Artificial Intelligence Is Not an Author: The Limits of Human Creative Contribution in Copyright Protection

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Abstrak: Penelitian ini bertujuan untuk menganalisis status hukum karya yang dihasilkan dengan bantuan kecerdasan buatan dalam sistem hak kekayaan intelektual Indonesia serta merumuskan mekanisme perlindungan hukumnya. Ketentuan peraturan perundang-undangan hak cipta dianalisis melalui penafsiran sistematis, ekstensif, dan teleologis guna menjawab permasalahan terkait originalitas dan subjek pencipta.Penelitian ini menggunakan metode yuridis normatif dengan pendekatan peraturan perundang-undangan, konseptual, kasus, dan sejarah. Data diperoleh melalui studi kepustakaan terhadap bahan hukum primer, sekunder, dan tersier, yang dianalisis secara kualitatif dengan metode interpretasi hukum. Hasil penelitian menunjukkan bahwa status hukum karya berbasis kecerdasan buatan ditentukan oleh adanya kontribusi kreatif manusia. Berdasarkan penafsiran Pasal 1 angka 2 jo. Pasal 1 angka 3 Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta, karya yang dihasilkan dengan bantuan kecerdasan buatan dapat dilindungi hak cipta sepanjang terdapat kontribusi kreatif manusia yang substansial, sedangkan karya yang dihasilkan sepenuhnya oleh kecerdasan buatan tanpa keterlibatan kreatif manusia tidak memenuhi kualifikasi sebagai ciptaan. Perlindungan hukum tersedia melalui *mekanisme preventif dan represif*, namun masih terdapat kekosongan hukum terkait kriteria operasional kontribusi kreatif manusia. Sebagai rekomendasi, pemerintah perlu menetapkan pedoman teknis melalui peraturan pelaksana untuk memperjelas kriteria kontribusi kreatif manusia dalam pencatatan dan perlindungan ciptaan berbasis kecerdasan buatan guna menjamin kepastian hukum.

Kata Kunci: **Hak Cipta, Perlindungan Hukum, Ciptaan Berbasis Kecerdasan Buatan**

Abstract: This study aims to analyze the legal status of works generated with the assistance of artificial intelligence within Indonesia's intellectual property rights system and to formulate appropriate legal protection mechanisms. The provisions of copyright legislation are examined through systematic, extensive, and teleological interpretation in order to address issues concerning originality and the subject of authorship. This study employs a normative juridical method with statutory, conceptual, case, and historical approaches. Data were obtained through library research on primary, secondary, and tertiary legal materials, which were analyzed qualitatively using legal interpretation methods. The findings indicate that the legal status of artificial intelligence-based works is determined by the presence of human creative contribution. Based on the interpretation of Article 1 Point 2 in conjunction with Article 1 Point 3 of Law Number 28 of 2014 on Copyright, works generated with the assistance of artificial intelligence may be protected under copyright law insofar as substantial human creative contribution is present, whereas works produced entirely by artificial intelligence without any human creative involvement do not qualify as copyrightable

works. Legal protection is available through both preventive and repressive mechanisms; however, a legal vacuum persists with respect to the operational criteria for determining human creative contribution. As a recommendation, the government should establish technical guidelines through implementing regulations to clarify the criteria for human creative contribution in the registration and protection of artificial intelligence-based works, thereby ensuring legal certainty.

Keywords: Copyright, Legal Protection, Artificial Intelligence-Based Works

INTRODUCTION

The digital transformation driven by advancements in artificial intelligence technology has brought significant changes across various dimensions of human life. Artificial intelligence (AI) technology not only offers operational efficiency but also opens up opportunities for innovation in the creative, industrial, healthcare, and educational sectors through its ability to process big data, perform deep learning, and autonomously generate content. Generative AI platforms such as ChatGPT, DALL·E, and Midjourney have demonstrated extraordinary capabilities in creating intellectual works ranging from textual narratives and artistic visualizations to musical compositions and programming algorithms. Nevertheless, the acceleration of this technological innovation has given rise to substantial juridical complexities, particularly concerning intellectual property rights and the construction of contractual relationships within the digital ecosystem.[1].

