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The Possibility of Considering Generative Artificial Intelligence as the Author of Literary and Artistic Works

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Abstract

The use of Artificial Intelligence technology in different areas of human life has caused several important legal challenges, which indicate an unprecedented development. Generative Artificial Intelligence, which appears to be a creative form of this technology, is important from a literary and artistic law perspective, since generating high-quality literary and artistic works is among the tasks it can perform. Such productions are similar to those created by human authors, and in some cases it is difficult to recognize that they were generated by Artificial Intelligence. Therefore, this paper addresses one of the most important challenges in intellectual property law: whether Generative Artificial Intelligence can be considered the author of the literary, artistic, and scientific works it generates. The results of this descriptive-analytical article show that, in the legal systems compared, the concept of author is currently restricted to human authors; consequently, it is not possible to consider Generative Artificial Intelligence as the author of literary and artistic works. Legislators are recommended to modify the laws to identify the author of literary and artistic works created using Generative Artificial Intelligence while meeting the needs of developers and users of this technology.

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Introduction

"A short novel written by a Japanese computer program in 2016 reached the second round of a national literary prize".[1]

A few years ago, news of this kind looked strange to many people. However, with rapid developments in computer science and significant advances in Artificial Intelligence, producing works using this technology that appear to be created by human authors or to be better than them has become a routine issue. Generative Artificial Intelligence, as an advanced kind of Artificial Intelligence, is capable of generating content including books, audio, films, etc. that, at first glance, appear to be among literary and artistic works protected by intellectual property law.

Given the nature of Generative Artificial Intelligence and its ability to generate literary and artistic works just as humans do, an important question should be answered: can Artificial Intelligence be considered an author? This question arises because every work must have been created by an author; in addition, to protect the work effectively, its author must be known.

Before answering the above question, it is necessary to address a related topic concerning the purpose of intellectual property. The relation between the purpose of intellectual property and the possibility of considering Artificial Intelligence as author is that if the purpose of intellectual property is defined, we can more easily arrive at a correct answer to that question; since by identifying the purpose of the intellectual property system, it would be possible to determine the persons enjoying intellectual property rights. Is the author entitled to be protected or the investor? If the author deserves protection, what is meant by author? Do we mean by author a human being, or does author have a broader meaning that includes non-humans such as animals or Artificial Intelligence?

In this paper, the legal systems of the United States, France, Egypt, Iraq, and Iran are examined. The United States has been selected because its law reflects the Copyright System followed by common-law jurisdictions; in addition, the United States is where Artificial Intelligence originated and where important cases have been addressed by the Copyright Office and courts in the field of copyright and Artificial Intelligence. The reason for choosing France is that its literary and artistic law is based on the Author's Right System, which is applicable in continental countries. In both countries, in-depth studies on the relationship between Artificial Intelligence and intellectual property law have been conducted and will be used in this article. The law of Egypt, as a Muslim country with a rich history in literary and artistic law, is a valuable source for comparative study. Finally, Iraq and Iran have been selected to introduce their approaches to literary and artistic law regarding Artificial Intelligence and to pave the way for their laws to be modified in light of the latest developments in this context and to find solutions to potential problems.

To find an appropriate answer to the main questions of this article, it is necessary to have sufficient knowledge of Artificial Intelligence including its definition, types and how it works (first part); then explain the purpose of intellectual property (second part) and finally, describe and analyze the approach of American, French, Egyptian, Iranian and Iraqi legal systems towards considering Generative Artificial Intelligence as author of literary and artistic works (third part).

1 https//:www.wipo.int/en/web/wipo-magazine/articles/artificial-intelligence-and-copyright40141- (accessed: 10/2/2025).

1. Definition of Generative Artificial Intelligence

Generative Artificial Intelligence refers to a type of Artificial Intelligence that uses machine learning technologies and neural networks to automatically produce new and innovative content, including images, texts, and videos, while the term Artificial Intelligence refers to a broader field that includes all Artificial Intelligence applications such as Generative Artificial Intelligence.[1] Generative Artificial Intelligence tools have the capacity to create new content such as texts, computer codes, images, sounds, as well as audio and video content in response to the user's request, called a prompt, i.e., a short written description of the result desired.[2]

Generative Artificial Intelligence is a type of Artificial Intelligence that aims to automatically produce new, creative content rather than merely analyze or use existing data. Generative Artificial Intelligence can generate various types of content, such as text, images, audio, and code, in ways that appear to have been created by humans.[3]

