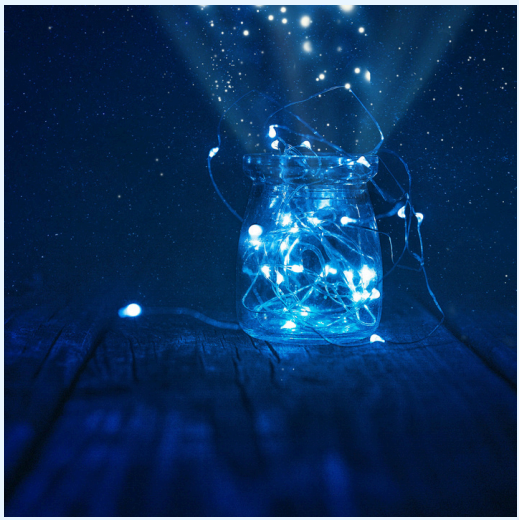
The Global Good:
the future of culture, creation, and author



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FOREWORD

by Mariia Katkova

As the first quarter of 21-st century has passed, it is time to sum up everything that has passed and try to predict our common future. It is widely known that the world has stepped into the epoch of instability and polycrisis, and culture is not an exception.

At MONDICULT 2022 culture was recognized as the global good. Also culture is now regarded as a new asset at the market, intangible and immaterial, but as precious as the material ones. Still it is one of the oldest phenomena in human history, it is dynamic. Nowadays this dynamic depends on technology more, than ever, and this marks a huge challenge for culture and for humanity.

Culture cannot exist without an author, named or unnamed, and the author, who can only be a human being, receives both the benefits and the damage. As the technologies develop, especially artificial intelligence (AI) models they affect both the culture and the author, even if the terms of who carries the authorship, while AI comes into play. It may be found in different areas from cultural heritage and patents to fashion and professional activities, and in each sphere it brings crucial changes.

This compendium tries to look at culture, authorship and technologies, particularly AI from different points if view. The articles for it were prepared by the graduate students of the Faculty of Law at HSE University during their professional internship at the UNESCO Chair in Copyright, Neighbouring, Cultural and Information Rights under supervision of Mariia Katkova, Assistant Director and Lecturer.

PLATFORM POWER VS. CULTURAL FREEDOM: WHO CONTROLS CREATIVITY IN THE ALGORITHMIC AGE?

Nowadays platform power and algorithms really matter in the context of culture and populirizing content. However, such a control may violate cultural, namely author's rights.

by Ekaterina Tikhomirova

Never before has it been easier to create and distribute cultural content. A musician can upload a track within minutes and reach global audiences without traditional gatekeepers. Digital platforms have dramatically lowered entry barriers to cultural production, seemingly democratizing creativity.

Yet this apparent liberation conceals a structural shift. Creativity today is formally free but infrastructurally governed. The question is no longer whether authors can create but who controls the conditions under which their work becomes visible, monetized, and sustained.

Digital platforms have evolved into core cultural infrastructures. They do not merely transmit user expression – they structure participation through moderation systems, ranking mechanisms, and monetization architectures. As Gorwa, Binns and Katzenbach explain, algorithmic moderation systems classify or match content and translate these classifications into governance outcomes like removal, blocking, downranking, or demonetization [1]. Operating at scale, such systems increasingly form the backbone of platform governance.

Importantly, governance is not limited to overt takedowns. Platforms do not censor culture in the traditional sense – they rank it. Visibility is algorithmically distributed, and content that is not amplified by recommendation systems effectively remains invisible. This transforms creative freedom into a conditional status: authors may publish, but they cannot determine whether their work will circulate.

Algorithmic governance operates through design. Rather than prohibiting speech ex post, platforms tend to structure ex ante

conditions of possibility.

Gritsenko conceptualizes algorithmic governance as a mode of governance embedded in technical architectures that guide and constrain behaviour through "choice design" [2]. In cultural production, this means that algorithms steer creators toward formats and styles aligned with engagement metrics, reshaping incentives without direct legal coercion. Creativity becomes responsive to infrastructural logic.

This infrastructural power is reinforced by private ordering. Terms of Service, community guidelines, and proprietary enforcement systems constitute a parallel regulatory framework governing cultural participation. Quintais, De Gregorio, and Magalhães demonstrate that copyright enforcement on platforms increasingly operates through private contractual mechanisms rather than public adjudication [3]. Decision-making authority over creative expression shifts from courts to corporate governance structures.

The intersection between copyright and algorithmic enforcement illustrates this shift vividly. The deployment of automated filtering tools, particularly under Article 17 of the CDSM Directive [4], incentivizes platforms to rely on proactive upload filters and content recognition technologies [5]. These systems struggle to distinguish infringing uses from legitimate exceptions such as parody or quotation [5, p. 522-525], creating risks of systematic overblocking. As Geiger and Jütte argue, such filtering may interfere disproportionately with freedom of expression and artistic freedom under the EU Charter [5, p. 528-531]. The architecture of enforcement thus reshapes the boundaries of permissible creativity.

Beyond removal, economic governance further consolidates platform power. Creators' remuneration depends on opaque algorithmic decisions regarding advertising eligibility, revenue sharing, and content prioritization. Mazziotti highlights that authors increasingly lack meaningful access to data concerning how their works are exploited and monetized [6, pp. 210, 230]. This asymmetry reinforces dependency: creators must adapt to platform logics without full knowledge of the criteria shaping their economic prospects. Economic scholarship confirms that digital copyright markets are

characterized by platform dominance and contractual asymmetries influencing incentives for creative production [7]. Revenue models reward algorithmically allocated visibility. In such an environment, creative output risks being optimized for engagement rather than artistic exploration. Infrastructure does not dictate content directly, but it defines what is economically viable.

The cumulative effect of these dynamics is structural. Algorithmic moderation systems increase opacity, complicate fairness, and risk depoliticizing deeply normative decisions about speech and culture [1, p. 10-12]. When governance is embedded in code, political judgments appear technical. Decisions about whose creativity flourishes and whose remains marginal become obscured behind claims of optimization, safety, and efficiency.

The implications extend beyond individual authors to cultural diversity itself. Recommendation systems trained on past engagement patterns risk reinforcing dominant formats and discouraging experimentation [1, p. 11-12]. While thousands of creators may participate, algorithmic incentives narrow the range of content that achieves sustained visibility. Cultural diversity may persist numerically, yet substantively converge toward predictable, high-engagement forms.

This dynamic is intensified when legal regimes reinforce automated governance. Article 17 CDSM effectively institutionalizes algorithmic pre-screening as a condition of participation in digital cultural space [5, p. 519-522]. When filtering systems cannot reliably distinguish infringing from lawful uses, users are often left to challenge removal decisions through appeal procedures that may be difficult to navigate or effectively inaccessible [5, p. 526-529]. Risk is redistributed from platforms to creators.

At the same time, algorithmic governance can obscure the political nature of cultural control by presenting normative decisions as technical ones. As Gorwa et al. observe, automated moderation reframes normative judgments as technical classifications [1, p. 10-12]. Choices about acceptable expression, legitimate reuse, or harmful content are embedded in training datasets, policy rules, and optimization metrics. Once operationalized in code, these decisions

become less visible and more difficult to contest.

If culture is understood as a global public good (essential to democratic dialogue, identity formation, and social cohesion), then its governance cannot be reduced to private optimization. The digital sphere is no longer a peripheral marketplace but the primary site of contemporary creative exchange. Yet the infrastructures that structure this exchange remain largely opaque and privately controlled.

Reclaiming cultural freedom does not require dismantling platforms or rejecting technological tools. Instead, it requires subjecting the governance of digital infrastructures to clearer standards of transparency, accountability, and public oversight. Transparency obligations and access to data about the exploitation of works are essential for making creators' rights effective in the platform economy [6, pp. 228, 230]. Procedural safeguards for creators and proportionate filtering mechanisms are equally important to reduce the risks of overblocking and disproportionate interference with lawful uses [5, pp. 528-531].

In the algorithmic age, the future of the author hinges on a central question: who governs visibility? Creativity originates with individuals, but its circulation depends on systems designed by corporate actors. When code determines reach, monetization, and legitimacy, platform architecture becomes a site of cultural power.

That is, the tension between platform power and cultural freedom is therefore not a clash between censorship and liberty. It is a conflict between private infrastructural governance and the collective interest in preserving culture as a global public good. In the digital era, control is exercised less through prohibition than through design, and design shapes the future of creativity itself.

REFERENCES:

1. Gorwa R., Binns R., Katzenbach C. Algorithmic content moderation: Technical and political challenges in the automation of platform governance // Big Data & Society. 2020. T. 7. №. 1. P. 3-5.
2. Gritsenko D., Wood M. Algorithmic governance: A modes of governance approach // Regulation & Governance. 2022. T. 16. №. 1. P. 47-49.
3. Quintais J. P., De Gregorio G., Magalhães J. C. How platforms govern users' copyright-protected content: Exploring the power of private ordering and its implications // Computer Law & Security Review. 2023. T. 48. Art. 105792.
4. Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC. Art. 17.
5. Geiger C., Jütte B. J. Platform liability under Art. 17 of the copyright in the digital single market directive, automated filtering and fundamental rights: an impossible match // GRUR international. 2021. T. 70. №. 6. P. 518-522.
6. Mazziotti G. A data-driven approach to copyright in the age of online platforms // The future of intellectual property. Edward Elgar Publishing, 2021. P. 210, 228, 230.
7. Peukert C., Windisch M. The economics of copyright in the digital age // Journal of economic surveys. 2025. T. 39. №. 3. P. 882-886.

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WHY THE "ORIGINAL OF A WORK" IS NOT A THING: WALTER BENJAMIN AND ARTIE VIERKANT IN THE CONTEXT OF THE IMMATERIAL NATURE OF OBJECTS OF VISUAL ART

In modern times copy is often much more familiar than the original. So then. It turns to the idea of changing and even rising the role of the copy, which raises many questions in the context of the rights of the author.

by Georgiy Larin

I

The original of a work differs from a copy not only by virtue of its traditionally higher market value, but also by its distinct legal regime. As noted in legal literature, the need to protect the author arises, in principle, only when technologies enabling the reproduction of an object emerge [1]. In Russian legislation, in particular, the original of a work appears in connection with the presumption of authorship, the exercise of the resale right, and the right of access in the circulation of the material medium, as well as in a number of other contexts. It is evident that construing the category of the original as a thing is useful from the standpoint of legal certainty, since any result of creative labour is presumed to have a unique material embodiment that precedes all others.

At the same time, the relationship between the original and the copy has repeatedly been addressed in philosophical and cultural scholarship. A new wave of discussion arises whenever technologies of copying and transformation reach new heights. For the 20th century, the breakthrough was the development of photographic techniques; for the 21st century, it is the emergence of the internet and social networks, followed by generative artificial intelligence. A classical text for this problem is Walter Benjamin's 1936 essay "The Work of Art in the Age of Mechanical Reproduction", in which the philosopher defends the distinctive nature of the original and its principled difference from copies. Benjamin's position largely shaped a modernist conception of the artwork that was subsequently reflected in copyright doctrine. However, already in the following

century, artist Artie Vierkant, in his analytical essay “The Image Object Post-Internet”, points to a radically transformed context, namely the fact that the overwhelming majority of artworks today appear to viewers only indirectly [2]. We encounter works not only as photographic reproductions, but within the user interfaces of applications and browsers, and on screens possessing their own display characteristics. The objects themselves are continuously transformed and distorted in form, colour, and context. Accordingly, a genuine phenomenological question arises regarding the identity between works themselves—most of which we will never encounter—and what we see in their online images. For Vierkant, unlike Benjamin, this question is resolved not in favour of the original. One of the artist’s central theses is the opposite: the initial art object is no longer more important than the copy.

II

This discourse finds reflection in legal doctrine. Analyzing the evolution of the concept of the “original of a work”, P. A. Popova concludes that, relying exclusively on statutory provisions, it is impossible to clearly distinguish originality as a property of a work created through independent creative effort from the material form in which the work was initially fixed [3]. Against this background of uncertainty, questions arise regarding the applicability of the notion of “original” to particular objects. Some scholars argue, for example, that the concept applies only to works of visual art and that the original should be understood as their material embodiment. This position is supported by E. P. Gavrilov, who noted that the original constitutes a unique object whose copy inevitably fails to convey the initial object adequately and completely. This distinguishes works of visual art from literary works, which are considered not to possess an “original” in this sense and which are fully and accurately reproduced by any copy [4]. One of the most recent attempts to provide a comprehensive account of this issue in light of new forms of visual art belongs to V. A. Udalkin [5]. Seeking to account for the characteristics

of the objective form of contemporary works, the author argues that the existence of the concepts of original and copy stems from the requirement of a material embodiment in visual art. At the same time, it is noted that the objective form of digital images prevents their inclusion in this category; their nature is closer to audio- visual recordings, which do not presuppose the existence of a single unique form. Accordingly, the author maintains that the resale right and the right of access may belong only to creators of visual artworks possessing tangible form [5, c. 9]. The necessity of accounting for the objective form of a work is already present in Benjamin's classic text: "In the case of films, mechanical reproduction is not, as with literature and painting, an external condition for mass distribution. Mechanical reproduction is inherent in the very technique of film production. This technique not only permits most directly but virtually causes mass distribution" [6]. In other words, certain artistic forms are inherently designed for reproduction, and contemporary legal doctrine therefore considers it possible to draw distinctions within visual art to ensure protection aligned with the characteristics of a work's objective form.

Such an approach does not fully correspond to conceptions of the immaterial nature of works. Moreover, despite its apparent simplicity and coherence, it complicates analysis, since the creation of a visual artwork in material form does not preclude the use of digital technologies, printing, or automated copying. This perspective, therefore, raises more complex questions about the meaning of the "material" and the "digital", and whether these concepts are oppositional at all. Digital form itself — despite perceptions of its "soullessness" or "simplification" — came to be regarded in such terms only later, precisely under the conditions identified by Vierkant. As merely one mode of recording information, digital form possesses its own shortcomings. Digital media, unlike analog media, are convenient for dissemination but highly vulnerable; accordingly, the term "digital fragility" emerged, referring to the absence of stable repositories for digital archives. Recognition of this problem is reflected in the UN Charter on the Preservation of Digital Heritage: "The world's digital heritage is at risk of being lost to posterity.

Contributing factors include the rapid obsolescence of the hardware and software which brings it to life, uncertainties about resources, responsibility, and methods for maintenance and preservation, and the lack of supportive legislation" [7]. Thus, as merely one type of form chosen by an author to fix creative labour, digital recording does not in itself determine a special legal regime for the work.

Returning to the fundamental question — is the original of a work a thing? O. F. Onoprienko criticizes the interpretation of the original as an object of the material world, noting that legislation employs illogical formulations such as "sale of the original" or "rental of the original," thereby producing confusion through the conflation of the properties of things and intangible objects [8]. The author defines the original as an ideal result of creative activity encompassing neither the mode of expression nor the material carrier [8]. Only such an understanding aligns with the informational nature of copyright subject matter.

III

Vierkant's essay points to circumstances more complex than definitional difficulty. If Benjamin's era had introduced *new means of producing and reproducing artworks*, Vierkant's era confronts us with *new contexts and possibilities of dissemination*. Today, under conditions of widespread internet accessibility and universal participation in social networks, not only some but *any work is digitized and endlessly reproduced across countless forms, perspectives, and environments*. In such circumstances — where each work possesses virtually unlimited modes of display — the original, conceived as a thing, ceases to possess any particular distinctiveness in comparison with the copy [2].

The contradiction identified by Vierkant between the formal status of the original and its actual position within the internet environment demonstrates that understanding the original as a unique object distinct from copies is misguided. Attempts to justify qualitative distinctions collapse against the realities of contemporary cultural

production and consumption. Accordingly, the original can only be understood as something underlying the infinite shapes of a single object. The initially created work represents merely one manifestation of creative labour, even if it may most fully express the ideal object among available forms. It therefore becomes necessary to abandon attempts to ground the legal regime of works in the characteristics of their objective form.

