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The AI Creator: A Copyright-Patent Dilemma in the Age of Machines

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Abstract

A copyright-patent dilemma in the age of machines" is basically a deep dive into the legal mess that's popping up now that robots are out here writing novels (okay, maybe not Shakespeare, but still) and coming up with inventions. Suddenly, the old-school rules about who owns what get wobbly. Like, if a bot spits out a song, who actually owns it? the programmer? the person who hit the "go" button? Or is it just fair game for everyone? Honestly, the whole copyright and patent thing was built on the idea that humans are behind the curtain, pulling the creative strings. Now AI is making stuff sometimes without much human help, and everyone's scrambling to figure out if a machine can legally be called an "author" or "inventor." Spoiler: the law isn't really ready for this. The article probably hustles through all the ethical and legal headaches: should these AI-made works get copyright protection? Who decides? And what happens when two different AIs accidentally make the same thing? The current rules just don't fit. Some folks argue, "Hey, give copyright to the human who did the heavy lifting, setting up the AI!" Others are like, "Nah, make it public domain; let everyone use it," a classic internet fight. You'll probably find the author batting around possible fixes, maybe suggesting new laws or even a whole new way of thinking about intellectual property. It's not just about who gets the cash or the credit; it's about rethinking what creativity even means when computers are in the mix. Bottom line, the articles poke at the soft spots in our legal system, asking if it's time to toss out the old playbook and come up with something that makes sense in a world where machines are, well, creators too.

Keywords: artificial intelligence (AI), human vs machine creativity, legal challenges of AI, future of intellectual property, inventorship.

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Introduction

AI isn’t just hanging around, crunching numbers, and spitting out spreadsheets anymore. Nope, it's busy writing novels, pumping out art, composing music, and, get this, even inventing stuff that lands in patent offices. Wild, right? Suddenly, everyone is asking, does a robot or an algorithm still get to be called an inventor or creator? Is that title strictly humans-only territory? Now, the folks who wrote our intellectual property laws? They didn't see this coming. Copyrights, patents, and all those rules are built on the idea that people make stuff. Real, breathing people. But now, with AI spitting out everything from TikTok beats to new kinds of widgets, these old rules are kind of falling apart. Here’s where the legal mess gets messy. Copyright is supposed to cover artistic stuff, books, paintings, and songs. Patents protect inventions, gadgets, tech, the whole shebang. But what happens when an “author” is just a bunch of code? Who owns it? Who gets paid? And what about moral rights? Like, does an algorithm care if someone ruins its masterpiece? (Spoiler: it probably doesn't, but the law still has to say something). Why even bother digging into this? Well, look at the DABUS case. This AI actually created patentable inventions, and suddenly, courts all over the world are fighting about whether you can slap a robot’s name on a patent. Meanwhile, AI art and music are everywhere online, and people are starting to feud over who owns what, especially when no human put pen to paper or brush to canvas. So, yeah, the research is saying, “Hey, our IP laws are way behind the times.” We’ve got this massive grey area where the lines between art and invention and human and machine are all blurred. Nobody knows who owns what or how to enforce any of it, and don’t even get me started on how this works across different countries. Bottom line , Copyright and patent laws were written back when the wildest thing a machine could do was maybe play chess. They never imagined machines would start making things worth protecting. Now we’ve got:

massive confusion over who owns AI-made stuff.

- fights about who gets the credit (and the cash)
- huge holes where the law just isn’t
- and of course, a total headache when you try to line up rules between countries.
- Basically, the old rules are creaking, and it's only going to get weirder from here.

1. Research objectives

Compare and contrast the legal definitions of "author" and "inventor" in Indian, US, UK, and international law.

- Look at how these concepts apply to works created by AI.
- Study specific case studies that reflect the copyright-patent conundrum.
- Assess the policy responses by legal institutions around the world.

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- Suggest possible models of reform or sui generis systems for dealing with AI-generated intellectual property.

2. Significance of the study

This study adds to

- Legal scholarship through mapping doctrinal and comparative gaps.
- Development of policy through recommendations to revise IP law.
- Governance of technology by foretelling future conflicts over AI rights.
- Global IP discourse, particularly in WIPO and WTO platforms.