Generative Artificial Intelligence has also been described as a branch of Artificial Intelligence that develops systems, models, and neural networks to produce new and innovative content, including text, images, audio, and visuals, based on the data it was trained on. It is called Generative because it generates new data based on the data it has been trained on. This means that the model not only learns from the data it has been fed but also uses this learning to generate new data similar to it.[4]

Generative Artificial Intelligence is based on machine learning, and the Artificial Intelligence tools are trained using large amounts of data, which generally contain billions of pages of text or images. Depending on the approach adopted by the developer of the tool, the learning datasets may contain open-access information (pure data), protected data (works protected by copyright), or a mixture of both. The learning tool then requires human action, which will result in a series of billions of complex calculations to generate a result. Generally speaking, it is impossible to predict this result or assess the extent to which certain parts of the learning data will influence the result produced.[5]

ChatGPT is an example of Generative Artificial Intelligence. It is an AI-powered chatbot that uses natural language processing to create human-like dialogue. ChatGPT can answer questions and create written content.[6] For instance, this application can produce articles, books, and music.

2. The Purpose of Intellectual Property

In the United States, the best example of a country adopting the Anglo-Saxon System, the main purpose of granting property rights to creators and innovators is to motivate scientific and technological progress. Consequently, the law of the United States emphasizes on the

1 H. Al-Khalifah, An Introduction to Generative Artificial Intelligence, 2023, Iwan Research Group, 9.
2 OMPI, L'IA générative Saisir les enjeux en matière de propriété intellectuelle (2024) 18.
3 Alkhalifa, 8.
4 A. Baleegh, 'Applying Artificial Intelligence Technologies in Comparative Jurisprudential Inference', 2025, 5 *International Journal of Sharia and Islamic Studies*, 52.
5 OMPI, 3.
6 Al-Khalifah, 20-22.

economic aspects of works. According to the intellectual property clause or Article 1, Section 1, Clause 8 of the United States Constitution, Congress is granted power:

"To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

Under the utilitarian theory, copyright is justified since it is a necessary means to generate useful results for society.[1]

The Supreme Court of the United States has stated that, under the intellectual property clause, copyright and patents are based on a utilitarian approach, according to which exclusive rights are necessary to provide incentives and motivation to create literary and artistic works and new inventions.[2] Even the Supreme Court has gone beyond this and said that "copyright law, like patent law, makes reward to the owner a secondary consideration".[3]

This means that utilitarian theory prioritizes the public interest. Accordingly, under such theory, the rights granted to creators have been described as "minimum individualist protections necessary to promote creation".[4]

Therefore, in the United States, copyright is not considered a natural right or a means to protect the author's personality.[5]

In France, as the most prominent example of a country with a Civil Law System, emphasis is placed on the author's personality. Therefore, literary and artistic rights are related to the author's personality and due to this fact, the term "Droit d'Auteur" is used which means "Author's Right" in order to indicate the importance of the author and his personality, while in the United States, as a result of the utilitarian principle, the work is of an economic nature and is considered as a pure commercial product like any other tradable product and as a result, the term copyright is used that means the right to copy the work and obviously, copying relates to the work. Accordingly, the term copyright has been used to indicate the status and importance of the work. Hence, the focus of this legal system is on intellectual products, unlike French law, which treats the work primarily as an intellectual output.[6]

The legal systems of Iran, Egypt and Iraq have also adopted the Author's Right System. The Iranian Law on the Protection of Rights of Authors, Composers and Artists of 1970 has recognized moral rights for authors. For example, article 4 of this Law states as follows:

"Author's moral rights are not limited in time and place nor are they alienable".

1 N Snow, 'Moral Bars to Intellectual Property', (2021) 80, available at: https://ssrn.com/abstract=3877573 (accessed: 2/19/2026).

2 *Sony Corp. of Am. v. Universal City Studios*, Inc., 464 U.S. 417, 429 (1984).

3 *United States v. Paramount Pictures*, Inc., 334 U. S. 131, 158 (1948).

4 M Longan, 'A System Out of Balance: A Critical Analysis of Philosophical Justifications for Copyright Law Through the Lenz of Users› Rights', 2023, 56 *University of Michigan Journal of Law Reform* 799.

5 It should be noted that the utilitarian basis of copyright has been criticized by some authors who believe that copyright may have other purposes than merely maximizing utility. For more information see. P. R. Goold, D. A. Simon, 'On Copyright Utilitarianism', (2024), 99(3) *Indiana Law Journal* 723-724.

