JAPAN INTELLECTUAL PROPERTY ASSOCIATION

Nihonbashi 3-Chome Square Bldg. 6F,
3-9-1 Nihonbashi,
Chuo-ku, Tokyo 103-0027, Japan

TEL: 81 3 6262-5879
URL: http://www.jipa.or.jp/

October 30 , 2026

Mr. Daren Tang Director General

World Intellectual Property Organization 34, chemin des Colombettes

CH-1211 Geneva 20, Switzerland

Re: POSITION PAPER ON THIRTY-EIGHTH SESSION OF THE STANDING COMMITTEE ON THE LAW OF PATENTS, Geneva, November 2 to 6, 2026 (SCP/38)

(2) Inventorship of AI-Related Inventions

Update to document SCP/37/5, Annex, Section VI (the "DABUS" case) See document SCP/38/5.

JIPA presents three key perspectives on invention eligibility and inventorship eligibility especially when a human, collaborating with AI, creates inventions.

First, when the invention is "highly advanced creation of a technical idea utilizing a law of nature," that is definition defined as the Japanese Patent Act, such invention should qualify as patentable subject matter regardless of whether AI was used in the process of its creation.

Second, AI, by itself, should not be able to meet the requirement of inventorship eligibility, and therefore should not be able to qualify as an inventor, as Japanese or other countries courts already judged.

Third, the inventorship eligibility should be determined by whether the human (i) has the purpose of solving a specific problem, and (ii) makes a creative contribution toward solving that problem. In other words, humans should be the inventor of the invention when he or she makes the qualitative contribution for the invention, even if the inventor uses AI in the inventive process. Where patent examiners or judges cannot deny the existence of a human's qualitative contribution, it would be appropriate to treat inventorship eligibility as being satisfied. This approach to human–AI interaction, in

JIPAs view, applies equally to (a) human inventions assisted by AI, (b) joint human–AI inventions, and (c) AI inventions assisted by humans.

Based on our perspective, AI developers, AI output evaluators, data collectors for AI or other contributors are able to meet the requirements of inventorship eligibility. and they could potentially qualify as inventors. This conclusion motivates AI users and also AI developers or other relative stakeholders to create inventions.

Lastly, AI utilizations in inventive processes are recently increasing. Accordingly, the criteria of inventorship eligibility when human use AI for the invention impact our actual practice and also the differences among jurisdictions negatively impact for our patent application procedure. Negative impact means that we, users of patents, need to prepare separate documents for each jurisdiction to suffice the different requirements for patent prosecutions. JIPA expect harmonization of the topic based on international, professional and technological discussions among member states.