Copyright and AI-Generated Content: A Comparative Analysis of Legal Perspectives in China and the United States

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Abstract: In the modern artificial technology era, Copyright law plays an important role in giving protection to the original work of the authors, shaping the creation and distribution of intellectual works. It is the type of intellectual property, which works as a shield for the creative work. As the technologies evolve, protection to such works has become difficult because of the involvement of Artificial intelligence generated work. Content has been created in bulk, and it is difficult for the traditional copyright law to identify who is the original owner of the work. The current laws of copyright also lack provisions for the identification of the work generated by AI. This study has been conducted using qualitative analysis to find out the answers to such questions and challenges. A comparative analysis of the China and USA judgments has been made in it. The study has highlighted the major similarities and differences in these two different cases and has also shown that how it will impact the AI industry. Policy recommendations have been given, to address the challenge of AI-generated content and copyright protection to it.

Keywords: Copyright, Artificial Intelligence, AI images, Generative AI, Intellectual Property Rights

1. Introduction

A legal notion known as copyright gives authors and artists ownership rights to their creative works. A wide range of works are covered by copyright protection i.e. computer programs, dramas, poems, novels, artistic expressions, paintings, drawings, movies, music, choreography, as well as other literary works (Negi Advocate, 2023). Copyright is the protective shield for creative work. It is one of the types of intellectual property that gives the exclusive right to the original creator of the work to decide who can use the work and how. In today's digital era, copyright law has an important role in shaping the creation and circulation of artistic and intellectual works, including AI-generated content. As technology marches forward, protecting intellectual property becomes increasingly complex. AI-generated content raises questions regarding protection and ownership in this digital era (Ngige, 2021). Traditionally, Copyright law gives the creators exclusive rights to their works, and now extends its purview to the AI-generated content. This new digital era has produced the challenge of the unauthorized creation and distribution, necessitating a delicate balance between protection and innovation. Legal frameworks are trying to deal with this by permitting limited use of copyright material. Emerging technologies are reshaping the content creation and consumption. For the effective use of AI-generated content, the establishment of robust copyright provisions and licensing legal framework is essential. It will not only help in understanding the copyright issue for such content but will also safeguard the rights of the creator and copyright holders (Khan, 2024).

1.2 Problem Statement

The rapid increase in AI-generated content is due to the advancement of AI technologies, raising the issues of ownership, copyright law, and authorship. The lack of clarity and uniform legislation for the copyright law to deal with AI-generated content has resulted in conflicting judgments. This study will address the how difference jurisdictions around the world addressed this issue.

1.3 Research Objectives

a) To find out the legal opinion of the different jurisdictions on AI-generated content
b) To highlight the similarities and differences in their judgment regarding the issue of Copyright for AI-generated content
c) To find out the impact of these cases on the AI industry.
d) To offer policy recommendations for upcoming research, and aims to establish coherent, equitable, and future-oriented copyright frameworks for AI-generated content.

1.4 Research Question

a) What is AI-generated Images?
b) What are the most post popular AI image generators in the world?
c) What is the legal view of China and the United States of America on the issue of copyright for AI-generated content, and how do these legal views affect the AI industry?

2. Research Methodology

This study employs a qualitative research methodology to investigate the landscape of copyright law regarding AI-generated images, with a particular focus on a comparative analysis between the United States and China cases. Through an extensive literature review, this research synthesizes copyright jurisprudence alongside contemporary advancements in artificial intelligence technologies. A Comparative analysis of the different judicial decisions has been made in it. This research has found the similarities, differences, and impact of these precedents on copyright law in the era of AI.

2.1 Significance of the Study

This study is important, as it will provide valuable insight into policy and legal recommendations for shaping copyright law. It will also help laws regarding copyright to become more effective and coherent. This study will show the implication of the judicial decisions of different jurisdictions on the Copyright law and AI industry.

