

Jin Keun JEONG

Thank you, Mr. Chair.

I am JIN KEUN JEONG, Professor at Kangwon National University Law School in the Republic of Korea.

Data is an essential element for AI and IoT, the two major pillars of the 4th Industrial Revolution. Nevertheless, there is no relevant provision to protect data in the IP Legal System. Indirect protection is available through illegal acts under the Unfair Competition Prevention Act and tort clauses of Civil Act's. In that regard, this WIPO meeting is garnering much attention. I wonder if there could be any agreement on the new protection measures.

I am writing this in a situation where I do not know if there will be such discussion. For that reason, I will introduce discussions in Korea and talk about my wishes.

There were discussions of data ownership at the Presidential Intellectual Property Committee in 2019. Allow me to summarize

First, despite the fact that the term 'ownership' in data ownership is different from that of civil law, that term is widely used. This is very worrisome because the expression 'data ownership' can lead to the misunderstanding that it refers to the state of possession of data.

Second, the committee paid attention to the White Paper published by the EU in 2017. The report presents Copyright, Database rights, and Trade secrets as Ownership-like rights. EU countries answer 'No' to the question "Is there any particular national legislation relating to data ownership?".

Third, the committee also paid close attention to Japan's action. In 2018, Japan not only announced the Guideline but also revised the Unfair Competition Prevention Act.

Considering these events, we recognized that the term 'Data Ownership' is not an explicit definition, and that it seeks indirect protection by the Unfair Competition Prevention Act and civil law's torts.

Meanwhile, we were aware of the possibility of infringement of the Copyright Act and the Personal Information Protection Act in collecting and using data. An amendment to the Text and Data mining regulations of the Copyright Act has been submitted to the National Assembly. The Personal Information Protection Act was amended in 2020. Debate is ongoing in order to lower the risk of copyright infringement or violation of privacy laws related to data use.

I think that the establishment of an IP right that recognizes the ownership of data should be very careful because this can cause many side effects. Meanwhile, I think indirect protection will still be very useful tool.

I hope that this meeting can create some meaningful results. Thank you.