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NAVIGATING THE OWNERSHIP PUZZLE: THE REGIME OF AI-GENERATED CONTENT AND COPYRIGHT GAPS IN NIGERIA





Background

In a world where machines can create, the pressing question arises: Who owns the work? As Artificial Intelligence (AI) begins to generate content, it challenges our notions of authorship, ownership and originality of works.

Copyright is the product of innovation and has evolved with every technological leap. The earliest copyright regulations came with the advent of the printing press. However, copyright laws have expanded from the printing press to digital platforms. Each wave of technological disruption has forced the law to adapt, reimagining how creativity is defined, owned, and controlled.

Copyright laws not only seek to protect the traditional beneficiaries of copyright but also reward the effort expended in the work. Thus, the advent of AI raises pressing legal questions.

AI has become an integral part of our daily lives, with generative AI taking the front row. A 2024 survey conducted by Ipsos¹ via the KnowledgePanel, on behalf of Google², underscores the widespread adoption of AI technologies, with a significant portion of Nigerians affirming the reception of generative AI.

With every passing week, AI gains a beachhead in several industries, and this trend shows no signs of slowing. At the very least, prevailing issues will present themselves, especially with generative AI, which has gained the spotlight following the release of ChatGPT by OpenAI in 2022. Other widely adopted tools include DeepSeek by Liang Wenfeng, Gemini by Google, Claude by Anthropic, DeepAI by Kevin Baragona, Midjourney by David Holz of Leap Motion, Adobe Firefly, OpenAI Sora, Figma AI, and Replika by Eugenia Kuyda, among others.

The rise of Generative AI has created a regulatory vacuum under copyright laws, where the line between human creativity and generated content remains blurred. With Generative AI rewriting creativity, it has become imperative to update the present legal regime to better reflect and support these new developments. There are no defined laws in Nigeria expressly addressing recondite questions surrounding the ownership and protection of works generated by the AI systems. This poses great risks for Nigerian creators and startups who commercialise AI-generated work without clear IP protection.

This article highlights the key copyright concerns and emphasises the need for legal reforms.

¹Ipsos Group S.A is a multinational market research and consulting firm with its headquarters in Paris, France.

²Google | Ipsos, "Our Life with AI: From Innovation to Application" <https://static.googleusercontent.com/media/publicpolicy.google/en/resources/ipsos_google_our-life-with-ai_2024_25.pdf> accessed 29 June 2025

Ownership and Authorship in the Context of the Copyright Act

The Copyright Act 2022 (the “**Act**”) currently regulates the protection of copyrightable works in Nigeria. Pursuant to section 28 of the Act, ownership of copyright is initially conferred on the author of a work, except that an existing agreement provides for an ownership structure in respect of such work. Other than audiovisual works, collective works, photographic works, sound recordings and broadcasts³, the Act does not provide guidance as to who is the “author” of literary works, musical works and artistic works (other than photographic works). Works protected pursuant to section 2 of the Act can generally be classified as (a) authorial works such as literary works, musical works and artistic works; or (b) entrepreneurial works such as audiovisual works, sound recording and broadcasts. Authorial works are generally considered as original creations resulting from intellectual effort, such as literary, musical, and artistic works, protected for their creativity and authorship. In contrast, entrepreneurial works protect the interests of those who invest in the performance, production, or dissemination of works, such as sound recordings, broadcasts, and performances. It is important to note that this classification is not mutually exclusive but overlaps.

Considering section 108 of the Act, the attribution of authorship to a work is permissible for individuals recognised as persons and Nigerian law, pursuant to the Interpretations Act, which defines a person as encompassing both natural persons and artificial entities, such as companies or bodies conferred personality by statute. Hence, the concept of a “person” and, by extension, an “author” does not extend to autonomous beings like AI. This quagmire is more apparent with authorial works like literary, musical and artistic works that are AI-generated.

This limitation brings into question the legal status of content generated by AI systems, which lack legal personality. If an AI tool produces an output, can that creation be said to have a legally recognised author?

To further explore this, it is essential to understand what qualifies as a “work” under Nigerian law. The Act further defines works as:

“translations, adaptations, new versions or arrangements of pre-existing works, and anthologies or collection of works which because of the selection and arrangement of their content, present an original character”



³Section 108 of the Act provides: “author” in the case of: (a)audiovisual work means the person by whom the arrangements for the making of the audiovisual work were made, unless the parties to the making of the audiovisual work, provide otherwise by contract between themselves; (b)collective work, means the person responsible for the selection and arrangement of the collection; (c)a photographic work, means the person who took the photograph; (d)sound recording, means the person by whom the arrangements for the making of the sound recording were made; and (e)a broadcast transmitted from within any country, means the person by whom the arrangements for the making or the transmission from within that country were undertaken;

What is an Original Character?

