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Judicial Responses to AI-Generated Works: A Comparative Case Law Analysis on Copyright

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Abstract: As artificial intelligence (AI) increasingly contributes to the creation of original content, legal systems are under pressure to determine whether and how such outputs can be protected by copyright. While much of the academic debate focuses on future legislative reforms, courts and existing legal frameworks are already being tested by real disputes. This paper examines how different jurisdictions, namely, the United States, the United Kingdom, the European Union, Australia, and China, approach the copyright protection of AI-generated works, both at the level of underlying legal doctrine and through judicial interpretation. The first part of the paper outlines the key principles of copyright law in each system, including definitions of authorship, standards of originality, and relevant exceptions or limitations that may apply to AI training and output. The second part shifts to case law, examining how courts have applied or challenged these principles when addressing AI-generated work. In doing so, the paper focuses on three core legal issues: whether AI-generated works can meet originality thresholds, how authorship and ownership are assigned, and how the expression–idea dichotomy is interpreted in this context. It is within this judicial context that the present study situates its analysis, using case law as the primary lens to examine how legal systems are grappling with the growing presence of AI in creative processes. By comparing these legal systems and judicial approaches, the paper demonstrates that

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while human authorship remains a consistent requirement, some courts have begun to accommodate more nuanced forms of human–machine collaboration. Ultimately, the study argues that in the absence of clear legislative reform, courts are actively shaping the emerging boundaries of copyright in the age of generative AI. In addition, this paper contributes to the growing literature on AI and copyright by providing a doctrinal analysis grounded in case law, revealing not only how courts are applying traditional concepts to new technologies, but also where doctrinal tensions are beginning to emerge.

1. Introduction

The growing use of artificial intelligence (AI) puts pressure on established copyright principles, particularly those concerning authorship, liability, and the allocation of rights. As AI-generated works[1] become more prevalent across fields such as music, visual arts, and literature, foundational questions arise about whether these outputs qualify as protectable subject matter or exist beyond the realm of human authorship, thereby disrupting established copyright doctrines. At the heart of these debates lies the complex nature of AI systems. The opacity and unpredictability of algorithmic processes, often described as "black box" operations, complicate the identification of authorship, ownership, and accountability. The legal doctrine emphasizes that the difficulty of tracing the decision-making pathways behind AI outputs creates significant challenges for attributing creative credit and establishing liability. This uncertainty raises the critical issue of whether rights should be allocated to AI developers, users, or withheld altogether under current IP frameworks.[2]

Moreover, the training of AI models frequently relies on massive datasets that often include copyrighted material, intensifying legal concerns over fair use, text-and-data mining exceptions, and licensing requirements. The incorporation of protected content into AI training sets exposes developers

[1] For the purposes of this paper, "AI-generated works" refers to outputs produced wholly or partially through the use of artificial intelligence systems that fall within categories protected by copyright law, such as literary, artistic, musical, and photographic works, and which are capable of meeting the legal criteria of originality and authorship under the jurisdictions examined.

[2] Mark A. Geistfeld et al., *Civil Liability for Artificial Intelligence and Software* (Berlin: De Gruyter, 2023), https://doi.org/10.1515/9783110775402.

and users to potential claims of infringement, while existing doctrines of fair use and exceptions are strained by the scale and opacity of machine learning processes.[3]

Recognizing the limitations of traditional copyright frameworks in addressing these challenges, scholars increasingly advocate for alternative models. One standpoint includes proposing hybrid approaches, granting protection only to AI-assisted works where substantial human creative input is evident, while leaving fully autonomous outputs unprotected. Others suggest *sui generis* rights modeled after database protections, providing limited economic incentives without granting full copyright status.[4]

While these theoretical and legislative debates continue to evolve, it is increasingly in the courtroom where the most immediate and consequential decisions about AI and copyright are taking place. As lawmakers hesitate and policymakers deliberate, courts have begun applying existing legal standards to AI-generated works, often with little doctrinal guidance. This emerging case law provides the clearest view of how traditional copyright principles such as originality, authorship, and the distinction between ideas and expression are being interpreted in response to technological change. Rather than proposing new legal models, courts are testing the boundaries of existing frameworks in real-world disputes, producing rulings that both clarify and complicate the future of copyright in the age of AI.

In terms of structure of this paper, the analysis begins with an overview of the foundational copyright principles in the five jurisdictions under review, United States, United Kingdom, European Union, Australia, and China, focusing on definitions of authorship, standards of originality, and relevant exceptions. It then turns to recent case law, examining how courts have applied or adapted these principles in disputes involving AI-generated works. This is followed by a comparative discussion that identifies areas of convergence and divergence in judicial reasoning, and an exploration of the implications for both the protection of AI-generated outputs and the use of copyrighted works in AI training. The study closes by

[3] Jozefien Vanherpe, "AI and IP: A Tale of Two Acronyms," in *Artificial Intelligence and the Law*, eds. Jan De Bruyne and Cedric Vanleenhove (Cambridge: Intersentia, 2021), 213.

[4] Hafiz Gaffar and Saleh Albarashdi, "Copyright Protection for AI-Generated Works: Exploring Originality and Ownership in a Digital Landscape," *Asian Journal of International Law* 15, no. 1 (2024): 23–46, https://doi.org/10.1017/S2044251323000735.

highlighting key patterns and offering reflections on possible directions for policy and legislative development. In addition, this article's main theoretical contribution is its typology of judicial responses to AI-generated works, distinguishing between human-centric authorship and technology-neutral originality approaches.

