

The risk of overprotecting human content creators

Stronger laws on human-authored works could be overly protectionist. Any changes to the law should consider three factors.

Ben Chester Cheong

Imagine two designers producing essentially the same advertising image.

One spends four hours developing the concept, drawing it and revising it. The other uses artificial intelligence to brainstorm and generate several initial concepts, then spends an hour selecting and reworking one into a final image.

Which one seems more deserving of being awarded copyright?

For many of us, the instinctive answer may still be the first. After all, the designer devoted more time and effort to the work – without any assistance from AI.

Indeed, creative works often require time, skill and investment to produce. This is an economic consideration central to copyright law. Copyright gives creators control over certain uses of their work, including who may copy, publish, communicate or adapt it. That exclusivity helps creators recover their investment, and gives them an incentive to create in the first place.

But generative AI changes that economic calculation. A business that once commissioned a designer to develop advertising concepts can now use AI to generate numerous initial alternatives within minutes. The same goes for stock-style images that could previously have required commissioning a photographer or illustrator.

In August, the Ministry of Law and Intellectual Property Office of Singapore launched a public consultation on how AI should affect Singapore's intellectual property regime. Among the issues being considered are the nature of human creativity in AI-assisted works, and how human contribution should be understood, recognised and evidenced.

Speaking at the launch of the public consultation, Law Minister Edwin Tong noted that while Singapore wants to promote rather than stifle innovation, the rights of creators must also be considered and balanced.

The Government is also reviewing whether the existing exception allowing copyrighted works to be used for computational data analysis, including AI training, continues to strike the right balance.

In striking that balance, we should be careful that any new or stronger rights for works created by humans do not become overly protective. Could we end up placing an outsize premium on human-authored works?

THE IMPLICATIONS FOR SOCIETY

If the law becomes overly protective of human-generated works, society could lose some of the benefits that AI brings. Should copyright rules make it harder to use existing works to train AI, developing AI tools could become more expensive.

There are already real-world examples of the wider benefits of allowing computers to analyse copyrighted material. Google Books, for example, digitised millions of books and made their contents searchable. A US court found that this augmented public knowledge while showing users only limited extracts, rather than enough of the book to replace the original.

Singapore's own copyright law recognises this. Its computational data analysis exception allows lawfully accessed works to be used for activities such as text and data mining and machine learning, specifically to support research and innovation.

AI can also lower the cost of experimentation, allowing more people to test and develop more ideas. That wider experimentation matters because creative breakthroughs often emerge from trying many possibilities, not simply from investing more hours in a single work.

A study published in 2025 found that when graphic designers used generative AI during the early ideation stage, it significantly improved the creativity of their designs by helping them explore a wider range of possibilities.

But we also should not swing

too much to the opposite side. AI-generated works with limited human involvement should not automatically enjoy the same copyright protection as works created through substantial human creativity.

Copyright gives its owner the power to control certain uses of a work. Someone who wants to reproduce or adapt protected material may need permission or may have to pay for a licence.

That can be justified where exclusivity is needed to encourage creation – such as if a designer needs to invest time and effort at the beginning. But it also has a cost: Every additional right can make material harder or more expensive for others to use.

Consider stock images. A creator could use AI to generate hundreds of usable images with minimal input. If each automatically attracted copyright, one person could acquire a large portfolio of exclusive rights despite contributing little creative judgment.

That could increase licensing and clearance burdens for businesses and other creators without a corresponding need to incentivise the production of those images.

TIME, SKILL AND EFFORT NOT ENOUGH

As it stands, the law itself shows no human bias. The fact that a human spent far longer producing something should not by itself justify stronger protection.

In 2017, the Court of Appeal delivered its judgment in a long-running lawsuit where telephone directory publisher Global Yellow Pages alleged that a competitor, Promedia Directories, had infringed copyright by using material from its telephone

directories.

Global Yellow Pages had invested considerable time and expense in collecting, verifying and organising subscriber information. But the Court of Appeal rejected the idea that such “sweat of the brow” was enough, by itself, to establish originality.

The case ultimately showed that time and effort does not equate to copyright-worthy creativity. It's especially relevant in an age of abundant AI-generated output.

In this context, the US Copyright Office provides a useful basis for what counts as sufficient copyright-worthy creativity. It has said that providing prompts is generally not enough. But copyright may protect human-authored elements where a person creatively selects, arranges or modifies AI-generated material – such as incorporating an AI-generated image into a wider hand-drawn illustration. Ultimately, copyright is not a prize for effort or authenticity. It is meant, among other things, to give creators an economic incentive to create.

Any changes to the law should therefore not place an unnecessary premium on work created by humans, simply because of the “sweat of the brow” that went into it.

A MIDDLE GROUND?

As AI becomes more widely used, copyright policy will need to preserve meaningful incentives for human creativity without treating human effort itself as a reason for stronger protection. At the same time, works generated largely by AI should not automatically enjoy the same protection as genuinely human-authored works.

Therefore, in considering any

possible changes to our intellectual property regime, there should be a middle ground. There are three factors we should consider.

First, copyright should not become stronger merely because a work requires more human time or effort. The main consideration should remain the originality of the final product, not the amount of labour invested in producing it.

Second, for copyright to be extended to works created with the assistance of AI, protection should depend on meaningful human creative control over the final product. Relevant factors could include substantial editing, arrangement, composition, iterative direction or incorporation of independently created material. A bare prompt, choosing one output from several, or making minor cosmetic changes should not by itself be enough.

Third, where meaningful human creative control is absent, substantially machine-generated output should remain outside copyright. Singapore should also be cautious about creating new or expanded rights for such output unless there is evidence that additional exclusivity is needed to encourage production.

That evidence should include whether the output remains costly to produce, whether stronger rights are needed to sustain production, and whether comparable substitutes are already readily available through AI.

There should also be clear guidance on these thresholds, so creators know when AI remains a tool and when too much of the final expression has been supplied by the machine for copyright to attach.

The aim should be to maintain protection where it continues to serve a clear creative and economic purpose, without extending exclusivity further than necessary.

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