Guidelines for the Utilization of AI in Patent Attorney Work

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Chapter 1: Introduction

1. Purpose of these Guidelines

These Guidelines organize basic matters that patent attorneys should pay attention when utilizing AI technologies, especially generative AI.

The aim is to enable patent attorneys to fully understand the characteristics and risks of AI technologies and to utilize them appropriately and effectively so that patent attorneys can provide more productive and higher quality services to their clients than ever before.

2. Responsibilities as Patent Attorneys

While generative AI can be used as a tool to improve the efficiency of patent attorney work, output obtained by using generative AI is not guaranteed to be accurate.

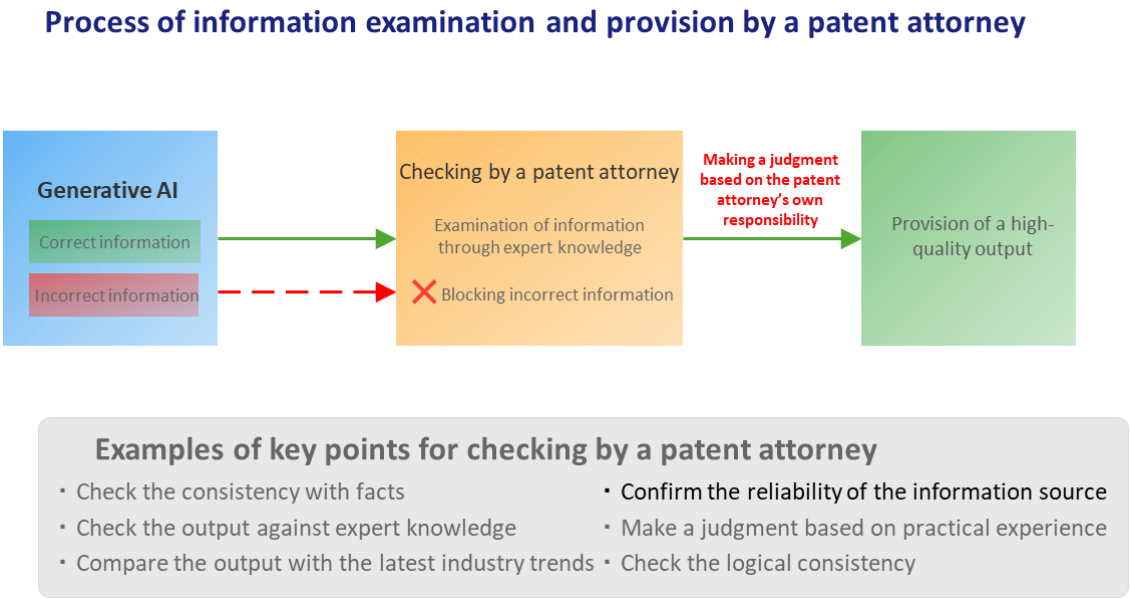
Therefore, when utilizing output obtained from generative AI, patent attorneys must check the accuracy and provide final deliverables on their own responsibility.

Generative AI is a powerful tool that supports patent attorneys in various tasks, such as writing text and drawing charts, analyzing data, and making proposals, and has the potential to improve productivity. On the other hand, since they handle confidential information and non-public information, patent attorneys must pay close attention when using AI.

Patent attorneys must perform their work based on an accurate understanding of details of the case and the purpose of the client's request, and have the duty of due care of a prudent manager under Article 644 of the Civil Code. The "duty of due care of a prudent manager" refers to the general duty of care required of patent attorneys, who have sufficient expertise, experience, and information, when handling their work in response to their clients' trust, and includes the duty to provide explanation, advice, and information. In terms thereof, the provision of AI-generated results as they are to clients without examining or reviewing the details may violate the duty of due care of a prudent manager.

Moreover, current generative AI has a problem called a "hallucination," which is an output that contains false information presented as fact. AI-generated output seem correct at first glance but may be found to contain errors if checked carefully. Therefore, it is important to fully examine AI-generated output results.

If patent attorneys fully understand the characteristics and risks of AI technologies and utilize them appropriately and effectively, the efficiency and the quality of patent attorney work can be improved further. Details are explained in the following chapters.



