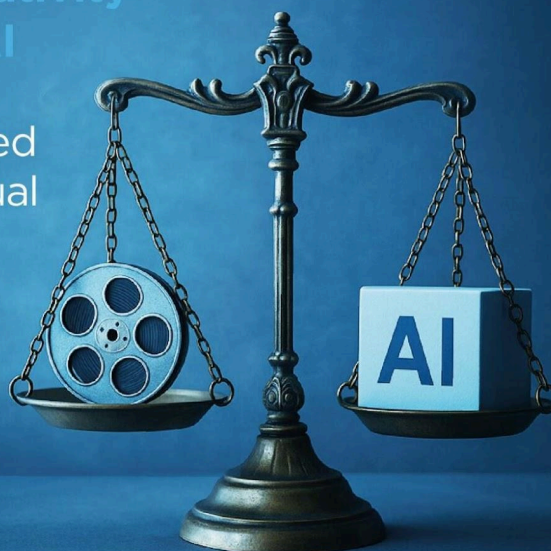




Protecting Creativity in the Age of AI

The Legal Battle
Over AI-Generated
Art and Intellectual
Property Rights



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Issue:	Discussing the ownership of projects generated by AI
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Introduction

In recent years, generative AI has redefined the many ways people have traditionally created images and texts, and even code for software. AI technologies are rapidly able to create content that no longer requires direct human creativity. However, this raises questions around intellectual property (IP): who owns the works created by AI? This is the big question attempted to be answered today by national governments and technology companies. The main debate centres on who has ownership of AI generated content, between copyright and licensing, considering that most legal frameworks require human involvement to claim ownership. What this means is that content fully created by a generative AI might not be well protected, and users may have fewer rights over ownership compared to their expectations. Consequently, leading AI companies, such as OpenAI and Microsoft, have terms of service stating that, in most instances, users own the outputs. However, not all systems agree with this. There are many differences in opinions among countries and groups, such as the US, EU, UK, and China, making things confusing to creators and anyone using generative AI. Some governments and organisations have tried to solve these issues with new laws, regulations, or guidelines, but no general approach or agreement has been reached. These uncertainties put creators at risk of lawsuits and disputes over who can use or profit from AI generated work. Furthermore, to be able to make these generative AI systems work, they need high quality training data, which leads again to other questions regarding licensing, cost, and copyright infringement. Additionally, lawmakers must consider the implications for innovation: if the rules become too strict or vague, then businesses will be reluctant to develop or use new AI tools, hindering technological progress. On the other hand, policies that are too lenient can undermine the rights of human creators. Moreover, the issue affects education, journalism, and online conversations, as students, teachers, and citizens increasingly employ AI to produce assignments, research, and other texts. AI generated inventions are challenging the traditional meanings of IP law, with lawmakers and courts across the world forced to reconsider who should own AI generated work and shape the future of IP law.



Definition of Key Terms

Intellectual property (IP)

Intellectual property is legally protected intangible property that is a result of creativity, such as inventions, artistic works, and designs. It gives creators control over their own work and allows them to benefit from it.

Copyright

Copyright is a legal right protecting a creator's original works by giving them exclusive rights to reproduce, distribute, adapt, or display the work. These works can include books, music, movies, photographs, computer programs, and more.

Infringement

Infringement is a violation of someone's legal rights, which can lead to legal punishments or fines. It occurs when someone uses a protected IP without a license or beyond the license. This could mean copying, distributing, or selling protected work illegally.

Data Licensing

Data licensing is permission granted by an IP owner to access, use, or share their data with another party, often in exchange for payment. Usually, including certain restrictions on copying or redistribution.

Patents

A patent is a legal protection granted that gives the owner exclusive rights to an invention for a limited period of time. Typically, to stop others from making or selling that invention in that jurisdiction.



General Overview

With generative artificial intelligence being increasingly used to create text, images, music, and more, interesting questions of ownership and intellectual property arise. Generative AI is trained on large quantities of data to generate new content, but the rules for who owns and has control over such outputs are unclear under current IP law. Different systems have different conditions of use that, in general, grant the users ownership. Unfortunately, laws differ greatly between countries, and courts may also decide otherwise. This situation creates challenges for creators, businesses, and governments seeking to protect their rights and investments while encouraging innovation.

Policy developments

In March 2023, the US Copyright Office implemented new rules that require applicants to disclose the involvement of AI generated content in works being submitted for registration. That's part of broader policy efforts at the USPTO and WIPO to bring clarity to ownership and transparency.

Transparency requirements

However, challenges are still faced because licensing rules for training data remain unclear. Diverse and high quality datasets are required to train AI models; nevertheless, obtaining licenses for each dataset is expensive and complicated. Most developers take this route by utilising data in the public domain or by claiming fair use. That has led to legal disputes over copyright infringement. To address this challenge, new legislation, such as the US Generative AI Copyright Disclosure Act of 2024, has been introduced to create more transparency by requiring developers to disclose the datasets used in the training of AI. Increased transparency may give copyright owners greater control and reduce infringement risks.

Differing international legal approaches to AI ownership

Different countries have taken different legal stances on the issue. For instance, the US has generally denied ownership rights over purely AI created content, while EU and Chinese laws grant ownership if the work displays creativity created by a human. The UK allows ownership under similar rules to the EU but excludes works entirely created by the AI. This variation shows how copyright law can differ significantly between jurisdictions.



Major Parties Involved

China

China is a vital nation to consider when discussing the issue of AI generated ownership. The nation's experience in court rulings on the topic gives us useful insight into when AI assisted outputs get protection or not. Additionally, the nation's courts have previously recognised copyright in AI assisted images as long as users show concrete proof of creative input and control.

