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THE LEGAL EFFECT OF RECOGNIZING ARTIFICIAL INTELLIGENCE (AI) AS AN AUTHOR UNDER THE LAW: "ALLOWING THE TAIL TO WAG THE DOG"?

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Abstract
The rapid advancement of artificial intelligence (AI) has challenged traditional legal frameworks, particularly in the realm of intellectual property (IP) law. One of the most contentious issues is whether AI can be recognized as an "author" under copyright law. This paper examines the legal implications of granting authorship rights to AI systems, arguing that such recognition could lead to a fundamental shift in the purpose and structure of IP law, akin to "allowing the tail to wag the dog." By analyzing the philosophical foundations of authorship, the economic rationale for copyright protection, and the practical consequences of AI authorship, this paper concludes that recognizing AI as an author undermines the human-centric goals of IP law and creates significant legal and ethical challenges. Alternative approaches, such as attributing authorship to human creators or treating AI-generated works as public domain, are proposed to better align with the objectives of copyright law. This paper finds inter alia that AI lacks legal personhood, which is a fundamental requirement for holding rights and responsibilities under most legal systems. Granting AI authorship without legal personality raises challenges regarding ownership, liability, and enforcement of rights. Again, If AI is recognized as an author, questions arise about who would hold and enforce the copyrights, leading to potential conflicts over intellectual property. The paper recommends that instead of granting AI authorship rights, legal frameworks should recognize human intervention in AI-generated works. This could involve designating the programmer, user, or organization operating the AI as the legal author to maintain accountability and ownership clarity.

Keywords: Artificial intelligence, intellectual property, authorship, copyright

1. Introduction

The concept of authorship has long been tied to human creativity and originality, forming the cornerstone of copyright law.[1] However, the emergence of AI systems capable of generating literary, artistic, and musical works without direct human intervention has disrupted this paradigm. Courts and legislators worldwide are grappling with whether AI can be considered an "author" under the law. This paper explores the legal effect of such recognition, arguing that it risks inverting the purpose of copyright law by prioritizing the protection of machine-generated output over the encouragement of human creativity. The rapid advancement of artificial intelligence (AI) has challenged traditional legal frameworks, particularly in the realm of intellectual property (IP) law. One of the most contentious issues is whether AI can be recognized as an "author" under copyright law. This paper examines the legal implications of granting authorship rights to AI systems, arguing that such recognition could lead to a fundamental shift in the purpose and structure of IP law, akin to "allowing the tail to wag the dog." By analyzing the philosophical foundations of authorship, the economic rationale for copyright protection, and the practical consequences of AI authorship, this thesis concludes that recognizing AI as an author undermines the human-centric goals of IP law and creates significant legal and ethical challenges. Alternative approaches, such as attributing authorship to human creators or treating AI-generated works as public domain, are proposed to better align with the objectives of copyright law.[2]

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[1] U C Kalu and O U Oduna, 'An Examination of Criminal Liability of Artificial Intelligence Entities: Nigerian Law in Tocus', (2023) *International Journal of Business and law Research,* 23

[2] Andres Guadamuz, 'Artificial Intelligence and Copyright', (2017) *WIPO Magazine*, p. 39

2. The Philosophical Foundations of Authorship

The concept of authorship is deeply rooted in philosophical traditions that emphasize human creativity, individuality, and expression. To understand the implications of recognizing artificial intelligence (AI) as an author, it is essential to explore the historical and philosophical foundations of authorship. This section examines the evolution of the idea of authorship, its connection to human agency, and the moral and economic rights associated with it. It argues that authorship is inherently tied to human experience and intentionality, making the recognition of AI as an author philosophically inconsistent with these foundational principles.[3]

2.1 The Historical Evolution of Authorship

The notion of authorship has evolved significantly over time, shaped by cultural, technological, and legal developments. In ancient and medieval societies, creative works were often attributed to divine inspiration or collective cultural traditions rather than individual creators.[4] The modern concept of authorship emerged during the Renaissance and Enlightenment periods, when individualism and human creativity became central to cultural and intellectual life.[5] The Renaissance emphasized the value of human achievement and the unique contributions of individuals. Figures like Leonardo da Vinci and Michelangelo were celebrated not just for their works but for their personal genius and creativity. The Enlightenment further solidified the idea of the author as an autonomous individual whose creativity and reason could contribute to the progress of society. Thinkers like John Locke and Immanuel Kant argued that individuals have a natural right to the fruits of their labor, including intellectual creations. The rise of the printing press in the 15th century also played a crucial role in shaping the concept of authorship. As works could be reproduced and distributed on a large scale, the need to attribute and protect the rights of creators became increasingly important, laying the groundwork for modern copyright law.[6]

