

IFLA Statement – Session 3, 2nd WIPO Conversation on AI and IP

Your Excellency, Dr Gurry,

IFLA seeks to represent our members on access to knowledge, education and research issues. At the university level our members are active in supporting AI, working with data scientists, and managing where research data is stored.

I would like to address Issue 8. As a starting point, we believe that individual data points such as weights and hyperparameters, as statements of fact, should not be subject to copyright.

One of the most recent AI exceptions, Article 3 of the EU's Digital Single Market Directive underlines the principle that when it comes both to research and machine learning, once a copyright work has been legitimately accessed, the right to read should be the right to mine,.

Any reproduction needed for this is a result of technological necessity, and so should not represent copyright infringement.

Attempting to make such reproductions subject to copyright is a dangerous path. As was highlighted by the Lisbon Council, the lack of clear permission for text and data mining simply depressed demand, with only a few bigger commercial players active in the field, excluding libraries and SMEs.

This underlines the weakness of the argument that subjecting reproductions in the context of machine learning to copyright will bring much benefit to rightholders.

Furthermore limiting the information AI models can train on will increase the chances of machine learning bias. The issue of limitations and exceptions and bias are inextricably linked.

We would therefore suggest, as a priority for future WIPO work, further exploration of the merits of action to ensure that legitimately accessed works can be used for text and data mining and machine learning, for example through a cross-border, enforceable exception.

We finally want to draw attention to the risks of over-confidence in tools based on artificial intelligence as a means of detecting copyright infringement.

While AI-powered tools may be increasingly good at identifying works, those promoting them acknowledge clearly that they lack a sense of humour, or at least the ability to identify parody, critique or satire.