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GENERATED TEXT AND COPYRIGHT LAW: THE LEGAL STATUS OF ARTIFICIAL INTELLIGENCE-GENERATED LANGUAGE WITH SPECIAL REFERENCE TO LITERARY WORKS

The development of generative artificial intelligence systems is fundamentally changing the traditional patterns of textual content creation, questioning the fundamental assumptions of copyright based on human authorship and individual creative expression. The paper analyzes the legal status of linguistic expression that arises as a result of the operation of artificial intelligence systems, with a special focus on literary works and the specifics of their copyright protection. Starting from the classical criteria of originality and authorship, judicial decisions and administrative practice in different legal systems are analyzed, as well as dominant theoretical approaches to the problem of „originality without an author". Special attention is paid to the distinction between texts created with the help of artificial intelligence (AI-assisted works) and texts generated by the autonomous action of algorithms (AI-generated works), while considering the legal consequences of this distinction in the field of literary creation. The paper discusses the arguments for and against extending copyright protection to generated texts, including philosophical, utilitarian and normative aspects of the problem, as well as the specific challenges that AI-generated literature poses to traditional concepts of authorship and creativity. The aim of the research is to determine whether existing copyright institutions can adequately encompass new forms of linguistic and literary expression or whether it is necessary to develop new legal models of protection. It is concluded that generative artificial

intelligence changes the classical understanding of the concept of authorship, and that the issue of the legal status of AI-generated literary works requires more precise normative articulation in order to ensure legal certainty and an appropriate balance between technological development, freedom of expression and protection of creativity.

Keywords: *artificial intelligence; generated text; copyright; linguistic expression; originality; literary text; AI-generated works; intellectual property*

INTRODUCTION

The modern development of artificial intelligence systems has led to profound changes in the way textual content is created, distributed and used. Generative models of artificial intelligence are now capable of producing coherent, semantically complex and stylistically shaped texts that, in terms of their external characteristics, often do not lag behind texts created by human creativity. This technological transformation has opened up a series of legal issues that go beyond the traditional framework of copyright and bring into the spotlight the problem of the legal status of linguistic expression generated by artificial intelligence. A particularly sensitive area in this regard is literary works, since it is precisely in them that elements of individual style, creative freedom and authorial originality are most strikingly manifested. Copyright has historically been built on the assumption that authorship is inextricably linked to human creativity, individual expression and conscious creative will. The text as a classic subject of copyright protection was viewed through the prism of the original expression of the human spirit, which allowed for a relatively stable application of the criteria of originality and authorship. This connection between the author and the work is particularly strong in the field of literature, where the author's identity, style and artistic expression are traditionally considered key values. However, the emergence of generative AI systems has led to a situation in which textual and even literary content can be created without direct human creative contribution, thus calling into question the fundamental assumption of the necessity of the existence of a human author.

The subject of this paper is the analysis of the legal status of generated text in the copyright system, with a special focus on the question of whether and under what conditions the linguistic expression of artificial intelligence can be considered a work of authorship. Special attention is paid to literary works, because they represent the most pronounced example of the conflict between the traditional understanding of authorship and new forms of algorithmic creativity. The starting point is the assumption that modern legal fra-

meworks, developed in an era of exclusively human creativity, are not fully adapted to new forms of content production, and that they require critical review and possible normative adjustment. The topicality of the topic stems from the increasingly widespread use of generative tools in the academic, professional and creative spheres. Texts generated by artificial intelligence are used in journalism, marketing, education and scientific work, but they are also increasingly appearing in the domain of literary creativity – in the form of poetry, prose, screenplays and other literary forms. In such an environment, their legal qualification remains unclear, especially when it comes to works that resemble authentic literary texts in form and style. The lack of a clear legal regime creates uncertainty regarding issues of authorship, ownership of rights, liability for copyright infringement and the limits of permitted use of generated content.

The main objective of the research is to determine whether existing copyright concepts can adequately encompass textual, and especially literary, content created by artificial intelligence, or whether it is necessary to develop new theoretical and normative models. In this sense, the paper seeks to answer several key research questions: whether a generated text can meet the criterion of originality in the absence of a human author; whether the linguistic expression of artificial intelligence can be considered a work of authorship; how different legal systems approach this issue; and which arguments speak in favor of, and which against, copyright protection of AI-generated texts, especially when it comes to literary works. Methodologically, the paper is based on a combination of normative-legal, comparative and theoretical-analytical methods. The fundamental institutes of copyright, contemporary doctrinal understandings, as well as relevant comparative legal approaches to the issue of protection of generated content are analyzed. The starting hypothesis of the paper is that generative artificial intelligence fundamentally changes the understanding of the concepts of authorship and originality, and that the existing copyright framework shows serious limitations in its application to new forms of linguistic and literary expression.

LANGUAGE AND COPYRIGHT LAW: THE TRADITIONAL FRAMEWORK

Copyright has historically developed in relation to language and textual works as the earliest forms of creative expression. Books, articles and other written forms were the original subject matter of copyright protection, which is why understanding the relationship between language and copyright is crucial for understanding the entire system of intellectual property protection.

However, it should be noted that early copyright protection systems developed from a regime of privilege whose main goal was both to control the flow of information by the state and to protect the economic interests of publishers as key actors in the emerging printing industry (Afori, 2012: 242–243).

The traditional concept of copyright starts from the assumption that a text is an expression of individual human creativity and as such deserves legal protection. The basic condition for the existence of copyright protection is the originality of the work, understood not as novelty or aesthetic value, but as the fact that the work originates from the author and reflects at least a minimal creative contribution in shaping a specific linguistic expression (Hanotiya, 2023: 1–2). In this context, copyright law consistently distinguishes between an idea and its expression: ideas, facts and information remain in the public domain, while only their specific linguistic articulation may be protected (Stanković, Varađanin, 2023: 136; Abrams, 1992: 5–7).