3. Literature Review

A heated debate has arisen between research scholars and the legal authorities regarding the intersection of Copyright law and AI-generated content (Ginsburg, 2019). With artificial intelligence growing rapidly, an important question will be entitled to the claim of copyright regarding the work generated by the AI. The copyright office has explicit standards, in order to grant a work copyright protection it should have human involvement (U.S. Copyright Office, 2019) Although China's view on such issues is broader, it has granted copyright protection to the work generated by AI systems under some conditions (China Copyright Law, 2020). Some research scholars have presented their criticism of the United States view for the content generated by AI and the issue of the copyrights for it that it is too narrow and have stated that it has ignored the creative work generated by AI systems (Kurzer, 2020). Some research scholars have argued that giving copyright protection to such AI-generated work can inhibit creativity and innovation (Reilly, 2019). In China, it has been seen as a method to give encouragement to entrepreneurship and innovation (Liu, 2020). A Comparative examination of these two jurisdictions reveals significant differences in approach and philosophy (Li, 2019).

3.1 Copyright

Copyright is a kind of intellectual property that gives protection to the original work of the author. It give the authors exclusive rights and control over the reproduction, use, and distribution of their original works (U.S. Copyright Office, n.d.).

3.1.1 United States Copyright Law
Copyright Law in the United States is governed the title 17 of the U.S code. The Copyright Act of 1976 provides the basic framework for the current copyright law (U.S. Copyright Office, n.d.).

3.1.2 China Copyright Law
Copyright Law in the China is governed by the Copyright Law of the People's Republic of China". This law give protection to the authors for their artistic, literary, and scientific works (Copyright Law of the People's Republic of China, 2020)

3.2 AI-Generated Images
AI is a computer system that can think and make decisions like humans. It learns by looking at lots of data and finding patterns. AI combines powerful hardware and software to solve problems that are too hard or impossible for humans to do alone. This includes finding patterns in huge amounts of datasets, which is like trying to find a needle in a haystack (Khan, 2024). AI can create images on its own, without any human input. These AI-generated images can look realistic and abstract and convey specific ideas or images. AI Uses special computer networks called generative Adversarial networks (GANS) to create these images. GANS are like power computer brains that learn from real-world images, lighting, and textures. These systems have many layers of artificial neurons that look at lots of images, lighting, and textures to learn how to create new images. GANS was first introduced in 2014 by Lan Goodfellow and colleagues. It works like a game between two players i.e. Generator and Discriminator. The first one creates new images and the second checks that images are real (Zakir, 2024).

3.3 Popular AI Image Generators
There is a powerful AI tool called DALL-E2, which stands out as a prominent AI image generator developed by Open AI. It can create amazing images. It is an upgrade from the original DALL-E and is great for making designs and illustrations. What is special about DALL-E2 is that it is easy to use, even if you are not an artist or tech expert. Right now, only a selected group of people uses DALL-E2 like artists, content creators, and AU developers but hopefully, it will be available to everyone soon (Khan, 2023).
Google Deep Dream Generator is a tool that can create very realistic images. It uses a special kind of computer brain called a Neural Network that has learned from millions of images. You can use it by uploading a picture and it will create new images based on that picture. Deep Dream is great for making artistic images that as they were painted in different styles like Renaissance or Cubism (Zakir, Khan, 2023).
Anonymizer is a tool that helps protect your identity from facial recognition software. It uses a special kind of computer called a generative adversarial network to create new images. This brain has two parts: one that creates images, and another that checks if they look real. This helps make sure the final image looks authentic. Deep AI is a free and open-source tool that makes it easy for anyone to generate images using AI.

3.4 Ownership of Copyright in AI-Generated Images
AI-generated images can use parts of other people's work like photos without permission. This raises the question of who owns the right to these new images and whether it's fair to use other's work to train AI. Some big photo agencies won't accept AI-made images because of these copyright issues. Figuring out who owns the right to AI-made images is complicated it could be the person who made AI, the person who trained it, or the person who asked for the image. Each country has its own rules about AI image ownership, so it's important for people making or using these images to understand laws, get permission when needed, and follow the rules.

