

Paradigm Reconfiguration of Artificial Intelligence Generated Content (AIGC) Copyright Protection

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ABSTRACT

With the breakthrough development of generative AI technology, the traditional legal framework is facing serious challenges in the protection of AI-generated content copyright. China's current Copyright Law is difficult to adapt to the technological reality due to the conflict between the logic of "anthropocentrism" and the "non-human origin" of AIGC, the ambiguity of the originality determination standard, and the lack of rules on the attribution of rights, etc. This paper analyzes the differences in judicial practice and the disputes in the academic field on the relevant issues. This paper reveals the theoretical dilemmas and practical contradictions of the current system by analyzing the differences in judicial practice and the disputes in the academic field. On this basis, it puts forward the paradigm reconstruction path for the copyright protection of AI-generated content: firstly, to break through the element of "human intellectual achievements", and add the category of "technologically generated works"; secondly, to improve the defects in the identification of the main body, and to emphasize the user as the leading creator, and the limited rights of the developers and platforms. The second is to improve the defects in the identification of the subject, emphasize the limited rights of developers and platforms, and construct a "layered protection + contribution quantification" rights attribution mechanism, distinguishing between the complete protection of strongly original content and the limited exclusivity rights of weakly original content. Through comparative law and localized system design, this paper aims to provide a theoretical framework for AIGC copyright protection that balances technological innovation and legal fairness.

KEYWORDS

Artificial Intelligence (AI); Artificial Intelligence Generated Content (AIGC); Copyright Protection; Paradigm Reconstruction

1 Introduction

The technological iteration of generative artificial intelligence is deconstructing the institutional foundation of traditional copyright law: firstly, the 'non-human origin' feature of AIGC creates a normative conflict with the element of 'human intellectual achievement'; secondly, the dilemma of determining originality caused by algorithmic autonomy has intensified the divergence of judicial practice; thirdly, the blurred boundary of contribution of multiple subjects has plunged the attribution of rights into the quagmire of value equilibrium. Aiming at the above three challenges, this paper attempts to explore the path of institutional adjustment in the tension between technological neutrality and humanistic values through the three-phase reconstruction of 'expansion of definition - dynamic layering - technological empowerment'.

2 Deficiencies in the current Copyright Law of China regarding the copyright protection of AI-generated content

2.1 Deficiencies in provisions on whether AI-generated content constitutes a work

2.1.1 Definitional rigidity: the conflict between traditional "human creation" elements and the non-human origin of AI-generated content

Article 3 of the current Copyright Law defines "works" as "intellectual achievements in the fields of literature, art and science that are original and capable of being expressed in a certain form", of which "intellectual achievements" implies the element of "human creation", which is in fundamental conflict with AIGC's "non-human origin". "There is a fundamental conflict between the implied element of "human creation" and AIGC's "non-human origin". From the perspective of legal hermeneutics, there is a divergence of interpretations as to whether the range of "intellectual achievements" in Article 3 of the Copyright Law can cover AI-generated content, with the purpose interpretation supporting expansion (to incentivize technological innovation) and the historical interpretation favoring limitation (AI technology was not foreseen at the time of enactment of the legislation). This contradiction needs to be resolved through legislative rather than interpretive theory. For example, although the Beijing Internet Court recognized the originality of the picture in question in its judgment (2023) Beijing 0491 Minchu 11279, the logic of the argument still focuses on the

"adjustment of human parameters"; in contrast, the Shenzhen Intermediate Court directly used the 'objective originality' as the basis for its decision in its judgment (2023) Guangdong 03 Minjie 4567. as the basis for the decision. The differences between the two cases show that judicial practice has not yet formed a uniform scale for the application of the 'human intervention' standard.

2.1.2 Vague standard of originality: the incidental originality of algorithmically generated content is difficult to fit into the "intellectual product" requirement

The current Copyright Law adopts a two-tier standard of "independent completion + minimum creativity" for the determination of originality, but this standard faces interpretation difficulties in AI-generated content scenarios. The originality of algorithm-generated content is characterized by both 'technical causality' (determined by model architecture and training data) and 'output randomness' (the same instruction may generate different results), which is contradictory to the determination standard of the Copyright Law^[1]. On the one hand, the parameter space formed by AI models through deep learning may generate innovative expressions far beyond human expectations; on the other hand, the mechanism of generating such expressions has the attribute of a technological black box, and it is difficult to trace the direct influence of human will.

The originality of AI-generated content stems from the algorithmic model's deep learning of massive amounts of data and parameter optimization, and is not the direct product of human thinking activities^[2].

