

# AI Guides

## Ownership of AI Generated Works

### Who owns a work created by an AI computer program?

**AI is already being used to create art, music, architectural floor plans and poetry. AI is being used to assist in the inventive process. Ownership questions arise in relation to works and inventions created by AI. For example, who owns the copyright or patent rights?**

At present in Australia, there is no specific law dealing with ownership of IP in works generated by a computer. What is clear is that there will be no copyright protection without a human author. Similarly, to obtain a patent, a human inventor is needed.

There is no general definition of “author” in the Australian Copyright Act. In relation to a photograph, the author is defined as the person “who took the photograph”. This just raises the question of who took the photograph.

For example, who took a photograph from a camera on a drone, where one person controls the flight path of the drone (and hence the overall position of the camera), another person controls the camera via remote control, a third person selects a photograph from a burst of photos, and a fourth person runs the photo through a series of filters and photo editing software?

Does it make any difference if the drone’s position and flight path is controlled by an auto-pilot computer program and the photo’s colour palette and brightness is

automatically corrected by the computer program in the camera?

If a CCTV camera is fixed to a post and takes a photo every 30 seconds, is there a person taking that photo, and if so, who?

For a work that is created by an AI program, there are often many humans involved, for example humans who wrote the AI program, trained or configured the AI program, collected the data, own the hardware, pay for the electricity, operate the AI program, and so on.

In some ways, the creation of an AI work is like the creation of a movie – there are many people involved in making a movie and the producer usually is regarded as the maker of the film and hence the copyright owner.

#### Current State of Play in Australia

At present in Australia, there is no specific provision of copyright or patent law dealing with computer-generated works, despite law reform recommendations in this regard. There are statutory provisions in the UK dealing

with copyright for computer-generated works.

In Australia, the law has not been applied to AI created works. At present, for a work that is created by an AI program, the following are possible outcomes:

- Because there is no human author, there is no copyright protection for the AI created work.
- The human most associated with the creation of the expression in the work is the owner of the copyright in the AI created work.
- The group of humans who work together and are involved with the creation of the expression in the work are joint owners of the copyright in the AI created work.
- The producer or alternatively the director of the work (using film concepts) is the owner of the copyright in the AI created work.

Until the law is reformed or clarified, the question of ownership of IP in AI created works is uncertain in Australia.

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