From a linguistic and literary perspective, however, linguistic expression cannot be reduced to a mere combination of words. It includes choices of vocabulary, syntactic structures, stylistic patterns and rhetorical strategies through which an author shapes a recognizable mode of expression. In literary works in particular, such elements form what is often described as an authorial voice or stylistic identity, which reflects not only technical composition but also a coherent perspective and intentional organization of meaning. In this sense, originality is not only a legal threshold, but also a manifestation of individual expression within a broader discursive and cultural context.

Accordingly, the concept of authorship in traditional copyright law is inextricably linked to the human personality. The author is viewed as a physical person who, through intellectual effort and creative judgment, shapes the work and determines its final form. Comparative legal analysis shows that different legal systems, despite their differences, share the assumption that the author must be capable of conscious reasoning and control over the creative process (Ginsburg, 2003: 1064–1066, 1072–1075). Copyright is therefore conceived as a mechanism that protects and encourages human creativity, rather than the mere technical production of text.

Although human authors inevitably create under the influence of previously encountered texts, such influence operates within clearly defined legal boundaries. As Brauneis points out, access to protected works typically occurs through lawful channels such as purchase, subscription or licensed use, meaning that learning from existing works presupposes respect for the copyright regime (Brauneis, 2025: 12–15). Inspiration does not justify reproduction, but requires the creation of an independent and individual expression.

The traditional copyright framework thus rests on three interrelated elements: the existence of a human author, originality and individual linguistic expression. Only their cumulative fulfillment enables a text to acquire the status of a protected work. While this model has long provided stability in regulating textual production, the development of generative artificial intelligence increasingly challenges its underlying assumptions. In particular, the possibility of producing linguistically coherent texts without a human author calls into question not only legal categories, but also the very understanding of linguistic and literary expression as a product of individual creative subjectivity.

ARTIFICIAL INTELLIGENCE AS A TEXT GENERATOR

Generative models based on machine learning are now able to produce texts for a variety of purposes – from short informative content to complex academic or literary forms. This ability of artificial intelligence to autonomously generate linguistic expression represents one of the most significant technological changes in the field of creativity in recent decades (Feng, 2025). Unlike the traditional writing process, in which a person directly shapes each element of the text, generative artificial intelligence produces text through statistical processing of large datasets and algorithmic prediction of probable language structures. As a result, such systems generate linguistically coherent and stylistically plausible sequences of words without relying on conscious understanding or communicative intention in the human sense (Elmahjub, 2025).

From a linguistic perspective, this form of text production can be described as probabilistic discourse generation. Instead of expressing meaning through intentional communicative acts, the system recombines patterns derived from existing texts, producing outputs that imitate recognizable forms of language use. Consequently, AI-generated texts often display grammatical correctness and stylistic consistency, yet lack a stable authorial voice and a unified perspective that would typically characterize human-authored discourse.

In situations where artificial intelligence participates in the creative process or independently generates content, the traditional link between the human creator and the work becomes blurred (Aplin & Pasqualetto, 2020: 17). Contemporary theory therefore distinguishes between two basic forms of the use of artificial intelligence in the creative process: texts created with the help of artificial intelligence (AI-assisted works) and texts generated by the autonomous action of artificial intelligence (AI-generated works) (Li, 2024). In the first case, humans retain a dominant creative role by structuring, selecting

and editing the content, while in the second, the system generates the entire linguistic expression with minimal human input (Uribe Jaramillo, 2024). It is precisely this second category that raises the most complex legal and theoretical questions.

Modern generative systems are trained on extensive corpora of existing texts, from which they learn statistical regularities of language use. Based on these patterns, they produce new combinations of words that are not direct copies of existing works, but are nevertheless shaped by previously encountered discourse structures (Gaidartzi & Stamatoudi, 2025). This results in texts that formally resemble human-written content, while lacking an underlying intentional or experiential dimension. In literary terms, such production may be understood as a form of stylistic imitation or intertextual recombination rather than the expression of an individual creative subject.

The debate on the copyright status of generated text is closely related to the legal nature of the training process of artificial intelligence systems. Analogies are often drawn between human learning and algorithmic „learning" from large corpora of copyrighted works. However, as Brauneis emphasizes, human learning occurs within established legal frameworks of access, whereas AI training necessarily involves large-scale copying and storage of protected content (Brauneis, 2025: 5–8).

In AI-generated text, there is no individual who makes creative decisions in the traditional sense, but an algorithm that produces content based on mathematical models (Elmahjub, 2025). This raises the question of whether the human user of such systems can be considered the author of the resulting text. While some authors argue that prompts do not constitute sufficient creative contribution (Li, 2024), others emphasize that, depending on the degree of human input, such texts may still reflect a level of creative control (Saw & Lim, 2024).

Beyond this legal dilemma, the issue also acquires a broader literary dimension. As recent literary theory emphasizes, the central question is not merely whether AI-generated texts can reach the level of stylistic or formal quality of human writing, but whether the absence of a human writing subject fundamentally alters the meaning and value of the text itself (Dimirouli, 2024). In this sense, the problem of authorship extends beyond legal attribution and enters the domain of literary interpretation, where the presence of an authorial voice remains a key element in understanding and evaluating textual expression.

In this regard, a flexible approach appears more appropriate, taking into account the extent to which the user has contributed to the conception, structure and final shaping of the text (Feng, 2025: 4–7). Artificial intelligence may

thus be understood as a tool that transforms the process of creation, without necessarily redefining authorship in every case.