In Indonesia, the adoption of artificial intelligence (AI) technology has experienced significant acceleration in recent years, particularly in the financial technology and e-commerce sectors. Based on the tax collection system in Indonesia, taxes are divided into two categories: central taxes, which are collected by the central government, and regional taxes, which are collected by local governments. Regency/municipal taxes consist of hotel tax, restaurant tax, entertainment tax, advertisement tax, street lighting tax, parking tax, non-metallic mineral tax, and other regional taxes. The digital creative industry has increasingly integrated artificial intelligence into content production processes and consumer services. The growth of this digital ecosystem creates substantial economic opportunities, but it also presents complex legal challenges, particularly concerning ownership status and the protection of intellectual property rights over works produced with the assistance of artificial intelligence technology.[2].

The juridical problem concerning the legal status of works produced with the assistance of artificial intelligence becomes increasingly complex when linked to the fundamental concept of copyright, which requires the elements of human creativity, originality, and fixation in a tangible form. Law Number 28 of 2014 on Copyright defines a creation as "any work in the fields of science, art, and literature produced based on inspiration, ability, thought, imagination, dexterity, skill, or expertise that is expressed in a tangible form," which implicitly requires human cognitive and creative involvement.

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This definition gives rise to ambiguity when applied to works produced with the assistance of artificial intelligence, where the boundary between human creative contribution and algorithmic processing becomes blurred. When a designer uses Midjourney to generate illustrations by providing specific prompts, or a writer uses ChatGPT to develop a manuscript, the fundamental questions that arise are whether such works can be categorized as "creations" protected by copyright, and to what extent human creative contribution is required for AI-assisted works to meet the criterion of originality?. [3].

Legal uncertainty regarding the status of artificial intelligence–based works has begun to generate practical issues in Indonesia. The Directorate General of Intellectual Property has recorded an increase in consultations from creative industry actors concerning copyright registration for works produced using generative artificial intelligence platforms; however, to date, there are no clear technical guidelines on how such works should be treated within the copyright registration system.

Applicants encounter difficulties in explaining to Directorate General of Intellectual Property (DGIP) officials the extent of human creative contribution in the creation process, as the existing registration forms do not accommodate the categorization of artificial intelligence–based works.

The significance of this issue has become increasingly critical in line with the rapid global adoption of artificial intelligence (AI). In Indonesia, the artificial intelligence ecosystem has experienced substantial growth, marked by the proliferation of technology startups and corporations integrating AI into their business architectures. However, the pace of technological innovation has not been matched by the readiness of an adequate legal infrastructure, particularly in regulating the contractual dimensions of the use of licensed works by artificial intelligence, which may lead to legal uncertainty and the escalation of disputes.

The issue of the legal status of artificial intelligence (AI)–based works becomes increasingly critical when linked to the characteristics of AI as a tool in the creative process. Unlike conventional tools such as brushes, cameras, or editing software, which are passive in nature and fully controlled by humans, artificial intelligence possesses generative capabilities that enable it to produce outputs autonomously based on machine learning algorithms. In this context, a fundamental question arises regarding the boundary between "using artificial intelligence as a tool" and "artificial intelligence creating independently." Can a user who provides prompts to artificial intelligence be regarded as an author who merely uses a tool, or merely as an instructor whose output is highly dependent on the capabilities of the artificial intelligence algorithm itself? Article 1 point 2 of the Copyright Law defines an author as "an individual or several individuals who individually or jointly produce a creation that is distinctive and personal," yet it does not provide clarification regarding the level of human creative contribution required when utilizing technology with generative capabilities such as artificial intelligence. The absence of clarity regarding the criteria for "the use of artificial intelligence (AI) as a tool" that still satisfies the

requirements of originality and human creative contribution may trigger legal disputes and hinder the growth of the digital creative industry.

Indonesia's legal framework concerning copyright and contracts is already in place; however, it does not yet explicitly accommodate the complexities introduced by artificial intelligence technology. Law Number 28 of 2014 on Copyright grants protection to authors or copyright holders for original works, with Article 1 point 2 defining an author as a legal subject who produces a creation. This regulation serves as the fundamental basis for the protection of intellectual works in Indonesia; however, its provisions were constructed prior to the proliferation of generative artificial intelligence and therefore do not explicitly regulate the legal status of works produced with or by artificial intelligence [3].

Article 1 point 3 of the Copyright Law defines a creation as "any work in the fields of science, art, and literature produced based on inspiration, ability, thought, imagination, speed, skill, or expertise that is expressed in a tangible form."