In conclusion, the foregoing analysis invites reconsideration not only of the relationship between the original and the copy but also of the modalities for exercising exclusive rights under new conditions, the possibility of fair use, and other issues relating to rights in works of visual art. The arguments presented provide grounds for refining the use of the term “original” in statutory language.

REFERENCES:

1. Grin, E. S. Kalyatin, V. O. Mikhailov, S. V.; et al. Pravo intellektual'noj sobstvennosti: Uchebnik. Statut, 2017. Vol. 2: Avtorskoe pravo.
2. Vierkant, A. Image-Object in Post-Internet Mode // Syg.ma. [Electronic resource]. URL: https://syg.ma/@natalya_serkova/arti-virkant-izobrazhieniie-obiekt-v-riezhimie-post-intierniet-s-priedisloviiem-natali-sierkovoi (date of access 10.04.2026).
3. Popova, P. A. Ponyatie "original proizvedeniya" v GK RF // Patenty i lizenzii. 2009. No. 7. P. 39–42.
4. Gavrilov, E. P.; Eremenko, V. I. Kommentarij k chasti chetvertoj Grazhdanskogo kodeksa Rossijskoj Federacii" (postatejnyj). Egzamen, 2009. Vol. 846. P. 168–169.
5. Udalkin, V. A. Intellektual'nye prava na proizvedeniya izobrazitel'nogo iskusstva. Dissertation. Moscow, 2010.
6. Benjamin W. The work of art in the age of mechanical reproduction // A museum studies approach to heritage. Routledge, 2018. P. 226-243.
7. Charter on the Preservation of the Digital Heritage [Electronic resource] // Conventions and Agreements UN, UNESCO, Adopted on 15th of October 2003. UN. [Electronic resource]. URL: https://www.un.org/ru/documents/decl_conv/conventions/digital_heritage_charter.shtml (date of access 10.04.2026).
8. Onoprienko, O. F. Ponyatie «Original» v rossijskom zakonodatel'stve ob intellektual'noj sobstvennosti // Bulletin of Udmurt University. Series Economics and Law. 2016. No. 5.

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BORN-DIGITAL CULTURAL HERITAGE IN THE DIGITAL AGE: DEFINING STATUS AND PRESERVATION APPROACHES

In the modern world everything changes, including cultural heritage. New heritage forms apper, such as Born-Digital cultural Heritage, and it raises the questions concerning its nature and conservation.

by Svetlana Konkina

When it comes to the impact of digitalization on the preservation of cultural heritage, questions are often raised about how digital tools can help. It may be done in two ways: (1) by preserving traditional cultural heritage objects that already exist in material form for future generations and (2) by making cultural heritage more accessible to the general public. These issues are undoubtedly important and require further research. Many Russian and foreign authors in their scientific works devoted to this topic have emphasized precisely this role of digitalization in relation to cultural heritage.

However, to a lesser extent, both Russian and foreign scientific papers consider the issue of cultural heritage objects that were originally created in digital form and exist only so (Born-digital cultural heritage), although the number of such objects is only growing every year, and the importance of many of these objects to society is obvious. At the beginning of the 2000s, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) realized the necessity to protect cultural heritage sites that were originally created and now continue to exist only in digital form. Therefore, a Charter on the Preservation of Digital Heritage [1] was developed. However, unfortunately, nowadays, we may notice a tendency for digitized cultural heritage objects and born-digital cultural heritage objects to be mixed, and there is practically no difference between their status. That is why this article is dedicated specifically to cultural heritage objects that exist only in digital form to determine their status and the ways to protect them for the Sustainable Development Goals.

According to the UNESCO/PERSIST guidelines for the selection of

digital heritage for long-term preservation [2] from 2016, as amended in 2021, digital heritage includes webpages, social media pages, online games, virtual/augmented reality materials, etc. It can be assumed that due to the accelerating technological process, this list will be further expanded. Born-digital cultural heritage, as one of the types of cultural heritage in the digital age, combines the features of traditional cultural heritage sites and unique features inherent only to digital form, as some researchers have already pointed out [3].

Like all cultural heritage objects, digital ones must have outstanding universal value according to the World Heritage Convention [4]. In other words, digital cultural heritage objects, like traditional cultural heritage objects, should be important for the preservation of national, regional or world culture, as well as serve as a link between different generations and contribute to further cultural progress.

Obviously, not everything can become part of the cultural heritage of the vast mass of digital content that is created every second. It is important to elaborate on this in more detail. Many researchers, for example, S.P. Kalita [5], E.V. Medvedev [6], and others, devoted their works to understanding the concept of cultural heritage, therefore it makes no sense to dwell on it now. However, as M. Koščík and M. Myška [7], as well as N. Barbuti [8], note in their works that there are still no clear criteria by which a specific digital object can be classified as cultural heritage. Objective features such as age, artistic values, or uniqueness are secondary here and constitute a closed list of features of a tangible cultural heritage object. Due to the lack of a closed test for digital ones and the huge amount of such content, it is necessary to develop criteria that would help to choose among the mass of digital objects that need to be preserved for future generations [9].

It seems that the main criterion for classifying a digital object as a cultural heritage object should be the recognition of its social significance. The object should be recognized by society (1) as a part of cultural experience or (2) as something that reflects the identity of a particular community. At the same time, the object itself may not have value as such, but collectively it can be

recognized as an object of cultural heritage as a reflection of any cultural practices or phenomena. For example, while Black Lives Matter movement was gaining momentum, many users expressed support for the movement on social media, which reflected the protest spirit in the United States during this period. By itself, one post by one particular user may not be valuable, but combined with tens of thousands of posts by other users, it becomes a reflection of cultural practices in a certain period. That is why museums and archives have started collecting records from social media to preserve this experience for future generations.

Now it is important to focus on how digital objects differ from tangible cultural heritage sites. Firstly, they are dynamic, that is, they are subject to constant updates. Accordingly, in order for an object created and existing in a digital environment to be preserved for future generations and become a part of the cultural heritage, it must be "preserved". That is, its updates must be excluded. It is precisely with this feature of digital objects that M. Koščík and M. Myška proposed to introduce an additional criterion for classifying a digital object as a cultural heritage — the significance of the object for future generations. Obviously, if, due to constant updating, the content that previously reflected the cultural peculiarity of society at one of the stages of its development has changed beyond recognition, it can no longer be used to demonstrate to future generations the cultural peculiarity that it originally reflected. Secondly, another distinctive feature of the Born-digital cultural heritage is its dependence on technology. Software updates jeopardize the preservation of historical versions of digital resources. It is also necessary to note the interactivity of digital cultural heritage sites, as their value often arises as a result of interaction with users.

The global community is facing the task of finding optimal ways to solve the problem of preserving cultural heritage sites that were created and exist only in a digital environment, taking into account all their features. The importance of finding these ways only increases every year, given the acceleration of technological progress and the threat of the loss of digital cultural monuments reflecting the values of past generations.

Thus, at this stage, the world community must answer two main questions: (1) what exactly needs to be protected as a Born-digital cultural heritage object, and (2) how? Progress is not waiting for solving these problems and is gaining momentum, and modern practices of using digital tools are still primarily aimed at utilizing rather than preserving. The answers to these questions will determine whether people in thirty, fifty, or a hundred years will be able not only to find, but also to familiarize themselves with what reflected the culture and values of past generations and existed only in digital form.

REFERENCES:

1. Hartiya o sohranenii cifrovogo naslediya [Charter on the Preservation of Digital Heritage] // OON. URL: https://www.un.org/ru/documents/decl_conv/conventions/digital_heritage_charter.shtml (date of access 09.04.2026).
2. The UNESCO/PERSIST guidelines for the selection of digital heritage for long-term preservation / UNESCO; UNESCO/PERSIST Content Task Force. [Electronic resource]. URL: Thus, at this stage, the world community must answer two main questions: (1) what exactly needs to be protected as a Born-digital cultural heritage object, and (2) how? Progress is not waiting for solving these problems and is gaining momentum, and modern practices of using digital tools are still primarily aimed at utilizing rather than preserving. The answers to these questions will determine whether people in thirty, fifty, or a hundred years will be able not only to find, but also to familiarize themselves with what reflected the culture and values of past generations and existed only in digital form. (date of access 09.04.2026).
3. Konvenciya ob ohrane vsemirnogo kul'turnogo i prirodnogo naslediya [Convention Concerning the Protection of the World Cultural and Natural Heritage] // OON. [Electronic resource]. URL: https://www.un.org/ru/documents/decl_conv/conventions/heritage.shtml (date of access 09.04.2026).

4. Qi T., Zhou Y., and Liu Z.: Emerging Digital Heritage: Constructing the Selection Framework and Preservation Strategies for Born-Digital Cultural Heritage, Int. Arch. Photogramm. Remote Sens. Spatial Inf. Sci., XLVIII-M-9-2025, 1243–1249.
5. Kalita S. P. Kurs lekcij “Kul'turnoe nasledie: sohranenie i regeneraciya”.
6. Medvedev E.V. Kul'turnye cennosti kak predmet gosudarstvenno-pravovogo regulirovaniya // Yuridicheskaya nauchnaya biblioteka izdatel'stva “SPARK”. 2004. S. 128-139.
7. Koščík M., Myška M. Copyright law challenges of preservation of "born-digital" digital content as cultural heritage //European Journal of Law and Technology. 2019. T. 10. №. 1.
8. Barbuti, N. Thinking digital libraries for preservation as digital cultural heritage: by R to R4 facet of FAIR principles. Int J Digit Libr 22, 309–318 (2021).
9. Sneider E. The Race to Collect the Pandemic’s History-as It Unfolds // WIRED. [Electornic resource]. URL: The Race to Collect the Pandemic’s History-as It Unfolds (date of access 10.04.2026).

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TOKENIZATION AS A TOOL FOR ENSURING THE AUTHENTICITY OF CULTURAL HERITAGE PROPERTIES IN THE DIGITAL AGE

Digital technologies offer different opportunities to humanity, and it is also important in the field of cultural heritage preservation, including UNESCO designated sites. Tokenization seems to be one of the instruments to save and conserve cultural objects.

by Ravschan Idrisov

The protection of cultural heritage in the twenty-first century faces escalating threats to the material and historical integrity of monuments. As of March 2026, the UNESCO World Heritage List includes 1,248 properties [1]. Of these, 53 are inscribed on the List of World Heritage in Danger [2].

International practice in recent years demonstrates the scale of these risks. Between 2015 and 2017, properties within the ancient city of Palmyra [3], inscribed on the World Heritage List, were destroyed or severely damaged. In 2012, the mausoleums of Timbuktu were destroyed [4]. The historic monuments of Mosul sustained significant damage [5]. The 2019 fire at Notre-Dame Cathedral in Paris demonstrated the practical value of the prior creation of a digital copy through laser scanning (LiDAR technology) for the subsequent reconstruction of damaged elements [6].

Yet despite the importance of creating digital copies of monuments and archives, no adequate mechanism exists to ensure the immutability and traceability of such data. A digital twin records the state of a property at a particular moment but does not guarantee the preservation of a sequential history of changes – restoration interventions, reconstructions or adjustments. At the same time, a method capable of tracing the full trajectory of a property's transformations is of fundamental importance for assessing authenticity.

The question thus arises: can tokenization – understood not as a commercial practice involving digital assets but as a mechanism for assigning a unique digital identifier and recording versions in a distributed system – be integrated into the international legal regime

for the protection of cultural heritage as a tool for data preservation and change tracking? And if so, can it strengthen the procedural dimension of the principle of authenticity without substituting for the material basis of the property or undermining the public-law nature of the World Heritage regime?

The international legal regime for the protection of cultural heritage is built around the idea of its universal value and the collective responsibility of States. Its normative foundation is the Convention concerning the Protection of the World Cultural and Natural Heritage of 1972 (hereinafter the 1972 Convention), which establishes the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage [7]. This formulation gives the obligation an intergenerational character and places it beyond current State policy.

The principle of authenticity occupies a central place in the system of protection and is one of the conditions for confirming Outstanding Universal Value. Although the 1972 Convention does not contain a direct definition, the Operational Guidelines for the Implementation of the World Heritage Convention (hereinafter the Operational Guidelines) assess authenticity according to the ability of attributes to credibly convey value [8]. The normative development of the principle is articulated in the Venice Charter of 1964 and the Nara Document on Authenticity of 1994 (hereinafter the Nara Document), which substantially expanded the understanding of authenticity to include not only materials and form but also use, traditions, location, spirit and feeling [9].

The principle of integrity operates in parallel, requiring the preservation of all elements necessary to express Outstanding Universal Value, including the historical, cultural and natural context of the property. On closer examination, however, a structural gap emerges: international instruments require the documentation of interventions and their assessment for compliance with the stated principles, yet they do not establish a mechanism to ensure the immutability of such documentation. Interventions and their outcomes are recorded in reports and archival materials whose

storage depends on national systems. This creates a gap between the normative requirement of documentation and the practical ability to trace the history of changes to a property over time.

The development of the principle of authenticity is inevitably linked to the evolution of conservation tools. In the twenty-first century, the concept of "conservation" has expanded through digital technologies. The normative expression of this transformation is the Charter on the Preservation of the Digital Heritage of 2003 (hereinafter the 2003 Charter), which recognizes digital resources as part of humanity's heritage and obliges States Parties to ensure their long-term preservation [10]. Although the 2003 Charter was originally oriented towards born-digital objects, its principles lend themselves to an expansive reading that extends to digitized copies of tangible heritage.

Practical implementation of these provisions is reflected in UNESCO projects. The Dive into Heritage platform creates three-dimensional models of World Heritage properties accompanied by metadata and licensing agreements [11]. CyArk undertakes similar work, specializing in high-precision 3D documentation [12]. Following the destruction at Palmyra and the fire at Notre-Dame, it was precisely these pre-existing digital copies that enabled damage assessment and the preparation of restoration projects.

From a technical standpoint, tokenization is the process of assigning a unique identifier to a digital object and recording information about it in a distributed data storage system. Such an identifier is accompanied by a version history, timestamps and cryptographic hashes that confirm the immutability of each entry [13].

In the heritage context, the functional purpose of tokenization is to ensure the immutability and traceability of data on the state of a property and its transformations. Each stage of change – restoration, reconstruction, adjustment of model parameters or addition of metadata – receives its own timestamp and is preserved in the system, precluding retrospective alteration.

Practical implementation of the mechanism involves defining trigger events that prompt the recording of a new version. These include any conservation or restoration intervention (before and after), damage to

the property as a result of armed conflict, natural disaster or other emergency, as well as planned recording within cycles of periodic reporting and State of Conservation reports. Such periodicity aligns with UNESCO's existing monitoring procedures and does not require the creation of an entirely new system [14].

A distinct question concerns the boundaries of the tokenizable object. UNESCO consistently adheres to the principle of the indivisibility of the monument and its context – historical, cultural and natural surroundings [15]. In the protection of archaeological properties, this is expressed, inter alia, in the creation of three-dimensional models of artifacts in situ, without physical relocation. In this connection, the mechanism of digital traceability can potentially extend not only to the structure of the monument itself but also to data on associated finds and spatial context. A promising direction is the extension of tokenization to historical documents directly linked to the property – architectural drawings, restoration reports from past eras, cartographic materials – which themselves constitute primary sources on their original state.

At the same time, a fundamental limitation of this approach must be acknowledged. The phenomenological dimension of authenticity – the unique "aura" of the property, its emotional and sensory connection with the historical context – does not lend itself to digital recording in any form. Tokenization deals with verifiable data on condition and transformations, but not with what makes an encounter with the monument an irreplaceable experience [16].

In the fight against illicit trafficking in cultural property, tokenization can also perform an additional function. Assigning a unique digital identifier to a model or archival record makes it possible to confirm the date of documentation creation, establish the sequence of updates and reduce the risk of falsification. This is particularly relevant for archaeological objects and museum collections. However, two levels of application must be distinguished. In inter-State restitution disputes concerning collections from the colonial period, the problem usually lies not in the absence of documentation: the facts are known, and the obstacle is political disagreement. The situation is different at the level of private transactions – thefts,

illegal excavations and sales of objects without verified provenance. It is here that immutable digital recording can strengthen the evidentiary base and raise the standard of verification in transactions [17].

