

Originality and Creativity in the Age of Artificial Intelligence

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Abstract: Artificial intelligence represents a qualitative leap in modern technologies, contributing significantly to data analysis and generating solutions that appear innovative at first glance. However, the issue of originality poses a critical challenge, as computational data-processing capabilities intersect with genuine creativity inherent to human cognition. Consequently, artificial intelligence can introduce unique value enriching diverse fields--ranging from artistic content to scientific solutions--in a manner reflecting authentic character rather than mere repetition or syntactic reformulation.

Keywords: Deep learning, creativity, originality, artificial intelligence, copyright, legal personality.

Section I: Introduction

The contemporary world is witnessing an unprecedented surge in technological evolution, positioning artificial intelligence as a pivotal element across various domains of human activity. Originating as a technical apparatus designed to enhance productivity, optimize temporal investment, and attain targeted outcomes with rigorous precision, it rapidly advanced into an active counterpart to human intellect. Smart algorithmic architectures and autonomous computing agents demonstrate sophisticated capacities, functioning independently and addressing complex dilemmas beyond rudimentary pre-programmed commands. These systems resolve elaborate challenges even under conditions of incomplete or asymmetric information.

Through breakthroughs in deep learning and big data processing, AI systems have transitioned into substantive collaborative partners--and notable competitors--in the production of artistic, musical, and literary works. Operating with increasing autonomy, these technologies no longer require exhaustive line-by-line programming; they evolve organically through algorithmic data ingestion. This rapid paradigm shift obligates legal systems to re-evaluate established doctrinal frameworks concerning the status of these outputs and whether they qualify for statutory legal protection analogous to that accorded to human creators. The protectability of AI-generated productions remains contested, conditioned upon strict compliance with legal prerequisites--chief among them being the doctrine of originality.

Under copyright doctrine, originality constitutes an indispensable legal threshold, manifesting through the subjective imprint of creative expression. It is the defining attribute that renders a literary or artistic work distinctive, reflecting the author's independent intellectual effort, subjective persona, and idiosyncratic creative vision. Within the context of autonomous AI outputs, however, this doctrine encounters severe theoretical friction. An AI system cannot be recognized as an author in the traditional legal sense due to its lack of subjective self-awareness, intentionality, and lived human experience. AI operates via mathematical optimization applied

¹ Received: April 13, 2025 | Accepted: July 17, 2026 | Published: September 25, 2026

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to pre-existing data, thereby producing works devoid of personal human animus. Accordingly, profound legal questions arise: Can automated productions be deemed genuine creativity? Who holds the proprietary rights to these outputs, and can artificial intelligence truly be recognized as an original source of thought and creation?

Section II: The Legal Framework Governing Artificial Intelligence

1. Legal Foundations and Juridical Personality

Smart machines now independently execute complex operations that historically required direct human intervention. This evolution raises complex legal hurdles regarding their status, particularly concerning legal personality, rights, and liabilities. With the expanding autonomy of AI architectures, international consensus demands clear legislative boundaries. These legislative initiatives stem from massive progress in machine self-learning and deep neural architectures, empowering systems to make autonomous decisions without continuous human oversight.²

The primary objective of these statutory initiatives is twofold: shielding societal welfare against systemic risks arising from irresponsible technological deployment, and establishing accountability for automated offenses and civil harms.³In orthodox jurisprudence, legal personality is strictly vested in natural persons. While the legal fiction of corporate personhood accommodated economic organizational entities, conferring legal personality upon synthetic software poses unprecedented challenges. While AI demonstrates autonomous decision-making,⁴it cannot be seamlessly assimilated into natural or juridical classifications.⁵

This normative impasse prompts serious debates regarding machine accountability and comprehensive party protection.⁶Current proposals explore a novel third tier of legal status--designated as "electronic personhood"--specifically tailored to autonomous computing agents.⁷Such status would delineate limited rights and concrete legal duties without generating unbounded enterprise risk.