Comparative analysis shows that most legal systems still lack clear and consistent answers regarding the originality and authorship of AI-generated texts. While some jurisdictions insist on human authorship as a strict requirement, others adopt more flexible approaches that consider the degree of human intellectual contribution (Gaidartzi & Stamatoudi, 2025). Nevertheless, it is widely recognized that artificial intelligence systems cannot be equated with legal subjects, as they lack intention, independent judgment and the capacity for autonomous action outside programmed parameters (Kurki, 2023).

A notable example is the practice of Chinese courts, which in certain cases have recognized copyright protection for content created with the use of artificial intelligence, provided that the user has invested sufficient intellectual effort in the creation process (Feng, 2025). Such developments indicate a possible evolution of traditional concepts of authorship, while simultaneously opening new theoretical and practical dilemmas.

In contemporary practice, artificial intelligence is increasingly used to generate a wide range of textual content, from journalistic and marketing materials to more complex analytical and literary forms (Uribe Jaramillo, 2024). As a result, the boundary between human and algorithmic authorship becomes increasingly difficult to delineate. Artificial intelligence as a text generator therefore represents not only a technological innovation, but also a conceptual challenge to traditional understandings of language, authorship and creative expression.

LEGAL STATUS OF THE GENERATED TEXT

The issue of the legal status of text generated by artificial intelligence is one of the more complex and topical issues of contemporary copyright law. Generative artificial intelligence systems, however, produce texts without direct human creative input, which calls into question the possibility of their legal qualification as works of authorship. This situation raises a fundamental dilemma: whether such texts can be subject to copyright protection and, if so, to whom such protection should belong. The dominant, but also simplistic, understanding of contemporary copyright law is based on the requirement of human authorship. According to this approach, copyright can only arise in relation to a work that is the result of human intellectual and creative work. Texts autonomously generated by artificial intelligence, without significant human input, as a rule do not meet this condition and are therefore not considered works of authorship in the classical sense (Li, 2024: 5–9). Most legal

systems assume that the author must be a subject capable of creative judgment and creative decision-making, which artificial intelligence algorithms by their nature cannot be.

One of the key problems in the legal qualification of a generated text is the issue of originality. Such a text is created as a result of statistical data processing and algorithmic prediction, and not as a consequence of a conscious creative process (Elmahjub, 2025: 6–9). A particularly important distinction is made between texts created with the help of artificial intelligence and texts that artificial intelligence generated completely autonomously. Most authors believe that copyright protection can only be recognized in the first situation, while completely autonomously generated texts do not meet the conditions for protection (Uribe Jaramillo, 2024: 40–44).

Comparative law approaches to the issue of the legal status of a generated text depend largely on the way in which individual legal systems understand the concept of authorship. A comparative analysis shows that, despite the differences between the common law and continental traditions, almost all contemporary jurisdictions start from the common assumption that the author must be a human being who exercises creative control over the creation of the work (Ginsburg, 2003: 1064–1067). This assumption is the fundamental reason why completely autonomously generated texts have difficulty fitting into existing copyright frameworks. In the continental-European tradition, authorship is associated with personal creativity and individual creative choice. A work of authorship must reflect the „personal stamp“ of the author, while automated content generation cannot give rise to copyright (Ginsburg, 2003: 1070–1073). This understanding is particularly expressed in European Union law, where the criterion of originality is interpreted as „the author's own intellectual creation“. In practice, this means that content generated entirely by artificial intelligence is generally not considered to be copyrighted works (Gaidartzi & Stamatoudi, 2025: 12–15). The United States of America takes a similarly restrictive position, while the United Kingdom is a partial exception, as British law recognizes the category of „computer-generated works“. According to this concept, the author is considered to be the person who made the necessary arrangements for the creation of the work. However, contemporary interpretations show that this institute was not designed for the context of modern generative AI systems, but for older forms of computer-assisted creation. For this reason, British theory increasingly emphasizes that completely autonomously generated texts can hardly be encompassed by the existing concept of authorship (Uribe Jaramillo, 2024: 62–70) because British copyright protects exclusively original works expressed in material form, with originality traditionally being linked to the degree of human creativity, and the modern

standard of „the author's own intellectual creation“, developed under the influence of the case law of the Court of Justice of the EU, further emphasizes the inextricable link between copyright and individual human contribution (Salami, 2021: 127).

In contrast to these systems, Chinese case law has developed a more flexible approach. In a series of decisions, Chinese courts have recognized copyright protection for content created using artificial intelligence, provided that a significant degree of human intellectual investment in the process of its creation can be proven (Feng, 2025: 4–7). This approach does not completely abandon the requirement of human authorship, but interprets it in a broader and more functional way, starting from the idea that the actual contribution of the system user is crucial. A particularly significant example of Chinese case law is the case known as the „Dreamwriter case“. Namely, a court in Shenzhen recognized copyright protection for text generated by an AI system, starting from the fact that the human user played a significant role in selecting the input data, setting the parameters and directing the content generation process (Feng, 2025: 6–8). A similar approach was confirmed in later cases before the courts in Beijing and Changshu, where the decisive criterion was the existence of sufficient human intellectual contribution, and not the mere fact that the text was technically produced by artificial intelligence. This practice shows a tendency to interpret the traditional concept of authorship functionally, with an effort to protect the economic and creative interests of the users of AI systems.

