



ExCo MEETING Turin, IT 30 March – 4 April, 2019

WORKING DOCUMENT

TITLE:	Questionnaire on Subject Matter Eligibility for High-Tech Inventions		
DRAWN UP BY:	Brett Slaney, CET 6 Chair		
PURPOSE:	For ratification		
CONFIDENTIALITY:	confidential (accessible only to FICPI ExCo attendees):	<input type="checkbox"/>	{select one box only}
	restricted (accessible to all ExCo attendees):	<input checked="" type="checkbox"/>	
POST-ExCo	access to remain restricted post-ExCo:	<input type="checkbox"/>	{select one box only}
AVAILABILITY:	document to be made openly-available post-ExCo:	<input checked="" type="checkbox"/>	

The purpose of this questionnaire was to determine how patent subject matter eligibility criteria in various jurisdictions affect the patentability of inventions in emerging digital technologies such as artificial intelligence (AI), big data, cloud computing, software as a service (SaaS), blockchain, quantum computing, financial technologies (Fintech), virtual and augmented reality, etc. With the results of this questionnaire, CET 6 aims to develop a set of subject matter eligibility guidelines for high-tech and software patent practitioners. These results may also lead to a FICPI position paper, resolution, or further topics of study.

The questionnaire is divided into four sections. In the first section, a case study is presented to demonstrate a typical scenario a practitioner faces, and a Canadian perspective on how to address the scenario. The second section is directed to general subject matter eligibility exclusions, as determined by legislation, jurisprudence, and practice guidelines or patent office rules. The third section is directed to claim-type exclusions. The fourth section is directed to technology-specific considerations.

Summary of Case Study:

Alice and Bob are co-founders of an AI company that has developed a unique software-based tool that detects anomalies in electronic transactions. The software tool provides a significant competitive advantage when used in detecting fraudulent bank transactions. Alice and Bob want to know how to protect their innovations in the tool. They've heard that algorithms and mathematical equations cannot be patented and want to know how they can protect their tool with a patent.

Attachments: - Annex 1 (Copy of Questionnaire)
 - Annex 2 (Spreadsheet Containing Responses)

[End of working document]