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Open floor interventions:
The (Human) Author in the World of Artificial Intelligence

Copyright law traditionally acknowledges only human authorship, excluding works produced by animals or machines. Despite AI systems generating increasingly sophisticated content, they remain unrecognized as authors. This exclusion is rooted in the natural rights tradition, particularly within civil law, which views creativity as an extension of the author's identity. Authorship is not merely a technical designation; it is a legal and philosophical construct that remains central to contemporary copyright debates.

The widespread use of generative AI (gen-AI) has intensified debates on human authorship and AI-assisted works. As AI tools integrate into creative industries, key questions arise: Where is the boundary between AI-assisted human works and AI-generated works? Who owns the rights to AI-generated content? Should copyright law recognize machine authorship, and if not, why?

Copyright law has long accommodated technological tools - painters use brushes, writers use pencils or word processing programs, software developers use integrated development environment and photographers use cameras. However, gen-AI differs fundamentally due to the reduced human role in the production. Traditional copyright doctrine, grounded in Fichte's idea/expression distinction, requires human involvement to transform an idea into a copyright protected work. Similarly, Kant differentiates moral rights (*ius personalium*) from economic rights, reinforcing the notion that only human agency justifies copyright protection.

The core legal issue lies in AI's lack of agency and intentionality. If agency is the capacity for deliberate action and responsibility, then AI is not an agent in the legal sense. It does not create with autonomy, self-determination, or intent, making its outputs closer to events that merely happen than to intentional acts of authorship. A human prompt is merely an instruction, not an act of authorship.

Yet emerging discussions challenge this strict human-centric model. Particularly when AI tools are used for augmentation rather than replacement of human creative work, it is unclear when such work qualifies as human-authored under copyright law, making AI-assisted outputs a legal grey area.

Hence, drawing from copyright traditions and universally accepted principles, it is vital to establish clear criteria for distinguishing human-authored works aided by AI tools from fully AI-generated content, and to provide legal and ethical guidelines for regulating ownership of AI-created content.

Sincerely,
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