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LEGAL PERSPECTIVES ON THE LEGAL REGULATION OF AI-GENERATED WORKS AND ISSUES ON LEGAL SUBJECTIVITY OF ARTIFICIAL INTELLIGENCE

The rapid evolution of information technologies, driven by revolutionary innovations, has profoundly transformed the nature of legal relations. The widespread integration of artificial intelligence (AI), its numerous advantages, and its continuous advancement necessitate substantial changes in legal regulation.

In particular, the development of machine learning technologies and the emergence of generative artificial intelligence capable of producing intellectual property (IP) objects with novel and original features have raised significant questions concerning their legal protection. Advances in generative AI have enabled machines to create texts, artworks, musical compositions, and even inventions that can rival human creativity. These developments challenge the traditional understanding of authorship and originality and raise complex issues regarding the legal status of AI-generated works within the existing framework of intellectual property law.

As a result, legal relations arising from works created by generative AI remain largely unregulated in the legislation of most jurisdictions. This regulatory gap gives rise to considerable uncertainties and practical challenges in the application of IP law to AI-generated outputs.

This article seeks to examine the existing legal concepts of authorship and creativity, to analyze the current legal framework governing AI-generated works, and to identify possible approaches for the development of coherent and adaptive regulatory mechanisms. The study is based on the analysis of diverse scientific literature and legal sources.

Keywords: *intellectual property, copyright, artificial intelligence, generative artificial intelligence, moral (non-property) rights, economic (property) rights, originality criterion, circulation of knowledge, legal regulation, authorship subject.*

Relevance and main directions of the research. In recent years, the rapid advancement of information technologies and the emergence of artificial intelligence have transformed the very foundations of law and creativity. What was once a purely human domain – authorship, innovation, and artistic expression – is now being redefined by intelligent systems capable of learning, reasoning, and producing original works. This transformation compels modern legal science to reconsider established notions of authorship, originality, and ownership in the field of intellectual property.

The present article arises from the expansion of AI technologies has created a profound legal vacuum in regulating the status of AI-generated works. Despite their increasing presence in art, literature, design, and invention, such creations often fall outside the existing legal frameworks that recognize only human authorship. As a result, essential questions emerge: Can an autonomous machine be regarded as an author? To whom do the rights over AI-generated works belong—the creator of the technology, its operator, or the user? And to what extent can moral rights, traditionally inseparable from human personality, be applied to non-human creativity?

The purpose of this study is to analyze these issues through the prism of intellectual property theory, examining the dual nature of copyright – its economic and moral components – and their relevance in the age of artificial intelligence. By exploring legal doctrines, national legislations, and international norms, the article seeks to propose a conceptual approach that reflects both the technological realities of the modern era and the humanistic essence of creativity.

The author's position is that artificial intelligence challenges not only the existing legal mechanisms but also the philosophical understanding of creation and authorship. Hence, the search for a balanced legal model – one that recognizes the economic value of AI-generated works while preserving the moral and cultural dimensions of human authorship – is both timely and necessary.

The growing sophistication and widespread use of generative artificial intelligence (AI) have radically transformed the environment of intellectual creativity and legal regulation. As AI systems capable of producing text, images, sound, and inventions are increasingly adopted across industries, they create not only unprecedented opportunities but also profound legal uncertainty, particularly in the sphere of intellectual property (IP) protection. According to the WIPO factsheet, generative AI tools function through extensive data-driven learning models trained on massive datasets – often including both public-domain and copyright-protected materials – raising legal questions regarding the legitimacy of data use and the ownership of resulting outputs [15, p. 2–3, p. 7–8]. Furthermore, the lack of harmonized regulation across jurisdictions means that the authorship, originality, and ownership of AI-generated works remain unresolved under most IP regimes [15, p. 10–11].

In this context, the relevance of the present study is underscored by the urgent need to develop a coherent legal framework that reflects the technological realities of AI-driven creation while preserving the moral and cultural dimensions of human authorship. The main directions of the research include: (1) examining the theoretical foundations of authorship and originality in light of machine-generated creativity; (2) analyzing the dual structure of copyright – its economic and moral components – and assessing their applicability to AI-generated works; (3) exploring comparative approaches to the legal subjectivity of AI and the allocation of ownership rights over AI outputs; and (4) proposing an adaptive model of limited copyright protection that aligns with fairness, innovation, and predictability in the use of generative AI. By addressing these directions, the research seeks to contribute to the modernization of intellectual property law and to the global dialogue on responsible governance of AI creativity.Scholarly literature emphasizes that, in the modern era, intellectual property (IP) encompasses a much broader range of domains than before. This expansion necessitates a renewed understanding of its essence and scope. Intellectual property should be assessed not only from a legal standpoint but also within economic and socio-cultural contexts. The concept of IP integrates not merely the rights themselves but also the intellectual and creative outputs that those rights are designed to protect [6, p. 8–9]. Based on the above considerations, it can be argued that intellectual property (IP) represents more than a purely legal category limited to rights over specific objects, as defined in international normative instruments. This expanded understanding reflects one of the fundamental requirements of the modern era. The need to emphasize this stems from the fact that perceiving intellectual property solely as a legal concept may lead to its interpretation as something inherently linked to the human creator. However, viewing intellectual property not merely as a legal construct but as a foundational category encompassing legal, economic, and socio-cultural dimensions is far more consistent with contemporary trends and challenges.

