of specific AI systems; and
- ✓ Train employees on confidentiality protocols.

Active management



- ✓ Develop training protocols (including contractual measures, where appropriate) to minimize infringement risk;
- ✓ Regularly conduct patent and trademark searches to establish freedom to operate and monitor for possible infringements;
- ✓ Review licensing agreements to ensure they clearly define rights and responsibilities and are keeping up with product enhancements; and
- ✓ Be aware of any changes to IP law in relevant jurisdictions, as IP law is continuing to evolve to take account of the impact of new technologies including AI.

Enforcing IP rights



The IP enforcement landscape around AI and AI-facilitated innovations has emerged around certain key issues. Litigants are beginning to explore questions like:

- ✓ Can works created by AI models be eligible for IP protection?;
- ✓ Does the training of AI models amount to infringement of underlying IP rights in such data?; and
- ✓ What is the role of trade secrecy in protecting AI assets?

Other Resources

- [Healthcare & Life Sciences Regulatory](#)
- [The Year Ahead 2024](#)

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