



FÉDÉRATION INTERNATIONALE DES CONSEILS
EN PROPRIÉTÉ INTELLECTUELLE

INTERNATIONAL FEDERATION OF
INTELLECTUAL PROPERTY ATTORNEYS

INTERNATIONALE FÉDÉRATION
VON PATENTANWÄLTEN

AIPLA
AMERICAN INTELLECTUAL PROPERTY LAW ASSOCIATION

ASSOCIATION INTERNATIONALE POUR LA
PROTECTION DE LA PROPRIÉTÉ INTELLECTUELLE

INTERNATIONAL ASSOCIATION FOR THE
PROTECTION OF INTELLECTUAL PROPERTY

INTERNATIONALE VEREINIGUNG FÜR DEN
SCHUTZ DES GEISTIGEN EIGENTUMS



How Are IP Practitioners Implementing AI ?

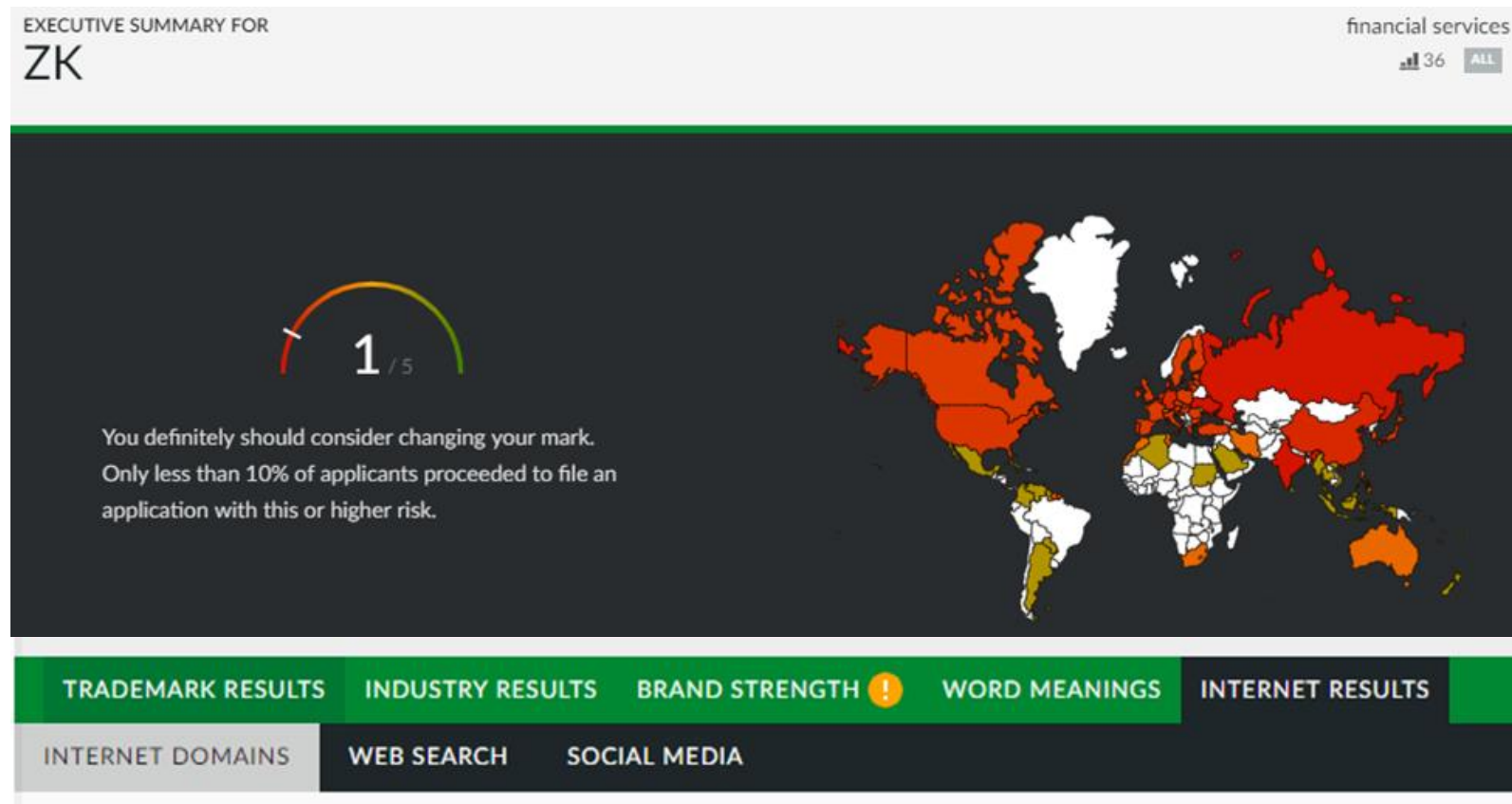
Alexander Esslinger
European and German Patent Attorney
a.esslinger@bettenresch.com

Use of AI (ML) in IP firms

- Translation tools
- Speech recognition
- E-Mail sorting
- Case law search
- Trademarks: Assessment of similarity of marks/goods and services
- Patents: Prior art search (?)
- Litigation: Document review, argument assistance

Example: Trademark Portfolio Management

- Scores of trademark similarity and trademark strength



Example: Trademark Portfolio Management

众酷 ZK
[zhòng kù ZK]

91

Trademark owner: **王学文** [wáng xué wén]

Application: **CN SAIC 24444845-36**

Intl. classes: **36**

Analysis of trademarks in the search classes and regions having common text with the searched trademark name.

Identical brand names

| BRAND NAME | NUMBER OF MATCHING LIVE AND DEAD TRADEMARKS |
|------------|---|
| "zk" | 9 574 |

Word or text fragment in common

| TEXT | NUMBER OF MATCHING LIVE TRADEMARKS |
|------|------------------------------------|
| zk | 159 4 165 |

3 related words you should be aware of

zK

Translingual

1. (SI-unit-abb zepto kelvin *thermodynamic temperature*)

ZK

Translingual

1. (SI-unit-abb zetta kelvin *thermodynamic temperature*)

זק (zk)

Hebrew

1. pure, clean
2. clear

Example: Trademark Portfolio Management

Dangers/Risks:

- Lack of transparency of assessments
 - Global availability of data
 - Lock-in/platform effect: The global TM community relies on a single data set/ML system
 - Possible hidden bias in data/ML system
- There should always be access to a human appeal instance

Example: Patent prosecution

- Prior art search (?)
- Novelty assessment (?)
- Assessment of inventive step (?)
- Determination of Standard-essentiality (?)

Problems of the Patent Prosecution Procedure

- High costs of prosecution
- Duplication of work
- Slow procedures
- Bureaucratic procedures (priority docs, assignments)
- Legal uncertainty (validity, infringement, standard-essentiality)
- High enforcement costs

Consequences for the Patent Prosecution Procedure

- Lack of access to the global patent system (in particular for SME's)
- Popularity of Open Source innovation frameworks
- Patents are an illiquid asset class

Potential Remedies (using AI):

- Harmonization and Standardization, avoiding duplication of work
- Formal language for patent claims (?)
- Tokenization of patent assets (?)

Conclusions

- AI/ML can be a powerful tool enabling automization of IP-related work
- Automization and standardization can bring substantial efficiency gains
- The working of an ML system will often be hidden
- Transparency and access to data is essential
- Access to human appeal instance