Methodologically, this study adopts a doctrinal, case-based approach. Jurisdictions were selected for their representative diversity in copyright traditions (common law, civil law, and mixed systems) and for the availability of reported judicial decisions on AI-generated works. Cases were included if they directly addressed questions of originality, authorship, or the legality of using copyrighted materials in AI training. Both concluded and ongoing cases were considered to capture evolving judicial trends.

2. Authorship and Copyright Protection of AI-Generated Works: A Comparative Legal Analysis

In copyright law, human authorship remains a core requirement that excludes most AI-generated works from protection. Authorship traditionally requires both mental conception and the tangible execution of a work. In this context, AI systems are generally viewed as tools, not authors.

U.S. doctrine, particularly under the 1976 Copyright Act,[5] frames authorship through an "upstream/downstream" lens: it may lie with developers who design generative models or users who shape specific outputs through prompts, depending on who contributes the creative input. Absent a human who directs both conception and execution, AI-generated works risk being deemed authorless.[6] The U.S. Copyright Office's refusal to register AI-authored works reinforces this stance. U.S. law also applies the fair use doctrine, permitting limited use of copyrighted material without authorization when certain conditions are met. Courts assess intent, the nature of the original work, the amount used, and the effect on the market, applying these factors flexibly. If a use falls outside fair use, even temporary reproductions in volatile memory may constitute infringement.[7]

5 Copyright Act of 19 October 1976, United States Code, Title 17, § 101 et seq., as amended.

6 Jane C. Ginsburg and Luke Ali Budiardjo, "Authors and Machines," *Berkeley Technology Law Journal* 34, no. 2 (2019): 343–438, https://doi.org/10.15779/Z38SF2MC24.

7 Giorgio Franceschelli and Mirco Musolesi, "Copyright in Generative Deep Learning," *Data & Policy* 4 (2022): e17, https://doi.org/10.1017/dap.2022.10.

Meanwhile, the U.K. Intellectual Property Office has tentatively proposed that copyright might vest in the person who "makes the arrangements" necessary for the AI's output, suggesting an emerging divergence in national approaches.[8] In the United Kingdom's Copyright, Designs and Patents Act 1988 (CDPA in the following text):[9] "[a] work generated by computer" without a human author is still protected: the statute simply vests authorship in "the person by whom the arrangements necessary for the creation of the work are undertaken." This provision was deliberately drafted to capture what we think of as the "upstream" role of those who design, program, or commission the AI system itself. Section 9(3) of the CDPA provides a distinctive solution by recognizing the person who made the "arrangements necessary for the creation" of a computer-generated work as its author. This approach, while pragmatic, now faces increasing scrutiny as AI systems become more autonomous and sophisticated. A key aspect of the debate centers on the requirement of originality. Although UK law does not demand novelty, it does require that a work must reflect the author's intellectual creation. Recent analysis emphasizes that for AI-generated works, copyright protection should only extend to outputs where the human user's instructions to the AI demonstrate sufficient originality to meet this threshold.[10]

EU copyright law has historically relied on international instruments such as the Berne Convention,[11] which presupposes that a work must be the result of human intellectual creation to qualify for protection. Although the Berne Convention does not explicitly limit authorship to humans, its context and interpretations across EU member states affirm this foundational principle. Within the EU, the concept of "author" varies slightly

8 "Call for Views: AI and Intellectual Property," UK Intellectual Property Office, accessed June 26, 2025, https://www.gov.uk/government/consultations/artificial-intelligence-and-intellectual-property-call-for-views.

9 Copyright, Designs and Patents Act of 15 November 1988, United Kingdom Statute Law, 1988, c. 48, as amended.

10 Atilla Söğüt, "Dealing with AI-Generated Works: Lessons from the CDPA Section 9(3)," *Journal of Intellectual Property Law & Practice* 19, no. 1 (2024): 43–6, https://doi.org/10.1093/jiplp/jpad102.

11 World Intellectual Property Organization, Berne Convention for the Protection of Literary and Artistic Works, Paris Act of 24 July 1971, as amended by the 1979 Amendment, WIPO Collection of Laws for Electronic Access (CLEA).

between national systems but consistently centers on the necessity of human creativity. In continental systems, influenced by the French *droit d'auteur* model, authorship encompasses both moral and economic rights, whereas common law systems, such as those in the United Kingdom and Ireland, emphasize economic rights while allowing moral rights to be waived.[12]

Emphasis on the necessity of human intellectual creation in copyright regimes in EU jurisdictions makes it difficult for autonomously produced AI works to qualify for protection. This strict adherence to human authorship, however, raises concerns regarding the incentives for investment in AI-generated content.[13]

In the EU, copyright law emphasizes the reproduction right under Directive 2001/29/EC,[14] granting authors control over both permanent and temporary copies. Article 5(1), however, introduces a narrow exception for transient reproductions, allowed only when part of a technical process is short-lived and without economic value. Though conceptually similar to U.S. fair use, it imposes stricter requirements, especially regarding the absence of commercial impact. While this may cover some text and data mining (TDM) where data are briefly held in RAM, research practice often requires retention for verification or reuse, which exceeds the scope of "temporary" use. This limitation contributed to the adoption of Directive (EU) 2019/790,[15] which, under Article 3, permits TDM for scientific research by public-interest institutions and allows extended retention. Still, the exception excludes the right to share the data, even for validation, unless recipients have lawful access, significantly limiting collaboration and transparency.[16]

Australian copyright law, as well as the previously mentioned legal systems, does not currently recognize AI-generated works as protectable

12 Gaffar and Albarashdi, "Copyright Protection for AI-Generated Works," 28–9.

13 Vanherpe, "AI and IP," 223–4.

14 Directive 2001/29/EC of the European Parliament and the Council of 22 May 2001 on the Harmonisation of Certain Aspects of Copyright and Related Rights in the Information Society (OJ L167, 22 June 2001).