The scientific novelty of the research. The scientific novelty of this research lies in its comprehensive approach to defining the legal essence of works generated by artificial intelligence (AI) and in the development of a conceptual model that reconciles the moral and economic dimensions of authorship within contemporary intellectual property law. Unlike previous studies that considered AI merely as a technological instrument or as an object of legal regulation, this research interprets AI as an active factor that transforms the traditional understanding of creativity, authorship, and ownership. By examining the dual structure of copyright – its economic and moral components – the study proposes a new interpretative approach that differentiates between the inalienable moral rights of the human author and the transferable proprietary rights that may arise from AI-generated creative outputs.

A distinctive contribution of the research is the introduction of a theoretical model for granting limited legal protection to AI-generated works. This model suggests excluding moral rights, which are inseparable from human personality, while enabling the allocation of economic rights to human participants involved in the operation, development, or management of AI systems. Such an approach fills the existing legal gap in the recognition and regulation of AI-generated outputs and provides a balanced solution between technological innovation and the preservation of human creative values.

In addition, the study extends the traditional understanding of intellectual property by linking it to the broader process of knowledge generation and transformation, demonstrating that both human and artificial creativity follow similar stages of processing and objectifying information. This interdisciplinary perspective contributes to the modernization of intellectual property theory and offers a scientifically grounded basis for developing adaptive legal mechanisms in the era of artificial intelligence.

The main content of the research. Copyright law has undergone a long and complex process of development. An examination of national legislations and international legal instruments shows that the creative human being traditionally occupies the central position within the concept of authorship. In both national laws of most states and in international normative acts forming the cornerstone of copyright protection, the term "author" is understood to refer to a human person. While such an approach was previously sufficient to cover all situations arising in legal relations, the rapid advancement of information technologies – particularly artificial intelligence – has rendered it inadequate as a comprehensive regulatory mechanism.

It should be noted that through the application of machine learning, decision-making processes, and neural network methods, artificial intelligence has already evolved from being merely an object within intellectual property relations into an active element possessing a more significant role and function.

For this reason, one of the key challenges confronting contemporary legal science and national legal systems is the establishment of precise regulatory mechanisms governing the legal relations arising from works created by creative machines and technologies, particularly those between the developers, owners, operators, and users of such technologies [12]. As can be observed, one of the key issues that raises significant concern relates to the regulation of intellectual property (IP) rights that possess economic value. Whether artificial intelligence (AI) can be recognized as a legal subject and, consequently, as an author remains one of the most debated topics at the international level.

In this regard, to comprehensively assess the subjectivity of artificial intelligence and to determine the legal fate of works created by generative AI, it is necessary to conduct an in-depth analysis of the nature and characteristics of copyright.

Legal scholarship emphasizes that identifying who qualifies as the author constitutes one of the most fundamental questions in copyright law. Copyright comprises, on the one hand, proprietary (economic) rights that are transferable and aimed at securing economic interests, and on the other hand, personal (moral) rights that are inseparably linked to the author's personality, are non-transferable, and are not limited by the duration of protection [11, p. 586]. As is evident, copyright, in its broader context, encompasses a comprehensive system of rights, including personal (moral) rights. This feature directly influences its intrinsic legal nature and, consequently, affects the determination of the legal status of works that may be regarded as copyrightable and created by artificial intelligence (AI). It should be noted that since moral rights also arise with respect to copyrightable works, the question of whether AI can possess such rights remains highly debatable.

While it may be legally and ethically acceptable to assign economic (proprietary) rights over AI-generated works to the system's user, creator, or owner, it would be neither ethically nor legally justifiable to recognize moral rights in favor of any of these subjects with respect to a work that has emerged solely as a result of AI's own learning capacity, utilization of neural networks, and autonomous creative activity.