This definition presupposes human cognitive and creative elements as prerequisites, thereby creating ambiguity regarding the categorization of artificial intelligence works generated with minimal or no human intervention. Indonesia's Copyright Law does not explicitly regulate AI-generated artworks, resulting in legal uncertainty and potential risks of copyright infringement.

The normative gap in Law Number 28 of 2014 on Copyright can be specifically identified in several fundamental aspects. First, Article 1 point 3 of the Copyright Law defines a creation as "any work produced based on inspiration, ability, thought, imagination, dexterity, skill, or expertise that is expressed in a tangible form," which implicitly requires human cognitive and creative involvement. This definition creates ambiguity when applied to works produced with the assistance of artificial intelligence (AI), where the boundary between human creative contribution and algorithmic processing becomes blurred. Second, Article 1 point 2, which defines an author as "an individual or several individuals who individually or jointly produce a creation that is distinctive and personal," does not provide clarification regarding the legal status of works whose creation process involves technology possessing generative capabilities.

Based on a review of the literature on previous studies, the issue of intellectual property law concerning works produced with the assistance of artificial intelligence has become an academic concern in Indonesia. Law Number 28 of 2014 on Copyright has, in fact, provided a fundamental framework for the protection of works in the fields of science, art, and literature. However, the provisions of the law were formulated prior to the proliferation of generative artificial intelligence technology and therefore do not explicitly regulate the legal status of AI-based works, the criteria for human creative contribution in creation processes involving artificial intelligence, nor the mechanisms for allocating rights and responsibilities among parties within a technology-based creative ecosystem.

Research by Sari et al. (2023) analyzed the originality of artificial intelligence–based musical works and concluded that purely AI-generated works do not meet the requirement of originality because they lack the personal imprint of a human author [4]. Bagus et al. (2023) emphasize the urgency of regulating artificial intelligence within copyright law and recommend legislative revision, considering that artificial intelligence has not been explicitly regulated under Law No. 28 of 2014 [2]. Meanwhile, Pinasty et al. (2024) focus on the law enforcement aspects of copyright infringement involving commercialized artificial intelligence works, emphasizing that such violations may be pursued through both civil and criminal legal avenues [5]. However, these three studies still leave gaps in terms of a concrete juridical construction to determine the legal status of artificial intelligence–based works within the framework of Indonesia's positive law, as well as operational criteria to distinguish between works produced "with the assistance of artificial intelligence" and those produced "by artificial intelligence." They also have not proposed adaptive and applicable legal protection mechanisms for various types of AI-based creations. Meanwhile, data from the Directorate General of Intellectual Property indicate an increase in consultations from creative industry actors regarding copyright registration for works generated using generative artificial intelligence platforms. Nevertheless, to date, there are no clear technical guidelines on how such works should be treated within Indonesia's copyright registration system.

Based on the foregoing explanation, this research is directed at filling the gap in academic knowledge by addressing two fundamental juridical issues. First, from the perspective of legal status, this study conducts an in-depth analysis of how the provisions of Article 1 point 2 and point 3 of the Copyright Law should be interpreted in the context of artificial intelligence–based works, including formulating juridical criteria to distinguish between works produced "with the assistance of artificial intelligence" that qualify for copyright protection and works produced "by artificial intelligence" that do not meet such requirements.

The novelty of this research lies in its integrative approach, combining normative juridical analysis with a prescriptive-applicative perspective. Unlike the study by Sari et al., which was limited to a single type of work (music), the research by Bagus et al., which was descriptive in nature without offering a concrete juridical construction, and the study by Pinasty et al., which focused primarily on enforcement aspects, this research develops a comprehensive juridical construction through systematic, extensive, and teleological interpretation of the currently applicable provisions of the Copyright Law.

This research also formulates operational criteria to assess "significant human creative contribution" as a determinant of copyright protection, and constructs legal protection mechanisms that take into account not only the moral rights and economic rights of the author, but also aspects of registration, licensing, dispute resolution, and the allocation of liability within an artificial intelligence–based creative ecosystem. Thus, this study not only fills the research gap at the theoretical level, but also provides practical contributions in the form of policy recommendations that can be implemented by the Directorate General of Intellectual Property,

legal practitioners, and creative industry actors to support the fair and sustainable growth of a technology-based creative economy.