A similar approach can be observed in the administrative practice of the United States of America, where the requirement of human authorship is consistently insisted on as a necessary condition for obtaining copyright protection. In several decisions of the U.S. Copyright Office, the position has been taken that content generated entirely by artificial intelligence cannot be the subject of copyright (Uribe Jaramillo, 2024: 47–52). In its 2021 guidelines, the Office explicitly confirmed that it would not register works created solely by a machine or automated mechanical process without any creative input from humans, thus taking the unequivocal position that content generated without human intervention remains outside the scope of copyright protection. This interpretation was further confirmed in 2023 in the case of the graphic novel Zarya of the Dawn, when the initially granted registration was subsequently revoked due to the fact that the illustrations were generated by an AI system, and the new registration was recognized only in the work that contained elements of human authorship, such as text and the arrangement of visual elements (US Copyright Office, 2023). This position has also been reflected in public and professional discourse, particularly in cases where AI-generated

visual and textual content has been denied copyright protection, reinforcing the strict requirement of human authorship (Edwards, 2023).

However, the refusal to protect completely machine-generated works does not mean that the use of technology is incompatible with copyright protection, as is also confirmed by the historical example of photography, since in the case of Burrow-Giles Lithographic Co. v. Sarony, the US Supreme Court recognized protection for photographic works as the results of the author's original intellectual conceptions, and not as mere mechanical reproductions of reality (Burrow-Giles Lithographic Co. v. Sarony, 1884). Even in situations where a person initiated the generation process by giving instructions or prompts, administrative authorities considered that such a contribution was not sufficient to recognize authorship, unless the specific linguistic expression was the result of a human creative choice. This practice confirms that Western legal systems still maintain a restrictive understanding of authorship, according to which autonomously generated texts remain outside the scope of copyright protection, regardless of their creative or economic value.

Research confirms that none of the analyzed legal systems currently has a fully developed and consistent model for regulating autonomously generated texts. The Chinese approach shows the possibility of a more flexible interpretation, but for now remains an exception in the global context (Uribe Jaramillo, 2024: 112–118).

In addition to restrictive understandings, there are also views in theory that advocate the need to redefine existing concepts. Some authors believe that insisting on a strict requirement of human authorship could become an obstacle to the development of new forms of creative production and that the law should find new models for protecting the economic interests associated with AI content (Saw & Lim, 2024: 10–14). However, these views do not currently have broad support in the positive law of most countries.

From all of the above, it follows that the legal status of generated text is still extremely uncertain. Most modern legal systems assume that such text, if created without significant human creative contribution, cannot enjoy copyright protection. However, the growing use of generative artificial intelligence and the increasing economic value of such content create pressure to find new normative solutions (Uribe Jaramillo, 2024: 120–124). It can be concluded that, despite significant differences in national approaches, there is currently no generally accepted model for regulating AI-generated text. Comparative experience shows that most legal systems still rely on the traditional concept of human authorship, while alternative solutions are still in the development phase. It is precisely this mismatch between technological reality and existing legal frameworks that makes the issue of the legal status of generated text one

of the central problems of contemporary copyright. Based on this, we believe that innovations and modern technological trends should not be rejected, but rather that they should be legally monitored and normatively guided. Artificial intelligence is still an unclear, perhaps even frightening phenomenon for many today, however, it should not be ignored that similar resistance existed towards earlier technological, electronic and digital innovations that are now largely legally regulated and integrated into the legal systems of almost all countries. Therefore, regulating artificial intelligence cannot be a quick process, nor should it be expected, but requires time, gradual adaptation and continuous normative development. However, the fact that artificial intelligence is already deeply present in almost all areas of social and professional activity imposes the need to approach its legal regulation without delay.

SPECIFIC FEATURES OF COPYRIGHT PROTECTION FOR AI-GENERATED LITERARY WORKS

Literary works occupy a distinct position within copyright law due to their close connection with individual expression, stylistic identity and the presence of an authorial voice. Unlike other forms of textual production, literary expression is not evaluated solely through formal correctness or coherence, but through its capacity to establish a unified semantic, narrative and aesthetic structure. This specificity makes the application of traditional copyright concepts to AI-generated literary texts particularly complex.

While generative artificial intelligence has demonstrated the capacity to produce linguistically coherent and stylistically plausible texts (Feng, 2025; Elmahjub, 2025), the key issue in the context of literary works is not the technical ability to generate language, but the absence of a subject capable of structuring meaning. As Dimirouli (2024) emphasizes, AI-generated writing simulates expression without being anchored in a conscious writing subject, thereby transforming authorship into a performative effect rather than a genuine act of creation. In this sense, what appears as authorship may be understood as a performative effect of language rather than the manifestation of an individual creative act, a position also reflected in contemporary analyses of AI-generated literature as a performance of authorship (Colella, 2025).

This transformation becomes particularly visible in the relationship between stylistic form and expressive unity. Although AI-generated texts may imitate genre conventions and stylistic patterns, empirical research indicates that they frequently fail to maintain narrative coherence, consistency and emotional depth in extended literary forms (Prabowo & Asmarani, 2025). The decisive issue is therefore not the surface plausibility of the text, but the

absence of a unifying expressive principle that would integrate linguistic elements into a coherent whole.

A further analytical difficulty arises from the increasing indistinguishability between human and AI-generated writing. Despite the ability of such systems to produce texts that formally resemble human expression (Gaidartzi & Stamatoudi, 2025), this resemblance cannot serve as sufficient proof of authorship. The inability to distinguish between human and algorithmic writing reveals the limitations of formal criteria and reinforces the need to focus on the presence of intentional meaning production.

This insight is closely related to the stochastic nature of AI-generated language, which operates through probabilistic recombination of linguistic elements rather than intentional expression (Elmahjub, 2025). As a result, meaning is not constructed through a stable perspective, but statistically approximated, which fundamentally distinguishes such texts from literary expression grounded in human creativity.

