

THE INTERNATIONAL STATUS OF INTELLECTUAL PROPERTY PROTECTION IN THE CONTEXT OF ARTIFICIAL INTELLIGENCE AND CHINA'S LEGISLATIVE RESPONSES

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This article primarily examines the impact of the rapid development of artificial intelligence (AI) on intellectual property protection. It expands the scope of intellectual property objects while also raising novel legal challenges in areas such as copyright, trademarks, and patents. The World Intellectual Property Organization (WIPO) continues to promote international discussions on AI and intellectual property rules, emphasizing core issues like authorship determination and rights ownership. Currently China lacks specific legislation in this area, primarily relying on existing frameworks and pilot measures, resulting in a somewhat ambiguous legal status. However, China has actively promoted the modernization of intellectual property legislation in recent years and has continuously explored adjudication standards for AI-related cases in judicial and administrative practice. Accelerating intellectual property legislation in the AI field, improving relevant rules, and strengthening international cooperation are crucial directions for future institutional optimization.

Keywords: Artificial Intelligence; Intellectual Property Protection; Chinese Legislation; WIPO; International Law.

МЕЖДУНАРОДНЫЙ СТАТУС ЗАЩИТЫ ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ В КОНТЕКСТЕ ИСКУССТВЕННОГО ИНТЕЛЛЕКТА И ЗАКОНОДАТЕЛЬНЫЕ МЕРЫ КИТАЯ

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В данной статье рассматривается влияние стремительного развития искусственного интеллекта (ИИ) на защиту интеллектуальной собственности. Оно расширяет перечень объектов интеллектуальной собственности, а также поднимает новые правовые вопросы в сферах авторского права, товарных знаков и патентов. Всемирная организация интеллектуальной собственности продолжает поддерживать международные дискуссии о правилах в области ИИ и интеллектуальной собственности, акцентируя внимание на ключевых вопросах таких, как определение авторства и владение правами. В настоящее время в Китае отсутствует специальное законодательство в этой области, и страна в основном полагается на существующие правовые рамки и экспериментальные меры, что приводит к некоторой неопределенности в правовом статусе. Тем не менее в последние годы Китай активно продвигает модернизацию законодательства об интеллектуальной собственности и постоянно изучает стандарты вынесения судебных решений по делам, связанным с ИИ, в судебной и административной практике. Ускорение разработки законодательства в области ИИ, совершенствование соответствующих норм и укрепление международного сотрудничества являются важнейшими направлениями будущей институциональной оптимизации.

Ключевые слова: искусственный интеллект; защита интеллектуальной собственности; китайское законодательство; ВОИС; международное право.

In recent years, artificial intelligence (AI) has achieved significant breakthroughs across various fields, not only

«creating» numerous products but also offering new ways to utilize knowledge products, thereby substantially expanding the scope of intellectual property subject matter. This rapid development in the AI field has raised numerous intellectual property concerns, primarily in the areas of copyright, trademark, and patent law.

The World Intellectual Property Organization launched the «AI and IP» Dialogue in 2019 [1]. Its initial publication in the «Technology Trends» series defined and measured innovation in the field of Artificial Intelligence (AI). In December of the same year, WIPO released a draft issues paper on intellectual property policy and AI. A revised version of this paper was published in May 2020 [2]. In 2022 WIPO held its sixth Dialogue on «Frontier Technologies – AI Invention» [3], discussing issues such as the determination of «authorship,» ownership, and protection periods for AI-generated content.

The World Intellectual Property Organization's document, «AI and Inventorship», details international framework agreements relevant to artificial intelligence, including the Paris Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the Patent Law Treaty, the Agreement on Trade-Related Aspects of Intellectual Property Rights, and regional legal frameworks. It also analyzes decisions from national intellectual property offices and court rulings [4]. Notably, the U.S. Copyright Office recently released a report clarifying its position on AI-generated works: purely AI-generated works are not eligible for copyright protection, but works created by humans using AI tools can still be copyrighted [5]. The «Thaler» case exemplifies the country's stance on AI copyright protection, with the copyright registration application for AI works having been rejected four times consecutively. In 2024, the Japanese government agency (Agency for Cultural Affairs) released a General Understanding on AI and Copyright in Japan [6], as well as a list and guidelines on artificial intelligence and copyright [7]. Regarding AI copyright protection, Japan adheres to the

principle of human creation under copyright law, refraining from readily including AI-generated outputs within the scope of «works». Simultaneously, it supplements copyright law with supporting measures to ensure that the development of the AI industry is not hindered by legal loopholes.

