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## GUEST COLUMN

## From Code to Canvas: The Intellectual Property Debate in Generative AI Creations

**The rise of generative AI challenges traditional intellectual property laws by raising unresolved questions about who owns AI-generated content – the developer, the user or no one – forcing legal systems to adapt while grappling with fundamental questions about creativity, ownership and responsibility.**

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Imagine a scenario where an artificial intelligence (AI) tool crafts a novel. The plot is intricate, the characters are well-developed and the narrative is compelling. It becomes a bestseller. But who gets the credit? The developer of the AI? The user who ran the program? Or does no one own it because it's the product of a machine?

In the rapidly evolving world of technology, generative AI stands out as a marvel. It's a tool that can create content, from music to literature and even art. But as with all innovations, it raises a slew of legal questions. At the heart of these questions is a fundamental one: Who owns the rights to artificial intelligence-generated content?

### The current landscape of intellectual property rights

Historically, intellectual property (IP) rights have been designed to protect human creators. Copyright laws, for instance, safeguard the rights of authors, musicians and artists, ensuring they receive recognition and financial compensation for their work. These laws are rooted in the idea that creativity is a uniquely human trait.



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However, the emergence of generative AI challenges this notion. If a machine can produce content that resonates with human audiences, doesn't it deserve some form of protection or recognition? This is where the waters become murky.

### Ownership dilemmas in the age of AI

The primary challenge with AI-generated content is determining own-

ership. Traditional IP laws are ill-equipped to handle creations that don't have a human author. Some argue that the developer of the AI should be the rightful owner since they created the tool. Others believe that the user, who might have finetuned the AI or provided it with specific inputs, should hold the rights. And then there's a third perspective that AI-generated content should be in the public domain, free for anyone to use.

Each viewpoint has its merits. If developers hold the rights, it could incentivize more advancements in AI technology. On the other hand, giving rights to users might encourage broader adoption and innovative uses of AI tools. Making AI-generated content a public domain would ensure that the content remains accessible to all, fostering a collaborative and open environment.

## The philosophical angle: What constitutes creativity?

The debate over AI and IP rights isn't just a legal one; it's deeply philosophical. At its core, it forces us to grapple with the question: what constitutes creativity? Historically, we've associated creativity with human experiences, emotions and consciousness. But with AI producing content that can rival human-made works, this definition is under scrutiny.

Some argue that true creativity requires intent, emotion and a unique human touch. They posit that while AI can mimic patterns and produce content, it lacks the soul and essence that make art truly resonate. Others counter that if the end product evokes emotion or serves a purpose, the process or source shouldn't matter. Does the perspective of ownership change if the analysis centers around written word versus AI-generated images or music?

## Ethical considerations: The responsibility of AI use

Beyond the legal realm, the rise of generative AI to generate content also brings forth ethical considerations. If an AI creates content that is harmful, misleading or inappropriate, who bears the responsibility? The developer? The user? Both? Or is it dismissed because "it's just a machine"?

Furthermore, as AI tools become more accessible, there's potential for misuse. Without proper guidelines and regulations, AI could be used to spread misinformation, create fake news or even produce deepfakes, blurring the lines between reality and fiction.

## Adapting copyright laws for the AI era

To address the unique challenges posed by AI, there's a pressing need to adapt existing copyright laws. One proposal is to introduce a new category of IP rights specifically for AI-generated content. This would recognize the distinct nature of such creations, separating them from human-authored works.

Another suggestion is to grant a limited form of copyright to AI-generated content. This would provide some protection, but not to the same extent as human creations. The rationale is that while AI can create, it doesn't possess emotions, intentions or consciousness, which are integral to human creativity.

Within any suggested protection, further questions remain on how or if the level of human creation within AI, such as revisions to AI created works, will change the level of protection granted to the works.

## Potential legal pitfalls and opportunities

For legal professionals and company executives, understanding the evolving landscape of AI and IP rights is crucial. Using AI to generate content can offer immense benefits, from cost savings to rapid content production. However, it's essential to tread carefully.

Without clear legal guidelines, companies risk potential lawsuits. For instance, if an AI tool inadvertently creates content similar to an existing human-authored work, it could lead to accusations of copyright infringement. On the flip side, companies that develop AI tools might find themselves in legal battles if users profit significantly from the generated con-

tent without adequate compensation or recognition to the developers.

However, it's not all gloom and doom. The evolving nature of AI and IP rights also presents opportunities. Forward-thinking companies can position themselves as pioneers, advocating for fair and progressive IP laws that benefit all stakeholders. By actively participating in the dialogue and collaborating with legal experts, businesses can help shape the future of AI and IP rights in a way that fosters innovation while ensuring justice and fairness.

## Conclusion

The intersection of generative AI and intellectual property rights is complex and dynamic. As AI continues

to advance and play a more significant role in content creation, the need for clear, fair and adaptable IP laws becomes paramount.

While challenges abound, they also offer a chance for reflection. They force us to reconsider the essence of creativity and ownership in the digital age. As we navigate this legal labyrinth, it's essential to approach the topic with an open mind, embracing the possibilities that AI offers while ensuring that the rights of all stakeholders are protected and celebrated.

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