6 E. Ghattan, 'Protection of Author's Right on the Internet, An Analytical-Comparative Study in French and American Laws', 2015, *Ahmed Bin Mohammed Military College Journal for Administrative Sciences and Law*, 40.

In addition, the title of this law shows that from the viewpoint of the Iranian legislator, the author is the center of gravity, since the purpose of this law is to protect his rights. The same is true for the Iraqi law on the Protection of Authors' Rights of 1971 (as amended in 2004).

The Egyptian legislator has adopted a similar approach. The title of the Third Chapter of Law No. 82 of 2002 Pertaining to the Protection of Intellectual Property Rights is "Author's Rights and Neighboring Rights". The use of the expression "Author's Rights" indicates that, in Egypt, the author must be protected. Moreover, recognition of neighboring rights is a main feature of the Author's Rights System.[1]

In any case, the main question that must be answered is: what is meant by "author"? In light of developments occurring due to the use of Artificial Intelligence and that lead to the creation of literary and artistic works through the use of this technology, is it possible to insist on restricting the concept of author to a human author, or is there room to consider Artificial Intelligence as an author protected by intellectual property law?

3. Qualification of Generative Artificial Intelligence as Author

In this part, the approaches of American, French, Egyptian, Iraqi and Iranian legal systems will be studied.

3.1. American law

In the American legal system, due to utilitarian logic, some may think that Artificial Intelligence can be an author. However, the situation is different: the term "author" refers exclusively to humans.[2] The United States Copyright Office, citing some cases, has declared that:

"An original work of authorship is a work that is independently created by a human author and possesses at least some minimal degree of creativity."[3]

Consequently, in cases where the work has not been created by a human being, the copyright application would be refused by the United States Copyright Office.[4] The examples are when the Artificial Intelligence operates randomly or automatically without any input or intervention by a human author, or when an animal created the work.[5]

The California court declared, in a case concerning a selfie taken by a monkey, that a monkey cannot be an author for the purposes of the American Copyright Act.[6]

The United States Supreme Court has defined the term author as "he to whom anything owes its origin; originator; maker; one who completes a work of science or literature."[7] In this leading case, the Supreme Court repeatedly referred to authors as human beings and

1 For detailed information about neighboring rights see: C. Colombet, Grands Principes du Droit d›Auteur et des Droits Voisins dans le Monde, UNESCO, 1987, 97 et seq.

2 Ch. Mammen et al, *Creativity, Artificial Intelligence, and the Requirement of Human Authors and Inventors in Copyright and Patent Law*, University of Oxford, 2024, p. 8.

3 U.S Copyright Office, Compendium of U.S Copyright Office Practices, 3rd Ed, 2021, §308.

4 M. Blaszczyk, 'Impossibility of Emergent Works› Protection in U.S and E.U Copyright Law', 2023, 35(1), *North California Journal of Law & Technology*, 41.

5 U.S Copyright Office, 2021, §313.2.

6 *Naruto*, *et al. v. Slater, et al*., no. 15-CV-04324 (N.D. Cal. January 28, 2016).

7 *Burrow-Giles Lithographic Company v. Sarony*, 111 U.S. 53 (1884)

described them as "a class of persons,"[1] and that copyright is "the exclusive right of a man to the production of his own genius or intellect".[2]

As was observed earlier, utilitarianism is the dominant justification for recognizing copyright in the United States. Accordingly, this theory has been invoked to support granting copyright to works generated by Artificial Intelligence. The proponents of this argument believe that granting copyright to such works promotes creative activity and the production of new works in the relevant field, including artistic works.[3] This argument will be discussed below.

As far as Artificial Intelligence is concerned, there are two examples of copyright registration applications submitted to the United States Copyright Office to acquire copyright for works generated by Artificial Intelligence, which will be studied in the next section.

3.1.1. The First Case: A Recent Entrance to Paradise

In this case, an AI creator, Dr. Thaler, sought to acquire copyright in a two-dimensional work titled "A Recent Entrance to Paradise" generated by Artificial Intelligence. The interesting fact is that Thaler had identified the Artificial Intelligence tool, namely the Creativity Machine, as the sole author of the work. He claimed to be the owner of copyright in the work, which, according to him, "was autonomously created by a computer algorithm running on a machine". He described the work as a "work-for-hire to the owner of the Creativity Machine". The application was refused by a Copyright Office registration specialist, who reasoned that the work lacks human authorship, a necessary element for any copyright claim.[4]