Chapter 2: Definitions of Basic Terms

● Artificial Intelligence (AI)

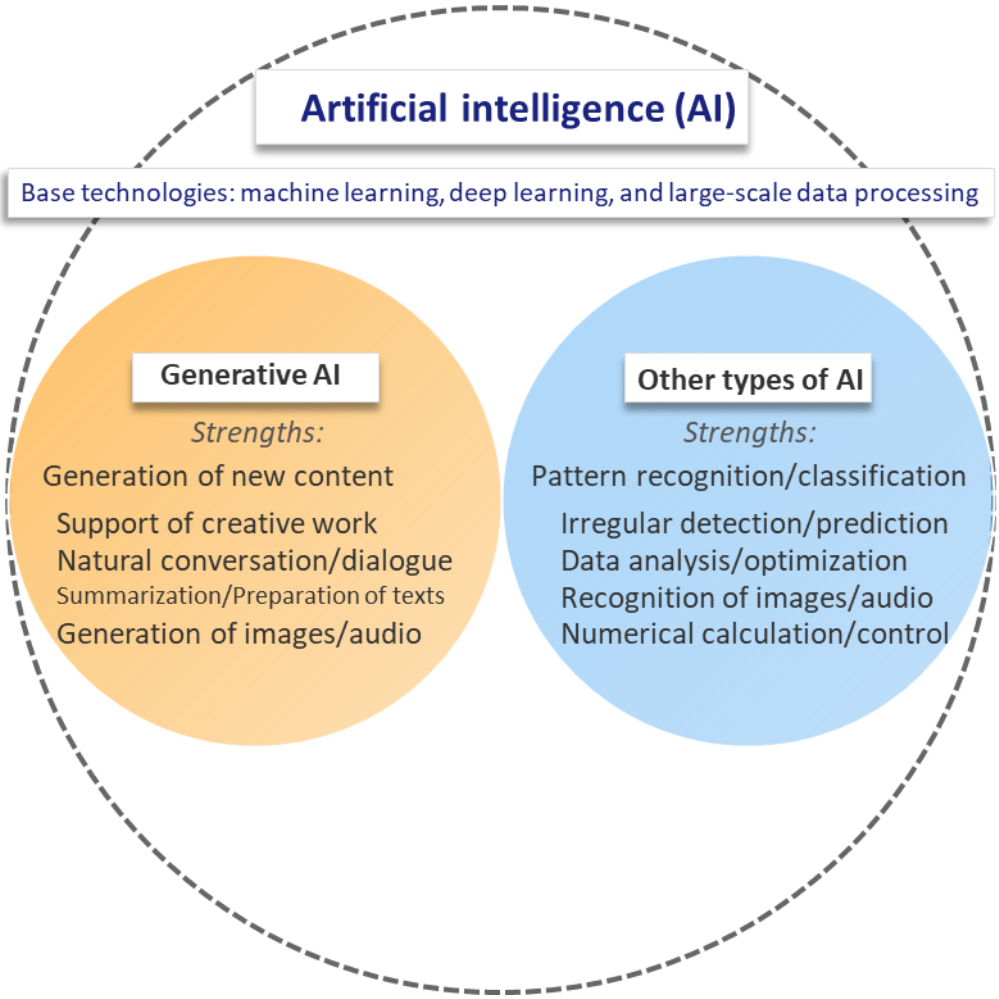
Although there is currently no established definition of artificial intelligence (AI), for the purpose of these guidelines, the term is considered to mean a "program that operates in a manner similar to the human thinking process" or "information processing/technology that humans perceive as intelligent" in the broad sense, or "something that artificially reproduces the various forms of perception and intelligence of which humans are capable."

