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LEGAL REGULATION OF AI-GENERATED WORKS: A COMPARATIVE ANALYSIS

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The purpose *of the article is to provide a comprehensive comparative legal analysis of the regulation of AI-generated works across selected jurisdictions, including the United States, the United Kingdom, Japan, Ukraine, the European Union, Canada, China, and Australia, in order to identify common trends, key divergences, and potential directions for the harmonization of intellectual property law in the context of artificial intelligence.* ***Research methods:*** *combination of general scientific and special legal methods. In particular, the method of comparative legal analysis was employed to examine differences in national approaches to the regulation of AI-generated works across various jurisdictions. The method of documentary analysis was applied to the examination of legislative acts, judicial decisions, and policy documents governing intellectual property and artificial intelligence. In addition, the methods of synthesis and generalisation enabled the formulation of conclusions regarding current trends and future prospects in the legal regulation of AI-generated works.* ***Results:*** *the main legal approaches to determining the legal status of works created by artificial intelligence differ significantly depending on the jurisdiction; however, in most legal systems, the principle of human authorship remains a mandatory prerequisite for granting legal protection. At the same time, a considerable degree of legal uncertainty has been identified regarding issues of authorship, ownership rights, and liability for the use of such outputs.* ***Discussion:*** *the legal regulation of artificial intelligence and AI-generated works is currently undergoing active development in many countries. At the same time, the absence of unified international standards creates significant divergences in national approaches and may complicate the cross-border use of AI-generated content.*

Keywords: *artificial intelligence; intellectual property; AI-generated works; copyright; computer-generated works; comparative legal regulation.*

Problem statement and its relevance. Artificial intelligence has transformed the production of creative content in literature, music, visual arts, software, and technical innovations. Modern generative AI systems operate with minimal human intervention, producing outputs autonomously based on trained models and algorithms. This technological evolution challenges the traditional premises of intellectual property law, which generally presupposes human creativity as the basis for legal protection [1].

The rise of AI-generated works challenges the very foundations of how we think about creativity and ownership. Traditional ideas of authorship and intellectual property struggle to account for creations that emerge without direct human input. While it may seem tempting to extend legal protections to these autonomous outputs, doing so raises

deeper questions about the purpose of copyright and whether it should remain a system designed to recognize human ingenuity.

International bodies, including the World Intellectual Property Organization (WIPO), have recognised AI's multifaceted impact on intellectual property but have refrained from prescribing uniform legal standards. Instead, WIPO advocates for balanced frameworks that promote innovation while maintaining legal certainty and protecting human authorship [2].

Despite growing doctrinal and policy discussions, AI-generated works remain legally uncertain in most jurisdictions. This uncertainty complicates practical questions about copyright registration, licensing, enforcement, and commercial exploitation of AI outputs. The present study seeks to provide a comprehensive comparative analysis of legal approaches to AI-generated works across the United States, United Kingdom, Japan, Ukraine, the European Union, Canada, China, and Australia. It examines statutes, case law, administrative guidance, policy initiatives, and scholarly commentary to identify trends, divergences, and potential harmonisation strategies.

Analysis of recent research and publications. Since artificial intelligence has become widely integrated into everyday activities and increasingly involved in the creation of outputs that may qualify as objects of intellectual property, both Ukrainian and foreign scholars have begun to address issues of comparative legal regulation in this field. In particular, such analysis can be found in the works of O. Tumoshenko, A. Babenko, Byungun Yoon, Alesia Zhuk and Satish Kumar. Nevertheless, the scope of scholarly research on this topic remains relatively limited.

The purpose of the article is to provide a comprehensive comparative legal analysis of the regulation of AI-generated works across selected jurisdictions, including the United States, the United Kingdom, Japan, Ukraine, the European Union, Canada, China, and Australia, in order to identify common trends, key divergences, and potential directions for the harmonization of intellectual property law in the context of artificial intelligence.

Presentation of the main material of the research. The United States maintains a strict human authorship requirement for copyright protection. Section 102(a) of the Copyright Act (17 U.S.C. § 102(a)) limits protection to "original works of authorship fixed in any tangible medium of expression", presupposing human creative input. Authorship is interpreted to require human intellectual contribution; works generated entirely by machines without sufficient human involvement do not qualify for protection [3].