In 2024 WIPO stated in its «Generative AI: Navigating the Intellectual Property Landscape» that significant legal uncertainty exists regarding whether AI tools, their training, use, and output constitute intellectual property infringement [8]. The document summarizes the current state of international copyright protection for artificial intelligence.

In summary, establishing intellectual property protection laws is particularly crucial in the age of artificial intelligence. Currently, China lacks specific legislation for AI, primarily relying on existing legal frameworks such as the «Copyright Law» and the «Data Security Law». According to Article 11 of the «Copyright Law» [9], only natural persons or legal entities can be authors of a work, leaving the legal status of AI-generated content ambiguous.

Accelerating the legislative process for intellectual property in emerging fields is a crucial approach to improving intellectual property legislation. A comprehensive and in-depth legislative framework can effectively promote the establishment of intellectual property protection mechanisms in the age of artificial intelligence [10, p. 125]. The «Outline for Building a Strong Intellectual Property Nation (2021–2035)» [11], released in 2021, explicitly calls for promoting intellectual property legislation in areas such as big data and artificial intelligence. It also emphasizes the need to promptly adjust relevant laws and regulations and expand the scope of protected subject matter based on scientific and technological advancements and social development.

As a member of the National Committee of the Chinese People's Political Consultative Conference, Qiu Huadong proposed strengthening copyright protection in the field of artificial intelligence at the 2024 Two Sessions. He highlighted

existing issues, such as insufficient control by rights holders and the ambiguous legal status of AI-generated content, noting this as a crucial aspect of the current legislative landscape [12]. In 2023 China's State Council issued the Interim Measures for the Management of Generative Artificial Intelligence Services, which have been applied in judicial practice.

In March 2024, the Guangzhou Internet Court handled an infringement case involving AI-generated Ultraman images, marking China's first AI-related case. The court ruled that the defendant was at fault for failing to fulfill compliance obligations stipulated in the Interim Measures for the Management of Generative Artificial Intelligence Services, such as establishing a sound complaint mechanism and providing potential risk warnings. However, some lawyers argue that existing intellectual property laws may not be directly applicable to large language models and that specific research and judgment are needed based on new technologies, principles, and application scenarios [13]. In judicial practice, judicial organs should proactively exercise judicial activism in response to intellectual property disputes arising during periods of dynamic development [14, p. 198].

In 2024 the National Intellectual Property Administration issued the Guidelines for Examination of Patent Applications Involving Artificial Intelligence (Trial), addressing AI-related patent issues by clarifying that AI cannot be listed as an inventor and that the substantial contribution of a natural person is a key criterion for patent applications [15]. The National Copyright Administration has proposed using the revision of the Copyright Law Implementing Regulations as an opportunity to improve AI copyright rules and promote global consensus through international cooperation.

Combining international and Chinese perspectives on artificial intelligence copyright protection leads to the following conclusions.

Firstly, AI has become a significant driver of innovation, while simultaneously posing new challenges to intellectual

property rights. Existing IP systems require further development regarding subject eligibility, object determination, ownership attribution, and benefit distribution.

Furthermore, optimizing the theory and practice of AI copyright protection, in conjunction with international agreements such as those of the WIPO, holds significant practical importance. Treaties and agreements can address the limitations of Chinese domestic legislation, harmonize legal conflicts globally, and provide a more balanced framework for technological innovation and rights protection, responding to the evolving demands of AI technology.

Rule innovation can be promoted through platforms like WIPO by developing AI-specific supplementary provisions for existing conventions, establishing cross-border infringement collaboration mechanisms, and formulating dedicated treaties to standardize data usage and output protection. This would facilitate the construction of a globally governed ecosystem that empowers technology, achieving a dynamic equilibrium between incentivizing innovation and safeguarding rights.

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