The distinction between AI-assisted and fully AI-generated works further complicates the issue (Aplin & Pasqualetto, 2020; Li, 2024; Uribe Jaramillo, 2024). However, this distinction should be understood not merely as a technical classification, but as a criterion for evaluating the extent of human contribution. The decisive question is whether a human subject has exercised meaningful control over the formation and structuring of the text as a coherent expressive whole.

From a literary-theoretical perspective, the role of intertextuality provides an additional layer of analysis. While human authors engage with existing texts through interpretation and transformation, AI systems process textual material through large-scale extraction and recombination (Sarsembayeva et al., 2025). This difference highlights the distinction between intertextuality as a mode of meaning production and intertextuality as a structural mechanism.

The concept of simulacral textuality is particularly useful in this context. AI-generated literary texts may be understood as reproductions of recognizable literary forms that lack an authentic connection to a creative subject or lived experience (Sarsembayeva et al., 2025). In this sense, the text produces the appearance of meaning without being grounded in intentional expression. At the same time, the reception of such texts introduces additional complexity. Readers may respond to stylistic features and narrative structures without being aware of the absence of a human author (Dimirouli, 2024), which challenges traditional assumptions about the relationship between text, author and meaning.

From a legal perspective, these characteristics raise significant questions regarding the applicability of copyright protection. Existing legal fra-

meworks continue to rely on the assumption of human authorship and creative contribution (Gaidartzi & Stamatoudi, 2025; Kurki, 2023), while the use of AI introduces new challenges related to training processes, access to protected works and the scale of content generation (Brauneis, 2025).

In addition, arguments in favor of recognizing certain forms of protection emphasize the role of human contribution and the need to support innovation (Saw & Lim, 2024). However, without clearly defined criteria, such approaches risk diluting the concept of originality and expanding protection beyond its traditional boundaries.

In our view, the central challenge lies in preserving the distinction between linguistic production and literary expression. Copyright protection in the field of literary works should remain linked to the presence of intentional structuring of meaning and meaningful human contribution. Without such criteria, there is a risk of equating simulated textual production with genuine literary creativity.

ARGUMENTS SUPPORTING AND OPPOSING COPYRIGHT PROTECTION FOR AI-GENERATED TEXT

The debate on whether AI-generated text should enjoy copyright protection represents one of the central theoretical and practical dilemmas in contemporary intellectual property law. The division of positions reflects a deeper tension between preserving the traditional conceptual foundations of copyright and adapting legal frameworks to technological transformation.

Arguments opposing copyright protection primarily rely on the premise that authorship presupposes a human subject capable of intentional and creative expression. Since generative artificial intelligence systems operate through statistical processing rather than conscious decision-making, their outputs cannot be regarded as works of authorship in the classical sense (Elmahjub, 2025: 7–10). However, the strength of this argument lies not merely in the absence of consciousness, but in the absence of intentional structuring of meaning. Without a subject capable of selecting and organizing linguistic expression as a coherent whole, the resulting text lacks the essential characteristics of authorship.

A similar line of reasoning applies to the requirement of originality. Copyright originality is not based on novelty alone, but on the existence of individual creative choices. In the case of autonomously generated text, such choices are replaced by algorithmic prediction of probable linguistic sequences, which raises the question of whether statistical variation can be equated with creative contribution (Li, 2024: 12–15). The key issue, therefore, is not

whether AI-generated text is different from existing texts, but whether this difference reflects an underlying creative intention.

Opponents of protection also emphasize broader systemic implications. Granting copyright to AI-generated text could lead to excessive privatization of linguistic expression, particularly given the scale at which such systems can produce content. This raises concerns about the reduction of the public domain and potential constraints on freedom of expression and access to information (Elmahjub, 2025: 11–14). From this perspective, the problem is not only doctrinal but structural, as the extension of exclusive rights to algorithmically generated content could disrupt the balance between protection and openness that copyright law seeks to maintain.

An additional difficulty concerns the issue of responsibility and attribution. Copyright traditionally presupposes a subject capable of bearing legal and moral responsibility for the work. In the case of AI-generated text, such a subject is difficult to identify: artificial intelligence cannot act as a rights holder, while the user often lacks direct control over the specific linguistic output (Gaidartzi & Stamatoudi, 2025: 18–21). This ambiguity reveals a deeper inconsistency between existing legal categories and the realities of algorithmic production.

In contrast, arguments supporting copyright protection are primarily grounded in the functional and economic role of copyright. From this perspective, the primary purpose of copyright is not to recognize authorship in a metaphysical sense, but to incentivize the production of socially valuable content. Accordingly, denying protection to AI-generated works could discourage investment in artificial intelligence systems and limit technological innovation (Saw & Lim, 2024: 9–12). Some authors also argue that the emergence of AI-generated content requires a broader rethinking of copyright as a system of allocating control over outputs rather than exclusively protecting human creativity (Wyczik & Wieczerzak, 2024).

However, this utilitarian argument requires careful qualification. The mere fact that a system produces useful or economically valuable content does not necessarily justify extending copyright protection if the underlying criteria of authorship and originality are not satisfied. Otherwise, copyright risks transforming from a system of protecting creative expression into a mechanism of regulating technological output.

Proponents of a more flexible approach therefore emphasize the need to reinterpret existing doctrines rather than abandon them entirely. It is argued that legal frameworks should take into account the realities of contemporary creative processes, in which human and algorithmic contributions are increasingly intertwined (Uribe Jaramillo, 2024: 101–104). Nevertheless, even

within this perspective, there is broad agreement that some level of human intellectual contribution remains necessary. Most authors recognize that elements such as selection, structuring, editing or conceptual framing may serve as the basis for attributing authorship (Li, 2024: 22–24).

