

**ARTIFICIAL INTELLIGENCE LAW. HOW DO YOU PERCEIVE
IT? HOW (OR WHETHER) SHOULD WORKS GENERATED BY AI
PROTECTED?**

Rukhshona Sobirova

Tashkent State University of Law

A third-year student of

The Faculty of Business Law and Judicial Protection

ruxshonasobirova139@gmail.com

Abstract. *This article examines the profound challenges posed by generative Artificial Intelligence (AI) to traditional intellectual property systems, focusing on copyright protection for AI-generated works. As AI systems evolve from basic computational tools to autonomous creators of text, imagery, and music, the core anthropocentric doctrines of copyright—specifically human authorship and originality—are placed under unprecedented strain. Through a comparative analysis of legislative frameworks and judicial approaches in the United States, the European Union, and the United Kingdom, including a detailed evaluation of the seminal case *Thaler v. Perlmutter* (2023), this paper explores the competing legal models of AI-work ownership: user ownership, developer ownership, and the public domain. The author argues that existing copyright regimes cannot adequately resolve these ambiguities through minor doctrinal adaptations. Ultimately, this paper proposes the establishment of a statutory "human creative contribution" test as a primary standard for protectability, alongside recommendations for training-data transparency, fair remuneration for creators, and international legislative harmonization.*

Keywords: *Artificial Intelligence (AI), Generative AI, Copyright Law, Intellectual Property, Human Authorship, Originality, Ownership Models, Legal Reform, *Thaler v. Perlmutter*, Public Domain.*

Introduction. Artificial Intelligence (AI) is no longer a purely theoretical concept; it has become an integral practical tool embedded across creative industries, communication, and content production. Generative AI systems such as ChatGPT, Midjourney, Stable Diffusion and others are now capable of producing texts, images, and music of a quality that closely resembles human authorship. This rapid technological evolution poses a profound challenge to intellectual property (IP) law, and to copyright law in particular. For centuries, copyright has rested upon a foundational assumption: that creative works must originate from a human author. As AI systems increasingly generate complex content autonomously, or with only minimal human direction, this assumption is being tested in ways that legislators never anticipated. Legal scholars and courts are now confronted with a set of difficult questions: Can a machine be regarded as an author? Who holds ownership over an AI-generated work? And ought such outputs to attract copyright protection at all? At present, legal systems across the world are struggling to keep pace with these developments. In major jurisdictions — including the United States, the European Union, and the United Kingdom — human authorship remains an essential prerequisite for copyright protection. Yet generative AI continues to blur the boundary between human creativity and automated production, rendering the application of traditional legal tests increasingly uncertain.

This article examines the legal status of AI-generated works within copyright law, with particular focus on the questions of authorship, ownership, and protectability. Through an analysis of existing legislative frameworks and recent judicial decisions in the US, the UK, and the EU, this paper explores how different jurisdictions are responding to this challenge, critically evaluating the arguments

for and against protecting AI-generated outputs, and considering potential directions for reform. It is ultimately argued that existing copyright frameworks were not designed to accommodate AI-generated content, and that the resulting legal uncertainty cannot be resolved through minor doctrinal adjustments alone. Rather, meaningful progress requires either a fundamental rethinking of how existing copyright principles apply to AI-generated content, or the creation of an entirely new legal framework designed specifically to address the realities of AI-assisted creation.

Legal framework of copyright law. Copyright law is a core branch of intellectual property law designed to protect original literary, artistic, musical, and audiovisual creations. Its primary purpose is to encourage creativity by granting authors exclusive rights over their works for a limited period. However, across nearly all major legal systems, one fundamental rule remains constant: copyright protection is reserved exclusively for works created by a human being.

In all major copyright regimes, human creativity is an essential prerequisite for legal protection. The concept of “authorship” has consistently been understood as referring to a natural person who exercises independent intellectual judgment in the creation of a work. Under the U.S. Copyright Act, protection extends only to “original works of authorship fixed in any tangible medium of expression.”¹ Although the statute does not explicitly define “author,” U.S. courts and the Copyright Office have long interpreted this term as requiring a human creator. The European Union takes a comparable approach. Under the InfoSoc Directive, protection is built around “the author’s own intellectual creation.” The Court of Justice of the European Union (CJEU) has consistently held that a work is original

only where it reflects the author's personal expression — a standard that inherently excludes non-human entities. The United Kingdom, however, adopts a notably different position. Section 9(3) of the Copyright, Designs and Patents Act 1988 (CDPA) provides that where a work is computer-generated, the author is deemed to be the person “by whom the arrangements necessary for the creation of the work are undertaken.” This provision represents an early legislative attempt to vest copyright in a human intermediary even where the substantive creative output is produced by a machine.

