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Patentability of inventions using artificial intelligence (AI) and by AI

UK Intellectual Property Office

Dr Nicki Curtis Senior Policy Advisor, UK IPO

AI and IP in the UK

- UK National AI strategy and Research & Development Road Map
- AI considered by UK IPO's Futures Group
- DABUS UK patent applications published (August 2019)
In 2021, court ruled grant of UK patent requires human inventor to be named
- UKIPO launches a Call for Views on AI and IP (September 2020)
- UKIPO consultation on AI and IP: copyright and patents published (October 2021)

Call for views

- Scope – what questions does AI pose for IP law AND impacts of IP law for AI
- considered patents, copyright and related rights, designs, trade marks and trade secrets.
- Key Patents Conclusions
 - General agreement that present legal frameworks could meet future challenges.
 - Consensus that AI itself should not own IPRs. But:
 - ❖ question whether patents should protect inventions made by AI
 - ❖ need for more certainty when UK IPO applies patent exclusion law to inventions relating to AI

Consultation on IP protection of inventions made by AI

We consulted on 4 policy options:

- 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 an inventor
- Option 3:** Protect AI-devised inventions through a new type of protection

AI patent consultation conclusions

Patent or other IP protection for inventions if the inventor is not human

No change to current law. Most said:

- UK patent law currently sufficient to protect inventions where AI has been involved.
- Changes may be needed as AI systems develop.
- Concern that unilateral approach to AI inventorship risks global patent filing strategies.
- Strong message from innovators for international community to work together as AI systems are advancing at pace.

UK IPO Patent Guidelines on Examination of Applications Relating to Artificial Intelligence

- Enhanced guidance for applicants and legal practitioners to help avoid issues of excluded matter and provide more certainty
- Does not provide guidance on AI inventorship