

As Fight Over A.I. Artwork Unfolds, Judge Rejects Copyright Claim

A federal judge dismissed an inventor's attempt to copyright artwork produced by an image generator he designed. But more legal challenges are on the way.



By Zachary Small

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A federal judge rejected an attempt to copyright an artwork generated by artificial intelligence in a decision last week that provided insight into the broader legal war over authorship and intellectual property.

The case was unique because an inventor named Stephen Thaler listed his computer system as the artwork's creator, arguing that a copyright should be issued and transferred to him as the machine's owner. After the U.S. Copyright Office repeatedly rejected his request, Thaler sued the agency's director.

"Plaintiff can point to no case in which a court has recognized copyright in a work originating with a nonhuman," Judge Beryl A. Howell of the U.S. District Court for the District of Columbia wrote in her decision on Friday, adding that "we are approaching new frontiers in copyright as artists put A.I. in their toolbox."

Similar rules about "human authorship" have been used in deciding who owned a monkey's selfie. Thaler created the artwork in question — "A Recent Entrance to Paradise," a lush but pixelated scene of train tracks running through the countryside — in 2012, by asking his generator to produce an image.

Thaler's lawyer, Ryan Abbott, said he would appeal the ruling and characterized the legal debates as a critical part of the public's discourse around the recent generative art boom.

"Do we want rules where you can own what comes out of artificial intelligence?" he said. "Or do we want rules that only protect very traditional, human artworks?"

The Copyright Office said in a statement that it "believes the court reached the correct result."

This year, the agency established an initiative to examine copyright law and policy issues related to artificial intelligence. Around the same time, it released guidance for submitting creations that included A.I.-generated work, saying that applicants were required to specify human authorship and should explain which portions were produced by an algorithm.

The ruling against Thaler was "significant but not surprising," said Megan Noh, an art lawyer unaffiliated with the case who said the decision conformed with the office's guidelines and previous court rulings. She added that it did not mean "other artworks produced with A.I. assistance will not or cannot be registrable."

There is an onslaught of upcoming cases challenging the legality of images and texts generated by artificial intelligence. In July, the comedian Sarah Silverman joined lawsuits accusing OpenAI and Meta of training their algorithms on her writing without permission. Other companies like GitHub and Stability AI are facing litigation that accuses them of illegally scraping artists' work for their A.I. products.

Jason M. Allen, the artist whose victory last year at the Colorado State Fair's annual art competition prompted widespread discussion about generative artwork, is pursuing his own case against the Copyright Office.

His request for copyright as the sole author of images produced by a generative algorithm was denied by the agency and he is awaiting its decision on a second appeal. Allen said that he was prepared for a court fight, explaining that artists want control of their work regardless of the tools used to make it.

“You cannot separate the tool from the user,” he said. “By separating the tool from the user, you are dismissing the person who made it.”

Zachary Small is a reporter who covers the dynamics of power and privilege in the art world. They have written for The Times since 2019. [More about Zachary Small](#)

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