The seminal case on AI authorship in the U.S. is Thaler v. Perlmutter. Stephen Thaler sought copyright registration for A Recent Entrance to Paradise, created autonomously by his "Creativity Machine". The district court denied registration, ruling that the work lacked a human author as required by the Copyright Act. The D.C. Circuit affirmed, reinforcing that U.S. copyright law presupposes human creativity. The Supreme Court's refusal to grant certiorari solidified the precedent [4].

The U.S. Copyright Office provides further guidance, stating that works created by a non-human agent are ineligible for registration unless there is "sufficient human involvement" in the creative process [5]. Human involvement can include selection, arrangement, or editorial decisions that materially influence the final output.

Requiring a human author gives some legal clarity, but it also limits the commercial exploitation of AI-generated works. Companies and creators often face practical difficulties in attempting to meet the formal requirements for copyright registration. It is also questionable whether AI-created outputs deserve their own kind of intellectual property protection, especially now that AI can independently produce sophisticated works.

The United Kingdom occupies an intermediate position between the strict human authorship model of the United States and more flexible frameworks elsewhere. The key statutory provision addressing non-human generated works is Section 9(3) of the Copyright, Designs and Patents Act 1988 (CDPA), which states: "In the case of a literary, dramatic, musical, or artistic work which is computer-generated, the author shall be taken to be the person by whom the arrangements necessary for the crea-

tion of the work are undertaken" (CDPA, 1988, s.9(3) [6].

This definition explicitly acknowledges the role of computational processes and permits the legal recognition of works produced autonomously by AI, provided that a human has undertaken the arrangements or arrangements necessary for the creation of the work.

Although case law directly addressing AI-generated works in the UK is limited, legal doctrine and administrative guidance provide some clarity. In University of London Press v. University Tutorial Press (1916), the courts emphasised originality and skill in human-authored works; although not AI-related, the principles of human contribution underpin later interpretations of authorship in computer-generated works [7].

In 2021, the UK Intellectual Property Office (IPO) conducted consultations to evaluate whether Section 9(3) adequately addresses outputs from generative AI systems. The consultation noted that AI developments blur the line between superficial human input and meaningful creative direction, raising questions about the sufficiency of the "arrangements" criterion [8].

The UK government has emphasised balancing innovation and legal certainty. The IPO's consultations explore whether reforms are necessary to accommodate highly autonomous AI systems, including establishing criteria for human oversight and direction, clarifying the scope of "computer-generated work", and ensuring that copyright protections do not stifle innovation or competition [8].

Japan's approach to AI-generated works balances traditional copyright principles with a pro-innovation policy orientation. The Copyright Act of Japan remains grounded in the principle of human authorship. Specifically, Article 2(1) defines a work as a creation that expresses thoughts or sentiments in a creative way and falls within the literary, scientific, artistic, or musical domain. While the Act presumes human authorship, Japan has introduced exemptions for data analysis and machine learning, facilitating AI development. Article 30-4 allows the use of copyrighted works for research purposes, including reproduction for machine learning, without constituting infringement [9].

Japan has actively integrated AI regulation within broader technological and economic strategies. Two key policy documents illustrate this orientation. The AI Strategy 2022 promotes the responsible development of AI technologies, emphasizing transparency, accountability, and human oversight. It recognises AI's potential to generate creative works while underscoring that outputs should remain attributable to human guidance or selection processes [10]. Complementing this, the Intellectual Property Strategic Program identifies AI-generated works as a critical area for intellectual property policy, encouraging legislative flexibility to ensure AI-driven innovation can flourish without undermining existing copyright principles [11].

Works produced by AI may be considered derivative if human selection, supervision, or creative decision-making influences the final output. Additionally, reproductions or databases used for AI training are generally permissible under statutory exemptions, enabling broad access to data without constituting copyright infringement [9].

While copyright law remains fundamentally grounded in human creativity, the combination of statutory exemptions, flexible interpretation, and policy guidance allows AI-assisted innovation to thrive. Japan's model is therefore both permissive and precautionary, supporting technological development while preserving the conceptual core of copyright. It also fosters private sector innovation and aligns with Japan's broader industrial objectives, including its ambition to become a global leader in AI-driven creative industries [10; 11].

Ukraine occupies a distinctive position in the global landscape of AI regulation, combining traditional copyright principles with sui generis protections and comprehensive administrative guidance. The Law of Ukraine "On Copyright and Related Rights", adopted in 2022, modernises the Ukrainian copyright regime to reflect digital realities while retaining the fundamental principle of human authorship. Under this law, traditional copyright protection is granted only to works created through human intellectual effort, consistent with established international norms and the requirements of the Berne Convention. However, the legislation also incorporates sui generis protections for certain non-traditional works, such as databases or curated

collections, which involve substantial investment and organization even if they do not meet the threshold of originality under conventional copyright standards [12].

