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Copyright Ownership of AI-Generated Work

The emergence of Artificial Intelligence (AI) has brought about increased productivity and innovation, but it also raises concerns about the ownership of AI-generated content. While AI systems rely on vast collections of public and proprietary materials from various online sources to generate data, copyright confers upon creators of literary and artistic works certain exclusive rights, including the rights of reproduction, copying, performance, and public display.

The increasing involvement of technology in creative processes has, in many instances, significantly augmented human input, thereby giving rise to novel challenges in distinguishing works generated by software programs utilizing algorithms and databases produced by human creators. This development has precipitated substantial uncertainty in both commercial and juridical contexts about who owns the rights to AI-generated works.

The current situation of generative AI and copyright in key jurisdictions is as follows:

United States of America

For a work to be eligible for copyright protection in the United States of America, it must satisfy two conditions: the author must be a human being, and the work must exhibit originality. In *Thaler v. Perlmutter* 23-5233, 2025 WL 839178 (D.C. Mar. 18, 2025) (2025), the Court affirmed that works created autonomously by AI are not eligible for copyright protection because:

- The Copyright Act of 1976 requires authorship by a human being.
- The duration of a copyright is often based upon the life of the author—machines do not have “lives”.
- The Act transfers ownership to the author’s heirs upon death—another concept inapplicable to a machine.
- The conveyance of a copyright requires a signature by an author—a task machine could not perform.
- The Act discusses the author’s nationality or domicile—concepts inapplicable to machines.
- The Act considers the intent of an author—machines lack minds and do not intend anything.
- The Act makes clear that the machine acts as a tool to assist an author in generating content and not as an author.

European Union

Under the European Union, the critical issue is whether an AI-generated work can satisfy the originality requirement without human intervention. In *Infopaq International A/S v. Danske Dagblades Forening* (C-5/08) and *Eva-Maria Painer v. Standard VerlagsGmbH* (C-145/10), the Court of Justice of the European Union has established that copyright protection applies to works

reflecting the author's intellectual creation, which is demonstrated when the work expresses the author's personality. Since AI-generated works result from mechanical or automated processes, they lack the human element necessary to meet this criterion, rendering completely autonomous AI-generated works ineligible for copyright protection due to lack of originality.

However, where a human utilizes AI as a tool to create content, exercising sufficient control over the process, the resulting work may be eligible for copyright protection, contingent upon the degree of human contribution to its originality.

United Kingdom

The Copyright Designs and Patent Act 1988 of the United Kingdom acknowledges computer-generated works, deeming the author to be the person who planned for the work's creation. However, the Act does not clearly define who this person is, leading to uncertainty.

In the United Kingdom, the originality principle requires a work to be an author's own intellectual creation, posing challenges for AI-generated works lacking human authorship. If AI tools produce material similar to existing copyright works, liability for infringement is unclear, potentially implicating developers, providers, or users. In determining authorship, the focus is on identifying the person who made the necessary arrangements for the work's creation – essentially, the individual who initiated and organized the process, without whom the work would not have come into existence.

China

Under the Chinese law, the approach is flexible. In determining copyright ownership in AI-generated content, the Court considers four elements: originality; relation to literature, science, or art; a form of expression; and “intellectual achievement”.

In *Shenzhen Tencent v. Shanghai Yingxun (2019)*, it was established that AI-generated content can be protected by copyright if there is sufficient human involvement. It was held that Tencent's Dreamwriter AI-generated text was protectable because Tencent's teams played a crucial role in the creation process, providing key inputs that shaped the output. Despite AI generating the text, Tencent was deemed the copyright owner due to its significant intellectual contribution, demonstrating that human involvement can justify copyright protection for AI-assisted works.

In *Lin Chen v Changshu Qin Hong Real Estate Development Co., Ltd. and Hangzhou Gauss Air Film Technology Co., Ltd. (2024)*, the Changshu Municipal People's Court ruled in favor of the Plaintiff, granting copyright protection to his design. The Court held that the work demonstrated originality through its unique combination of elements, meeting the criteria for an artistic work protected by copyright.

Nigeria

In Nigeria, AI-generated works are not eligible for copyright protection under the Copyright Act 2022, as the law requires human authorship and originality. Since AI-created works lack a human creator, they do not qualify for protection. However, it is arguable that Section 2(2)(a) may give protection to AI-generated works with significant human input.

Beyond the statutory provision, there is no reported case law on the subject matter. The current lack of precedent in Nigerian Courts means that the protection of AI-generated works under copyright law remains uncertain.

Conclusion

The emergence of artificial intelligence as a creative force necessitates a paradigm shift in copyright jurisprudence. As legislative frameworks grapple with the implications of AI-generated works, it is imperative to strike a balance between promoting innovation and protecting the rights of human creators. A nuanced approach, cognizant of the complexities of AI-assisted creativity, will be essential in shaping a copyright regime that accommodates the interests of all stakeholders, thereby fostering a culture of creativity and innovation.

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