In this context, the crucial analytical question is not whether AI-generated text should be protected as such, but under what conditions human involvement transforms algorithmic output into a work of authorship. This shifts the focus from the nature of the technology to the nature of the creative process itself. A purely technological approach risks oversimplifying the issue, while a process-oriented approach allows for a more precise differentiation between varying degrees of human contribution.

The analysis of opposing arguments thus reveals that the debate is not merely a conflict between two incompatible positions, but a reflection of deeper conceptual uncertainty regarding the nature of authorship, creativity and linguistic expression in the digital age. On the one hand, strict adherence to traditional criteria may fail to capture the complexity of contemporary forms of production. On the other hand, excessive flexibility risks undermining the normative coherence of copyright law (Gaidartzi & Stamatoudi, 2025: 25–28).

In our view, neither extreme approach provides a satisfactory solution. Arguments against protection convincingly defend the conceptual integrity of copyright, but insufficiently address the practical realities of technological development. Conversely, arguments in favor of protection acknowledge economic and functional considerations, but often rely on an implicit redefinition of authorship that is not clearly articulated. A balanced approach therefore requires the development of more precise analytical criteria capable of distinguishing between formal text generation and genuinely creative human contribution.

POSSIBLE LEGAL REGULATORY MODELS FOR AI-GENERATED TEXT

Modern theory and practice propose several regulatory models for addressing the legal status of AI-generated text, each attempting to balance the protection of creativity, the promotion of technological innovation and the preservation of the public interest. However, these models should not be viewed merely as alternative technical solutions, but as expressions of fundamentally different understandings of the function of copyright in the digital age.

The first approach is based on the strict exclusion of autonomously generated texts from copyright protection. According to this model, copyright can exist only where a text is the result of human creative contribution, while

content created without such contribution remains in the public domain. Its main advantage lies in its conceptual consistency and legal certainty, as it preserves the traditional understanding of authorship without requiring doctrinal adjustments. However, its limitation becomes evident in its inability to address the economic and practical realities of large-scale AI-generated content production. By excluding such content entirely from protection, this model risks creating a gap between legal regulation and actual creative practices.

A more flexible approach is reflected in the concept of conditional copyright protection, which recognizes generated text as a work of authorship only where a sufficiently significant human contribution can be identified. In this context, the central issue is not the use of artificial intelligence itself, but the degree and quality of human involvement in shaping the final expression. Human contribution may take the form of selection, structuring, editing or conceptual direction of the text, and its evaluation requires a case-by-case assessment (Feng, 2025: 8–11). While this model has the advantage of adaptability and corresponds to emerging judicial practice, its main weakness lies in the lack of clear criteria for determining when human contribution becomes legally relevant. Without such criteria, the model risks producing inconsistent and unpredictable outcomes.

The idea of introducing a sui generis protection regime represents a more radical departure from traditional copyright concepts. This approach is based on the assumption that AI-generated content constitutes a distinct category of intellectual output that cannot be adequately regulated within existing legal frameworks (Saw & Lim, 2024: 12–15). A separate regime could provide tailored solutions, such as limited rights, shorter protection periods or specific conditions for acquisition of rights. However, the practical implementation of such a system would require extensive legislative reform and international harmonization. Moreover, it raises the question of whether the multiplication of legal regimes contributes to clarity or further fragments the system of intellectual property protection.

Another model emphasizes the retention of AI-generated texts within the public domain, combined with the use of contractual and technological mechanisms for protection. Under this approach, no new intellectual property rights are introduced, and the interests of stakeholders are safeguarded through licenses, terms of use and technical control over access and distribution (Uribe Jaramillo, 2024: 118–122). The strength of this model lies in preserving openness and freedom of expression, but its limitation is the lack of comprehensive legal certainty, particularly in relation to exclusivity and enforcement.

Regardless of the chosen model, a central issue remains the identification of the potential rights holder. Theoretically, several candidates are con-

sidered: the user of the system, the developer of the artificial intelligence, the company that owns the model, or, alternatively, the absence of any rights holder in the case of public domain solutions. This question cannot be resolved independently of the underlying concept of authorship.

In this regard, we support a differentiated approach. In cases of fully autonomous AI-generated works, it may be justified to attribute certain rights to the developer or the entity controlling the system, as they provide the technical and organizational conditions for the creation of content. However, such attribution must be approached with caution, as it risks extending protection beyond the boundaries of creative contribution. As has been pointed out in the context of software development, recognizing authorship over all outputs of a system may lead to excessive monopolization, while economic interests can be adequately protected through control over the distribution and use of the technology itself (Kretschmer, Bently & Deazley, 2010; Samuelson, 2024).

Conversely, in cases of AI-assisted works where human input is dominant, the traditional copyright framework remains applicable. The decisive criterion is the existence of meaningful human control over the formation of the text as a coherent expressive whole. This distinction reflects a broader analytical shift from focusing on the tool used in creation to examining the nature of the creative process itself.

The choice between regulatory models ultimately depends on how copyright is conceptually understood. If it is viewed primarily as a mechanism for protecting human creativity, restrictive models appear more coherent. If, however, its function is understood in utilitarian terms, as a tool for encouraging innovation and economic activity, more flexible or sui generis approaches may be justified (Saw & Lim, 2024: 13–15).

In our view, a balanced solution should combine elements of both approaches. The requirement of human authorship should remain a central principle, but the legal framework should allow for protection in situations where human contribution is sufficiently substantial and demonstrable. This approach aligns with comparative legal developments, which increasingly emphasize the distinction between AI-assisted and fully autonomous AI-generated texts (Uribe Jaramillo, 2024: 101–104).