15 Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on Copyright and Related Rights in the Digital Single Market and Amending Directives 96/9/EC and 2001/29/EC (OJ L130, 17 May 2019).

16 Franceschelli and Musolesi, "Copyright in Generative Deep Learning," e17.

under the existing legal framework. The Copyright Act 1968[17] defines the author of a work as a "person," with various provisions across the Act reinforcing that authorship is limited to human creators. As such, only a natural person can be the author and, by extension, the initial copyright owner.[18]

China, on the other hand, has taken a relatively progressive stance on copyright protection for AI-generated works, though the current legal framework continues to rely heavily on traditional human-centered concepts of authorship. The primary legal instrument governing this area is the Copyright Law of the People's Republic of China,[19] which does not specifically address AI-generated content but has been interpreted by courts to apply to such works under certain conditions. Chinese courts have recognized AI-generated images as creative works entitled to copyright protection when they reflect the creator's intellectual achievements, such as the careful selection of prompts, parameters, and final outputs.[20] China's legal framework also includes provisions for copyright exceptions, including fair use, which allows limited use of protected material for research, teaching, news reporting, and public interest purposes. However, questions remain regarding how these exceptions apply to AI training datasets and automated data processing. Enforcement remains a challenge, as high litigation costs and inconsistent awareness of IP rights hinder practical protection, particularly for works generated by or involving AI.[21]

3. Comparative Case Law Analysis – Introduction to Methodology

As the generative artificial intelligence (AI) tools become increasingly widespread, courts worldwide face new challenges in applying traditional copyright principles to AI-generated works. Key issues include determining

17 Copyright Act of 1 June 1968, Commonwealth of Australia, No. 63, as amended.

18 Jolyn De Roza, "The Impact of Artificial Intelligence on the Culture Industries and Copyright Law," *UNSW Law Journal Student Series*, no. 26 (2020): 1–18.

19 Copyright Law of the People's Republic of China of 11 November 2020, Gazette of the Standing Committee of the National People's Congress 2021, No. 1, as amended.

20 Huma Rubab et al., "Copyright and AI-Generated Content: A Comparative Analysis of Legal Perspectives in China and the United States," *International Journal of Social Science Archives* 7, no. 2 (2024): 387–95.

21 Alesia Zhuk, "Navigating the Legal Landscape of AI Copyright: A Comparative Analysis of EU, US, and Chinese Approaches," *AI and Ethics* 4 (2023): 1299–306, https://doi.org/10.1007/s43681-023-00299-0.

whether such works meet the threshold of originality required for copyright protection, identifying the rightful author or rights holder, and distinguishing protected expressions from unprotected ideas.

Courts are increasingly called upon to grapple with these complexities. In disputes involving AI-generated content, judges must now interpret source code and machine learning processes much like they interpret statutes or contracts, probing the logic of algorithms to determine whether an output infringes existing rights.[22] Although early decisions in Europe and Asia offer glimpses of possible paths forward, the rulings remain inconsistent and fragmented.[23]

This section examines how different jurisdictions, including China, the UK, the United States, selected European Union Member States, and Australia, have approached these challenges in recent case law. Using a doctrinal method, the case law is examined around three focal questions:

(1) What criteria do courts apply to determine whether AI-generated works qualify for copyright protection?
(2) Who is legally recognized as the author and rights holder of AI-generated outputs?
(3) How do courts balance copyright protection with the principle that ideas and concepts remain free for public use?

By analyzing judicial approaches across multiple legal systems, this section aims to identify emerging patterns, highlight divergences, and assess the evolving legal landscape for AI-generated works in the field of copyright law.

3.1. Judicial Treatment of AI-Generated Works: Insights from Chinese Case Law

Chinese courts have consistently emphasized that human intellectual input is central to the copyrightability of AI-generated content. In the "Half-Heart" case,[24] the Changshu People's Court recognized the plaintiff's creative role in crafting prompts for Midjourney and refining the resulting image with

[22] Anna Collins, "Interpreting Code: Judicial Approaches to AI-Generated Works," *Journal of Intellectual Property Law* 28, no. 1 (2023): 45–72.

[23] Qi Liu and Ying Wang, "AI Generated Creativity and Copyright Law in China," *China Legal Review* 12, no. 2 (2024): 89–110.

[24] Changshu People's Court, Judgment of 21 March 2025, "Half-Heart" Case, unreported.

Photoshop. The court found that these human choices and arrangements demonstrated sufficient originality to warrant copyright protection.

Similarly, the Beijing Internet Court ruling on a case involving an image created with Stable Diffusion,[25] held that the plaintiff's detailed prompting, iterative modifications, and aesthetic decisions reflected the necessary intellectual achievement and originality under Chinese copyright law.

In both the Changshu People's Court and the Beijing Internet Court decisions, the courts emphasized that only a natural person, legal entity, or unincorporated organization can be considered an author under Chinese law. The AI tools themselves, or their developers, did not possess authorship or ownership rights because they did not contribute intellectual creativity to the specific outputs.[26]

Conversely, in *Fei Lin v. Baidu*,[27] the courts carefully distinguished between works created through substantial human effort and those automatically generated by databases like Wolters Kluwer. Only after establishing that the plaintiff had added creative analysis beyond the automatic output did the court recognize the work as copyrightable. In this case, the court similarly as in the previous two, confirmed that, provided a party demonstrated original intellectual labor, it could claim rights over AI-assisted content. However, simple use of automated systems without significant human input was insufficient.

Finally, the Hangzhou Internet Court's decision in the Ultraman case,[28] while focused primarily on infringement of existing IP, implicitly

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25 Beijing Internet Court, Judgment of 2025, AI-Generated Image with Stable Diffusion Case, unreported.