Thaler subsequently requested that the Office reconsider its initial refusal on the grounds that the authorship requirement it relied upon is unconstitutional and that no statute or case law supported this reasoning. Thaler asserted that under American law, non-human entities may be authors under the work-made-for-hire doctrine. The Office refused the request, reiterating its previous argument that human authorship is necessary for any copyright registration claim. The Office stated that Thaler had provided no evidence of sufficient creative input or human authorial intervention in the work. In addition, the Office declared that it would not "abandon its longstanding interpretation of the Copyright Act, Supreme Court, and lower court judicial

1 Ibid, p. 58.
2 Ibid, pp. 57-58.
3 G Myers, 'The Future is Now: Copyright Protection for Works Created by Artificial Intelligence', 2023, 102 *Texas Law Review Online* 8.
4 Copyright Review Board, Letter to Rayan Abott, (2020) 2.

precedent that a work meets the legal and formal requirements of copyright protection only if it is created by a human author."[1]

Thaler was not satisfied with the result and therefore proceeded with a second request, which contained the arguments of the first request alongside new reasoning based on public policy considerations: Thaler claimed that registration of copyright in machine-generated works is in line with copyright law goals and the constitutional rationale for copyright protection, i.e., to promote the progress of science and useful arts.[2]

The Review Board accepted Thaler's representation that the entire work was autonomously created by Artificial Intelligence, with no human creative contribution. The Review Board, however, confirmed the Office's refusal of registration. The Review Board, referring to the Compendium (Third) of the United States Copyright Office, argued that the Copyright Act protects the fruits of intellectual labor that are founded in the creative powers of the human mind.[3] Therefore, the Board declared that "the Office would not register works generated by a machine or as a result of a mere mechanical process which operates without any creative contribution or input from a human author"[4] for the law requires that a work must be created by a human being. Accordingly, the Board stated that the applicant must either provide evidence that the work is the product of human authorship or persuade the Office to neglect a century of copyright jurisprudence under which an author may not be a non-human.[5]

In declaring that Thaler failed to prove human authorship of the work, the Review Board relied upon Thaler's assertion that the work was wholly generated by Artificial Intelligence and there was no creative human input or intervention. Therefore, the only issue to be considered, according to the Board, was Thaler's claim that the human authorship requirement was unconstitutional and unsupported by case law. In response, the Board stated that after reviewing the statutory texts, case law, and the longstanding practice of the Copyright Office, it again concluded that human authorship was a prerequisite for copyright protection and that the work could not be registered under U.S. law.[6]

The Board further explained the details of its decision.[7] First, the Board cited section 102(a) of the Copyright Act, according to which copyright protection is afforded to "original works of authorship" that are fixed in a tangible medium of expression. The Board declared that the phrase "original works of authorship" was purposely left undefined by Congress to incorporate the originality standard established by courts. While acknowledging that the term "original" was very broad, the Board stated that its scope was not unlimited. Then, the Board referred to the decisions made by the Supreme Court and lower courts that, according to the Board, uniformly limited copyright protection to human authors.[8] The Board refused Thaler's claim that the work

1 Ibid.
2 Ibid.
3 United States Copyright Office, 2021, § 306.
4 Ibid., § 313.2.
5 Copyright Review Board, (2020) 3.
6 Ibid.,
7 Ibid., 3 et seq.
8 The Supreme Court cases include: *Burrow-Giles Lithographic Co. v. Sarony; Mazer v. Stein; Goldstein v. California;* and the lower court cases referred to by the Board are*: Urantia Found. v. Kristen Maaherra; Naruto v. Slater; Kelley v. Chicago Park Dist; Satava v. Lowry.*

generated by Artificial Intelligence was a work made for hire. To do this, the Board first referred to section 101 of the Copyright Act, which defines it as a work prepared by an employee or one or more parties to whom a work has been specially ordered or commissioned for use in a collective work and the parties expressly agree by means of a written contract signed by them that the work is for hire. Then the Board declared that in both cases, an employment or a work-made-for-hire contract is required to create the work. However, according to the Board, because Artificial Intelligence lacks legal personhood, including Creativity Machine, it cannot be a party to a binding contract and therefore cannot meet this requirement. In addition, the Board noted that the work-made-for-hire doctrine identifies only the copyright owner, not whether a work is protected. The Board again referred to the Copyright Act, which requires that a work be created by a human author. Finally, the Board affirmed the decision of the Copyright Office to refuse the registration application since the work was neither a work of authorship nor a work made for hire.

