SUBMISSION ON AI ISSUES

February 14, 2020

To: Secretariat of World Intellectual Property Organization

Re: Draft Issues Paper on Intellectual Property Policy and Artificial Intelligence ("AI")

1. PERSONAL INFORMAITON

My name is Liuming (Willow) WEI, and I am a practicing attorney qualified in the People's Republic of China and the New York State of the United States of America. I am currently working at Dentons Shanghai Office, a global law firm. I am in a personal capacity to make my submission, and not on behalf of any organization.

2. INTRODUCTION

2.1 When we situate in the AI trend and dive into forming an AI legal framework, we may take a pause to think about the cornerstone of the intellectual property ("**IP**") protection system. It has been recognized that simulation of innovation of human intellectual creations and inventions for the social welfare and bestowing certain lengthy period to such human beings to exclusively obtain lucrative opportunities and economic returns for their accomplishments of creating good and well things with endless and firm efforts.

2.2 One of the important reasons that intellectual property protection can be formed is because of the neuro system and its complicated functions in human brains. Human beings can choose to actively collect, select and process innumerable data, analyse, testify and verify such data in a real society with experience, and adjust their behaviors. For AI, data collection by human beings is the fundamental work to be completed prior to AI's operation and such collected data is the "neuro" under which AI can be utilized in different areas. This is to say, if without such data, AI may not even function.

2.3 By taking into account of the aforementioned human traits, please find the following discussions and questions.

3. PATENT AND COPYRIGHT AUTHORSHIP

3.1 To evaluate if AI can be an author or owner of copyright, patent, trademark, data and other traditional IP rights, we may consider to what extent "human" element is involved. If there is zero human being behaviour involved, AI may need to be protected through another protection system which may be separated from the current IP framework.

3.2 For human involvement, it could occur either prior to AI's performance or it could happen after AI's output, such as when a lawyer obtains an AI generated transaction document, such transaction document has to be further reviewed and tailored for clients specific cases, including without limitation financial numbers, nuances of negotiations, and even definition and cross-reference adjustments.

3.3 Therefore, my question will be **how to evaluate the "human" element in the process of AI operation and to use what standard for evaluating the "human" contribution and determining if any AI is qualified for an authorship**?

4. DATA COLLECTION

4.1 Data protection has drawn the attention of each country. As AI is based upon the machine learning technology, data collection is inevitable for all AIs to operate after data analyses. More data is available, more accuracy an AI can output.

4.2 Obviously, the underlying data is changing and evolving with the development of economy, society and even values of human beings. **Without up-to-date data, is it possible to bestow more than a decade or even longer time exclusive protection to an AI? Do human beings need to revisit the underlying data for AI and adjust the legal protection for AI**?

5. ETHIC RULES

5.1 AI output may be manipulated by malicious human beings and AI itself cannot correct any errors or actively burden any liabilities. If AI is trained to function in a certain pattern, AI cannot change its behaviour/output or has any ethical judgement even though it exists and operates in a real world. As the recognition (input and output process) of AI under machine learning technology is different from the human neuro system, when we research on a legal protection system for AI, **we also need to think about what kind of ethical rules shall be included for AI protection so as to prevent any AI adversarial attacks and abuses.**