A paramount controversy lies in literary and artistic authorship. The central dilemma remains whether an artificial system can qualify as a statutory author endowed with exclusive moral and economic rights. Human creativity is inextricably linked to subjective consciousness and intentionality,⁸attributes fundamentally absent in computational models. Even where synthetic artifacts achieve high aesthetic complexity, proprietary allocation remains unsettled: does title vest in the primary programmer, the system user configuring inputs, or the corporate enterprise managing the platform?⁹

Comparative legislation demonstrates distinct trajectories. The European Union pursues comprehensive governance through strict risk-based frameworks, addressing civil liability and digital rights protection. Conversely, United States regulatory authorities concentrate primarily on existing civil/criminal liability doctrines and the enforcement of the human authorship requirement.¹⁰In jurisdictions such as Japan and South Korea, regulatory strategies actively integrate robotics into the socio-economic fabric, reconciling technical innovation with human rights preservation.¹¹Rapid technical progression necessitates an updated regulatory environment safeguarding individual protections while supporting secure computational evolution.¹²

2. The Doctrine of Originality in Intellectual Works

Originality serves as the foundational qualitative and statutory metric for artistic and literary protection, embodying the independent creative labor distinguishing an author's expression. It forms the legal touchstone of intellectual property regimes, conferring upon a work a unique aesthetic identity reflecting its creator's personal perspective. Originality does not demand absolute novelty; rather, it requires that the expression

²Al-Omari & Al-Sharif (2021) examine artificial intelligence concepts, autonomous capabilities, and their legal impacts on intellectual property rights.

³Journal of Law and Social Studies (2022) addresses tortious liabilities, automated decision-making risks, and protective regulatory frameworks.

⁴Al-Mubarak (2020) provides comparative analysis across Saudi, US, and international copyright jurisdictions.

⁵European Parliament (2020) outlines the debate surrounding independent machine status and accountability paradigms.

⁶Abbott (2020) discusses systemic machine liabilities, standard of care, and legal responsibility allocations.

⁷World Intellectual Property Organization (2019) reviews proposed legal personality constructs and patent/trademark regimes.

⁸World Intellectual Property Organization (2021) examines output ownership, generative data processing, and human intent.

⁹Gervais (2020) analyzes the aesthetic potential, mechanical limits, and authorial definitions of machine-created art.

¹⁰U.S. Copyright Office (2023) delineates federal policies governing AI-generated content, human creative control, and textual analysis.

¹¹European Commission (2020) investigates technological safeguards preserving privacy, human dignity, and algorithmic transparency.

¹²Margoni (2018) explores deep learning training exceptions and copyright accommodation in the generative era.

emanates directly from the author's intellect, free from slavish reproduction or unlawful imitation.¹³ Legally, originality is established when a work reflects the author's personal imprint, granting exclusive exploitation rights under copyright legislation.¹⁴

In assistive AI environments, algorithmic models act as collaborative instruments aiding human creators through stylistic suggestions and compositional extrapolations.¹⁵ Illustratively, an AI tool may suggest visual elements or narrative structures based on learned datasets.¹⁶ Nevertheless, the human creator remains the sole authorial source. The software functions strictly as an operational conduit, leaving intellectual title exclusively with the natural person.¹⁷ This collaborative interface broadens human creative exploration without compromising legal criteria of originality.

In contrast, fully autonomous artificial intelligence presents a profound legal dilemma. When an automated system produces expressive content without direct human intervention,¹⁸ it directly conflicts with traditional copyright doctrines that require creative works to originate from the subjective conscious intent of a human author. Within the European Union, autonomous algorithmic creations are denied copyright authorship;¹⁹ legal systems focus instead on assessing human contribution or relegating such works to the public domain. Under United States copyright statutes, productions generated automatically without human intervention cannot obtain copyright protection,²⁰ falling directly into the public domain for unrestricted societal access.²¹ Originality does not signify absolute novelty, but denotes independent intellectual labor originating directly from the creator.²²

Section III: Artificial Intelligence and Its Creative Dimensions

1. Assistive AI as a Mechanism for Augmenting Human Creativity

Rapid technological evolution situates AI across varied domains, bifurcating between assistive models that augment human creative decision-making and autonomous architectures operating independently.²³ Modern generative technologies serve as sophisticated ideational mechanisms, analyzing extensive cultural repositories to propose novel stylistic combinations.²⁴ Everyday digital suites, such as Adobe Photoshop, illustrate this dynamic: while algorithmic features automate graphical processing, intellectual title resides entirely in the human artist who conceives, parameterizes, and finalizes the work.²⁵

