

## **London Study Question – 2019 – Explanatory Note**

### **Copyright in artificially generated works**

Of all the technological advances that attract lawyers' attention, artificial intelligence (AI) should prove to be genuinely transformational. As more AI systems can assist or replace humans in the performance of creative endeavours, they will inevitably encounter the same IP questions as humans do. Can something made by or using an AI system be a copyrighted work? Are the classic principles of copyright applicable to artificially generated works, or is something new and different required? How is any term of copyright protection measured if the author is a machine?

There is already a debate about whether the advent of AI challenges the fundamental concepts of copyright law, or whether current laws will suffice. This mirrors philosophical debates about the justifications for copyright protection. If it is to promote the progress of science and arts, it may be possible to make room for AI. However, if copyright is conceived as a fundamental, moral right afforded to human creators, it is harder to accept protection for algorithms.

We are still at an early stage in the evolution of AI, but that it already plays a far larger role in everyday life than most people appreciate, and that copyright law will need to adapt to keep up.

For now, most jurisdictions appear to consider human intellectual authorship a prerequisite for copyright protection. However, that leaves open the question of whether a human who programmes or operates of an AI application might qualify for authorship. As AI systems becomes more able and consequential, national copyright approaches may diverge further.

Thus, this is an opportune moment for AIPPI to study the intersection of AI and copyright.