While many discussions are being raised in Korea related to artificial intelligence (AI) and intellectual property (IP), no concrete conclusions have been made yet as of now.   Accordingly, we would like to clarify that the views and/or comments of the Korean Intellectual Property Office ("KIPO") discussed below are only to offer opinion on the direction of discussions within WIPO and not on any decisions made by KIPO.

Upon general observation, KIPO considers the Draft Issues Paper on IP Policy and AI to be relatively well-documented and to be a good starting point for discussions about IP policies and AI within WIPO. However, we would like to bring up two more issues which we hope can be considered in the continuing discourse.   As mentioned, the following are proposals offered by KIPO at this point, and we would like to make it clear that they can be modified as the discussion progresses.

First of all, although not yet a reality, we believe it may be necessary to consider whether or not an autonomously-generated invention produced by an AI should have protection, and if so, how it should be protected.

The primary purpose of establishing exclusive rights is to encourage human creation for the ultimate goal of industrial development.   In this regard, we should consider whether providing exclusive rights for AI-created inventions will contribute to industrial development.   Moreover, there is the matter of whether or not exclusive rights should be granted to an AI, just as it is originally granted to individuals in order to incentivize them to innovate.

Meanwhile, we should also consider that an AI may be capable of producing inventions with less effort and have lesser limitations in the scope of technology fields compared to inventions created by human endeavor.   Thus, it can be argued that granting the same duration of protection and scope of protection, as given to human inventors, is unnecessary.   Accordingly, we might possibly consider ways to modify the period of protection for inventions by AI and limit the scope to the patent claim just as is, such as by omitting the doctrine of equivalents applied to conventional IPs.

Secondly, we believe that discussion is also necessary on the effects of AI on trademark law. We cannot deny that there is little discussion about the impact of AI on trademark law, like there is for patent law or copyright law, and it is also difficult to predict how AI will affect trademark law at this time. However, we may need to consider an area where AI affect trademarks.

In KIPO practices, there are a variety of observation methods to determine the similarity of trademarks in the process of examination. For example, KIPO mainly relies on the method of comparing similarity through recollection of the trademark images after a change in time and place, rather than a direct side-by-side comparison.

We are seeing an increase in AI-assisted consumer product selection, such as through AI speakers. This can lead to a decrease in the reliance on consumer recognition of brands and less possibility of brand confusion over products when selected by AI. Thus, AI may affect appropriate methods of observation to determine the similarity of the trademark. This can be a starting point to discuss on AI and trademark law.

To conclude, due to difficulty in predicting how AI will affect IP, KIPO believes it is very important for IP experts from around the world to come together and exchange opinions. We hope that WIPO's role will continue to be fortified in these discussions on AI and IP, and KIPO will continue to be actively involved as we have done so far.

Thank you.