Based on the foregoing background, this research aims to analyze and explain the legal status of works created with the assistance of artificial intelligence (AI) within the framework of intellectual property regulation. This study is expected to provide an understanding of the legal protection afforded to creations produced with the assistance of artificial intelligence in accordance with the laws governing intellectual property rights.

Based on this description, the author is interested in examining the formulation of the following research problems: "What is the legal status of works created with the assistance of artificial intelligence (AI) within the framework of intellectual property regulation?" and "How is the legal protection of a creation produced with the assistance of artificial intelligence regulated under the laws governing intellectual property rights?"

RESEARCH METHOD

The research method employed in this study is normative legal research, namely legal research that utilizes secondary data sources. Secondary data sources refer to all legal publications that constitute the results of the opinions or thoughts of scholars or specialists who have studied the subject, in the form of books and journals, such as literature on the fundamentals of contract law.

In this research, the author applies several approaches, with a primary focus on the library approach. The library approach is a data collection technique conducted through the review of books, literature, notes, and existing reports. In accordance with the method used, this study adopts a library-based method within the framework of normative research. The research is conducted in three stages: primary legal materials, secondary legal materials, and tertiary legal materials.

All data collected by the author are subsequently analyzed to draw conclusions from the materials obtained in relation to the issues discussed in this study. The method used for analysis is qualitative analysis. Qualitative analysis involves systematically examining the presentation of written materials that have been studied through legal doctrine, legal theory, and positive law. The purpose of this explanation is to elaborate the legal research issues in logical, scientific, and easily understandable sentences.

DISCUSSION

1. **The Legal Status of Works Created with the Assistance of Artificial Intelligence (AI) within the Framework of Intellectual Property Regulation**

   Interpretation of the Definition of a Creation in the Context of Artificial IntelligenceThe primary issue in assessing the legal status of artificial intelligence–based works does not lie

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in the sophistication of the technology used, but rather in the fulfillment of the element of a "creation" as formulated in Article 1 point 3 of Law Number 28 of 2014 on Copyright. Therefore, legal analysis of AI-based works must focus on the conformity of both the creation process and its outcome with the normative concept of a creation within the Indonesian copyright system.

The development of artificial intelligence raises an important juridical question regarding how Indonesian copyright law evaluates works whose creative processes involve non-human entities. This issue is fundamental because it touches upon the core concept of creativity, which has traditionally been assumed to be a uniquely human capacity. In practice, the use of generative artificial intelligence such as Midjourney to create illustrations, or generative language models to formulate story ideas, creates ambiguity as to the extent to which such outputs can still be regarded as human creative expression deserving of legal protection [3].

Normatively, Article 1 point 3 of the Copyright Law defines a creation as a work produced based on inspiration, intellectual ability, imagination, dexterity, skill, or expertise. This formulation implicitly contains psychological and intellectual elements that are inherently possessed only by humans. Accordingly, the definition of a creation in Indonesia's positive law presupposes the existence of a creative process originating from human intentionality, rather than merely the result of algorithmic operations functioning automatically based on training data [3]

This interpretation is reinforced through a systematic reading of Article 1 point 2 of the Copyright Law, which defines an author as an individual or several individuals who produce a work that is distinctive and personal.The combination of these two provisions demonstrates that Indonesia's copyright system is built upon the principle that creativity is a human activity, and that only humans can serve as the source of originality protected by law [3].

The doctrine of the "personal touch," which has been affirmed in the jurisprudence of the Supreme Court, further strengthens this approach. Supreme Court decisions emphasize that originality is not determined merely by differences in outward form, but must reflect the existence of a creative process that can be explained and traced back to its author. In the context of artificial intelligence–based works, the issue that arises is whether algorithmic outputs can still be considered to reflect the personality of the author when artistic decisions regarding composition, style, or the structure of the work are largely determined by the system rather than by the human creator.

2. **The Distinction Between Works Created with the Assistance of Artificial Intelligence and Works Created by Artificial Intelligence**

To determine whether an artificial intelligence output can be qualified as a creation, it is necessary to make a conceptual distinction between works produced with the assistance of artificial intelligence and works produced by artificial intelligenceLiterature and copyright

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registration practices indicate that the relationship between humans and artificial intelligence in the creative process exists along a spectrum rather than a strict black-and-white dichotomy. At one end of the spectrum, artificial intelligence functions merely as a technical support tool that does not replace the human creative role. Examples include the use of grammar-checking features, auto-coloring, or noise reduction. In this context, all aesthetic and intellectual decisions remain under human control, so the resulting work still meets the requirements to be considered a creation protected by copyright [6].

