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Determining the Rights and Attributes of Generative AI- Generated Objects —Based on the Civil Code's "Civil Rights and Interests" System

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Abstract: ***The widespread application of generative artificial intelligence technology has made the determination of the rights attributes of its generated works a core legal challenge that urgently needs to be addressed. Current mainstream discussions in academia and practice are confined to the framework of copyright law, focusing on whether generated works constitute "works" and the source of their "originality." However, this has reached a stalemate due to the difficulty in overcoming the theoretical consensus on "human author-centrism" and the protection of "intellectual achievements." To break through the constraints of the existing paradigm of copyright law, this article advocates shifting the focus to the "civil rights" system established by the Civil Code of the People's Republic of China. This system does not necessarily take direct human intellectual creation as the sole premise, and can effectively circumvent the inherent obstacles to the protection of human intellectual achievements under copyright law. This article divides the rights attributes corresponding to generated works into three different levels: purely AI-generated, limited human participation, and deep human participation. This tiered determination system not only aligns with the technological nature of human-machine collaboration in generative AI, but also provides clear and operable core discretionary benchmarks for judicial decisions, thereby resolving the dilemma of unclear ownership and ambiguous rights allocation in practice, and providing theoretical reference and practical guidance for including new types of objects in the digital age within the scope of civil rights protection.***

Keywords: Generative Artificial Intelligence; Generated Objects; Rights Attributes; Civil Rights; Graded Recognition.

1. INTRODUCTION OF THE PROBLEM

In recent years, generative artificial intelligence technologies, represented by ChatGPT and DeepSeek, have achieved breakthrough development. Through algorithmic models learning from massive amounts of data, they can autonomously generate text, images, audio, code, and other content, with the "human similarity" of the generated content reaching a level that is difficult to distinguish. The "2025 Artificial Intelligence Index Report" released by the Stanford University Artificial Intelligence Institute shows that the performance gap between top-tier AI models from China and the US in benchmark tests such as MMLU4 and HumanEval5 has narrowed from 17.5% in 2023 to 0.3%; product performance has significantly improved. According to the "China Generative AI Industry Development Report (2025)," as of June 2025, the number of generative AI users in China reached 515 million, an increase of 266 million compared to December 2024; the industry chain covers key upstream and downstream links such as chips, algorithms, data, platforms, and applications. However, the rapid development and widespread application of this technology have brought a series of legal risks. For example, in the 2023 case of Li v. Liu for infringement of the right of authorship and the right of dissemination via information networks (hereinafter referred to as the "Chunfeng case"), the parties disagreed on whether "AI-generated content constitutes a work"; in 2024, the "Xin Chuang Hua v. a certain technology company case" (hereinafter referred to as the "Ultraman AI infringement case") directly exposed the regulatory gaps in existing laws regarding "ownership of rights to AI-generated content" and "allocation of liability for infringement".

Generative AI learns from vast amounts of data or corpora, extracting latent language rules, patterns, and structures. It then uses these rules, patterns, and structures to generate new content—text, images, audio, etc.—similar to, but not limited to, the original data. This generated content is produced by AI without human intervention, yet it has passed the Turing test, blurring the lines between it and human intellectual achievements. This creates a dilemma for existing legal systems such as the Copyright Law and the Civil Code in determining the rights attributes of generative AI creations. Specifically, it raises the question of whether AI-generated content constitutes a "legally protected interest," and if so, how to determine the nature of its rights and the subject of ownership. Existing research largely focuses on the ownership and protection mechanisms of intellectual property

rights for generative AI creations, specifically the "work-like" nature of these creations and the identification of rights holders within the framework of the Copyright Law. However, it neglects the fact that the Civil Code, as an "encyclopedia of social life," provides a local legal foundation for the protection of AI-generated content through its open-ended Article 126 on "civil rights," which has not been fully explored. Based on this, this article takes the "civil rights and interests" system of the Civil Code as the core framework, and constructs the standard for determining the rights attributes of generative AI-generated objects through empirical analysis, comparative research and normative interpretation, in order to provide judicial thinking for judicial practice and theoretical support for legal revision.