4. Comparative Analysis of China and the United States of America's Judgments
4.1 Chinese Case: Mr. Li Vs Mr. Liu
4.1.1 Facts of the Chinese Case
Mr. Li on 24 February 2023 employed an open software stable diffusion and gave prompt words as input to generate an AI picture. The AI picture was generated and he then shared the picture under the title "Spring breeze brings tenderness" on Xiaohongshu. The defendant named Liu on March 2, 2023, published an article on Baijiahao which is a content creation website owned by Chinese Tech gain Baidu. The title was "Love in March, in the Peach Blossom". In the article, the AI-generated picture originally posted by Li was added (Teon, 2023). Liu used the picture without permission from Li, and the original signature watermark was also removed. When Mr.Li found out

about this unauthorized use, he then filed a suit against Liu and sought redress through an apology and compensation of 5,000 yuan for the violation of his intellectual property rights (Hou Tian, 2023),

4.1.2 The Law Involved in the Case
The Internet Court of Beijing mentioned Article 3 of the Copyright Law of PRC, which defined the term "works as Intellectual Achievements in the area such as literature, arts, and science, that have originality, which can be fixed in certain forms".

4.1.3 Text of the Copyright Law of Chine-Article 3
"The term "works" includes works of literature, art, natural science, social science, engineering technology, and the like which are expressed in the following forms: written works, oral works, musical, dramatic, quyi', choreographic and acrobatic works, works of fine art and architecture, photographic works, cinematographic works and works created by virtue of an analogous method of film production, drawings of engineering designs, and product designs; maps, sketches and other graphic works and model works, computer software, other works as provided for in laws and administrative regulations" (National People's Congress, 2010).

4.1.4 Legal Standpoint of Plaintiff and Defendant
In the proceeding, the plaintiff (Li) argued that the defendant (Liu) used the images of the plaintiff without his permission, and intentionally removed the signature watermark from the images. Due to this act, there has been a misconception among the users regarding the authorship and falsely attributed to the defendant. The right to signature and information network dissemination of the plaintiff has been violated. Due to these violations, the plaintiff seeks compensation for economic loss of 5,000 yuan and an apology from the defendant (Cai, X, 2023).
The defendant Ms Liu contested the case and argued that she sourced the picture to complement her original poetry work from the internet. However, the defendant was unable to give information regarding the picture's origin and clarification regarding the absence of watermarks. It created doubts regarding the plaintiff's rights to original pictures. She emphasized that her work lacked any commercial purpose and her content comprised original poems and articles, and not contested procedure. She further argued that she didn't intend intentional violation. She objected to the plaintiff's economic compensation as excessively high and expressed willingness to apologize if the court finds infringement of the plaintiff's rights (Cai, X, 2023).

4.2 Analysis of the Court Finding on the Issues
4.2.1 Creative Work
To determine whether the item for which the plaintiff is claiming copyright is a work, the following factors must be taken into consideration:
- Does it belong in the literary, artistic, or scientific domain, whether it is original?
- Is it a particular form of expression?
- Is it a work of intellectual achievement?

The Beijing Internet Court maintained Article 3 of the Copyright Law of the People's Republic of China, *"The works referred to in this Law refer to works that are original in the fields of literature, art, and science and can be expressed in a certain form, and whether it is an Intellectual achievement."* (National Peoples Congress, 2010) looking at the relevant photographs in this case, they look a lot like the usual pictures and paintings that are usually shown. These pictures, which meet the requirements of points 1 and 3 clearly demonstrate a particular mode of expression and belong in the category of art (Cai, X, 2023).

4.2.2 Intellectual Achievements
Intellectual achievement in the legal sense refers to the tangible results of the intellectual work. in this sense, it draws attention to unique intellectual contributions. Using the stable diffusion model the plaintiff imaginatively created a close-up of stunning women, adding particular details like hyper-realistic photos and colour accents. The court recognized the careful evaluation of components including setting, style, and character details. The plaintiff's intellectual labor in terms of prompt word selection, sequence organization, parameter configuration, and final image selection satisfies the legal requirements for intellectual achievements (Cai, X, 2023).