For India, which is fast emerging as an international AI hub, this research is of great importance in informing national IP policy and law reform in an era of technology.

2.1. legal foundations of copyright and patent law

Intellectual property IP law is a pillar of contemporary innovation and imagination. It is made up of diverse legal tools, but two of its most relevant branches, copyright and patent law, play different though sometimes intersecting roles. Copyright exists to safeguard creative works, while patent law protects technological inventions. This chapter describes the theoretical foundations, statutory definitions, and global frameworks of both, laying the stage for addressing the complications brought by AI-generated works and inventions.

2.2. Copyright law: origin, concept, and purpose

Copyright law grants exclusive rights to authors of original literary, artistic, musical, and dramatic works, among others. The twofold purpose is to encourage creativity and provide public access after a certain time.

- Originating in the statute of Annexe 1710 in the UK, the earliest modern copyright act
- Elaborated worldwide under the Berne Convention of 1886 to provide moral rights and automatic protection principles
- In India, copyright law is regulated by the Copyright Act of 1957, which is periodically amended to take care of digital and international issues.

2.3. Basic concepts

- Originality: demands autonomous creation with a small amount of creativity
- Fixation: the work should be in a concrete medium.
- Author: usually a human person or group.
- Duration: usually the author's lifetime plus 60 years (in India).

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2.4. Patent law: idea origin and object.

Patent law gives exclusive rights to the inventors to use their inventions for a short while, on the condition that the invention is new, not obvious, and useful industrially.

3. Historical origins

- Derived from the Venetian patent statute of 1474
- Contemporary systems formed under the Paris Convention of 1883 and TRIPS Agreement of 1995.

Indian patent law is enacted through the Patents Act 1970, amended extensively in 2005 to suit the TRIPS agreement.

Key elements….

3.1. Inventorship: The human who makes the inventive step

3.2. Patentable subject matter: Should be a process or product, not an idea or aesthetic work.

3.3. Disclosure: The inventor has to reveal how the invention functions.

3.4. Exclusion: Contains laws of nature, algorithms and business methods jurisdiction-dependent.

- International IP frameworks.
- Trips Agreement 1995.
- Enforces a minimum of IP standards for WTO.
- Members determine copyright and patent duties, but do not take into consideration AI-specific issues.
- Berne Convention.
- Is concerned with copyright and incorporates moral rights.
- Does not extend the definition of author past human beings.
- Paris Convention.
- Is mostly concerned with patent priority and national treatment.
- Does not deal with inventorship issues relating to non-human actors.
- WIPO initiatives.
- WIPO's recent outputs and debates evidence increasing recognition of AI challenges.
- The 2023 revised issues paper on IP and AI is concerned with non-human authorship patentability of AI products and ethics.
- Legal definitions and their limits in the context of AI.
- The traditional legal definitions of author for copyright and inventor for patents are human-centric, presuming that intellectual work is produced by a human mind.
- Indian Copyright Act 1957, Section 2d author means the person who causes the creation of the work.

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- The Indian Patents Act 1970, section 2y inventor is not defined but patents specify a natural person to be included.
- These definitions leave a legal vacuum in case of AI-generated material:
- If there is no human authorship, can the work be copyrighted?
- If an autonomous invention is made by an ai system can a patent be issued?

4. The ai creator conceptual and legal challenges

Artificial intelligence ai has become not only a computational tool but also a creative and inventive agent. with algorithms that can generate novels, write music, create chemical compounds, and produce technical inventions, the conceptual role of a "creator" or inventor has grown progressively indistinct. the chapter explores the conceptual and legal challenges emanating from ai-created works and inventions. it probes whether machines can possess creative or inventive potential and whether existing legal benchmarks fail to recognize such products under copyright and patent law.

5. Comprehending the AI as a creator inventor

AI systems function through:

- Machine learning ML learns from data and improves on its own.
- Generative AI (e.g., GPT, DALL.E, jukebox, DABUS) generates original work using trained models.
- Neural networks and deep learning imitate the human brain to recognize patterns and generate new outputs.
- Such a capability disputes the belief that only humans can:
- Original authorship (creativity).
- Inventive steps (problem-solving and innovation).
- The philosophical and legal consequences are significant.
- Can the product of an AI system be considered "original"?
- Who, if anyone, should retain the right to AI-generated creations?