● Generative AI

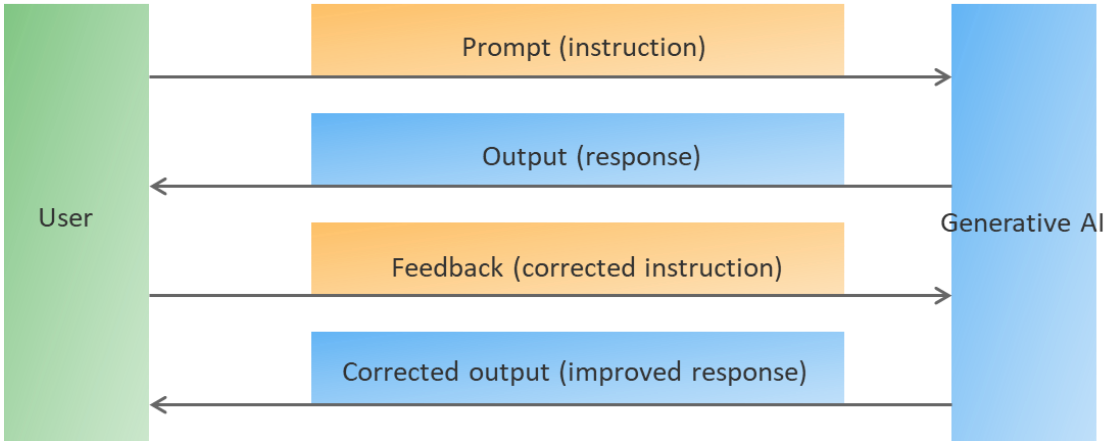
Generative AI refers to a "collective term for AI technologies that can autonomously generate text, images, audios and other content." Generative AI is also a type of AI, which aims to generate new content by learning data patterns and relationships. Generative AI is capable not only of generating content but also of learning data in order to generate content.

● Prompt

A prompt refers to an instruction or question entered by the user into an interactive system, such as a dialogue with generative AI. Clear and specific prompts are necessary for generative AI to generate appropriate responses and results (output) to user requests and questions. Use of inappropriate prompts may cause generative AI to generate undesirable results or incorrect information.



Prompts and communication with generative AI

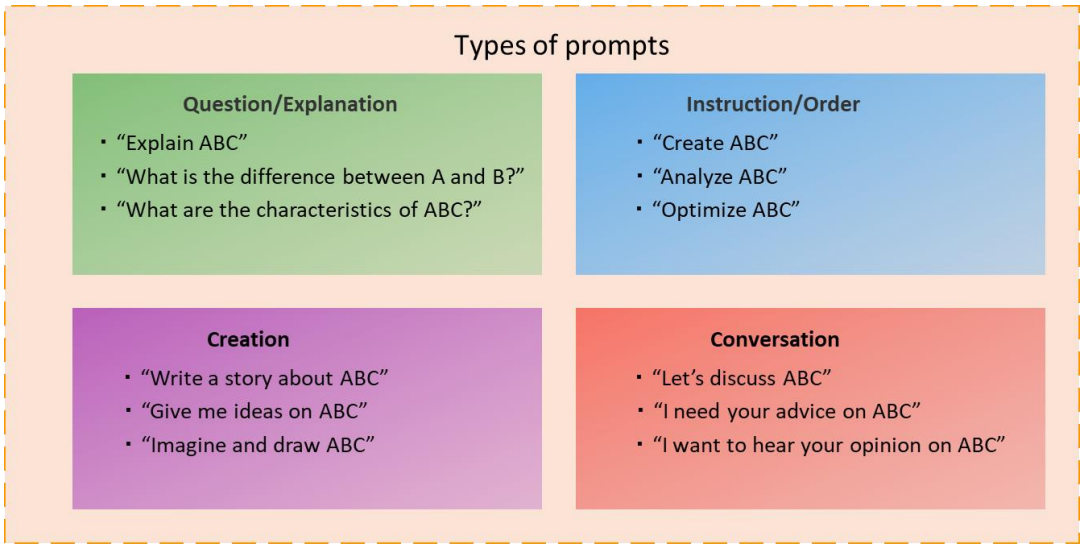


Chapter 3: Prompt Types and Creation Tips

1. Prompt Types

There are said to be multiple prompt types, such as the question/explanation type, in which a user directly enters something the user wants to ask or know about (e.g., "What is a prompt?"); the instruction/order type, in which a user instructs the system to perform a specific task (e.g., "Do ABC," and "Tell me about ABC"); the creation type, in which a user instructs the system to generate creative content by using generative AI (e.g., "Give me ideas on catchphrases to be posted on the website to promote our latest TV product"); and the conversation type, in which a user interacts with the system in the form of a dialogue.