The views of Thaler and the Review Board have been evaluated. First, the argument that the Copyright Clause of the U.S Constitution does not include Artificial Intelligence is supported by the fact that "the Copyright Clause makes reference to authors, and it is obvious that the Framers could never have contemplated that anyone other than a human author could make a creative work".[1]

Second, it has been argued in favor of the copyrightability of works created by Artificial Intelligence that, over the years, the Copyright Act has evolved to extend its scope of protection to new works previously left unprotected or unprecedented. Examples of such works are photography, sound recordings, motion pictures, and computer software. The common feature of these works is the involvement of a mechanical process in their creation and fixation. The text of the Copyright Act is so broad as to encompass new works, and nothing is found therein which may be considered as an impediment to protect Artificial Intelligence works.[2]

The author believes that an important difference exists between the works cited as examples of works gradually added to the Copyright Act scope of protection and Artificial Intelligence. The examples mentioned are the result of creative human input. For example, creative photographic work whose copyright is granted today is produced by photographers capturing specific scenes using their own talent and skills. However, Generative Artificial Intelligence produces creative works without human involvement. Therefore, the work may not be attributed to an individual.

The case law, though indirectly, supports the prevailing view that works of Artificial Intelligence are not subject to copyright protection. However, none of the cases involving non-human works has dealt with Artificial Intelligence.[3]

As regards policy considerations, two conflicting views may be presented. First, Artificial Intelligence itself is indifferent to incentives arising from copyright protection. In fact, Artificial Intelligence operates regardless of whether economic rewards are granted. On the contrary, it may be argued that such a view ignores the purpose of copyright, which is to

1 Myers, 2023, 21.
2 Ibid., 22.
3 Ibid..

reward the humans behind Artificial Intelligence, i.e., its developers and those who employ it. Evidently, it is expected that these persons respond to rewards and are motivated to develop new Artificial Intelligence tools capable of producing creative works.[1]

The author believes that this argument, despite appearing to justify copyright protection for Artificial Intelligence works, is not effective to the extent that the issue of recognizing Artificial Intelligence as the author of literary and artistic works it generates is concerned; since granting copyright to such works is different from considering Artificial Intelligence as the author.

It should be noted that Thaler was not satisfied with the Board's decision and sought review in the District Court of Columbia. In addition to his previous argument, Thaler asserted new facts to prove that he played a controlling role in generating the work: he claimed to control the Creativity Machine entirely and that it operates only at his direction.[2] The District Court for the District of Columbia declared that the Copyright Office did not make an error in denying the copyright registration for the work at issue, since the "United States copyright law protects only works of human creation".[3] Additionally, the Court described human authorship as "the bedrock requirement of copyright".[4]

Therefore, the Court affirmed the Copyright Office's decision to deny registration of the work created by Artificial Intelligence. The Court did not deal with new claims by Thaler that he entirely controlled the operation of Creativity Machine, and he provided instructions to his AI to create the work; for he had previously acknowledged that the work had been generated autonomously by Artificial Intelligence without his intervention.[5] As regards the copyright transfer to Thaler, the Court stated that, since no copyright exists in the work generated by Artificial Intelligence, he cannot claim any transfer of copyright.[6]

After Thaler's action in the District Court was denied, he appealed in the Court of Appeals for the District of Columbia Circuit.[7]

The Court of Appeals affirmed the District Court's denial of Thaler's copyright application. To reach this conclusion, the Court began by analyzing the Constitution's Intellectual Property Clause and the purpose of copyright law. To do this, it relied on a case in which it was declared that copyright is not granted as a special reward to the author; instead, its purpose is "to encourage the production of works that others might reproduce more cheaply."[8] Therefore, copyright is an incentive for individuals to produce original works.[9] The Court, then, referred to the Copyright Office regulations, which are published in the Compendium of Copyright Office Practices and require human authorship. In addition, the Court stated that the term "author" in the Copyright Act is intended to mean a human, not a machine. To prove this, the court cited numerous provisions of the Act that make sense only if "an author is a human being". For example, under the Copyright Act, copyright "endures for a term consisting of

1 Ibid., pp. 23 et seq.
2 Civil Action No. 22-1546 (BAH).
3 Ibid., 7.
4 Ibid., 8.
5 Ibid., 13.
6 Ibid., 14.
7 Appeal from the United States District Court for the District of Columbia (No. 1:22-cv-01564).
8 *Google LLC v. Oracle Am., Inc.*, 593 U.S. 1, 16 (2021).
9 Appeal from the United States District Court for the District of Columbia (No. 1:22-cv-01564), 4.

