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D.C. Circuit Court Rules That Artificial Intelligence Cannot Solely Author Copyrightable Works

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The U.S. Court of Appeals for the District of Columbia Circuit recently affirmed that artificial intelligence (AI) cannot be the sole author on a copyright-registered work, but questions still remain as to the future of AI authorship.

In a March 18, 2025 decision, the Court held that the Copyright Act of 1976 precludes AI from being the sole author of a federally copyrighted work but left questions about the future of AI authorship in copyright for Congress to resolve.

How Did We Get Here?

In the mid-1990s, Dr. Stephen Thaler invented a generative AI tool called the Creativity Machine. Not only has the AI tool been patented (in a now-expired U.S. Patent No. 5,689,666), but Dr. Thaler attempted to expand the AI's intellectual property rights by using it to create an image, "[A Recent Entrance to Paradise](#)."

When Dr. Thaler applied to federally register the work, he listed the Creativity Machine as the sole author, while he was the sole claimant/owner. He further characterized the role of the Creativity Machine by noting that the work was "[c]reated *autonomously* by machine" in the application.

The Copyright Office denied the application, citing its long-standing regulation that a human being must create a work for it to be eligible for federal copyright registration, and Dr. Thaler appealed, citing constitutional, statutory, and policy arguments.

Creative Arguments Before the Court

The Copyright Office rooted its human-authorship requirement in the Constitution's Intellectual Property clause (Art. I, § 8, cl. 8.). The Court reminded Dr. Thaler that constitutional intellectual property protections exist not to protect authors, but to benefit the public, by encouraging the creation of art; prohibiting sole AI authorship does not impede these protections or benefits.

Dr. Thaler tried two alternative arguments. First, under the work-made-for-hire doctrine, Dr. Thaler argued that he should be the author and owner of the work authored by the AI tool, trying to compare it to instances where entities who are non-human, artificial persons immediately gain authorship of a work under this doctrine by hiring the author. While the U.S. Copyright Office rejected this argument due to a lack of a contract between Dr. Thaler and the Creativity Machine, and the district court rejected it due to a lack of conveyable interest given the ineligibility for copyright registration, the Circuit Court went a step further: under this doctrine, a non-human entity is merely *considered* to be the author but does not *become* the author itself, preserving the requirement that a work-made-for-hire, like other copyrightable works, must first be created by a human author.

Second, Dr. Thaler asserted, for the first time at the district court, that the work was copyrightable because he provided instructions and directed the AI. This was rejected given Dr. Thaler's previous representations about the Creativity Machine's autonomous generation.

Human Authorship Remains a "Bedrock Requirement" of Copyright Law

Ultimately, the Court of Appeals relied on contextual applications of the Copyright Act of 1976, noting that the Copyright Office has long required human authorship – even in the late 60s and early 70s, when it began examining authorship questions in light of developing computer technology, by focusing on whether the work was one of *human authorship* with computer *assistance*.

While the Copyright Act does not define the term "author," courts use statutory interpretation to preclude machine-authored works from registration. The Court pointed out that provisions of the Copyright Act only make sense if an author is a human being. For example, intellectual property rights, including copyright registrations, are at their core, *property* rights that are transferable via a signed agreement or upon death to their surviving spouses or heirs. Authors under the Copyright Act gain copyright protection immediately upon the creation of the work, and for a length of time in relation to the author's life (i.e., during the author's life and for 70 years thereafter). Thus, a non-human entity that cannot own property, sign a transfer agreement thereof, get married or have children, and does not have a measurable lifetime period, cannot be an author. The Court also rejected the idea of "joint" authorship with AI, since that requires an "intention that [two or more authors] contributions be merged into inseparable or interdependent parts of a unitary whole," but AI lacks the mind to have such an intention.

The Court made it clear that the text of the Copyright Act requires that generative AI can merely assist a (human) author as a tool, and nothing more.

Open Questions for the Future

As the Court procedurally rejected Dr. Thaler's argument about being the true author by merely using the AI tool, relying on his early admission that AI autonomously generated the work, it reserved the substance of this issue for another day. Determining the extent and type of sufficient creative input from a human author using an AI tool to transform a work into one that is copyrightable will require additional guidance from the Copyright Office and courts.

By relying on the Copyright Act, the Court left open a future legislative path toward AI authorship. It would take more than simply widening the definition of "author" to include machines, as the Act's provisions require substantive revisions to be workable in the context of a non-human author. However, the Court declined to pave the way for such changes itself, instead explicitly inviting both Congress and the Copyright Office to tackle these issues when they (properly) arise elsewhere.

In the meantime, if you have any questions about copyright registration and infringement, please contact [Ed Lanquist](#), [Scott Douglass](#), [Aaron Chaloner](#), [Dominic Rota](#), [Wesley Barbee](#), or [Paulluvi Henley](#).