The development of digital models and version-control mechanisms inevitably raises the question of their institutional integration. If tokenization is viewed as a tool for ensuring authenticity and fulfilling the intergenerational obligation of States Parties, its application must be embedded in the existing international legal framework for heritage protection. UNESCO, as the specialized agency of the United Nations responsible for coordinating international cooperation in the field of culture, plays the key role.

The creation of a single international platform to ensure the traceability of digital changes represents a logical development of the existing mechanisms for monitoring the state of conservation and periodic reporting. Integrating immutable digital recording into these procedures will enhance the transparency of reports and strengthen their evidentiary value. This mechanism is of particular relevance for properties inscribed on the World Heritage List relatively recently or those lacking a developed archival base of historical documentation.

Integration of the principle of digital traceability is best achieved through the development of additions to the Operational Guidelines. Such a recommendatory instrument should enshrine the concept of digital traceability as an element of compliance with Article 4 of the 1972 Convention [18], establish minimum standards for metadata and version control, define requirements for the scientific verification of digital models, and confirm the public character of digital representations of World Heritage properties. At the same time, a clear distinction must be drawn between impermissible commercialization – the use of a digital copy as an independently alienable asset – from legitimate paid access to digital archives as a means of financing conservation activities.

Particular attention must be paid to ensuring equal access for States Parties to the technological infrastructure. The international platform must not create dependence on private operators or exacerbate digital inequality. Otherwise, it would contradict the principle of

international solidarity enshrined in Article 6 of the 1972 Convention [19].

Thus, tokenization within the framework of a distributed archive is not an end in itself but a technological tool for the institutional safeguarding of collective memory. It can enhance the transparency and resilience of data storage, yet its introduction requires normative coordination and adherence to the principles of international solidarity. At the same time, it must be recognized that this approach covers only the verifiable, formalizable dimension of authenticity – the history of transformations, the composition of interventions, and the dynamics of the property's condition. Acknowledgment of this boundary does not diminish the practical value of tokenization but defines its precise place in the heritage protection system: not as a substitute for authenticity, but as the infrastructure for its preservation.

REFERENCES:

1. World Heritage List / UNESCO World Heritage Centre. [Electronic resource]. URL: https://whc.unesco.org/en/list/ (date of access 10.04.2026).
2. List of World Heritage in Danger UNESCO / World Heritage Centre. [Electronic resource]. URL: https://whc.unesco.org/en/danger/ (date of access 10.04.2026).
3. Damage assessment and report on the destruction at the Palmyra World Heritage Site / UNESCO World Heritage Centre. [Electronic resource]. URL: https://whc.unesco.org/en/news/1485 (date of access 10.04.2026).
4. Prosecutor v. Ahmad Al Mahdi — case concerning the destruction of cultural heritage sites in Timbuktu / International Crimes Database. [Electronic resource]. URL: https://www.internationalcrimesdatabase.org/Case/3321/Al-Mahdi-Case-/ (date of access 10.04.2026).
5. Revive the Spirit of Mosul / UNESCO [Electronic resource]. URL: https://www.unesco.org/en/revive-mosul (date of access 10.04.2026).
6. Gros, A., Guillem, A., De Luca, L., et al. Faceting the post-disaster built heritage reconstruction process within the digital twin framework for Notre-Dame de Paris // Scientific Reports. 2023. 13. 5981. (accessed 12 March 2026).
7. Convention concerning the Protection of the World Cultural and Natural Heritage, 1972, art. 4 / UNESCO World Heritage Centre [Electronic resource]. URL: https://whc.unesco.org/en/conventiontext/ (date of access 10.04.2026).
8. Operational Guidelines for the Implementation of the World Heritage 8. Convention, WHC.23/01, paras. 79–86 / UNESCO World Heritage Centre. [Electronic resource]. URL: https://whc.unesco.org/en/guidelines/ (date of access 10.04.2026).

9. The Nara Document on Authenticity, 1994, p. 13 / ENCoRE. [Electronic resource]. URL: https://encore-edu.org/wp-content/uploads/2023/09/The-NARA-document-on-authenticity.pdf (date of access 10.04.2026).
10. Charter on the Preservation of the Digital Heritage, 2003 / UNESCO. [Electronic resource]. URL: https://unesdoc.unesco.org/ark:/48223/pf0000229034 (date of access 10.04.2026).
11. UNESCO World Heritage Centre. Dive into Heritage / UNESCO World Heritage Centre. [Electronic resource]. URL: https://whc.unesco.org/en/dive-into-heritage/ (date of access 10.04.2026).
12. CyArk. Digital documentation of cultural heritage sites / CyArk. [Electronic resource]. URL: https://www.cyark.org/whatwedo/documentation (date of access 10.04.2026).
13. Collomosse, J., Bui, T., Cooper, D. et al. ARCHANGEL: Trusted Archives of Digital Public Documents / ArXiv. [Electronic resource]. URL: https://arxiv.org/pdf/1804.08342 (date of access 10.04.2026).
14. Operational Guidelines for the Implementation of the World Heritage Convention, WHC.23/01, paras. 169–176 / UNESCO World Heritage Centre. [Electronic resource]. URL: https://whc.unesco.org/en/guidelines/ (date of access 10.04.2026).
15. Operational Guidelines for the Implementation of the World Heritage Convention, WHC.23/01, paras. 88–95 / UNESCO World Heritage Centre. [Electronic resource]. URL: https://whc.unesco.org/en/guidelines/ (accessed 12 March 2026).
16. ICOMOS. Quebec Declaration on the Preservation of the Spirit of Place, 2008 / ICOMOS. [Electronic resource]. URL: https://www.icomos.org/images/DOCUMENTS/Charters/GA16_Quebec_Declaration_Final_EN.pdf (date of access 10.04.2026).

17. Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 1970, art. 3, 5 / UNESCO. [Electronic resource]. URL: https://www.unesco.org/en/legal-affairs/convention-means-prohibiting-and-preventing-illicit-import-export-and-transfer-ownership-cultural (date of access 10.04.2026).
18. Convention concerning the Protection of the World Cultural and Natural Heritage, 1972, art. 4 /_UNESCO World Heritage Centre. [Electronic resource]. URL: https://whc.unesco.org/en/conventiontext/ (date of access 10.04.2026).
19. Convention concerning the Protection of the World Cultural and Natural Heritage, 1972, art. 6 /_UNESCO World Heritage Centre. [Electronic resource]. URL: https://whc.unesco.org/en/conventiontext/ (date of access 10.04.2026).

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THE GLOBAL GOOD. THE FUTURE OF CULTURE, CREATION AND AUTHOR: THE SACRED NATURE OF THE AUTHOR IN THE AGE OF PLASTIC MEANINGS AND DIGITALIZATION

The status of the author has changed through time, and today modern technologies including AI and algorithms put author's positions at risk. They also change the nature of the creator, and the world has to formulate the rules of new reality.

by Arina Varvanskaya

The ontology of the authorship and the borders of legal interference with human subjectivity

Commonly, the answers to specific, narrowly focused questions on the field of intellectual property rights and the modern world order would help to eliminate the relevant issues. The discussion level is rising, and the list of dilemmas that the scientific community is facing is also widening. However, it is important to remember that the induction method will always bring any research to the foundations, which provokes further discussion. It means that ignoring or popularizing the opinion that the fundamental is unsolvable only cultivates the growth of pre-doomed tasks. So, the approach where we focus not only on defining, but really observing and analyzing the concept of authorship and the global reasons for its modification seems to be more relevant.

Let us try to show the understanding of the author as the subject of law to avoid possible understatement. Thus, in art. 1228 of the Civil Code of the Russian Federation from 18.12.2006 N 230 FZ (further — The Civil Code of Russia) [1] there is a concise definition: "The author of the intellectual property result is recognized as a citizen whose creative work has created such a result". It resembles the p. iii of art. 2 of the World Intellectual Property Declaration from 26.06.2000 [2].

The form of expression may vary as some details but the sense is unified: only a human may be seen as an author, which also corresponds with the logic of Universal Copyright Convention from 24.07.1971 [3] and Berne Convention for the Protection of Literary and Artistic Works from 09.09.1886 [4] which is also mentioned by the UNESCO [5] and WIPO experts [6].

Hereby, we observe not only the fruit of a legal fantasy, but also of a person who is currently in the context of an algorithmic society, represented as a concept where the main role is given to automated systems that dictate the rules of thinking and behaviour. Such a situation may rightly alarm, as the author here seems to be in a weak position in terms of “creative contours of the psyche and thinking” [7] which are now controlled by algorithms. Also, several social risks arise here, like unnecessary optimization and the domino effect. So, the question is set: may everything that was discussed actually be called new?

The human whom the author is considered to be from ancient times was following the social instinct: survival in a group was more effective than alone, and that is why in every epoch people were uniting around the power that could provide them with confidence for the next day. To confirm and continue the thought, we will limit ourselves to the last century, where the most dominant position in the life of mankind is occupied by the construct of the state due to the practical realization of the needs of its citizens, the presence of the apparatus of violence, and the ideological component. The last leads to the idea that the crucial part will be the majority opinion, which forms, for example, the concept of cancel culture. As a result, the status of critical thinking based on self-opinion rapidly declines, and also, in general, the devaluation of consciousness as an inseparable ability for thought-setting: a rapid, general rejection of personal responsibility.

Leaving the global, let’s turn to existing cases. Thus, in Russian legislation, as in other countries, the concept of exclusive rights is prevailing. The functioning of such a concept is dependent on the existence of the regulator, namely the state, by differentiation of subjective rights to personal non-property and property rights. The proprietary concept, on the opposite, elevates the author's will to the absolute, giving logic and meaning to the term “intellectual property law”.

In addition, to highlight the changed paradigm, Russian regulations have been “enriched” with the concept of “intellectual law”, which was apparently done to avoid embarrassment; however, there is an

ambiguous attitude towards such a decision in the doctrine. Otherwise, the concept of intellectual property rights is still present in international regulations, for example, in article 2 of paragraph (ii) of the Universal Declaration on Intellectual Property dated 26.06.2000. This is due either to the creation of an image of the independence of the authors, or to a relic of the past.

As for Russian legislation, another significant point is the absence of a definition of personal non-property rights. At the same time, the category of exclusive rights has a dominant position in the context of attention and elaboration on the part of the legislator. Such politics demonstrated the regulator's power over the author, although the latter's personal non–property rights are the cradle of the entire industry. Apart from that, the emphasis on profit or exclusive rights contradicts the whole process of becoming an author. The creation itself means some searching in the metaphysical (noesis) but not existing in the field of our thoughts (dianoia), so it needs the imagination and not the discursive cognition as an initial stage. Author, truly being in the world of aidos, remains detached from existence, which first forces him to find an ideological support for the future result of intellectual activity.

As a result, solving the authors' problems, humanity appeals to the abstract force, which only grows its influence with the simple goal of surviving, gaining more and more responsibility and independence as a consequence.

Coming to the culmination of the work, let us remember the current development of the society that now lies in the field of algorithmic power. This is the turning point for further discussion, as digital technologies precisely can give a human, an author, a significant part of independence in the realization of creativity. It is based on huge access to other creative pieces, and the process of creating one's own works is simplified. Step by step, this feeling of the author brings the value of freedom of sources and their use for self-expression, along with which comes responsibility. On the part of the state, there will be a strengthening of control over legal institutions, the objects and subjects of which are particularly flexible to modern trends, which is especially inherent in intellectual property law. The

state seeks to strengthen its status, so it is logical to launch a policy of protectionism and unification around the ruling center of a particular country. Interestingly, similar mechanisms are in place at the present time.

It is necessary to note that the same idea was presented by many researchers, e.g., Henning Grosse Ruse-Khan, Lecturer at King's College, University of Cambridge, and researcher at the Max Planck Institute for Innovation and Competition. The researcher often relied on the idea that the history of intellectual property legislation in those countries that are currently considered developed shows that they did not introduce enhanced protection until they reached the appropriate level of development.

On the one hand, it is more about the improvement of economic indicators. On the other hand, a stable relationship is being formed between public and private interests, creating a closed cycle of development. Is this enough for creative self-realization? One day, history will provide an answer, but striving to overcome external limitations is a natural and expected process of professional growth. Personal responsibility in this case changes the usual idea of collective unity. It shifts the focus from general social cohesion to internal integrity and self-discipline. An author's "I" is being formed, capable of effectively and timely solving the problems of the digital age, which is difficult for large structures.

The experience of Eastern Asia

To study the topic deeply, let us analyze the experience of Eastern Asia, limited to China, Japan, and the Republic of Korea. In this region, there is a paradoxical, progressive, and far from typical legislative practice. For sure, each country has individual features in many aspects, so the complex analysis will be presented, including some peculiarities.

So, the cultural code of the observed states supports synergy between both the momentary and the eternal, as well as between the public and the private, and helps the author to follow not the path of a one-time protest, but conscious, responsible self-sacrifice for

the benefit of the community, which cultivates in him a self capable of subordinating algorithms and other external circumstances. While Western thought struggles with the question of "man or machine," the East uses a synthesis strategy that interestingly coincides with Hegel's logic. The tradition of observed countries, rooted in Buddhism and Daoism, sees the world as the flow of interactions. For example, in the “Li Yunkai v. Liu” case (2023) [8], the plaintiff used the Stable Diffusion AI model to create a picture that was later published in a social network and was used by the defendant in the blog without permission. The Chinese court recognized that picture as the object protected by copyright law because of the “creative effort” used, as there were detailed promptings, including negative ones, adjusting the parameters of weights and iterations. There is a kind of creation where the instrument acts as a continuation of the will of the master, and not as a competing unit. Quite the same mechanism also functions in Japan, which is confirmed by the Agency for Cultural Affairs in its Guideline «General Understanding on AI and Copyright in Japan», published in May 2024.

Also in Japan, the attitude to copying is really different: while in the West it is an obvious theft and demonstration of negligent work, in Japan it is a hard process of painstaking honing of the skills that can be found in the Syodo (書道“The Way of letter”). It also corresponds to the art. 30-4 in the Copyright Law [9], which allows use of works for machine learning without the authors’ permission. It is based on the idea that a computer cannot take pleasure in the thoughts and feelings expressed in art. For European legal thought, it seems to be ambiguous, namely because of the norms of the EU Artificial Intelligence Act [10]. However, in Japanese norms, a quite poetic and fundamental idea can be seen. Only a human may have a sacred ability to appreciate aesthetics, and for the machine, it is only an information mass.

Then, let us take for analysis the legislation of the Republic of Korea, which is truly recognized as one of the first in the field of digital technology regulation. For all its innovation, the logic of the country's regulations is more like the aforementioned European standards. For example, in p. 1 of part five of the Guidelines on

Generative AI and Copyright (생성형), it is stated that the work made by AI does not have protection, which is also presented in p. 1 art. 2 of Korean Copyright Law (저작권법) [11]. However, the Guideline notes that the copyright law appears only in situations where the human has presented the “creative element” through modification, editing, or the layout of the work.

The legislator drew attention to the importance of the human being in creation, but what is the significant difference in relation to European regulation?

As it was mentioned in the beginning, the core always lies in the foundation: the Western norms are aimed at the priority of exclusive rights, the nature of which is only indirectly related to the nature of the author. In Eastern countries, there is a culturally dictated trend: the law should be anthropocentric, but not burdened with “existences" in its essence. The human, namely the author, fulfills the changing matters and forms with sense, and this will be eternal in the formula. In order for such a functioning of humanity to be truly valuable in itself, a responsible person is needed. That is why quite similar Korean and European Laws have different contexts and consequences. Previously, it was mentioned that a human, having independence, is able to make a sacrifice for the common good, which also happens in Korea. The author deliberately renounces some of his rights so that his country can grow in progress without resorting to controversial practices.

Conclusion

The experience of Eastern Asia teaches us the value of the essence, the foundation, the eternal, and the realization of which gives a person a connection with the world, including society. Through awareness of the importance of one's nature comes responsibility, followed by categories other than material well-being or imaginary security, which stems from questionable legal structures and political accents. Thus, the digital environment, the algorithmic society, is a momentary, passing, or changing stage that should not have primacy over the individual; it is enough to pay attention to them, like

following the principles of mono-no avare. It seems relevant to control the rapid pace of digitalization not through slowing down progress, but through the competent implementation of humans into technological matter, since it is the human who was created “in his image and likeness,” which is why he is called the author. The idea of increasing the quality of responsibility returns the Creator status to the author, where the self is determined not by the fact of reward, but by the depth of intellectual intention and the ability to keep oneself in the flow of plastic digital meanings.