At the same time, the issue of regulatory models extends beyond copyright doctrine and reflects a broader transformation of the legal system in the digital age. The increasing role of artificial intelligence in the production of knowledge and information challenges existing categories of responsibility, authorship and control. As an interim solution, it appears justified to maintain the principle that the person who presents themselves as the author or rights holder bears full legal responsibility for the content they publish, regardless of

the extent of AI involvement. Such an approach preserves legal certainty and accountability while preventing potential abuses related to the appropriation of autonomously generated content.

Finally, the complexity of these issues indicates the need for a more comprehensive regulatory framework. The adoption of a lex specialis on artificial intelligence could provide clearer definitions, establish boundaries of use, regulate liability and determine the conditions under which rights may arise. Without such systemic intervention, the regulation of AI-generated text will remain fragmented and dependent on ad hoc interpretations.

CONCLUSION

Texts created by autonomous artificial intelligence represent a phenomenon that challenges the fundamental assumptions on which copyright law has traditionally been built. The absence of a human author as the bearer of creative intent and individual expression makes it difficult to qualify such texts within existing legal categories. This difficulty is particularly pronounced in the domain of literary works, where authorship has historically been understood as the manifestation of personal style, imagination and subjective creativity.

The analysis has shown that contemporary legal systems, despite certain variations, predominantly maintain the requirement of human authorship as a central condition for copyright protection. In this framework, originality is inseparably linked to the existence of a human subject capable of making creative choices and exercising control over the final form of the work. Consequently, fully autonomous AI-generated texts, including literary forms, generally remain outside the scope of copyright protection (Li, 2024: 22–24). This position reflects a deeper conceptual commitment to understanding copyright as a system grounded in human creativity rather than in the mere production of textual output.

At the same time, the comparative analysis reveals the emergence of more flexible approaches, particularly in Chinese case law, which recognize the relevance of human intellectual contribution even in technologically mediated creative processes (Feng, 2025: 8–11). However, such approaches remain limited in scope and do not yet represent a dominant global trend.

The theoretical debate is structured around two opposing perspectives. On the one hand, arguments against copyright protection emphasize the risk of diluting the concept of authorship, undermining the public domain and destabilizing the normative foundations of copyright law (Elmahjub, 2025: 13–16). On the other hand, arguments in favor of protection highlight utilitarian consi-

derations, the need for legal certainty and the importance of supporting technological innovation (Saw & Lim, 2024: 12–15). This tension is particularly evident in the field of literary creation, where the traditional understanding of the author as a creative subject confronts the reality of algorithmically generated texts.

The research confirms that the distinction between AI-assisted and fully AI-generated texts remains a decisive analytical and normative criterion. Where a human retains meaningful control over the creative process, copyright protection may still be justified. Conversely, where human involvement is reduced to minimal input, the recognition of authorship becomes highly problematic (Uribe Jaramillo, 2024: 40–44). This distinction shifts the focus from the mere use of technology to the nature of the creative process itself.

However, an additional layer of complexity arises from the practical difficulty of determining the origin of a given text. In many cases, it is not possible to establish with certainty whether a work is the result of autonomous AI generation or human creativity supported by technological tools. As a result, legal systems tend to rely on the presumption that a work is human-created, placing the burden of proof on those who claim otherwise. This evidentiary aspect further complicates the application of existing legal standards.

Moreover, the issue of AI-generated text cannot be separated from the problem of large-scale use of protected works in the training of artificial intelligence systems. Equating algorithmic learning with human reading would effectively grant broader access to copyrighted material than that available to human authors, thereby disrupting the balance between protection and use that copyright law seeks to maintain (Brauneis, 2025: 31–34). This issue is particularly relevant in the context of literary works, given the extensive use of protected corpora in the training of generative models.

Future regulatory developments may follow several directions, including the preservation of a restrictive approach, the gradual expansion of the concept of human contribution, or the introduction of sui generis protection regimes adapted to the specificities of AI-generated content. However, none of these approaches has yet achieved general acceptance, which indicates that this field remains in a phase of ongoing conceptual and normative development.

In our view, the central challenge does not lie in deciding whether AI-generated texts should be protected, but in redefining the criteria by which authorship and originality are assessed in the context of algorithmic production. A sustainable legal solution requires maintaining the core principle of human authorship, while at the same time developing more precise analytical tools for evaluating the role of human contribution in technologically mediated creative processes.

Ultimately, generative artificial intelligence does not merely introduce new technical questions, but calls into question the very understanding of language, authorship and literary expression. Any future legal framework must therefore ensure a careful balance between the protection of human creativity, the encouragement of technological innovation and the preservation of the public domain. Until such a framework is fully developed, the legal status of AI-generated text—particularly in the field of literary works—will remain one of the most complex and dynamic issues in contemporary copyright law.

LITERATURE

- Abrams, H. B. (1992). *Originality and creativity in copyright law*. Law and Contemporary Problems, 55(2), 3–44.
- Afori, O. F. (2012). *The evolution of copyright law and inductive speculations as to its future*. Journal of Intellectual Property Law, 19(2), 242–243.
- Aplin, T., & Pasqualetto, G. (2022). *Chapter 5: Artificial intelligence and copyright protection*. King's College London Law School Research Paper, 1–19.
- Brauneis, R. (2025). *Copyright and the training of human authors and generative machines*. Columbia Journal of Law & the Arts, 48(1).
- Burrow-Giles Lithographic Co. v. Sarony, 111 U.S. 53 (1884).
- Colella, S. (2025). *„The language of the digital air": AI-generated literature and the performance of authorship*. Humanities, 14, 164.
- Dimirouli, F. (2024). *AI poetry and the human writing subject*. The Independent Social Research Foundation.
- Edwards, B. (2023). *AI-generated comic artwork loses US copyright protection*. Ars Technica.
- Elmahjub, E. (2025). *Why copyright's legal philosophy precludes protection for generative AI outputs*. Laws, 14(57).
- Farley, C. H. (2004). *The lingering effects of copyright's response to the invention of photography*. University of Pittsburgh Law Review, 65(3), 385.
- Feng, S. (2025). *The copyrightability of AI-generated content: A doctrinal exploration of the pioneering Chinese judicial practice*. Computer Law & Security Review, 54, Article 106236.
- Gaffar, H., & Albarashdi, S. (2025). *Copyright protection for AI-generated works: Exploring originality and ownership in a digital landscape*. Asian Journal of International Law, 15, 23–46.
- Gaidartzi, A., & Stamatoudi, I. (2025). *Authorship and ownership issues raised by AI-generated works: A comparative analysis*. IIC – International Review of Intellectual Property and Competition Law.