European Union (EU)

The EU is a relevant organisation to the issue due to their previous actions to resolve the issue in the past. Notably, the EU's AI Act introduced transparency requirements for AI training data. The EU believes in strengthening transparency while keeping authorship linked to human creativity in copyright law.

United States of America (USA)

The USA is a relevant nation to the issue because its Copyright Office guidance and court practice strongly influence global policies on the issue of AI generative ownership. The USA believes copyright requires human authorship, and pure AI outputs aren't protectable by copyright.

United Kingdom (UK)

The UK's DABUS era rulings helped shape global expectations on authorship of AI generated content, making it a highly relevant nation in the discussion of AI ownership.

World Intellectual Property Organisation (WIPO)

The World Intellectual Property Organisation (WIPO) is a UN affiliated organisation acting as a forum for creators to protect and promote their intellectual property (IP). The WIPO believes solutions should be found through multilateral dialogue; it even hosts discussions across jurisdictions to address IP issues.



Timeline of Key Events

Date	Description of event
July 23 rd , 2019	<i>DABUS inventorship filed:</i> As requested by the UK Intellectual Property Office (UKIPO) in late 2018, Dr Stephen Thaler filed statements of inventorship as the owner of the machine ‘DABUS’, which created the inventions that he filed for patent applications for.
September 27 th , 2019	<i>WIPO Conversations:</i> WIPO launches “Conversations on AI and IP”, assembling the first global forum on AI’s impact on IP policy.
February 14 th , 2022	<i>U.S. Copyright Office (USCO) refusal:</i> The USCO reaffirmed the earlier decision that for copyright protection to be claimed, human authorship is required. This conclusion was prompted in 2018 when inventor Stephen Thaler applied to register a copyright claim, specifying “Creativity Machine” as the author and Thaler as the owner of the machine.
March 16 th , 2023	<i>USCO AI initiative:</i> The initiative was launched to examine the copyright in works generated using AI and using copyrighted materials in AI training. The initiative was made to address the advances in generative AI technologies and their growing use.
November 27 th , 2023	<i>Beijing Internet Court (BIC):</i> In an infringement lawsuit (Li v. Liu), the BIC ruled that an AI generated image is copyrightable and that a person who prompted the image has the right of authorship under Chinese Copyright Law.
December 20 th , 2023	<i>UK Supreme Court Dismissal:</i> After the UKIPO refused to grant a patent and an appeal of the refusal from Dr Thaler, the Supreme Court dismissed the appeal, reiterating that inventions with no human inventor are ineligible for patent protection.
April 2024	<i>Generative AI Copyright Disclosure Act:</i> A bill was introduced in the US Congress by Adam Schiff. This legislation requires AI companies to disclose which copyrighted materials they used to train their generative AI models. Reinforcing dataset transparency.
January 29 th , 2025	<i>USCO Report Part 2:</i> The Office specifies on AI outputs, reiterating the perspective that human authorship is required for copyright protection to be granted. However, it concludes that as long as human interference and creativity impacted the creation of the work, generative AI can be protected by copyright.
July 24 th , 2025	<i>EU training data transparency template:</i> The finalised template was published for public summaries of training data sources used for generative AI systems.



September 16th, 2025 BIC refine decision on AI Authorships: The BIC held that authors must “demonstrate they have exerted creative effort in their AI generated creations” for copyright to exist.

UN involvement, Relevant Resolutions, Treaties and Events

- Declaration on the Critical Economic Situation in Africa, 3 December 1984 (A/RES/39/29)
- Seizing the opportunities of safe, secure and trustworthy artificial intelligence systems for sustainable development, 11 March 2024 (A/RES/78/L.49)
- Role of artificial intelligence in creating new opportunities for sustainable development in Central Asia, 31 July 2025 (A/RES/79/322)
- Terms of reference and modalities for the establishment and functioning of the Independent International Scientific Panel on Artificial Intelligence and the Global Dialogue on Artificial Intelligence Governance, 27 August 2025 (A/RES/79/325)

Previous Attempts to solve the Issue

National bodies, including the UKPO and USCO, remained firm in their decision to provide copyright protection to an invention, stipulating that human authorship must be involved. Therefore, it cannot be fully AI generated. This created clarity, consistency and set norms for future copyright applications. However, these decisions often remained vague on how much human creativity or involvement is enough, which led to uncertainty and further disputes about the copyright. Additionally, the WIPO’s “Conversation on AI and IP” has been highly successful in convening governments, creators, and industries to work out authorship criteria. Nonetheless, the dialogue lacks enforceability with no set rule yet emerging from it.

Possible Solutions

Although numerous different jurisdictions and organisations have attempted to solve the issue, there are still many practical solutions that can be considered. Firstly, ensuring businesses and creators



analyse the terms of service of whichever generative AI programme they use can help minimise risks of unclear ownership by using these terms as proof. Additionally, these organisations should develop internal policies that oblige human oversight in all AI assisted creations to ensure they align with the majority of legal requirements. Furthermore, emphasising transparency is vital to prevent legal disputes and lawsuits. Therefore, laws like the US Generative AI Copyright Act are useful to share and advertise to reduce infringement risks. Solutions can also be looked at from a technical perspective, where advanced licensing management systems can be used to track the data used to train generative AI programs. This solution and others such as it promote efficiency in managing the many complex agreements involved in AI training data usage. Finally, improving or creating forums like the WIPO's "Conversation on AI and IP", by helping them link more directly to robust paperwork and legislation, can improve the enforceability of the conversations and ideas thought of in these forums.

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