2.2 Authorship as Human Agency and Intentionality

At its core, authorship is tied to the idea of human agency the capacity of individuals to act intentionally and make creative choices. This section explores the philosophical arguments that link authorship to human intentionality and expression.[7] The Romantic movement of the 18th and 19th centuries elevated the author to the status of a "genius," whose works were seen as unique expressions of their inner self and imagination. Philosophers like Friedrich Schlegel and William Wordsworth emphasized the deeply personal nature of creativity, which cannot be replicated by machines or algorithms. Phenomenologists such as Martin Heidegger and Maurice Merleau-Ponty argue that creativity is an embodied experience, rooted in the author's lived reality and subjective perspective. AI, lacking consciousness and subjective experience, cannot engage in this form of personal expression. These philosophical traditions underscore the idea that authorship is not merely about producing content but about the intentional act of creation, imbued with the author's personality, emotions, and worldview.[8]

2.3 Moral Rights and the Author's Connection to Their Work

In addition to economic rights, many legal systems recognize moral rights, which protect the personal and reputational interests of authors. These rights are grounded in the philosophical belief

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[3] Ibid.

[4] F I Jalee'lah 'Islamic Jurisprudence and Reproductive Health: Application', (2018) 3 *Crescent University Law Journal,* 11.

[5] Jane C Ginsburg, 'The Concept of Authorship in Comparative Copyright Law', (2003) 52(6) *Columbia Law Review*

[6] P Samuelson, 'Allocating Ownership Rights in Computer-Generated Works', (1986) 47 (4) *University of Pittsburgh Law Review*, 86.

[7] Ibid

[8] L Lessig, *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity*, (Penguin Books, 2004).

that a work is an extension of the author's identity. The concept of moral rights, or *droit moral*, originated in France and Germany and is based on the idea that a work reflects the author's personality. These rights include the right to attribution (being recognized as the author) and the right to integrity (preventing distortion or misuse of the work). Unlike economic rights, moral rights are often inalienable and perpetual, reflecting the enduring connection between the author and their work.[9] This connection is inherently human and cannot be meaningfully applied to AI systems, which lack personal identity or reputation. The recognition of AI as an author would sever this link between creator and creation, reducing authorship to a purely functional or economic concept and undermining the moral dimensions of copyright law.[10]

2.4 The Role of Originality in Authorship

Originality is a cornerstone of copyright law and is closely tied to the philosophical understanding of authorship. This section examines the concept of originality and its implications for AI-generated works. Courts and legal scholars have consistently defined originality as the product of human intellect and creativity. For example, in the landmark case *Feist Publications v. Rural Telephone Service Co.*,[11] the U.S. Supreme Court held that originality requires a "modicum of creativity" and cannot be satisfied by mere labor or mechanical processes. While AI systems can produce outputs that appear original, these outputs are ultimately derived from patterns in existing data and lack the intentionality and creativity that define human authorship. Recognizing AI as an author risks conflating algorithmic processing with genuine originality.[12]

2.5 The Ethical Dimensions of Authorship

Beyond legal and philosophical considerations, authorship carries ethical implications related to accountability, responsibility, and cultural value.

i. **Accountability and Responsibility:** Authors are not only creators but also bearers of responsibility for their works. For example, an author may be held liable for defamatory or infringing content. AI systems, lacking moral agency, cannot be held accountable in the same way, raising questions about who should bear responsibility for AI-generated works.[13]
ii. **Cultural Value and Human Creativity:** Works of authorship contribute to the cultural and intellectual heritage of society. Recognizing AI as an author risks devaluing human creativity and reducing cultural production to a commodities, mechanized process.[14]

3. The Economic Rationale for Copyright Protection

Copyright law is fundamentally designed to incentivize creativity and innovation by granting authors exclusive rights to their works. This paper explores the economic rationale behind copyright protection, examining how it seeks to balance the interests of creators, users, and society at large. It argues that the recognition of artificial intelligence (AI) as an author disrupts this balance, as AI systems do not require the same economic incentives as human creators. By analyzing the traditional justifications for copyright, the role of incentives in creative production, and the potential consequences of AI authorship, this chapter concludes that extending copyright protection to AI-generated works undermines the economic purpose of copyright law.[15]

