



May 23, 2024

Data Status Certificate

Dear Customers

We thank you for your continued patronage of International Arbitration Center in Tokyo.

We are pleased to announce that, starting from June 23, 2024, IACT will provide a proof of the existence or possession of specific data, Data Status Certificate (DSC), upon receipt of an application in a format specified below.

A. Background

With the rapid advancement of data science, new technologies that utilize huge data are accelerating the business expansion and global trade to an unimaginable level. In addition to acquiring and retaining information regarding transactions with customers and business partners during normal business operations, companies also create new data in the process of business optimization projects and cost reduction efforts. Also, it is no longer rare for companies to acquire data from other companies. On the other hand, the economic and social positioning of data that has industrial value is becoming increasingly controversial and complex. It is now widely understood that serious problems can be involved.

As one indication of this trend, the U.S. Patent Office issued Inventorship Guidance and Examples for AI-assisted Inventions earlier this year. The guidance directed examiners to determine whether human contribution to an innovation amounts to the significance sufficient to qualify for a patent when AI also contributed. It requires that the inventorship determination process be carefully

implemented for inventions created by humans with the assistance of one or more AI systems.¹

The European Union has been strictly enforcing the General Data Protection Regulation, which is comprehensive and powerful regulation regarding information regarding individuals in European countries. When we obtain information related to the privacy of European residents, we may need to comply with this regulation.² Looking at Asia, the Data Security Law (DSL) went into effect in China in 2023, regulating how data is collected, processed, stored, used, and transferred in China.³ In the United States, state governments make laws on the acquisition, transfer, and use of certain data.⁴ The federal government implemented regulations restricting the use of data related to national security through Executive Order (EO) on February 28, 2024.⁵

B. The need to receive official proof

Under these circumstances, it has become necessary for each company to obtain official proof for the data in possession and establish the content and/or status of the data. Ordinarily,

¹ The USPTO explains that, while the patent system incentivizes the sharing of ideas and solutions so that others may build on them, there must be a balance between awarding patent protection to promote human ingenuity and investment for AI-assisted inventions without unnecessarily locking up innovation for future developments. *USPTO issues inventorship guidance and examples for AI-assisted inventions*, US Patent & Trademark Office (Feb. 12, 2024), <https://www.uspto.gov/subscription-center/2024/uspto-issues-inventorship-guidance-and-examples-ai-assisted-inventions>.

² This regulation was created to harmonize and harmonize data privacy regulations across Europe and is applicable in all European Union member states as of May 25, 2018. [General Data Protection Regulation \(GDPR\) – Legal Text \(gdpr-info.eu\)](https://gdpr-info.eu/)

³ Shane McNeil, *How China’s New Data Security Law Impacts U.S. Industry*, CLEARANCEJOBS (Dec. 5, 2023), <https://news.clearancejobs.com/2023/12/05/how-chinas-new-data-security-law-impacts-u-s-industry/>.

⁴ STEPHEN P. MULLIGAN & CHRIS D. LINEBAUGH, DATA PROTECTION LAW: AN OVERVIEW 64 (2019), <https://crsreports.congress.gov/product/pdf/R/R45631#:~:text=Finally%2C%20from%20a%20First%20Amendment,more%20stringent%20review%20by%20a> (“several approaches that would seek to regulate the collection, use, and dissemination of personal information online may have to confront possible limitations imposed by the First Amendment of the U.S. Constitution”).

⁵ Samm Sacks et al., *Mapping U.S.–China Data De-Risking: Accumulating barriers and safeguards for data transfers*, FREEMAN SPOGLI INSTITUTE (2024).

companies try to protect the security of stored data by backing up data or storing copies of data files and maintain records showing contents of the stored data. However, if the creation of the data itself is in dispute, if it is possible to instantaneously alter the data, or if there is a risk of data theft, these measures may be insufficient.

As mentioned above, there are jurisdictions where the unlimited acquisition and use of data is not favored and regulated from the perspective of privacy protection. In recent years, certain standards have been established for a data deposit in some countries. Considering the merit of utilizing big data and the need to defend against future enforcement actions, businesses can realize significant advantage if they can provide an official data certificate offered at IACT. Therefore, as an international neutral organization, we have established DSC to provide proof for the status of data. In many cases, DSC may establish the fact that the data is of great economic value.

C. Data Status Certificate (DSC)

1. Who can apply

Basically, anyone can apply for DSC. Regardless of whether an individual or a corporation is an applicant, identification information that proves the identity of the applicant.

2. How to apply

Please fill out necessary information on a DSC application form (available at the link below) and submit it to IACT Secretariat by email. IACT reviews a submitted application form and contact the applicant to request additional materials (ID documents) and the payment of the entire application fee or a part of the application fee. After IACT receives the additional materials and the payment of fees, the application will be officially accepted.

3. Types of DSC

There are different types of DSC certificates, based the contents to be certified. DSC may be customized to accommodate special needs of an applicant when appropriate.

- Proof for data summary: Proof of important parts of the content displayed by the computer program that reads the data
- Proof for entire data: Proof of the entire content displayed by the computer program that reads the data
- Proof for data status summary: Proof of file/data type, data characteristics and distribution of values, displayed content, storage location, data management
- Proof for data ownership: Proof of the ownership over certain data
- Proof for data transformation: Proof of the changes in the data

4. Timing of certification

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In addition to proving a fact at a single point in time, there are also a sequential proof that is performed at different dates and times.

5. Fee

The cost will be determined by the type of DSC and any additional requirements. IACT will request a payment of at least a part of the fee upon receipt of an application form. The fees may need to be adjusted later and may cause the applicant's payment of additional fee. IACT will promptly provide a quote and explain to the applicant the basis of the fees being charged.

Please feel free to ask IACT Secretariat any questions about these services. info@iactokyo.com. We answer questions within 24 hours in most of the time.

Sincerely

IACT