Dear colleagues,

Many thanks for drafting the paper WIPO/IP/AI/2/GE/20/1 and listing issues concerning IP policy in relation to AI – it has been most useful and insightful.

In response to the request for comments regarding the draft, the Russian State space corporation (Roscosmos) would like to submit its feedback as follows. We have structured our comments below according to the areas identified in the Draft issues paper prepared by WIPO.

PATENTS

Issue 1

Add question: Whether an AI can manage IP rights, for example pay fees, be a part of licensing agreements or represent itself in court; if so, what mechanisms are or should be put in place in order to make it possible?

Add question: Please provide information on patent applications filed with your office (for IPOs) or by your company, which indicate AI as inventor. If such applications have been filed, what decision has been taken with respect to these applications?

Issue 2

Add question or amend Q 8(ii): Should we distinguish between inventions autonomously created by an AI, those created by AI and human(s) together (as co-inventors) and computer-assisted inventions created by humans, if so, where is the borderline between these?

Issue 3

Add question: If an AI is used to examine patent applications, should there be a defined (possibly, internationally agreed) scope of tasks, which it can perform, or should the extent of the AI involvement be defined by the regulations of the IPO concerned? Who is responsible of the results rendered by the AI as part of the patent grant procedure?

Re Q9(ii): Does that mean that we are considering establishing two quasi-separate systems of patent protection (based on different criteria, e.g. of obviousness) for humans, AI and humans and AI together? If so, how the existing patentability criteria will change? What can be the legal consequences of such a step?

Issue 4

Add question (alternatively under Issue 10): Should IP policy consider creating a new type of IPRs related to algorithms used for AI?

Add to Q10 (ii): … or the disclosure of the initial algorithm and the algorithm at the time of filing?

For Q10 (iv and v): it is unclear whether the questions refer to AI as inventor or invention.

Issue 5

Add sub-question to Q11: Should a multistage system control the compliance of AI generated inventions to the principles of humanity

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Issue 7

Add question: What can be the incentive (or reasonable remuneration) for an AI to license its IP rights?

Add question: Should an AI request permission to use (license) the results created by another AI? What can be the conditions of such transaction?

DATA

Issue 10

Add question: If new rights should be considered for data, would they be territorial or extraterritorial?

Add question: If new rights should be considered for data, what would be the term of protection for such rights?

Re Q (ii): Could we add some examples of «types of data» referred to in this question, like remote sensing data?

Re Q (iii): Could we add some examples of possible «policy reasons» to clarify the aim of this question?

Re Q (vii): The question is unclear. What kind of interaction is referred to?

ACCOUNTABILITY FOR IP ADMINISTRATIVE DECISIONS

Add question: Should AI experts be a part of IP enforcement, i.e. be involved in patent court deliberations? If so, in what capacity?

We would also like to express our interest in being part of the subsequent discussions on the topic of IP and AI and would appreciate receiving further communications on the matter.

With best regards,

Anna Graschenkova

Head, IP Centre