AI AND AUTHORSHIP AT THE EDGE: WHAT MALAYSIA'S NEXT IP FRONTIER LOOKS LIKE

by Michael C.M. Soo & Matthew Ho

Malaysia is laying the groundwork for how AI-assisted creativity will be treated in practice before Parliament turns to statutory reform. Recent WIPO–MyIPO partnership moves and MyIPO's own "Dialogue on AI + IP" groundwork, Malaysia is taking proactive steps to place itself within the global conversation on how the law and policy should respond to machine shaped creativity. This recent collaboration marks a noticeable shift in institutional posture. Malaysia is preparing its IP infrastructure to meet the next wave of technological changes rather than merely react to it.

Strategic Backdrop: Why Now, And Why Malaysia?

Last August, MyIPO convened its National Dialogue on IP and AI, gathering policy makers, legal experts, researchers, academics and industry players to confront questions concerning frontier IP policies and legislation. The discussion focused on how other jurisdictions have evolved in light of AI generated works and what steps Malaysia should take in the rapidly evolving technological environment.

Barely a month later, during the ASEAN Economic Ministers' Meeting, WIPO's Director General formalised two Memoranda of Understanding covering international accreditation recognition, technology exchange programmes, patent examiners training, enforcement collaboration, and the strengthening of IP analytics tools. As part of this deepening cooperation, a MyIPO officer will be posted as a WIPO Visiting Fellow in Geneva. In parallel, WIPO has expanded its Academy programmes and regional enforcement capacity-building sessions in which Malaysia plays an active role, signalling that the country is being positioned as part of a broader ASEAN IP capability architecture.

Equally significant is Malaysia's participation in WIPO's IP-Financing Pilot, undertaken with the Malaysian Industrial Development Finance Berhad (MIDF), adding a further layer of significance. The pilot project will test real transactions that use IP as bankable assets. In practical terms, creative companies and technology developers will be evaluated not only on their commercial track record but will have another lever to procure financing based on the robustness of their IP.

Recent months have also seen Malaysia participate in WIPO's Global IP Diagnostics initiative and ASEAN-wide enforcement roundtables, indicating that the country is aligning its internal processes with global best-practice tools designed to assess

IP readiness and innovation capability. The cumulative effect is a steady increase in Malaysia's integration into the technical and policy frameworks WIPO is constructing for the AI era.

Why Malaysia Matters In The Global Flow?

With these initiatives and partnerships, Malaysia is signalling its commitment to operate as a bulwark in the intersection of law, finance and technology. Malaysia is not merely acknowledging the rise of AI-assisted creativity; it is building the institutional architecture to govern it.

ASEAN is already a hot node in content, gaming, streaming, IP and technological development. In a region where law often lags innovation, Malaysia's signals now carry outsized influence. The first jurisdictions that properly embed AI-applied IP rules will set commercial norms for licensing, enforcement, financing and design.

Malaysia's ambition is not simply to keep pace with global developments but to position itself as one of the jurisdictions capable of interpreting and operationalising frontier technology law in a commercially meaningful way. If early indications are correct, the coming year will reveal how effectively the country can translate that ambition into practice.

The Emerging Fault Lines: Law, Practice And Friction Zones

At the core of this transformation lies the old questions of authorship. The first tension point is still copyright. Malaysia's Copyright Act 1987 is built on the assumption that works are created by human authors, and MyIPO's public comments have repeatedly framed AI as a challenge to that assumption rather than a replacement for it. In April 2025, for example, MyIPO's Director General highlighted concerns about authenticity and the protection of copyright in AI-assisted music production, noting that the adoption of AI "challenges the role and contributions of creative talents within the industry". As long as the applicable statutes are left untouched, the likely answer is that Malaysia will insist on some form of meaningful human input as the anchor for originality, and demand that rights-holders be able to demonstrate that contribution with evidence rather than assertion.

That evidential turn brings provenance and process into focus. There is an emerging expectation that creators should document how AI tools are used, what role they played, and how a human ultimately exercised judgment over the output. This is not yet a formal filing requirement in Malaysia, but it is easy to imagine practice notes nudging applicants towards more detailed authorship statements or encouraging the retention of drafts, prompts and edit histories. In that sense, the law on originality may not change immediately, but the standard of proof for AI-touched works almost certainly will.

Patents raise a different, but equally sharp, set of questions. On the face of the Patents Act 1983 and the Patents Regulations, the inventor remains a natural person: applications must name an inventor and, where the inventor does not wish

to be identified, the regulations contemplate a signed declaration from "him", language that sits uneasily with a machine claimant. Malaysian commentators have noted that, if the much-discussed DABUS applications had been filed here, they would probably have met the same fate as in the UK and Europe, where AI was rejected as an inventor. The harder question is not whether AI can be listed as an inventor (current law effectively says it cannot) but how MyIPO and the courts will assess inventive step where AI is used as a problem-solving tool. WIPO has started to explore this in its policy papers, suggesting that innovators should maintain internal records of their use of AI, including what problem was posed, how the system was configured, and what choices the human ultimately made.

Trademarks sit slightly to one side of this debate, but they are not untouched by it. Because trademarks do not have an "author" or "inventor" in the way patents, industrial designs and copyright do, AI does not unsettle the core concept of a mark as an indicator of origin in quite the same way. The interesting issues are at the edges: AI-assisted logo generation and the risk of look-alike marks, the use of AI search tools in clearance and examination, and the possibility that generative systems will push applicants towards similar visual tropes. Practitioners have begun to note, anecdotally, a sharp rise in applications for marks in AI-adjacent goods and services, with one recent Malaysian commentary citing more than 400 "AI-related" applications by mid-2025.