the life of the author and 70 years after the author's death".[1] This is good evidence that only human authors have been contemplated by the Act.[2] Other provisions mentioned by the Court include, inter alia, those relating to ownership,[3] inheritance,[4] copyright transfers which require the owner's signature,[5] domicile, and nationality.[6]

The Court, then, referred to the Copyright Office's established rule that requires the author to be a human.[7]

As far as work made for hire is concerned, the Court rejected Thaler's argument that he should be considered the author because the Creativity Machine was his employee. The Court pointed, inter alia, to the fact that, under the Copyright Act, only original works of authorship, including those made for hire, are protected, and authorship, as used in the Act, refers to a human being.[8]

3.1.2. The Second Case: Zarya of the Dawn

The work in question was an 18-page comic book, including the cover. The image of a young woman, along with the words "Kashtanova" and "Midjourney", appeared on the cover page. Mixed texts and visual material were included in the remaining pages.[9] Kashtanova declared in the application before the Copyright Office that she was the author of the book without disclosing that she had used the Artificial Intelligence tool Midjourney to create any part of it.

The Copyright Office accepted the application and registered the work. After a short time, the Office found statements on social media attributed to Kashtanova that she had created the comic book using an Artificial Intelligence program. Since the application had not disclosed the use of Artificial Intelligence, the Office decided to cancel the registration unless Kashtanova provided sufficient information to justify cancellation. Subsequently, the Office received a letter from Kashtanova's attorney demanding the Office to register the work as the product of human intellect using Artificial Intelligence as a merely assisting tool or in case this demand is refused, alternatively to register portions of the book because they were written by Kashtanova and taking into account the creative selection, coordination and arrangement of texts and images, the work is considered a compilation deserving copyright.[10]

The Office, after noting the human authorship requirement, agreed that the text was human-authored. In addition, the Office believed that the work contained more than a modicum of creativity, as required by the United States Supreme Court for copyright protection.[11]

The Office, further, agreed that selection and arrangement of images and texts in the work deserve protection because the images and text in such a form constitute a compilation involving sufficient creativity. Based on the claim that the images had been selected and arranged completely by Kashtanova in the work, the Office concluded that it is the product of

1 Copyright Act§ 302(a).
2 Appeal from the United States District Court for the District of Columbia (No. 1:22-cv-01564), 11.
3 Copyright Act §201(a).
4 Ibid., § 203(a)(2), (A).
5 Ibid., § 204(a).
6 Ibid., §104(a).
7 Appeal from the United States District Court for the District of Columbia (No. 1:22-cv-01564), 13-14.
8 Appeal from the United States District Court for the District of Columbia (No. 1:22-cv-01564), 23.
9 United States Copyright Office, Letter to Lindberg, 2023, 2.
10 Ibid., 3.
11 Ibid., 3-4.

human authorship and accordingly, while the output generated by Artificial Intelligence was not protectable, the author acquired the raw material and stamped it with her personality by transforming it through the compilation process so that she became the author of the whole work.[1]

As regards the individual images used in the work, the Office declared that it needs to consider the impact of using Artificial Intelligence technology in the analysis of copyrightability.[2] It is noteworthy that, according to the Copyright Office's Copyright Registration Guidance, to find such an Impact, a case-by-case inquiry is necessary, and the circumstances must be taken into account.[3] The question is whether Artificial Intelligence is a mere tool that the user controls and instructs, or autonomous, with the results of its operation not attributed to the user.

The Office found that the Artificial Intelligence technology used by Kashtanova could generate images in response to user-provided text. Taking into account how Artificial Intelligence technology works, the Office concluded that the AI-generated images in the book are not original works of authorship protected by copyright law. Although Kashtanova claims to have directed the structure and content of each image, the process described in her letter makes it clear that AI, not Kashtanova, created the traditional elements of authorship in the images.[4]

The office added that instead of Ms. Kashtanova controlling and directing a tool to produce the desired image, the Artificial Intelligence used generates images in an unpredictable way. Therefore, for copyright purposes, the AI users are not the authors of the images generated by this technology. As the Supreme Court clarified, the author of a copyrighted work is the person who actually created the image, acting as the creator or mastermind. The person providing explanatory text to the AI program does not actually create the generated images and is not considered the mastermind behind them.[5]

In conclusion, the Office declared that, in light of the new information, it would cancel the previous registration and replace it with a new one covering Ms. Kashtanova's original contribution to this work: the text, the selection, arrangement, and formatting of this text, and the AI-generated artwork. Because these contributions consist primarily of textual material, they will be re-registered as unpublished literary works, and the new registration will explicitly exclude the AI-generated artwork.[6]

3.2. French Law

The French Code of Intellectual Property has not defined the term author. It only states in article L.113-1 as follows:

"Authorship shall belong, unless proved otherwise, to the person or persons under whose name the work has been disclosed".