4.2.3 Copyright Ruling and Authorship Determination

The court acknowledged the increased capabilities of smartphone camera features while handling copyright issues about cutting-edge technologies like artificial intelligence. It was reaffirmed that smartphone images are copyright-protected photographic works since they showcase the photo graphic's original creative investment. The decision demonstrated the court's adherence to copyright laws and encouraged creative expression despite advances in technology. The plaintiff was directly involved in configuring the AI model and choosing the images, hence the court particularly decided in favor of the plaintiff's copyright ownership. The images were recognized by the court as the result of the plaintiff's creative effort an individual expression (Teon, A, 2023).

In addition, the court stressed the importance of good faith and the public's right to know while upholding the plaintiff's copyright. It was advised that in order to raise awareness and encourage compliance with copyright laws, the plaintiff should clearly identify the artificial intelligence model or technology that was employed.

4.3 Analysis of Implications for Copyright Law and Stakeholders
4.3.1 Identification of Copyrights for AI-Generated Images
AI-generated images are categorically recognized by the court's decision as creative works that are entitled to copyright protection. This establishes a standard that recognizes how artistic expression via cutting-edge technologies is always changing.

4.3.2 Obligation on Content Creators
The court's recommendation to clearly mark the use of AI technology is highly significant. It emphasizes how content producers must continue to act in good faith, raising public awareness and upholding copyright laws. Stakeholders can use this as guidance when navigating the relationship between AI and creative expression.

4.3.3 Meaning of the Intellectual Achievement
Clarity on the requirements for qualifying creative works in the digital age is provided by the court's emphasis on intellectual achievements. Creating AI-generated content, it emphasizes the value of individual intellectual contributions and sets the standard for similar scenarios in the future.

4.3.4 Boosting Technology's Copyright Protection
The ruling upholds the robustness of copyright defense, notwithstanding the swift advancements of technological innovations. The court confirms the continued relevance and applicability of copyright law in the digital age by preserving the plaintiff's rights to AI-generated images.

4.3.5 Establishing guidelines for Upcoming Cases
This decision is a landmark case, and sets a standard for similar cases involving AI-generated content in the future. Thus decision can be used by courts and interested parties to remove the difficulties in establishing authorship, ownership, and the implementation of copyright law in the rapidly changing technology environment.

4.4 American judgment
4.4.1 Facts of the American Case: Stephen Thaler VS Shira Perl Mutter
The plaintiff created computer programs with the capability to produce unique visual artwork, one of which was the Creativity Machine. Produced independently, the artificial intelligence system produced the work of art entitled "A Recent Entrance to Paradise." The plaintiff, who claimed copyright registration for the AI-generated work, falsely identified himself as the claimant and claimed that the work was produced as a commission for the proprietor of the Creativity Machine. The application was rejected by the defendant (Copyright Office) by giving the reason that it does not possess human authorship, which is the main prerequisite for copyright protection. The plaintiff then for reconsideration of this matter filed a petition to acknowledge AI as an author, and the copyright should be given to the AI proprietor. However, the petition meet with the same fate, and the copyright maintained its verdict that the work of non-human entities are not entitled for copyright protection. He then filed a judicial review against the verdict, arguing infringements of the APA and contending that the denial of copyright registration was capricious, arbitrary, and unlawful (Thaler vs. Permutter, 2023).

4.4.2 The Bone of Contention
The main bone of content in the case pertains to a piece of work that is generated by AI system and its copyright

validity

4.4.2.1 Key Grounds for the Decision
a) APA Compliance: The plaintiff's motion to include additional information that was incongruent with the administrative record was denied.
b) Plaintiff's Initial Representations: The documentation suggests that no human was present during the creation of the AI-generated work.
c) Reliance on Ownership Theories: Irrelevant Theories pertaining to ownership, such as work-for-hire, are rendered irrelevant in the absence of a valid copyright.
d) In the absence of human intervention, the work failed to establish a valid copyright at the time of its creation.
e) Requirement for Human Authorship: The Copyright Act implicitly mandates human participation in the authorship process.
f) Human Authorship Is Critical: Copyright protection is restricted to works that were created by humans.
g) Author Definition: An author is the root of an intellectual or creative work, which is inherently of the human species.
h) AI Difficulties: Recognizes the difficulties associated with establishing authorship and originality using AI in creative pursuits.

