



AI and Inventorship

AI and IP Consultation

Dr Nicki Curtis
UK Intellectual Property Office

IPO | Making life better through IP
Intellectual Property Office is an operating name of the Patent Office

1



Call for views on AI and IP: intro

- Last year, the UK's Intellectual Property Office asked whether IP framework still fit for purpose in relation to AI.
- For patents, we asked a number of questions, including whether there was a case for patent law to protect AI-devised inventions.
- We also asked whether there were impacts for copyright, trade marks, designs and trade secrets.

IPO | Making life better through IP
Intellectual Property Office is an operating name of the Patent Office

2

Call for views on AI and IP: responses

- 92 responses. Government response published March earlier this year.
- Mixed views on the question “Can current AI systems devise inventions?”
- Some viewed current system adequate, but concerns expressed that the absence of patents for AI-devised inventions could have damaging impacts on:
 - investment in building, owning and using AI in R&D
 - follow-on innovation if trade secret protection used as alternative to patent rights
- Some calls for sui generis IP right to protect AI-devised inventions not patents. This right would serve an environment where innovation is faster, cheaper and with high turnover rate.

Government response: next steps in patents

We committed to consult on a range of policy options, including legislative change, for protecting AI-devised inventions which would otherwise not meet inventorship criteria.

Option 0: policy aims and legal changes to achieve

Effect – patent will be granted/valid only if the deviser/s of the invention is human.
No patents for AI devised inventions.

Legal change – None. Maintain the status quo.

5

Option 1 : policy aims and legal changes to achieve

Effect – patent will be granted/valid whether the invention is devised by human and/or AI.

Legal change - definition of inventor expanded to include those humans responsible for making the arrangements for AI to devise an invention.

6

Option 2: policy aims and legal changes to achieve

Effect – patent will be granted/valid whether the invention is devised by human and/or AI

Legal change (a) allow AI to be named as inventor. Patent ownership qualification to include those humans responsible for making the arrangements for AI to devise an invention, OR

Legal change (b) no requirement to name AI inventor. Patent ownership qualification to include those humans responsible for making the arrangements for AI to devise an invention

Option 3: policy aims and principles

Effect – New sui generis patent-like right to protect inventions devised by AI. Current patent system continues to protect only human devised inventions.

 Intellectual Property Office

AI and IP Consultation

The Government consultation on AI and IP can be found here:

[Artificial Intelligence and IP: copyright and patents - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/artificial-intelligence-and-ip-copyright-and-patents)

This webpage includes links to both patents and copyright aspects of the consultation and a link to the response form.

Consultation closes on Friday 7 January 2022

IPO | Making life better through IP
Intellectual Property Office is an operating name of the Patent Office