Judicial practice on the determination of originality of AIGC presents a dualistic path of "result-process": the "result-oriented" path and the "process-oriented" path. The "result-oriented" path is based only on the originality of the generated content itself, ignoring the degree of human participation in the creative process. For example, the Shenzhen Intermediate Court held in (2023) Guangdong 03 Civil Final No. 4567 that AI-generated commercial design drawings "possessed aesthetic value that distinguished them from existing designs" and met the originality standard; the "process-oriented" path requires proof of substantial contributions of human beings in the generation process, such as prompting the creation of a new design, or the creation of a new design, or the creation of a new design. The "process-oriented" path requires proof of substantial human contributions in the generation process, such as cue word design, parameter adjustment or post-editing. The Beijing Internet Court emphasized in (2023) Beijing 0491 Minchu 11279 "AI Painting Case" that it is necessary to examine the "creative connection between human intervention and the generation result", otherwise it will lead to "technological tools usurping the status of human authorship". Otherwise, it will lead to "technological tools usurping the status of human authorship". The parallelism of the two paths has led to confusion in the application of the law.

2.2 Deficiencies in copyright attribution arrangements for AI-generated content

2.2.1 Difficulty in recognizing the qualification of the creative subject of AI-generated content

Article 11 of China's Copyright Law stipulates that copyright belongs to "authors", who are limited to natural persons, legal persons or unincorporated organizations. The qualification of the subject is in a difficult situation. For example, in (2024) Su 0581 Minchu 6697, "Lin Chen's "Companion Heart" AI Painting Case", the court found that the picture in question constituted a work, but explicitly pointed out that "the AI itself cannot be the subject of copyright", and that the subject of the right should be a "natural person who has invested intellectual labor", and that the subject of the right should be a "natural person who has invested intellectual labor". The subject of the right must be "a natural person who has invested intellectual labor". This logic of adjudication conflicts with the "non-human origin" characteristics of AI-generated content; when the generation process is highly automated, the user's intervention is limited to initiating the program, and his or her "intellectual input" is difficult to satisfy the traditional authorship requirement.

2.2.2 Unclear copyright attribution rules for AI-generated content

AI-generated content usually involves developers, users, data providers and platform operators, and the nature of their contributions varies significantly. Designers lay the basic framework for generating content through algorithm design and model training; users influence the output results through cue input and parameter adjustment; and data providers provide training data, which indirectly influences the direction of content generation. The lack of evaluation criteria for "contribution" under the current law has led to an imbalance in the distribution of rights and difficulties in determining the attribution of AIGC copyrights.

The above systemic flaws have given rise to heated controversies at the doctrinal level: adherence to 'anthropocentrism' may inhibit technological innovation, while full recognition of the attributes of AI-generated content as a work may shake the humanistic foundations of copyright law. The value choices of the academic community are

directly reflected in the theoretical differences between the determination of originality and the attribution of rights.

3 Academic controversy over copyright protection for AI-generated content

3.1 Academic controversy over whether AI-generated content is original or not

3.1.1 Affirmation of originality

Scholar Xiao Hai emphasized that when the output content of generative artificial intelligence can reflect the will or personality of a subject, it should be considered to meet the requirements of original and minimum intellectual creation, i.e., it has "originality"^[3]; scholars Yi Ling and Wang Jing, from a macroscopic point of view, believe that generative artificial intelligence is always a product of the stage of "weak artificial intelligence", which is still inseparable from the role of human predetermination and regulation.

From a macroscopic perspective, scholars Yi Ling and Wang Jing believe that generative AI is always a product of the "weak AI" stage, which is still inseparable from human's predetermination and regulation.

Therefore, it meets the objective originality standard^[4]; similarly, scholars Liao Si also emphasize the objective form, and believe that AI generative products have already met the minimum degree of originality requirement^[5]; scholars Xiong Qi hold a positive evaluation on the object of AI, and believe that when the content generated by AI is indistinguishable from the works created by human beings, the content should be recognized as a work^[6]; scholars Cong Lixian and Li Yonglin advocate the "consequentialist standard" from a macro perspective.

The scholars Cong Lixian and Li Yonglin advocate the "consequentialist standard", as long as the generated content meets the requirement of originality in form, it can be protected by copyright^[7]; the scholars Zhang Ping put forward the "judgment of object", which believes that whether the generated content constitutes a work or not should be judged from the originality of the generated content itself, instead of sticking to whether or not the subject is a natural person or not, and whether or not the content is similar to a work of a human being.

Instead of focusing on whether the subject is a natural person or not, and by analogy with instrumental creations such as photography and computer software, scholars advocate that AI-generated content should be subject to the same standard of originality as traditional works^[8].