In the middle of the spectrum, there are works in which humans provide relatively detailed instructions, perform repeated iterations, select from various outputs generated, and make further modifications. In this context, artificial intelligence does not function as a co-creator but rather as a creative assistive tool with an active role, while substantive creative control remains with humans through processes of selection, curation, and further refinement. Assessment of works in this category must be conducted on a case-by-case basis by considering the level of specificity of the instructions, the number of iterations, the degree of modification, and the consistency of style that reflects the human creator's creative vision. [6].

At the other end of the spectrum, there are works generated through very general instructions, such as "draw a cat" or "write an adventure story," where the user accepts the output without any significant modification. In this category, all substantive elements of the work—including composition, style, theme, and structure—are determined by the algorithm. Human contribution is limited to providing a general idea, whereas in copyright doctrine, ideas are not protected. Therefore, such works cannot be qualified as creations that are eligible for copyright protection. [6].

This distinction has significant legal implications, considering that the copyright registration system in Indonesia is declarative in nature and does not conduct a substantive assessment of the eligibility of a work. Therefore, only works that demonstrate genuine human creative control can be qualified as creations, while purely artificial intelligence–generated outputs do not receive copyright protection.

1. **Criteria of Human Creative Contribution as a Determinant of Protection**

To provide legal certainty, operational criteria are needed to define what constitutes a significant human creative contribution. Several jurisdictions have developed standards that can serve as interpretative references. The guidelines of the U.S. Copyright Office, for example, emphasize that copyright protection can only be granted when human contributions can be identified and distinguished from elements generated by artificial intelligence [7].

The practice of applying copyright law to works involving artificial intelligence can be observed through the policies and assessments carried out by the U.S. Copyright Office in

handling the *Zarya of the Dawn* case. The case concerned an application for copyright registration for a comic work that combined narrative text written by a human with visual illustrations generated using the artificial intelligence system Midjourney. At the initial stage, the registration application was granted. However, after further evaluation, the U.S. Copyright Office limited the scope of protection by stating that copyright attaches only to the parts of the work that clearly reflect human creative contribution—namely the text and the selection and arrangement of the visual elements as a whole—while the individual images generated by the AI system were not included in the protection [8].

In practice, the distinction between works created with the assistance of artificial intelligence and works entirely generated by artificial intelligence often cannot be determined solely from the final form of the work. Therefore, the legal assessment of the status of a work must focus on the process of its creation. The existence of documentation of the creative process—such as prompt history, stages of iteration, evidence of selection and modification, as well as records of further processing—becomes an important indicator in determining whether there is substantial human creative control.

The main legal consideration in the decision focused on the nature of the process used to create the illustrations. The U.S. Copyright Office argued that the act of providing prompts and selecting the resulting images by the creator could not yet be regarded as a form of decisive human creative control over the final expression of the visual work. Therefore, the illustrations produced were treated as outputs of an automated algorithm-based process rather than as independent expressions of human intellect, and thus did not meet the requirements for independent copyright protection.

2. **The Relevance of the Principle of Human Authorship in the Indonesian Legal Framework**

Although different jurisdictions adopt varying approaches in addressing AI-based works, the general trend indicates that human creativity remains the central point of copyright protection. The United States maintains the principle of human authorship by refusing protection for purely AI-generated outputs, while other jurisdictions have developed different models in accordance with their respective national policy needs. Reference to these international practices is not intended to serve as a basis for drawing legal conclusions, but rather to enrich perspectives and emphasize that the Indonesian copyright law approach—which requires the presence of human creative contribution—has a rational and relevant foundation. In the context of the Indonesian legal system, which positions the creator as a human legal subject, the most compatible approach is to maintain the principle of human authorship while still allowing protection for works that involve genuine human creative

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contributions. Meanwhile, purely artificial intelligence–generated outputs are not qualified as creations eligible for copyright protection.

