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Juridical Issues of Copyright on Generative AI Artworks and the Redefinition of Legal Subjects

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Abstract

This study analyzes the copyright ownership status of generative AI artworks under Law No. 28 of 2014 on Copyright and the urgency of redefining legal subjects in Indonesia. Using a normative juridical method with statutory and conceptual approaches, this study finds that Indonesia's copyright regime, which adheres to the principle of human authorship, creates a legal vacuum for works autonomously generated by artificial intelligence. This research examines three legal protection scenarios: works as public domain, user ownership, and the concept of computer-aided works. The analysis results indicate that granting independent legal subject status to AI (electronic personhood) is not yet urgent and risks disrupting the doctrine of civil liability. As a solution, the study recommends an approach of attributing rights to humans with dominant creative contributions or the formation of more adaptive sui generis regulations.

Keywords: Copyright, Generative AI, Legal Subject, Human Authorship, Law No. 28 of 2014.

Abstrak

Studi ini menganalisis status kepemilikan hak cipta karya seni AI generatif berdasarkan Undang-Undang No. 28 Tahun 2014 tentang Hak Cipta dan urgensi mendefinisikan kembali subjek hukum di Indonesia. Dengan menggunakan metode yuridis normatif dengan pendekatan hukum dan konseptual, penelitian ini menemukan bahwa rezim hak cipta Indonesia, yang menganut prinsip kepenulisan manusia, menciptakan kekosongan hukum untuk karya yang dihasilkan secara mandiri oleh kecerdasan buatan. Penelitian ini mengkaji tiga skenario perlindungan hukum: karya sebagai domain publik, kepemilikan pengguna, dan konsep karya berbantuan komputer. Hasil analisis menunjukkan bahwa pemberian status subjek hukum independen kepada AI (kepribadian elektronik) belum mendesak dan berisiko mengganggu doktrin tanggung jawab perdata. Sebagai solusi, penelitian ini merekomendasikan pendekatan atribusi hak kepada manusia dengan kontribusi kreatif yang dominan atau pembentukan peraturan sui generis yang lebih adaptif.

Kata kunci: Hak Cipta, AI Generatif, Subjek Hukum, Kepenulisan Manusia, Undang-Undang No. 28 Tahun 2014.

Introduction

The surge in the use of Generative AI (e.g., to produce illustrations, designs, and visual artworks in seconds) renders the question of "who is the creator" no longer theoretical, but one that has direct implications for legal certainty and the economic value of works (Samuelson, 2023). At this juncture, the copyright regime, which rests on the concept of human authorship, faces pressure as the creative process

can occur without dominant human creative decisions, thereby giving rise to new juridical problems regarding legal subjects and rights ownership (Gervais, 2020).

This topic is critical as global disputes and debates demonstrate a clash between AI innovation and fundamental copyright doctrines, ranging from issues of "copyrightability" to alleged infringements at the model training stage and in the system's output. In this context, the discussion of copyright on generative AI artworks cannot be understood merely as a technical technological issue, but as a matter of policy design: should the law strictly maintain the human-creator paradigm or open space for other approaches (e.g., sui generis regulations) (Gervais, 2020; Samuelson, 2023).

The problem is exacerbated because the generative AI ecosystem involves multiple actors with distinct contributions: model developers, dataset providers, users (prompters), and human artists whose works may serve as training data. Consequently, claims of ownership and liability may overlap: one party demands recognition as the creator, while another demands compensation because their prior work was used as training input, whereas classical copyright law is generally not designed to map such multi-party relations within a single chain of production (Guadamuz, 2024).

The relevance of this topic for readers (academics, legal practitioners, creative industries) lies in the need for legal certainty: without clarity on the status of AI works (whether protected or not; who holds the rights), industry players face litigation risks, commercialization difficulties, and contractual uncertainty in licensing and distribution (Samuelson, 2023). Simultaneously, policy arguments are strengthening that granting copyright to truly autonomous outputs, without meaningful human creative choices, could shift the purpose of copyright from encouraging human creativity to merely protecting machine production (Gervais, 2020).

This debate is intertwined with the issue of the "redefinition of legal subjects": if copyright requires a subject to hold rights, does AI need to be positioned as a new legal subject, or should rights remain allocated to humans/corporations through existing constructions (e.g., ownership by users or developers). Literature also warns that expanding concepts of ownership or liability without clear boundaries may lead to policy bias: either being too pro-innovation at the expense of human artists, or too protective, thereby hindering research and technological development (Gervais, 2020; Guadamuz, 2024).

In the Indonesian context, the urgency of researching "Juridical Issues of Copyright on Generative AI Artworks and the Redefinition of Legal Subjects" arises because the basic construction of copyright emphasizing the "author" will confront the reality of production that cannot always be traced directly to human creative expression. Therefore, this research is relevant to test the adequacy of the positive legal framework (including the human authorship approach) while evaluating policy options: maintaining the human-creator requirement, recognizing limited rights based on human contribution (e.g., curation/editing), or designing alternative regimes to balance innovation interests with the protection of human creators.