This sui generis framework is particularly relevant to AI-generated content. In cases where AI autonomously produces outputs that would not qualify for standard copyright protection, the law permits recognition of the underlying datasets, compilations, or organized collections through sui generis rights [12]. Such a model parallels the European Union's sui generis database protection under Directive 96/9/EC [13], which Ukraine has sought to approximate in its legislative alignment with EU intellectual property standards. The sui generis protection ensures that significant investment in the creation or maintenance of a structured dataset is recognized, providing a form of legal security and incentivising the development of AI-generated collections.

Alongside legislative reforms, Ukraine's Ministry of Digital Transformation has released the Concept of AI Development in Ukraine. This document details the objectives, principles, and tasks that will steer the country's initiatives in the AI sector. As stated in the Concept, the use of AI is allowed only when it maintains the rule of law, respects fundamental human and citizen rights and freedoms, upholds democratic values, and provides adequate safeguards for the implementation of AI technologies [14].

Despite the legislative and policy frameworks, judicial practice in Ukraine has yet to address disputes involving AI-generated works directly. This absence of case law creates a degree of legal uncertainty concerning the boundary between human intervention and autonomous AI output. Nevertheless, the combination of sui generis provisions and Ministry of Digital Transformation guidelines provides a flexible legal space for innovation. It allows creators and organizations to deploy AI technologies responsibly while maintaining core principles of copyright law [12; 14].

From a comparative perspective, Ukraine's hybrid approach demonstrates an effort to reconcile multiple objectives: safeguarding human creativity, promoting innovation, aligning with European Union standards, and addressing the unique challenges posed by AI. The sui generis model ensures that significant investment in AI-generated datasets is recognized, while the administrative guidance provides practical mechanisms for ethical and accountable AI deployment. Together, these measures position Ukraine as a forward-looking jurisdiction that seeks to balance technological advancement with legal certainty and human oversight [12].

The European Union occupies a distinctive position in the regulation of AI-generated works, combining traditional intellectual property frameworks with emerging policy and regulatory instruments specifically addressing AI technologies. EU copyright law is primarily grounded in the principle of human creativity, as reflected in Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society (InfoSoc Directive) [15]. The directive establishes the foundational rules for copyright protection across member states, reaffirming that copyright subsists in original works of human authorship. In parallel, the Database Directive 96/9/EC introduces a sui generis right for databases that reflect substantial investment in obtaining, verifying, or presenting their contents, regardless of whether the database satisfies the originality threshold for conventional copyright. This sui generis protection is particularly significant in the context of AI-generated outputs, as it allows legal recognition of structured datasets or compilations created or maintained through significant human and financial resources [13].

Beyond copyright, the European Union has initiated policy and regulatory measures that directly address the development, deployment, and governance of AI systems. The EU Artificial Intelligence Act establishes a risk-based regulatory framework for AI systems operating within the EU. The Act categorizes AI applications according to their potential risk to fundamental rights and societal interests, imposing stricter obligations on high-risk systems, including requirements for transparency, human oversight, accountability, and robustness. Although the Act does not redefine intellectual property rights per se, it creates a complementary governance structure to ensure responsible AI deployment across member states [16].

Canada maintains a copyright framework closely aligned with the United States, emphasising the principle of human authorship as a prerequisite for legal protection. Under Section 5(1) of the Canadian Copyright Act, copyright subsists in "original literary, dramatic, musical and artistic works" that result from human intellectual effort. The Act does not recognize autonomous AI as capable of authorship, reflecting the North American model's strict adherence to human creativity [17].

While no landmark Canadian court case has specifically addressed AI-generated works, the Canadian Intellectual Property Office (CIPO) has issued policy statements clarifying its approach. CIPO guidance indicates that works created by a non-human agent are ineligible for copyright registration unless there is demonstrable human creative input. Human involvement must be substantial and original, including choices about structure, style, selection, or arrangement of content generated by AI [18].

Canada's national AI strategy, articulated through the Pan-Canadian Artificial Intelligence Strategy and related policy documents, focuses on fostering innovation while ensuring ethical development, transparency, and accountability. The strategy emphasizes that AI deployment should be guided by principles of human oversight and responsible use, complementing the copyright framework by providing guidance for AI-assisted creative works. Although Canada does not extend copyright to autonomous AI, the policy environment encourages the development of AI technologies that operate under human supervision, including in creative industries and research applications [19].

