

AI-Inventorship: Possible Alternative Solutions

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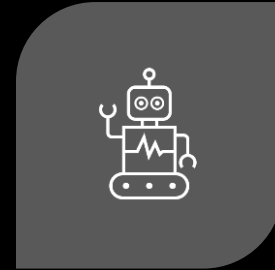
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What Approach Best Serves the Interests of Society at Large?



HUMAN INVENTORS ONLY?

no patents for
AI-generated
inventions



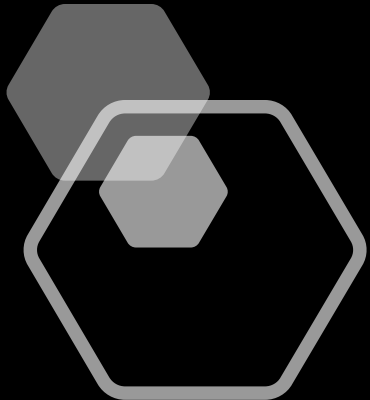
HUMAN & AI-INVENTORS?

patents for
AI-generated
inventions



AN ALTERNATIVE APPROACH?

amending patent law
or developing a *sui generis* law



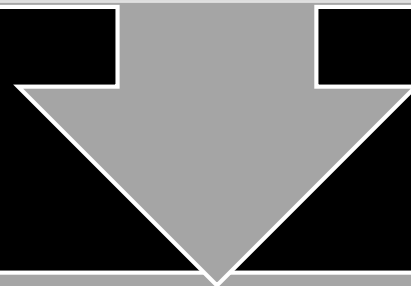
To Decide on a Policy:

**What do we want to achieve?
What is the point of protecting AI-generated creations?**

Moral/Natural Rights:
Give the Inventor Credit &
Control

Fairness:
Reward the Inventor's
Efforts & Investment

Economic:
Incentivise Innovation &
Disclosure for the Good of
Society Generally



**Once we settle on the goals,
we can devise laws accordingly**

If Society Decides to Protect AI-generated Inventions, Options Include:

Within Patent Law



- Removing the requirement to name an inventor

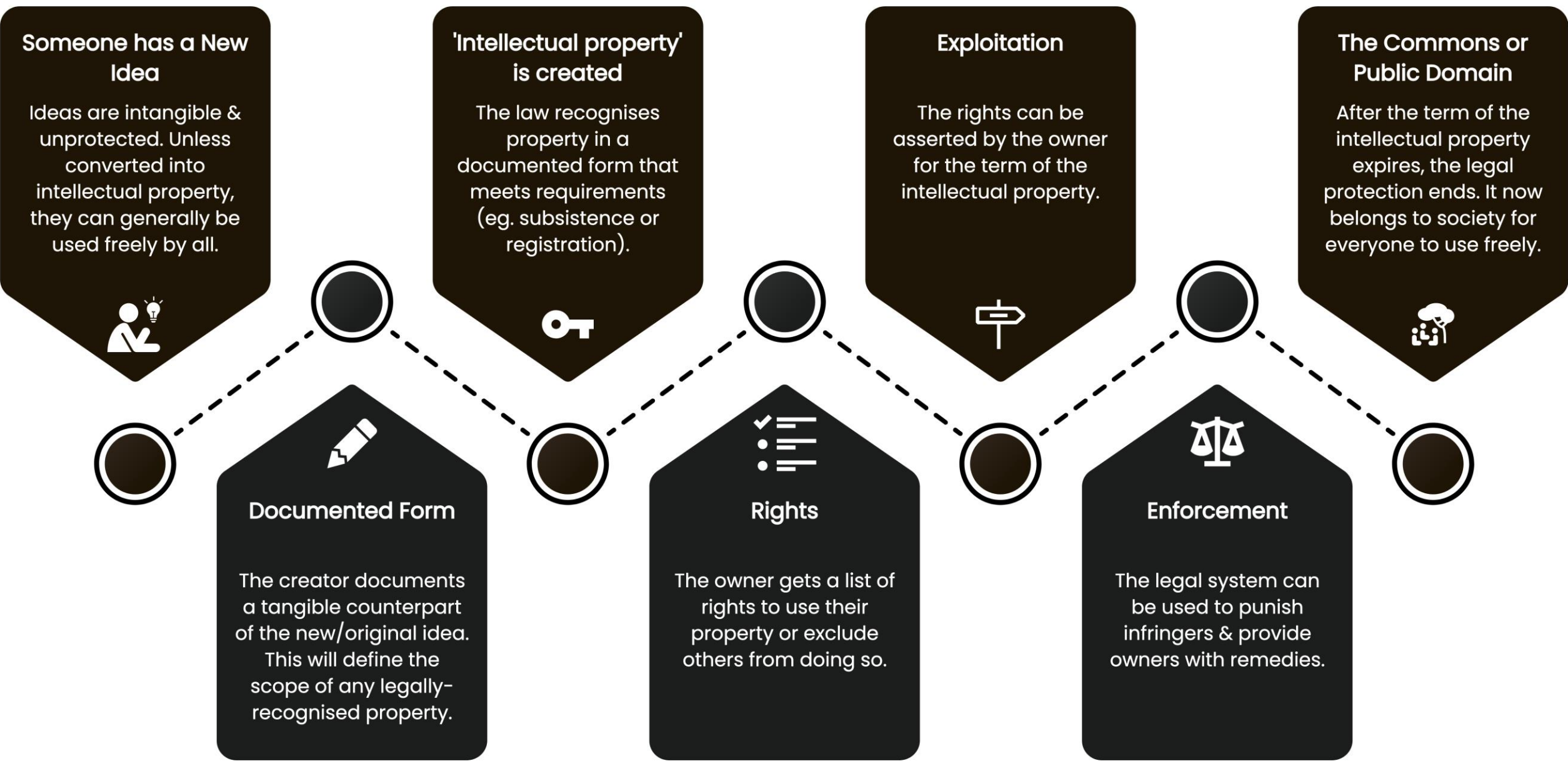


- Naming a human inventor but requiring an explanation of any AI involvement

Outside Patent Law



- A *sui generis* approach



The Typical Lifecycle of Intellectual Property

How to Create an AI-IP Law?

Choose a framework:

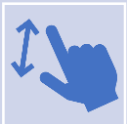
Subsistence Model



Examples of this framework include copyright, circuit layout rights, passing off.



Registration is not required. The intellectual property comes into existence automatically when certain criteria are met.



The property lies in the original part of the creation. This is assessed by what the author has contributed.

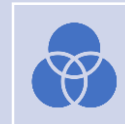
Registration Model



Examples of this framework include patents, designs, trademarks, plant variety types.



Registration is required before the intellectual property is legally recognised.



The property lies in the novel/distinctive and non-obvious part of the creation. This is assessed against the prior art.

Define the Property

What is Owned? Who Owns it? How do they Get it?

Procedural Requirements for Registration Model:

Inventor? Owner?

Contents of the Specification

Claims / Claim Construction

Filing Date

Priority

Prior Art / Disclosure

•Grace Period

Substantive Requirements for Registration Model:

Registrable Subject Matter

Prior Art

Registrable Inventions

New Use

Novelty

Inventive Step/Non-obviousness

Exclusions

Define the Rights

What can be done with the intellectual property?



TO EXPLOIT THE INVENTION



TO AUTHORISE ANOTHER PERSON TO EXPLOIT THE INVENTION



TO ENFORCE RIGHTS THROUGH THE LEGAL SYSTEM

'Exploit' might include actions such as:



- to make



- To use



- To exercise



- To vend/sell

Infringement



Unauthorised uses



Defenses



Remedies

International AI-IP Law

Options include:



Each country designs its own law



Treaty



International dispute resolution

The Best Solution for Our Local & Global Communities?



AN ALTERNATIVE APPROACH?

Develop a new *sui generis*
intellectual property law

Whichever approach is chosen, ensuring the internal consistency of the broader intellectual property system should be a key consideration.