By using the above prompt types appropriately, users can utilize generative AI effectively and obtain more accurate and satisfactory results.



2. Tips for Creating Prompts

A "prompt" used when utilizing generative AI refers to an instruction or question entered by the user into generative AI. Creation of good prompts is essential for effective use of generative AI.

Tips for creating prompts are described as follows. However, since generative AI evolves frequently and tips for creating prompts may change, users need to continuously collect the latest information.

Tips for creating prompts

1) Clarifying your instruction

Rather than giving a vague instruction, make a specific and simple request, which will improve the accuracy of the response from a generative AI.

2) Providing reference text

Include examples and references, as needed, to make it easier for the generative AI to understand the intent of the instruction accurately.

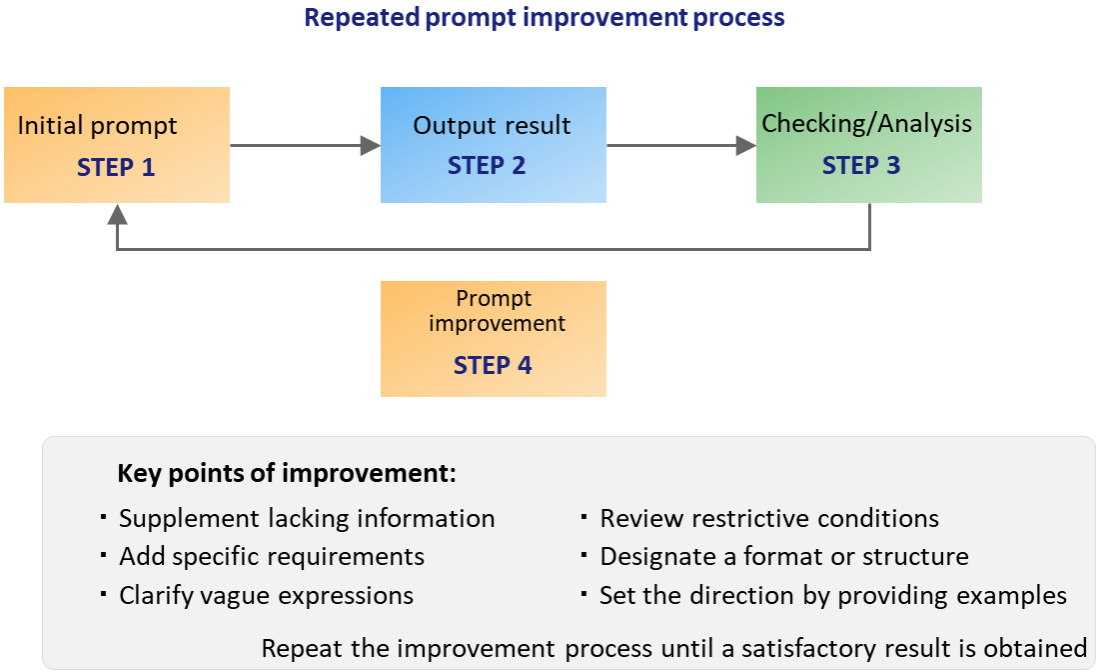
3) Separating steps

Give step-by-step instructions for a complex task to obtain a result that is more concrete and easier to understand.

4) Improving the result by repeatedly modifying prompts

Check the initial output result, modify the prompt in a way that supplements lacking points and areas for improvement, and repeat the trial-and-error process to obtain the optimal result.

Through appropriate prompt designing and continuous improvement, the effectiveness of the utilization of generative AI can be maximized.



