

**Very brief comments/responses to the IPO AI consultation.**

- The main bone of contention, in my view but not only, is the very definition of AI. There appears to be a widespread belief in the public that AI systems are actually “intelligent”. However, as most practitioners would agree, current AI systems are “dumb”, i.e non-sentient. For instance, the much-touted neural networks “learn” by reweighting simulated synaptic connections to identify specific features in images. However, they do not consciously identify them as they lack self-awareness. This observation extends to artworks “created” by AI (or “inventions” as in the recent DABUS case where the concept of “sentience” and “subjective feelings” by the AI may be considered debatable). As such, until (and **if**) an AI passes an enhanced Turing test in the future, the entire notion of creativity should be restricted to humans, from a legal perspective. This consideration feeds into a wider discourse of “AI rights”. Should a future AI ever be regarded as sentient, this would open up issues in the realm of “human” rights such as, by way of example, the right to vote or to own property in a broader sense (not just intellectual). In other words, the first step would be to grant a potential self-aware AI broader rights as a “person” before the law, only subsequently considering specific details (such as IP rights). These considerations inform my answers to the consultation.
- Question 1 (computer generated works): 0 (make no legal change). This is based on the fact that, to the best of my understanding, even though the creator might not be, strictly speaking, human (e.g. an algorithm), the actual copyright holder is the “the person by whom the arrangements necessary for the creation of the work are undertaken”, i.e., for instance, the artist/programmer.
- Question 2 (text and data mining): 0 (make no legal change). Option 1 could be considered if the current licensing environment is too complex (I do not claim any expertise in this sector). Options 3 and 4 would definitely not be a good idea in my view since anyone wishing to monetise the results of their data mining (contrary to scientific research) should compensate the rights holder. I acknowledge this leaves open the question as what to do about the current status of the scientific research exemption when the results might be monetised (e.g. by creating new medicines which can be sold on the open market).
- Question 3 (Patent Inventorship): 1 (Inventor expanded to include humans responsible for an AI which “devises” inventions), with “devises” being purposefully placed between quotation marks. I was initially inclined towards answering again “0/no legal change”, however, option 1 would mirror the situation taking place in copyright. An added benefit could be that this would push back the issue/debate on the relevance of whether a specific AI is self-aware as the rights holder would still be a person. This would leave open the option to reassess AI inventorship rights in the future, within the broader framework outlined in point (a) above.