



ARTIFICIAL INTELLIGENCE AND COPYRIGHT LAW

Artificial intelligence (AI) is a branch of computer engineering that aims to replicate the way the human brain learns. And it is a topic that has been increasingly on the agenda.

Its impact has also been debated in the field of copyright law, and it is becoming increasingly important to assess the challenges posed by the emergence and rapid development of AI, as well as to address legal gaps in this area.

The creation of a work always assumes the existence of a person (a human being) behind the creative process. Someone

invested with a creative spirit develops an original work and exteriorizes it.

AI and 'chatbots' (AI-based computer programs capable of holding a real-time conversation by text or voice), such as ChatGPT, have raised a number of questions and challenges to this traditional model, and threaten, in particular, the production of original texts by an author.

The same is true for other types of works, such as painting, where artistic works have emerged based on certain algorithms, i.e. often purely the result of automated processes.

As AI develops, the human contribution to the creation of works will diminish, so we are not just dealing with a system that assists humans, but will actually be able to replace them, for example by automatically generating literary or artistic works.

The question that arises from a copyright perspective is whether or not these works automatically generated by AI will be considered protected works under the law, and on what terms.

While the subject of works created using computers and software is nothing new, the truth is that these works were made with the contribution of a human being, and even though in some cases it might be more difficult to identify their author, he existed, and he was a human person.

The problem with AI is different: AI allows the creation of works where there is no human input into the creative process, or, if there is, it is not sufficient to claim that the requirement of originality is fulfilled.

What case law has been saying on this topic all over the world is that there must always be a human being behind the creations.

Thus, what seems to be in question is whether we are dealing with a process of pure and simple automation or whether there is human intervention in the creative process.

And this may be the big difference in the definition of the protection of works under law.

There have been several disputes worldwide on this topic, from lawsuits involving large copyright companies to authors seeking to have rights created using new artificial intelligence technologies recognized.

There have also been movements of various groups associated with cultural areas, the most recent and most visible being the strike of the Hollywood Actors (SAG-AFTRA - Screen Actors Guild - American Federation of Television and Radio Artists), which paralyzed the film and television industry in the United States, joining the strike of the Writers Guild of America (screenwriters), which has been going on since May. This is the first complete shutdown of the Hollywood industry in over 60 years.

Among the various topics being demanded are issues posed by the growth of artificial intelligence and its potential impact on the industry.

The subject is not simple, but the impact that its rapid development has on our daily lives requires a careful analysis and urgent responses to its legal framework in various areas, in particular, regarding Copyright Law.

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