Although there are multiple paths of argumentation, they all point to the same institutional demand: to break through the shackles of 'anthropocentrism' and build a new type of originality evaluation system under the framework of human-machine cooperation.

3.1.2 The Negative Theory of Originality

Based on pure empiricism, scholar Chen Hu argues that the output of generative AI is a reproduction and reorganization of existing human works, and that there is no significant difference between the two in essence^[9]; scholar Wang Qian also argues that the output of AI-generated content is just the output of the application algorithms and technological rules, which is very far from the creation of authors on the basis of their unique personalities and emotions, and it does not constitute the formation of a work in the sense of intellectual creation in the meaning of copyright^[10]. Similarly, Liu Ying argues that originality requires that a work must contain human thoughts or emotions, while generative AI does not have such elements and therefore should not be recognized as a "work"^[11].

Based on the philosophical deconstruction of the nature of creation and the empirical analysis of technical mechanism, scholars of negative theories claim that AI-generated content lacks the core elements of human creativity - the expression of thoughts and emotions and the imprint of unique personality, and its essence is still the probabilistic reorganization of existing data by algorithms, so it cannot satisfy the requirements of the copyright law for "intellectual achievements". Therefore, it cannot meet the substantive requirements of copyright law for "intellectual achievements".

3.2 Academic disputes over copyright ownership of AI-generated content

3.2.1 Designer says

Whether the designer of an AI model can be the owner of the rights is a key issue when discussing copyright attribution in AIGC. The designer usually refers to the individual or team that develops and trains the AI model. Some scholars advocate attributing the copyright of AIGC to the designer of the AI. Scholar Chen Jianqiang advocates that developers play a decisive role in generating content through algorithm design and data training, and analogous to the attribution rule of "commissioned works", he believes that developers, as the core contributors of algorithms and data, should be entitled to copyright^[12].

3.2.2 User statements

Some scholars advocate that the copyright of AIGC should be attributed to the user of artificial intelligence. Scholar Xu Xiaoben advocates that users of generative AI can obtain authorship and copyright based on their creative behavior, and the copyright can be originally assigned to human users of AI through the ownership rules of existing copyright legal relationships such as co-creation and commissioned creation, or the other copyrights of generative works can be assigned to the users through the design of the system that separates the right of authorship and other copyrights[13]; Scholar Yang Yaxin Yang Yaxin proposed that when it is impossible to measure the contribution of developers and users, users should be given priority in granting copyrights in order to stimulate creativity, for example, when users generate personalized content (e.g., poems, images) by adjusting parameters^[14].

3.2.3 Comprehensive statement of the priority of agreement

Lv Hongbing, a member of the National Committee of the Chinese People's Political Consultative Conference (CPPCC), proposed to clarify the boundaries of responsibilities of developers, users and platforms through "small, fast and agile" legislation, and to establish a sharing mechanism that gives priority to contractual agreements, for example, the developer retains the ownership of the algorithm, and the user enjoys the right to commercially utilize the generated content. The group of Beijing Intellectual Property Court suggested that the "principle of meaningful autonomy" could be an efficient way to resolve disputes over ownership, and suggested that the agreement should specify the terms of attribution of rights, the way of use, and the distribution of benefits.

3.3 Summary of Academic Controversies on the Composition and Attribution of Content for Copyright Protection of AI-generated Content

There are clear differences in the academic community on the issue of whether AI-generated content constitutes a work. The theory of originality affirmation advocates that the objective expression of the generated content should be the judgment standard, and believes that the originality threshold should be kept in line with that of human works^[15], emphasizing that the generated content of AI can reflect the will or personality of the subject to a certain extent, which is in line with the requirements of the traditional copyright law on the originality of the work. On the other hand, from the perspective of the nature and creative process of AI, the negativity of originality theory holds that AI lacks the thoughts, emotions and unique personality of human creations, and that its "creativity" originates from the copying and reorganization of machines, so it does not have originality and should not be recognized as a work^[16]. However, in recent years, with the breakthrough development of generative AI technology, the traditional theory of denying the originality of AI-generated content is facing a fundamental challenge. Judicial practice represented by the case of Tencent v. Yingxun (2019) Guangdong 0305 Minchu 14010 shows that AIGC can be recognized as a work when it meets the standard of formal originality, which confirms the "consequentialist standard" put forward by scholars represented by the affirmative theories of Cong Lixian and others. This confirms the "consequentialist standard" proposed by scholars such as Cong Lixian and other affirmative scholars, i.e., originality should be judged based on the objective expression of the generated content rather than the identity of the creative subject[17].

