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Research on a Cross-Border Collaborative Protection Mechanism for AIGC-Related Intellectual Property Rights

Yuanyuan Tian

Xi'an Jiaotong University, Shaanxi, Xi'an, 710049, China

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Abstract: In the present era, the rapid evolution of artificial-intelligence technology has facilitated the worldwide dissemination and application of Artificial- Intelligence-Generated Content ("AIGC"). Concomitantly, cross-border protection of the intellectual-property rights subsisting in such works has generated considerable controversy and practical challenges in judicial practice. By conducting an in-depth analysis of representative cross-border AIGC copyright disputes and examining the legislative and judicial responses adopted by various jurisdictions, this paper addresses the pivotal issues of authorship and ownership, infringement criteria, jurisdiction, and choice of law. It proposes the construction of a collaborative protection mechanism that integrates international treaties and multilateral cooperation, regulatory technical measures and industry self-discipline, and the harmonisation of judicial adjudication, with a view to fostering the healthy and orderly global development of the AIGC industry.

1. Introduction

In today's tide of rapid scientific and technological development, artificial intelligence technology has been updated repeatedly at an amazing rate and has become a key force in promoting changes in various fields. This technological leap has powerfully driven the rapid rise of Artificial Intelligence Generated Content (AIGC), making it a core focus in the global innovation field and leading the new trend of the creative industry.

With its powerful functions, AIGC has infiltrated into various industries extensively and deeply, and has produced works of various forms and rich contents in a high-quality and efficient production mode, which has greatly met the growing diversified needs of people and is therefore loved by the public. However, while AIGC is blooming, it also brings a series of complex legal problems and potential risks. Among them, the intellectual property protection disputes arising from its intelligent "creation" are most prominent. Due to the significant differences in legal systems, legislative concepts and judicial practices between different countries, in cross-border transactions, the attribution of work rights is unclear and infringement disputes occur frequently, which undoubtedly puts a heavy shackle on the international development of the AIGC industry.

In view of this, it is urgent to build a coordinated protection mechanism for AIGC cross-border intellectual property rights, which has become a key move to promote the healthy and orderly development of the industry into the international market.

2. Statement of the Problem—Analysis of Typical Cross-Border AIGC Copyright Disputes

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With the popularization of generated AI tools such as ChatGPT and MidJourney, the creation efficiency and dissemination speed of AIGC (such as text, images and videos) have been greatly improved, which has been loved by all countries and industries, but has also caused a large number of copyright disputes.[1] For example, in 2023, three American artists sued Stability AI (British Company) and its American subsidiaries, accusing them of unauthorized use of copyrighted works of art to train AI models, resulting in highly similar generated contents to the original work and constituting infringement; In 2024, a well-known Japanese cartoonist sued the Chinese AI painting platform, believing that the images generated by the platform are highly similar to the style and role design of the works, and accusing the platform of infringing its copyright; The text works produced by EU author v. Open AI ChatGPT, which are highly similar to the plots of their unpublished novels, claim to remove the relevant models and compensate for the losses.

(2) Core Legal Issues of Cross-Border AIGC Copyright Disputes

1) Disputes over Authorship and Ownership

Faced with the question of whether AIGC is a "author" or a "tool", different national laws have different answers to this question.[2] For example, the United States Copyright Administration explicitly refuses to register pure AI generated content, requiring that the work must reflect "human authorship"; Although the European Union does not directly deny the copyright of AI generated content, it requires Member States to clarify the ownership through domestic laws, such as the United Kingdom Copyright Law, which stipulates that the copyright of "computer-generated works" belongs to program developers; In China, the Beijing Internet Court tried the first AIGC infringement case in China in 2023, and the court finally determined that the AI generated picture was original and protected by the Copyright Law, but requested that "the normal use of the work shall not be affected, and the legitimate rights and interests of the copyright owner shall not be reasonably damaged". In addition, in the face of cross-border AIGC works, the content generated by AI will also be produced, which is protected in country A, but not regarded as works in country B, and faces the problem of "traps in the application of law" in cross-border litigation.

2) Different criteria for determining infringement

For the determination of infringement, it involves the boundary of "fair use" of training data and generated content. For whether the training data constitute infringement, the United States adopts the "four factor test", including the purpose of use, the nature of the work, the proportion of use and market impact, to judge whether it is reasonable use; The EU adopts the three-step test method, including the standard of specific purpose, no damage to normal utilization and no damage to the right[3]; In China, "the normal use of the work shall not be affected, and the legitimate rights and interests of the copyright owner shall not be reasonably impaired". For whether the generated content constitutes infringement, if the AI output constitutes "substantial similarity" to the original, it shall be proved that the AI has "contacted" the original and lacks originality. Moreover, in cross-border cases, the plaintiff is required to prove that the defendant model has access to its work on a global basis (such as through public network capture).

3) Jurisdictional and Choice-of-Law Conflicts

In the general rules of jurisdiction, the domicile of the defendant is generally applicable, for example in Stability AI, where the plaintiff has the choice of a United Kingdom or United States court. Or the law of the place where the infringement is committed, including the place where the infringement is committed (such as the place where the server is located) and the place where the result occurs (such as the place where the user downloads). If the user agreement stipulates the place of dispute settlement (such as arbitration clause), the jurisdiction of the court may be excluded.

