

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?*

Wellcome's preferred options (in order of preference, as requested) are:

- Option 2, 1, 0

Option 2 is preferred for the reasons set out in our response to question (3) below. Failing that, removing protection for computer-generated works altogether would be a preferable option compared to retaining the current 50-year period of protection. This is because the current 50-year period could potentially impact innovation by delaying the exploitation of healthcare research or a healthcare outcome. See our response to question (3) below for more detail.

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

Wellcome does not currently rely on the computer-generated works provision, however we do have concerns that any changes made to it or use in its current form could impact research that Wellcome funds, and therefore in turn impact Wellcome's activities in the future.

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.*

It is difficult to suggest a specific period; however, a period of protection of somewhere between 5-10 years may be a suitable alternative to the current 50-year period. The reasons for suggesting this are that a reduced period of protection as such would still encourage innovation and give the innovator a level of advantage for the work put into the creation of the work, yet it is not so long in duration that it has the capacity to give a monopoly to a single subject, or hamper innovation in terms of healthcare research or the development of healthcare interventions that otherwise have the potential to be held up by the current 50-year protection period.

4. *What are your views of the implications of the policy options and of AI technology for the designs system?*

Wellcome's activities generally have little overlap with design rights so we do not have any substantive views on this.

5. *For each option, what are your views on the risk that AI generated works may be falsely attributed to a person?*

While we acknowledge that false attribution of computer-generated works is a risk, we do not have any substantive views on imposing sanctions on this at present.

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.*

Wellcome/Wellcome Collection does not licence works for TDM so we cannot provide a substantive response to this question.

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

The Wellcome Trust (Wellcome) is a global charitable foundation. We want everyone to benefit from science's potential to improve health and save lives. To that end, we support discovery research into health and wellbeing, while supporting research to find solutions to three of the most urgent health challenges: mental health, infectious disease and climate.

It is part of Wellcome's mission to make research available openly (see our Open Access policy [here](#)). This is likely to have a greater impact on human health as it enables valuable research to be combined with other datasets and lead to better healthcare interventions and outcomes. In addition, the open availability of Wellcome-funded research (the research papers themselves and the underlying data) facilitates use of and scrutiny of the research, which in turn enables a diverse range of contributions.

Wellcome Collection is part of the Wellcome Trust. Wellcome Collection is a free museum and library that is committed to the long-term preservation of and access to its collections online and on-premises, to ensure they can be used by researchers and the wider public now and for generations to come. The open availability of Wellcome-funded research, as described above, underpins the Collection's reasons for digitising its collections and making them available on an open licence.

Wellcome Collection invests heavily in digitisation for the benefit of researchers and the wider public. Over the years, over 280,000 items from our collections and those of our partners, have been digitised, and copies are freely accessible online without additional charges or restrictions

(subject to legal constraints). Our digital collections cover a wide variety of subjects, time-periods and genres, with formats ranging from printed literary works to oil paintings. We provide access that facilitates use of our collections as data, including millions of pages of full-text data that can be freely used for text mining. Therefore, although Wellcome Collection is a content provider rather than a user of the TDM exception, we need to be mindful of our user-base. Restrictions placed on the use of content within our collections, such as that on commercial use, makes it difficult for such content to be used for text mining.

It is therefore Wellcome's belief that the broadest possible position should be adopted towards licensing, to continue facilitating the sharing of research on an open basis.

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

Our preferred options (in order of preference, as requested) are:

- Option 4, 3, 2, 1, 0

Option 4 is ideal for the reasons set out in our response to question 7 above – namely, that the option of an opt-out by rightsholders is likely to cause practical difficulties in use of the TDM exception by our user-base. However, should the position be taken to include an opt-out, then the next most practical option would be Option 3. There are still however potential difficulties with Option 3 if a rightsholder opts out. For example, how would a user who has gathered the relevant data then proceed? It potentially causes practical difficulties on the part of users.

In the event that Option 3 is not pursued, broadening the existing exception to include use for commercial research and databases would help ensure wide publication of research and assist in leading to better healthcare interventions.

Failing adoption of Options 2-4, improving the licensing framework at the very least may have a beneficial impact on the landscape, however this would depend on significant engagement from rightsholders in negotiating the types of licenses mentioned.

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

We do not have any direct experience of this exception with opt out for rightsholders so cannot answer this question substantively.

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

It is not possible to determine how many users have been blocked from using the current exception so it is difficult to quantify this. However, broadening the current exception (ideally through pursuit of Option 4) would certainly benefit Wellcome and Wellcome Collection's user-base and ultimately benefit the wider research environment by facilitating the sharing of research more openly.

Patents

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

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).

The Wellcome Trust

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

- 1) Business – please provide the name of your business
- 2) Organisation – please provide the name of the organisation.
- 3) Individual – please provide your name

2 – The Wellcome Trust

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

Represent the views of The Wellcome Trust

D: If you are an individual, are you?

- 1) General public
- 2) An academic
- 3) A law professional
- 4) A professional in another sector – please specify
- 5) Other – please specify

N/A

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

- 1) An academic institution
- 2) An industry body
- 3) A licensing body
- 4) A rights holder organisation
- 5) Any other type of organisation - please specify.

5 - Registered charity.

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

- 1) Agriculture, forestry and fishing
- 2) Mining and quarrying
- 3) Manufacturing – Pharmaceutical products
- 4) Manufacturing – Computer, electronic and optical products
- 5) Manufacturing – Electrical equipment
- 6) Manufacturing – Transport equipment
- 7) Other manufacturing
- 8) Construction
- 9) Wholesale and retail trade; repair of motor vehicles and motorcycles
- 10) Transportation and storage
- 11) Information and communication – Publishing, audio-visual and broadcasting
- 12) Information and communication – Telecommunication
- 13) Information and communication – IT and another Information Services
- 14) Financial and insurance activities
- 15) Real estate activities
- 16) Scientific and technical activities

- 17) Legal activities
- 18) Administrative and support service activities
- 19) Public administration and defence
- 20) Education
- 21) Human health and social work activities
- 22) Arts, entertainment and recreation
- 23) Other activities – please specify

16 – scientific and technical activities

21 – human health and social work activities

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

- 1) Fewer than 10 people
- 2) 10–49
- 3) 50–249
- 4) 250–999
- 5) 1,000 or more

4 – 250-999

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/No

Yes