Alongside authorship, originality serves as the second fundamental requirement for copyright protection. In this context, originality does not demand absolute novelty; it requires only that the work results from the independent intellectual effort of its creator. Within the EU, this standard was established in *Infopaq International A/S v Danske Dagblades Forening* [2009], where the CJEU held that a work is original only if it constitutes the “author’s own intellectual creation.” In the United States, the Supreme Court reached a similar conclusion in *Feist Publications, Inc. v. Rural Telephone Service Co.* [1991], holding that originality requires both independent creation and a minimal degree of creativity. Taken together, these principles confirm that copyright law is fundamentally anthropocentric — constructed to protect human creative effort, not automated machine output.

The emergence of generative AI places these established principles under considerable strain. Modern AI systems are capable of producing complex creative outputs without direct, step-by-step human control. Although a user may provide an initial prompt, the final expression is generated through computational

processes that the user neither directs nor fully anticipates. This creates a significant interpretive difficulty. Where originality is defined by reference to human intellectual effort, content generated semi-autonomously by an AI system may fail to satisfy the requirements for copyright protection entirely. Existing legal frameworks are therefore faced with a difficult choice: either stretch traditional doctrines to accommodate AI-assisted works, or leave such outputs wholly unprotected.

Ownership of AI-generated works. Even where artificial intelligence cannot be legally recognised as an author, a fundamental practical question remains: who should own the rights to AI-generated works? As AI systems grow increasingly capable of producing commercially valuable creative content, the question of ownership has become one of the most contested issues in contemporary copyright law. No universal legal answer currently exists. Instead, three competing models have emerged in legal scholarship and policy debate, each carrying distinct advantages and limitations.

Under the user ownership model, the individual who provides instructions or creative prompts to an AI system would be recognised as the legal owner of the resulting work. Proponents argue that users frequently invest considerable time and creative judgment — crafting detailed prompts, selecting among multiple outputs, and refining the final result. A professional designer who generates hundreds of images before selecting and modifying one for a commercial campaign is, on this view, exercising genuine creative decision-making that warrants legal recognition. This model would also encourage wider adoption of AI tools by ensuring that individuals and businesses retain control over the works they help produce.

However, its central weakness lies in the risk of over-protection. A brief, generic prompt such as “paint a landscape in the style of Van Gogh” demands minimal intellectual effort. Granting copyright on that basis alone would effectively award exclusive rights over works that are, in substance, machine-generated — undermining the originality requirement that copyright law is built upon.

An alternative approach would vest ownership in the developers or companies responsible for building the AI systems. Since AI outputs are the product of highly complex software developed through substantial investment and technical expertise, it could be argued that developers bear the closest relationship to the creative process. Recognising their ownership would, in theory, provide financial incentives to continue advancing AI technology. Nevertheless, this model raises serious concerns. Concentrating intellectual property rights in the hands of a small number of large technology companies would risk creating monopolistic control over AI-generated content, restricting public access and stifling competition. Moreover, developers play no direct role in generating any specific output — their contribution lies in building the system, not in directing its individual productions. This makes it difficult to justify their recognition as authors under any conventional understanding of copyright.

A third position holds that AI-generated works should attract no copyright protection whatsoever and should pass directly into the public domain. Since copyright exists to reward human creative effort, and AI systems possess neither consciousness nor creative intention, their outputs arguably fall outside the proper scope of protection. This approach would enable the free use, reproduction, and adaptation of AI-generated content by anyone, promoting open access and

reducing the scope for litigation. The principal objection is economic. Without any prospect of legal protection, businesses may have diminished incentive to invest in AI-driven creative projects, potentially slowing innovation across a range of industries.

Of the three models, the user ownership approach offers the most defensible balance — provided that a meaningful threshold of human contribution is required. Protection ought not to follow from the mere act of submitting a prompt; rather, it should depend on whether the user exercised substantial and demonstrable creative control over the final output, through the specificity of direction, the selection process, or subsequent editing. This approach preserves the core principle that copyright rewards human intellectual effort, while acknowledging that AI tools have become a legitimate part of the modern creative process. It also avoids the concentration of rights that the developer model risks, and the loss of incentive that the public domain model may produce. The critical task for legislators, therefore, is not to reconceive AI as a legal author, but to establish a clear and workable standard for the degree of human involvement necessary to ground a valid claim to ownership.