Method

This research is categorized as normative legal research (doctrinal legal research) or a literature study because its primary focus is "law in books": tracing, inventorying, and interpreting relevant norms and doctrines to answer the issue of copyright ownership over generative AI artworks. Within this framework, the statute approach is used to examine the consistency and scope of Law No. 28 of 2014 on Copyright alongside international instruments that serve as crucial references in copyright law (principles of the Berne Convention and TRIPS) as parameters for harmonization and minimum standards of protection.

A conceptual approach is subsequently required to dissect key concepts such as "author," "originality," and "legal subject," as AI problems often emerge as "normative vacuums" or "conceptual inadequacies" when positive law meets new phenomena unforeseen by legislators. This normative method aligns with the character of doctrinal legal research, which emphasizes legal reasoning, argumentation, and text interpretation as its methodological core (Hutchinson & Duncan, 2012; Negara, 2023).

Furthermore, if the research incorporates a comparative approach, the comparison is directed selectively at regimes that have produced administrative practices/rulings or guidelines regarding AI works (e.g., the United States through Copyright Office policies/decisions, or the European Union through debates on originality and TDM exceptions). This is not to "import" foreign law, but to serve as a mirror to test reasoning options and policy designs for Indonesia (Calboli, 2021).

Regarding legal sources, normative research typically relies on primary legal materials (constitution, statutes, treaties, jurisprudence/court decisions), secondary legal materials (journal articles, monographs, expert commentaries, academic drafts), and tertiary legal materials (dictionaries/encyclopedias) to assist in definitions and terminology tracing. Data collection is conducted through document studies and online literature searches, while analysis is performed qualitatively using deductive logic: starting from general norms and principles (e.g., originality requirements and the "author" construction), then deducing to assess the legal position of AI artworks and the possibility of redefining legal subjects (Negara, 2023; Hutchinson & Duncan, 2012).

Results and Discussion

Legal Construction of Generative AI Artworks in Indonesian Copyright Law

Article 1 item 2 of Law No. 28 of 2014 constructs the "Author" as "a person or several persons" who produce a work, thereby systematically pointing to a human subject (*natural person*) and not a machine entity (Gervais, 2020). The implication of this construction is: when visual art output is generated truly autonomously by a generative system (without identifiable human creative choices), the conceptual apparatus of the "author" in copyright law becomes difficult to fulfill, prompting debate on whether such output warrants categorization as a protected work. In comparative practice, US copyright authorities emphasize the importance of human contribution for "authorship" and tend to reject protection for purely AI-generated material, while remaining open to protecting parts of a work that demonstrate human contribution (e.g., selection/arrangement) (Bonadio & Felisberto, 2025).

In the doctrine of originality, the key debate in generative AI art is whether text prompts (and the iterative prompting process) can be viewed as sufficient "skill, judgment, and labor" to meet the threshold of originality. Many generative systems produce output influenced by model probabilities and internal configurations, so user control over the final result is often viewed as unequal to the direct creative control found in manual creation (Bonadio & Felisberto, 2025). This is illustrated in the administrative case of "Zarya of the Dawn," where the USCO ultimately limited registration: the text and human selection/coordination/arrangement remained protected, while the images generated by Midjourney were not recognized as sufficient "human authorship" (Rinkerman, 2023).

Based on this construction, the legal position of AI works in this study can be modeled into three analytical scenarios:

- **Scenario 1 (Public Domain):** Autonomous AI output is deemed not to meet the human creator requirement, thus acquiring no copyright and consequently falling into the public domain; Gervais argues that production not deriving from human creative choices should belong to the public domain (Gervais, 2020).
- **Scenario 2 (User Ownership):** If the user performs substantial modification, such as editing, recomposing, or curating/arranging outputs into a new expression, protection can be directed at the identifiable human contribution (not the purely machine-generated parts) (Bonadio & Felisberto, 2025).
- **Scenario 3 (Computer-Aided Works):** The output is treated as a computer-aided work where AI is positioned as a tool, while the quality of "authorship/creation" remains linked to the human creative decisions in designing the process, selecting parameters, and determining the final form (Bonadio & Felisberto, 2025).

Juridical Problems in Redefining Legal Subjects for AI

In conventional legal theory, legal subjects are generally distinguished into *natuurlijke persoon* (natural person) and *rechtspersoon* (legal entity/corporation) as "legal fictions" granted the capacity for rights and obligations. The AI debate arises because AI does not fit as a human, yet is not entirely identical to a corporation, which has governing bodies, purposes, and accountability mechanisms. Therefore, global discourse sometimes proposes a special status standing outside these two classical categories, although its legitimacy and utility are strongly debated (De Micco et al., 2024).

The discourse on electronic personhood becomes a key reference because the European Parliament once proposed a "specific legal status" for the most sophisticated robots as "electronic persons" capable of bearing liability for damages caused. Although the context was primarily regarding liability, this idea is often extrapolated to the IP realm to ask: if AI can bear obligations, can it also hold rights, including copyright. However, copyright policy literature warns that expanding personhood is not merely a technical choice, but a normative one that alters incentive designs, economic benefit distribution, and accountability structures (Samuelson, 2023).