26 Edward Chatterton, Joanne Zhang, and Liam Blackford, "Another Chinese Court Finds that AI-Generated Images Can Be Protected by Copyright: The Changshu People's Court and the 'Half Heart' Case," *Technology's Legal Edge*, March 21, 2025, accessed April 20, 2025, https://www.technologyslegaledge.com/2025/03/another-chinese-court-finds-that-ai-generated-images-can-be-protected-by-copyright-the-changshu-peoples-court-and-the-half-heart-case/; Loke-Khoon Tan, James Lau, and Harrods Wong, "China: A Landmark Court Ruling on Copyright Protection for AI-Generated Works," *Global Litigation News*, May 8, 2024, accessed April 15, 2025, https://globallitigationnews.bakermckenzie.com/2024/05/08/china-a-landmark-court-ruling-on-copyright-protection-for-ai-generated-works/.

27 Beijing Internet Court, Second-Instance Judgment of June 18, 2023, Fei Lin v. Baidu, unreported.

28 Hangzhou Internet Court, Judgment of September 25, 2024, Tsuburaya Productions (Shanghai Character License Administrative Co., Ltd. as licensee) v. Small Design AI Platform

acknowledged that significant human manipulation and training of AI models could constitute meaningful creative activity. Across the analyzed cases, Chinese courts firmly rejected the notion that AI systems could hold authorship. Instead, the recognized authors were the human users who exercised meaningful creative control over the AI outputs.

What we can note during the analyses is that Chinese courts are cautious in ensuring that copyright law protects expressions of ideas, not the ideas themselves.

The Changshu People's Court's "Half-Heart" decision separated the protected two-dimensional image from the broader concept of a floating half-heart, which it ruled was an unprotected idea available for general use. Similarly, the Beijing Internet Court stressed that while the specific artistic execution was protectable, general themes or styles derived from prompts remained free. In *Fei Lin v. Baidu*, the court again underscored that raw data, facts, and procedures derived from automated processes were not protectable unless shaped through original human interpretation. Finally, in the Hangzhou Internet Court's Ultraman decision, the infringement finding rested on substantial similarity to a specific pre-existing work, not on the mere borrowing of a general character idea.

3.2. Judicial Treatment of AI-Generated Works: Insights from UK and US Case Law

U.S. courts maintain a strict interpretation of originality, requiring human authorship as a prerequisite for copyright protection. In *Thaler v. Perlmutter*,[29] the U.S. Copyright Office rejected an application for a work generated by an AI system, emphasizing that copyright requires human authorship. The D.C. District Court affirmed that copyright protection is reserved for works that are the product of human creativity, reiterating the Copyright Office's rule that "human authorship is a prerequisite for copyright." This attempt to

(Ultraman LoRA case), unreported; upheld by Hangzhou Intermediate People's Court, Judgment of December 30, 2024; "User-Generated Ultraman Infringing Pictures, AI Platform Responsible? The Analysis of the Judgment of the Hangzhou Internet Court," Hangzou Internet Court, accessed February 10, 2025, https://mp.weixin.qq.com/s?__biz=MzU4NzExNTkyMQ==&mid=2247507667&idx=1&sn=c524cc81dff2bf48a3469f94173fa8b7.

[29] District Court for the District of Columbia, Judgment of August 18, 2023, Ref. No. 22-cv-01564, Thaler v. Perlmutter.

register a work attributed solely to an AI program failed because no natural person was involved in its creation. This holding rests primarily on a statutory interpretation of the U.S. Copyright Act, read against the constitutional backdrop of Article I, Section 8 of the U.S. Constitution (the Copyright Clause),[30] which empowers Congress to promote the progress of science and the useful arts by incentivizing human creativity. While current judicial consensus excludes non-human authorship, this is not a fixed constitutional mandate because Congress could amend the statute to extend protection to certain AI-generated works, provided such reform remains consistent with the constitutional purpose.

There is also an ongoing case in front of the U.S. District Courts – *Andersen v. Stability AI et al.*[31] that has not yet resulted in a final ruling, where the plaintiffs' claims challenge the idea that AI-generated outputs trained on copyrighted materials can be considered original or independent creations. The plaintiffs argue that Stable Diffusion and related AI systems replicate substantial elements of their copyrighted artworks, not through independent creation, but through unauthorized training on those works. The complaint asserts that the artists whose works were included in training datasets did not authorize such use and are not credited or compensated. While the plaintiffs do not claim authorship over the AI-generated outputs themselves (the "Fakes"), they argue that these outputs misappropriate their artistic style and identity, particularly when AI tools are prompted using their names.

Another ongoing case: *Getty Images v. Stability AI*[32] in the UK raises questions relevant to the originality standard in the context of AI-generated works. While the court has not yet ruled on the merits, the case concerns the use of a large volume of copyrighted images as training data for the AI model Stable Diffusion. Although originality itself is not the central issue, the proceedings highlight how AI systems may produce content by relying on pre-existing protected works. The core argument is premised on

30 The Constitution of the United States of America, 1787, United States Statutes at Large, Vol. 1, 1 Stat. 1, as amended.

31 District Court for the Northern District of California, Judgment of August 12, 2024, Andersen et al. v. Stability AI Ltd. et al., Ref. No. 3:23-cv-00201-WHO.

32 High Court of Justice, Chancery Division, Intellectual Property List, Getty Images (US), Inc. v. Stability AI, Ltd., Claim No. IL-2023–000005.

unauthorized copying and use of human-created works to train an AI model, implying once again that protected authorship and ownership stem from human-created expressions. Under UK law, originality requires a minimal degree of skill, labor, or judgment by a human author. The challenge in cases like this lies in identifying whether the output of such a system meets that threshold, and if so, who can be identified as the author. Should the court adopt this reasoning, the decision may assist in clarifying whether and how originality can be assessed when the process is largely automated.