Case law and judicial responses. The legal questions surrounding AI-generated works have already produced significant litigation. Judicial decisions in this area are instructive, not only for what they decide, but for the interpretive limits they reveal. The most prominent case to date is *Thaler v. Perlmutter* (2023). Stephen Thaler, a computer scientist, sought copyright registration for a digital artwork titled “A Recent Entrance to Paradise,” which he acknowledged had been produced entirely by his AI system, the “Creativity Machine,” without human

creative input. The U.S. Copyright Office refused registration on the ground that copyright requires human authorship. On appeal, the federal court upheld that decision, reaffirming that the legal concept of authorship has always presupposed a human creator and that extending protection to purely machine-generated works would be incompatible with the existing statutory framework. *Thaler* confirms the current judicial position clearly: purely AI-generated works do not qualify for copyright protection under existing law. Yet the case also exposes an unresolved difficulty — the law provides no clear standard for determining how much human involvement is sufficient to bring a work within the scope of protection. This uncertainty has practical consequences. Businesses investing in AI-assisted creative production cannot be confident that the resulting works will be legally protected, which may discourage investment and complicate commercial planning. Courts, constrained by existing doctrine, cannot resolve this problem alone. Legislative intervention is required to establish clear, principled rules that reflect the realities of AI-assisted creation while preserving the foundational values of copyright law.

Policy debate and critical analysis. Whether AI-generated works ought to attract copyright protection remains one of the most actively contested questions in contemporary intellectual property law. The debate reflects a fundamental tension between two competing policy objectives: fostering technological innovation on the one hand, and preserving the integrity of human creative authorship on the other. Those who favour extending protection argue that denying it could discourage investment in AI development. The companies and individuals behind generative AI systems commit substantial resources — financial, technical, and creative — to building and refining these tools. If the outputs they produce can be

SJIF: 5.051

freely copied without legal consequence, the commercial incentive to develop AI-assisted creative applications may be significantly weakened. Proponents also note that copyright law has historically adapted to accommodate new creative technologies, from photography to computer software, and that AI represents a natural continuation of this evolution. The opposing arguments, however, carry considerable weight. Copyright is grounded in the principle that legal protection serves as a reward for human intellectual effort. Since AI systems operate without consciousness, intention, or subjective experience, extending protection to their outputs sits uneasily with this rationale. There is also a practical concern: generative AI can produce vast quantities of content in very little time. Granting copyright across such output would risk saturating creative markets with machine-generated material, potentially displacing human creators and restricting public access to knowledge. Finally, broad protection for AI outputs would likely concentrate intellectual property rights within a small number of large technology companies, raising legitimate concerns about market dominance.

Given the strength of arguments on both sides, a growing number of legal scholars and policymakers have converged on a middle-ground position: copyright protection should be available for AI-assisted works, but only where a human being has made a meaningful and demonstrable creative contribution to the final output. This approach is already reflected in emerging practice. The U.S. Copyright Office has indicated that works incorporating AI-generated elements may qualify for protection where a human author has exercised sufficient creative control — through selection, arrangement, or substantive editing — over the result. This position preserves the foundational principle that copyright protects human

creativity, while acknowledging that AI tools have become a legitimate part of contemporary creative practice.

It is submitted that copyright protection ought not to extend to works produced entirely by AI systems, as doing so would sever the law from its underlying justification. The purpose of copyright is to incentivise and reward human creative effort; it was never intended to protect the automated outputs of machines. At the same time, a blanket exclusion of all AI-assisted works would be both disproportionate and impractical, given the extent to which such tools are now embedded in creative industries. The more defensible position is that the relevant question is not whether AI was used in the creation of a work, but rather the degree to which a human being exercised genuine intellectual control over the final result. Where that contribution is substantial, protection is justified. Where the human role is limited to submitting a brief prompt with no further creative input, it is not. Future legislative reform should focus on translating this principle into a workable legal standard.