While the Act does not expressly define what originality connotes, section 2(2)(a) of the Act provides that where effort has been expended in the making of a work, it gives it such original character. The concept of originality has been explored in various jurisdictions. Courts assess originality through various tests, such as the ‘sweat of the brow’⁴ doctrine, the “modicum of creativity”⁵ test, and the “skill and judgment”⁶ test. Suffice to mention that none of these concepts of originality is foolproof.

The protection of an original character in copyright law stems from the broader principle of originality, however, what is the original character of a work when the work is AI generated?

In view of the above, the concept of originality and proprietary content remains a blurred one open to judicial interpretation. When AI-generated content infringes existing IP rights, who bears the liability? The user, the software developer, or the AI system?

Comparative Insights from Other Jurisdictions

In the recent Chinese matter before the Changshu People’s Court, the court gave a ruling in favour of the plaintiff who had instituted an action for breach of copyrights as regards an AI-generated photo. The Court reiterated that human effort can be equated to the effort put into modifying the prompts and refining image details using the software, and thus, is qualified as works under the broad category of copyright protection.⁷

Adversely, in June 2025, Disney filed its first major copyright infringement lawsuit in federal district court in Los Angeles against Midjourney, an AI company for duplicating copies of Darth Vader from “Star Wars,” Elsa from “Frozen,” and the Minions from “Despicable Me” without permission from which they allegedly generated a revenue of \$300 million last year.⁸ This matter remains under consideration and has not yet been fully adjudicated.

In April, Grok 3 drew widespread attention for generating images wildly similar to the hand-drawn art style of Hayao Miyazaki, the co-founder of Studio Ghibli. According to reports, Studio Ghibli’s *Spirited Away* took over three years to complete, from 1998 to 2001, a testament to the painstaking effort behind its animation style.

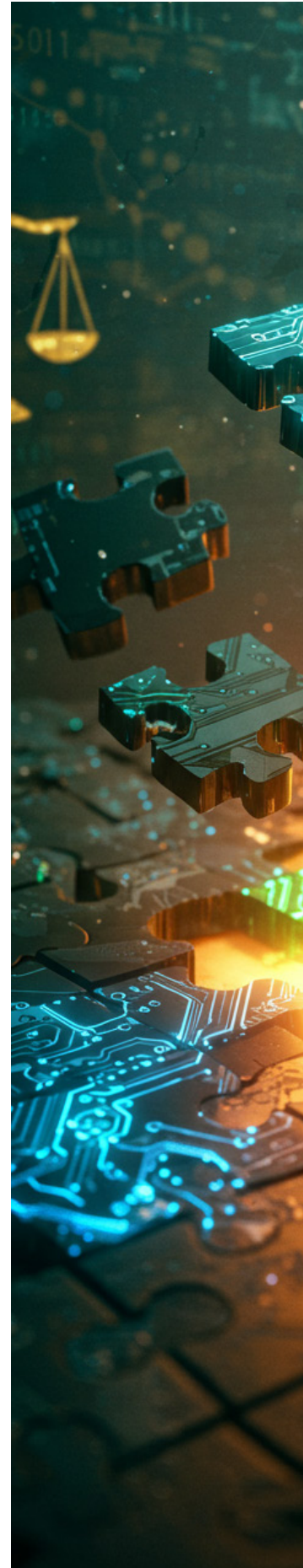
⁴The historical doctrine within UK copyright law, attributed to *Walter V Lane*, that postulates that an author may acquire rights through diligent efforts in the creation of a work, which may include databases or directories. Notably, this doctrine does not require substantial creativity or “originality” for such rights to be established.

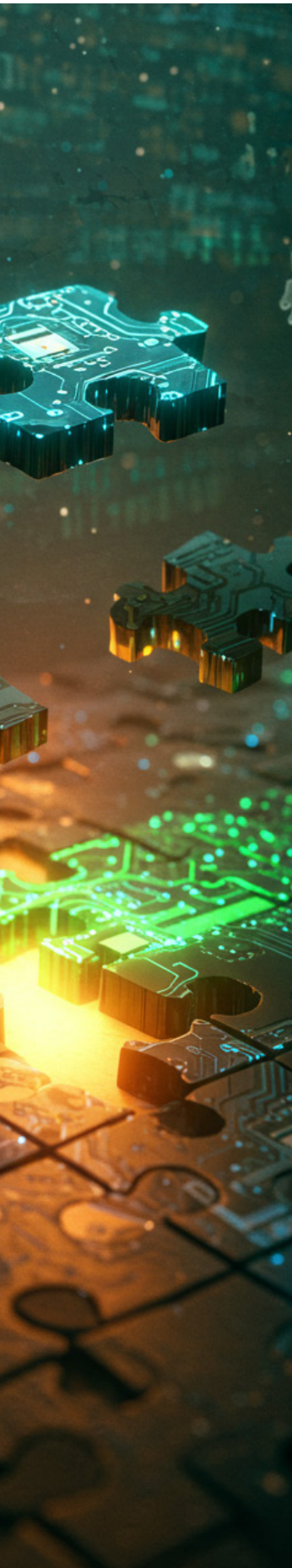
⁵This doctrine postulates that a work must depict a minimal level of creativity to be covered under copyright protection, emphasising the involvement of more than just skill or effort.