4.5   An Examination of the Decision
4.5.1 Administrative Documentation and APA Conformity
The significance of complying with the Administrative Procedure Act (APA) is emphasized by the court. Judicial review, according to this view, ought to be limited to the administrative records that were accessible throughout the decision-making process. Contrary to initial assertions, the plaintiff's attempt to introduce new information is considered untimely and in violation of the APA.

4.5.2 Primarily, the Plaintiff's Representations
Upon reviewing the administrative record, the court observes that the plaintiff consistently depicted the work as having been produced autonomously by a machine, without any human intervention. Any effort to alter or revise the facts in preparation for judicial review in a manner that contradicts the established record is disallowed. The fundamental inquiry continues to be whether a piece of work produced independently by a computer system is eligible for copyright protection; the Register's answer is an unequivocal "No" on account of the lack of human intervention.

4.5.3 Copyright Validity at the Time of Creation
The court affirms the central inquiry concerning autonomous computer-generated works and concurs with the Register's determination that the plaintiff's record does not support the claim that the work immediately established a valid copyright. Although copyright protection is granted instantaneously upon creation under the Copyright Act of 1976, registration is not a prerequisite for copyright existence. However, registration offers several benefits, including the capacity to litigate allegations of infringement in a court of law. Copyright protection is declared "immediately" conferred by the Copyright Act of 1976 (United States Copyright Office, December 2022) for "original works of authorship fixed in any tangible medium of expression," on the condition that said works satisfy certain criteria (Fourth Estate v. Public Benefit Corporation, 2019). Although registration with the Register of Copyrights is possible for a copyright claimant, it is not a mandatory requirement for copyright ownership. The issuance of a certificate of registration by the Register serves to validate the existing copyright and confers several benefits, such as the capacity to litigate infringement allegations in a court of law (Unicolors, Inc. v. H&M, 2022).

4.5.4 Theories of Copyright Transfer and Ownership
Since no legitimate copyright existed at the time of creation, the court rejected the plaintiff's claims regarding copyright ownership. For common law doctrines and work-for-hire provisions to apply, a valid copyright is required; however, none exists in this instance. The court underscores the impracticability of classifying the work as "work-for-hire," as such definitions inherently pertain to human beings and are therefore irrelevant to non-human systems. The court undermines the plaintiff's claim that the Copyright Act does not provide a defined definition of the term "author" by emphasizing the significance of human authorship in copyright law.

4.5.5 Determining the Author
The court has given the definition of the author, which is the main issue of the case, "an individual or entity that is the originator of an artistic or intellectual creation". It highlight that copyright work must be the product of the human who has the ability to engage in intellectual, creative, or artistic labor.

4.5.6 Requirement for Human Authorship in the Copyright Act
The court determines that the creator of the work must have the ability to engage in intellectual, creative, or artistic labor in order to claim copyright protection under the Copyright Act of 1976. The human involvement in a work is mandatory. Copyright Law are not designed to protect the work, which is created/generated by non-human entities.

4.5.7 The Non-Applicability of Legal Doctrines to Work Generated by Computers
The main legal complexity and the central issue, which the plaintiff introduces by describing the common law property principles and the work-for-hire doctrine. It is contended that copyright should be transferred to the plaintiff for a work generated by AI. The applicability of this doctrine was challenged that it does not apply to non-human systems or work generated by AI. The court contends that the plaintiff failed to establish a legitimate copyright, and in the absence of a valid copyright, this doctrine pertaining to ownership is irrelevant. This analysis underscores the court's position regarding the non-applicability of legal doctrines to computer-generated works devoid of human intervention, with particular emphasis on the work-for-hire doctrine. The refusal to register a copyright further supports the contention that assertions of ownership are precocious in the absence of a legitimate copyright.