Possible legal reforms and future perspectives. The limitations of existing copyright doctrine in addressing AI-generated content have made legislative reform increasingly necessary. Courts can apply only the rules as they stand, and judicial interpretation alone cannot resolve the structural gaps that generative AI has exposed. Clear statutory intervention is required to provide legal certainty for creators, businesses, and developers alike. The most principled reform would be the introduction of a statutory test for human creative contribution. At present, no jurisdiction specifies precisely how much intellectual involvement a human must exercise when using AI tools in order to qualify for copyright protection. A

legislative standard could address this by directing courts to consider factors such as the specificity and creative substance of the prompts provided, the degree to which the user made deliberate selections among generated outputs, and the extent of any subsequent editing or creative modification. Protection would be granted only where the cumulative human contribution reflects genuine intellectual effort rather than mere mechanical use of an automated system. Reform efforts should also address the conditions under which AI systems are developed. There is growing concern that large language models and image-generation systems are trained on copyrighted material without authorisation or compensation to the original rights holders. Legislators should consider requiring AI developers to disclose the datasets used in training their models and to establish licensing frameworks that ensure creators are fairly remunerated where their works are used in this way.

Given that AI-generated content crosses jurisdictional boundaries freely, national reforms alone will be insufficient. Divergent legal standards across countries risk creating regulatory inconsistency and opportunities for forum-shopping. International bodies such as the World Intellectual Property Organization (WIPO) have a role to play in facilitating the harmonisation of approaches, so that the treatment of AI-generated works is broadly consistent across major jurisdictions. The overarching aim of any reform in this area should be to preserve the human foundation of copyright law while creating a workable framework for the realities of AI-assisted creation. Legislative attention should focus not on extending legal personality to AI systems, but on defining with precision the standard of human involvement that copyright protection requires.

CONCLUSION. Generative AI has fundamentally altered the conditions under which creative works are produced, and in doing so has placed copyright law under a degree of pressure that its existing frameworks were not designed to withstand. The central difficulty is structural: copyright was constructed around the figure of the human author, and its core requirements — authorship, originality, and creative expression — presuppose a level of human intellectual involvement that purely AI-generated content cannot satisfy. As this article has demonstrated, the major jurisdictions examined — the United States, the European Union, and the United Kingdom — all maintain human authorship as an essential condition of copyright protection, albeit through different doctrinal approaches. The decision in *Thaler v. Perlmutter* (2023) confirmed that this position remains firmly in place under current law, and that purely machine-generated works fall outside the scope of protection regardless of the commercial or creative value they may possess. At the same time, a blanket exclusion of all AI-assisted works from copyright would be neither proportionate nor practical. The more defensible approach is one that centres on the degree of human creative contribution: where a person exercises genuine intellectual control over the development, selection, and refinement of an AI-generated work, the case for protection is sound. Where the human role is negligible, it is not. The priority for legislators, therefore, is not to reconceive AI as a legal author, but to establish a clear and principled standard for the level of human involvement that copyright protection requires. Alongside this, reform should address transparency in AI training, ensure fair treatment of existing rights holders, and pursue international coordination to prevent regulatory fragmentation. Copyright law has adapted to technological change before. The challenge now is to do so in a manner that preserves the human foundation upon which the law was

built, while providing the clarity that creators, businesses, and courts urgently need.

REFERENCE LIST

1. Abbott R, The Reasonable Robot: Artificial Intelligence and the Law (Cambridge University Press 2020).
2. Bently L, Sherman B, Gangjee D and Johnson P, Intellectual Property Law (6th edn, OUP 2022).
3. Berne Convention for the Protection of Literary and Artistic Works 1886.
4. Copyright, Designs and Patents Act 1988 (UK).
5. Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society [2001] OJ L167/10.
6. Feist Publications Inc v Rural Telephone Service Co Inc 499 US 340 (1991).
7. Guadamuz A, 'Artificial Intelligence and Copyright'(2017) WIPO Magazine, Issue 5
8. Infopaq International A/S v Danske Dagblades Forening (C-5/08) [2009] ECR I-6569.
9. Samuelson P, 'Allocating Ownership Rights in Computer-Generated Works' (1986) 47 University of Pittsburgh Law Review 1185.
10. Thaler v Perlmutter 687 F Supp 3d 140 (DDC 2023).
11. United States Copyright Act 1976 (17 USC).

12. US Copyright Office, Copyright and Artificial Intelligence: Part 2 – Copyrightability (2025).
13. US Copyright Office, Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence (2023).
14. World Intellectual Property Organization (WIPO), Copyright and Generative Artificial Intelligence (WIPO 2024).
15. World Intellectual Property Organization (WIPO), WIPO Conversation on Intellectual Property and Artificial Intelligence (WIPO 2023).
16. Yanisky-Ravid S and Liu X, ‘When Artificial Intelligence Systems Produce Inventions: An Alternative Model for Patent Law at the 3A Era’ (2018) 39 Cardozo Law Review 2215.