

Copyright Department
National Copyright Administration of China
Beijing, China
February 12, 2020

WIPO Secretariat,

The letter (No. C8971) dated December 13, 2019 is well received. We extend our appreciation to WIPO for your research endeavors in the fields of artificial intelligence (AI) and intellectual property (IP), and take this opportunity to submit to you the copyright-related comments of the NCAC on *Draft Issues Paper on Intellectual Property Policy and Artificial Intelligence* as followed:

1. Issues in Relation to the Copyrightability of AI-generated works

We suggest that more researches be conducted on the copyrightability of AI-generated works from the following perspectives: First, whether the autonomous generation of literary or artistic works by AI should be

considered an act of creation. Second, how to distinguish ideas from expressions of the the literary or artistic works autonomously generated by AI. Third, whether the literary or artistic works autonomously generated by AI meet the requirements for originality. In addition, given that AI may generate astronomical numbers of works, will the automatic acquisition of rights be still applicable thereto if the works are eligible for copyright protection?

2. Comparative Studies on Protection Regimes of AI-generated works

We suggest that more comparative studies be conducted on several possible protection regimes of AI-generated works, such as a comparison between the protection regimes based on works of legal person or works created in the course of employment, and the protection regimes based on related rights, including an analysis of rationality and regime design.

3. General Policy Issues

We suggest that another few study issues be added to “Issue 9: General Policy Issues”: First, whether the incorporation of AI-generated works into the copyright

law system centering on incentives for and protection of human creations complies with the existing international general rules for copyrights. Second, how to strike a balance between inspiring human creations and advancing the development of AI technologies. Third, whether the employment of the IP system for AI creation protection will broaden the gap between developing and developed countries? Fourth, the influence of incorporating AI works into the IP realm on the efficiency and fairness of IP enforcement and IP judicial protection.

In conclusion, the above are our suggestions for your consideration.

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Republic of China (NCAC)

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