Canada's model illustrates the paradigm of strict human authorship, shared with the United States, in contrast to more flexible systems such as the United Kingdom or Japan. By requiring substantial human involvement, Canadian law preserves the economic and normative foundations of copyright. Canada's regulatory environment demonstrates the importance of balancing legal certainty with technological advancement. While human authorship remains a core requirement, ethical AI deployment policies and structured guidance for AI-assisted works provide mechanisms for innovation without undermining the conceptual integrity of copyright [17; 18; 19].

The comparative study of AI-generated works across multiple jurisdictions reveals both convergence and divergence in the treatment of authorship, ownership, and legal recognition. Across the United States and Canada, a strict human authorship requirement predominates. In these jurisdictions, copyright subsists only when a work reflects human creativity, and outputs generated entirely by autonomous AI are categorically ineligible for protection. Case law, such as Thaler v. Perlmutter in the United States, reinforces this principle, demonstrating that courts uphold the policy rationale of incentivizing human intellectual effort and preserving the economic foundations of copyright. Similarly, Canadian law explicitly requires demonstrable human contribution [4; 5; 17; 18].

In contrast, the United Kingdom and Japan have adopted more flexible statutory models. The UK recognizes the human actor responsible for the arrangements necessary to create a computer-generated work as the author, enabling limited legal recognition of outputs produced with substantial AI autonomy (CDPA, 1988, s.9(3)). Japan retains the traditional human authorship requirement but supplements it with policy measures and statutory exemptions that facilitate AI development, including the use of copyrighted works for machine learning and flexible interpretation of human involvement [6; 9]. Both jurisdictions illustrate a pragmatic adaptation to technological realities, maintaining human accountability while allowing AI-assisted innovation.

Ukraine presents a hybrid model, integrating traditional copyright, sui generis protection, and administrative guidance from the Ministry of Digital Transformation. This approach allows legal recognition of AI-generated datasets and curated collections under sui generis provisions while emphasizing ethical deployment and human oversight [12; 14].

The European Union itself emphasizes risk-based governance and ethical AI deployment, rather than directly extending copyright to autonomous AI outputs. The EU AI Act and directives such as the InfoSoc Directive and Database Directive establish transparency, human oversight, and accountability

as core regulatory principles [13; 15]. The EU model influences member states and aligned jurisdictions, including Ukraine, promoting sui generis protections for datasets and emphasizing ethical governance of high-risk AI systems [12].

China offers a pragmatic approach that combines strict human authorship with policy-driven flexibility. While the Copyright Law of the People's Republic of China does not recognize machines as authors, administrative guidance permits registration and commercialization of AI-generated works that are substantially shaped or supervised by humans. National initiatives such as the New Generation Artificial Intelligence Development Plan (2017-2030) illustrate China's commitment to technological leadership, supporting innovation while retaining core intellectual property principles [20].

Across these diverse systems, several common themes emerge. First, human oversight and accountability are universally emphasized as essential to the lawful creation, registration, and commercial exploitation of AI-generated works. Second, jurisdictions differ in their adaptation mechanisms: some employ strict human authorship, others rely on statutory flexibility or sui generis rights, and some incorporate policy guidance to facilitate innovation. Third, sui generis frameworks for datasets or AI-generated collections have become a preferred tool for jurisdictions seeking to balance innovation incentives with traditional copyright principles, reflecting the growing economic importance of data-driven AI outputs. Finally, policy and regulatory guidance complements statutory law, particularly in emerging AI contexts where judicial precedent remains limited, providing practical mechanisms for ethical deployment and risk management.

Comparatively, Ukraine stands out for its integration of traditional copyright, sui generis protections, and explicit Ministry of Digital Transformation guidance, positioning it as a model for transitional jurisdictions seeking harmonization with EU standards while fostering domestic innovation [12; 14]. In contrast, strict North American regimes offer clarity but may constrain AI development, while the EU, Japan, and China demonstrate a spectrum of flexible approaches balancing human authorship, ethical oversight, and innovation facilitation [3; 9; 16; 17; 20].