1 Blaszczyk, 49.
2 United States Copyright Office, Letter to Lindberg, 2023, 5.
3 United States Copyright Office, 2023, Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence, 3.
4 United States Copyright Office, 2023, 7-8.
5 Ibid., 9.
6 Ibid., 12.

Accordingly, the Code of Intellectual Property does not clearly indicate that the author must be a natural person.[1] However, in French law, which aims to protect the author's personality,[2] the author can only be a human being.[3] Some writers believe that the link between creation and the natural person is inseparable. At the same time, advancements in Artificial Intelligence enable programs to create things independently. But regardless of Artificial Intelligence's literary and artistic achievements, this technology lacks sensitivity and awareness. Artistic emotion is alien to Artificial Intelligence. In France, works can only enjoy copyright protection if they are original. French copyright law traditionally defines the originality of a work according to the personal standard: that which bears the author's personal imprint, i.e., the sensitivity and intelligence of the creator.[4] It follows that this standard of originality is only achieved if the author is a human being.[5]

The first paragraph of Article L. 112 of the French Intellectual Property Code states as follows:

"The provisions of this Code shall protect the rights of authors in all works of the mind, whatever their kind, form of expression, merit or purpose".

So how can we imagine that a work generated by Artificial Intelligence-that is, created by one or more algorithms-can be considered an intellectual work protected by copyright law under this title? In fact, case law recognizes that the author of an intellectual work can only be a natural person, and the Court of Cassation has ruled in this regard that a legal entity cannot be considered an author. [6] This is the exact approach taken by doctrine.[7]

3.3. Egyptian Law

The Egyptian legislator has defined the work in the first paragraph of Article 138 of Law No. 82 of 2002 Pertaining to the Protection of Intellectual Property Rights as:

"Any original literary, artistic, or scientific work, regardless of its type, method of expression, importance, or purpose".

It is clear from this text that originality is a fundamental characteristic of a literary or artistic product to be considered as a work.[8]

According to the second paragraph of the same article, creation is defined as:

"The creative nature that confers originality on the work".

The third paragraph defines the author as "the person who creates the work…." Thus, Egyptian law requires that a work contain some element of creation; that is, a trace of the author's personality must be found in the work. This condition can be considered the

1 M. Rouxel, 2019, Le Refus de Reconnaître le Statut d›Auteur à l›Intelligence Artificielle et ses Consequences, Université Laval, Québec, Canada, Maître en droit (LL. M.) et Université Paris-Saclay Cachan,France Master (M.), 16.

2 Ghattan, 40.

3 Rouxel, 16.

4 C. Gestin-Vilion, La Protection par le Droit d'auteur des Creations Générées par Intelligence Artificielle, Université Laval Québec, Canada Maître en droit (LL.M.) et Université Paris-Saclay Sceaux, France Master 2 (M2), 2017 22.

5 L. d. Godefroy, Quel Droit pour l'IA Générative ?, 2025, Revue LexSociété. hal-05013796, 15.

6 C. Murielle, 2023, Intelligence Artificielle et Droit d'Auteur, available at: https://www.murielle-cahen.fr/intelligence-artificielle-et-droit-dauteur /(accessed: 1/2/2026).

7 Rouxel, 18.

8 M. Al-Tahhan, The Legal Problems of Generative Artificial Intelligence, in the Light of the Restrictions of Copyright and Personal Data Protection (Comparative study), 2025 1 Legal and Economic Sciences Journal, 29.

objective element of the work. A work lacking the author's personal imprint will not enjoy legal protection.[1] Based on the definition of author and work in Egyptian law, a person who lacks the capacity for creativity and innovation to add to his work cannot be considered an author.[2] The insane and minors who lack discernment fall into the category of individuals who do not possess the power of innovation and creativity. Based on what was mentioned, it is self-evident that an animal cannot be an author for the purposes of Egyptian copyright law. What about Artificial Intelligence? As we stated previously, this technology does not possess the capacity for creativity, and even if we were to assume that it did, it would lack human personality, which means that a human being is conscious and possesses feelings**.**

3.4. Iraqi Law

Article 1 of the Iraqi Author's Right Protection Law n. 3 of 1971 (as amended in 2004) states the following:

"Authors of original works in literature, arts, and sciences, regardless of the type of these works, their mode of expression, their importance, or the purpose of their creation, shall enjoy the protection of this law".