REFERENCES:

"Grazhdanskij kodeks Rossijskoj Federacii (chast' chetvertaya)" ot 18.12.2006 N 230-FZ (red. ot 23.07.2025) (s izm. i dop., vstup. v silu s 04.01.2026) // SPS “Konsul'tantPlyus”. St.1228.
2. Vsemirnaya deklaraciya po intellektual'noj sobstvennosti ot 26 iyunya 2000 g. [World Intellectual Property Declaration] // Rospatent. St. 2.
3. Vsemirnaya konvenciya ob avtorskom prave, peresmotrennaya v Parizhe 24 iyulya 1971 goda [Universal Copyright Convention, revised 1971] // Elektronnyj fond pravovyh i normativno-tekhnicheskih dokumentov.
4. Bernskaya konvenciya po ohrane literaturnyh i hudozhestvennyh proizvedenij ot 9 sentyabrya 1886 goda [Berne Convention for the Protection of Literary and Artistic Works] // Elektronnyj fond pravovyh i normativno-tekhnicheskih dokumentov.
5. Rekomendaciya ob etike iskusstvennogo intellekta [Recommendation on the Ethics of Artificial Intelligence] SHS/BIO/REC-AIETHICS/2021. YUNESKO, 2021. S. 13.
6. Peresmotrennyj dokument po voprosam politiki v oblasti intellektual'noj sobstvennosti i iskusstvennogo intellekta [Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence] : WIPO/IP/AI/2/GE/20/1 REV. VOIS, 2020. S. 3.
7. Ponimanie algoritmicheskih obshchestv: gibridnyĭ intellekt i ego zombi / E. S. Larina // Svobodnaya Mysl'. 2017. No 5 (1665). S. 5-26.
8. Beijing Internet Court Civil Judgment (2023) Jing 0491 Min Chu No. 11279.
9. Copyright Act (Act No. 48 of May 6, 1970, as amended up to January, 1, 2022), Japan // WIPO. Art. 30-4.
10.Artificial Intelligence Act (Regulation (EU) 2024/1689), Official Journal version of 13 June 2024.
11.Copyright Act (amended up to Act No. 19597 of August 8, 2023), Republic of Korea // WIPO. Art. 2.

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ORIGINALITY AS A CRITERION FOR THE PROTECTABILITY OF A COPYRIGHT OBJECT

Fast development of AI models influence many aspects including copyright and intellectual property. There are different ways to separate non-protectable and protectable objects, and one of the criteria may be originality.

by Eva Lazovskaya

Nowadays, generative AI is one of the most global challenges that intellectual property regulators are facing. AI has already taken root in our lives, and AI-generated art pieces appear more and more often. Due to the ambiguity of the status of artificial intelligence and the nascent mechanisms of legal regulation in the field of relations related to its application, there are questions arising about the possibility of recognizing works created in this way as objects of copyright.

WIPO, in one of its reports, defines AI as an instrument that can perform different tasks "with limited or no human intervention" [1]. Such a mention is crucial, as it forces us to state the question of observing the "creative contribution" or "originality" in such works at the very beginning.

In this article, we will focus on the question if AI-generated works can meet the criteria of protectability, as presented in the EU and USA legislation, especially the criterion of the author's creative contribution, which is mentioned to be in most modern legal systems.

USA

In the American legal system, there is an approach of three works protectability criteria. There are (1) originality of the work; (2) an objectively expressed form that allows perceiving the work; (3) the work itself, created by the author [2].

In the USA, the originality criterion is formulated as a combination of the author's independent creation and alignment to the minimal level of creativity, which was represented in the Feist Publications,

Inc. v. Rural Tel. Serv. Co (1991) case [3]. The independence of creation criterion means that the author didn't copy someone else's work. However, this criterion states a not very high requirement. The Supreme Court of the USA notes in this decision that the work may be original, but not meet the "stricter" criterion of novelty, so it can be similar to other works. The key feature to answer the question of originality criterion fulfillment is a fact of absence of direct copying. Such an approach allows protection to the works, made parallel and in conditions of the authors' good faith, also not striving for illegal adoptions from each other.

While evaluating the work in terms of meeting the originality criterion to determine compliance with the "minimum level of creativity", it is often decided to assess the measure of the author's creative choice. It means that the court should define how thoughtful the author was while choosing the creative techniques, how obvious they are, or whether the creative choice even mattered when creating a work.

The clearest example of such a position is the Burrow-Giles Lithographic Co. v. Sarony (1884) case [4], where the court took into account the foreshortening, the setting of the light and frame in the photo, and the overall impression of it to grant it the legal protection. As correctly noted by M. Bartholomew [5], such tests are the most visible in cases like the one mentioned, where the way of work creation limits the author in the creative choice, as was shown in the previously discussed cases.

Also, there is a concept where originality is a work's element, which is related to human effort or to a sign of reflection of the author's personality. It can be observed, for example, even in the philosophical works of J. Locke or I. Kant [6]. These concepts were widely spread in Europe, which will be discussed further, but they were just as significant in American legal practice. The support of such ideas may be found in Judge Holmes's argumentation in the Bleistein v. Donaldson Lithographing Co (1903) case [7] and Judge Frank's argumentation in Chamberlin v. Uris Sales Corp. (1945) case [8].

Most probably, a new development of the regulation may be forced based on the Allen v. Perlmutter case [9], currently before the court.

The plaintiff, Jason Allen, disputed the refusal of the U.S. Copyright Office to register the image made with the use of “Midjorney”. Allen stated in his appeal that he had spent more than 100 hours working with AI and had made more than 600 “extraordinary” prompts, but had already faced copying the final result due to the agency's refusal to provide legal protection to the image.

EU

Today, it is generally accepted that the European formula for protectability consists of two elements: (1) “author's own intellectual creation”; and (2) the expression of this creation in an objective form [6].

As it was mentioned previously, in the EU states, personalistic concepts, like the labour theory of J. Locke and the personality theories of I. Kant was leading while forming the copyright law. Also, the specific role of the Bern Convention is noted in the doctrine, which also influenced the law in Europe [10]. Due to that, despite the absence of a direct indication in the norms of national laws of European states that only a human can be considered as an author, the judicial and departmental practices are still based on the anthropocentric understanding of the author. There are several Directives appealing to untypical copyright objects, such as OS [11] and databases [12], where it is clearly formulated that this is not only a human, but a human group may be recognized as an author.

The significant case here is Infopaq International A/S v. Danske Dagblades Forening (2009) [13], where the European court stated that legal protection is possible only for those works that are made like the author's own intellectual creation. Thus, the Court directly connects the intellectual abilities inherent to humans and involved in the creative process, and the right to be an author.

Nevertheless, in the EU countries, there is no national regulation, soft law or wide judicial practice concerning the question of legal protection of works made with the use of AU. However, in 2024, the EU states’ representatives expressed a common view that only a significant human effort may lead to protection if such a result, which

shows already established European approach of understanding the core of intellectual property [14]. It practically means that the AI-generated objects cannot claim legal protection, as only a human may be considered an author. At the same time, some speakers expressed solidarity that the judges in each AI generation-connected case should assess all the circumstances and make a deliberate decision [14, p. 15]. That seems to be right, as the determination of an author's effort is always a complicated task, and it is also difficult to formulate strict and unified criteria for such situations.

It is worth noticing also that there are single cases concerning the distribution of legal protection on the objects, made with the use of Generative AI. For example, there is a case heard in a Czech court [15], where the refusal was expressed to grant such protection. The reasons were similar — the absence of creative human effort, and so the impossibility of recognizing the object as a protectable one. It seems that in the near future, there will be more and more such cases due to the increasing use of AI technologies.

Conclusions

All in all, based on the analysis of normative regulation, and "classic" judicial cases from EU and USA practice, it is possible to say that nowadays the work made with the use of AI cannot be recognized as original due to several reasons.

First, the limitation comes from the established tradition of perception of originality through the prism of the author's contribution, reflections of his personality or thought processes. Such an approach won't let the perception of AI as the author of original work.

Second, the upholders of the approach where AI is recognized only as the instrument used by a human while creating an original work often appeal to the role of the human in such a creative process through writing prompts. It can be clearly seen, as said, in the Allen v. Perlmutter case. Meanwhile, the USA Copyright Office, in its specialized Report [16], dedicated to the analysis of different questions concerning copyright law and GenAI, noted that while

tsome prompts may be very original, the technology of AI is a kind of black box. That means that one cannot know what to expect from it, and the model may produce different results even by using similar prompts. That leads to the cause-and-effect disconnection between the user's request and the result, presented by AI. The same problem is shown in doctrine, especially in M. Caldwell's work [2, p. 414], and it is also based on the features and imperfections of different AI models.

Both American and European practice demonstrate to us the current unavailability of recognition of AI-generated works as the original ones, protected by copyright law. Probably in the future it will be possible, but only due to two factors. First, it would need a change of authorship understanding through the prism of the author's personality, and second, the improvement of the specified technology in order to avoid errors in the output of the result.

REFERENCES:

1. WIPO CONVERSATION ON INTELLECTUAL PROPERTY (IP) AND ARTIFICIAL INTELLIGENCE (AI). Second Session. REVISED ISSUES PAPER ON INTELLECTUAL PROPERTY POLICY AND ARTIFICIAL INTELLIGENCE prepared by the WIPO Secretariat. WIPO/IP/AI/2/GE/20/1 REV. MAY 21, 2020 / WIPO. [Electronic resource]. URL: https://www.wipo.int/edocs/mdocs/mdocs/en/wipo_ip_ai_2_ge_20/wipo_ip_ai_2_ge_20_1_rev.pdf (date of access 13.04.2026).
2. Mackenzie Caldwell, What Is an "Author"?-Copyright Authorship of AI Art Through a Philosophical Lens, 61 Hou. L. Rev. 411 (2023).
3. Feist Publications, Inc. v. Rural Tel. Serv. Co., 499 U.S. 340 (1991) / JUSTIA. [Electronic resource]. URL: https://supreme.justia.com/cases/federal/us/499/340/ (date of access 13.04.2026).
4. Burrow-Giles Lithographic Company v. Sarony, 111 U.S. 53 (1884) / JUSTIA. [Electronic resource]. URL: https://supreme.justia.com/cases/federal/us/111/53/ (date of access 13.04.2026).

5. Mark Bartholomew, Copyright and the Creative Process, 97 NOTRE DAME L. REV.(2021).
6. Halwachi I. The dilemma of authorship for AI-generated work in the EU and US //A comparative study of the notions of 'human input'and 'author's own intellectual creation'in the assessment of authorship for copyright protection of AI-generated work.–2024. – 2024.
7. Bleistein v. Donaldson Lithographing Co., 188 U.S. 239 (1903) / JUSTIA. [Electronic resource]. URL: https://supreme.justia.com/cases/federal/us/188/239/ (date of access 13.04.2026).
8. Chamberlin v. Uris Sales Corporation, 150 F.2d 512 (2d Cir. 1945) / JUSTIA. [Electronic resource]. URL: https://law.justia.com/cases/federal/appellate-courts/F2/150/512/14 82628/ (date of access 13.04.2026).
9. Allen v. Perlmutter, 1:24-cv-02665, (D. Colo.) /_Courtlistener. [Electronic resource]. URL: https://www.courtlistener.com/docket/69198079/allen-v-perlmutter/ ? filed_after=&filed_before=&entry_gte=&entry_lte=&order_by=a sc (date of access 13.04.2026).
10.J. Fritz. The notion of 'authorship' under EU law—who can be an author and what makes one an author? An analysis of the legislative framework and case law. Journal of Intellectual Property Law & Practice, 2024, Vol. 19, No. 7.
11.Directive 2009/24/EC art. 2(1) /_European Union. [Electronic resource]. URL: https://eur-lex.europa.eu/eli/dir/2009/24/oj/eng (date of access 13.04.2026).
of access 13.04.2026).
12.Directive 96/9/EC art. 4(1) / European Union. [Electronic resource]. URL: https://eur-lex.europa.eu/eli/dir/1996/9/oj/eng (date of access 13.04.2026).
13.Infopaq International A/S v Danske Dagblades Forening. Case C-5/08 / European Union. [Electronic resource]. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62008C J0005 (date of access 13.04.2026).

14.Council of the European Union, Policy questionnaire on the relationship between generative Artificial Intelligence and copyright and related rights – Revised Presidency summary of the Member States contributions, at 16–18 (Dec. 20, 2024) / European Union. [Electronic resource]. URL: https://data.consilium.europa.eu/doc/document/ST-16710-2024-REV-1/en/pdf (date of access 13.04.2026).
15.The first Czech case on generative AI / DLA PIPER. [Electronic resource]. URL: https://www.technologyslegaledge.com/2024/04/the-first-czech-cas e-on-generative-ai/ (date of access 13.04.2026).
16.U.S. Copyright Office. Copyright and Artificial Intelligence. Part 2: Copyrightability. A Report of the register of copyrights. January 2025 / Copyright.gov. [Electronic resource]. URL: https://www.copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-2-Copyrightability-Report.pdf (date of access 13.04.2026).

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COPYRIGHT LAW IN THE MEDIA. WHO POSSESSES LIKES, CONTENT AND MEMORY?

Digital technologies change people's lives in all dimensions, including commemoration practices, and rise the questions of digital remains and inheritance. These are not only legal, but ethical questions, that are need to be discussed and examines.

by Maria Ripova

The digital epoch has removed borders between private and public, creation and everyday life. Social networks and video platforms turned millions of people into content creators, but in fact, behind the scenes, it is a complicated legal field. Copyright law in modern media concerns not only the questions of illegal copying, but also the issues of digital inheritance, child rights and the ethics of regulation of virtual personality. In the Russian Federation, as it is in other states, any unique content like a photo, a video, a text, or a voice record is protected by the copyright law from the exact moment of its creation. The blogger creating a post is both its author and copyright holder. It gives an author an exclusive right to use the content, to forbid or to allow its copying, conversion and distribution. The platforms, such as YouTube or others, according to the user agreements, usually receive a license to display this content, but do not become its owners.

However, it is much more complicated. The content is made spontaneously, musical tracks, film fragments or memes are easily borrowed. The majority of bloggers rarely think of how frequently they use other people's copyright objects, until one receives a complaint or find their account blocked. As the spheres of content and blogging are quite new, there is no clear understanding or regulation in legal and judicial practice.

So the key problem that is treated in this article and needs perception is digital legacy. Nowadays, this concept doesn't have universal regulation in Russian legislation, but in practice, it means the combination of personal digital assets, such as accounts in social networks, email data, cloud storage, and funds in electronic wallets.

All these form a unique digital trace, which should be given somewhere or deleted while its possessor is dead. Now in Russia, there are no rules regarding that question. The norms of inheritance law are designed for a more classical understanding of property, and so are often not applicable to data protected by privacy policies and user agreements. Thus, access to the accounts of the dead is mostly blocked or even deleted by the platform administration due to the internal rules of IT companies, which are not obliged to take into account the interests of Russian heirs.

As a consequence, the relatives of the dead lose not only the possibility to keep a memory of their beloved — photos, videos, chat history, which could be a part of the family archive, but also something more. The greater problem sometimes lies in the loss of access to real money: accounts in electronic payment systems, investment portfolios in applications, or cryptocurrency wallets that legally and actually continue to exist, but become inaccessible to legal successors. So, the indecision of the digital legacy question leads to the situation where the successors lose not only intangible, but also tangible assets.

A clear example of such a situation that gained the attention of society and media is the story of popular blogger and traveller Nastya Tropitzel. She had active social accounts with thousands of followers and died tragically in 2020, crashing on a motorcycle [1]. Her parents, wishing to keep the memory of their daughter and probably to finish some affairs, decided to continue the accounts' activities. They were also collecting donations and money for funerals through them.