2. THE RIGHTS AND ATTRIBUTES OF GENERATIVE AI-GENERATED OBJECTS: THEIR POSITION WITHIN THE CIVIL RIGHTS SYSTEM

2.1 Theoretical Controversies and Practical Dilemmas in Determining the Nature of Rights

China lacks legal provisions regarding the rights attributes of generative AI- generated works. The discussion of these rights attributes essentially boils down to "how the law should respond to the distribution of benefits from the creation of works by non-human entities." Currently, there are three representative viewpoints in theory and practice regarding the rights attributes of generative AI-generated works, but all have limitations.

2.1.1 The "Non-Work Theory" and its shortcomings

According to the provisions of China's Copyright Law, a work refers to an intellectual achievement in the fields of literature, art, science, etc. that has originality and can be expressed in a certain form. According to the analysis of this provision, a work should meet four conditions: first, it belongs to the fields of literature, art, science, etc.; second, it has originality; third, it is perceptible; and fourth, it belongs to human intellectual achievement. There is no controversy that generative AI products meet the requirements of domain and perceptibility, but there is a big difference in whether they have originality and whether they belong to human intellectual achievement. Scholars who hold the "non-work theory" believe that the Copyright Law only protects "human intellectual creations". Artificial intelligence products are the result of algorithms and models and do not have an inherent personality basis, so they are difficult to be identified as works [1]. For example, Zhu Hongjun and Li Xinyang believe that under the current copyright system, the premise for discussing the originality of a work is that the result is created by a natural person. Only human intellectual achievements can be regarded as works. If we separate the creative subject and only consider the distinctiveness of the work, it will inevitably lead to the infinite expansion of the scope of copyright objects. This is because human thinking and ability are limited, while machines have great production capacity. Their massive generated content will overwhelm human creative achievements. Therefore, the generated content of generative AI is not copyrightable [2]. In addition, some scholars believe that "if the rights of AI-generated works are recognized, the foundation of the copyright system of 'incentivizing human creation' will be shaken." Furthermore, the legislative purpose of copyright law is to incentivize creation. Artificial intelligence cannot understand and utilize incentive mechanisms. Therefore, it is not appropriate to recognize the generated content of generative AI such as ChatGGPT as works.

However, the flaws of the " non-work argument" are obvious. First, it ignores the "commercial value" of AI -generated content by denying it legal protection. In practice, AI-generated advertising copy, design drawings, and code have become commodities in transactions. Failing to acknowledge their legitimate value leaves users ' investments unprotected. For example, in the case of Wang v. a Wuhan technology company regarding copyright ownership and infringement, the court held that Wang had a degree of "control and foresight" over the generated work during the process of setting and adjusting keywords, parameters, style, lighting effects, and selecting images to ultimately obtain the image in question. The creative process reflected Wang's conception, techniques, and aesthetic choices, embodying his personalized expression. Therefore, the image in question embodies Wang's intellectual labor and should be protected. The Wuhan technology company, without permission, used the image in question as an illustration and published it on its own account for online promotion, allowing the public to access the image at their chosen time and place, thus infringing on Wang's right to disseminate the image online. The company should bear the liability for ceasing the infringement and compensating for losses. Therefore, denying the copyrightability of AI-generated content would pose legal risks to such commercial applications, and investors might reduce their investment in AI technology due to a lack of economic returns, hindering industry development. Furthermore, AI-generated content is not entirely free from human intervention. For example, users need to guide the creation process by repeatedly adjusting prompts and filtering results. Completely denying the copyrightability of AI-generated content could result in such human contributions not being adequately protected, thereby

suppressing technological innovation.

2.1.2 The " Work Theory" and its Dilemmas

The view argues that whether AI-generated content can be protected by intellectual property rights depends on whether it objectively conforms to the form of "work" rather than on subjective judgment. As long as it objectively meets the standard of "originality", it meets the conditions of "intellectual achievement" and can be recognized as a "work" in the sense of the Copyright Law [3]. Article 9 (3) of the UK Copyright, Designs and Patents Act makes specific provisions on the ownership of copyright for computer-generated content: "For a literary, dramatic, musical or artistic work generated by a computer, the author shall be an individual who has made the necessary arrangements for the creation of the work." [4] Although Chinese law has not made clear provisions on the legal attributes of AI-generated content, most Chinese scholars believe that AI-generated content is not a simple copy of existing works. Its creative process reflects personalized expression and innovation, and therefore it should be considered to have originality. Moreover, it is an intellectual achievement in the fields of literature and science with a certain carrier, and belongs to the category of works, and should be protected by the Copyright Law.