Conclusions. The comparative analysis of legal approaches to AI-generated works demonstrates that contemporary copyright systems remain fundamentally grounded in the principle of human authorship. Jurisdictions such as the United States and Canada adhere to a strict model, under which legal protection is granted exclusively to works reflecting human intellectual effort. This approach ensures doctrinal clarity and preserves the traditional objectives of copyright law; however, it simultaneously limits the legal recognition and commercial exploitation of fully autonomous AI-generated outputs. As a result, a growing gap emerges between technological capabilities and existing legal frameworks.

At the same time, a number of jurisdictions, including the United Kingdom, Japan, and the European Union, have adopted more flexible and adaptive models. These systems do not abandon the requirement of human involvement but reinterpret it through concepts such as "arrangements," human oversight, or substantial contribution. Additionally, the increasing use of sui generis protection, particularly in relation to datasets and AI-generated collections, reflects an effort to provide legal safeguards for investments in AI development without fundamentally redefining authorship. Such approaches demonstrate a pragmatic balance between fostering innovation and maintaining the conceptual integrity of copyright law.

Ukraine's legal framework illustrates a hybrid and forward-looking model that integrates traditional copyright principles with sui generis protections and policy guidance on ethical AI use. This approach aligns with European legal standards while accommodating the practical realities of AI development. Overall, the global trend suggests a gradual shift toward multi-layered regulation, combining copyright, sui generis rights, and policy instruments. Future legal development will likely depend on achieving a balance between encouraging technological innovation, ensuring legal certainty, and preserving the central role of human creativity in intellectual property law.

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ПРАВОВЕ РЕГУЛЮВАННЯ ТВОРІВ, СТВОРЕНИХ ШТУЧНИМ ІНТЕЛЕКТОМ: ПОРІВНЯЛЬНО-ПРАВОВИЙ АНАЛІЗ

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Метою *статті є проведення комплексного порівняльно-правового аналізу регулювання творів, створених штучним інтелектом, у різних юрисдикціях, зокрема у Сполучених Штатах Америки, Великій Британії, Японії, Україні, Європейському Союзі, Канаді, Китаї та Австралії задля виявлення спільних тенденцій, ключових відмінностей та потенційних напрямів гармонізації права інтелектуальної власності в умовах розвитку штучного інтелекту.* ***Методи дослідження:*** *поєднання загальнонаукових і спеціально-правових методів. Зокрема, використано метод порівняльно-правового аналізу для дослідження відмінностей національних підходів до регулювання творів, створених штучним інтелектом, у різних правових системах. Метод документального аналізу застосовано для вивчення законодавчих актів, судової практики та політичних документів, що регулюють сферу інтелектуальної власності та штучного інтелекту. Крім того, методи синтезу та узагальнення дали змогу сформулювати висновки щодо сучасних тенденцій і перспектив розвитку правового регулювання таких об'єктів.* ***Результати:*** *основні правові підходи до визначення правового статусу творів, створених штучним інтелектом, суттєво різняться залежно від юрисдикції, однак у більшості правових систем зберігається принцип людського авторства як обов'язкова передумова надання правової охорони. Водночас встановлено наявність значної правової невизначеності щодо питань авторства, прав власності та відповідальності за використання таких результатів.* ***Обговорення:*** *штучний інтелект суттєво трансформував сучасні процеси створення креативного контенту, охоплюючи такі сфери, як література, музика, образотворче мистецтво, програмне забезпечення та технічні інновації. Сучасні генеративні системи штучного інтелекту здатні функціонувати з мінімальним або опосередкованим втручанням людини, генеруючи результати на основі попередньо навчених моделей, алгоритмів машинного навчання та великих масивів даних. Такий рівень автономізації творчих процесів ставить під сумнів усталені концептуальні засади права інтелектуальної власності, яке традиційно ґрунтується на припущенні про виключно людський характер творчості як необхідну умову надання правової охорони. Класичні доктрини інтелектуальної власності зазнають суттєвих труднощів у кваліфікації результатів, що виникають без безпосереднього творчого внеску людини або за умов його мінімальної участі. Водночас ідея поширення правової охорони на повністю автономні результати штучного інтелекту породжує комплекс складних теоретичних і практичних питань, пов'язаних із функціональним призначенням авторського права, його економічною природою та тим, чи повинна ця система й надалі залишатися орієнтованою виключно на визнання та захист людської інтелектуальної творчості.*

Ключові слова: *штучний інтелект; інтелектуальна власність; твори, створені штучним інтелектом; авторське право; комп'ютерно-генеровані твори; порівняльно-правове регулювання.*

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