This situation raises different ethical and legal questions. On the one hand, the right to content does not seem arguable. Everything that Nastya made as the copyright objects is inherited by her parents, the successors, and they can formally dispose of such property. On the other hand, the right of access to her accounts is discussible, as by default, account passwords are personal information that is not a part of the inheritance. Moreover, social networks often directly restrict transferring usernames and passwords to anyone, even the heirs.

However, large corporations solve this situation differently: for

example, at the end of 2021, Apple Inc. released the function of data transfer after the death of the owner of their gadgets [2]. It is mportant to notice indeed that the heir is chosen while the possessor is alive, and he should give the heir the special key of access. The heir should use this code and the death certificate to appeal to Apple, and the company will give access to all iCloud data, e.g. photos, notes, calendars, etc., for three years, including backups.

In such a situation, Nastya's parents shared her previously unpublished videos kept in personal archives with the followers. From the platforms' point of view, it may be recognized as a fake account or a violation of rules, and it has also raised ethical questions among the community.

The story of Nastya Tropitzel catalyzed the discussion of the "digital legacy" concept in Russia. The leading platforms steadily introduce the account memorialization procedures, including their transfer to heirs based on the user's prior request. For example, Russian social networks "Odnoklassniki" and "VKontakte" created notes that the owner of the page had died at the end of 2020. Both platforms do it only on the basis of relatives' requests and ask for a death certificate as evidence. If the decision is positive, the page can be closed or memorialized. However, access to the data, including the chats, is not given, and it is the universal rule of both Russian and foreign websites.

The copyright law in media has become not only a narrow-industry topic, but a part of our social and private lives. The story of Nastya Tropitzel makes us think about our "digital mortality". Today, everyone who creates a post should understand that it is not only about sharing emotions but also about creating digital property, forming public history and receiving the responsibility, including for those who will someday inherit such digital traces or whose rights were used to create it. It seems that in a few years, the surrounding reality will force us to develop and adopt appropriate laws in these areas.

REFERENCES:

1. "Eto sluchilos' na moih glazah". Chto izvestno o gibeli blogershi na Bali / M24. [Electronic resource]. URL: https://www.m24.ru/articles/proisshestviya/22062020/156803 (date of access 13.04.2026).
2. Kak dobavit' cifrovogo naslednika dlya vashego Akkaunta Apple / Apple. [Electronic resource]. URL: https://support.apple.com/ru-ru/102631 (date of access 13.04.2026).

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THE LEGAL REGIME OF A FASHION SHOW

Authorship and intellectual property are tightly bond with different areas of life, and in many cases the questions risen are really difficult. One of such examples is a status of the fashion show, which seems to be a complicated copyright object.

by Elizaveta Vetrova

Fashion shows are a vital element of the modern fashion industry. Over a relatively short historical period (some researchers trace their origins to the 1860s [1]), they have evolved from simple displays of clothing on mannequins into large-scale, high-budget projects with complex organization, incorporating elements of performance art, sophisticated dramaturgy, choreography, modern technological solutions, and elaborate scenography. Despite the significant growth of the Russian fashion industry in recent years, Russian legislation does not contain any specific regulations concerning the legal status of a fashion show.

It is important to note that this issue is not sufficiently researched, not only in the Russian Federation but also abroad, even though the realities of the fashion industry demand a detailed analysis. For instance, in 2014, designer Alexander Wang publicly pointed out similarities between his Alexander Wang x H&M 2014 collection presentation and designer Philipp Plein's subsequent "sporty" collection [2].

Pursuant to Article 1225 of the Civil Code of the Russian Federation (hereinafter — the Civil Code), the list of protected results of intellectual activity is exhaustive. Initially, it is necessary to consider the legal nature of a fashion show as an object of copyright. According to Article 1259 of the Civil Code, objects of copyright are recognized as works of science, literature, and art, regardless of their merit and purpose; the list of such works is open. Despite the absence of a legal definition of a "work," legal doctrine and practice proceed from two key criteria: the presence of a creative character and expression in an objective form (Article 1257, paragraph 3 of Article 1259 of the Civil

Code) [3].

Explanations are contained in paragraph 80 of Resolution № 10 of the Plenum of the Supreme Court of the Russian Federation dated April 23, 2019, "On the Application of Part Four of the Civil Code of the Russian Federation" which states that a work is subject to protection if it has a creative character and an objective form; the creative character is presumed and does not require proof of novelty [4].

In its practice, the Intellectual Property Rights Court emphasizes the need for a minimum level of originality and the author's personal creative contribution. Results that reproduce well-known images and solutions are not subject to protection; the presence of individualizing elements indicates a creative character [5].

Regarding a fashion show, the criterion of objective form is beyond doubt: it is perceived by viewers and, as a rule, is recorded in an audiovisual form. More complex is the question of its creative character as a single object. Modern shows include a concept, direction, set design, lighting solutions, musical accompaniment, and stylization of images. Each of these elements may potentially be independently protectable, and their synthetic combination allows the show to be considered a complex object within the meaning of Article 1240 of the Civil Code, and consequently, as an object of copyright.

At the same time, recognizing any show as a work seems unjustified. If an event is limited to a standard walk of models to music without a distinct directorial concept, the creative contribution may be minimal. In such a case, likely, only individual elements are subject to protection, but not the show as an independent result.

The absence of judicial practice in the Russian Federation regarding disputes over the legal qualification of fashion shows indicates the uncertainty of the legal regime for fashion shows; therefore, it is necessary to turn to foreign experience, particularly the experience of countries where the fashion industry is historically more developed.

It is appropriate to turn to the legal experience of France as a recognized "fashion capital," specifically, to the decision of the Court

of Cassation in the case Ashby v. Gaulme, Kenzo et Lacroix [6], in which the court first recognized fashion shows as protected objects of copyright. In this case, three photographers, accredited by the French Federation of Couture, were invited by several major fashion houses to collection shows. The photographs they took were sent to Viewfinder Inc., which published them for commercial purposes on its specialized website, to which the accreditation did not extend. The Federation and the fashion houses filed a complaint, seeing this as a violation of their copyright. Ultimately, the courts ruled that fashion shows are "works of the mind" (œuvres de l'esprit), over which the fashion houses hold an exclusive right. The court also stated that a fashion show is subject to protection as a copyright work provided it bears an original character, that is, it expresses the personality of its author. However, the court in this case did not provide any explanation as to what kind of object a fashion show constitutes under French intellectual property law.

The recognition of a fashion show as an object of copyright by French courts raises an important question for the Russian legal order: does this mean that it can be recognized as such in Russia as well? To answer this question, a comparative legal analysis of the approaches of the two legal systems to the regulation of copyright objects is necessary.

From the perspective of the criteria for the protectability of copyright objects, the French and Russian approaches demonstrate similarity in regulating this issue. According to Article L.112-1 of the French Intellectual Property Code [7], any works of the mind are protected regardless of their genre, form of expression, merit, or purpose. As in Russian law, protection extends exclusively to the objective form of expression, but not to ideas. A work is recognized as original and protectable if it “bears the stamp of the author's personality”. Moreover, the aesthetic or economic value of the work does not affect the scope of the rights granted. The most significant difference, directly relevant to the issue under study, lies in the nature of the list of copyright objects. According to Article L.112-2 of the French Intellectual Property Code, the list of works is closed (exhaustive) [8]. An object can only be recognized as protected if it

falls under one of the specified categories. The Russian approach is diametrically opposite, as it provides for an open list of copyright objects in Article 1259 of the Civil Code. Based on this, one might conclude that within the Russian legal order, there are no obstacles to recognizing a fashion show as an object of copyright, since the list in Article 1259 of the Civil Code is open, making this conclusion even more logical compared to the French system. However, several remarks are necessary. The French Code contains several unique provisions that have no analogues in Russian legislation. Of greatest interest for this study is paragraph 14 of Article L.112-2, which separately establishes as an object of copyright: "creations of the seasonal industries of clothing and adornment". Such attention by the French legislator to the products of the seasonal clothing and adornment industry is explained by the economic significance of the fashion industry for France, making the recognition of a fashion show as a protected object a logical decision. Moreover, French law, having recognized a fashion show as an object of copyright in the Ashby case despite the closed list, could operate within the closed list by qualifying the show as one of the existing categories (for example, as a dramatic or audiovisual work).

Nevertheless, due to the similarity of French and Russian copyright regulation, it seems that today in Russian law, a fashion show should be recognized as a protectable object of copyright. However, in connection with the structure of Article 1259 of the Civil Code, which provides for an open list of copyright objects, it is important to determine whether the legal regime of a fashion show can be equated to one of the copyright objects whose legal regime is already established in the Civil Code, or whether it is necessary to recognize a fashion show as an object sui generis.

In legal doctrine (L.A. Novoselova, A.M. Dorofeeva [9], A.M. Davtyan [10], and others), a position is expressed on qualifying a fashion show by analogy with a theatrical and entertainment performance. This model corresponds to the structure of a complex object, enshrined in Article 1240 of the Civil Code, which allows for the combination of several results of intellectual activity within a single project. Fashion shows are inherently close to theatrical productions. Article 1240 of

the Civil Code mentions a "theatrical and entertainment performance" as a complex object, and Article 1313 of the Civil Code refers to a "performance" (spektakl) — theatrical, circus, or variety. The author shares the opinion that the legal regime of a fashion show at this stage of Russian legislation development should be equated to that of a theatrical and entertainment performance as a complex object. This is because a fashion show, like a theatrical performance, represents a complex of spectacular actions, combining the stage actions of certain persons (models, actors, dancers, etc.), sets, lighting, music, and images to convey a certain plot or idea to the audience. Recognizing a fashion show as an object sui generis, in the author's opinion, is excessive and would significantly complicate the regulation of this issue. If a fashion show is recognized as a protectable object of copyright by analogy with a theatrical and entertainment performance, numerous questions obviously arise concerning the status of the participants in the fashion show, related rights, etc. For example, following this logic, models could theoretically obtain the status of performers within the meaning of Article 1313 of the Civil Code and Article 3(b) of the Rome Convention and receive the rights arising from Article 1315 of the Civil Code. This would significantly enhance the level of their legal protection as professionals, but would complicate the process of rights distribution [11]. Furthermore, the question inevitably arises of who will be the organizer of this complex object. Additionally, it seems that at the level of judicial practice and in doctrine, specific attention will be given to the legal status of individual elements of a fashion show, such as its set design, choreographic and performative elements, stylists' works, lighting solutions, and others. Further doctrinal reflection is required on issues of co-authorship in creating a fashion show, the distribution of rights among the organizer, the director-producer, set designers, and other participants.

However, even now, it can be concluded that recognizing legal protection for a fashion show corresponds both to the nature of modern shows, which have transformed into large-scale theatrical performances, and to the needs of commerce for certainty regarding the legal regime of this phenomenon.

REFERENCES:

1. Fortini A. How the Runway Took Off. A brief history of the fashion show / Slate. [Electronic resource]. URL: https://slate.com/culture/2006/02/a-brief-history-of-the-fashion-show.html (date of access 10.04.2026).
2. Alexander Wang And Philipp Plein: Are Fashion Shows Protected By Copyright Law? / Huffington Post. [Electronic resource] URL: https://www.huffingtonpost.co.uk/tania-phippsrufus/alexander-wangs-accuses-p_b_14866376.html (date of access 10.04.2026).
3. Rozhkova M. A. 5 priznakov (kriteriev ohranosposobnosti) proizvedenij literatury i iskusstva, zakreplennyh dejstvuyushchim zakonodatel'stvom // Zhurnal Suda po intellektual'nym pravam. March 2024. No. 1 (43). P. 49-61.
4. Postanovlenie Plenuma Verhovnogo Suda RF ot 23.04.2019 N 10 "O primenenii chasti chetvertoj Grazhdanskogo kodeksa Rossijskoj Federacii" / ConsultantPlus Legal Reference System. [Electronic resource]. URL: https://www.consultant.ru/document/cons_doc_LAW_323470/ (date of access 10.04.2026).
5. Ruling of the Intellectual Property Rights Court of November 14, 2019, No. C01-1110/2019 in Case No. A40-315418/2018 / Case file of arbitration cases. [Electronic resource]. URL: https://kad.arbitr.ru/Document/Pdf/94850037-e06f-4202-ba53-2824b987a3ea/49161804-4207-47f8-9d0a-65584a4ef3f2/A40-315418-2018_20191114_Reshenija_i_postanovlenija.pdf?isAddStamp=True (date of access 10.04.2026).
6. Ashby v Gaulme, Kenzo et Lacroix: Judgment of the French Court of Cassation of February 5, 2008, cassation appeal No. 07-81.387 (Cour de cassation, criminelle, Chambre criminelle, 5 février 2008, 07-81.387) / Legifrance. [Electronic resource]. URL: https://www.legifrance.gouv.fr/affichJuriJudi.do?idTexte=JURITEXT000018095801 (date of access 10.04.2026).

7. French Intellectual Property Code № 92-597 of July 1, 1992 (Code de la propriété intellectuelle) / WIPO. [Electronic resource]. URL: http://www.wipo.int/wipolex/en/details.jsp?id=16379 (date of access 10.04.2026).
8. Lebed V. V. Creative Works as Objects of French Copyright Law // Pravo. Zhurnal of the Higher School of Economics. 2010. №. 2.
9. Novoselova L. A., Dorofeeva A. M. IIntellektual'naya sobstvennost' v shou-biznese, mode i sporte: uchebnik. Prospekt, 2021.
10. Davtyan A. M. Fashion Show as an Object of Copyright // Works on Intellectual property (Trudi po intellektualnoj sobstvennosti). 2024. Vol. 48, № 1.
11. Pavis M. Runway models, runway performers? Unravelling the Ashby jurisprudence under UK law // Journal of Intellectual Property Law & Practice. 2018. Vol. 13. P. 867–877.

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OBJECTS OF COPYRIGHT CREATED BY AI AND THE CONCEPT OF AUTHORSHIP: REDEFINING CREATIVITY FOR THE GLOBAL GOOD

Nowadays AI has become one of the actors in the arts and culture sphere, and it has raised several doctrinal and regulatory questions concerning the role of AI in creation, and the copyright of such objects.

by Sofia Ginzburg

The rapid development of artificial intelligence (hereinafter referred to as AI) technologies has raised a fundamental question for legal science and law enforcement practice about the limits of the traditional understanding of authorship. In a world where texts, images, musical works, and other intellectual creations can be generated by algorithmic systems without direct human involvement in every element of the creative process, there is a need to reevaluate the basic categories of copyright. This raises a fundamental question: can a result created by AI be recognized as an object of copyright, and if so, who owns the authorship?

This issue goes beyond a narrow sectoral dispute and requires a conceptual rethinking of the category of "creativity" in the context of ensuring the global good - access to knowledge, innovation, and cultural heritage. In the context of digital globalization, intellectual property rights must strike a balance between stimulating innovation and public interests.

Modern copyright law is based on an anthropocentric paradigm, according to which the subject of copyright can only be a human who possesses creative ability and expresses their individuality through a work. Accordingly, there is a requirement for human authorship as a necessary condition for the protectability of intellectual property.

The use of AI has already led to certain problems. For example, some artists have expressed concerns about the use of their works to train AI to create generative images and other copyrighted objects. The lack of attribution and compensation for the use of original works has been criticized. However, some legal experts believe that litigation may limit the legality of generative AI to the use of works in the public

domain or under license, which will affect all areas of AI use in production and scientific research [1].

Another problem arises in the case of completely autonomous generation, when the algorithm functions without setting a specific creative task and without subsequent intellectual processing of the result by a human being. In such circumstances, it is difficult to speak of creative contribution. Consequently, the result may fall outside the scope of copyright protection and become part of the public domain from the moment of creation. On the one hand, this approach complies with the letter of the law, and on the other hand, it promotes the free circulation of information and knowledge. The traditional approach assumes that the author is a human being, which gives them certain rights to the work. However, in a world where AI can create original works without human involvement, there is a need to reconsider this approach. In the United States, the U.S. Copyright Office has confirmed that a work generated entirely by AI without sufficient human control over the expressive elements is not eligible for protection [2]. Even detailed prompts alone do not provide the required level of creative input. A similar position was confirmed in court practice. For example, in the case of Thaler v. Perlmutter, the Court of Appeals ultimately refused to register an image created by the autonomous system "Creativity Machine," citing the lack of human authorship [3]. The court explicitly stated that the requirement of human authorship is a "bedrock requirement" of copyright law.

