

Artificial Life Imitating Art Imitating Life: Copyright Ownership in AI-generated Works

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With the advent of artificial intelligence and autonomous machine-learning and creation, there has been much legal debate surrounding ownership in AI-generated output, and copyright proves to be no exception. In recent years, artificial intelligence has swiftly evolved from qualifying simply as an instrument of the creator tantamount to a pencil or a paintbrush, into the sole creator of its own work, capable of independent decision-making and production resulting in original (and at times unpredictable) artistic works removed from any human involvement. In the absence of human participation in the process of creating, the question at the forefront of the copyright conundrum with respect to creative works produced by artificial intelligence is this: what becomes of such AI-generated works within the current North American copyright scheme? Framed by Oscar Wilde's theory of art and creatorship, this essay explores the operational framework of AI programming and the creation process; the interpretation, application, and evolution of the originality doctrine in copyright law, and the condition of human authorship derived from the statutory and theoretical foundations justifying intellectual property rights writ large; and a reasoned return to the intellectual commons in the age of autonomous machine creation.

Avec l'avènement de l'intelligence artificielle et de l'apprentissage et de la création automatiques, beaucoup de débats ont porté sur la propriété d'œuvres générées par l'intelligence artificielle et le droit d'auteur ne fait pas exception. Récemment, l'intelligence artificielle a rapidement évolué de sa perception en tant que simple instrument du créateur, un peu à la manière d'un stylo ou d'un pinceau, pour être considéré comme le créateur à part entière de ses propres œuvres, doté de la faculté de prendre des décisions de manière indépendante et de produire des œuvres artistiques originales (et parfois imprévisibles) sans qu'il n'y ait intervention humaine. En l'absence de la

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