5.1. Copyright law issues with AI

- The demand for human authorship.
- Most copyright systems (e.g., India, U.S, U.K.) demand that a work be produced by a natural person.
- In the United States, the copyright office has specifically articulated that works produced by AI with no human input are not subject to copyright.

For example, in Zarya of the Dawn 2023, a comic book partially generated by Midjourney AI, only the human-composed parts were protected by copyright.

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5.2. Ownership Dilemmas

- If an AI writes a poem is the owner:
- The developer of the AI.
- The user who prompted it.
- No one?
- This has real implications for licensing enforcement and attribution.
- Originality and fixation.
- If originality is based on human creativity AI outputs may fail this standard.
- But most AI systems produce outputs which are fixed in a concrete medium, e.g digital file, satisfying one but not the other requirement.

5.3. Patent law issues with AI

- Inventorship problem .
- Patent law has historically demanded a natural person as inventor.
- In AI inventions, particularly those autonomously created, eg, dabus no such human inventor exists.

Important case

- Dabus (thaler case):
- AI listed as inventor on two patents.
- Denied in the UK, the US, and EU but accepted temporarily in South Africa and Australia.
- Courts underlined that inventors should be natural persons.
- Disclosure and enablement.
- Inventions made with AI could be so complex or opaque black box problems that they cannot meet the full disclosure test.
- Inventive step when large datasets are analyzed by AI systems does this pass or fail the non-obviousness test?

6. Public policy concerns

- Confer patent rights on AI or behalf of AI could:
- Italic font concludes the source.
- Undermine the incentive theory of patents.
- Raise ethical concerns regarding AI rights and duties.
- Result in corporate monopolies if firms list themselves as AI output owners.

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6.1. Recent legal and ethical issues

- Should AI be awarded legal personality?
- Arguments for corporations, like AI may be conferred limited personhood.
- Arguments against: AI is not conscious not intentional and not morally responsible.
- Sui generis protection models.
- Others suggest an additional category of rights for works produced by AI distinct from patents and copyright.
- They can be temporary or restricted in their application to avoid overextension.

6.2. The role of human agency

More focus on the "human in the loop" principle: rights should only be conferred upon those who substantially influence or direct the output.

Hybrid models of authorship and inventorship might be considered.

7. Comparative legal approaches to ai and intellectual property

The issues raised by AI-created works and inventions are not exclusive to any one jurisdiction. All countries are struggling to implement or modify their current intellectual property (IP) systems to respond to the new challenges being presented by non-human authors and inventors. This chapter provides a comparative legal examination of the solutions adopted by the most important jurisdictions, such as the United States of America, the United Kingdom of Great Britain and Northern Ireland, the European Union, India, South Africa, and Australia, with emphasis on authorship, inventorship, ownership, and law reform.

8. United states

- Copyright.
- The U.S. Copyright Office clearly demands human authorship.
- In 2023, it reasserted that AI works cannot be protected unless there is substantial human intervention (Zarya of the Dawn case).
- U.S courts have held that non-humans cannot hold copyright.
- Citing the Naruto v Slater case of a monkey selfie.
- Patent.
- The US Patent and Trademark Office USPTO demands that a natural person be designated as the inventor.
- In Thaler v Vidal 2022 the court held that an AI cannot be an inventor under the Patent Act.

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- Policy developments, the USPTO and the Copyright Office initiated public consultations on AI and IP.
- Reforms are on the agenda, but no legislative amendments so far.
- United Kingdom.
- Copyright.
- Uniquely, the UK has computer-generated works within the Copyright Designs and Patents Act 1988 section 93, where the author is the individual who made the arrangements.
- Nevertheless, this mainly concerns software , not autonomous AI-generated literature or art.
- Patent.
- The UK IPO and High Court held that AI cannot be an inventor (Thaler v Comptroller-General 2021).
- It reaffirmed that inventorship involves mental acts that machines are incapable of doing. ongoing reviews.
- The UK Intellectual Property Office carried out a 20212022 consultation on AI and IP.
- No existing legal reforms, but a watchful approach is being adopted.
- European Union.
- copyright.
- No common EU standard, but Berne Convention norms are applicable; authors are required to be natural persons. The EU Copyright Directive 2019790 does not specifically address AI.