It should also be noted that the UK has a special arrangement. According to Section 9(3) of the Copyright, Designs and Patents Act 1988, if a work is created by a computer without a human author, the author is considered to be the person who "took the steps necessary to create the work" [4]. This approach demonstrates normative recognition of the possibility of the existence of "computer-generated works," but it has been criticized for the vagueness of the criteria for "necessary measures".

However, global practice has not reached a consensus. For example, in China, the case of Tencent v. Shanghai Yingxun Technology Company was heard, and the court protected the copyright of an

article created entirely by robotic artificial intelligence. This is the first legal precedent that allows AI to be regarded as a creative force [5]. The case involved Tencent publishing articles created by Dreamwriter automated software on business and finance topics, indicating that the report had been automatically generated. The algorithms for the AI that created the news content were developed by Tencent experts. A financial report created by Tencent was posted on an online platform operated by Shanghai Yingxun Technology Company. Since the text was generated by AI, the Shanghai Yingxun online platform considered it possible to copy it without permission. The company decided that the material compiled by AI did not have an author in the traditional sense of the word, meaning that they did not formally violate copyright law. However, the court found that the wording of the article had “a certain originality” and met the legal criteria to be classified as a written work. The form of presentation met the requirements of a written work, and its creation required the selection, analysis, and processing of relevant information. In this case, the court granted the rights to the result of the AI's activity to the company that developed the AI.

When it comes to domestic regulation, Russian civil law is based on a clearly anthropocentric concept of authorship. In accordance with Article 1257 of the Civil Code of the Russian Federation (hereinafter referred to as the Civil Code), the author of a scientific, literary, or artistic work is recognized as the citizen whose creative labour produced it [6]. A similar approach is enshrined in Article 1228 of the Civil Code, which establishes that the result of intellectual activity is recognized as the creative work of a citizen. Thus, the legislator links the emergence of copyright exclusively to the personal creative contribution of an individual. Judicial practice also tends to assess a person's contribution in the matter of copyright to objects created by AI. In one case related to DeepFake technology, the court pointed out that a neural network is only an additional tool for processing (technical editing) video materials, and not a means of creating them [7]. Accordingly, the fact that a motion designer performed technical editing of the source materials of a video using deep-fake technology does not in itself indicate that the video is

available for free use (without the consent of the copyright holder) or that the group of individuals who wrote the script for the video, video shooting, and audio accompaniment did not make a personal creative contribution to the creation of the video and are not recognized as its authors.

However, rethinking authorship in the context of AI should not be limited to the question of the distribution of rights. The category of global good — the aggregate of public interests related to access to knowledge, cultural values, and technological achievements — becomes essential.

The traditional understanding of creativity as an act of individual self-expression faces a fundamental challenge: generative AI is capable of producing objects of high aesthetic, scientific, or functional value, often surpassing the average human result. Models such as GPT, Claude, Stable Diffusion, Midjourney, Suno, and Minimax are already creating texts, images, music, videos, and code that are used in education, medicine, scientific research, and design.

Maintaining strict requirements for human authorship leads to a paradox: the most innovative, publicly available, and socially significant works (medical illustrations, educational materials, climate change visualizations) remain in the public domain or under weak protection because their creation is predominantly or entirely delegated to AI.

For the sake of the global public good, there is a pressing need to rethink the category of authorship in two ways. First, it seems necessary to introduce the category of "works created with substantial participation of AI" with a special protection regime. Such protection could be granted to the person who curates, makes the final selection, compiles, and integrates the meaning of AI-generated material. It would be advisable to reduce the term of protection (for example, to 10-25 years) and limit the scope of rights, allowing for broad fair use for non-commercial, educational, scientific, and humanitarian purposes [8]. Secondly, it is possible to create a mandatory public domain for purely AI-generated objects while introducing a compensation mechanism for rights holders whose works were used in training models. The copyright holder would be

able to opt out of having their works used in training, and in the absence of a prohibition, they would be entitled to fair compensation through collective management or mandatory licenses [9].

Thus, the development of artificial intelligence does not negate the fundamental principles of copyright, but requires their adaptation to new technological realities. Intellectual property law must evolve in such a way as to maintain its stimulating function, ensure the fair distribution of benefits, and contribute to the achievement of global good. Rethinking creativity in the age of AI involves moving away from a narrowly individualistic model and recognizing the collective, technologically mediated nature of contemporary creativity.

Ultimately, the task of legal regulation is not to protect algorithms as such, but to create conditions under which the use of AI will contribute to expanding access to knowledge, developing science and culture, and strengthening international cooperation. Only with this approach will copyright retain its legitimacy and effectiveness in the context of digital transformation.

REFERENCES:

1. A. A. Shpak, M. S. Kopceva Iskusstvennyj intellekt v mire iskusstva: avtorskoe pravo // Zhurnal SFU. Gumanitarnye nauki. 2025. №3.
2. Al-Sharieh S. Copyright Denied for Generative AI: Remarks on Thaler v Perlmutter // Utrecht Journal of International and European Law. 2025. Vol. 40(1). P. 51.
3. Copyright, Designs and Patents Act 1988, United Kingdom / WIPO. [Electronic resource]. URL: https://www.wipo.int/wipolex/en/legislation/details/23246 (date of access 10.04.2026).
4. Cao X. Shenzhen Tencent Computer Systems Co., Ltd. v. Shanghai Yingxun Technology Co., Ltd. (dispute over the ownership of copyright and infringement, commercial briberies, and unfair competition) // Annoted landmark international intellectual property cases in China, 2021-2022. 2023. P. 32.
5. Grazhdanskij kodeks Rossijskoj Federacii chast' 4 (GK RF ch.4).

6. Postanovlenie Devyatogo arbitrazhnogo apellyacionnogo suda ot 08.04.2024 N 09AP-642/2024 po delu N A40-200471/2023.
7. Rosati E.Infringing AI: Liability for AI-Generated Outputs under International, EU, and UK Copyright Law. [Electronic resource]. URL: https://doi.org/10.1017/err.2024.72 (date of access 10.04.2026).
8. Geiger C. Elaborating a Human Rights-Friendly Copyright Framework for Generative AI. [Electronic resource]. URL: https://doi.org/10.1007/s40319-024-01481-5 (date of access 10.04.2026).

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DEEPFAKES, VOICE CLONING, AND PERSONALITY RIGHTS: COMPARATIVE ANALYSIS OF LEGAL MODELS IN RUSSIA, THE EU, AND THE US

Generative AI is developing rapidly and even can imitate human's behaviour and image, including voice. Thus, a huge problem of deepfakes is rising, infringing many legal aspects from copyright and intellectual property in the world of creative industries to basic human rights.

by Arina Rusakevich

Introduction

Generative artificial intelligence has radically changed the status of visual and audio evidence, enabling hyper-realistic yet fabricated images, videos, and voice recordings. Deepfakes and voice cloning have moved from a technical curiosity to tools for political manipulation, financial fraud, non-consensual pornography, and reputational attacks, putting traditional protections of personality rights and information regulation under serious strain. This think piece examines how three major legal orders – Russia, the European Union, and the United States – are trying to address these risks: from Russia's reactive, case-based use of existing norms, through the EU's proactive, risk-based AI Act, to the United States' fragmented, speech-focused model. It argues that these approaches reflect deeper value choices about freedom of expression, innovation, security, and trust, and that the way synthetic media is regulated will directly shape the future of personality rights and democratic institutions.

I. Russian Federation: Reactive Regulation and Judicial Interpretation

The emergence of artificial intelligence technologies capable of producing hyper-realistic audiovisual fakes has opened a new chapter of challenges for legal systems around the world. In Russia, regulation of this phenomenon has so far been mostly reactive: instead of adopting special acts, the state relies on adapting existing civil and

criminal law norms. The main tools here are Article 152 of the Civil Code, which protects honor, dignity, and business reputation, and Article 128.1 of the Criminal Code, which establishes liability for knowingly spreading false information that discredits these values (defamation). In practice, this means that the creation and distribution of deepfakes are treated as a possible violation of already known legal categories rather than as a new, standalone offense. This allows authorities to respond quickly to concrete incidents, but does not ensure predictability and leaves open complex questions of authorship, liability, and personal data protection in the context of generative AI.

The Russian model of regulating deepfakes can be described as reactive and focused primarily on state and public security. It is built around a kind of "legal engineering thinking", where the system tries to solve specific problems using the legal tools already available. Rather than anticipating all possible scenarios of AI use, legislators and law enforcement react to incidents after the fact and classify them through the lens of existing concepts. On the one hand, this provides speed and a certain flexibility. On the other hand, it produces several serious drawbacks: legal uncertainty, limited effectiveness against non-political abuses (for example, financial fraud or personal harassment), and the risk that regulation will be perceived as a means of censorship and expanding state control over information under the pretext of protecting public order.

Thus, the Supreme Court's decision was an important signal, but it did not eliminate the need for a more comprehensive and forward-looking legislative strategy that would adequately respond to the diverse challenges of deepfakes and voice cloning.

II. European Union: A Comprehensive Risk-Based Approach

Compared with Russia's reactive stance, the European Union offers almost the opposite model: a proactive, comprehensive, and risk-based regulation of AI. Its culmination is Regulation (EU) 2024/1689, adopted on June 13, 2024, and in force since August 1, 2024, which became the world's first comprehensive framework for AI systems in

all 27 member states. The EU does not simply apply old norms to new technology but is building a new legal ecosystem specifically tailored to fast-moving AI. The goal is not to block innovation but to stimulate it in a safe way, thereby strengthening Europe's position in the global AI market.

One of the defining features of the EU approach is the clear legal definition of key concepts such as "deepfake." Under Regulation 2024/1689, this is "image, sound, or video content created or modified using AI that imitates existing persons, objects, places, events, or other facts and can convincingly appear authentic or truthful to a human being". Such precision helps unify legal practice and removes much of the ambiguity that often arises in court. The EU's strategy is not to ban all dangerous technologies, but to build a system of transparency and risk management, based on proportionality and flexibility. AI systems are divided into risk classes: minimal restrictions for low-risk systems, strict requirements for high-risk ones, and complete bans for some uses (for example, social scoring or certain manipulative systems).

The AI Act pays special attention to synthetic content, including deepfakes and voice cloning. One of its key requirements is that developers and users must label generated content, with labels that are visible, easily readable, and persistent, so that people can reliably distinguish authentic material from synthetic. This measure, which will be detailed in a Code of Conduct, is intended to tackle the erosion of trust in digital information. If "seeing is believing" no longer works in a world of convincing fakes, labeling becomes a tool for protecting the right to informed decision-making. By clearly indicating that a user is interacting with artificial content, regulation aims to restore some control over the information environment and reinforce trust in media, science, and democratic institutions.

In this sense, the European model can be seen as an attempt to combine technological progress with the protection of fundamental rights, guided by the principle of human-centered AI. It fits into the EU's broader ambition to shape global standards of digital regulation, where security, privacy, and personal autonomy take precedence over the uncontrolled spread of new technologies.

III. United States: Decentralized Model and Free Speech Constraints

In contrast to the centralized European model, the United States follows a third, distinct path: a decentralized system firmly rooted in the constitutional protection of freedom of speech. At the federal level, there is still no single law that directly and comprehensively regulates deepfakes. This is largely due to the historical balance between competing interests, where the First Amendment, guaranteeing freedom of expression, plays a central role. Courts applying this amendment are generally reluctant to limit any kind of speech, assuming that even offensive or misleading statements deserve protection unless they clearly amount to threats or defamation. As a result, the US legal landscape is a patchwork of state-level laws with very different scopes and effectiveness.

One of the most cited examples is California's AB-602, which has been in force since 2020. It allows victims to bring civil claims against those who distribute sexually explicit deepfakes created without their consent. This was a significant step toward protecting individuals from non-consensual pornography, one of the most traumatic uses of deepfake technology. Yet the law is narrowly focused: it does not cover reputational attacks, financial scams, political disinformation, or parodies. In precisely these areas, courts often face a hard choice between safeguarding personal rights and upholding the strong free-speech tradition.

Many state laws have already encountered serious constitutional challenges. Courts tend to strike down or narrowly interpret attempts to regulate political or satirical deepfakes, treating them as protected speech. This creates significant gaps in legal protection: a person whose identity is used in a fake video about their political views or a business person whose voice is cloned for fraudulent transactions may have almost no effective remedy. Some states are trying to expand protections through new bills, but these initiatives run into pressure from free-speech advocates and the difficulty of drafting laws precise enough not to violate constitutional guarantees. Ultimately, the American model, deeply influenced by the priority of freedom of expression, generates legal uncertainty and leaves many

victims vulnerable in a situation where technology clearly outpaces the law. This reflects a broader philosophy of the US legal system, which prefers to tolerate some degree of error and ambiguity rather than impose strict rules that might later be used for censorship.

IV. Global Implications: Erosion of Trust

The influence of deepfake and voice cloning technologies goes far beyond specific cases and national laws, affecting something much more basic: trust in information and the stability of democratic institutions. The possibility of creating hyper-realistic yet completely fabricated video and audio undermines the long-standing belief that visual and auditory evidence is objective. When any recording can be faked, and spotting fakes requires special expertise, society risks slipping into generalized skepticism. People begin to doubt what they see and hear, whether these are news, politicians' speeches, or even family videos. This erosion of trust makes it extremely difficult to conduct meaningful public debate and to build opinions on a shared factual basis.

The OECD has highlighted the scale of the problem in a recent report. According to its data, media reports about AI-related incidents have more than tripled since 2022, with deepfakes singled out as one of the key concerns. These technologies are increasingly viewed as powerful tools for manipulating public opinion, particularly ahead of major political events. A vivid illustration is the deepfake phone call purporting to be from President Joe Biden, intended to undermine confidence in the voting process. Such cases show that deepfakes are not a distant hypothetical threat but a real instrument of disinformation, character assassination, and electoral interference. In some geopolitical contexts, they are already treated as a weapon of information warfare.

The risks are not limited to politics. Deepfakes are also used in corporate fraud, financial crimes, and personal attacks. Studies in Europe show that in 2024, the use of AI-generated deepfakes to create pornographic content grew by 118%, while 49% of companies in certain countries reported fraud attempts using audio and video

deepfakes. North Korean hackers, for instance, have used convincing voice fakes of executives to gain access to cryptocurrency funds. There are more subtle harms as well, such as attempts to manipulate witnesses by using deepfakes that make them doubt their own memories and testimony. Taken together, these trends form a picture in which trust—arguably the core fabric of social life and institutional functioning—is under systematic pressure. In parallel, the development of large language models raises concerns about information overload and the risk that "truth" may become too expensive, while fabricating lies will remain cheap and easy.

V. Conclusion: Competing Governance Models in the Digital Age

The legal struggle against deepfakes and voice cloning is not only a technical or doctrinal issue; it exposes deeper differences in values and governance models across regions. Comparing Russia, the EU, and the US reveals three distinct paradigms that offer different answers to the same challenge. Russia's reactive model relies on the reinterpretation of existing norms and focuses on maintaining state and public order, as illustrated by the Supreme Court's 2026 decision. This approach is flexible and fast, but it also generates legal uncertainty and can easily be perceived as a tool for tightening control over information flows.

The European model, embodied in Regulation (EU) 2024/1689, takes the opposite route by building a proactive, risk-oriented, and human-centered regime. It tries to balance innovation and fundamental rights, using precise definitions and mandatory labeling of synthetic content to preserve trust in the digital environment.

The aim is to create a transparent and predictable system in which advanced technologies evolve within clear boundaries designed to protect safety and privacy. By contrast, the American model, shaped by strong First Amendment protections, remains decentralized and fragmented, leaving many situations either under-regulated or trapped in long constitutional disputes. Citizens thus often lack reliable legal tools against abuses ranging from fraud to reputational damage.