However, the "work-based" argument faces insurmountable logical obstacles: the core of copyright is "human creative act," and its "originality" requirement encompasses both "independent completion" and "creativity." AI-generated content, on the other hand, is essentially an algorithmic reorganization of data, a "mechanical output of non-human intelligence." Even with human input, its role is limited to "instruction input" and "result filtering," fundamentally different from the "intellectual creation from nothing" in traditional writing. Forcibly including AI in copyright protection could dilute the "originality" standard, ultimately harming the interests of genuine human creators. Furthermore, AI is essentially a creative tool, and the copyrightability of its generated content may blur the lines between tool and subject. For example, Adobe Photoshop, as a tool, grants copyright to user-generated works to human authors; however, assigning independent copyright to AI-generated content could lead to legal confusion regarding the "anthropomorphization of tools."

2.1.3 The emergence and controversy surrounding the "new type of civil rights theory"

Given the limitations of the first two viewpoints, some scholars have proposed the "new type of civil rights theory," which states that although AI-generated objects do not constitute copyright, they have "commercial value" and "disposability," and can be protected as "other legitimate rights" as stipulated in Article 126 of the Civil Code. Protecting generated AI objects as "legal interests" under civil law will not raise suspicions of overprotection, nor will it leave them in the public domain and ignore them [5]. The advantage of this viewpoint is that it avoids breaking the "human creation" principle of the Copyright Law and provides protection for them through the openness of the Civil Code. However, the controversy lies in its compatibility with the traditional civil interest protection system—the protection of civil interests depends on clear interest subjects, definable interest boundaries, etc., while the technical characteristics and legal attributes of AI-generated objects break these premises. How should the connotation and extension of "new type of civil rights" be defined? What are the boundaries between them and traditional civil rights (such as copyright and property rights)? How should the subject and content of the rights (such as the right to use and the right to income) be determined?

2.2 The Inclusive Interpretation of AI-generated Content Within the "civil rights and interests" Framework of the Civil Code

Articles 3 and 126 of the Civil Code, through their open structure of "rights + interests," provide flexible space for the protection of interests in new social relations. Whether generative AI-generated objects can be included in the category of "civil rights" requires a systematic interpretation from the following three aspects:

2.2.1 The scope of protection for "civil rights and interests": an expansion from "rights" to "interests"

The traditional civil rights system centers on "statutory rights, " such as property rights, creditor's rights, and intellectual property rights. However, the Civil Code expands the scope of protection to "interests protected by law" through Articles 3, 126, and 1164. According to general understanding, "interests protected by law" must meet three requirements: First, they must be "legal," meaning the acquisition and exercise of the interest do not violate mandatory legal provisions. For example, creditor's rights can only be protected by law if acquired through legal means; rights acquired illegally, such as those arising from gambling, cannot be protected. Therefore, AI-generated content can only be protected if it meets the requirement of legality. If AI-generated content infringes

on the privacy or reputation of others, it cannot be protected by law. Second, they must have "value," meaning the existence of the interest is recognized by general social values. As mentioned earlier, AI-generated content is now widely used in advertising, design, and other industries. AI-generated advertising copy can be used by companies for commercial promotion and has economic value recognized by general social values. Thirdly, " certainty " includes two levels. First, the content of the interest is certain, that is, the interest corresponds to clear rights and obligations. For example, for property rights, the right holder has the right to "possess", "use", "profit" and "dispose", and others have the obligation to prohibit infringement. For AI-generated objects, the beneficiary has the right to "use", "profit" and "prohibit others from improperly infringing", which has clear content of interest. Second, it requires that the interest belongs to a specific subject, so that the interest is necessary to protect. When the interest is infringed, the subject whose interest is damaged can seek relief through the law. According to Article 3 of the Civil Code, civil rights and interests are enjoyed by civil subjects, and civil subjects include three categories: natural persons, legal persons and unincorporated organizations. However, artificial intelligence is not a natural person and has not been conceived as a legal subject [6]. Therefore, AI itself is not the subject of the interest generated. AI developers have given AI the ability to generate content through a series of complex tasks such as writing algorithms, building model structures, and training data, laying the foundation for AI to generate various types of content. However, AI developers do not have any subjective guiding awareness for any generated content, and AI-generated products do not reflect the developers' thoughts. Therefore, it is not appropriate to attribute the benefits of AI-generated products to AI developers [7]. It is more reasonable to attribute the benefits of AI-generated content to users (AI users). Users directly affect the output results of AI, and AI-generated products are essentially still dominated by users. In addition, users set keywords based on their own needs, and they have expectations for further use and dissemination of the generated content. Affirming the users' interests in AI-generated products will be conducive to the dissemination of culture and the realization of value.

