

[REDACTED]

From: [REDACTED]
Sent: 22 December 2021 15:34
To: AI Call For Views
Cc: [REDACTED]
Subject: UKIPO - consultation on AI and IP

Dear Sir/Madam,

We thank you for having opened the consultation on AI and IP to our input.
Please find hereafter our comments the protection need for artificial intelligence:
[Artificial Intelligence and IP: copyright and patents - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/artificial-intelligence-and-ip-copyright-and-patents)

*As a player in the field of artificial intelligence (AI), our company [Nestle](#) (a Swiss-based group with R&D and commercial activities in the UK), as an originator and a competitor, is interested in an ordered legal framework (with a high degree of legal certainty) for works that are linked to AI. Hence a **fair regulated balance** should be aimed in the **level of protection** of such works and the **freedom to operate** in the field of AI.*

*1) The **underlying** (computer) **programs** relying on artificial intelligence processes should continue to be protected under **patent law** (in so far as they have technical character). The program itself, its execution and the product directly resulting from the execution should continue to enjoy protection as provided under the current legal provisions.*

*2) The result of the **training** of a system programmed with such programs (feeding the systems with examples) should enjoy protection, **in so far as such training involves a creative activity** (e.g. in selecting the examples or defining and carrying out the training process).*

*2a) The **mere training** of the system ("learning") should enjoy the **research exemption** in so far as **IP-protected examples** are used.*

*3) The **result** of the execution of the **trained** system should enjoy protection if and when the **execution** of the trained system involves a **creative activity** or a combination thereof (possibly with joint ownership for the result). Protection should extend to **similar** results or underlying programs or executions (e.g. "equivalents").*

*3a) The **protection** of the **result** should be **relative** (protection only for results **resulting from this creative activity**) when the result, as such, **does not constitute a significant contribution to art** (because the result or a similar result pre-exists in the art).*

*3b) The **protection** of the result should be **absolute** (not limited to the results resulting from this creative activity) when the result, as such, **constitutes a significant contribution to the art**. Significance can be assessed in view of the threshold required for obviousness for technical aspects [patents] of the result.*

*4) The **protection** of AI works should be awarded only in so far as it has been **registered** and **published** (especially in view of points 2) and 3b) above), be it by patents or, when a work is derived from using an AI program in a creative manner, by a limited AI-petty-patent (and/or patents when the patentability conditions are met).*

Should you have any question on the above, please do not hesitate to contact the undersigned.

Kind regards,

[REDACTED]