So, the choice among these models is not just about regulatory technique but also about what kind of digital future societies want to build. The way leading powers decide to regulate deepfakes and voice cloning will determine the future of individual rights, the resilience of public trust, and the robustness of democratic institutions. Ultimately, the success or failure of each strategy will show whether humanity can learn to use powerful AI tools without sacrificing its belief in truth and justice.

REFERENCES:

1. Khanal K., Koirala A. Deepfakes: Ethical and Legal Implications Across Business, Politics and Society / Reshaping Journalism and Communications With AI. IGI, 2025.
2. Olasiyan A., Olasiyan T. Synthetic Data, Deepfakes, and Voice-Cloning in AI: Legal and Ethical Implications and the Regulatory Challenge / Legal and Ethical Issues of AI Media. 2024.
3. Arkhiereev N.V. Artificial intelligence: its concept and characteristics // The rule-of-law state theory and practice. 2025. Vol. 21 (3(81).
4. Pashentsev E. N. et al. Malicious Use of AI and Challenges to Information-Psychological Security in the BRICS Countries: Report 2024. International Center for Social and Political Studies and Consulting, 2024.
5. North Korean hackers attack crypto specialists via deepfake video calls / Investing.com. [Electronic resource]. URL: https://ru.investing.com/news/cryptocurrency-news/article-3081779 (date of access 10.04.2026).
6. Fragele M., Grilli V. Deepfake, Deep Trouble: The European AI Act and the Fight Against AI-Generated Misinformation / Columbia Journal of European Law. 2024.
7. Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) // Official Journal of the European Union. 2024. L 196/1.

8. Generative AI and Copyright: study / European Parliamentary Research Service. [Electronic resource] URL: https://www.europarl.europa.eu/RegData/etudes/STUD/2025/774095/IUST_STU(2025)774095_EN.pdf (date of access 10.04.2026).
9. AI Act : Shaping Europe's digital future // European Commission. [Electronic resource]. URL: https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai (date of access 10.04.2026).
10.Rules for trustworthy artificial intelligence in the EU [Electronic resource] // European Union. [Electronic resource]. URL: https://eur-lex.europa.eu/EN/legal-content/summary/rules-for-trustworthy-artificial-intelligence-in-the-eu.html (accessed: 10.02.2026).
11.Regulation (EU) 2024/1689 on artificial intelligence (AI Act) / Akeuropa. [Electronic resource]. URL: https://www.akeuropa.eu/sites/default/files/2025-03/KI%20Verordnung%20-%20ENG.pdf (date of access 10.04.2026).
12.New Updates for 05-Feb-2026 / Lexology. [Electronic resource]. URL: https://www.lexology.com/library/detail.aspx?g=d32b3525-2986-4620-88ed-8384c0ac1080 (date of access 10.04.2026).
13.Regulation of Generative AI: Legal Analysis and Risks for the Russian Federation. Yakov i partnery, Aliyans v sphere iskusstvennogo intellekta, 2024.
14.The Limits of AI Data Transparency Policy: Three Disclosure Fallacies / arXiv. [Electronic resource]. – URL: https://arxiv.org/pdf/2601.18127 (date of access 10.04.2026).
15.Generative AI Outlook Report [Electronic resource] / Joint Research Centre. Luxembourg : Publications Office of the European Union, 2024. [Electronic resource]. URL: https://publications.jrc.ec.europa.eu/repository/bitstream/JRC142598/JRC142598_01.pdf (date of access 10.04.2026).
16.Assembly Bill No. 1856 : Policy Committee Analysis / California Legislative Information. [Electronic resource]. URL: https://billtexts.s3.amazonaws.com/ca/ca-analysishttps-leginfo-legislature-ca-gov-faces-billAnalysisClient-xhtml-bill-id-202320240AB1856-ca-analysis-371381.pdf (date of access 10.04.2026).

17.Trends in AI incidents and hazards reported by the media : report / OECD. [Electronic resource]. URL: https://www.oecd.org/content/dam/oecd/en/publications/reports/2026/02/trends-in-ai-incidents-and-hazards-reported-by-the-media_7c824ca9/4f5ff43c-en.pdf (date of access 10.04.2026).
18.Deepfake detection in generative AI: A legal framework proposal to protect human rights / Computer Law & Security Review. [Electronic resource]. URL: https://www.sciencedirect.com/science/article/pii/S2212473X25000355 (date of access 10.04.2026).
19.Children and deepfakes : briefing / European Parliamentary Research Service. [Electronic resource]. URL: https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/775855/EPRS_BRI(2025)775855_EN.pdf (date of access 10.04.2026).

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PROBLEMS OF USING ARTIFICIAL INTELLIGENCE TO CREATE AND PROCESS MUSICAL COMPOSITIONS

AI today seems to be practically an integral part of human lives, and it influences the terms of creativity in all its manifestations. One of the popular spheres of AI generation is music, and here rise the questions of authorship, copyright and intellectual property rights infringement.

by Diana Samokhina

AI learning

Artificial intelligence (AI) is rapidly infiltrating all areas of our lives, and the music industry is not an exception. This trend raises questions not only about the potential risks of devaluing human creativity, but also about the copyright of AI-generated music. The use of AI in the music industry challenges modern lawyers on many issues: the authorship and ownership of exclusive rights to the created object, the legality of using someone else's music to teach AI, deepfakes, the difficulty of determining the “necessary creative contribution” for the protection of a work, plagiarism of AI of other people's compositions, the mass of “spam” tracks. This article is devoted to the analysis of key issues related to the use of AI for the creation and processing of musical compositions.

Many modern AI models for music creation are learning from the masses of existing musical works, which leads to potential violations of copyright. In 2024, the group of record companies, including Sony Music Entertainment and Warner Records, sued Suno and Udio for using the music for AI learning without permission. The plaintiffs stated that the defendants were copying the intellectual property of their artists for AI and that they imitate through the process of further generation. This dispute was resolved by the conclusion of a licensing agreement between the parties, and therefore did not clarify the regulation of AI, but, nevertheless, highlighted the urgency and unresolved problems even among the music giants.

Hereby, it is worth noticing that the court’s approach will also depend on the legal system’s attitude to the doctrine of fair use.

Thus, in the Bartz v. Anthropic case, the American court considered the use of books without permission for AI learning lawful if they had been bought legally. It is mentioned also that the copyright objects are not copied but analyzed for the AI learning without posing a threat to copyright holders' sales (Case No 1:24-cv-04777). On the contrary, the German court satisfied GEMA's lawsuit against OpenAI in 2025 (Case No I 42 O 14139/24), having admitted that ChatGPT uses the songs' texts of GEMA unlawfully, without licensing. The Chairman judge of the court noted that "both the memorization in the language models and the reproduction of the song lyrics in the chatbot's outputs constitute an infringement of copyright exploitation rights. These are not covered by any restrictions, in particular the restriction on text and data mining".

It is impossible not to agree that this is one of the stumbling blocks. The legislator and the law enforcer, establishing the AI regulation, have to choose one of the priorities: inviolability of copyright law or the support of technical progress. Different levels of the perception of the fair use doctrine are one of such examples of state politics in law. The mentioned cases are extremely important for the industry as they determine the rules of the game in their regions and illustrate the ambiguity of existing approaches.

The AI application by the user

Traditionally, authorship is attributed to a human who puts effort and personal expression into the work creation. However, while AI is generating music, this process differs a lot, and the human effort also varies. It may be minimal (just making a request) or more significant (accurate setting of the prompt, editing of the results). It seems that while evaluating the work, it is necessary to use the "four-step test", proposed by the European Commission [1]. Thus, the object should relate to literature, science or art, the user should put in the intellectual efforts, the work should demonstrate the creative choice of the author, and this choice should be presented in the final result.

The next arising question lies in the field of the ownership of rights to the AI-generated music. In doctrine, there are several approaches concerning the ownership of the results of intellectual activity: the

rights are in the public domain. Nevertheless, in any case, the commercial disposal of the created works should be based on the user agreement, which, as a rule, contains a direct indication of the possibility or prohibition of such use without the permission of the developer.

Still, the global practice demonstrates a very careful attitude to the generated tracks. Thus, for example, according to the Guideline for the sportsmen from 17.11.2025, published on the website of the 2026 Olympiad, the tracks used by figure skaters should be created without any AI. It is supposed that the reason for such limits is the trend towards copyright protection and the desire of sports organizations to prevent hypothetical lawsuits from not entirely obvious copyright holders.

The confirmation of such a tendency to limit the excessive distribution of music made by AI may be seen in Spotify's policies updated in September 2025. The company stated that it was concerned about “mass uploads, duplicates, SEO hacks, artificially short track abuse, and other forms of slop” [2]. Spotify did not restrict the uploading of the AI-generated music but introduced several rules. These are the necessities of marking the use of AI, the prohibition of using someone else's generated voice without appropriate permission, and the removal of “spam” AI tracks.

Thus, the lack of proper legal regulation of AI and the controversial ownership of objects created with it make it difficult for bona fide musicians to use such an instrument.

Violations when applying AI by the user

Globalization and digitalization provoke the unlawful spreading of music works, infringing copyrights. For example, by the end of 2025, the video of the generated track “Rasskazhi Snegurochka” (Tell, the Snowmaiden), has gained 20 million views in two weeks and produced many copies on various social networks. At the same time, the simple author mentioning of the original text was not enough, and the track was deleted from all music platforms due to a complaint from the copyright holder. Later, the dispute was settled by an agreement

between the parties, but, nevertheless, it must be recognized that in the age of the Internet, it seems difficult to promptly stop the mass distribution of illegally created AI tracks.

Another frequent violation in the musical sphere is voice deepfakes, which refers to an audio recording that mimics the voice of a specific person. The situation is more complicated here due to the lack of voice protection legislation in some states. That leads, in our opinion, to malpractice when the goal of additional monetization is pursued through the images of popular performers. For example, in 2023, the so-called unreleased song by Drake and The Weeknd went viral online, which later turned out to be an AI product. With the further development of AI, it will be more and more difficult to distinguish technical fakes from human creative works, which creates a critical risk both for labels that have exclusive rights to the content of their artists and for the musicians themselves, who will be subject to full-fledged replacement by technology.

Conclusion

Today, the legal regulation of AI has started to gain its future features. On January 22, 2026, the world's first law, "On the development of AI and the formation of a Trust Base", came into force in the Republic of Korea, suggesting the need to label AI content and impose fines for violations. The necessity of introducing such marks also appears in other states. According to the Russian draft law concerning AI, the use of AI will be an aggravating circumstance in the commission of crimes, which is especially important, for example, for deepfakes.

Nevertheless, neither world practice nor doctrine has reached a consensus on many of the above issues. It is supposed that the lack of clarity slows down further technological development and creates risks both for AI users and copyright holders of musical works in case they are a basis for generation. At the same time, radically opposite approaches to copyright regulation in the field of AI create strong inequality between authors and the risk of spreading forum shopping. We believe that it is necessary to strive for universal regulation.

UK Music insists on the introduction of the following principles of legal regulation: for AI training, no exceptions should be made to copyright; identification and accounting of source data are necessary when creating music; copyright should not arise without human creativity; labeling of AI content should be mandatory; special attention should be paid to suppressing voice copying in order to protect the right to identity and prevention of fraud. We believe that while the issue of ownership of the rights to the creator or the owner of the AI really should be resolved by agreement between them, otherwise, these UK Music principles can be used as the basis for a universal convention on the discussed issue.

REFERENCES:

1. European Commission. Trends and Developments in Artificial Intelligence. Challenges to the Intellectual Property Rights Framework / IVIR. [Electronic resource]. URL: https://www.ivir.nl/publicaties/download/Trends_and_Developments_in_Artificial_Intelligence-1.pdf (date of access 10.04.2026).
2. Brian Hiatt. Spotify Embraces AI Music With New Policies, While Combating 'Spam' and 'Slop'. / Rolling Stone. [Electronic resource]. URL: https://www.rollingstone.com/music/music-features/spotify-not-banning-ai-music-new-guidelines-1235434946/ (date of access 10.04.2026).

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THE USE OF ARTIFICIAL INTELLIGENCE IN THE LEGAL PROFESSION: PROBLEMS, TRENDS, AND PRACTICE

It is quite well-known that AI changes not only culture, but also employment sphere, challenging humans and their capabilities. It is also important for the legal profession, analyzing information and document drafting.

by Maria Zagorskaya

The development of artificial intelligence has become one of the key factors in the transformation of professional activity in the 21st century. The legal field is no exception. If a few years ago the use of AI was perceived as an experiment or an auxiliary tool, today large language models are actively used to analyze case law, prepare legal opinions, edit contracts, draft procedural documents and conduct legal research. Fundamental questions arises: how does the use of AI change the nature of legal activity and what are the legal consequences of creating legal documents using it?

1. AI in the structure of legal activity

Legal activity in the scientific literature is defined as a set of legitimate, purposeful actions of subjects aimed at creating, implementing and protecting legal norms [1, 34]. It includes rulemaking, law enforcement, counseling, and human rights work. In practice, this is reflected in the preparation of procedural documents, legal positions, expert opinions and other legally significant texts. The use of AI in this area is primarily instrumental. As R.M. Yankovsky notes, modern language models make it possible to automate a significant part of a lawyer's textual work, from editing and structuring text to searching for arguments and analyzing legal sources [2, 6]. However, the model does not have legal consciousness and does not "know" the law in a meaningful sense; it generates the text based on the statistical probability of a combination of words. This leads to the problem of so-called "hallucinations" — plausible, but actually unreliable statements [2, 7]. Therefore, AI cannot be

considered as an independent subject of legal activity. It acts as an auxiliary tool that enhances the intellectual capabilities of a specialist.

2. Authorship of legal documents created using AI

One of the most controversial issues remains the problem of authorship of the results created with the help of AI. Russian civil legislation enshrines the personalistic concept of authorship: the author is recognized as the person whose creative effort created the work (art. 1257 of the Civil Code of the Russian Federation).

A.B. Arzumanyan emphasizes that currently the question of authorship for objects created by AI systems remains open, however, in cases where a person takes at least minimal part in creating a result, authorship is recognized for him [3, 25]. Artificial intelligence does not have legal personality and cannot be recognized as an independent copyright holder.

In this regard, it is advisable to distinguish between several models of human-AI interaction when creating legal documents:

- AI as a technical tool: the model is used for editing or structuring text: the lawyer's creative contribution is obvious;
- Collaborative generation: AI generates a significant amount of text, which is then processed and corrected by humans;
- Automatic generation: the text is created based on a short query with minimal user intervention.

D.A. Kazantsev suggests a differentiated approach to evaluating the results of AI activities, pointing out that such results are not a single object of legal regulation and require different legal qualifications depending on the degree of human participation [4, 910]. In the context of legal documents, the presence of creative control and conscious processing of the result remains crucial.

Thus, under the current legal regulation, the author of a legal document created with the use AI is recognized as the person who selects, edits, and approves the text.

3. Responsibility and professional risks

The use of AI in legal practice also raises questions of responsibility. A lawyer cannot refer to the algorithm as the source of the error. The responsibility for the content of the document remains on the specialist.

In addition, there are risks associated with data confidence and compliance with professional standards. The transfer of client information to the model may involve issues of attorney-client privilege and personal data protection.

The scientific literature emphasizes that AI should be considered as a creative tool, and not as a subject of law [4, 910]. This means that liability and legal personality are reserved for a person. A similar position can be traced in foreign approaches to AI regulation, where the emphasis is on the principle of human-centered AI — the priority of human control over algorithmic systems.

4. Regulatory trends

International practice demonstrates various models of AI regulation. The European Union has adopted a comprehensive AI Act [5] that introduces a risk-based approach to regulation and transparency requirements for synthetic content.

In the United States, regulation is more fragmented and relies on constitutional guarantees of freedom of expression. In 2017, a conference was held in California, which resulted in the formulation of the so-called Azilomar Principles — 23 provisions on the responsible development and application of artificial intelligence [6]. These recommendations are aimed at ensuring that AI technologies are used for the benefit of society and do not pose threats to humans. The Principles address a wide range of issues, from safety and research integrity to transparency, fairness, and international cooperation. Among the key provisions there are requirement to ensure the reliability and security of AI at all stages of its life cycle, the rejection of the destructive technological race between states and the emphasis on cooperation in developing secure solutions, as well as the principle of maintaining human control over intelligent systems. It is emphasized that even the most advanced algorithms

should remain tools under human control and responsibility. Although the Azilomar Principles are not legally binding, they have become a kind of ethical guideline for researchers, developers, and companies working with AI. Their appearance was largely due to the growing concern about the possible negative consequences of the introduction of algorithmic systems.