⁶This test was established in the significant case of *CCH Canadian vs. Law Society of Upper Canada*, which determined that the sweat of the brow standard was too low for determining originality, while the requirement for a creative spark was deemed too high. It suggests that a work needs to be more than just a simple reproduction but does not have to be creative in the sense of being new or distinctive. It must result from the author’s application of skill and judgment.

⁷South China Morning Post, “East China court rules that AI-generated image should have copyright protection” <https://www.scmp.com/news/china/article/3302117/east-china-court-rules-ai-generated-image-should-have-copyright-protection?module=perpetual_scroll_0&pgtype=article> accessed 29 June 2025.

⁸The Guardian, “Disney, Universal launch first major studio lawsuit against AI company” <<https://guardian.ng/news/world/us/disney-universal-launch-first-major-studio-lawsuit-against-ai-company/>> accessed 29 June 2025.





The primary question that may arise is whether the author can sue for the modification stemming from this, and if so, whom would they sue, and in what jurisdiction?

With the advent of Generative AI, several jurisdictions have made attempts to develop frameworks that balance innovation with accountability, safety, and ethical use.

However, a significant challenge persists: Copyright protection is territorial, with no unified global copyright system. With the introduction of AI, this gap widens as copyright infringement cuts across territories, posing a challenge to the implementation of coherent copyright legislation in several territories.

In the United Kingdom (UK), the government has adopted and published its AI Regulation White Paper (2023)⁹, which aims to set out an approach to AI regulation. Additionally, a 12-week consultation was held to scrutinise this step.¹⁰

While the United States does not yet have a comprehensive federal law governing Generative AI, several measures have been put in place to curtail Generative AI misuse: On January 23, 2025, President Donald Trump signed Executive Order 14179, titled “Removing Barriers to American Leadership in Artificial Intelligence”¹¹, replacing the Executive Order on Safe, Secure, and Trustworthy Artificial Intelligence, issued by President Biden in October 2023, which outlined a strategic framework to address AI safety, encourage innovation, and protect civil rights.

Nigeria has also implemented the National Artificial Intelligence Strategy 2024; however, there are notable gaps regarding intellectual property considerations.¹²

Liability and Defence Mechanisms for AI Companies in Copyright Disputes

Despite recent policy initiatives, the most decisive battles over AI and copyright are being fought in the courtroom, where AI companies and authors are already locked in a contest over the limits of AI. In the absence of applicable frameworks, whether outside or within Nigeria, whose National Artificial Intelligence Strategy 2024 does not address intellectual property concerns in detail, leaving the Copyright Act as the primary reference point. The legal vacuum mirrors the international position in jurisdictions where litigation has become the primary means of defining AI’s permissible conduct.

⁹AI Regulation White Paper (2023) <<https://committees.parliament.uk/publications/39149/documents/192578/default/>> accessed 11 August 2025.

¹⁰ Press release: UK unveils world leading approach to innovation in first artificial intelligence white paper to turbocharge growth: <<https://www.gov.uk/government/news/uk-unveils-world-leading-approach-to-innovation-in-first-artificial-intelligence-white-paper-to-turbocharge-growth>>accessed 29 June 2025.

¹¹Executive Order 14179: Removing Barriers to American Leadership in Artificial Intelligence <[DCPD-202500170.pdf](https://www.whitehouse.gov/presidential-actions/2025/01/removing-barriers-to-american-leadership-in-artificial-intelligence/)> accessed 11 August 2025.

¹²The National AI Strategy 2024: [National AI Strategy_01082024 copy](#) .

Most disputes arise from allegations that generative AI models are trained on vast repositories of text, images, and audio, which are largely pooled from the internet without proper authorisation of the authors.¹³ In response, AI companies have relied on several legal defenses, the most prominent of which include:

1. Fair Use

In other jurisdictions, like the United States, fair use is the primary defense, allowing limited use of copyrighted material without permission where it is “transformative”, that is, serving a new and socially valuable purpose rather than reproducing the original expression.¹⁴

AI developers argue that training models are an act of statistical pattern analysis, not direct reproduction, and therefore qualifies as transformative use.