Prominent industrial software such as Autodesk Dreamcatcher demonstrates this principle in structural engineering, generating functional design iterations based on user constraints (geometry, materials, structural loads). Analogous assistive models power workplace communication tools, smart email categorization, and interactive digital assistants.²⁶ While assistive intelligence significantly accelerates productivity and streamlines execution,²⁷ the legal character of the creative output remains linked to human ingenuity. The system serves as an advanced instrument, ensuring that proprietary copyright resides with the human creator.²⁸

2. Autonomous AI and the Ownership Dilemma

Autonomous intelligence relies on deep neural networks modeled after cognitive structures, enabling self-directed pattern recognition without prescriptive programming.²⁹ Concrete manifestations highlight this autonomous capacity:

1. *The Next Rembrandt (2016)*: An autonomous system synthesized Rembrandt van Rijn's artistic corpus to

¹³Hughed (2019) evaluates originality thresholds and personal imprint standards under intellectual property statutes.

¹⁴Al-Omari & Al-Sharif (2021) detail the statutory requirements of personal intellectual reflection and copyright subsistence.

¹⁵Journal of Law and Social Studies (2022) discusses assistive tooling, prompt configuration, and human-directed ideation.

¹⁶Al-Mubarak (2020) analyzes multi-scenario plotting and structural text generation via assistive neural platforms.

¹⁷Hughed (2019) confirms legal vesting in human operators using automated creative software.

¹⁸Margoni (2018) reviews musical and artistic generation devoid of immediate human compositional oversight.

¹⁹European Parliament (2020) examines the non-recognition of non-human authors under EU directives.

²⁰U.S. Copyright Office (2023) establishes the mandatory human authorship requirement for federal registration.

²¹Al-Omari & Al-Sharif (2021) analyze the public domain status of machine-generated artifacts devoid of natural authorial links.

²²Journal of Law and Social Studies (2022) emphasizes independent origin vs. absolute novelty in copyright jurisprudence.

²³Al-Mubarak (2020) traces the operational dichotomy between assistive workflows and fully automated generation.

²⁴Al-Omari & Al-Sharif (2021) review algorithmic pattern synthesis and creative augmentation in artistic fields.

²⁵Al-Mubarak (2020) examines proprietary vesting in commercial software design environments.

²⁶Journal of Law and Social Studies (2022) investigates enterprise deployment of assistive natural-language processing models.

²⁷Margoni (2018) evaluates computational speed and data analysis in automated production workflows.

²⁸Hughed (2019) reinforces that instrumental technological aids do not dilute human copyright claims.

²⁹Al-Omari & Al-Sharif (2021) analyze unsupervised machine learning, deep representations, and automated content generation.

produce an original 3D-printed portrait indistinguishable from the master's historical works, raising profound debates regarding algorithmic mimicry.³⁰

2. *Sunspring Screenplay*: The recurrent neural network "Benjamin" authored a complete science-fiction screenplay derived from comparative text analytics of classical cinematic scripts.

3. *AIVA (Artificial Intelligence Virtual Artist)*: Developed in 2016, AIVA produces symphonic musical compositions autonomously across classical repertoires.

These achievements accentuate intense legal dilemmas regarding ownership. Conventional copyright statutes mandate that protected works originate from a natural human author. Lacking intentionality and legal personality, autonomous software cannot be recognized as an author.³¹ In landmark market developments--such as the Christie's auction of the GAN-generated *Portrait of Edmond de Belamy* for \$432,500--the distinction between human and algorithmic works has blurred, confronting established copyright standards with unprecedented challenges.³²

Section IV: Conclusion

Artificial intelligence has established itself as a transformative force within creative disciplines. Consequently, standard legal metrics governing originality and copyright require systematic modernization. As automated systems produce sophisticated artistic and literary works rivaling human expression, conventional doctrines face fundamental theoretical strain. This study demonstrates that the legal status of AI creations depends directly on the level of human causal contribution: in AI-assisted works, the human operator retains copyright as the system functions merely as an operational tool; in autonomous creations, the lack of human consciousness excludes the output from statutory copyright, dedicating it to the public domain. Legislatures must formulate modernized statutory standards reconciling technological incentives with the integrity of the creative public domain.

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³⁰Al-Mubarak (2020) examines the Rembrandt project regarding stylistic emulation and intellectual property rights.

³¹European Parliament (2020) explores human-centric requirements and intentionality thresholds in creative works.

³²Margoni (2018) analyzes the commercialization and public domain status of GAN-generated artistic artifacts.