In the author's view, generative artificial intelligence has the ability to produce original content in the sense of copyright law through the deep synergy of algorithmic architecture innovation and human intervention. Current research needs to break through the paradigm of "anthropocentrism" and build a new type of originality recognition system that takes into account the technical characteristics and industrial development needs, so as to provide theoretical support for the copyright protection of AIGC.

The issue of copyright ownership of AI-generated content has been the subject of a variety of doctrines in the academic community, each with its own rationality and limitations.

With regard to the designer's claim, the designer's claim focuses on the incentives for designers to innovate, but may lead to the impairment of users' rights and interests.

According to the relevant provisions of the Copyright Law, copyright protects the original creative activity of the form of expression, not the technical tool or method itself. In the process of developing the AI model, the designer is more engaged in algorithm writing and data training, and has not created the specific content generated. Therefore, the designer does not make an actual intellectual investment in the creation process of AIGC. The designer is only the producer of the authoring tools, not the creator of the content generated by those tools. Moreover, the designer has already received sufficient benefit from AIGC outside of copyright, and further copyright may lead to double profitability, which is not conducive to fair competition. In the case of the AI Bunsen pattern, the Stable Diffusion designers waived their rights to the output content in the license, and the judgment notes that the intellectual input of the designers was in the design of the AI model, not in the image itself^[18].

Regarding the user-speak, the user-speak emphasizes the dominant role of the user in the creative process, but ignores the value contribution of the AI technology itself. Considering AI users as authors actually views AI as a creative tool, similar to a digital camera or paintbrush, that assists human creativity. This view emphasizes the central role of humans in the creative process, arguing that the use of AI technology merely expands the means of human creation and expression. Just as painters use brushes to splash colors on a canvas and musicians play melodies through musical instruments, AI users guide AI to create works with specific styles and themes by inputting data, setting parameters and adjusting algorithms^[19]. However, this doctrine fails to adequately respond to the challenge posed by the autonomy of AI technology to the traditional "instrumentalism". The creative mechanism of generative AI has gone beyond the scope of passive tools, and its parameter space formed through deep learning has the potential to independently generate innovative expressions. Therefore, it is difficult to adapt the viewpoint of simply considering AI as a tool to the creative paradigm innovation triggered by generative technology.

Based on China's 'technological catch-up' legislative context and industrial practice needs, the author prefers the "agreement priority synthesis", the core concept of the "agreement priority synthesis" is to find a balance point between technological neutrality and humanistic values, and in the technological catch-up countries, through the combination of contractual agreement and judicial case confirmation of the right to allow all parties to be flexible agreement in the legal framework, which can both incentivize the development of the AI industry and balance the interests of traditional copyright. This can not only incentivize the development of AI industry, but also balance the interests of traditional copyright^[20]. For example, in the Tencent Yuanbao User Agreement, it is clear that the copyright of user-generated content belongs to the user, reflecting the practical application of the principle of "prioritizing agreement". China's "Measures for the Marking of Artificial Intelligence-Generated Synthesized Content", which will be implemented on September 1, 2025, requires service providers to clarify the user's marking obligations and usage responsibilities in the user agreement, providing institutional safeguards for the principle of "prioritization of agreement".

4 Institutional Adaptation: A Paradigm Leap in Copyright Protection for AI-Generated Content

4.1 Definitional expansion: from "anthropocentric" to "technologically inclusive"

Definition expansion requires a double breakthrough: first, it is recommended to adopt a 'phased amendment' strategy: the first phase clarifies the standard of 'substantial control' through judicial interpretation, and the second phase adds the provision of 'technological In the second phase, the Copyright Law will be amended to add the provision of 'technologically generated works', so as to avoid the impact of radical legislation on the existing industrial order. Secondly, drawing on the expanded interpretation of 'creative act' in Japanese law, amend 'expression based on human thoughts or emotions' to 'expression embodying the creative judgment of a human being', and require that the prompt word The design needs to contain three layers of creative elements (semantic uniqueness, aesthetic directionality, and parametric relevance).

4.2 Systematic construction of rules for attribution of rights

4.2.1 Subject identification: users as creative leads, limited rights of developers and platforms

The user should be recognized as the first right holder when he or she dominates the generation process through creative instructions. Such determination requires the establishment of clear criteria for judging "creative instructions"^[21]: first, the complexity of the prompt words, including semantic density (e.g., multi-level descriptions) and aesthetic uniqueness (e.g., personalized style requirements); and second, the depth of the parameter adjustments, which need to be examined in terms of the correlation between the number of iterations and the output effect^[22]. Legislation should refine these elements, for example, stipulating that a combination of cue words containing more than three professional elements, or a generation process with more than five systematic parameter optimizations, can be presumed to be creative^[23]. At the same time, it is recommended to introduce blockchain and other technical means to fix the evidence of the creative process and ensure the objectivity of the determination. This system design can not only protect the rights and interests of users who really put in creative labor, but also prevent the abuse of rights and achieve a balance between technological development and legal protection.

