Abstract

A Study on the Copyright Judgment of AI Generated Images in Chinese and U.S. Courts

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Generative artificial intelligence is being actively used to create content. However, under the current copyright law, it is not clear whether AI generated contents are subject to copyright protection, so there is a phenomenon in which human and AI are marked as co-authors on the cover of books and book information of Internet bookstores, while only the human's name are listed in the book's copyright information. This phenomenon increases confusion among content industry workers.

Although Li v. Liu cases and Thaler v. Perlmutter cases are based on the principle that the works have to created by human, if it is confirmed that there was a 'human involvement' in the process of creating content using GAI, they judged that originality and creativity can be recognized.

However, only the Chinese court presented specific criteria for judgment that copyrightability is recognized if 'human involvement' is proved with originality and creativity that is 'distinct from previous works'.

Many GAI is disclosed as an open source, and the generated results are often shared again and used for learning, I propose 'selective protection' that recognizes copyright only when 'human involvement' is disclosed as a copyright registration.

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