Themed session proposal:
FLL seminar: AI and the future of IP law

About the Future Law Lab (FLL)

Future Law Lab (FLL) is a virtual research center at the Jagiellonian University in Kraków, Poland, established within the *Society of the Future Excellence Initiative*.

FLL supports research, fosters expertise, and conducts education and networking activities devoted to the intersections of law, empirical sciences and new technologies. Its mission is to help scholars and the society face the challenges arising in the dynamically evolving world.

FLL's research and activities are devoted to the following areas:

- The development of brain sciences (cognitive science, cognitive neuroscience, experimental psychology) and their influence on the process of creation, interpretation and enforcement of law; the potential of cognitive sciences to enhance our understanding of human behaviour, as well as the cognitive processes and decisions of the participants of legal transactions.
- What possibilities and risks stem from the developments information technologies (e.g. artificial intelligence and machine learning) and biotechnology (especially genetics) in the context of legal systems? How to ensure that these advances benefit the society, while at the same time that they do not threaten justice, security and freedom?

Furthermore, FLL aims to react quickly to key emerging issues, in which the law can be either a solution or a part of the problem.

One of the FLL's research activities is the establishment of research groups. One of them is devoted to study the impact of the AI on law, particularly intellectual property law. In previous years, FLL has organised a number of study group meetings around AI issues (2021-2023). The proposed themed session is intended to summarise the conducted research and present the results of the deliberations of individual members and the research group as a whole to a wider range of experts.

About the people:

Chair: dr hab. **Grzegorz Mania**, prof. AMUZ, Feliks Nowowiejski Academy of Music & dr **Bartłomiej Kucharzyk**, Future Law Lab

Panelists (Speakers):
- prof. **Ryan Abbott**, University of Surrey / University of California Los Angeles (UCLA)
- dr **Aviv Gaon**, Harry Radzyner Law School, Reichman University (IDC Herzliya)
- dr **Iga Bałos**, Andrzej Frycz Modrzewski Krakow University
- dr **Ewa Laskowska-Litak**, Jagiellonian University, Future Law Lab

Ryan Abbott — Professor Abbott is highly regarded for his scholarship, teaching, and professional activities. He is the author of The Reasonable Robot: Artificial Intelligence and the Law published in 2020 by Cambridge University Press, and he has published widely on issues associated with law and technology, health law, and intellectual property in leading legal, medical, and scientific books and journals. Professor Abbott's research has been featured prominently in the media, including in the New York Times, Financial Times, Forbes, and VICE. He routinely gives keynote lectures and presents internationally in academic (e.g., MIT, Stanford, Oxford, Cambridge), government (e.g., World Intellectual Property Organization, World Trade Organization, UK Intellectual Property Office), and industry (e.g., AIPPI, American Chemical Society, INTERPAT) settings. Managing Intellectual Property magazine named him as one of the fifty most influential people in intellectual property in 2019.

Aviv Gaon — Aviv Gaon is a senior lecturer at the Harry Radzyner Law School, Reichman University (IDC Herzliya). He holds a Ph.D. from Osgoode Hall Law School, York University, and LL.B (Cum Laude) and LL.M from Reichman University. His work in the area of intellectual property and technology earned him the IP Osgoode David Vaver Medal for Excellence in IP Law in 2019. In 2019-2020, Dr. Gaon was a Post-Doc Fellow at the Munk School of Global Affairs and Public Policy at the University of Toronto. Dr. Gaon is a research fellow at IP Osgoode Center for Intellectual Property and Technology at Osgoode Hall Law School, and in 2019 he joined the Intellectual Property Journal (IPJ) editorial board – a leading Canadian journal for intellectual property and technology research. Dr. Gaon is also a member of the Bracing for Impact Artificial Intelligence Challenge conference series organizing committee. These conferences facilitate legal discussions about Canadian tech policy and attract academic scholars, tech companies, and government leaders. The Bracing for Impact conferences is supported by Canada Social Sciences and Humanities Research Council (SSHRC). Dr. Gaon's scholarship focuses on Intellectual Property, Law & Technology and Competition Law. His publications address the legal implications of emerging technologies, intellectual property, and artificial intelligence. Dr. Gaon's recent book – The Future of Copyright in the Age of Artificial Intelligence – was published in 2021. The book offers an extensive analysis of intellectual property Law and authorship theories and explores the possible impact of artificial intelligence on those theories. In 2020 Dr. Gaon co-edit the book Leading Legal Disruption: Artificial Intelligence and a Toolkit for Lawyers and the Law. The book offers an overview of artificial intelligence technology and the law providing insights into relevant challenges and addressing current issues.

Iga Bałos, Ph.D. — Iga Bałos earned her PhD in Law in 2015. Her theses concerned arbitration in patent disputes. She is and Assistant Professor at Andrzej Frycz Modrzewski Krakow University where she teaches Patent Law and Entertainment Law. Iga is a national expert in a project commissioned by the Observatory of the European Union Intellectual Property Office (EUIPO) on the Enforcement of Intellectual Property Rights. She is an author of several publications on IP rights and Artificial Intelligence. Iga participates in a research program aiming at developing an AI tool supporting adjudication process. She provides legal assistance to Polish Screenwriters' Guild and the Filmmakers' Union.

Ewa Laskowska-Litak — PhD, LL.M. (Heidelberg); former research postdoc visitor at the Centre for Intellectual Property and Information Law, University of Cambridge; WIPO expert and active member of international scientific associations (ALAI, EPIP, ATRIP). She was awarded by the Foundation for Polish Science (2016), Ministry of Science and Higher Education (2018-2020), Polish Patent Office (2016). PI of several research projects funded by the Polish National Science Center (2012, 2017), DAAD (2012-2013), Ministry of Science and Higher Education (2017). Dr Laskowska-Litak is the head (principal investigator) of the Future Law Lab project.