Therefore, for an author to enjoy legal protection, his work must be original. The Iraqi law does not provide a definition of originality. Some writers believe that the legislator intended originality in works to mean creation, meaning that they are "the product of the author's original intellectual effort".[3]Thus, the criterion adopted in determining originality is personal; it is necessary that "the intellectual production be characterized by a specific style that reflects a particular personality of its author".[4]What is the purpose of focusing on the emergence of one or more dimensions of the author's personality in a work? The answer is that, from the perspective of the Iraqi legislator, the concept of author is limited to the person who can express himself and demonstrate his personality, literary, artistic, and scientific abilities, as well as his emotional feelings, in the work. It goes beyond saying that only a normal person (excluding the insane and minors) can do this, and not an animal or an Artificial Intelligence application.

3.5. Iranian Law

The Iranian Law on the Protection of the Rights of Authors, Composers, and Artists does not use the term "originality," but it does stipulate that the work must be creative. Therefore, as researchers in Iran believe, originality is in fact, the creation mentioned in Articles 1 and 2 of this law.[5]

As observed, the Iranian legislator has neither defined originality nor mentioned any criteria for determining it. Rather, it simply stipulated creation, i.e., originality, as a condition for protection. However, from the perspective of legal scholars, originality means that the

1 A.R. Al-Sanhuri, 'Middle Commentary on the New Civil Code, part.8, Property Right', *Dar Ihya al-Turath al-Arabi* (n.d), 292.

2 Al-Tahhan, 23.

3 S.H. Shobeiri Zanjani, M. Abdullah, 'The Scope of Author's Rights and its Exceptions', 2025, 73(5) *Journal of the Iraqi University*, 229.

4 A. Al-Fatlawi, A. Hussain, 'How to Determine Originality in Literary Works: A Comparative Study›, 2022, 65(2), 25.

5 S. Zarkalam, Literary and Artistic Property Law, 2009, Samt, 45.

work reflects the author's personality.[1] It is worth noting that the Iranian Literary and Artistic Rights Bill of 2015 defines a work as "any original intellectual creation in the scientific, literary, and artistic fields..." Article 4 of the same Bill states that works are protected simply by virtue of their originality.

The requirement of originality, meaning the reflection of the author's personality in the work, leads to the conclusion that a non-human entity cannot be considered an author, since personality is a characteristic of humans. Therefore, Artificial Intelligence cannot be considered an author under Iranian law. A question may arise regarding the legal status of an insane person or a minor lacking discernment: if the criterion for originality is the manifestation of the author's personality in the work, then there is no impediment to considering an insane person or a minor lacking discernment as an author, since they possess human personality. The answer is that the meaning of the appearance of the personality is to express what is going on in the person's mind in terms of scientific, literary, and artistic thoughts and opinions. It is clear that the insane or minor do not have such thoughts and opinions due to the total loss of perception and will.

Conclusion

Generative Artificial Intelligence can create new, creative content, such as scientific and literary texts, images, and sounds. The content generated by this type of Artificial Intelligence is of such high quality that it resembles, and in some cases surpasses, works created by individuals. This raises an important question regarding the possibility of protecting these works under copyright laws. A more crucial question must be answered before addressing other issues: given the element of innovation in works generated by Generative Artificial Intelligence, can this technology be considered the author? To answer this question, we must first understand the concept of author. Most of the laws compared in this paper stipulate originality or creation as a condition for granting protection to literary and artistic works. Originality means that a work is the result of the author's endeavors or reflects the author's personality, such that we find traces of his character within it. Therefore, Artificial Intelligence cannot be considered the author of works it creates because it lacks a personality that can be discerned in its creations. In fact, originality or creation belongs to a natural person who possesses the faculties of perception, feeling, and artistic sensibility. Even in the United States, which follows a utilitarian approach to intellectual property, the Copyright Office does not accept registration of works produced by Artificial Intelligence, stating that the author must be a natural person; this is the attitude of American courts in cases concerning this issue. The same is true in the legislation of France, Egypt, Iraq, and Iran. Given the large number of literary and artistic works generated using Generative Artificial Intelligence, the laws of the countries studied in this paper need to be amended to determine the authorship of these works. Such an amendment must take into consideration the characteristics of this technology and the roles and needs of developers and users.

1 S. Mohseni, SMH Ghabooli Dorafshan, *Literary and Artistic Rights, 2015, Literary and Artistic Rights (Comparative Study in Iranian, French and Egyptian Law),* Ferdowsi University of Mashhad, 59.

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