

Artificial Intelligence and Copyrights; the Dawn of Hyperreality

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I am part of Masters of Intellectual Property 12th cohort at Africa University in Zimbabwe. Our inaugural lecture was on the subject of artificial intelligence (AI). It was phenomenal and a very informative lecture which got the 12th cohort (like me with basic knowledge on computers, the usual Office package) to be conversant on the subject of AI. It is here and we should embrace it. However, considering that it is the future a lot things come into one's mind and can't help but develop a certain paranoia related to Del Spooner a police officer in the film I, Robot who totally disliked the idea of AI because there was something "sinister" about this very clever software called VIKI (Virtual Interactive Kinetic Intelligence (the AI was called VIKI) housed in robots called NS-4 or NS-5 (Nester Class 4 or Nester Class 5). This paper is going to discuss how in 2004 AI had already been depicted and the issue of copyrights was toyed around with during a scene when a robot was being interrogated at a police station.

Sonny an NS-6 robot in I, Robot had dream. Now that is absurd but he was programmed to have dream to simulate human feelings and activity which he actually confessed are just overwhelming. And he managed to scribble his 'dream' a fine piece of art! So, can Sonny own copy rights? That is the magic question when it comes to AI and IP zeroing in on copyrights issues. The film was set in 2035 very futuristic and it seems the idea of the internet of things had been incorporated. Robots living 'in harmony with humans' carrying out tasks and being servants as well (the movie showed also a glimpse of the future of work). We are in 2020 just fifteen years away from 2035, pretty close! The issue of AI owning copy right can be traced from a number of definitions of the phrase artificial intelligence can AI create or write literary works in relation to copyrights issues.

'AI applications are capable of producing literary and artistic works autonomously. This capacity raises major policy questions for the copyright system, which has always been intimately associated with the human creative spirit and with respect and reward for, and the encouragement of, the expression of human creativity. Artificial Intelligence is the simulation of Human Intelligence process by machines especially computer systems according to Margaret Rouse. AI is also the study of how to produce machines that have some of the qualities that the human mind has, such as the ability to understand language, recognize pictures, solve problems, and learn. Merriam Webster dictionary has this sentiment on AI, a branch of computer science dealing with the simulation of intelligent behavior in computers. the capability of a machine to imitate intelligent human behavior. Another interesting definition, a sub-field of computer science and how machines can imitate human intelligence (being human-like rather than becoming human).

Sonny is mentioned in the second paragraph, a curious robot and yes he is very intelligent he exhibits human-like behaviour and he speaks of his maker as a father, the paranoid detective Del Spooner has to remind him that he is his maker not father. Sonny has been arrested for murder and is being interrogated and the conversation is very interesting because Sonny was displaying and showing qualities of a human mind! Sonny says, "my father tried to teach me human emotions they are difficult." The robot acknowledges that he handles emotions poorly. The robot is asked by the cop who he was hiding he speaks of fright, another human emotion. Spooner gets irritated and explains to the robot that he has no feelings at all, he doesn't feel hungry he doesn't sleep. The robot interjects and says I do. I have even dreams. The conversation reaches a flabbergasting point. The robot is cheeky!

'Humans have dreams, even dogs have dreams but not you, you are just a machine. An imitation of life says detective Spooner scornfully. AI is software so anything it creates it is bound to be an imitation because it is just a machine and imitation of life. Spooner keeps probing the robot, 'can a robot write a symphony? Can a robot turn a canvas into a beautiful master piece? the robot asks as well can you? A battle of wits with an imitation of life, a robot with AI which was very good at simulation human behaviour.

Can AI own copyrights yet it and imitation, a simulation of life, how does AI own any writing or art when it is made to be just human like and not basically human? Food for thought. The interrogation continues and the robot hits the with fists the interrogation table in a fit of rage denying that he did not murder his maker, Dr Alfred Lanning. The cop explained the emotion to the robot. He decided to give the robot a nick name. and the robot said, 'my name is Sonny. 'the detective had to explain emotions to the robot. Sonny was simulating emotions but did not know the names and what they are and so a human being had to explain to him naming emotions. So how is AI going to decipher the Berne Convention and the WCT unless it is programmed into it, moreover enforce 'its rights'?

Sonny is fictional depicted from a novel. But a protégé came to reality in 2016 called Sophia meaning wisdom. She is said to be a humanoid and she simulates human behaviour so well. Way better than Sonny. Quoted on her maker's website, Hanson Robotics, Sophia says, 'who knows, with my science evolving so quickly, even many of my wildest fictional dreams may become reality someday soon.' Sophia uses the term fiction. Something unrealistic. It is then unrealistic that AI can own copy rights.

Now the million dollar questions in relation to Sonny's experience and Sophia as well.

- (i) Should copyright be attributed to original literary and artistic works that are autonomously generated by AI or should a human creator be required?
- (ii) In the event copyright can be attributed to AI-generated works, in whom should the copyright vest? Should consideration be given to according a legal personality to an AI application where it creates original works autonomously, so that the copyright would vest in the personality and the personality could be governed and sold in a manner similar to a corporation?
- (iii) Should a separate *sui generis* system of protection (for example, one offering a reduced term of protection and other limitations, or one treating AI-generated works as performances) be envisaged for original literary and artistic works autonomously generated by AI?

The first question, Sonny in the film I, Robot was being taught to simulate human emotions, by his maker Dr Lanning, so anything he writes or draws is a simulation. He drew a very good piece of drawing of his dream, and gave it to Spooner and said he Detective Spooner understands it better. He drew he did not write; he was programmed to report his dream to some, Spooner. One should note how Sonny kept running from Spooner, his maker had put clues using him and programmed him in a certain manner to get Spooner's attention. Dr Alfred Lanning Sonny's maker is alleged to have committed suicide and his hologram was programmed to call Spooner to solve the case. So Sonny was just programmed by his inventor to solve a challenge. Sophia constantly alludes to her maker. There must be a human creator. AI is a computer program.

Number two, considering that AI is a simulation and an imitation of human behaviour and it is computer software, it cannot have any authority in terms of copyrights and not it cannot bear legal personality. Reason being it is an imitation, it shows human like nature it is not a human. It is a machine. It actually must be monitored because of these attributes.

Number three *sui generis* system should be framed to keep these humanoids in check. They are simulating human behaviour so definitely laws that suit these machines and their performances must be crafted. We cannot talk of original and literary works, autonomously developed by a machine simulating. Its simulated work therefore not original.

AI must be kept in check policies must be drafted. VIKI the AI in the film *I, Robot* became way too intelligent and decided to take control of humanity. She had to be “nipped in the bud”. Artificial intelligence is a beautiful innovation but it needs close monitoring and Intellectual property rights cannot be granted to AI, something which simulates and imitates humans. It would mean redrafting the Unilateral Declaration of Human Rights because intellectual property is a right on its own. They are machines not human beings. The human race must not get too excited lest we lose the plot. Not being paranoid the ending of the film *I, Robot* the machines decide to take over the human race assassinating potential threats and giving curfews, ordering a state of emergency. Imagine granting them copyrights. It means death of original human works only imitation and simulated creations and literary works. That should never happen in future. Jean Baudrillard had envisaged it and called it hyperreality. Granting AI copyrights will cause hyperreality. Be wary of this.

References

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