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Regarding the WIPO Conversation on Intellectual Property (IP) and Artificial Intelligence (AI), I would like to submit the following comments, issues, and concerns:

DATA (points 17 – 23 of the document)

1 One of the important issues and questions with data is: how was the data collected or obtained? For example, if you develop a solution based on AI and a part of it or all the information you use for machine learning, consists in sensible data, which you get either illegally, for circumvention of a law, or due the lack of legal regulation, should it still be considered protectable under options such as trade secret or copyright?

2 Following the previous point, should the IP Office be able to reject or to verify the protection when there is a suspicious illegal or unfair use of data, especially sensible data? At the end of point 23 it is mentioned that “the assurance of fair market competition against acts or behavior deemed inimical to fair competition”, with the previous example, it will be very difficult to encourage competition in the market, while the only way to obtain the data for machine learning could be under not a very legal way. But the problem would grow if there is not an interest in the IP Office to verify how does the data is obtained and is focusing only on verifying that the application for protection fulfills the requirements.

3 Another point but related to data is the determination of how to deal with new ways to protect and violate IP rights. For example, in the case of differential privacy, new strategies are designed to make a program, work, etc., more robust against hackers that have auxiliary information. In this topic, the following points should be considered:

- (i) Is it necessary to create a list of all those new things related or based on AI that can be protected under IP so then the IP Offices would have some idea about what do to with that kind of new inventions/creations/etc.?
- (ii) Is it necessary the creation of new types of IP rights violations? For example, in the case that an adversary pretends to reverse-engineer the information or worst, the sensible data from works, inventions, documents, etc.
- (iii) AI is maybe everywhere around the world, but not all the countries are dealing with issues such as patentability cases, then, which should be the strategy to prepare IP Offices, judges and other authorities to address issues related to AI?

ACCOUNTABILITY (point 27).

1 For issues 12 and 13, it would be important to discuss the “responsibility”. Today the decisions in the government, at least publicly, are taken by officials. In some cases, the AI provides some support to facilitate the work, translation for example, but final or relevant decisions (to grant a patent) are taken by people. However, eventually, the AI will be more active and even proactive, a situation that would impact deeply in some cases, then, how is it going to be responsible for granting or not granting a patent or a trademark?

2 The previous point is important, because if a lawyer proves that the AI participation during the process or prosecution was key or it induced the IP agent to make a decision, which could be different if the agent gets involved directly or more, then the advantage and support produced by AI to the IP Offices could be on risk.