In another UK example, the case of *Nova Productions Ltd v. Mazooma Games Ltd & Ors*,[33] the Court of Appeal addressed several key issues pertinent to copyright law as it relates to computer-generated works. The court underscored that copyright protection does not extend to mere ideas but to the expression of those ideas. It emphasized that "an idea consisting of a combination of ideas is still just an idea in a computer program as in any other copyright work." This principle indicates that for AI-generated works, originality hinges on the unique expression rather than the underlying ideas or functionalities. The judgment acknowledged that images displayed during the gameplay, generated by the software but designed by a human, qualify as artistic works protected by copyright. The court noted that "the author of the composite frames was the person who had made the arrangements necessary for the creation of the work." This suggests that in AI-generated works, the individual who orchestrates the creation process holds authorship and associated rights.

When it comes to the question on protection of expression versus ideas, U.S. and U.K. courts distinguish between protectable expression and unprotected ideas as key in evaluating AI-generated content.

In *Thaler v. Perlmutter*, the court reinforced that although AI may generate innovative or aesthetically interesting outputs, only human-originated expressions qualify for legal protection – ideas or outputs without human creativity cannot be monopolized.

The plaintiffs in *Andersen v. Stability AI et al.* highlight that the unauthorized training and generation processes do not merely draw on ideas or styles, but use copyrighted works as data for machine learning. By framing

[33] Court of Appeal (Civil Division), Judgment of March 14, 2007, Nova Productions Ltd v. Mazooma Games Ltd & Others, Ref. No. A3/2006/0205, Reported in 2007 EWCA Civ 219.

their claim around specific reproductions, the case challenges the notion that the use of "style" or artist identity in AI prompts is purely conceptual. The legal tension lies in distinguishing between general artistic influence (which is not protected) and the reproduction or derivation of expressive elements from protected works (which is protected). Plaintiffs allege that AI outputs are unauthorized derivatives generated through data scraping and training on copyrighted works.

In the U.K., the *Getty Images v. Stability AI* litigation directly touches on this point. Getty Images argues that the "expressive elements" of millions of photographs were unlawfully appropriated to train Stability AI's model. If upheld, the court's eventual decision will likely hinge on how much the AI's outputs replicate or transform protected human-created expressions, as opposed to merely using general ideas or styles.

Reiterating the distinction between ideas and their expression, in the case of *Nova Productions Ltd v. Mazooma Games Ltd & Ors*, the court held that "what had been taken was a combination of a limited number of general ideas... but those ideas did not form a substantial part of Nova's computer program itself".[34]

3.3. Judicial Treatment of AI-Generated Works: Insights from Australian Case Law

In Australian case law, judicial interpretation has moved toward a more restrictive standard for originality and authorship. While earlier decisions such as *Desktop Marketing Systems v. Telstra*[35] appeared to accept computer-assisted compilations as sufficiently original, this position was later reversed in *IceTV v. Nine Network*.[36] In *IceTV*, the High Court made it clear that originality requires an "independent intellectual effort" by a human author, and that antecedent human effort alone, such as data gathering or decision-making, is insufficient unless it contributes directly to the material form of the work.[37]

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34 Court of Appeal (Civil Division), Judgment of March 14, 2007, Nova Productions Ltd v. Mazooma Games Ltd & Others, Ref. No. A3/2006/0205, Reported in 2007 EWCA Civ 219.

35 Desktop Marketing Systems Pty Ltd v. Telstra Corporation Limited [2002] FCAFC 112, [407].

36 High Court of Australia, Judgment of April 22, 2009, IceTV Pty Limited v. Nine Network Australia Pty Limited, Ref. No. S308 of 2008, [2009] HCA 14.

37 De Roza, "The Impact of Artificial Intelligence on the Culture Industries and Copyright Law," 1–18.

This principle was reaffirmed in *Telstra v. Phone Directories*[38] and in *Acohs Pty Ltd v. Ucorp Pty Ltd*,[39] where the court rejected copyright protection for AI-generated work. In *Telstra v. Phone Directories*, the applicants failed because they could not demonstrate which individuals made creative contributions to the final directories. The decision emphasizes that for copyright to subsist, the human author must be identifiable, and their contribution must embody independent creativity. This decision marked a clear departure from the earlier "industrious collection" doctrine endorsed in *Desktop Marketing Systems v. Telstra*, under which substantial labor, skill, or expense in compiling factual information could suffice for originality. Following *IceTV v. Nine Network* and reaffirmed in *Telstra v. Phone Directories*, Australian law now requires "independent intellectual effort" or "sufficient creative spark" by a human author. Mere investment of time and resources, without creative input into the final expression, is insufficient. This aligns Australia more closely with the creativity-based originality standards in the UK and EU, with significant implications for AI-generated works that are produced autonomously or with minimal human intervention.[40] The Australian court in *Telstra v. Phone Directories* firmly upheld the classic copyright distinction between protected expression and unprotected ideas or facts. It was noted that while substantial labor was invested in compiling the directories, the mere arrangement or collection of factual data without original expression did not attract copyright protection.

Similarly, in *Acohs Pty Ltd v. Ucorp Pty Ltd*, the court held that no copyright subsisted in HTML source code automatically generated by a computer program. It declined to recognize the programmers as authors of the resulting output, finding it artificial to attribute authorship to those who had not directly shaped the final work.[41] In *Acohs Pty Ltd v. Ucorp Pty Ltd* the court ruled that the output reflected methods rather than expression,

38 Federal Court of Australia, Judgment of February 8, 2010, Telstra Corporation Ltd v. Phone Directories Co Pty Ltd, Ref. No. NSD 534 of 2007, [2010] FCA 44.