8.1. Patent

- The European Patent Office EPO dismissed dabus patent applications, citing a lack of human inventorship.
- Stressed that AI has no legal capacity.
- AI acts and future directions.
- The EU AI Act 2024 provides for ethical and risk-based regulation of ai
- Increased interest in the development of a harmonized AI-IP strategy but without any legal developments.

9. India

9.1. Copyright

The Indian Copyright Act 1957 defines “author” as a natural person without any provision for AI, no legal protection for machine-generated works.

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9.2. Patent

- The Indian patents act 1970 also presupposes a human inventor.
- The indian patent office follows the global norm of rejecting AI as inventors.

9.3. Policy developments

- The NITI Aayog National ai strategy 2018 acknowledges AI's role in innovation but does not address ip.
- The Indian parliamentary standing committee on commerce 2021 called for IP law modernization, particularly in light of ai.
- No reforms enacted yet

10. South Africa's

Landmark DEBUS decision

- South Africa was the first country to issue a patent with an AI-database named as inventor in 2021.
- This was made possible by the fact that its patent system is not substantive examination.
- No statute regarding AI inventorship and the ruling is still contentious.

11. Australia's

11.1. Legal evolution

- The federal court initially favoured AI inventorship (Thaler v Commissioner of Patents, 2021).
- It was, however, reversed in 2022 by the full court, which ruled that inventors had to be natural persons.

11.2. Policy discourse

- The government initiated a consultation on artificial intelligence and the future of IP.
- Australia seems keen to look into reforms, particularly sui generis protection models.

Though AI-created works and inventions test conventional IP standards, worldwide juridical systems remain divergent in their reactions. The majority of jurisdictions still adhere to human-oriented understandings of authorship and inventorship. Comparative patterns indicate a consistent drift towards legal acceptance of the AI predicament. The following chapter will examine actual case studies such as Dabus, Jukebox, and Midjourney to demonstrate how these theoretical problems play out in reality.

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12. Judicial references:

While legal theory and policy arguments constitute the foundation of intellectual property (IP) reform, empirical case studies reveal how these challenges are lived out in practice. This chapter examines key cases in which AI-generated works or inventions pushed the limits of copyright and patent law. through examination of these cases Ranging across music, literature, and invention, the chapter illustrates the sharpening legal and philosophical sophistication of assigning authorship and inventorship in the era of autonomous machines.

Dabus: the AI inventor

12.1. Background

- The DEBUS device for the autonomous bootstrapping of unified sentience is an artificial intelligence program developed by dr stephen Thaler.
- It independently created two inventions.
- A fractal drink holder.
- A neural flame beacon search and rescue.

12.2. Legal proceedings

Patent applications were made naming DEBUS as the sole inventor in various jurisdictions.

12.3. Outcome

- Rejected in the US, UK, EU, and Australia, reversed on appeal.
- Granted in South Africa in 2021 and initially in Australia, later reversed.
- Courts insisted that inventorship demands human agency under current laws.

12.4. Significance

- It is the first ai to be presented formally as an inventor.
- It brought to the limelight the worldwide divergence in IP law and the necessity for harmonized reform, jukebox, and OpenAI's music generation.

12.5. Overview

- It is an ai created by OpenAI to create high-fidelity music tracks including reproductions of artists styles.
- It can create completely new compositions or make continuations of songs.

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13. Legal and ethical challenges

Ownership: Who owns the jukebox's output rights?

Impersonation: it can mimic real artists' voices and styles, posing rights of publicity and moral rights issues.

Originality: It is technologically new but derived from training data on existing works.

Implications:

- Causes derivative work, AI plagiarism, and deepfake audio concerns.
- There is no transparent copyright framework that deals with such AI-created music.

13.1. Mid journey and visual art generation

Description:

- Generative AI Midjourney produces digital artwork from text input.
- Widely utilized by digital creators and artists.

legal tension:

- The US copyright offices' 2023 decision held that a comic book writer utilizing Midjourney could only copyright sections she edited or wrote.
- Pictures generated entirely by Midjourney were not protected.

Issues raised:

- Pushes the requirement of originality in copyright law.
- Mandates a fresh definition of co-authorship wherein human and machine cooperate.

