

IP monitor

Government is reviewing *Copyright Act* for currency with digital technology

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Intellectual property

In late 2017, Innovation, Science and Economic Development Canada announced that Parliament will review Canada's *Copyright Act*. Reviews of the act are required every five years. An important goal is keeping Canada's copyright framework current in light of rapidly evolving digital technology.

Artificial intelligence (AI) technology is affected by copyright law

Copyright is an intellectual property right that can have a significant role in the protection and use of AI. Copyright pertains to the exclusive right to produce, reproduce, perform, and publish an original literary, dramatic, musical, or artistic work. Computer programme code, compilations of data, application programming interfaces and graphics can be covered under copyright, all of which can be fundamental to an AI system or its products. Copyright can protect confidential works and there is no requirement to publish the work, which can be important for backend code and the "secret sauce."

It is an open question whether amendments to the *Copyright Act* should be made to address issues uniquely affecting the development or use of AI.

AI systems are already generating digital artwork, literature and new music. Who are the owners and authors of original works generated by the computer using AI? Are special forms of data protection needed for AI products or training data? AI systems can process existing works when generating new works. This may involve reproductions of the existing works. Is there liability if a computer using AI infringes intellectual property rights? There are no clear answers to these questions under the current legal and regulatory regime.

Call for feedback

If you have suggestions for changes to the *Copyright Act* or recommendations for sections you would like to see reviewed, please contact us. We will be happy to submit comments to the Intellectual Property Institute of Canada for its consideration in preparing a submission to the government as part of the consultation process.

The exact timing and process for the House of Commons Standing Committee on Industry, Science and Technology to review the act and provide recommendations to the House of Commons remain unknown at this time. We will continue to follow the developments and report on updates.

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For more information, please contact your IP professional at Norton Rose Fulbright Canada LLP.

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