Critically, the main problem in redefining AI legal subjects lies in the "rights vs. liability" tension: if AI is granted rights (e.g., as a copyright holder), who is responsible when infringement occurs (e.g., output substantively copies, or infringement occurs at the input/training/output stage). Guadamuz shows that AI issues involve two sides, inputs and outputs, demanding the design of exception rules, evidence, and liability that are realistic regarding the technical structure of generative systems (Guadamuz, 2024). From the perspective of incentive function, arguments rejecting AI as a copyright subject emphasize that copyright is designed to motivate humans/creative industries, whereas AI lacks preferences, needs, or "economic motivation" like humans; granting rights to AI risks merely strengthening the position of system owners (developers/corporations) without commensurate incentive justification (Gervais, 2020; Samuelson, 2023).

Future Alternative Legal Solutions

The first alternative is to design *sui generis* protection for generative AI outputs, with the rationale that certain outputs have economic value but do not fit comfortably into the full "human creator" doctrine. A *sui generis* model could regulate shorter durations, narrower scopes of rights (e.g., only specific commercialization rights), and requirements for transparency of origin (*disclosure of AI use*) to reduce information asymmetry in the market. This approach can also serve as a "policy compromise": avoiding AI personhood, yet providing limited certainty for businesses investing in AI-based content production (Samuelson, 2023).

The second alternative is to maintain the conventional copyright framework but affirm the legal fiction that the "Author" is the person exercising relevant creative control over the process (e.g., selecting datasets/parameters, performing creative curation, substantial editing, or compiling), without making AI an independent rights holder. This approach aligns with policy directions viewing existing law as fundamentally adequate: "AI-assisted" works can be protected insofar as human contribution meets the authorship threshold, while purely "AI-generated" material cannot. Dogmatically, the focus shifts from "is AI creative" to "at what point is human contribution sufficiently qualified as protected creative expression" (Bandi et al., 2023; Bonadio & Felisberto, 2025).

The third alternative is to build a hybrid regulatory architecture: copyright remains human-based, while the "hottest" issues (model training, similarity tracing, and output dispute handling) are regulated through licensing mechanisms, specific exceptions, or more operational test standards for inputs/outputs. Guadamuz emphasizes that reading liability and exceptions in AI must heed the technical realities of generative systems to avoid creating rules that are impossible to apply or too easy to abuse (Guadamuz, 2024). With this model, Indonesia can avoid the extreme step of "personifying AI," while still providing enforcement certainty for human creators, users, and system developers (Samuelson, 2023).

Table 1. Analytical Table of AI Work Scenarios

Scenario	Legal Logic Basis	Copyright Status (Policy Direction)	Practical Implications
1. Public domain (Autonomous AI)	No human creative choices attributable as authorship.	Not protected; public may use freely.	High certainty for re-use, but reduces commercial exclusivity over pure AI output.
2. User Ownership (Substantial Modification)	Protection directed at identifiable human contributions (editing, selection/arrangement).	Protected limited to the human contribution part.	Encourages documentation of creative processes (iterative prompting, editing) for evidence.
3. Computer-aided works	AI as a tool; human remains the center of creative decision-making.	Protected if authorship threshold is met.	Enables protection of "AI-assisted" works without recognizing AI as a legal subject.

Conclusion

Based on the juridical analysis of Law No. 28 of 2014 on Copyright, it is concluded that artworks generated purely by Generative AI (without significant human creative intervention) do not meet the requirements of originality and the doctrine of human authorship. The current legal construction of Indonesian copyright law explicitly requires the "Author" to be a human legal subject (*natuurlijke persoon*), so autonomous machine output tends to fall into the public domain due to the absence of a valid rights holder under positive law.

Regarding the discourse on redefining legal subjects, this research concludes that granting electronic personhood status to AI entities is not an appropriate or urgent solution for implementation in Indonesia. Such a step is considered high-risk as it could distort the principles of civil liability and shift the philosophy of copyright from incentivizing human creativity to merely protecting machine investment. Therefore, the existing legal framework should be optimized through a legal fiction approach that links ownership to the human contributor (user or developer) who holds substantial creative control.

The Government, specifically the Directorate General of Intellectual Property (DJKI), is advised to immediately issue technical guidelines or implementing regulations specifically governing the registration procedure for works involving the use of artificial intelligence technology. These regulations must clarify the qualitative boundary between "computer-aided" works (protectable) and "AI-generated" works (unprotectable), as well as establish standards for the disclosure of AI tool usage in copyright registration forms to ensure legal certainty.

For creators, artists, and creative industry players utilizing AI, it is advisable to begin implementing strict documentation practices regarding their creative processes as a legal risk mitigation step. This includes preserving prompt history, initial sketches, and editing logs to prove the existence of dominant human contribution (skill, judgment, and labor) should ownership disputes arise in the future. Transparency of work origin is crucial to maintaining the integrity of the intellectual property ecosystem and ensuring legal protection remains on the side of human creativity.

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