A key element in this space is finance. Around the world, IP-backed financing has taken prominence as a recognisable asset class. WIPO's work on intangible-asset finance notes that lenders and investors now routinely conduct targeted due diligence on IP portfolios before committing capital not just to verify the existence of rights, but to understand their legal status, ownership, validity, freedom-to-operate and fit with the borrower's business model. In parallel, valuation practices have matured: income-based approaches, discounted cash-flow models and market benchmarks are increasingly used to put a number on patents, trademarks, industrial designs and copyright, even though valuation uncertainty and enforcement risk still attract significant haircuts.

WIPO reports that IP-backed financing has grown at double-digit rates globally, with China alone seeing IP-pledged loans of roughly USD 58 billion in the first half of 2024; in the UK, banks such as NatWest have extended loans secured primarily against software and other IP rather than physical plant. Korea's experience, after reforming its legal framework to allow patents, industrial designs, trademarks and copyright to be used as collateral, also shows how quickly IP can become part of mainstream secured lending once the legal framework is in place.

Malaysia now sits directly inside this financing turn. Under the WIPO–MIDF MoU, selected Malaysian companies will be assessed using WIPO's Hands-On IP Finance templates, which require a granular analysis of ownership, market position, validity, enforceability and revenue potential before any loan is approved. If an IP rich business has a significant tranche of its portfolio in AI-affected works or inventions, any uncertainty over authorship, inventorship, training-data licences or freedom-to-operate will be translated into pricing, covenants and, in the worst case, a refusal to lend.

What The Bleeding-Edge Player Does For The Advantage Now

The most forward-looking companies are not waiting for new legislation and regulations; they are re-engineering their commercial frameworks. The first and most obvious step is to update the contract. Contracts need to reflect technological reality: warranties confirming that human input remains central to creative outputs; representations that training datasets were lawfully sourced; obligations to embed and retain provenance metadata; and precise allocations of rights between prompts, fine-tuned models, and generated outputs. In other words, contracts must evolve from being purely legal instruments to being technical compliance blueprints.

Operationally, organisations should begin building what we call creative-compliance pipelines. There is now a broad consensus among leading practices that documentation and disclosure are the new currency. The US Thaler litigation and the wider debate on AI-generated outputs, has stressed that copyright systems remain built around human authorship and that, where generative models are involved, the key is to be able to demonstrate a "perceptible human contribution" not in the abstract, but with evidence of what the human actually did.

Academic and policy work has been pushing in the same direction: both The Organisation for Economic Co-operation and Development (OECD) and recent scholarship on AI-trained-on-scraped-data emphasise the importance of transparency, provenance and traceability as a condition for workable copyright rules in the AI era. Put bluntly, if you are serious about protecting AI-assisted works, you need a paper trail and any business generating intangible assets must architect their production processes so that such a trail exists by design.

The same logic is now being applied to internal governance. AI governance is now treated as a branch of risk management. The better organised companies are building creative and R&D processes that produce evidence as a matter of course: they preserve drafts instead of overwriting them, log prompts and parameters, keep track of which systems were used for which projects and record the human decisions that turned an AI suggestion into a product. This is recognition that, as courts, offices and regulators tighten the expectations around human contribution and provenance, the absence of such records will translate into weaker rights and more expensive disputes.

Where the advantage becomes unmistakably commercial is in finance. WIPO's work on IP finance, and its new ASEAN/MIDF IP Finance Pilot, emphasise that lenders will not treat patents, trademarks and copyrights as serious collateral unless they can be properly identified, owned, valued and enforced. The UKIPO's recent work on IP-backed lending, notes that banks like NatWest and HSBC have started to offer IP-backed loans to SMEs, but only after frameworks were put in place for systematic due diligence on ownership, validity and revenue linkages. OECD reports on secured lending to SMEs tell a similar story at system level: intangible assets now make up a large share of corporate value, but their use as collateral hinges on better disclosure, registries and specialist assessment.

In that environment, the companies that obtain the best terms are those that can tell a clean, well-documented story about their IP. Leading IP and finance strategists routinely describe the lender's lens as a sequence of questions: who owns these rights?; are they valid and enforceable?; how central are they to the business; how exposed are they to challenge?; and what happens to cash flow if a key right is impaired?

Once AI is added into the mix, two further questions arise: can the borrower show that its AI-affected assets are backed by human contribution and proper licences; and can it demonstrate that its governance is robust enough to withstand regulatory or contractual scrutiny. A portfolio that can answer those questions convincingly is one that lenders in Singapore, the UK or, now, Malaysia will be prepared to finance on more favourable terms.

For businesses, the real opportunity in this transitional moment is not simply to avoid regulatory risk, but to distinguish themselves in a market where trust, authenticity and operational discipline will soon be differentiators. As AI becomes embedded in creative and technical workflows, clients, investors and partners will increasingly favour companies that can explain their process, not just showcase their product. In that sense, governance around AI is evolving into a form of brand equity.

A final insight is subtler but ultimately more consequential. AI is collapsing the distance between legal validity and commercial credibility. A portfolio that is technically registrable but operationally opaque will not command confidence from sophisticated counterparties. By contrast, businesses that can demonstrate clarity of authorship, disciplined documentation, and coherent rights architecture will find it easier to license, collaborate, and raise capital across borders. The companies that internalise this now will not just survive an update to the law, they will operate with a degree of clarity and assurance that competitors cannot easily imitate.

Michael C.M. Soo
Intellectual Property
michaelsoo@rdslawpartners.com

Matthew Ho
Intellectual Property
matthew@rdslawpartners.com