

Annex - Response form

After you have read the consultation document, please consider the questions below. There is no expectation or requirement that all questions are completed. You are welcome to only answer the questions that are relevant to you, your business or organisation.

A copy of this response form is available to download from GOV.uk.

There are two sections on this form:

A. Questions arising from this consultation

B. Information about you, your business or organisation

When you are ready to submit your response, please email this form and any other supporting documentation to Alcallforviews@ipo.gov.uk.

The closing date for responses is at 23:45 on 7 January 2022.

The options for computer generated works, text and data mining and patent inventorship are summarised in the following tables.

Computer generated works	
Option 0	Make no legal change
Option 1	Remove protection for computer-generated works
Option 2	Replace the current protection with a new right of reduced scope/duration

Text and Data Mining (TDM)	
Option 0	Make no legal change
Option 1	Improve licensing environment for the purposes of TDM
Option 2	Extend the existing TDM exception to cover commercial research and databases
Option 3	Adopt a TDM exception for any use, with a rights holder opt-out
Option 4	Adopt a TDM exception for any use, which does not allow rights holders to opt out

Patent Inventorship	
Option 0	Make no legal change
Option 1	"Inventor" expanded to include humans responsible for an AI system which devises inventions
Option 2	Allow patent applications to identify AI as inventor
Option 3	Protect AI-devised inventions through a new type of protection

Section A

Copyright – computer generated works (CGW)

1. *Do you currently rely on the computer-generated works provision? If so, please provide details of the types of works, the value of any rights you license and how the provision benefits your business. What approach do you take in territories that do not offer copyright protection for computer-generated works?*

No
2. *Please rank these options in order of preference (most to least preferred) and explain why.*

Option 1 (highest preference)
Option 2
Option 0

AI has the potential to create lots of diverse works. However, it risks “diluting” what makes copyright and intellectual property protections so important. It also risks regurgitating training data in some form, and unless the owners of IP in that training data are in some way compensated it is unfair for copyright to be applied which is based on their work. AI also has the potential to run in an automated fashion without human intervention. This has the risk of creating so many works that, if protected by copyright, could start to make it more difficult for humans to create works and copyright them in turn, if they are deemed to close to that already created by an AI. So if at all possible, protections should be removed on works created by AI.

Societal attitudes could also be affected. If a computer can create a work that has the same copyright status as a human, people may start to value the status of copyright as a whole less.
3. *If we introduce a related right for computer-generated works, as per option 2, what scope and term of protection do you think it should have? Please explain how you think this scope and term is justified in terms of encouraging investment in AI-generated works and technology.*

The scope should only include AI which is directly supervised by a human, and where a human was involved in “curating” the output of the AI, to ensure only culturally and economically relevant works are copyrighted. Other unsupervised or uncurated AI works should not be eligible for copyright protection. The term should be reduced to the minimum possible, to encourage human made works, and to take into consideration the fact that AI don’t need to make an income to survive.
4. *What are your views of the implications of the policy options and of AI technology for the designs system?*

No comment
5. *For each option, what are your views on the risk that AI generated works may be falsely attributed to a person?*

Option 1 solves this by removing protections for AI generated works altogether, precluding the scenario where someone might attempt to falsely attribute a work.

Copyright – text and data mining (TDM)

6. *If you license works for TDM, or purchase such licences, can you provide information on the costs and benefits of these? For example, availability, price-point, whether additional services are included or available, number and types of works covered by the licence etc.*

N/A

7. *Is there a specific approach the government should adopt in relation to licensing?*

No Comment

8. *Please rank the options in order of preference (most to least preferred) and explain why.*

Option 3 (most preferred)

Option 4

Option 2

Option 1

Option 0

If someone has the legal right to access some data, such as having purchased a copy, having a subscription to access some data, etc. then they should be entitled to do whatever they want with their copy. This means being able to summarise, to criticise, and to correlate. I see TDM as a means to enable this. Copyright and IP law is intended to increase creative productivity, and enabling people to analyse, summarise, criticise the works of others is an important part of that productivity. As long as the TDM is not being used as a means of simply reproducing the work with a loophole to avoid copyright, I see no negative side effects. An opt out ought to be allowed however, only in the case of TDM output being used for commercial purposes, to allow artists and owners to retain some control over how commercial entities that they disagree with use their work. Licensing could then step in to cover explicit terms of how “opted out” works could be mined for commercial purposes.

9. *If you have experience of the EU exception with opt out for rights holders, how has this affected you?*

No

10. *How would any of the exception options positively or negatively affect you? Please quantify this if possible.*

As someone with an interest in, and appreciation of the importance of, research, it is important that current TDM exemptions for research or for the public interest are retained during any legislative changes.

Patents

11. *Please rank these options in order of preference (most to least preferred) and explain why?*

Option 0 (most preferred)

Option 1

Option 3

Option 2

Patents and creative invention are intended to encourage people to invent new technologies and use their creativity in a way that helps and assists society and the economy. Right now, even with human only patents there are far too many “patent troll” companies. Allowing AI to create, or be named as the creator of, a patent has the potential to exacerbate this situation to the point where it would not just impact small businesses, but even large ones, as has been seen with current patent trolls. Requiring that a human be involved in explicitly preparing, curating and adapting anything with the assistance of an AI (rather than an AI acting autonomously) would ensure some level of protection for the integrity of the patent system as a whole. AI also have the potential to invent far more quickly and in far greater volume than “natural persons”. This runs the risk of creating a two-tier patent system whereby humans are worse off, where the system is overwhelmed, or where people simply start to disregard the value in the patent system as a whole.

12. *Would the changes proposed under Options 1, 2 and 3 have any consequential effects on the patent system, for example on other patentability criteria?*

See previous answer

For options 1 and 2:

13. *If UK patents were to protect AI-devised inventions, how should the inventor be identified, and who should be the patent owner? What effects does this have on incentivising and rewarding AI-devised inventions?*
14. *In considering the differences between options 1 and 2, how important is it that the use of AI to devise inventions is transparent in the patent system?*
15. *Would the UK adopting option 2 affect your global patent filing strategy, if so, how?*

For option 3:

16. *What term and scope of protection should a new right offer?*
17. *What should the criteria for grant of a new right be and why? Particularly should it:*
- a) Replicate the current requirements for a patent?*
 - b) Set a different bar for inventive step?*
 - c) Be an automatic or registered right?*

General

18. *What role does the IP system play in the decision of firms to invest in AI?*

19. *Does the first mover advantage and winner-take-all effect prevail in industries adopting AI? How would this affect the impact of the policy options proposed on innovation and competition?*
20. *How does AI adoption by firms affect the economy? Does the use of AI in R&D lead to a higher productivity?*
21. *Do the proposed policy options have an impact on civil society organisations? If so, what types of impacts?*

Section B: Respondent information

A: Please give your name (name of individual, business or organisation).

[REDACTED]

B: Are you responding as an individual, business or on behalf of an organisation?

Individual

C: If you are responding on behalf of an organisation, please give a summary of who you represent.

D: If you are an individual, are you?

An academic

E: If you are responding on behalf of an organisation, are you?

F: If you are responding on behalf of a business or organisation, in which sector(s) do you operate? (choose all that apply)

G: How many people work for your business or organisation across the UK as a whole? Please estimate if you are unsure.

H: The Intellectual Property Office may wish to contact you to discuss your response. Would you be happy to be contacted to discuss your response?

Yes

I: If you are happy to be contacted by the Intellectual Property Office, please provide a contact email address.

[REDACTED]

J: Would you like an acknowledgement of receipt of your response?

Yes