Within the framework of relevant social relations, moral rights are considered an inseparable component of the author's rights. Moral rights must be characterized as rights of special legal significance. According to the **Law of the Republic of Azerbaijan on Copyright and Related Rights**, these rights possess three principal characteristics: they are inalienable, indivisible, and inseparable from the author's personality. Consequently, such rights are not related to, nor dependent upon, the transfer of the author's economic rights and, furthermore, are not limited by any term of protection [9]. Personal (moral) rights – which constitute an integral part of copyright – are directly linked to the personality of the author and cannot be transferred, divided, or separated from it. For this reason, these rights possess a distinct legal character. The author's moral rights ensure the existence of the moral dimensions of creativity independently from economic rights.

Legal scholarship emphasizes that copyright, in a global context, is understood as a broad and comprehensive system of rights, within which moral rights are also regarded as essential and inseparable components. Although some countries focus primarily on economic rights in this area, the globalization of intellectual property has made the recognition of moral rights an indispensable part of the overall copyright concept.[10, p. 281–282]. An analysis of the experiences of various countries and the provisions of international agreements confirms that copyright law would be incomplete without the inclusion of personal (moral) rights. Within the context of legal relations arising in this field, moral rights hold a special and irreplaceable significance.

One source characterizes moral rights as privileges that allow the author to preserve and safeguard their personal integrity and moral connection to the work. These rights are regarded as an extension of the author's personality and creative spirit [13]. This circumstance establishes the possession of personality and moral integrity as fundamental attributes required for a subject to be recognized as an author.

According to the findings of certain studies, personal (moral) rights serve several vital functions: they encourage creative individuals to produce new copyrightable works; they ensure the continuous protection of rights that are directly connected to the creator's personality and moral identity; and they safeguard the author's legitimate interests even in situations where, due to economic agreements, the author no longer holds proprietary rights over the work [14, p. 148]. This very fact serves as a legal barrier to recognizing artificial intelligence (AI) as an author. AI, being devoid of personality and moral consciousness, performs creative activity solely through technical processes and learning capabilities. In other words, such works lack what may be described as a "spirit" or "human essence".

As observed, the limitations of AI in exercising the rights encompassed by copyright – as well as the obligations arising from such relations – highlight that issues concerning moral (non-property) rights are among the key legal obstacles in this field. In light of this, two

potential approaches can be proposed. The first is to fundamentally reconsider traditional legal norms and principles by relaxing the criteria required for legal subjectivity. The second is to recognize works created by artificial intelligence as copyrightable objects, granting them partial or limited copyright protection.

This proposition, however, gives rise to a new and complex question: *Can an object created by generative artificial intelligence qualify as a copyrightable work?*

Academic literature and legal practice reveal divergent views on this matter. One group of scholars equates AI-generated outputs with human-created works, arguing that they should be regarded as copyrightable. Another group maintains that works produced by generative AI cannot be considered objects of copyright protection.

Although these issues are not yet regulated by the national legislation of any particular country, the legal positions formed as precedents in various intellectual property disputes in developed jurisdictions reject the possibility of recognizing artificial intelligence as an author or inventor. Even at a time when the subjectivity of artificial intelligence in intellectual property law was not yet under such extensive discussion, U.S. courts – in cases concerning whether an animal could be recognized as the author of a work – acknowledged only a natural person, a human being, as an author [3].

In the **DABUS** case, both the U.S. courts [2] and the higher courts of the United Kingdom established judicial practice [8] confirming that an inventor must be a human being and that invention without human involvement is not legally possible.

Nevertheless, in China, according to the precedent established in the **Tencent v. Yingxun** case, the court ruled that a news article written by an AI system operated by a human met the originality criteria and was recognized as a copyrightable work [7]. This example can be considered a significant indicator of the emergence of an innovative and development-oriented legal perspective.

Thus, although recognizing artificial intelligence as an author is not currently accepted, creating barriers to acknowledging its creative capacity would serve no purpose other than hindering innovation and technological progress.

According to several sources, works that are entirely the product of artificial intelligence do not fall within the scope of copyright protection, as they lack the essential element of originality that stems from human intellectual and creative effort [1]. The failure of an AI-generated work to meet the criterion of originality is often justified by the argument that these technological tools merely process and analyze pre-existing data from accessible databases, thereby producing works that are derivative in nature. In certain cases, such AI-generated outputs may replicate works that constitute the result of human creative activity and are thus protected under copyright law. However, in many other instances, the process by which these AI systems generate outputs parallels, to a considerable extent, the process of human creative expression.

In one of the cases concerning disputes over intellectual property objects created by generative artificial intelligence, the Court of Justice of the European Union demonstrated a specific approach to the criterion of originality. Taking originality as the key standard, the Court emphasized that, for a work to be considered original, the presence of human creativity

and freedom of choice is essential. It is also noted that the international regulatory framework for the governance of intellectual property objects resulting from AI creativity remains insufficient; therefore, the development of appropriate regulatory models should aim to support technological progress, and there is an increasing need for perspectives that promote innovative approaches [4, p. 46]. The regulation of legal relations arising from intellectual property associated with the products of creative artificial intelligence is of great importance, as it has a significant impact on various spheres of society. In particular, gaps in such regulation may create obstacles to the development of fields such as law, economy, culture, social affairs, and innovation, thereby causing problems in the real relationships that exist within society. In addition, it would also be appropriate to conduct an analysis concerning the criterion of originality.