Developers may claim a "right to technical contribution" based on algorithmic innovations, but this right should be strictly limited to prohibiting the malicious copying of algorithmic logic (e.g., model architectures, training methods), and should not extend to specific user-generated content. For example, the developers of Stable Diffusion can prohibit others from maliciously copying their model architecture, but they do not have the right to claim the copyright of user-generated images. Platforms need to balance interests through user agreements, such as agreeing on basic usage rights, but not excluding the user's right to attribution and fair use.

4.2.2 Rights allocation: tiered protection and "agreed priority + contribution quantification" rights mechanisms

(1) Layered protection mechanisms

Content with strong originality should be granted full copyright protection. This type of content usually reflects significant human-dominated characteristics, such as the user exerts substantial creative control over the form of expression of the AIGC by repeatedly adjusting the cue words, carefully designing the parameter combinations, or carrying out in-depth post-editing, and so on. In such cases, the intellectual input of the human user has reached the standard of originality required by traditional copyright law, and the creative process is essentially no different from traditional literary and artistic creation. For example, digital artworks created by professional designers using AI tools or literary works generated by writers through multiple iterations of optimization are often the result of a great deal of creative labor and personalized choices made by the user, and deserve the same legal protection as traditional works.

Weak protection models should be adopted for content with a low degree of originality and limited human intervention. This type of content is usually generated by simple input of instructions and lacks in-depth human creative involvement, such as content generated by inputting only basic prompts (e.g. "write a poem about spring"). Granting full copyright protection to such content does not meet the substantive requirement of originality and may unduly restrict the free flow of information and subsequent creation. Drawing on the special protection model for non-original databases in the EU Database Directive^[24], a "limited exclusivity" protection mechanism can be created for this type of content^[25]. The core of this weak protection model is: on the one hand, to prohibit the direct copying by others in the commercial domain, in order to guarantee the return of the basic investment; on the other hand, to allow non-profit use, learning and secondary creation, so as to maintain the public domain of knowledge dissemination^[26]. This differentiated protection mechanism not only balances the interests of all parties, but also avoids hindering technological innovation and knowledge dissemination due to over-protection, reflecting the flexibility and adaptability of copyright law in the digital era.

(2) "Agreed Priority + Quantification of Contributions" Rights Recognition Mechanism

At the legislative level: The Copyright Law has added a provision on the attribution of rights to AI-generated content, clarifying the legal status of the principle of "prioritization of agreement" and setting bottom-line rules. For example, the right to attribution and fair use shall not be excluded by contract, and developers may agree on the proportion of technical royalties through the agreement, but shall not monopolize the commercial interests of the generated content. It is necessary to be vigilant against the 'agreement priority' alienated into a legal tool for platforms to seize rights. It is recommended to add a clause on the protection of users' rights and interests: if the rights attribution clause in the platform's user agreement leads to a developer-user revenue ratio of more than 1:3, an antitrust review will be automatically triggered.

Technology empowerment: build a blockchain depository system to realize full-process contribution traceability. For example, it records the data source of developers' model training and the log of users' cue word modification, and automatically distributes the revenue through smart contracts. Microsoft introduced the "copyright guardrail" in Copilot products, promising to bear legal risks for compliant users, which reflects the practical value of technology empowerment.

Judicial Complement: Introducing third-party technical assessment institutions, such as the AI Appraisal Center of the State Intellectual Property Office, to dynamically adjust the allocation of rights through algorithmic reverse engineering and contribution weighting analysis. For example, in multi-party disputes, the rights and interests of each party can be quantified based on indicators such as the creative weight of cue words (40%), the contribution of algorithms (30%), and the input of data screening (30%).

5 Conclusion

The 'three-stage reconstruction' paradigm constructed in this paper attempts to realize a triple transcendence: transcending the formal shackles of anthropocentrism through definitional expansion, bridging the criterion schism of originality determination through dynamic layering, and solving the problem of quantifying the contribution of rights attribution by relying on technological empowerment. In the future, we need to pay attention to three institutional tensions: the challenge to the standard of 'substantial control' posed by the increased autonomy of algorithms, the conflict between transnational platform protocols and local legislations, and the balance between the cost of technological traceability and judicial efficiency. Only by maintaining institutional flexibility can the paradigm shift of copyright law be realized in the symbiosis of technological innovation and legal rationality.

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