

Intellectual Property in the Digital Era Under UK and US Law

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1. Introduction The rapid advancement of artificial intelligence (AI) has ushered in a new era of content creation. AI applications can now generate text, images, music, and various forms of complex artistic works without direct human intervention. This raises critical questions regarding intellectual property rights, particularly copyright for AI-generated works.

Under the traditional legal systems of the United Kingdom (UK) and the United States (US), only works that involve significant human creative input are eligible for copyright protection. However, the emergence of advanced AI tools such as ChatGPT, Stable Diffusion, DALL·E, and DeepSeek has blurred the lines between human and machine creativity. This presents a major challenge for legislators in balancing the protection of individual and corporate interests while fostering innovation and maintaining fairness.

A crucial legal issue today is whether AI can be considered an "author" of a work and who should hold the legal ownership of AI-generated content. Therefore, establishing an appropriate legal framework is essential to ensure the sustainable development of AI technology while upholding intellectual property principles.

2. Current Legal Status of AI-Generated Content The rapid growth of artificial intelligence and digital technologies has posed significant challenges to international legal frameworks. Currently, major international agreements such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) 1994 and the Berne Convention for the Protection of Literary and Artistic Works do not provide explicit regulations regarding the copyright status of AI-generated content.

This lack of clarity has led to inconsistencies in how different countries approach copyright protection for AI-created works. While TRIPS covers a broad range of intellectual property issues, including copyright, patents, trademarks, and IP protection, it does not specifically address AI-generated works. Similarly, the Berne Convention, which serves as the foundation for global copyright protection, does not provide clear provisions on AI-generated content. As a result, determining the legal ownership of AI-generated works remains a complex issue.

UK Copyright Law The UK is one of the few countries with explicit regulations on copyright protection for AI-generated works. Under the Copyright, Designs, and Patents Act 1988 (CDPA 1988), Section 9(3) states that "in the case of a literary, dramatic, musical or artistic work which is computer-generated, the author shall be taken to be the person by whom the arrangements necessary for the creation of the work are undertaken." Additionally, Section 178 of this law acknowledges copyright protection for computer-generated works, provided there is no identifiable human author.

According to the current provisions, CDPA 1988 grants copyright protection to AI-generated works, but ownership cannot be attributed to the AI itself. Instead, the copyright belongs to the individual or entity that made the necessary arrangements for AI to generate the work. In a 2021 consultation, the UK Intellectual Property Office (UKIPO) concluded that the existing legal framework is sufficiently flexible to address copyright issues related to AI without requiring

legislative amendments. The UK government has also emphasized its commitment to promoting AI development to maintain its leadership in this field.

US Copyright Law Unlike the UK, the United States does not currently recognize copyright protection for AI-generated works, even if human involvement is present. According to the United States Copyright Office (USCO), copyright protection is only granted to works that involve human creativity. In its Guidance on Registering Copyright for Works Containing AI-Generated Content, the USCO emphasizes that works created entirely by machines or through automated processes without meaningful human intervention are not eligible for copyright protection.

When evaluating copyright registration for works involving AI, the USCO assesses the extent of human creative control in the creation process. Specifically, it considers:

- Whether AI merely serves as a tool to assist human creativity or whether it independently generates content without significant human intervention.
- Whether the work is merely a mechanical reproduction produced by AI.

A notable example is Midjourney, an AI-powered tool that generates images, music, and text based on simple prompts. According to the USCO, users do not have complete control over how the AI interprets prompts and generates content. Therefore, they cannot be considered legal authors under US copyright law.

Conclusion

- The United Kingdom recognizes copyright protection for AI-generated works, but the copyright owner is the person or entity that made the necessary arrangements for AI to create the work.
- The United States does not grant copyright protection to AI-generated works unless they involve significant human creativity.
- International agreements such as TRIPS and the Berne Convention currently lack explicit provisions on AI-generated content, leading to inconsistencies in copyright law across different jurisdictions.