14. GPT and AI-generated literature

Case example,

- A writer employed ChatGPT to collaborate on a short story and applied for copyright.
- Part of the application was refused with only the parts actually edited or curated by the human user receiving protection.

key legal issues:

- Fixation and originality were satisfied but human authorship was not adequate.
- Activated discussion on what minimum level of human contribution is required for protection.

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14.1. Deep dream and AI visualizations

project background

- Developed by Google Deep Dream is a neural network that enhances images to produce surreal, dream-like visuals.
- Used in the creation of AI-generated art.
- Copyright uncertainty.
- Early use of Deep Dream prompted exhibitions and sales of generated images.
- Lack of human authorship led to legal ambiguity regarding ownership and enforcement of rights.

14.2. AI and code: GitHub Copilot

Functionality

- GitHub Copilot, powered by OpenAI Codex, suggests code to developers based on context.
- Trained on large datasets including open-source repositories.
- Legal dispute
- Lawsuits have been brought asserting that copilot copied licensed code without attribution.

Questions Posed

- Is the copilot's product a derivative work?
- Is the code subject to copyright?
- Broader consequences?
- This creates AI training data, ethics software licensing, and open-source philosophy and proprietary AI systems overlap issues.

Therefore, these case studies highlight the increasing divergence between technological possibilities and available legal frameworks. whether it is the self-directed ingenuity of DABUS, the creative copying of a jukebox, or the intricacies of co-authorship brought by GPT and Midjourney, each of these cases demonstrates the failure of standard IP doctrines. with each step towards more advanced AI tools, the need to redefine authorship, ownership, and originality in legal contexts becomes imperative. the subsequent chapter offers probable models and reforms better suited to deal with these challenges in an IP regime that looks to the future.

15. Toward a new IP model: Legal reforms for the age of AI

As discussed in earlier chapters, the current legal framework of intellectual property IP law falls short of addressing the increasing complexities of works and inventions generated with the help of artificial intelligence. copyright and patent systems still depend on anthropocentric forms of defining authorship and

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inventorship. this chapter discusses reform ideas and new models that can best adapt to AI's widening scope in creative and inventive work It assesses doctrinal legislative, and philosophical strategies and makes suggestions for a future-proof IP system.

16.Rethinking the human-centric IP paradigm

the initial assumption that creativity and ingenuity are only a product of the human mind is facing threats from legal frameworks however are still bound to human agency.

Key issues:

- Ignorance of recognition, none of the existing IP legislations around the world identifies non-human creators or inventors.
- Legal personality, there is no standing for machines to claim rights or be held responsible.
- Attribution dilemmas, difficulty in establishing who should receive IP protection developer trainer, user or nobody.

Call for change:

Just as legal rights were once withheld from corporate persons and are now granted legal personhood, a rethinking of the way that IP law defines creative “subjects is in order.

16.1. Legal reform proposals in copyright law

Option 1: Continue Human Authorship

- Status quo: copyright only if human contributes in a meaningful way.
- Necessitates elaborate disclosure of human contribution in works that utilize AI.
- Advantages: preserves legal certainty precludes opening rights to non-persons.
- Disadvantages: risks leaving valuable entirely AI-created works unprotected .

Option 2: Give Copyright to AI users

- Attribute authorship to the human who commissions and curates ai material.
- Example: the prompter who initiates midjourney or gpt with creative intent.
- Pros: pragmatic fits “work for hire” doctrines.
- Cons: could encourage minimal human effort for legal reward.

Option 3: Sui Generis Protection

- Invent a new class of rights tailored to AI-generated material.

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Characteristics:

Briefer term (e.g., 510 years)

Limited application

Public interest considerations

Pros strike a balance between innovation and access

Cons require new legislation and international consensus.

17. legal reform proposals in patent law

17.1 Inventorship attribution models

Human proximate cause model

The AI user or developer is credited as the inventor

Dual attribution: AI is listed as a co-inventor alongside a human contributor.

No inventor model: allows for ownerless patents to enter the public domain quickly

Amend definitions in patent statutes

Include “non-human agents” under the definition of inventor, possibly subject to: human oversight clear ownership rights disclosure of AIS's role.

