

NAVIGATING INTELLECTUAL PROPERTY CHALLENGES IN AN ERA OF ARTIFICIAL INTELLIGENCE GENERATED CONTENT





INTRODUCTION

In an era of rapid technological advancement, artificial intelligence (AI) has permeated nearly every aspect of human life, fundamentally altering the way creative works are produced. AI's role in content creation has given rise to significant legal concerns, particularly in the realm of intellectual property (IP) law. Copyright law, which is traditionally designed to protect the rights of human creators, faces new challenges in determining how to apply its principles to AI-generated or AI-assisted works. Key questions arise, such as: Who owns AI-assisted works? Can AI-generated content be considered original enough to warrant copyright protection? This article explores these issues and examines how different jurisdictions are addressing the complexities of AI in intellectual property law.

Who Owns AI-Generated or Assisted Works?

In the United States, the Copyright Office issued guidance in March 2023 affirming that copyright protection is reserved exclusively for content produced through human creativity. The term "author" explicitly excludes non-human entities, a position reinforced in previous cases, such as the well-known "monkey selfie" did case, where a photograph taken by a non-human was deemed ineligible for copyright protection due to the absence of human authorship. According to the U.S. Copyright Office guidance², when AI autonomously generates an image (or other complex work) based on a human prompt, the technology—not the human user—is responsible for the creative process, rendering the output ineligible for copyright protection. However, if a work contains AI-generated material but includes substantial human input, then the work may be eligible for copyright protection. The threshold for "sufficient" human involvement remains a grey area and is currently evaluated on a case-by-case basis.

The European Union takes a similar stance but with a structured framework. The European Commission has established criteria under EU law requiring that, to qualify as a "work," the output must belong to the literary, scientific, or artistic domain, be the result of the author's intellectual efforts, and display originality. The EU attributes authorship of AI-assisted works to the individuals who make creative choices, provided that the output qualifies as a copyrightable "work." However, the increasing reliance on AI in content generation has blurred the lines between human and machine authorship, complicating the assessment of originality and ownership.

In Nigeria, the Copyright Act of 2022 does not explicitly address ownership of AI-generated works. The Act defines copyrightable works—such as literary, audiovisual, sound recordings, broadcasts, musical, and artistic works—as "original creations of the author's intellect," implying that copyright protection is tied to human creativity. Since AI lacks human qualities and legal personality, it cannot hold proprietary rights. Under the current legal framework, AI-generated works may not qualify for copyright protection in Nigeria unless substantial human effort is demonstrably involved in the creative process. This highlights a significant gap in Nigerian IP law that may need to be addressed to accommodate AI-related developments.

¹ *Naruto v. Slater*, No. 16-15469 (9th Cir. 2018)

² [ai_policy_guidance.pdf](#)

Copyright Issues Around Training Data

Beyond the copyrightability of AI-generated works, another major issue involves the data used to train AI models. AI tools rely on vast amounts of training data, much of which consists of copyrighted materials. In recent years, lawsuits have emerged as individuals and organizations challenge AI companies over the use of copyrighted works in training datasets. The New York Times sued OpenAI and Microsoft in 2023, and Getty Images took legal action against Stability AI over the unauthorized use of its images for AI training. Similarly, in November 2024, five of Canada's largest news companies filed a joint lawsuit against OpenAI. In response, AI companies have invoked the "fair use" doctrine as a defense, though the application of fair use in this context remains a contentious legal debate.

In December 2023, the European Parliament reached a provisional agreement on the AI Act, which mandates transparency in AI training data. Under this legislation, providers of general-purpose AI models must "draw up and make publicly available a sufficiently detailed summary about the content used for training." This provision applies to all training data, regardless of copyright status, and allows copyright holders to exercise their rights to opt out of data mining. Once an opt-out has been explicitly reserved, AI developers must obtain authorization from rights holders before using copyrighted works for AI training.

Legislative Developments Addressing AI and IP

Globally, legislative efforts are underway to address AI-related IP challenges. The European Artificial Intelligence Act (EU AI Act), which came into force in August 2024, aims to promote responsible AI development and includes provisions for mandatory transparency in training data. The Act requires AI developers to disclose a sufficiently detailed summary of the copyrighted content used in training their models. In Australia, Attorney-General Mark Dreyfus announced in December 2023 the formation of a Copyright and AI Reference Group to tackle emerging copyright challenges posed by AI, including transparency regarding inputs and outputs of AI-generated content.

As global IP frameworks evolve to address AI's role in content creation, Nigeria may need to consider similar amendments to its legal framework. Amending copyright laws to provide legal recognition and protection for certain AI-generated works could help balance innovation with creator rights. Addressing cases where a work is generated with minimal human involvement while still ensuring sufficient human contribution remains a critical consideration for future legislative efforts.

Conclusion

The intersection of AI and intellectual property presents complex legal and ethical challenges, particularly concerning ownership, originality, and copyrightability. Jurisdictions worldwide are grappling with the implications of AI-generated content, leading to evolving legal frameworks aimed at balancing innovation and protection for creators. While the United States and the European Union have taken steps to define the parameters of AI-assisted authorship and training data transparency, Nigeria's copyright law remains largely silent on these issues. With AI's increasing influence in the creative industries, there is an urgent need for Nigerian policymakers to consider regulatory updates that clarify ownership rights and copyright protection for AI-generated works. By doing so, Nigeria can foster an environment that encourages technological advancement while safeguarding the rights of human creators. As AI continues to reshape content creation, legal frameworks must evolve to provide clarity and certainty in an increasingly AI-driven world.

For more information or query on the above article, do not hesitate to contact us @ woye.famojuro@famsvillelaw.com.

Authors



Woye Famojuro

Partner

woye.famojuro@famsvillelaw.com



Uzochukwu Kpaduwa

Associate

Uzochukwu.kpaduwa@famsvillelaw.com



 info@famsvillelaw.com

 www.famsvillelaw.com

 +234 (0) 90 68909 300