3. **Legal Protection for Works Created with the Assistance of Artificial Intelligence under Indonesian Intellectual Property Law**

   1. **Protection of Moral Rights and Economic Rights in Artificial Intelligence–Based Works**

      The structure of copyright protection in Indonesia rests on two foundations: moral rights and economic rights, as affirmed in Article 4 of the Copyright Law. In the context of artificial intelligence, these two foundations are being re-examined due to the nature of generative works that are no longer entirely derived from the human creative process. However, the fundamental principle remains unchanged: protection can only arise when human intellectual expression can still be traced, whether in the form of creative conception, artistic control, or the curation process of artificial intelligence outputs [3].

      Moral rights, which include attribution and the protection of the integrity of a work, require the existence of a personal relationship between the creator and the work. This personal relationship becomes blurred when a work is generated by a generative system that operates based on datasets and internal parameters that are not fully understood by the user. Here, a juridical problem arises: how can someone claim the integrity of a work that is substantially shaped by mechanisms beyond their control? This argument aligns with the doctrine of originality, which consistently questions whether the expression reflects the "personal touch" of the creator.

      However, this does not necessarily mean that moral rights are automatically nullified. Protection can still be granted if the user does not merely enter a brief command, but also directs the style, filters the outputs, refines the composition, and creatively integrates them with other elements. The provision in Circular Letter of the Minister of Communication and Information Technology No. 9 of 2023, which requires transparency in the use of artificial intelligence, further reinforces the paradigm that the human role must be clear rather than concealed [9].

      Meanwhile, economic rights are easier to identify because they relate to the exploitation or utilization of a work. However, the critical point lies in the existential requirement: economic rights do not arise from the mere use of a tool, but from creative expression originating from a human. A user who merely inputs a simple command and accepts the artificial intelligence output as it is cannot claim economic rights, because what emerges is merely a raw idea without creative contribution. [9].

      The debate intensifies when the structure of economic rights is rearranged through the

terms of service of artificial intelligence platforms. Many platforms stipulate that users only obtain economic rights if their creative process meets certain standards, while the internal rights to the model remain with the provider. Although such agreements are valid under Article 1338 of the Indonesian Civil Code (KUHPerdata), they cannot establish copyright without fulfilling the substantive requirement of originality. Therefore, even if the Directorate General of Intellectual Property (DJKI) records the work, the declarative registration may be annulled if it is proven that the work does not contain human creative contribution. [10].

Thus, the protection of moral rights and economic rights can only be granted when human creative contribution is real, identifiable, and gives a distinctive character to the work. Artificial intelligence cannot replace the psychological requirement of authorship. Therefore, the primary analysis lies not in the technology used, but in the depth of the human role in shaping the final expression.

2. **Represive and Preventive Protection**

In works based on artificial intelligence, preventive mechanisms serve a dual function: providing initial protection for the creator while also becoming a means of evidence in the event of a dispute. Article 72 paragraph (4) of the Copyright Law places the recording of a work as valid preliminary evidence. The strategic value of such recording increases because AI-based works are often difficult to prove in terms of their creative origin; documentation of the iteration process, prompts, and modifications becomes evidence that the work is not merely a spontaneous algorithmic output [3].

Licensing agreements, which in the literature are regarded as a classic instrument of intellectual property law, have now become more complex. Such agreements must specify whether the work is: (a) the result of collaboration between humans and artificial intelligence, (b) a purely artificial intelligence output, or (c) a human work that merely uses artificial intelligence as a technical assistive tool [11]. Ambiguity in contractual clauses can give rise to new disputes, particularly if artificial intelligence platforms train their models using works that are exclusively licensed. These provisions must also be aligned with the Personal Data Protection Law, as many artificial intelligence models utilize data that may potentially contain personal information. [12].

On the repressive side, Article 99 of the Copyright Law provides an avenue for creators to file civil claims for damages. Meanwhile, Article 112 opens a criminal pathway for more serious copyright infringements. However, its application to generative works presents unique challenges. Algorithms that produce outputs similar to works within their training datasets may raise questions about whether the user bears fault. The principle in Article 1365 of the Indonesian Civil Code requires the existence of fault, whereas in artificial intelligence systems users often do not know the source of the datasets used by

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the platform. [10].

In cases that require technical understanding, alternative dispute resolution as regulated in Article 95 of the Copyright Law becomes more relevant. Mediation and arbitration mechanisms can involve experts in algorithms or data, something that is often difficult to achieve in formal litigation [3].

