Response to IPO call for views:
Artificial Intelligence and Intellectual Property – Copyright and related rights

Mike Holderness

I am editor of www.londonfreelance.org – elected by London Freelance Branch of the National Union of Journalists. I am also Chair of the Authors' Rights Expert Group of the European Federation of journalists. Due to time constraints, I submit these remarks in a personal capacity.

I welcome the IPO's consultation. I fully support the principles laid out in the British Copyright Council submission:

- that copyright exists to protect creations of the human mind. Works generated by "artificial intelligences" should not be added to the list of works protected by copyright; and
- that no extension of exceptions to copyright is required.

I wish to add three additional points.

1. **What are we dealing with?**
   The use of the term "artificial intelligence" in this context risks distorting the debate. One day we may be confronted with a general artificial intelligence: some of the signs by which we may know that it is a general artificial intelligence are that it will be insistent on making original contributions to disputes on matters ontological, epistemological and indeed legislative[1]. What we are dealing with at the moment is *machine learning*.

   The failure to distinguish the reality of machine learning from the marketing label "AI" distorts the debate because it obscures the reality that what any actually-existing machine-learning system does is to generalise, in an opaque but non-creative fashion, from a large corpus of human creative work. For example, considering two fields in which NUJ members work: machine translation systems are fed by the corpus of human translators' work; and developers are promoting systems that generate "results" reports, whether for soccer or stocks, and have been fed on similar previous works.

   Interestingly, the ability to produce a *publishable* translation is arguably a sign of general intelligence, since it raises questions such as "what should be the title of the Dutch edition of Ian MacEwan's *Amsterdam*?"[2] that are unlikely to be solvable by machine learning in the near future. Translators may use machine-learning tools effectively to do the typing for them, but the checked and edited output remains firmly within the sphere of human creative work.

2. **The naming of things**
   Having risen for air from the epistemological morass that questions over the definition of "artificial intelligence" raise, we come to a very practical consideration. Should machine-generated creative works be reliably labelled as such? Perhaps especially in the case of a machine-generated summary of company results, the consumer and regulatory interest would seem to answer this question with an emphatic "yes". Rather than engage in complex

1 It might well also insist on thingsplaining "actually – the questions 'what exists', 'how can we tell' and 'is it legal'," .
2 Posed by Douglas Hofstadter, and developed, particularly, in his *Le ton beau de Marot* (New York: Basic Books 1997)

arguments over boundary cases, it may be more practicable to rule that *all* such works, including for example computer-generated elevator music, should be labelled as such.

Connoisseurs of past NUJ submissions will not be surprised by our proposal that the simplest way to achieve this is to strengthen and make enforceable the moral right of identification for human authors, and to append a requirement to do the same for non-human "authors".

This consideration is particularly relevant for public policy reasons beyond the usual scope of copyright, such as the search for ways to mitigate the effects of misinformation and disinformation. The technology of "deep fake" images is a currently-active feature of this debate.

3. **The integrity of published works**

   While considering public policy questions, I raise the question of what happens if a machine-generated work is manipulated for the purposes of misinformation and disinformation. There is no-one whose honour or reputation is thereby damaged. I have no current suggestion on this, but I am thinking hard.

I look forward (not without trepidation) to participating in further stages of consultation on this matter.

Mike Holderness
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