Chapter 4: Points to Note When Entering Prompts

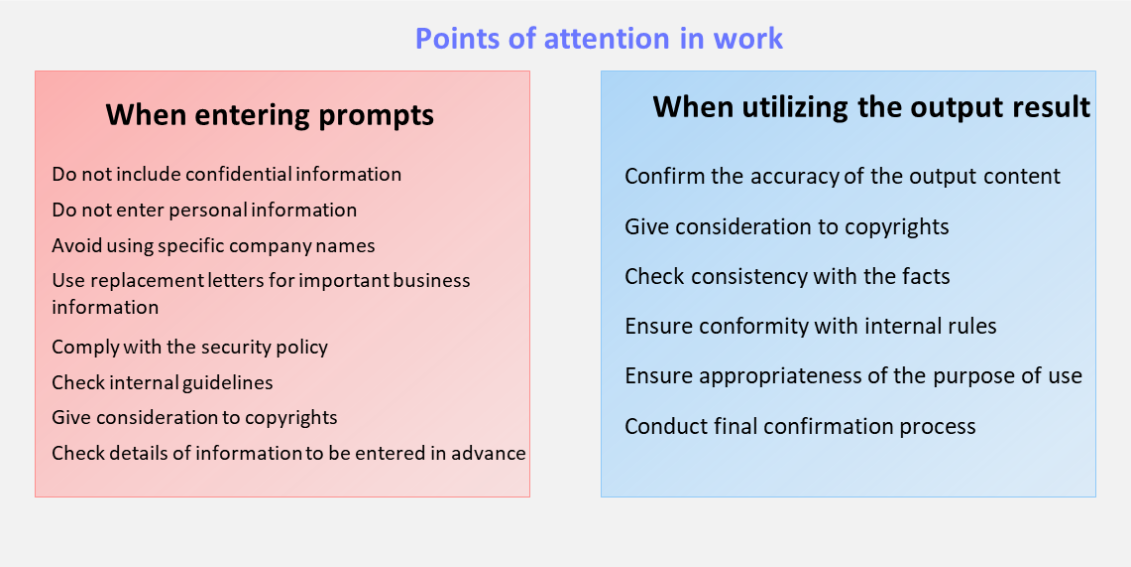
1. Checking of Terms of Use and Conditions for Commercial Use

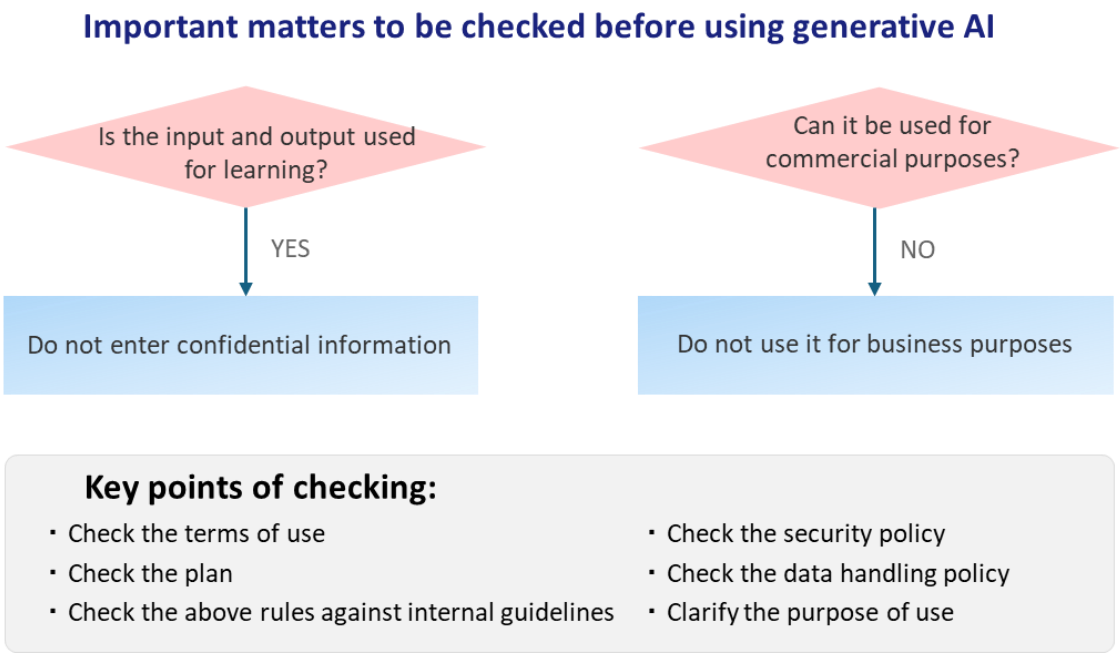
As a point to note when using generative AI, the terms of use or plan specifications may be modified frequently. Since the terms of use or specifications may be revised every few months as the technology of generative AI evolves, it is important to understand the latest conditions applicable to the generative AI to be used.