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[9] Ibid.
[10] A Bridy, Coding Creativity: Copyright and the Artificially Intelligent Author," (2017) 20 (2) *Stanford Technology Law Review*, 17.
[11] 499 U.S. 340 (1991)
[12] Ibid
[13] Ibid
[14] Ibid
[15]Colin Davies, 'The Challenges of AI Authorship in Copyright Law', (2020) 15 (6) *Journal of Intellectual Property Law & Practice*, 20.

3.1 The Traditional Justifications for Copyright

Copyright law is grounded in two primary economic theories: the incentive theory and the public goods theory. These theories provide the foundation for understanding why copyright protection is necessary and how it functions in practice. The incentive theory posits that copyright protection encourages creators to produce new works by granting them exclusive rights to control and monetize their creations.[16] Without such protection, creators might lack the financial motivation to invest time and resources into creative endeavors, leading to a reduction in the production of culturally and socially valuable works. Creative works are considered public goods because they are non-rivalrous (one person's use does not diminish another's) and non-excludable (it is difficult to prevent others from using them). Copyright law addresses the "free rider" problem by allowing creators to exclude others from using their works without permission, thereby ensuring that creators can reap the benefits of their labor. These justifications are inherently tied to human behavior and decision-making. They assume that creators are motivated by the prospect of economic reward and that the grant of exclusive rights will lead to increased creative output.[17]

3.2 The Role of Incentives in Human Creativity

Human creativity is driven by a combination of intrinsic and extrinsic motivations. While some creators are motivated by personal satisfaction or a desire to contribute to culture, many rely on financial incentives to sustain their creative activities.[18] For authors, artists, musicians, and other professional creators, copyright protection provides a means of earning a livelihood. By granting exclusive rights, copyright law enables creators to monetize their works through sales, licensing, and other commercial arrangements. Copyright protection also encourages investment in creative industries by providing a legal framework that ensures returns on investment. Publishers, producers, and distributors are more likely to invest in creative projects if they can secure exclusive rights to the resulting works. In contrast, AI systems do not require financial incentives to produce creative works. They operate based on algorithms and data inputs, without any need for economic reward or recognition. Extending copyright protection to AI-generated works therefore fails to serve the incentive function of copyright law.[19]

3.3 The Economic Irrelevance of Incentives for AI

AI systems are tools created and controlled by humans, and their "creativity" is a product of programming and data rather than independent agency. This section examines why the economic rationale for copyright protection does not apply to AI. AI systems do not possess desires, goals, or motivations.[20] They generate outputs based on predefined parameters and do not benefit from the economic rewards associated with copyright protection. While the development and maintenance of AI systems involve significant costs, these costs are borne by human developers and organizations. Copyright protection for AI-generated works does not incentivize AI systems themselves but rather their human operators, who already have economic motivations to invest in AI technology. Granting copyright protection to AI-generated works could lead to overprotection, creating monopolies over vast amounts of content and stifling competition and innovation. This would undermine the goal of copyright law to promote the progress of science and the arts.[21]

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[16] Ibid

[17] Ibid

[18] J Moor, 'The Dartmouth College Artificial Intelligence Conference; The Next fifty years A.I Magazine, vol 27, No 4.

[19] Ibid.

[20] Ibid.

[21] S Ishaque, 'Islamic Principles on Adoption: Examining the Impact of Illegitimacy and Inheritance Related Concerns in Context of a Child's Right to an Identity', (2008) *Inter J Law Policy Family.* Pp. 393-420.

3.4 The Impact on Human Creators

Recognizing AI as an author could have significant economic consequences for human creators, particularly in industries where AI-generated content competes with human-created works. The ability of AI systems to produce large volumes of content quickly and cheaply could flood the market, driving down the value of human-created works and making it more difficult for human creators to earn a living. If AI-generated works are granted copyright protection, human creators may face increased competition from AI systems, leading to a decline in investment in human creativity and a shift toward automated content production. The economic devaluation of human creativity could have broader cultural implications, as society may come to prioritize quantity and efficiency over the quality and depth of human expression.[22]

