



Protecting AI-Created Works - US seeking comments on copyright. What about Canada?

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The U.S. Patent and Trademark Office is [seeking comments](#) on what the impact would be on providing copyright protection to works created using artificial intelligence, or AI-created works. Some questions being considered include:

- what level of human involvement is required for copyright protection?;
- how does fair use apply in a world where AI can create works faster and in greater quantities than humans can?;
- and
- what if AI infringes copyright?

In Canada, the Industry, Technology and Science Standing Committee (“INDU”) and the Canadian government led a review of the *Copyright Act*, and on June 3, 2019, INDU released its report [on the statutory review of the Act](#), setting out 36 policy recommendations, including providing clarity around ownership of computer-generated works (e.g. works created with the assistance of artificial intelligence (AI)). There are many interesting ethical and legal considerations to be weighed in the decision of whether or not to extend copyright protection to AI-created works. Much more remains to be studied, including issues surrounding:

- authorship;
- originality and infringement when it comes to AI being used in the creation of works;
- exceptions for text and data mining; and
- to what extent data and databases should be protected and whether Canada should consider *sui generis* protection for databases or AI created works.

It will be interesting to see how the Canadian government approaches the issues. Stay tuned for updates from Bereskin & Parr or contact the authors to discuss the potential impact on your business.

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