



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 20 2020

Dr. Francis Gurry
Director General
World Intellectual Property Organization
34, chemin des Colombettes
CH-1211 Geneva 20
Switzerland

Dear Director Gurry:

Thank you for forwarding Circulars 8917 and 8918, which continue the dialogue launched by the World Intellectual Property Organization (WIPO) Secretariat on September 27, 2019, on issues at the intersection of intellectual property (IP) policy and artificial intelligence (AI). I was pleased to participate in those initial meetings with you. We welcome IP offices and stakeholders around the world engaging in a discussion of the challenges and opportunities that AI technologies pose not only for their patent systems, but also for other IP disciplines as well.

In the United States, the administration has been active on matters relating to AI. In August 2018, it established The National Security Commission on Artificial Intelligence to address how AI development can be encouraged in a manner consistent with protecting national security. In February 2019, President Trump signed Executive Order 13859 announcing the American AI Initiative. See <https://www.federalregister.gov/documents/2019/02/14/2019-02544/maintaining-american-leadership-in-artificial-intelligence>. This initiative is a coordinated effort among U.S. government agencies to promote and protect AI technology and innovation. And, in January of this year, the White House Office of Science and Technology Policy issued a draft memorandum regarding regulatory and non-regulatory oversight of AI, identifying ten regulatory principles to guide AI advancement. See <https://www.whitehouse.gov/wp-content/uploads/2020/01/Draft-OMB-Memo-on-Regulation-of-AI-1-7-19.pdf>.

The USPTO is one of many agencies working to ensure that artificial intelligent technologies are developed in a manner that improves lives, empowers workers, and grows new industries. Early last year, the USPTO hosted a symposium on AI featuring IP specialists from around the world. The event explored issues such as the economic impact of AI, how to best protect AI inventions, the intersection between AI and trademarks, copyrights, and trade secrets, and IP enforcement. In June 2019, together with our IP5 partners, the USPTO helped establish a New Emerging Technologies/Artificial Intelligence (NET/AI) Task Force.

In August 2019, the USPTO published its first Federal Register Notice requesting public comments on AI policy. See <https://www.govinfo.gov/content/pkg/FR-2019-08-27/pdf/2019-18443.pdf> (concerning issues AI raises with regard to patents). And, in October 2019, the USPTO published its second Federal Register Notice requesting public comments on AI policy. See <https://www.govinfo.gov/content/pkg/FR-2019-12-03/pdf/2019-26104.pdf> (concerning issues AI raises with regard to other IP disciplines). We plan to publish a report later this year with information that we learned from the public through these notices.

Turning to the Circular, there is considerable similarity between the questions that the Secretariat has raised and the questions included in the notices that the USPTO published. Thus, we believe that both the USPTO and WIPO are focusing on many of the most important issues facing the IP community. Some of the most pressing questions appear to be how to encourage AI innovation consistent with existing legal systems, including laws that require that human ingenuity be the primary driver in invention and authorship, whether new forms of IP protection will be required to protect data, and how to recognize the contributions of authors whose works are used to generate new works through AI processes. We anticipate that member countries will have a wide variety of views on the optimal AI policies for their patent systems, given the differences in their national industrial frameworks. Different approaches may be needed depending on the country. We are grateful that you are providing this platform to receive input and share information among the WIPO members.

Finally, it was a pleasure to see you this month and to offer remarks during the program that WIPO cosponsored with the U.S. Copyright Office on Copyright in the Age of Artificial Intelligence. The interest in AI within and outside the United States truly knows no bounds.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrei Iancu". The signature is fluid and cursive, with a long horizontal stroke at the end.

Andrei Iancu
Under Secretary and Director