3.5 Alternative Approaches to AI-Generated Works

Given the economic irrelevance of copyright incentives for AI, this section explores alternative approaches to regulating AI-generated works that better align with the goals of copyright law. One approach is to treat AI-generated works as part of the public domain, making them freely available for use by anyone.[23] This would prevent the creation of monopolies over AI-generated content and ensure broad access to these works. Another option is to attribute authorship to the human developers or users who deploy the AI system. This approach maintains the human-centric focus of copyright law while recognizing the role of AI as a tool. Some scholars have proposed the creation of a new category of rights specifically for AI-generated works. These rights could provide limited protection without equating AI systems with human authors.[24]

4. Legal and Practical Implications of AI Authorship

The recognition of artificial intelligence (AI) as an author under copyright law raises significant legal and practical challenges. This chapter examines the implications of AI authorship for ownership, liability, enforcement, and the broader legal framework. It argues that attributing authorship to AI systems creates ambiguities and complications that undermine the stability and effectiveness of copyright law. By analyzing key issues such as originality, accountability, and the allocation of rights, this chapter demonstrates that recognizing AI as an author is not only philosophically and economically problematic but also legally untenable.[25]

4.1 Ownership of AI-Generated Works

One of the most pressing legal questions surrounding AI authorship is the issue of ownership. Copyright law traditionally vests ownership in the author of a work, but this framework becomes unclear when the "author" is an AI system. If an AI system is recognized as the author, who owns the copyright? Unlike human authors, AI systems cannot own property or exercise legal rights. This creates a legal vacuum that complicates the allocation of ownership.[26] In most cases, AI systems are created and operated by human developers, organizations, or users. Should ownership be attributed to these individuals or entities, or should the works be considered ownerless? Different jurisdictions have taken varying approaches, with some attributing ownership to the human operator and others treating AI-generated works as lacking copyright protection altogether. Ambiguities in ownership can hinder the licensing and commercialization of AI-generated works, creating

[22] Ibid.
[23] H Eslami, 'Human Cloning in Catholic and Islamic Perspectives', 1st ed. Qom: Center for Religions Studies; 2008. p. 474-97 and 280-97
[24] A Hammudah, *The Family Structure in Islam,* (Islamic Publications Bureau, Lagos, 1982) 52.
[25] M Shahidi, *Human artificial insemination, sets of articles about new human reproductive technologies in Islamic law.* 1st ed. Tehran: Samet; 2003. p. 114.
[26] Ibid

uncertainty for businesses and users. This could stifle innovation and limit the economic potential of AI-generated content.[27]

4.2 Liability for AI-Generated Works

Another critical issue is liability for AI-generated works, particularly in cases where the content is defamatory, infringing, or otherwise unlawful. AI systems lack moral agency and cannot be held legally responsible for their outputs. This raises questions about who should bear liability for harmful or illegal content generated by AI whether it is the developer, the user, or another party. Determining liability requires tracing the chain of responsibility from the AI system to the human actors involved. This can be particularly challenging in cases where AI systems operate autonomously or generate unexpected outputs. The lack of clear liability rules could create opportunities for abuse, as bad actors might use AI systems to generate harmful content while evading legal responsibility.[28]

4.3 Enforcement of Copyright in AI-Generated Works

Enforcing copyright in AI-generated works presents unique challenges, particularly in cases of infringement or unauthorized use. Copyright protection requires that a work be original, but proving originality in AI-generated works can be difficult. Since AI systems rely on existing data and patterns, it may be unclear whether a particular output is sufficiently original to qualify for copyright protection. AI systems can generate vast amounts of content quickly, increasing the risk of infringement on a large scale.[29] Detecting and addressing such infringement would require significant resources and could overwhelm existing enforcement mechanisms. The global nature of AI technology and digital content complicates enforcement, as different jurisdictions may have varying rules regarding AI authorship and copyright protection.

