

ASEAN IP CONFERENCE · PHUKET · MARCH 2026

Intellectual Property in the AI Era

A Korean Perspective on Data Protection

Young-Hyun Cho

Patent Attorney · Republic of Korea
CISUN International Patent & Law Firm

CISUN
INTERNATIONAL PATENT & LAW FIRM

Today's Agenda

01

Opening

Korea's multi-layered approach — why it matters for ASEAN



02

Basic IP Issues in the AI Era

Patent · Copyright · Trade Secrets — Korean framework & practice



03

Data as an Emerging Issue

Where traditional IP falls short, and how data fills the gap



04

Korea's Approach

Unfair competition law · Yanolja case · web crawling



05

Policy Developments in Korea

AI Framework Act · High-impact AI · Labeling · KIPO tools



Can AI Invent?

Patent Law & Inventorship

Can AI Create?

Copyright & Authorship

Why Korea's Experience Matters

Korea has been navigating AI & IP challenges through court decisions, new legislation, and policy guidance from our IP Office — a multi-layered approach that may offer useful reference points for ASEAN jurisdictions working through similar questions.

1. Basic IP Issues in the AI Era

Patent Law

- AI-assisted invention → protectable
- AI-generated invention → not protectable
- KIPO developing AI contribution guidelines
- Inventorship discussions will continue

Copyright

- Work must be created by a human author
- Fully AI-generated content: protection gap
- Korea Copyright Commission developing guidelines
- Document human creative contributions

Trade Secrets

- Covers: model weights, training data, fine-tuning know-how
- Often the only viable protection for AI assets
- Korean AI startups building strategies around trade secrets
- Model leakage: growing concern in Korean courts

Patent Law – Key Distinction in Practice

AI-Assisted Invention

✓ Protectable under current law

- Human inventor uses AI as a tool
- Human makes key creative decisions
- AI contribution described in application
- Already common practice in Korea

AI-Generated Invention

✗ Not protectable under current law

- No meaningful human contribution
- AI autonomously generates the invention
- Falls outside current legal framework
- Subject of ongoing policy discussion

KIPO is developing examination guidelines to clarify how AI contributions should be described in patent applications.

Copyright & Trade Secrets — Practical Implications

Copyright — The Protection Gap

The Gap:

No one automatically holds copyright in fully AI-generated output under Korean law

Commission Response:

Korea Copyright Commission actively developing guidelines to address this gap

Practical Strategy:

Ensure humans make meaningful creative choices — select, arrange, or modify AI outputs

Key Tip:

Document the human creative process, even when AI tools are heavily used

Trade Secrets — AI Asset Protection

Covered Assets:

Training datasets, model weights, fine-tuning data, prompt engineering know-how

Why Trade Secrets?

Often the only viable protection when patent & copyright unavailable for AI assets

Korean Practice:

AI startups building IP strategies primarily around trade secret protection

Growing Concern:

Employee mobility & model leakage — Korean courts beginning to address

2. Data as an Emerging Issue

Why Data Matters

- AI systems depend on massive datasets
- Recommendation systems, image recognition, NLP — all built on training data
- Platform companies invest heavily in data collection and curation
- Data is now a core competitive asset in the digital economy

Limits of Traditional IP

Patent Law

Protects inventions — not raw data

Copyright

Protects creative expression — not facts or datasets

Gap

Raw data & large datasets often fall outside protection

Key Question

How should law respond to data's growing importance?

3. Korea's Approach: Unfair Competition Law

Prohibits unauthorized use of another party's business achievements created through substantial investment.

Case Study: Yanolja v. Competitor

INVESTMENT

Yanolja built a large hotel information database over many years

VIOLATION

Competitor collected and used this data for its own service

RULING

Supreme Court: valuable business asset — unauthorized use constitutes unfair competition

Expanding to AI Training Data & Web Crawling

Courts now examine: investment level, collection methods, and market impact.
Large-scale crawling for AI training data has been found unlawful in some cases.

4. Policy Developments in Korea

Framework Act on the Development of AI and the Establishment of Trust (enacted 2026)

1

High-Impact AI Systems

AI systems with significant impact on human safety or fundamental rights → additional responsibilities and enhanced oversight required.

2

AI-Generated Content Labeling

AI-generated images or videos difficult to distinguish from human content must be clearly labeled — protecting users and rights holders.

3

Data Utilization vs. Protection

Ongoing discussion: ensuring data access for AI development while preventing unauthorized use or unfair exploitation.

Key Takeaways

01 AI raises new questions for traditional IP — Korea's experience shows both judicial and legislative responses are needed.

02 Data is a critical emerging issue — unfair competition law can bridge gaps where traditional IP falls short.

03 Korea's multi-layered approach: court decisions + new legislation + KIPO administrative guidance.

Korea's approach of combining flexible judicial interpretation with targeted legislation may offer a useful model as ASEAN jurisdictions navigate the evolving AI & IP landscape.

Thank You

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