- Ginsburg, J. C. (2003). *The concept of authorship in comparative copyright law*. DePaul Law Review, 52(4), 1063–1092.
- Hanotiya, S. (2023). *Copyright and originality*. SSRN Electronic Journal.
- Kretschmer, M., Bently, L. A. F., & Deazley, R. (2010). *Introduction: The history of copyright history*. In Privilege and Property: Essays on the History of Copyright. Cambridge: Open Book Publishers.
- Kurki, V. A. J. (2023). *Legal personhood*. Elements in Philosophy of Law. Cambridge: Cambridge University Press.
- Li, Y. (2024). *The human authorship requirement in AI-generated works: A comparative analysis of copyright protection frameworks*. Unpublished manuscript.
- Prabowo, B. A., & Asmarani, R. (2025). *Generative literature: The role of artificial intelligence in the creative writing process*. Allure Journal, 5(1), 1–9.
- Sarsembayeva, S., Aituganova, S., Kopbosynov, M., & Kulibekova, Z. (2025). *Artificial intelligence and the simulacrum in literature.* Forum for Linguistic Studies, 7(6), 56–67.
- Salami, E. (2021). *AI-generated works and copyright law: Towards a union of strange bedfellows*. Journal of Intellectual Property Law & Practice, 16(2), 127.
- Samuelson, P. (1986). *Allocating ownership rights in computer-generated works*. University of Pittsburgh Law Review, 47, 1185.
- Saw, C. L., & Lim, D. L. W. (2024). *The case for AI authorship in copyright law*. Unpublished manuscript.
- Schroff, S. (2021). *The purpose of copyright – Moving beyond the theory*. Journal of Intellectual Property Law & Practice, 16(11), 1262.
- Stanković, M., Varađanin, T. (2023). Uvod u građansko pravo. Pravni fakultet za privredu i pravosuđe Univerziteta Privredna akademija u Novom Sadu.
- U.S. Copyright Office. (2021). *Copyright registration guidance: Works containing material generated by artificial intelligence*.
- U.S. Copyright Office. (2023). *Decision on registration of Zarya of the Dawn*.
- Uribe Jaramillo, N. (2024). *A comparative study of copyright protection for AI generated works in the US, UK, and EU* (Doctoral dissertation). Bocconi University.
- Wyczik, J., & Wieczerzak, R. (2024). *Rethinking copyright: The art of ownership in AI outputs*. Eastern European Journal of Transnational Relations, 8(1).

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GENERISANI TEKST I AUTORSKO PRAVO: PRAVNI STATUS JEZIČKOG IZRAZA VEŠTAČKE INTELIGENCIJE SA POSEBNIM OSVRTOM NA KNJIŽEVNA DELA

Razvoj generativnih sistema veštačke inteligencije suštinski menja tradicionalne obrasce nastanka tekstualnih sadržaja, dovodeći u pitanje temeljne pretpostavke autorskog prava zasnovane na ljudskom autorstvu i individualnom kreativnom izrazu. Rad analizira pravni status jezičkog izraza koji nastaje kao rezultat delovanja sistema veštačke inteligencije, sa posebnim osvrtom na književna dela i specifičnosti njihove autorskopravne zaštite. Polazeći od klasičnih kriterijuma originalnosti i autorstva, analiziraju se sudska rešenja i administrativna praksa u različitim pravnim sistemima, kao i dominantni teorijski pristupi problemu „originalnosti bez autora“. Posebna pažnja posvećena je razlikovanju između tekstova nastalih uz pomoć veštačke inteligencije (AI-assisted works) i tekstova generisanih autonomnim delovanjem algoritama (AI-generated works), uz razmatranje pravnih posledica ove distinkcije u oblasti književnog stvaralaštva. U radu se razmatraju argumenti za i protiv proširenja autorskopravne zaštite na generisane tekstove, uključujući filozofske, utilitarne i normativne aspekte problema, kao i specifični izazovi koje AI-generisana književnost postavlja pred tradicionalne koncepte autorstva i kreativnosti. Cilj istraživanja je da se utvrdi da li postojeći instituti autorskog prava mogu adekvatno obuhvatiti nove oblike jezičkog i književnog izražavanja ili je neophodno razvijati nove pravne modele zaštite. Zaključuje se da generativna veštačka inteligencija menja klasično razumevanje pojma autorstva, te da pitanje pravnog statusa AI-generisanih književnih dela zahteva precizniju normativnu artikulaciju kako bi se obezbedila pravna sigurnost i odgovarajuća ravnoteža između tehnološkog razvoja, slobode izražavanja i zaštite stvaralaštva.

Ključne reči: *veštačka inteligencija; generisani tekst; autorsko pravo; jezički izraz; originalnost; književni tekst; AI-generated works; intelektualna svojina*