

QUESTIONNAIRE ON ARTIFICIAL INTELLIGENCE POLICIES

BACKGROUND

Artificial Intelligence (AI) has become a strategic priority for many governments across the globe. In addition, data are a critical component of AI since AI applications rely upon machine learning techniques that use data for training and validation.

As well as AI capacity building, education and regulatory measures, there is a question whether the established intellectual property (IP) system should be modified to in response to AI developments. WIPO has been requested by Member States to provide a forum for discussion of AI and IP Policy, which also includes data. WIPO has therefore started an open conversation on AI/data and IP, including a draft issues paper¹, and is planning to continue the conversation in Geneva on May 11-12, 2020.

REQUEST FOR INFORMATION

In order to aid this discussion, WIPO is seeking to collate country/regional information regarding strategies, frameworks and legislation of relevance to AI/data and IP.

This questionnaire aims at taking stock of the different national and regional landscapes of legislation and instruments applicable to AI/data and IP.

A summary of the answers provided in this questionnaire will be used to create a publically available resource to facilitate information sharing. Personal information provided, such as contact details of individual persons, will not be made publically available but may be used solely by the Division of AI Policy to share the results of the questionnaire and to gather further information in the future.

Please send the completed questionnaire, including null responses, to ai2ip@wipo.int.

¹ https://www.wipo.int/about-ip/en/artificial_intelligence/call_for_comments/index.html

NATIONAL AI STRATEGIES

1. Does your country have a national/regional AI strategy in place?

- No
 Yes
 Draft/proposed only
 Do not know

2. If so, does the AI strategy identified in Q1 consider IP?

- No
 Yes
 Draft/proposed only
 Do not know

3. Please provide details of the AI strategy identified in Q1 (name, short description, year, URL, responsible organization name and, if relevant, its relation to IP).

In 2019 the Dutch government published a Strategic Action Plan for Artificial Intelligence. The Ministry of Economic Affairs and Climate Policy is responsible for the Dutch AI approach. The Strategic Action Plan is available at: <https://www.government.nl/documents/reports/2019/10/09/strategic-action-plan-for-artificial-intelligence>. Page 49 deals with IP aspects of AI.

AI AND IP LEGISLATIVE MEASURES

4. Does your country have any measures/provisions in its IP framework that were specifically enacted for AI (an example would be a modification of copyright law for computer generated works)?

- No
 Yes
 Draft/proposed only
 Do not know

5. Please provide details of the relevant legislative measures/provisions identified in Q4 (name, section, short description, year and URL).

6. Is there any case law relevant to AI and IP in your country/region?

- No
- Yes
- Do not know

7. Please provide details of the decision(s) relating to Q6 (name, short description of subject matter, year and URL).

EXAMINATION GUIDELINES

8. Has your country's IP office (or other IP registration body) amended its examination guidelines and procedures due to AI-related inventions or works?

- No
- Yes
- Draft/proposed only
- Do not know

9. Please provide details of the relevant guidelines and sections identified in Q8 (name, short description, year and URL)

DATA RIGHTS

10. Does your country/region have any legislative measures/provisions for database rights?

- No
- Yes - enacted law
- Draft/proposed law only
- Do not know

11. Please provide details of the relevant legislative measures/provisions identified in Q10 (name, short description, year and URL).

On 21 July 1999 the Dutch Database Act was enacted. It implements EU Directive 96/9/EC on the legal protection of databases. The Dutch Database Act is available at: <https://wipolex.wipo.int/en/legislation/details/9893>.

12. Does your country recognize any rights or ownership in data?

- No
- Yes
- Draft/proposed only
- Do not know

13. Please provide details of the relevant legislative measures/provisions identified in Q12 (name, short description, year and URL).

14. Does any AI strategy identified in Q1 or other strategy consider data and any creation of a *sui generis* right for data and/or databases?

- No
- Yes
- Draft/proposed only
- Do not know

15. Please provide details of the data strategy identified in Q14 (name, short description, year, URL and responsible organization name).

Apart from the strategy mentioned under Q1, in 2019 the 'Dutch vision on data sharing between businesses' was published by the Ministry of Economic Affairs and Climate Policy. This report does not identify the creation of a *sui generis* right for data. It focusses on responsible data sharing between companies. It is available at: <https://www.government.nl/documents/reports/2019/02/01/dutch-vision-on-data-sharing-between-businesses>

OTHER AI AND IP RELATED INFORMATION

16. Please provide details of any other related processes related to AI/data and IP undertaken in your county/region, for example, public consultation processes, guidance notes for legislative interpretation, policy guidance, communications, working groups, etc. (name, short description, year and URL).

In 2018 the Netherlands has responded to the Consultation of the EPC contracting states on legal aspects of AI patenting held by the European Patent Office. This response is not publicly available.

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