4.4 Originality and Creativity in AI-Generated Works

The concepts of originality and creativity are central to copyright law, but they become problematic when applied to AI-generated works. Courts and legal scholars have consistently defined originality as the product of human intellect and creativity. AI systems, which operate based on algorithms and data inputs, do not possess the intentionality or creativity required to meet this standard. If AI-generated works are granted copyright protection, the threshold for originality may need to be redefined. This could dilute the concept of originality and weaken the protection afforded to human-created works. Extending copyright protection to AI-generated works could lead to overprotection, creating monopolies over content that lacks genuine creativity and stifling competition and innovation.[30]

4.5 Impact on Human Creators and Creative Industries

The recognition of AI as an author could have significant implications for human creators and the creative industries. If AI-generated works are granted the same legal status as human-created works, the value of human creativity may be diminished. This could discourage investment in human creators and lead to a decline in the quality and diversity of cultural production. AI systems can produce content quickly and at a low cost, potentially outcompeting human creators in certain markets. This could lead to job losses and economic disruption in creative industries. The

[27]NMN Siti, 'Human *Genetic Technologies and Islamic Bioethics."* In Gen Ethics and religion, (Karger Publishers, 2010) p. 132.

[28]M N Musa, 'Human Genetic and Reproductive Technologies: An International Medico-Legal-Religious Impasse', (2011) 10 (1) *Bangladesh Journal of Medical Science*, 01-10.

[29] S Rizwana, and N Zafar, 'The Legality of Artificial Insemination: An Islamic Perspective', (2021) 2 (4) *Research Journal of Social Sciences and Economics Review* vol. 2, no. 4), 43.

[30]F Rahman, *Health and Medicine in the Islamic Tradition: Change and Identity,* New York: Crossroad Publishing, 1989) p. 9.

widespread use of AI-generated content raises cultural and ethical concerns, as it may prioritize efficiency and quantity over the depth and authenticity of human expression.[31]

4.6 Alternative Approaches to AI-Generated Works

Given the legal and practical challenges of recognizing AI as an author, this section explores alternative approaches to regulating AI-generated works. Treating AI-generated works as part of the public domain would ensure broad access and prevent the creation of monopolies over such content. This approach aligns with the goal of promoting the progress of science and the arts. Attributing authorship to the human developers or users who deploy the AI system maintains the human-centric focus of copyright law while recognizing the role of AI as a tool. Creating a new category of rights specifically for AI-generated works could provide limited protection without equating AI systems with human authors. This approach would address the unique challenges posed by AI while preserving the integrity of copyright law.[32]

5. Comparative Legal Approaches to Artificial Authorship

The question of whether artificial intelligence (AI) can be recognized as an author under copyright law has been addressed differently across jurisdictions. This chapter examines the varying legal approaches to AI-generated works, highlighting the strengths and weaknesses of each model. By analyzing case studies from the United States, the European Union, the United Kingdom, and other jurisdictions, this chapter demonstrates how different legal systems balance the challenges posed by AI with the principles of copyright law. It argues that while no jurisdiction has fully resolved the complexities of AI authorship, comparative analysis provides valuable insights for developing a coherent and effective legal framework.[33]

5.1 The United States: Human Authorship Requirement

The United States has taken a firm stance on the requirement of human authorship for copyright protection. This approach is rooted in both statutory interpretation and judicial precedent. Copyright Act of 1976 does not explicitly address AI-generated works, but it defines an "author" as the creator of an original work fixed in a tangible medium of expression. Courts have interpreted this definition as requiring human authorship. In *Feist Publications v. Rural Telephone Service Co.*,[34] the U.S. Supreme Court emphasized that originality requires a "modicum of creativity," which is inherently tied to human intellect. More recently, in *Naruto v. Slater*, the Ninth Circuit Court of Appeals held that non-human entities, such as animals, cannot be authors under U.S. copyright law. This reasoning has been extended to AI systems.[35] The U.S. Copyright Office has consistently maintained that only works created by humans are eligible for copyright protection. In its *Compendium of U.S. Copyright Office Practices*, the Office explicitly states that works produced by machines or mere mechanical processes without human intervention are not copyrightable.

5.2 The European Union: Originality and Human Creativity

The European Union (EU) emphasizes the concept of originality, which is closely tied to human creativity, as a prerequisite for copyright protection. The EU's legal framework requires that a work reflect the author's own intellectual creation to qualify for copyright protection. This standard, established in cases such as *Infopaq International A/S v. Danske Dagblades Forening*, underscores the importance of human creativity.[36] In *Painer v. Standard VerlagsGmbH*, the Court of Justice of

[31] A A Oba, 'Islamic law as customary law: the changing perspective in Nigeria' (2002) *International Comparative Law Quarterly,* Malaysia*,* 817- 819.
[32] Ibid
[33] Sharmin, B N Rusli, and BS. Ab Rani, Ethics of Artificial Insemination: An Islamic Perspective, (2007) 39 *Journal of Indian Medical Association,* 30.
[34] Ibid.
[35] Ibid.
[36] Ibid.