Nevertheless, we consider it necessary to challenge this view. Artificial intelligence operating through machine learning methods and neural network algorithms is capable of completing all stages of creative activity traditionally attributed to humans, thereby producing genuinely new and original works. Human-created works are themselves founded on the accumulation and processing of existing knowledge drawn from informational sources.

Scholarly literature notes that intellectual property arises through a process referred to as the *circulation of knowledge*, which consists of several stages encompassing both intangible and tangible assets. Existing information is collected and processed, leading to the generation of new knowledge. This newly created knowledge is then objectified through intellectual activity, resulting in the emergence of intellectual property objects [5, p. 5]. As can be observed, intellectual activity in general is directed toward the objectification of new information generated through the processing of existing knowledge bases. The same sequence of stages, known as the *"circulation of knowledge"* process, can likewise be identified in the functioning of artificial intelligence (AI).

Conclusion of the research. On this basis, it may be concluded that if a work produced by generative artificial intelligence completes all the essential stages involved in the creation of intellectual property, such a work may be recognized as an object of intellectual property. In that case, it should be granted limited copyright protection. Specifically, personal (moral) rights would not be attributed to such works; however, economic (proprietary) rights over them should be assigned to the legal subject designated by law. Determining who precisely qualifies as the holder of these economic rights, however, constitutes a separate subject of scholarly inquiry.

From this perspective, the establishment of legal frameworks introducing special protection regimes for intellectual property objects created as a result of the activity of creative artificial intelligence can be regarded as the most appropriate solution at the present stage. A specific approach may be defined for copyright and related rights objects, as well as for industrial property objects created by creative artificial intelligence, whereby the granting of limited rights to such objects could be possible. In such cases, when personal (non-property) rights are excluded from the scope of exclusive rights, only economic rights are recognized in relation to these objects.

Furthermore, if it is declared or established that an intellectual property object has been created by creative artificial intelligence, this fact should be explicitly indicated in the protection certificate issued on behalf of the state, noting that no human author exists for the given object. At the present stage, this would represent the most appropriate form of regulation, both in terms of the nature of the emerging legal relations and in eliminating potential limitations that may arise in the application of innovations.

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А. Алієв. ЮРИДИЧНІ АСПЕКТИ ПРАВОВОГО РЕГУЛЮВАННЯ ТВОРІВ, СТВОРЕНИХ ШТУЧНИМ ІНТЕЛЕКТОМ, ТА ПИТАННЯ ПРАВОСУБ'ЄКТНОСТІ ШТУЧНОГО ІНТЕЛЕКТУ

Швидка еволюція інформаційних технологій, зумовлена революційними інноваціями, суттєво трансформувала характер правових відносин. Широка інтеграція штучного інтелекту (далі – ШІ), його численні переваги та постійний розвиток обумовлюють потребу істотних змін у сфері правового регулювання.

Зокрема, розвиток технологій машинного навчання та поява генеративного штучного інтелекту, здатного створювати об'єкти інтелектуальної власності (ІВ) з новими та оригінальними характеристиками, порушують важливі питання щодо їхньої правової охорони. Досягнення у сфері генеративного ШІ дали змогу машинам створювати тексти, твори мистецтва, музичні композиції та навіть винаходи, які можуть конкурувати з людською творчістю. Ці тенденції кидають виклик традиційному розумінню авторства та оригінальності й породжують складні проблеми щодо правового статусу творів, створених ШІ, у межах чинної системи права інтелектуальної власності.

Унаслідок цього правові відносини, що виникають у зв'язку зі створенням творів генеративним ШІ, залишаються значною мірою неврегульованими в законодавстві більшості держав. Така прогалина в правовому регулюванні спричиняє значну невизначеність і практичні труднощі в застосуванні норм права інтелектуальної власності до результатів, створених ШІ.

Метою статті є аналіз існуючих правових концепцій авторства й творчості, дослідження чинної нормативно-правової бази, що регулює твори, створені штучним інтелектом, а також визначення можливих підходів до розроблення цілісних та адаптивних механізмів правового регулювання. Дослідження базується на аналізі різноманітних наукових і правових джерел.

Ключові слова: *інтелектуальна власність, авторське право, штучний інтелект, генеративний штучний інтелект, моральні (немайнові) права, майнові права, критерій оригінальності, обіг знань, правове регулювання, суб'єкт авторського права.*

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