

Thaler (Appellant) v Comptroller-General of Patents, Designs and Trademarks (Respondent)

Case ID: 2021/0201

Case summary

Issue

(a) Does section 13(2)(a) of the Patents Act 1977 (the "1977 Act") require a person to be named as the inventor in all cases, including where the applicant believes the invention was created by an AI machine in the absence of a traditional human inventor?

(b) Does the 1977 Act provide for the grant of a patent without a named human inventor?

(c) In the case of an invention made by an AI machine, is the owner, creator and user of that AI machine entitled to the grant of a patent for that invention?

Facts

This case concerns two British patent applications (the "Applications") for two inventions that the appellant, Dr Thaler, stated (in the Applications) were created by an AI machine known as DABUS in the absence of a traditional human inventor. Dr Thaler is the sole owner, creator and user of DABUS. It is not in issue whether DABUS created the inventions autonomously.

On 4 December 2019, the respondent handed down a decision refusing to accept the designations of DABUS as the inventor in the Applications pursuant to section 13(2) of the 1977 Act on the ground that DABUS is not a person, as envisaged by sections 7 and 13 of the 1977 Act. Dr Thaler's appeal of the respondent's decision was dismissed in the High Court and the Court of Appeal. He now appeals to the Supreme Court.

Judgment appealed

[\[2021\] EWCA 1374](#)

Parties

Appellant(s)

Stephen L Thaler

Respondent(s)

Comptroller-General of Patents, Designs and Trade Marks

Intervener

CIPA

Appeal

Justices

Lord Hodge, Lord Kitchin, Lord Hamblen, Lord Leggatt, Lord Richards

Hearing start date

2 March 2023

Hearing finish date

2 March 2023

Watch hearing

2 March 2023 [Morning session](#) [Afternoon session](#)