In conclusion, AI-generated objects meet the general conditions for "civil rights and interests" and should be considered "interests protected by law" in the sense of the Civil Code, and should be included in the civil rights and interests system.

2.2.2 Connection with Special Laws: The Fundamental Status of the Civil Code

As a fundamental code in the field of private law, the Civil Code clarifies the rights and obligations of civil subjects. Intellectual property rights, such as copyright, are a type of civil right, and their essential attributes originate from private law. In this sense, the Civil Code is a "general law," its system of civil rights providing basic protection for all civil interests, while intellectual property law only provides detailed regulations for specific types of rights (such as copyright). Therefore, the protection of AI-generated content should prioritize the application of special laws such as the Copyright Law. When AI-generated content does not meet the protection requirements of special laws, it can be protected through the relevant provisions of the Civil Code. For example, although an AI-generated image may not be eligible for copyright due to a lack of "human originality," unauthorized use of that image for commercial profit still constitutes an infringement of the "legitimate interests" under Article 126 of the Civil Code, and the rights holder can claim infringement liability under Article 1165. This "general law + special law" protection model avoids the rigidity of special laws while achieving coverage of new types of interests through the openness of the Civil Code, making it a reasonable path to address the challenges of generative AI.

2.2.3 Definition of the nature of the rights: "New types of civil interests" that are not copyrighted.

AI-generated content, as a "civil right," is neither copyright nor traditional property right, but rather a "new type of civil interest" for two reasons: First, as mentioned earlier, its creation process lacks the core element of "unique human creation," failing to meet the copyright requirement that the creator must be human. Second, its value stems from the "scarcity of algorithm-generated content" and the "demand for commercial use," differing from traditional property rights, which emphasize control over tangible objects, and from creditor's rights, which emphasize demanding or refraining from a certain action. This new type of interest should be limited to "right of use," "right of income," and "right to prohibit improper infringement by others," excluding personal rights such as the "right of attribution" and " right of modification" found in copyright. This is because personal rights are attached to natural persons, while the creator of AI-generated content is not human.

3. CRITERIA FOR GRADING AND DETERMINING THE ATTRIBUTES OF CIVIL RIGHTS: BASED ON THE "DEGREE OF HUMAN INTELLECTUAL INPUT"

The use cases for generative AI vary widely, and the level of human intellectual input involved in AI-generated

content also differs significantly. Users may receive AI-generated content simply by inputting a simple command, such as "write a poem about spring." Alternatively, users may achieve the final AI-generated content through deep involvement in the generation process; for example, users may guide AI to generate a painting in a specific style using complex prompts and repeatedly modify the result to arrive at the final product. Therefore, the determination of rights to AI-generated content cannot be a "one-size-fits-all" approach but should instead be based on a tiered standard constructed according to the "level of human intellectual input."

3.1 "Purely AI-generated"

When a user inputs only a vague instruction (such as "draw a cat") and makes no modifications or filtering to the generated result, the human intellectual input is negligible, and the generated content is considered "purely AI-generated." While the generated content may have some commercial value, its rights should be strictly limited due to the lack of human intellectual input. Users should not be granted usage rights or profit rights; they can only receive legal protection and remedies when the generated content is unfairly infringed upon by others. For example, in the "Film v. Baidu" case, the law firm Film argued that Baidu's unauthorized use of its AI-generated legal analysis report constituted infringement. During the trial, the court thoroughly discussed whether the AI-generated content constituted a work and whether it was subject to copyright protection. Although the court ultimately did not find the AI-generated content to be a work and therefore not subject to copyright protection, this does not mean that protection for the AI-generated content is completely absent. AI-generated works still have value and can be protected. For example, Jason Allen's "Space Opera", created using Midjourney, won first place in the digital art category at the Colorado State Fair in the United States. Although this aroused the anger of some artists, the organizers still awarded the prize as usual, which means that the images generated by AI painting have recognized artistic value [8]. In this case, if it can be proven that Baidu's behavior is unfair, such as gaining a competitive advantage through plagiarism or misappropriation and disrupting the market competition order, then the AI-generated works of the Film Law Firm can be protected in accordance with the Anti-Unfair Competition Law.