the European Union (CJEU) held that originality requires the author's "personal touch," which cannot be replicated by machines. This principle has been applied to exclude AI-generated works from copyright protection. While the EU provides a harmonized framework, individual member states may interpret and apply these principles differently. For example, Germany's strict approach to originality leaves little room for AI authorship, while other countries may adopt more flexible interpretations.[37]

5.3 The United Kingdom: Computer-Generated Works

The United Kingdom (UK) has adopted a unique approach to AI-generated works through its provision for "computer-generated works" under the Copyright, Designs and Patents Act 1988 (CDPA). In Section 9(3) of the CDPA, the UK law explicitly addresses works generated by computers, stating that the author of such works is "the person by whom the arrangements necessary for the creation of the work are undertaken." This provision effectively attributes authorship to the human operator of the AI system. Computer-generated works are granted a shorter term of protection (50 years from the date of creation) compared to human-authored works (life of the author plus 70 years). This reflects the UK's recognition of the distinct nature of AI-generated content. The UK's approach provides a pragmatic solution to the ownership and protection of AI-generated works, but it has been criticized for treating AI systems as mere tools rather than addressing the broader implications of AI authorship.[38]

5.4 Other Jurisdictions: Emerging Approaches

Other jurisdictions have begun to grapple with the issue of AI authorship, often adopting innovative or experimental approaches. China has seen a growing number of cases involving AI-generated works, with courts taking a pragmatic approach. In *Tencent v. Yinxun*, a Chinese court recognized copyright in an AI-generated article, attributing authorship to the human operator. This approach reflects China's focus on fostering innovation in the AI sector. Japan's copyright law does not explicitly address AI-generated works, but the government has issued guidelines stating that works created by AI without human intervention are not eligible for copyright protection. However, works involving significant human input may qualify for protection. India's copyright law requires originality and human authorship, leaving little room for AI-generated works. However, the country's rapidly growing AI industry has sparked debates about the need for legal reform.[39]

5.5 Comparative Analysis and Lessons Learned

The comparative analysis of legal approaches to AI authorship reveals several key insights:

1. **Human-Centric Focus:** Most jurisdictions emphasize the importance of human creativity and originality, reflecting the philosophical and economic foundations of copyright law.
2. **Pragmatic Solutions:** Some jurisdictions, such as the UK, have adopted pragmatic solutions to address the practical challenges of AI-generated works, providing clarity and certainty for stakeholders.
3. **Need for Harmonization:** The lack of a unified approach creates challenges for global copyright enforcement and highlights the need for international cooperation and harmonization.
4. **Balancing Innovation and Protection:** Jurisdictions must strike a balance between fostering innovation in AI and preserving the integrity of copyright law.[40]

[37] S Ishaque, 'Islamic Principles on Adoption: Examining the Impact of Illegitimacy and Inheritance Related Concerns in Context of a Child's Right to an Identity', (2008) *Inter J Law Policy Family,* 393-420.
[38] Ibid.
[39] Ibid.
[40] Ibid

6. Alternative Frameworks for AI-Generated Works

Given the philosophical, economic, and legal challenges of recognizing artificial intelligence (AI) as an author under copyright law, this chapter explores alternative frameworks for regulating AI-generated works. These frameworks aim to balance the need for innovation and access with the preservation of copyright law's human-centric principles. By examining options such as public domain treatment, attribution to human operators, and sui generis rights, this chapter proposes solutions that address the unique characteristics of AI-generated content while upholding the integrity of copyright law.[41]

6.1 Public Domain Treatment

One approach to AI-generated works is to treat them as part of the public domain, making them freely available for use by anyone. This approach aligns with the utilitarian goal of copyright law to promote the progress of science and the arts. Since AI systems do not require economic incentives to create works, granting copyright protection to AI-generated content is unnecessary. Placing such works in the public domain ensures broad access and fosters further innovation. The U.S. Copyright Office's refusal to register AI-generated works effectively places them in the public domain, as they are not protected by copyright. This approach has been criticized for failing to address the economic interests of AI developers but praised for maintaining the human-centric focus of copyright law.[42]