39 Federal Court of Australia, Full Court, Judgment of March 2, 2012, Acohs Pty Ltd v. Ucorp Pty Ltd, Ref. No. VID 873 of 2004, [2012] FCAFC 16; 201 FCR 173.

40 Nirogini Thambaiya, Kanchana Kariyawasam, and Chamila Talagala, "Copyright Law in the Age of AI: Analysing the AI-Generated Works and Copyright Challenges in Australia," *International Review of Law, Computers & Technology* 39, no. 2 (2025): 1–26, https://doi.org/10.1080/13600869.2025.2486893.

41 Ibid.

and it fell outside the scope of copyright protection. The key reasoning was that the output was entirely automatic, with no identifiable human intervention in the creation of each individual work. While programmers had created the system that produced the content, they did not exercise any creative control over the final form of documents. Therefore, the court rejected the idea that authorship could be inferred simply because the programmers had enabled the process, and it emphasized that authorship requires a direct and original intellectual contribution to the expression of the specific work. The court reaffirmed the idea–expression distinction as central to copyright law. It found that the HTML code was a purely functional output, generated automatically without creative input. Though the system was technically advanced, it produced standardized factual content, leaving no space for original expression.

3.4. Judicial Treatment of AI-Generated Works: Insights from European Union Case Law and National Laws

As of May 2025, the European Court of Justice (ECJ) has not ruled on the copyright status of AI-generated works. However, it has consistently held that for a work to be protected under EU law, it must be the author's intellectual creation. In *Infopaq International A/S v. Danske Dagblades Forening*,[42] the Court established that originality depends on the author's personal, creative choices, not the work's length or complexity. This principle was further developed in *Cofemel v. G-Star Raw*,[43] where the ECJ ruled that works dictated solely by technical constraints lack originality. In *Eva-Maria Painer v. Standard Verlags GmbH*,[44] the Court clarified that authorship is reserved for natural persons, whose creative decisions reflect their personality. While these cases do not directly address AI, they shape the EU's approach, requiring human intellectual input for protection. Consequently, AI-generated works without significant human creative control fall outside the scope of

[42] CJEU Judgment of 16 July 2009, Infopaq International A/S v. Danske Dagblades Forening, Case C-5/08, ECLI:EU:C:2009:465.

[43] CJEU Judgment of 12 September 2019, Cofemel – Sociedade de Vestuário SA v. G-Star Raw CV, Case C-683/17, ECLI:EU:C:2019:721.

[44] CJEU Judgment of 1 December 2011, Eva-Maria Painer v. Standard Verlags GmbH, Case C-145/10, ECLI:EU:C:2011:798.

copyright protection, reinforcing the distinction between expression and ideas, as highlighted in Infopaq.

However, national courts within the European Union have begun to confront this issue. In a landmark decision, the Municipal Court of Prague ruled that an image created using OpenAI's DALL·E AI tool could not be protected by copyright. This decision is considered to set a precedent in the Czech Republic and may influence similar cases in other EU jurisdictions.[45]

The second case involves a German photographer Robert Kneschke who filed a lawsuit against LAION e.V., a non-profit organization that created the LAION-5B dataset used to train AI models like Stable Diffusion. The case, currently before the Hamburg Regional Court, raises critical questions about the legality of using copyrighted works for AI training and the boundaries of text and data mining under EU law.[46]

The most recent case is from March 2025, when French publishers and authors initiated legal action against Meta Platforms Inc., accusing the company of using their copyrighted works without authorization to train its AI models.[47]

In the Czech DALL·E case,[48] the Municipal Court of Prague applied the fundamental requirement of human authorship under Czech copyright law. The court held that copyright protection can only be granted to works created by a natural person. Since the image in question was autonomously generated by OpenAI's DALL·E, and no evidence of meaningful human creative input was presented, it did not meet the threshold of originality through human intellectual creation. The court did not attempt to stretch

45 Vojtěch Chloupek, "Czech Court Denies Copyright Protection of AI-Generated Work in First Ever Ruling," *Bird & Bird*, May 29, 2024, accessed April 26, 2025, https://www.twobirds.com/en/insights/2024/czech-republic/czech-court-denies-copyright-protection-of-ai-generated-work-in-first-ever-ruling.

46 Ronak Kalhor-Witzel, "Germany: Landmark Court Decision Deals with AI Training and Copyright," Norton Rose Fulbright, August 2024, accessed April 26, 2025, https://www.nortonrosefulbright.com/en/knowledge/publications/218a3079/germany-landmark-court-decision-deals-with-ai-training-and-copyright.

47 Kelvin Chan, "French Authors Sue Meta over Use of Works to Train AI," Associated Press, October 14, 2022, accessed April 26, 2025, https://apnews.com/article/168b32059e70d0509b0a6ac407f37e8a.

48 Municipal Court of Prague, Judgment of January 24, 2024, Case concerning DALL·E-generated image, unpublished.

the law to accommodate machine-generated content, reinforcing the view that under current law, creativity must be attributable to a person.

In the German *Kneschke v. LAION* case,[49] which is ongoing, the court is not directly tasked with evaluating the originality of AI outputs, but rather the legality of using copyrighted works as training data. However, the case indirectly engages with the question of what constitutes a "creative act" when millions of copyrighted images are scraped for AI training. The fact that the court has accepted the case suggests recognition that training AI systems with unlicensed copyrighted material may blur the line between analysis and reproduction, which could impact how originality is later interpreted in the outputs.