Whether or not the input information may be used for learning and reflected in output when a third party uses the generative AI is closely related to the loss of novelty and compliance with non-disclosure agreements, etc. If the input information will be used for learning, entering trade secrets or

non-public information should be avoided.

Moreover, it should also be noted whether or not commercial use is allowed. For example, if the generative AI to be used prohibits commercial use, use of the AI for business purposes should be avoided. Therefore, it is desirable to check the terms of use or plan specifications on a regular basis.





2. Handling of Information

(1) Confidential Information and Duty of Confidentiality

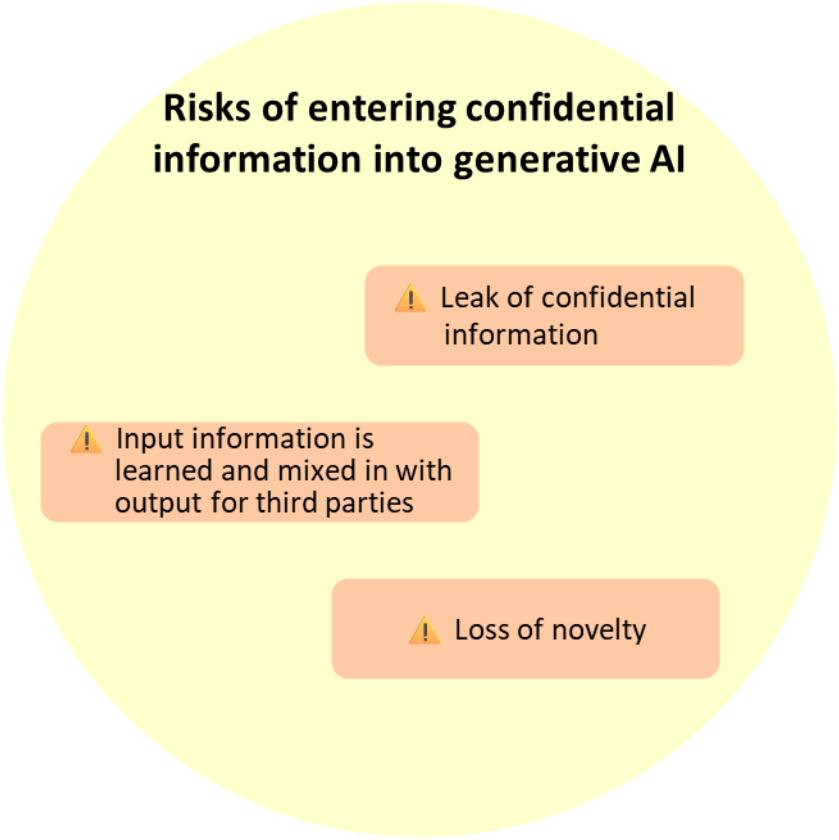
Patent attorneys have the duty of confidentiality (Article 30 of the Patent Attorneys Act). Entering

confidential information into a generative AI service provided by an external service provider causes disclosure of confidential information to a third-party service provider and may lead to violation of the above-mentioned duty of confidentiality and to a contractual obligation if a non-disclosure agreement has been concluded. If input information is learned by the generative AI, the information may be used in an output result when a third party asks a question to the generative AI, which may lead to an information leak.

(2) Prevention of Loss of Novelty

In the field of intellectual property, sufficient attention must be paid in terms of the loss of novelty. Entering information into a third-party platform without confidentiality provisions may lead to the loss of novelty.