6.2 Attribution to Human Operators

Another approach is to attribute authorship of AI-generated works to the human developers or users who deploy the AI system. This framework recognizes AI as a tool rather than an autonomous creator. Human operators play a crucial role in designing, training, and deploying AI systems, making them the most logical candidates for authorship. This approach maintains the human-centric focus of copyright law while acknowledging the role of AI in the creative process. The United Kingdom's Copyright, Designs and Patents Act 1988 (CDPA) attributes authorship of computer-generated works to the person who undertakes the arrangements necessary for the creation of the work. This approach has been praised for its practicality but criticized for treating AI systems as mere tools.[43]

6.3 Sui Generis Rights for AI-Generated Works

A third approach is to create a new category of rights specifically for AI-generated works. These sui generis rights would provide limited protection without equating AI systems with human authors. AI-generated works have unique characteristics that distinguish them from human-created works, warranting a distinct legal framework. Sui generis rights could balance the need for protection with the goal of promoting access and innovation. The European Union's Database Directive provides sui generis protection for databases that do not meet the threshold of originality required for copyright protection. This model could serve as a precedent for AI-generated works, offering limited rights to incentivize investment while ensuring broad access.[44]

7. Conclusion

In conclusion, the recognition of AI as an author under copyright law represents a radical departure from the principles that have historically guided intellectual property law. Rather than bending existing frameworks to accommodate AI, policymakers should develop new approaches that preserve the human-centric focus of copyright law while fostering innovation and access in the age

[41] R Munson, 'Reproductive Control: In Vitro Fertilization, Artificial Insemination and Surrogate Pregnancy", R Munson, (ed.), *Intervention and Reflection: Basic Issues in Medical Ethics*, (5th edn., Stamford: Wadsworth, 1996), pp.489-551.
[42] Ibid.
[43] Ibid
[44] Ibid

of artificial intelligence.[45] By doing so, we can ensure that copyright law continues to serve its fundamental purpose: to incentivize and reward human creativity for the benefit of society as a whole. The rapid advancement of artificial intelligence (AI) has fundamentally challenged the traditional paradigms of copyright law, particularly the concept of authorship. This paper has explored the legal, philosophical, economic, and practical implications of recognizing AI as an author under copyright law, arguing that such recognition risks "allowing the tail to wag the dog" prioritizing the protection of machine-generated output over the human-centric goals of copyright law. By examining the foundations of authorship, the economic rationale for copyright protection and the legal and practical challenges of AI authorship, this thesis has demonstrated that attributing authorship to AI systems is both philosophically inconsistent and legally untenable.

The philosophical foundations of authorship are deeply rooted in human agency, intentionality, and individuality. Recognizing AI as an author severs the connection between creativity and human experience, reducing authorship to a mechanical process and undermining the moral and cultural dimensions of copyright law. Economically, copyright protection is designed to incentivize human creativity, but AI systems do not require such incentives, making the extension of authorship rights to AI unnecessary and potentially harmful. Legally, the recognition of AI as an author creates ambiguities in ownership, liability, and enforcement, complicating the application of copyright principles and risking the devaluation of human creativity.
In view of the above discuss, the following findings are made by the paper:

1. AI lacks legal personhood, which is a fundamental requirement for holding rights and responsibilities under most legal systems. Granting AI authorship without legal personality raises challenges regarding ownership, liability, and enforcement of rights.
2. Recognizing AI as an author could disrupt traditional copyright frameworks, which typically assign rights to human creators or legal entities like corporations. If AI is recognized as an author, questions arise about who would hold and enforce the copyrights, leading to potential conflicts over intellectual property.
3. If AI-generated works receive copyright protection, determining responsibility for potential infringement, royalties, and moral rights becomes complex. Unlike human authors, AI cannot be held accountable for ethical or legal violations, making enforcement and dispute resolution problematic.

In view of the above findings, the paper made the following recommendations:

1. Instead of granting AI authorship rights, legal frameworks should recognize human intervention in AI-generated works. This could involve designating the programmer, user, or organization operating the AI as the legal author to maintain accountability and ownership clarity.
2. Legislators should consider developing a separate category of protection for AI-generated works, distinct from traditional copyright law. This could involve a sui generis system that grants limited rights to AI-generated works while ensuring human oversight.
3. Governments and international legal bodies should establish policies clarifying liability, enforcement mechanisms, and dispute resolution for AI-generated content. This would help prevent legal uncertainty and promote responsible AI development in creative industries.

[45] Ibid