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Digital Assets

Person or Property?

Dr Joshua Jowitt

- ◆ Dr Josh Jowitt, Senior Lecturer at Newcastle Law School, has written extensively on how the law categorises aspects of the world around us as either legal persons or property. Legal persons can participate actively or passively in a legal system; property cannot.
- ◆ He responded to a call for evidence issued by the House of Lords on the Property (Digital Assets etc) Bill [HL], the purpose of which is to confirm that digital assets are a distinct form of property.
- ◆ Josh's submission to the Bill Committee suggested that this may have unintended consequences with regards to the issue of whether algorithms are capable of conceiving inventions for the purposes of intellectual property law.
- ◆ In 2019 Intellectual Property Office was happy to accept that algorithms can do this, but to designate digital assets as property is the same as saying they are incapable of active legal personhood. This would mean the law sees them as incapable of conceiving inventive ideas – the opposite of what the IPO believes.
If the IPO says they can but this bill says they can't, a paradox has been created that could raise issues in future patent applications.
- ◆ Josh suggests that, as the relevant expert body, the IPO's position should be taken seriously and accommodated by this bill. This is desirable as it is an accurate account of how inventions are actually conceived.
- ◆ This could be done in one of two ways: either by being more specific about the types of digital assets this bill is aimed at, or by including a new clause to note that incidences of legal personality connected to the conception of inventions are unaffected by this designation of digital assets as property.

Dr Josh Jowitt



Josh is a legal theorist whose research forms part of the contemporary secular natural law tradition.

His current research considers how the interests nonhuman entities are protected in law. He has written about this on both the general level of legal personhood and the extent to which jurisdictions have discretion to recognise this status, and with regards to specific rights. Although the majority of his work has been done in relation to nonhuman animals and cerebral organoids, he is also interested in how these problems relate to other emerging medical technologies and artificial intelligence.



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<https://www.ncl.ac.uk/law/people/profile/joshuajowitt.html>



Joshua Jowitt, 'Tomorrow you shall cease to be a marionette, and you shall become an inventor' (2024) 83(2) Cambridge Law Journal 226