In utilization of generative AI, patent attorneys must check what kind of generative AI they should use (a platform with or without confidentiality provisions).



(3) Handling of Personal Information

"Personal information" is defined as information relating to a living individual that contains a name, date of birth, or other identifier or the equivalent which can be used to identify a specific individual or that contains a number or other code which is used to identify a specific individual only by the

information itself ("individual identification code") (Article 2, paragraph 1 of the Act on the Protection of Personal Information).

In handling personal information, the purposes of use must be specified, and such purposes of use must be publicized on a website or the equivalent in advance, or notified to the identifiable person promptly after the acquisition of information.

When using personal information with a generative AI, the user must do so after confirming that such use does not go beyond the scope necessary for achieving the specified purpose of use.

Moreover, if personal data (meaning personal information compiled in a personal information database or the equivalent) is input into generative AI, it raises issues such as whether or not the input of personal data constitutes the provision of personal data, and if so, whether or not such provision can be conducted legitimately, as the entrustment of handling of personal data will come into question, for example. In addition, if a service provider of the generative AI service is a third party located in a foreign country, it may be necessary to obtain the identifiable person's consent for provision of personal data or take other required procedures.

Therefore, careful judgment is required when inputting personal data into generative AI.

3. Relationship with Third-Party Intellectual Property

(1) Relationship with Copyrights

Although the act of inputting a third-party work as part of a prompt constitutes a reproduction of the work, the act is conducted for information analysis of the entered prompt to generate an output. Therefore, it is considered that, in principle, reproduction or any other act associated therewith is subject to application of Article 30-4 of the Copyright Act and does not constitute copyright infringement.

However, it is considered that, since the act of inputting a work into a generative AI for the purpose of generating an output that is similar to the work is considered to be conducted not only for information analysis by the generative AI but also for enjoying the thoughts or sentiments expressed in the input work, such an act is excluded from the application of Article 30-4 of the same Act, and is highly likely to constitute copyright infringement.

(2) Relationship with Other Intellectual Property Rights

With respect to design rights and trademark rights, since the act of inputting a design or trademark as part of a prompt does not constitute work of a registered design or use of a trademark, such act generally does not cause any problems.

4. Making Agreements with Clients

When accepting a work request from a client, a patent attorney usually concludes a non-disclosure

agreement. In addition to concluding the agreement, some clients check information management of the patent attorney to ensure protection of their information assets. While the entering of prompts by a patent attorney for learning by generative AI causes the risk of an information leak, even if the prompts are not used for learning, there are cases in which clients restrict use of generative AI. If a patent attorney intends to input confidential information learned from a client into generative AI, the client's consent must be obtained regardless of learning by the AI.

Chapter 5: Points to Note When Utilizing Output Results

Output results of generative AI are useful, as they assist in patent attorney work. On the other hand, patent attorneys are professionals handling intellectual property with the duty of due care of a prudent manager, and when using the results, they must give consideration to various aspects, such as the accuracy of the content, who is responsible, conditions for commercial use, and respect for copyrights and other rights of third parties.

Points to note for appropriate utilization of the output of generative AI are organized from the following three perspectives.

1. Accuracy and Responsibility

Current generative AI has a problem called a "hallucination," which is when output contains false information presented as fact. AI-generated output seem correct at first glance but may be found to contain errors if checked carefully. Therefore, it is important to fully examine AI-generated output results.

Patent attorneys should always be aware that responses from generative AI that seem reasonable may contain false information, and must factcheck the output to judge its validity by themselves. Since the information included in the output may be out of date, it is also important to check facts based on the most recent information.

When using output results, patent attorneys must responsibly examine and ascertain their accuracy before making a judgment.

2. Commercial Use

Patent attorneys must check the terms of use of a generative AI tool to be used to confirm whether or not commercial use is allowed, and use the tool in accordance with the terms.

3. Consideration to Copyrights and Other Rights of Third Parties

When using output results from AI, patent attorneys must confirm that the results do not infringe upon the intellectual property rights of third parties. In relation to patent attorney work, patents, utility

models, designs, and trademarks are not of major concern, but careful attention must be paid to copyrights to avoid copyright infringement.