The French case against Meta[50] focuses on the systemic use of copyrighted works in training datasets. While the question of originality is not at the center, the plaintiffs argue that the use of their works in training without consent creates outputs that potentially exploit and reconfigure protected content. Here, too, the concern is not whether the outputs are original, but whether the process leading to their creation unlawfully depends on protected expressions and if it can affect the originality and legality of the outputs.

When it comes to recognition of authorship and right ownership we can note that across these cases, the Czech court confirmed that AI systems cannot be authors, denying protection where no human creative contribution is identified; while the German and French disputes focus instead on the unauthorized use of protected works in AI training datasets, highlighting potential rights claims by original creators over such inputs rather than the AI outputs themselves.

The third criterion of this research is the protection of expression versus ideas. In that manner, the Czech court, by rejecting protection for an AI-generated image, effectively reinforced the idea–expression dichotomy: while the output may involve certain thematic or stylistic ideas, without human-authored expression, those ideas cannot be monopolized through

[49] Hamburg Regional Court, Judgment of 28 February 2024, Robert Kneschke v. LAION e.V., unpublished.

[50] Paris Judicial Court, Filing of 8 March 2025, French Publishers and Authors v. Meta Platforms Inc., pending.

copyright. The decision supports the principle that expressive protection is contingent on human creativity, and anything outside of that domain remains part of the public domain.

In the German case, the court is implicitly asked to weigh whether text and data mining (TDM) for AI training can be seen as lawful use of publicly accessible content, especially under EU copyright exceptions. The distinction between extracting ideas and reproducing expression is critical: if the training process merely extracts unprotectable patterns or structures, it may be permissible; if it reconstructs expressive elements, it may infringe – a question that strikes at the heart of how European copyright law interprets originality, use, and technological neutrality in the context of machine learning. This issue is particularly relevant under Article 4 of Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market (DSM Directive),[51] which allows TDM for research purposes but leaves commercial uses to national discretion. Germany, in its national implementation (§ 44b UrhG),[52] has taken a more expansive view, allowing TDM for any purpose unless expressly reserved by rightsholders, a position now tested in light of generative AI models that rely on large-scale scraping of online content.

The French case similarly raises questions about how far the principle of public use of ideas can be stretched. The lawsuit points to a lack of transparency and consent in how training datasets are assembled. If outputs draw heavily on stylistic signatures or recognizable features of the input works, even if only conceptually, the courts may be asked to determine whether such use improperly appropriates protected expression under the guise of "training."

4. Summary Tables: Key Legal Challenges and Jurisdictional Trends

To synthesize the findings from the analyzed case law and highlight the dual legal challenges courts are currently grappling with, the following two tables offer a structured overview: Table 1 distinguishes between the legal

[51] Directive (EU) 2019/790 of the European Parliament and of the Council of April 17, 2019, on copyright and related rights in the Digital Single Market (OJ L130, 17 May 2019), 92–125.

[52] German Copyright Act (Urheberrechtsgesetz, UrhG), § 44b, introduced through the Gesetz zur Anpassung des Urheberrechts an die Erfordernisse des digitalen Binnenmarktes (2021).

treatment of AI-generated outputs and the use of copyrighted materials for training, while Table 2 provides a comparative summary of judicial approaches across key jurisdictions.

Table 1. Two-layer legal challenges in AI and copyright

Legal Layer	Key Question	Examples of Case Law	Legal Focus
1. AI-generated outputs	Can the output be copyrighted? Who is the author?	*Thaler v. Perlmutter*, *Half-Heart case (China)*, *DALL·E Case (CZ)*	Originality, human authorship, expression vs. idea
2. Copyrighted inputs	Can copyrighted works be used to train AI, and to what extent?	*Getty v. Stability AI*, *Kneschke v. LAION*, *French authors v. Meta*	Fair use, licensing, dataset legality, authors' rights

Source: author's compilation

Table 1 illustrates the two primary legal dimensions in current copyright disputes involving AI. The first layer concerns the status of AI-generated outputs, focusing on questions of originality, authorship, and protectability. The second layer addresses the use of copyright-protected materials as training data, raising issues of consent, fair use, and dataset legality. While distinct, these layers are increasingly interconnected, as the legitimacy of AI outputs may depend on the legality of their underlying inputs.

Table 2. Judicial approaches to AI-generated works – Comparative overview

Case	Type of AI-generated work	Legal basis	Ruling (Outcome)	Court reasoning (Summary)
***Thaler v. Perlmutter* (US, 2023)**	Artwork created by "Creativity Machine"	US Copyright Act (requires human authorship)	Rejected registration	Copyright requires human creativity; AI systems cannot be authors.
***Andersen v. Stability AI* (US, ongoing)**	Images generated using Stable Diffusion	Copyright infringement, unauthorized dataset use	Pending	Questions raised on originality, authorship, and derivative use of copyrighted inputs.

