Could intelligent machines of the future own the rights to their own creations?

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Credit: Vanessa Loring from Pexels

Intellectual property may be the legal term for creations, including literary or artistic, but there is something inherently human about it as well.

It has long been taken that only human beings are capable of being intelligent in its fullest form, and the concept of intellectual property strives to protect the product of such human [intelligence](#). This is reflected in a number of [intellectual property laws](#). The US Copyright Office, for instance, [talks about](#) the "fruits of intellectual labour" and registers original works of authorship "provided that the work was created by a human being".

But what if a piece of art, music, literature, photography or other product were not created by a human mind at all, but by a machine embedded with artificial intelligence (AI)?

A judge in California last year accepted a contention that a macaque monkey from Sulawesi, Indonesia, did not have the standing to claim copyright of a "selfie" it had taken. The case came after David Slater, a British wildlife photographer, first claimed use by Wikipedia of the picture – taken by the monkey while his camera was unattended – was a copyright infringement. A case was then brought against him, arguing that it was Slater that was breaching the monkey's copyright. But, ultimately, the judge rejected the claim.

Intelligence and intellectual property

Why is intellectual property predominantly anthropocentric? Many philosophical and other reasons exist for this. John Locke in his 17th-century work on natural rights, for instance, considered that it is in the common interest that people should have a natural right to what they produce [and the results of their labour](#). There are also many different economic rationales.

US judges ruled that a monkey could not claim copyright. Credit: David J Slater/Wikipedia Commons, CC BY-NC

The protection of intellectual property is essential for economic advancement. If the results of the intellect were not protected then this may disincentive people from manufacturing the products and providing the services that the market relies on. Human progress would ultimately suffer.

This gives rise to a question concerning the value of "intelligence". Much rests on this valuable capacity, including progress. It should be protected as a value in itself and that is, indeed, one of the justifications for intellectual property. For this reason, maybe it is right that machines with AI should be recognised as capable of having copyright in order to protect the significance that we give to intelligence.

It is worth noting that many strides have been made in recent decades when it comes to such machines. In the 1970s, Harold Cohen, a British artist, wrote about "machine generated art" and developed software, AARON, which produces spectacular, abstract imagery.

IBM Watson can among other things decode natural language in order to answer questions. Igor Mordatch, a researcher at the University of California in Berkeley, created an algorithm that will enable robots to learn and work out their own optimal means for achieving targets.

But yet despite calling it "intelligence", many people are unwilling to countenance the idea that machines with AI can own intellectual property. The other side of the argument goes that intellectual property does not only seek to protect intelligence per se. It aims to uphold a particular form of intelligence – that which is human, something that has long been the case across societies.

People on this side of the argument believe that what intelligent machines are doing is just the execution of a program or algorithm ultimately produced by a human programmer. As such, the latter should be given any intellectual property rights that flow.

Intelligent creators of the future

In this way, humans take credit for the products of AI systems – they did build them after all. But does this argument hold up, especially going forward? What about the very value of intelligence in and of itself? One of the many determinants of this question is, indeed, likely to be the significance people have for intelligence in a rapidly changing world.

AI-based machines will become more human like – more capable of learning, more sophisticated and more accomplished in generating complex solutions and products – in the future. They will become better

at making decisions that have an impact on our day-to-day lives. So you might therefore argue that, if we want to protect the value of intelligence, we must recognise AI as being capable of owning intellectual property. Otherwise, we risk undercutting the very notion of intelligence.

The European Union has already acknowledged the importance that AI based machines and robots will have in the future and has called for the consideration of a Civil Law Rule of Robots. Intellectual property rights could stem for this, in particular, given that the European Parliament's resolution is recognising the need for "a specific legal status for robots".

Let's not forget that machines are already becoming more human-like, including the humanoid Sophia, who, after being made a citizen of Saudi Arabia, says she wants to have a baby. It seems clear that, while machines may not be able to enforce intellectual property rights (yet), anything less might potentially amount to a violation of the value we place on intelligence in and of itself.

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