In Russia, regulation is developing mainly by adapting existing regulations. The issue of the legal status of the results created by AI remains the subject of scientific discussion [4, p. 910].

5. The future of the legal profession

The spread of AI inevitably transforms the structure of legal work. Routine tasks will be automated, and the skills of analysis, task setting, and critical evaluation of results will increase in importance. However, it is premature to talk about replacing lawyers with algorithms.

AI does not have the capacity for value interpretation, normative assessment, and decision-making based on the social context. These elements remain inherently human. Consequently, the future of the legal profession is not about replacing a specialist with a machine, but with the formation of a new model of interaction in which AI acts as a tool, and responsibility and authorship remain on the lawyer.

The use of AI in legal activities carries risks, especially ethical ones. The issue of ethics became particularly acute after the publication of studies that revealed cases of algorithmic bias. In particular, an analysis of facial recognition systems used by US law enforcement agencies has shown that such technologies are more often mistaken when identifying people of African descent, often wrongly associating them with offenses [8]. This demonstrates the dependence of the algorithm quality on the structure of the training data, and the risk of reproducing social stereotypes in digital form. Problems are also found in corporate practice. The example of Amazon was widely discussed, where the automated personnel selection system, created to optimize recruiting, actually favored male candidates [8]. The reason was the historical bias of the data on which the model was

trained, which led to the reproduction of the gender imbalance in the algorithmic solution. These examples have shown that the implementation of AI requires not only technological, but also ethical assessment. Even in the absence of a direct intention to discriminate, algorithms are capable of reinforcing existing social inequalities if mechanisms for monitoring, verifying and correcting their work are not provided.

Thus, if we consider certain errors in the documents made by AI, who should be responsible? AI itself cannot bear legal liability, so should we put the responsibility on the AI user or the developer? This issue remains to be resolved in practice.

Conclusion

The use of artificial intelligence in the legal sphere has become a part of modern professional practice. It increases the efficiency of work, but does not negate the key principle of copyright — the recognition of the author as a person who has made a creative contribution. Artificial intelligence remains an instrument of intellectual activity, not its subject.

The main challenge is to ensure a balance between technological efficiency and maintaining professional responsibility. In this context, the future of the legal profession is determined not by the algorithms, but by the lawyer's ability to maintain control over technology and ensure the quality of a legal result.

REFERENCES:

1. Arzamasov Y.G. Priroda yuridicheskoj deyatel'nosti // Leningradskij yuridicheskij zhurnal. 2007. No. 3 (9). P. 33-52.
2. Yankovsky R.M. Ispol'zovanie II v rabote yurista. Prakticheskoe rukovodstvo. NOUTS, 2025.
3. Arzumanyan A.B. Avtorstvo na ob"ekty, sozdannye pri pomoshchi iskusstvennogo intellekta: opyt Rossii i inostrannyh gosudarstv // Vestnik yuridicheskogo fakul'teta Yuzhnogo federal'nogo universiteta. 2023. Vol. 10. № 4. P. 23-31.

4. Kazantsev D.A. Copyright on the results of artificial intelligence activities and methods of their protection // Journal of Digital Technologies and Law. 2023. Vol. 1. No. 4. pp. 909-931.
5. The EU Artificial Intelligence Act / European Union. [Electronic resource]. URL: https://artificialintelligenceact.eu (date of access 10.04.2026).
6. Asilomar AI Principles (2017) / Future of life institute. [Electronic resource]. URL: https://futureoflife.org/open-letter/ai-principles/ (date of access 10.04.2026).
7. Contemporary forms of racism, racial discrimination, xenophobia and related intolerance (Human Rights Council, Fifty—sixth session, June 18-July 14, 2024) // Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance Ashwini K.P. Available at: A/HRC/56/68 General Assemblyunited Nations Digital Library Systemhttps://digitallibrary.un.org " A_HRC_56_68-RU. P. 5.
8. Amazon Shuts Down AI Hiring Tool for Being Sexist (2018) / Global citizen. [Electronic resource]. URL: https://www.globalcitizen.org/en/content/amazon-ai-hiring-sexist/ (date of access 10.04.2026).

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THE IMPACT OF ARTIFICIAL INTELLIGENCE ON THE THEORY OF SIMULTANEOUS INVENTIONS IN THE PHARMACEUTICAL INDUSTRY AND ITS LEGAL IMPLICATIONS

Patents and copyright in medicine, especially in pharmacy is one of the sharpest topics. In the era of AI the question has become more problematic due ti the use of generation models ans their participation in inventing process.

by Varvara Gracheva

In recent years, legal doctrine has proposed the concept of the General Theory of Authorship, which is considering the intellectual property system through the figure of the author rather than focusing exclusively on the result of intellectual activity. The author of this concept, M. A. Fedotov, emphasizes that authorship is most clearly reflected in both copyright law and patent law [1].

At the same time, the substance of authorship differs between copyright law and patent law. Copyright law largely retains traces of the romantic concept of the author, whereas in patent law authorship is characterized by a more objectified approach. This difference becomes particularly clear in determining when intellectual property rights come into existence. Under Russian law, copyright arises automatically upon the creation of a work in an objective form, granting authorship and rights without formalities. In stark contrast, establishing inventorship for a patent is a complex and procedurally challenging endeavor.

These challenges become most apparent when similar discoveries are made by scientists working independently of each other at the same time. Such instances are known in patent law as «parallel inventions» (also referred to as «simultaneous inventions»). According to statistics [2], about 10-11% of all patents participate in the so-called patent race, when two creators' race to invent and get a legal monopoly for their invention. Sociologists Ogburn W. F. and Thomas D. explained this phenomenon not by a lack of originality in inventions or by questioning the justification for protection, but as the pattern in science [3].

As a scientific field cumulates to a certain level of development, it becomes likely that researchers, who do not possess the same freedom of creative thought as artists, and rely on already established scientific foundation, make parallel and independent discoveries. Ogburn and Thomas noted that an element of chance retains in who reaches the discovery first, that is who first conceives of the inventive idea, who performs the intellectual or creative work that is ultimately protected [3].

The issue of such parallel inventions is particularly acute in the pharmaceutical industry. For decades, the development of new drugs has been a long and labor-intensive process, involving the screening of chemical compounds in search of those that demonstrate the desired therapeutic effect. This process is also extremely costly, with the price of bringing a new drug to market estimated at around $2.6 billion [4]. As a result, pharmaceutical companies have a strong incentive to patent their new drugs faster than their competitors in order to recoup the resources invested.

In such situations, a fundamental dilemma arises: which of the independent creators should be granted a patent? Two main approaches have emerged to resolve this issue. The first, which has become widely adopted, is the «first-to-file» system, whereby the priority is given to the applicant who first files the patent application receives priority. This model ensures predictability and formal certainty. The second approach is the «first-to-invent» system, which better reflects the romantic concept of the author, as the one who first created the invention receives priority. So, priority is determined based on the actual date of creation, even if the application was filed later. In this way, the focus shifts from the speed of filing the application to the substantive act of inventing.

Beyond the question of establishing priority, simultaneous inventions raise doubts regarding the fulfillment of the non-obviousness (or inventive step) criterion for patentability. According to this criterion, an invention must not be an obvious development to a skilled person in the art having regard to the state of the art: if two independent persons make the same invention, it casts reasonable doubt on whether the invention was truly obvious to specialists. For

example, in the United States, there is no consistent judicial practice on whether only evidence of simultaneous invention is sufficient to establish obviousness.

For example, in In re Merck [5], the invention of a method for using amitriptyline to treat depression was deemed obvious, as it was demonstrated that four independent research groups discovered the compound's antidepressant properties simultaneously and independently. According to this approach, the invention resulted from external factors, such aскак «such as a new or newly identified problem, or new technology that for the first time renders the alleged invention feasible or desirable» [6].

In another case, Hybritech Inc. v. Monoclonal Antibodies, Inc. [7], the court disagreed with the lower court, which had based its decision on patent invalidity, concerning an immunometric «sandwich assay» for determing the presence of antigens in body fluids, solely on evidence of simultaneous invention. The court held that the mere fact of parallel inventions cannot automatically indicate obviousness, and that conclusion must be based on a consideration of all relevant circumstances.

In the near future, this issue may become even more complex and systemic due to the active integration of artificial intelligence into drug development processes. AI is already being integrated into these processes. For example, in 2020 a study was published detailing how researchers used an AI system to identify a new potent antibiotic, which proved effective against several bacteria [8].

As demonstrated in the DABUS case, AI itself is not recognized as an inventor in most jurisdictions. The United States Patent and Trademark Office (USPTO) [9] has established that inventions created with the assistance of AI may be eligible for patent protection. To be considered patentable, a human must make a significant contribution to the creation of the invention, and AI cannot be listed as an inventor on a patent application. In evaluating the significance of such contributions, the criteria established for joint inventorship, known as the Pannu factors, are recommended. Furthermore, practical strategies have been developed to safeguard patent rights when employing AI, including assessing patentable inventions according to

the human inventorship standard, thoroughly documenting human contributions and developing specialized AI systems [10].

Thus, artificial intelligence does not refute the thesis of Ogburn and Thomas but, on the contrary, brings the objective pattern in science they described to its logical extreme. Pharmaceutical companies are increasingly deploying similar AI technologies, utilizing overlapping datasets, and relying on analogous algorithmic approaches, which makes it more likely that different actors will independently reach similar discoveries. The element of chance identified by the sociologists now shifts from the realm of discovery itself to the realm of bureaucracy: it persists only in determining who will be the first to formalize an idea and file an application.

As a result, parallel inventions in the pharmaceutical industry are becoming a systemic feature of the innovation process rather than exceptional occurrences. This shift necessitates a reevaluation of traditional legal concepts such as inventorship, patentability criteria, and the allocation of exclusive rights.

REFERENCES:

1. Fedotov M.A. The Introduction into the Concept of General Theory of the Authorship // Trudi po Intellectualnoy Sobstvennosti (Works on Intellectual Property). 2023. Vol. 46 (3). P. 42.
2. Thompson N. C., Kuhn J. M. Does Winning a Patent Race lead to more follow-on Innovation? // Journal of Legal Analysis. 2020. Vol. 12. P. 187.
3. Ogburn W. F., Thomas D. Are inventions inevitable? A note on social evolution // Political science quarterly. 1922. Vol. 37. №. 1. P. 98.
4. Generative AI Can Design Drugs. But Can It Own Them? / DrugPatentWatch. [Electronic resource]. URL: https://www.drugpatentwatch.com/blog/generative-ai-can-design-drugs-but-can-it-own-them/ (date of access 10.04.2026).
5. In re Merck, 800 F.2d 1091 (Fed. Cir. 1986).
6. Holman C. M. The Role of Objective Indicia in Assessing the Nonobviousness of Pharmaceutical Inventions // Biotechnology Law Report. 2018. Vol. 37. №. 1. P. 14.

7. Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1379, 231 USPQ 81, 90 (Fed. Cir. 1986).
8. Powerful antibiotic discovered using machine learning for first time / The Guardian. [Electronic resource]. URL: https://www.theguardian.com/society/2020/feb/20/antibiotic-that-kills-drug-resistant-bacteria-discovered-through-ai (date of access 10.04.2026).
9. Inventorship Guidance for AI-Assisted Inventions / Federal Register. [Electronic resource]. URL: https://www.federalregister.gov/documents/2024/02/13/2024-02623/inventorship-guidance-for-ai-assisted-inventions (date of access 10.04.2026).
10.Patentability Risks Posed by AI in Drug Discovery / Ropesgray. [Electronic resource]. URL: https://www.ropesgray.com/en/insights/alerts/2024/10/patentability-risks-posed-by-ai-in-drug-discovery (date of access 10.04.2026).

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About the UNESCO Chair on Copyright, Neighboring, Cultural and Information Rights

The International Scientific and Educational Center "UNESCO Chair on Copyright, Neighboring, Cultural and Information Rights" (abbreviated as "UNESCO Chair at the HSE University") was built by the decision of the Academic Council of the HSE University in October 2020 under the Agreement between UNESCO and the National Research University Higher School of Economics (HSE University) dated August 7, 2020.

The Center traces its history back to the UNESCO Chair on Copyright and Other Intellectual Property Rights, established by initiative of the Permanent Representative of the Russian Federation to UNESCO in 1993–1998, Ambassador Extraordinary and Plenipotentiary of the Russian Federation (ret.), Doctor of Legal Sciences, Professor Mikhail A. Fedotov. The Agreement on the organization of the UNESCO Chair based on the A.S. Griboyedov Institute of International Law and Economics (IMPE, now — A.S. Griboyedov Moscow University) was signed on June 12, 1998. In 2009, the Chair, on the UNESCO Secretariat approval, was relocated to the HSE University.

The UNESCO Chair is a scientific and educational structural subdivision of the HSE University. It participates in the worldwide network of the UNITWIN/UNESCO Chairs Program.

The program works based on the decision of the 26th session of the General Conference of UNESCO (1991). The Program focuses on inter-university cooperation at the global and regional levels of education, science, culture, and communication. The UNITWIN/UNESCO Chairs Program currently unites more than 1000 Chairs and 45 specialized chair networks in 125 countries.

All over the world, UNESCO Chairs, acting in the spirit of academic solidarity, stimulate sustainable ties between universities and institutions, governments, local authorities, business circles, civil society, etc.

The fundamental principle of the UNITWIN/UNESCO Chairs Program is an equal partnership of universities, which, through the UNESCO Chairs, initiate and implement various projects within its

framework, respecting university autonomy and academic freedom.
The UNESCO Chair at the HSE University specializes in copyright, neighboring, cultural and information rights, including the legal regulation of cyberspace, artificial intelligence technologies, and transhumanism. The Chair cooperates with the relevant divisions of the UNESCO Secretariat, particularly the Sector of Culture and the Sector of Information and Communication. The Chair cooperates with the UNESCO Institute for Information Technologies in Education and the Commission of the Russian Federation for UNESCO.

The UNESCO Chair realizes versatile research, education, consulting, and expert activities in the field of freedom of creativity and freedom of expression, legal and ethical aspects of information pluralism. The Chair works on the progress of the informational society and multilingualism in cyberspace. The Chair toils on overcoming the digital divide, transhumanism technologies, and the impact of artificial intelligence on social and legal institutions. All this requires the stable functioning of an open discussion platform for the exchange of opinions, discussion of ideas, transfer and popularization of scientific knowledge.

Since 1999, the UNESCO Chair has published a quarterly scientific and analytical journal named Works on Intellectual Property (www.tis.hse.ru).

The journal publishes scientific articles and analytics, book reviews, and expert opinions on a wide range of IP problems and the modern information ecosystem. Among the topics that attract the attention of the authors and readers of the journal are topical issues of copyright and neighboring rights, other intellectual property rights in the context of digitalization, as well as cultural and information rights in the context of UNESCO conventions and recommendations. The list embraces human rights in the digital age, legal regulation of cyberspace, mass communications, digital platforms and ecosystems, artificial intelligence technologies, and transhumanism. The journal published based on the Agreement between UNESCO and the National Research University Higher School of Economics. Since 2014 the journal presented in the List of peer-reviewed scientific publications publishing the main scientific results of dissertations for

the degree of Candidate of Science for the degree of Doctor of Science (the List of Higher Attestation Commission under the Ministry of Education and Science of Russia). The journal is indexed by the Russian Science Citation Index (RSCI) and the Russian Center for Scientific Information (RCSI).

The latest issue and archive of the journal are on the website of the UNESCO Chair: https://hse.ru/unesco/tis; and on the journal web page https://tis.hse.ru/

The UNESCO Chair at the HSE University also publishes a monthly newsletter "Sreda", distributed free of charge in electronic form by subscription. The newsletter contains information about normative legal acts coming into force, drafts of new laws, decrees and resolutions, precedent judicial decisions, past and upcoming scientific conferences, seminars, forums, etc.

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