4.6 Impact/ Consequence of this Judgment
4.6.1 Setting a Precedent
This judgment has established a legal precedent regarding copyright protection for AI generated works. This case could serve as a guideline for the upcoming cases.

4.6.2 Human Authorship
The United States copyright law states that copyright protection is granted to work created by human-made works and the same is maintained in this decision, which has now become a precedent. The humans have an interest in copyright.

4.6.3 Restrictions Regarding AI-Generated Works
The human involvement in a work and its originality has been discussed and maintained, and it has imposed restriction on the works produced by AI without human involvement.

4.6.4 Effects on the Registration of Copyright
It is impossible to ignore the possible effect of the Copyright Office's future attitude towards similar cases if the copyright registration for a work done without human assistance is denied. Copyright protection can be denied if the work have not meet with requirement set by the law, which is human authorship.

4.6.5 Soliciting Policy Deliberations
The court identification of new area sparks discussion about how IP law might be amendment or modified to keep up with technological innovations. It could encourage policy maker, businessperson, research scholars to take part in the discussion related to the intersection of AI and copyright

4.6.6 Implications for AI Industry Procedures
This decision might influence content creators, developers, and business practices to think about the legal implications for work AI-generated work. It might lead to the development of guidelines regarding the use of AI in creative fields

4.7 Similarities and Contrasts Views in the China and USA Judgment
4.7.1 Similarities
The main cause of disagreement in both judgments is regarding the copyright of work by artificial intelligence systems. The work created by AI is eligible for copyright protection, this was the main question in both cases. In both

cases, the defendants without prior authorization or proper permission from the copyright owners used the AI-generated work. This use of AI-generated work is the main leading factor in legal disputes. The courts also discussed human involvement in AI-generated work. In both cases, it was discussed whether the absence of direct human involvement should preclude copyright protection. Both courts recognize the role of AI as a tool in the creative process. The court acknowledges the impact and challenge of AI-generated content on traditional copyright principles.

4.7.2 Differences

One of the main differences is the legal system governing each case. The case of USA involves the interpretation of its copyright law under the United States Legal, and the Chinese case operates within its legal framework. This difference in legal system and interpretation contributes to different outcomes. The U.S. case rejected the idea that AI can be considered as an author, the court asserts that copyright is only for the works whether there is human involvement. While the Chinese court recognized the AI-generated work as a creative work and is eligible for copyright protection. The U.S. case limited copyright protection to work with human involvement, it will have an impact on the AI industry. It has provided guideline on how to assess copyright eligibility for AI work, and emphasized on the importance of human authorship. However, the Chinese case give recognition to AI-generated images as a creative work.

5. Recommendations

a) The conflicting views of China and the USA courts have highlighted the need for international harmony for copyright law in the context of AI-generated content. In AI era, the government and International bodies should set together and draw clear guideline for the protection of Copyrights in the digital world.

b) The issue of authorship and ownership should be addressed on urgent basis, and it can be done only by amending the copyright laws. This should include and introduce a new definition of authorship in the context of AI.

c) A flexible approach should be adopted by the copyright to ensure the fair compensation and fair use for creator and encourage the development of AI content.

d) A clear guideline should be released by the courts, and the regulatory bodies for determination of copyright protection for AI content. It should include factors such creative contribution of AI, the level of human involvement, and the purpose of the work. It will help in the identification of the author for the content.

e) Investment should be made in education and research to understand the impact of AI on copyright protection and the industries.

f) International-level dialogue and discussion should be because of the conflicting views of both jurisdictions.

g) The role of AI-generated content should be disclosed in the creative development and process. It will be help in transparency and accountability.

5.1 Conclusion

This comparative study of court judgments of the USA and China showed major differences in the approach to copyright protection for the content generated by AI technologies. Chinese court, whose has adopted a wider approach, gives right to the AI-generated content. The USA has adopted a narrow approach and refused copyright protection to such content. The need for international harmonization, a balanced approach to increase creativity and innovation, and clarification of the concepts of authorship and ownership for AI-generated content is highlighted by this study.

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