However, AIGC has its own peculiarities, and the "borderless nature" of its services makes the choice of laws beneficial to the plaintiff the key to litigation strategy.[4]

3. Pathways for Resolving Cross-Border AIGC IP Disputes

(1) International Treaties and Multilateral Cooperation

With the rapid evolution of the global digital ecology, artificial intelligence generated content (AIGC), with its innovative, efficient and diversified nature, is deeply integrated into many fields such as cultural creativity and information dissemination, and has become a key force to promote the development of the digital economy. However, the accompanying copyright problems have become increasingly prominent, posing unprecedented challenges to the international copyright governance system.

The Berne Convention, which is widely followed by the international community, as a cornerstone international treaty in the field of copyright protection, provides a basic framework and guiding principles for the construction and coordination of copyright protection systems in various countries. However, since AIGC has not yet emerged at the time of its formulation, the Convention does not clearly define the core issue of whether AIGC constitutes an "intellectual creation" achievement. In the process of AIGC creation, the interaction between the autonomy of artificial intelligence algorithms and human creative intent is complex and delicate, which makes the identification standard of traditional "intellectual creation" face the need of reconstruction, and the renewal and refinement of the Berne Convention in the future is imminent.

To meet this global challenge, the World Intellectual Property Organization (WIPO) has demonstrated its foresight and action, and formally launched the consultation process on the AI and Intellectual Property Policy in 2024. The purpose of this consultation is to pool global wisdom, balance the interests of all parties, formulate a set of multinational AIGC copyright rules with wide applicability and authority, and provide clear guidance for the rational use and copyright protection of AIGC worldwide.

At the regional level, the European Union has actively played a leading role, and its Digital Market Bill (DMA) explicitly requires the platform to label the sources of AI generated content. This measure not only helps to improve information transparency, safeguard consumers' right to know, more effectively trace the source of content, reduce cross-border infringement risks, lay a solid foundation for the healthy and orderly development of regional digital markets, but also provides practical experience for other regions to learn from.

(2) Technical Measures and Industry Self-Regulation

At a time when AIGC is flourishing but copyright disputes are frequent, it is extremely urgent to take effective measures to protect copyright.

First of all, the use of copyright filtering technology to build a "content voucher" system is a key step. Copyright filtering technology can rely on advanced algorithms to screen mass generated content quickly and accurately, and identify elements that may have copyright risks. The "content certificate" system established on this basis can insert a unique digital watermark for each generated content. This watermark, like the "electronic identity card" of the content, contains key information such as the creator, time and data source. Once a copyright dispute occurs, professional tools can be used to trace the source of data according to the watermark, clarify the ownership of copyright, and reduce the hidden dangers of disputes from the beginning of content generation.

Secondly, the transparent authorization of training data and the construction of a data authorization mechanism are realized through the blockchain. The decentralized, tamperless and traceable nature of blockchains makes them ideal tools for data management. We should record the training data’s provider, user, authorization scope, duration, and other relevant information on the

blockchain so as to create an open and transparent ledger.All parties may inquire about the status of verification authorization at any time to avoid data abuse. At the same time, smart contracts are used to automatically implement authorization clauses, improve authorization efficiency and standardization, and ensure the rational and legal use of data.

Moreover, industry agreements are also essential. We can take, as an example, the AIGC Copyright Compliance Guidelines that the Global AI Alliance issued in 2025; these guidelines require member enterprises to disclose their training-data policies. This can enable enterprises to standardize the process of data collection and use, accept social supervision, enhance the transparency of behavior, and avoid disputes arising from data problems. Moreover, the unification of industry norms will help to create a level playing field and promote the healthy and sustainable development of the AIGC industry.

(3) Basis for Unified Judicial Judgment

Within the framework of international legal practice, the International Court of Justice has the potential to shape transnational case law by referring to similar judgments in other countries. Taking the U.S. case Authors Guild v. Google as an example, its ruling embodies extensive legal reasoning and value judgments, offering valuable reference material for the International Court of Justice in handling similar cases. The International Court of Justice may conduct a systematic study and analysis of such typical cases, draw on their useful experience, and then form a universally binding transnational case law. Such case law can not only fill the gaps in specific areas of international law, but also provide consistent legal guidance for countries in resolving similar disputes and promote the sound development of the international rule of law.

Moreover, given the complexity and global nature of the AIGC (Artificial Intelligence Generated Content) copyright determination problem, it is necessary to promote international organizations to take the lead in formulating the AIGC Copyright Determination Standards. The standard should be based on rigorous legal theory and practical experience, and clarify the quantitative indicators of core elements such as the proportion of training data and the originality of generated content. By establishing these specific and clear standards, the ambiguity and uncertainty in the process of AIGC copyright determination can be effectively solved, the legitimate rights and interests of creators can be guaranteed, and the healthy and orderly development of the AIGC industry can be promoted.

4. Conclusion and Outlook

With the wide application of artificial intelligence, cross-border AIGC copyright disputes are a new round of challenges in the era of globalization, requiring the coordinated protection of technology, law, policy and industry. In the future, different entities can make joint efforts to carry out global action to protect intellectual property rights. Under the leadership of WIPO, an international organization, the copyright databases of various countries shall be integrated to realize rapid compliance review of AI training data. At the social level, industry self-discipline, mutual supervision, and the development of "global AI copyright insurance" provide cross-border litigation risk protection for enterprises and reduce the cost of rights protection. [5] At the judicial level, the "tort liability mechanism" is divided according to the degree of participation of AI enterprises. Through the improvement of international treaties, the unification of technical standards and the coordination of judicial judgments, a "inclusive, fair and efficient" global AIGC copyright governance system can be gradually built to provide legal guarantee for the sustainable development of AI technology. [6]

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