

## Personal Statement

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### **“WIPO Conversation 10 on AI Outputs: To protect or not to protect - That is the IP Question”**

Intellectual Property (IP) is a rather dynamic discipline. Our current normative frameworks, principles and standards differ from the efforts put in place in cities like Berne, Paris and Rome in the transition between the nineteenth and twentieth centuries, and it is currently evolving to face the challenges being posed by new technologies like Artificial Intelligence (AI). The first efforts that configured our discipline were structured around the recognition of individual talent in the context of the Commercial Society described by authors like Adam Smith and David Hume. However, as one can verify through the analysis of the different parts that constitute our smart architectures, the individual-moral element is being diluted within a culture of open-sharing fostered by the decentralized nature of Internet. For instance, many works that are being developed employing Generative AI applications can be very similar among them, if not identical, given that the prompts that are being used are not complex enough to represent accurately the moral-Kantian element that gives form to the special category of property described in *Pope v Curl*. In practice, this means that it is possible to argue that we do not have proper authors behind these works, but beneficiaries whose prerogatives are described in the terms and conditions of these applications; thus, providing us a window to the future of IP. On the one hand, I believe, that we are going to witness the emergence of a new collective argument that will add new conditions for the public domain doctrine that will foster the development of science and useful arts following the content of cases like *Harper & Row v Nation Enterprises* and *Google v Oracle*. This should not be surprising given that many of these applications are being developed within the jurisdiction where these decisions were taken. On the other hand, I will argue that the diffusion of prompt engineering will foster the conception of a new way of representing talent and originality that could take us to protect complex prompts and the outputs associated to them, highlighting in both cases that AI systems represent a new generation of tools that build on the tradition of the printing press and the computer that are familiar to us.

Thank you.

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