Case	Type of AI-generated work	Legal basis	Ruling (Outcome)	Court reasoning (Summary)
***Getty Images v. Stability AI* (UK, ongoing)**	AI-generated images trained on Getty images	Copyright infringement under UK law	Pending	Focus on whether training on copyrighted images constitutes infringement and if outputs reflect protected expressions.
***Nova v. Mazooma Games* (UK, 2007)**	Video game imagery generated by software	Copyright, authorship under CDPA	Human arranger recognized as author	Protected expression must involve a human; skill/labor; mere ideas not protected.
Changshu People's Court "Half-Heart" (China, 2025)	Midjourney-generated image refined with Photoshop	Chinese Copyright Law	Copyright protection granted	Human-created prompts and editing decisions demonstrated originality.
Beijing Internet Court (China, 2025)	Image created with Stable Diffusion	Chinese Copyright Law	Protection granted	Human-directed input and aesthetic decisions established authorship.
***Fei Lin v. Baidu* (China, 2023)**	Automatically generated database content	Chinese Copyright Law	Partially protected	Only outputs with added creative human input are protected.
***Ultraman Case* (Hangzhou, China, 2025)**	AI-assisted depiction of Ultraman character	Infringement, human involvement	Infringement recognized	Substantial similarity to protected work; required evidence of human contribution.
***Telstra v. Phone Directories* (Australia, 2010)**	Automated telephone directories	Copyright Act 1968	No copyright	No identifiable human authorship; automation alone insufficient.
***Acohs v. Ucorp* (Australia, 2012)**	HTML code auto-generated by program	Copyright Act 1968	No copyright	No human intellectual input in output; authorship not attributable.
***Czech DALL·E Case* (Prague, 2024)**	AI-generated image from DALL·E	Czech Copyright Law	Not protected	Only natural persons can be authors; no human creativity evident.

Case	Type of AI-generated work	Legal basis	Ruling (Outcome)	Court reasoning (Summary)
Kneschke v. LAION **(Germany, ongoing)**	Images used for AI training (not output)	German Copyright Law	Pending	Focus on unauthorized dataset use, not output; authorship of training inputs at stake.
French Authors v. Meta **(France, 2025)**	Use of copyrighted texts in AI training	French IP Law & EU AI Act	Pending	Claim over unconsented use in training; authors not asserting rights over outputs but over data inputs.

Source: author's compilation

The comparative table illustrates a consistent judicial approach: courts distinguish between AI-assisted and fully autonomous AI-generated works. Copyright protection is typically granted only where there is demonstrable human involvement – most often in the form of detailed input or subsequent refinement. Chinese courts appear more flexible in recognizing such involvement as sufficient for protection, while courts in the U.S., Australia, and the EU largely reject claims lacking clear human authorship. The UK takes an intermediary position, assigning authorship to the individual responsible for enabling the creation. This emerging pattern reflects efforts to uphold the principle of human authorship within existing legal frameworks, despite the increasing complexity of AI-assisted production.

When viewed collectively, the jurisdictions examined can be grouped into two broad doctrinal approaches:

(1) Human-centric authorship required. Australia, the United States, the United Kingdom, and the European Union all adopt the position that copyright subsists only in works produced through identifiable human intellectual creation. These systems maintain that originality must flow from human authorship, even if technology aids the process. Fully autonomous AI-generated works are generally excluded unless substantial human creative control – such as detailed selection, arrangement, or iterative refinement – can be demonstrated. This approach offers

strong legal certainty, but may leave economically valuable AI outputs outside the scope of protection.

(2) Technology-neutral originality threshold. By contrast, China applies a more flexible test. Courts focus on whether the work reflects sufficient intellectual achievement, regardless of the degree of AI involvement, provided that a human's creative input can be identified. This opens the door to recognizing a wider range of AI-assisted or AI-driven works, but grants courts greater interpretative discretion and may lead to less predictable outcomes.

The divide between these approaches has important implications. In our opinion, the human-centric model reinforces traditional copyright principles but risks under-protecting AI-driven creativity, potentially discouraging investment in certain AI-based creative sectors. On the other hand, the technology-neutral model accommodates evolving creative practices but raises questions about the threshold for human involvement and the consistency of judicial application. In both models, the treatment of AI-generated works ultimately hinges on how originality is defined and how closely it is tethered to human authorship.

5. Conclusion

This paper has examined the evolving relationship between copyright law and AI-generated works mainly through the lens of case law. The analysis revealed two parallel judicial trends. The first concerns the protection of outputs: across jurisdictions, courts are consistently upholding the requirement of human intellectual input as a condition for copyright protection. While the standards vary, from the strict human authorship requirement in the U.S. and Australia to the more flexible UK and Chinese approaches, the underlying principle remains consistent as copyright subsists only where a work reflects identifiable human creativity. Even in AI-assisted contexts, courts assess whether the individual's contribution demonstrates originality through meaningful creative control.

The second trend relates to the inputs used in training AI systems. Although these cases are still pending, disputes such as *Getty Images v. Stability AI* (UK), *Kneschke v. LAION* (Germany), and *French Authors v. Meta* (France) signal a growing concern with how datasets are built, particularly

when they rely on copyrighted materials. Unlike output-focused cases, these proceedings question whether training practices themselves comply with existing copyright norms and exceptions. This indicates a shift toward evaluating not just what AI systems produce, but how they are trained.

Together, these findings suggest that courts are responding to generative AI with a dual inquiry: they ask not only whether the final output qualifies for protection, but also whether the process of creating it respects copyright boundaries. While legislative reform remains limited, judicial reasoning is gradually shaping the contours of how authorship, originality, and use of protected works are understood in the AI context. Current case law reveals an effort to preserve core copyright principles while adapting them to machine-assisted production, even if coherence across jurisdictions is still lacking.

In addition, the tables and comparative analysis presented above illustrate that, while all jurisdictions face similar challenges in applying established copyright principles to AI-generated works, their responses diverge in important ways. These differences reflect broader doctrinal patterns, with some systems maintaining a strict human-centric authorship requirement and others adopting a more flexible, technology-neutral threshold for originality. How these approaches evolve, and whether they move toward convergence, will be central to determining the scope of protection for AI-generated creativity in the years ahead. At present, the case law suggests only partial alignment, with agreement on rejecting purely mechanical "industrious collection" standards but persistent divergence over how much human input is necessary. This lack of uniformity creates uncertainty for cross-border enforcement and investment, making gradual judicial convergence or targeted regional harmonization the most plausible paths toward greater predictability.

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