17.2. Risks

Enlargement of inventorship can precipitate corporate control, distracting from the individual creativity role of international institutions:

WIPO World Intellectual Property Organization

- Does facilitate dialogue but does not have enforcement capacity
- Its 2023 revised issues paper on IP and AI recommends

Incorporation of AI-crafted inventorship,

- Institution of new rights frameworks
- Integration of ethics
- WTO and the TRIPS Council
- The current trip's agreement already presumes human authorship or inventorship.

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- Reform will necessitate widespread international agreement, particularly among the developing world.

18. India's stand and reform directions

India stands at a pivotal moment with its fast-growing AI ecosystem calling for legal preparedness. Reform concepts include:

18.1. Incorporating AI in IP legislation

Supplement the Copyright Act 1957 and Patents Act 1970 to specify AI-created works and inventions. add provisions for:

- Attribution to users/developers.
- Disclosure of machine usage,
- Ethical requirements for generative ai

Sui generis legislation

India can lead the way with a standalone law for AI-generated IP similar to its Geographical Indications Act.

Could encompass

Protection mechanisms

Licensing regimes &

Public interest exceptions,

19. Institutional readiness

- IP offices must create
- AI registration categories
- Expert committees for the scrutiny of such requests
- Guidelines for minimal human intervention
- Ethical and philosophical considerations
- Rewarding machines vs humans
- Must we reward the AI non-sentient or the human work behind it?
- Without protection, corporations will seize all rewards, excluding creators and the public
- AI as a tool or author, if AI is just a tool

such as a camera or brush, existing frameworks are adequate, but when AI starts to be autonomous and not predictable, the tool analogy doesn't hold anymore.

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Intellectual property law needs to change to stay valid and equitable in a time when machines are making significant contributions to creative and innovative activities. The present chapter has discussed some of the reform avenues, from incremental adjustments to revolutionary thinking about rights. The suggested hybrid model tries to balance innovation, legal certainty, and public interest. This last chapter will wrap up the thesis by summarising results and providing actionable recommendations for policymakers, courts, and legal academics.

Conclusion

The ascendance of AI as inventor and creator has opened wide the doors to intellectual property law. While current systems are creaking under these pressures, they present an opportunity too: to reframe legal rights in a world that is machine-augmented and move towards innovation that is inclusive ownership that is ethical and automation that is accountable. Instead of retrofitting AI into old legal templates, this thesis calls for a future-oriented, pluralistic, and flexible legal strategy—one that regards AI as an ally in the perpetual human endeavour of imagination and creation.

Or in other words, Artificial intelligence and intellectual property laws present a converter challenge for the traditional legal framework. Since AI systems are increasingly automatically demonstrating the ability to create creative work and fancy innovation, the basic ideas of writer, innovation and ownership are being questioned. The current copyright and patent governance, lies in human-cantered assumptions, struggling to adjust the rise of non-human creators. This dilemma publishes significant gaps of the IP law worldwide, where most of the judicial system is denying the protection of AI-exposed work or responsible for the people of their AI to be started or programmed-without clear values. Such ambiguity is to suppress innovation, discourage investment in AI-driven research and create debate over the allocation of rights. Rewriting the IP structure that balances the interests of the creator, developer, user and greater society, not just updating the old law. Possible ways include establishing legal personality for a highly autonomous system, regenerating the example of human-AI partnerships, or creating needle generation rights for AI-exposed content-all of which have a significant moral and legal impact. In the end, this changing environment requires a sophisticated understanding of global cooperation, progressive legislation and creative and innovative processes in creative and innovative processes. The robots must change the law as they become co-authors and co-incentives, not only to recognize their contribution, but also to guarantee an equitable, equal and innovative system in the digital age.

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Landmark Legal Cases

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2. Thaler v. Vidal (US, 2022) U.S. Federal Circuit ruled that only a human can be considered an inventor under the Patent Act.

3. Zarya of the Dawn Case (U.S. Copyright Office, 2023) .Denied full copyright to an AI-generated graphic novel created using Midjourney; only human-authored elements were granted protection.

4. Naruto v. Slater (U.S. Court of Appeals, 2018). The "monkey selfie" case reaffirmed that non-humans cannot hold copyright.

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