Grzegorz Mania — graduated with distinction from the Music Academy in Krakow, where he studied piano under Professor Stefan Wojtas. He is also a graduate (distinction) of the Guildhall School of Music and Drama where he was tutored by Martin Roscoe, Charles Owen and Caroline Palmer. He is also a graduate of the Jagiellonian University, where he read law and recently obtained a PhD for a dissertation about music and copyright (awarded by the Polish Ministry of Science). Grzegorz Mania is a co-funder and president of the Polish Chamber Musicians' Association. His particular education and artistic background knowledge and experience enable an in-depth and interdisciplinary insight into copyright law, new technologies and the impact of AI on law.

Bartłomiej Kucharzyk — Bartek holds a PhD in law and a MA in psychology. His research interests include law of evidence, law & cognitive science and empirical legal research. As a former CEO of the Copernicus Festival he also takes care of FLL's activities outside the Academia.

About the session:

The proposed session will be divided into four parts:
1) introduction about the Future Law Lab project & introduction to the topic (5 mins) by the Chairs
2) panelists' presentations (20 mins/pro person) on:
   (1) "**Disrupting Creativity: Copyright Law in the Age of Generative Artificial Intelligence",** by **Ryan Abbott.** Professor Abbott will speak about issues related to artificial intelligence and intellectual property (IP), in particular whether and how AI-generated output can be protected under existing IP laws. Very recently, due largely to breakthroughs in deep learning technologies, AI has begun stepping into the shoes of human content generators and making valuable creative works at scale. Before the end of the decade, a significant amount of art, literature, music, software, and web content will likely be created by AI rather than traditional human authors. Yet the law, as it has so often historically, lags this technological evolution by prohibiting copyright protection for AI-generated works. The predominant narrative holds that even if AI can automate creativity, that this activity is not the right sort of thing to protect, and that protection could even harm human artists. AI-generated works challenge beliefs about human exceptionalism and the normative foundations of copyright law, which until now have offered something for everyone. Copyright can be about ethics and authors and protecting the sweat of a brow and personality rights. Copyright can also be about the public interest and offering incentives to create and disseminate content. But copyright cannot have it all with AI authors—there is valuable output being generated, but by authors with no interests to protect. This Article argues that American copyright law is, and has been traditionally, primarily about benefiting the public interest rather than benefiting authors directly. As a result, AI-generated works are precisely the sort of thing the system was designed to protect. Protection will encourage people to develop and use creative AI which will result in the production and dissemination of new works. Taken further, attributing authorship to AI when an AI has functionally done the work of a traditional author will promote

transparency, efficient allocations of rights, and even counterintuitively protect human authors. AI-generated works also promise to radically impact other fundamental tenets of copyright law such as infringement, protection of style, and fair use. How the law should respond to AI activity has lessons more broadly for thinking about what rules should apply to people, machines, and other sorts of artificial authors.

(2) "**Conceptualize machine creativity. Discussing the potential of ChatGPT and developing copyright standards for protection"**, by **Aviv Gaon**. Dr Gaon will speak about a particular case of ChatGPT and verify it against the background of the copyright subject matter premises. He will advocate for a more holistic approach to authorship, arguing that there is no good reason to exclude computer-generated and artificial intelligence creations from copyright. Moreover, his presentation will argue in favour of an open search for the right 'candidate' for AI ownership. In doing so, he will explore several possible legal frameworks, including assigning ownership to the programmer, the user, the AI itself and other alternatives such as the public domain or author-in-law approaches.

(3) Dr **Iga Bałos** will focus on the following issue: "**Stealing the Show: Audio-visual Creators' Legal Framework Proposals**". She will discuss the treats to the work performed by the actors and screenwriters pointed out by the British Actors' Equity Association, the Writers Guild of America West and Polish Screenwriters' Guild. She will also present legal framework proposals developed by the labour unions and organisations mentioned above. The solutions address the problem through legislation and contractual provisions. The aim of the presentation is answering the question of compliance of these proposals with universal standards of copyright and rights of performers as well. She will consider different solutions and their prospects for implementation.

(4) "**AI & IP metaphorics and pragmatics"**, by **Ewa Laskowska-Litak**. Dr Laskowska-Litak will speak about ethical, methodological, and epistemological concerns relating to the interconnections between AI and IP law, in particular copyright law. The presentation will be divided into three parts: (1) the presentation of AI metaphorics, that will show the epistemic machinery of AI movement and notions relating to these problems (including but not limited to sustainability, bias amplification, AI autonomy and accountability). The concept behind the first part is to highlight the linguistic problem of AI against the backdrop of IP law (the algorithmication of language); (2) IP metaphorics (economic vs personal incentives, the problem of public domain, but also the problem of fictional legal notions, such as authorship). The concept behind the second part is to highlight the linguistic and systemic framework of IP law that should accommodate the AI as well; and finally, (3) the last part that will combine, compare and evaluate the shifting tectonics caused by the AI movement to copyright law with a general thesis that the machine learning presents a regime of normative reasoning that, when in the ascendant, takes shape as a powerful governing rationality, probably not suitable for the contemporary IP law. The presentation will present a number of case law of the US and EU jurisprudence, compared with a significant literature review gathered in 2021-2023.

3) discussion with the auditorium
4) closing remarks by the Chair (prof. Grzegorz Mania; 5 mins).