3.2 "Limited Human Participation"

When users input "specific instructions" (such as "generate a cyberpunk-style night view of the Bund in Shanghai") or make "simple modifications" to the generated results (such as adjusting the image tone or deleting text paragraphs), users only provide the general direction of the style and scene. The key creative aspects such as the specific composition, color matching, and detail depiction of the image are still automatically generated by AI based on its training data and algorithms. Therefore, this level of intellectual labor does not meet the traditional standard of "substantial creation". As mentioned above, at this time, the rights of the AI- generated content belong to the user. Although the user's behavior does not constitute substantial creation and cannot sign the generated content like an author, it does not mean that the generated content can be freely used by the public. The user has the right to use and benefit from the generated content. The AI-generated content embodies the user's labor, and the user's right to benefit from it is legitimate [9]. Therefore, the user can use it himself or authorize others to use it, or obtain corresponding remuneration through transactions or authorization; of course, the user can also prohibit others from infringing on it. If others use it without permission, the user can claim cessation of infringement and compensation for losses in accordance with Article 1165 of the Civil Code. However, it's important to note that such rights cannot be asserted against others who generate the same content "independently"—for example, if user A and user Beach use the same AI platform to generate similar images, since both users' actions are based on their own independent input instructions and the AI's automatic generation process, both have the right to use their respective generated images without infringing on each other's rights. This avoids numerous unnecessary infringement disputes arising from the similarity of AI-generated content, while also encouraging users to fully utilize their creativity and explore the diversity of AI-generated content through different instructions.

3.3 "Deep Human Engagement"

When users make human intelligence the "decisive factor" in the formation of the generated product by "setting complex parameters" (such as setting detailed rules for composition, color and theme for AI painting), "iterating and modifying multiple times" (such as making structural adjustments to AI-generated text and supplementing original content), or "screening training data" (such as users providing their own exclusive data to train the model), it should be considered as "deep human participation". At this time, AI generation has become an "extension tool" of human intelligence. The style and expression of the generated product are directly related to the user's intellectual input. At this time, the generated product only objectively meets the originality requirements of the work, but does not meet the requirements of "intellectual achievement" [10], and does not belong to the work.

However, the rights of the generated product should be close to "quasi-copyright". In addition to the right of use and the right of income, it should also include the right to "prohibit others from imitating a specific style". For example, when a painter uses AI to generate a work, he makes the generated product reflect his unique artistic style through exclusive training data and multiple modifications. If others use AI to deliberately imitate the style to generate content and profit, it constitutes an infringement of the user's rights.

The core of the aforementioned grading standard is the "ratio of human intellectual input to AI-generated content," which requires consideration of three factors: first, the specificity of the instructions, such as whether they include creative details; second, the depth of the modifications, whether they alter the core expression of the content; and third, the exclusivity of the data, whether user-provided non-public data is used. This standard avoids the extreme of "all or nothing" and provides an operational basis for judgment in judicial practice.

4. CONCLUSION

The issue of the legal attributes of generative AI creations is an unavoidable legal problem arising from the development of generative artificial intelligence technology. Currently, research on the legal attributes of AI creations is largely confined to the field of copyright, attempting to demonstrate whether they constitute "works" in the sense of copyright law, but no consensus has been reached. The "civil rights" provision in the Civil Code offers a feasible solution to the current ownership dilemma. "Civil rights" themselves are open, inclusive, and evolving; their connotation and extension do not necessarily take "direct human intellectual creation" as the sole or core premise. Clarifying the legal attributes of generative AI creations through "civil rights" can circumvent the theoretical consensus that copyright only protects human intellectual achievements. Furthermore, establishing a three-tiered standard for the identification of civil rights attributes based on human intellectual input not only aligns with the essential characteristics of human-machine collaboration in AI technology but also provides a clear and operable core benchmark for judicial decisions, effectively solving the practical problems of ambiguous ownership and unclear rights allocation, and achieving precise protection of the legitimate rights and interests of relevant parties.

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