



## **Response to WIPO's call for comments on the draft issues paper on the impact of AI on IP policy**

### **Introduction**

The Ivory Academy of Music creators is the trade body for music creators in the UK. It is a membership organisation whose members write music of all genres, from song to symphony. It represents thousands of composers and songwriters, from the excellence of British music to those just starting out in their careers.

The Ivory Academy exists to support, protect and celebrate professional music creators. Recent findings have shown that music creators alone contribute £2.5 billion in GVA to the UK economy - almost half of the industry's total £5.2 billion contribution (UK Music 'Music by Numbers' 2019 report).

We welcome the opportunity to contribute to this conversation on artificial intelligence and intellectual property, by offering some initial comments on WIPO's draft issues paper. We commend WIPO's initiative to address the issue, as AI is becoming common in music creation. From The Ivory Academy's perspective, our main concern is with the impact of AI on music copyright. For this reason, we shall focus on **Issues 6-19** / paragraphs 12-16 of the draft issues paper.

The added challenge in the interaction between AI and IP is having a forward-thinking approach, particularly in matters of creation, ownership and infringement, as opposed to merely addressing the current state of affairs. Hence, WIPO's approach of collating the most salient issues as a starting point for future considerations seems to be well advised. We thought it appropriate, therefore, to limit our response to preliminary observations which we hope WIPO will take on when expanding on the current draft, especially regarding Issues 6-9.

There are two areas in particular which we believe need clarification in the draft issues paper. First, the scope of the draft issues needs to be clarified. Second, there is a need for greater clarity around the terminology used. That said, we submit that the underlying principle which should guide any discussion on AI and IP is that copyright should not be applied in the context of AI if and when it devalues the role or rights of human creators.

### **Scope**

The scope of the draft issues ought to be clarified. It should be modified to explicitly consider musical works, as at present the Copyright and Related Rights section of the draft only refers to literary and artistic works.

## **Terminology**

The draft issues paper repeatedly speaks of “AI-generated work” and in Issue 6 states that AI applications are capable of producing literary and artistic works autonomously. We urge caution in the use of this terminology, and the assumptions that follow. “AI-generated” can refer to a vast range of works in which the ratio of AI use to human contribution can vary drastically. Depending on such proportion, copyright will be applied differently, meaning that the same rule cannot be applied to all ‘AI-generated’ works. This specification is needed, and different questions should be asked based on the variables at play.

As it stands, “AI-generated” musical works always require human contribution. Human creation occurs in two phases. First, the AI application needs copyrighted works which are entirely human-generated as input material to analyse patterns and machine-learn composition. Second, human input is fundamental in using or ‘training’ the AI application to do this.

These are crucial considerations both as regards the authorship/ownership of any new copyright works created with the use of AI, and the potential infringement of the copyright in existing works. We would therefore urge WIPO Secretariat to avoid using the term “AI-generated” as it is inaccurate and overly general. A more detailed differentiation is needed to accurately address the different copyright manifestations.

## **Valuing human creators**

We note that in Issue 6, the draft issues paper notes the major question of whether copyright should favour human creativity over machine creativity. In practice, works need not necessarily be entirely human-created or entirely machine-created (as said, the latter is not actually possible at present). It is also not helpful to think of a work created using AI as fully protected by copyright or not protected at all. However, human creativity ought to be protected. As such, Issue 7 of the draft issues paper seems to be misleading in characterising musical works and performances as data used to train AI, thus failing to recognise the value of human creativity. As the draft issues paper states, from maintaining copyright protections of works used as input material in AI applications (hence, treating the unauthorised use of such works as infringement) it does not follow that innovation will be stifled. The opposite is in fact possible: not valuing creative work could very probably lead to stagnation of new ideas and innovation. Further, licensing solutions could be found which would cater at once for the use of AI technology and the need to safeguard human creators’ rights.

Lastly, the draft issues paper poses the relation between AI innovation and ‘the dignity of human creation’ as one of conflict between which a balance must be found. Technological innovation and human creativity have long coexisted. However, there is no doubt that any policy decision around AI innovation should always circumscribe it to human benefit, having the overarching guiding principle of protecting human creativity through copyright.