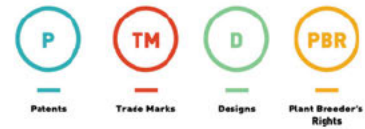




Australian Government  
IP Australia



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25 October 2024

Joint Committee of Public Accounts and Audit  
Parliament House  
CANBERRA ACT 2600

By email: [icpaa@aph.gov.au](mailto:icpaa@aph.gov.au)

Dear Committee,

Please find IP Australia's submission to the Joint Committee of Public Accounts and Audit's inquiry into the use and governance of artificial intelligence systems by public sector entities.

Our submission focuses mainly on the first four terms of reference by way of an update on previous responses to questions provided to the Committee for its inquiry into Commonwealth Financial Statements 2022-23: Use and Governance of Artificial Intelligence Systems in the Australian Public Sector in June of this year.

Yours sincerely,



Margaret Tregurtha  
Deputy Director General  
IP Australia



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## IP Australia submission

### Inquiry into the use and governance of artificial intelligence systems by public sector entities (Joint Committee of Public Accounts and Audit)

#### 1. The purposes for which AI is currently being used by the public sector entity and whether there are planned or likely future uses

IP Australia has implemented several Artificial Intelligence (AI) and Automated Decision Making (ADM) tools. Some assist customers to better engage with the IP system, for example TM Checker, which aims to help smaller businesses to engage with the Trade Marks system.

Others are for internal operational analysis of data or support business processes. IP Australia has also acquired a number of licences for Copilot for Microsoft 365 to aid staff in their day-to-day work.

Most of the legislation IP Australia administers (the *Designs Act 2003*, *Patents Act 1990*, *Plant Breeder's Rights Act 1994* and *Trade Marks Act 1995*) have permitted the use of a computer program to make decisions, exercise powers or comply with any obligations since amendments were made in 2018.

#### 2. The existing legislative, regulatory and policy frameworks that are relevant to the use of AI and whether they are fit for purpose

IP Australia notes that there are a range of new legislative and policy frameworks under development to regulate AI/ADM use within government and the broader economy.

This includes the Digital Transformation Agency's (DTA's) *Policy for the responsible use of AI in government* (the policy) which public sector agencies must implement.

IP Australia has begun implementing this policy by, as a priority, designating an Accountable Official and beginning the development of our AI transparency statement. We are also looking at implementing the other recommendations arising from the policy that are relevant to our work at IP Australia (see point 3 below for further details).

We are also updating our governance arrangements (see point 4 below for further details), and are contributing to broader government work around regulation of AI and ADM which is under development.

IP Australia also continues to comply with other legislative and regulatory frameworks (including the *Public Governance, Performance and Accountability Act 2013*, the *Privacy Act 1988*, and the *Protective Security Policy Framework*) that apply when using AI tools but are not specific to them.

**3. Whether the internal governance structures that currently exist for AI will ensure its ethical and responsible use by public sector entities**

IP Australia notes that public sector agencies are required to comply with the DTA's *Policy for the responsible use of AI in government*.

As a result, in addition to its existing governance frameworks that are technology-neutral (e.g. our data governance framework), IP Australia is in the process of setting up its AI/ADM governance and policy arrangements. It has an interim AI Governance Committee which is guiding the development and implementation of these arrangements.

**4. The internal framework/policies or additional controls used for assessing the risks associated with the use and possible misuse of AI, including the areas of security, privacy, ethics, bias, discrimination, transparency and accountability**

IP Australia's internal governance framework and policy for AI and ADM require us to consider a use case's risk at each point in its lifecycle. The extent of the risk assessment and the controls put in place vary depending on the level of risk identified. Currently, all AI or ADM use cases that must be under the control of a commissioner or registrar must also be entered onto a register.

We will continue to update these documents to make sure they align with whole of government requirements, noting that this is an evolving area.

IP Australia has committed in its People Strategy to all staff undertaking a training program on AI. This will build understanding of the technology, the risks associated with it and how they can be managed.