A notable test case is *New York Times v. Microsoft & OpenAI (2023)*¹⁵, in which the Times alleged that its journalism had been used without consent to train ChatGPT. It presented evidence of verbatim reproduction of its articles, arguing that this undermined any claim of transformation. OpenAI countered that such “regurgitation” was rare and largely the result of misleading prompts, maintaining that its training process fell within fair use. The Developers further contended that AI models do not store or reproduce a “substantial part” of any single work but merely extract stylistic and structural features.¹⁶

In Nigeria, however, the defense is constrained by Section 20 of the Act, which provides a narrower fair-dealing exception. Permitted purposes such as research, private study, criticism, and review are strictly enumerated, and any lawful use within this context requires acknowledgement of the source. Without statutory reform, the use of copyrighted datasets for AI training is likely to be unregulated.

2. Implied License and Lawful Unrestricted Access

Another defense is the assertion of an implied license where training data is obtained from publicly accessible websites that have no strict restrictions or terms of use. In Nigeria, there is currently no legislation specifically regulating web scraping. As a result, the implied license argument could carry weight unless authors implement explicit contractual prohibitions or technological protections.

3. Public Policy and Technological Necessity

A more policy-oriented defense is that restricting access to copyrighted materials would stifle AI development, with developers asserting that advanced models cannot function without large and diverse training sets. Proponents argue that such access fuels innovation and benefits society. However, Ben Sobel¹⁷ argued in his publication that granting AI companies freedoms denied to humans’ risks creating a “double standard” in which machines can freely study copyrighted works under the guise of training while humans remain restricted or barred from doing so.¹⁸

¹³The Economist, “A battle royal is brewing over copyright and AI: Beware the Napster precedent” <https://www.economist.com/business/2023/03/15/a-battle-royal-is-brewing-over-copyright-and-ai> accessed 8 August 2025.

¹⁴The Economist, “Does generative artificial intelligence infringe copyright?” <https://www.economist.com/the-economist-explains/2024/03/02/does-generative-artificial-intelligence-infringe-copyright> accessed 8 August 2025.

¹⁵https://nytcassets.nytimes.com/2023/12/12/nyt-complaint_dec2023.pdf.

¹⁶CNN, Clare Duffy and David Goldman, <[The New York Times sues OpenAI and Microsoft for copyright infringement](https://www.cnn.com/2023/12/12/nytimes-openai-microsoft-copyright/index.html) | CNN Business> accessed 8 August 2025.

¹⁷Ben Sobel is an Assistant Professor of Law at the University of Wisconsin Law School with notable publication across various topics.

¹⁸Ben Sobel, “Don’t give AI free access to work denied to humans, argues a legal scholar” <https://www.economist.com/by-invitation/2024/02/16/dont-give-ai-free-access-to-work-denied-to-humans-argues-a-legal-scholar> accessed 8 August 2025 .

Additionally, while copyright protection for traditional works expires seventy years¹⁹ after the author's death, AI systems and their associated training datasets may, through contractual arrangements, remain under the control of their developers indefinitely. This contractual longevity can, in effect, outlast the statutory limits imposed on human authorship, granting AI developers enduring proprietary advantage. This could entrench an anti-competitive and anti-human bias in copyright law.

The unresolved question is evident: Should AI companies in Nigeria be afforded broader freedoms to learn from copyrighted works than human beings enjoy? Applying the same legal standards to both could level the playing field and, as some scholars suggest, create the momentum for much-needed reforms. Resolving this question requires deliberate legal and policy action, a task that forms the basis for the following recommendations.



Recommendations

Despite the problematic characteristics of Generative AI, legal mechanisms could be used to reduce the associated risks that AI presents without stifling its integration. Many of the problems identified in this article are simply gaps in the current law, and those gaps could be filled. Moreover, the law does not exist to be cast in stone; it must follow technology closely.

The first step to regulating Generative AI is defining it. A definition first gives it an identity and creates a pathway to solving other issues. Creating a working definition of AI will be difficult, to be sure, but coming up with precise legal definitions for imprecise terms is attainable.

Our Nigerian IP law must be modified to meet the realities of creative automation.

Additionally, there should be a widespread effort to educate the public not only about their rights but also about the potential challenges that Generative AI may pose if misused.

Nigeria has the opportunity to take proactive measures by either clarifying its existing laws through modifications or by lying in wait for disputes to arise before acting.

¹⁹Section 19 of the Act.

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