

Artificial Intelligence and Scots Law: Transforming the Future
RSE Collaboration Grant –
Second Workshop (Half Day) Highlight
“Artificial Intelligence: Property and Copyright”
University of Dundee 16.06.2025

With contributions from
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Aim of Workshop

The purpose of this Workshop was to consider the implications of Artificial Intelligence (AI) for property law, broadly conceived. Following on from the First Workshop, the Second, Half Day Workshop considered a range of themes. The first theme considered the meaning and nature of property, whether AI is a form of property, and if so, what form it may take? The second theme was liability of legal professions for use of AI in conveyancing practice. The third theme was whether existing copyright rules apply to AI training and generated content? The fourth theme was what protection should apply to authors and creators from AI generated content? The fifth theme was public perception of copyright risks arising from AI generated content.

Reflective Insight on the Second Half Day Workshop from a Project Collaborator

Dr Cody Rei-Anderson, Edinburgh Napier University and a Collaborator on the Project, provides his own insightful reflections on the Workshop’s highlights:

“The questions around artificial intelligence and law can be broadly separated into conceptual and practical levels. What AI is and how it should be treated in law are important enquiries, but the legal system also faces the immediate task of dealing with generative AI in the areas of copyright law and professional negligence. It was suggested by some that the immediate harms and impacts of AI should be the policy priority; although it was also raised as a danger that future developments in AI (such as a leap to artificial ‘general’ intelligence) would not be adequately addressed by the law we have now.

There was discussion of whether the law needs to treat AI differently because it can ‘learn’ or ‘change’ in contrast to traditional software. It was raised that current AI models are not capable

of continuous learning, while ‘traditional’ software codebases are often updated continuously and this is not seen as a particular problem for their treatment under copyright law. The suggestion was made that AI systems could be more capable in the future, and that copyright law may not be the best vehicle for regulating software in any case and that its application in this field was a matter of some historical accident. Overall, there was broad – though not universal - scepticism about the prospect of AI systems acting as autonomous decision makers rather than tools. The possible relevance of agency law when talking about AI systems was also raised, on which please see the first Workshop Report.

There was also discussion of what can go wrong with generative AI, particularly in the context of professional ethics and negligence in property law practice. The ‘anthropomorphising’ language which is often used in discussion of AI systems was highlighted as possibly distorting perceptions: these systems cannot properly be said to ‘understand,’ ‘learn’ or ‘think.’ Their nature as essentially statistical models lead to serious concerns about their use in legal practice and the possibility that such use could be negligent and in breach of professional responsibilities. Practitioners therefore must ensure that they understand what AI can and cannot do, and that they are not misled by marketing from lawtech providers. If, however AI systems become sufficiently robust and widely adopted to form a new state of the art in legal practice, the professional negligence issue might flip around to requiring their use; however, there was no suggestion that the technology is there yet. It was also raised that legal decisions, in contrast to other professionals’ decisions, may be different because of expectations of due process for decisions bearing on individuals’ rights.

There was a lively discussion around public attitudes toward AI and the effect those might have on the effectiveness and legitimacy of AI regulation. Lessons from a previous episode of digitalisation—the crisis around copyright-infringing filesharing and its eventual supersession by novel and consumer-friendly business models based on streaming—were considered in this context. The economic-distributive nature of copyright decision-making with regards both to AI and earlier digitalisation was highlighted. Dr Rei-Anderson also remarks that there is a significant difference between the copyright questions raised by AI and those involved with illegal filesharing (the regulatory response to which was also discussed): where the latter dealt with distributed activity by many millions of infringing users, the copyright issue around AI training (which remains the most controversial) deals primarily with the actions and decisions of a handful of technology companies. As such, broader public perceptions around the legitimacy of the AI companies’ actions may not have much impact on the efficacy of regulation (though governments may still find it difficult to bring the tech companies to heel).”

Second Half Day Workshop Conclusions

Dr Michiel Poesen, University of Aberdeen, and Co-Investigator, provides his insightful concluding thoughts on the Second, Half Day Workshop:

“How does law deal with AI? The half day workshop provided opportunity for much discussion on whether our existing legal categories and principles governing liability, property, and copyright protection can deal with AI? AI gives rise to questions which the law has been grappling with for longer than AI has been around. So of course, the law was not developed for AI specifically, and although AI has been around for a couple of decades now, we only had few cases until the development of AI and generative AI specifically accelerated recently.

Historically, the response of the law to past developments of digital technologies, such as the internet or distributed ledger technology, has shown that the existing legal framework does develop over time to rise to new challenges. But for courts, practitioners, and policymakers to be able to respond to the legal issues to which digital technologies give rise, we first need to have informed debates such as the one we had today where academic and practical insights meet.

The second strand that emerged in our discussion was: how should we regulate AI? Do we need new legislation and regulation, and if so, what should that new regulation look like? What burdens and obligations can we put on those we deploy and develop AI? How do we want the market to develop?

Speakers in both the first and the second panel demonstrated amply that it is crucial to engage with policy questions, because the regulatory landscape both in the UK and internationally is rapidly developing. Furthermore, the importance of sustained reflection about the regulation of AI by showing an overwhelming public concern about the interaction of copyright law with AI was also clearly set out.

The Workshop provided legal perspective on the development of AI regulation, but also insights from civil society on engagement with UK policy makers and how future regulatory developments will influence their work in supporting publishers and authors.

Finally, the Workshop explored the limits of what we can expect law to achieve. In our discussion we raised that we should also reflect about the desirability of using AI, and that we should have a debate about what AI should be used for, and who should reap the benefits of it and bear the brunt of the negative impact it may have. Especially the latter, distributive question is where property law and intellectual property law tie in with the socio-economic dimension of market regulation. The answer to many of the questions raised at the Workshop are obviously in part determined by law, but our speakers showed that law itself is not enough and should also be alive to broader, non-legal challenges.”