Thus, the effectiveness of legal protection for artificial intelligence–based works depends on the creator's ability to prove their creative trace. Since proving infringement involving artificial intelligence is far more complex, preventive measures such as registration, creative documentation, and strict licensing become more important than repressive enforcement.

3. **Allocation of Rights and Responsibilities of the Parties**

Artificial intelligence–based creation involves three main actors: the user, the artificial intelligence platform provider, and the owners of works contained in the training dataset. Each of them occupies a legal position that is not symmetrical.

Users may become copyright holders if their contributions meet the requirement of originality. However, artificial intelligence platforms generally do not claim copyright over the output; rather, they claim rights over the model, dataset, and system used. This asymmetry is reflected in the terms of use, which often grant the platform a non-exclusive right to utilize the output to further train its models.

Another issue arises in relation to the use of datasets. Articles 43–51 of the Copyright Law do provide certain exceptions, such as use for education or research, but it remains unclear whether the training of commercial artificial intelligence models falls within this scope. If a dataset contains copyrighted works without authorization, both the user and the platform may potentially be involved in infringement, even if the user has no knowledge of the source of the data [3].

In this context, the structure of responsibility must be viewed from the perspective of contribution

a. the platform is responsible for the dataset and the algorithm,

b. the user is responsible for the intention of use and the results of commercialization,

c. the dataset owners have the right to bring claims if their works are used without authorization.

Thus, the determination of rights and responsibilities within the ecosystem of artificial intelligence–based works should be grounded in the respective contributions of each party involved. The lack of clarity in the allocation of responsibilities has the potential to generate greater legal risks compared to conventional works. Therefore, the establishment of clear operational standards and technical regulations becomes an urgent necessity to ensure legal certainty and accountability in the use and development of artificial intelligence–based creative works.

4. **Policy Recommendations for an Adaptive Protection Framework**

Indonesia does not yet have a specific legal framework governing artificial intelligence and generative works. Therefore, the formulation of technical guidelines by the Directorate General of Intellectual Property (DJKI) constitutes a fundamental step. These guidelines should include:

a. an operational definition of human creative contribution;
b. the documentation that applicants must prepare (such as prompts, iterations, and revisions);
c. a new category for the registration of artificial intelligence–based works.

In addition, the regulation of dataset usage needs to be further clarified. Strengthening the Collective Management Organizations (CMOs), as provided in Articles 87–91 of the Copyright Law, can be directed toward establishing a fair and transparent licensing scheme for training data. Accordingly, the legal framework for artificial intelligence should be developed through a combination of technical guidelines, the strengthening of CMOs, the regulation of datasets, and ethical considerations. The ultimate objective is not only to provide protection for creators, but also to establish an artificial intelligence ecosystem that is fair, accountable, and capable of fostering responsible innovation [3].

CONCLUSION

In general, the legal status of artificial intelligence–based works within the Indonesian intellectual property system is determined by the existence of substantial human creative contribution. Based on a systematic interpretation of Article 1 point 2 in conjunction with Article 1 point 3 of Law No. 28 of 2014, works produced with the assistance of AI—where humans provide significant creative contributions through control over the creation process, stylistic coherence, output transformation, and iterative processes—may be qualified as creations protected by copyright, with AI positioned as a creative tool while maintaining the principle of human authorship as the basis of protection. The available legal protection mechanisms include moral rights and economic rights for creators as regulated in Articles 5 and 9 of the Copyright Law, which can only be attached when human creative contributions are real and identifiable. Preventive protection is carried out through the registration of works with the Directorate General of Intellectual Property (DJKI), accompanied by comprehensive documentation of the creative process. Meanwhile, repressive protection is available through civil remedies (Article 99), criminal sanctions (Articles 112–119), administrative measures (Article 95), as well as alternative dispute resolution mechanisms. The allocation of rights and responsibilities is determined based on the respective contributions of the parties involved, while also considering issues related to dataset usage and personal data protection. This study recommends that DJKI issue technical guidelines concerning the criteria for human creative contribution and the procedures for registering AI-based works, update regulations to explicitly govern AI-based works, strengthen evidentiary mechanisms for AI-based works in litigation processes, and clarify regulations concerning dataset usage and personal data protection. These measures are necessary to ensure that the allocation of rights and

responsibilities among the parties is proportional and aligned with technological developments, thereby supporting the fair and sustainable growth of Indonesia's digital creative economy.

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