

Generative Artificial Intelligence: New dilemmas for intellectual property law

Tornike Merebashvili^{1,2,*}
¹Grigol Robakidze University, Tbilisi, Georgia; ORCID: 0009-0006-2993-1038

²Scientific-Research Institute of Land Law, Tbilisi, Georgia

Abstract

This paper evaluates how generative artificial intelligence (AI) has altered the extent of the legal system of intellectual property relevant to education and business in Georgia. Using an interdisciplinary approach, the effect of AI on the generation of legal works, including copyright gaps, infringement and liability contracts, is examined in detail. It also addresses the transforming duties of AI developers, legal persons and various individual persons about automated content generation pertaining to primary intellectual authorship and ownership in light of the law. The article highlights these challenges from both global and local law borders and contends that laws to regulate the bounds of creative freedoms, clarity of law and technology, respectively, must advance simultaneously. Recent court rulings, changes in international legal policy and academic debate among scholars show a lack of clear standards for asserting ownership of content, data and algorithm manipulation. It finally outlines suggestions meant to improve legal incongruity and policy alignment.

Keywords

Copyright • Trademark Protection • Contractual Liability • AI Governance

INTRODUCTION

In today's technological landscape, so-called generative artificial intelligence (AI) seems like a bit of a magic trick (Capraro et al., 2024). Systems like *Midjourney*, *DALL·E 2* and *Stable Diffusion* produce highly accurate visual representations in a variety of formats, from painterly to photographic (Hawley, 2024). The resulting materials are often not only visually stunning but also incredibly fast—far beyond the capabilities of ordinary humans (Guinness, 2024). The possibilities of such technologies have already been partially reflected in cultural institutions: in various museums around the world, works generated by AI have been exhibited temporarily (NVIDIA, 2023; The Dalí Museum, 2023) together with local collections (Artnet News, 2023). Such cases are not limited to the international scale—it is time to consider such initiatives in Georgia through the prism of serious legal and ethical considerations.

Of particular note is the rapid advancement of text generators. They create structured essays, convey poems and essays in artistically fluent forms, and sometimes demonstrate such stylistic precision that it is difficult to distinguish them from reality. It is complicated (Yildiz Durak et al., 2025) by the authors. However, there is also a significant problem in that such texts sometimes create the impression of factual

accuracy, while specific facts may be invented by AI technologies themselves or used (Greengard, 2025) with deceptive influence.

While this new wave of technologies may be presented as shaping a 'new reality' of content, in reality, AI systems are based on processing massive amounts of material—mostly from archives where existing texts and images are subjected to algorithmic analysis (Tu et al., 2024). In this process, platforms learn connections and patterns, then combine them to create new content in response to specific requests (Klingler, 2024).

However, behind this very process lies several legal ambiguities and threats that do not yet have a fully defined regulatory framework. In Georgian legal practice, as well as in international discourse, questions are still being raised: Is it possible to protect material created by generative AI as intellectual property? Who owns the final object—the user who made the request, the system itself or the person who created the platform? (Hwang, Shin, & Lee, 2025).

These questions are of particular importance in universities, where the quality of research and teaching is directly related to originality and academic purity (Liebenson, 2023). Nowadays, when students and scholars of Georgian higher education institutions increasingly turn to AI to create texts, a

* Corresponding author: tornike.merebashvili21@gruni.edu.ge.

Open Access. © 2025 Merebashvili, published by Sciendo

 This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 4.0 License.

serious problem arises: How should authorship, responsibility and ownership of works be determined, the main valuable part of which was not created by human creativity?

Therefore, before universities and educational institutions become interested in the possibilities of AI as a means of simplifying teaching and research processes, it is necessary to analyse its legal and ethical features in detail. Only in this way will it be possible to use both technological innovation and Proper engagement, as well as protection of intellectual property and maintenance of academic integrity.

It is hypothesised that the issue of intellectual property rights concerning content generated by generative AI remains largely unregulated in Georgia, which not only presents legal challenges but also ethical dilemmas. This hypothesis is based on the assumption that the authorship of AI-generated content should be clearly defined to protect the rights of both the creator and the user.

RESEARCH RESULTS AND DISCUSSION

Intellectual property law in the age of generative AI

Although generative AI is relatively new to the market, existing legal norms already contain important principles that determine its use (US Copyright Office, 2025). Currently, courts around the world are trying to determine how existing legislation should be adapted to the complexities of these technologies in orbit. Issues on the agenda include content usage rights, the IP ownership status of creative objects created by AI, the presence of unlicensed material in training data and even whether it is legal for systems to refer to specific, protected works or trademarks without the authors' consent (Brittain, 2025).

These dilemmas are already the subject of legal disputes. One famous example is the case of 'Andersen v. Stability AI' (2022), where several artists jointly sued generative platforms on the grounds that their works were used without a licence to train the system. At the same time, they believed that users were allowed to create content that was not sufficiently transformed from the original and therefore constituted an unauthorised creation—the so-called 'derivative work' (JIPEL, 2023). If the court decides that the materials created by generative AI do indeed constitute unauthorised and untransformed replication, severe liability may arise, including a claim for high compensation.

Similar lawsuits were also filed in 2023: The defendant companies were accused of having their systems analyse thousands (in many cases, millions) of works that were not used without the authors' consent. For example, Getty Images, one of the largest databases of licenced visual material, is suing the creators of Stable Diffusion because they not only violated copyright but also used their protected trademarks,

including watermarked photos (Getty Images (US), Inc. v. Stability AI, Inc., 2023).

This category of cases is what constitutes a 'transformed creative work' for intellectual property purposes and when an AI-generated object should be considered an example of genuine transformation or even mosaic plagiarism. Given that the legal order varies across jurisdictions, such cases may guide future legal policy development to address such relationships.

The vision of the so-called 'Fair Use Doctrine' determines when it is permissible to use a protected work without the author's consent. For example, for educational, research or critical purposes, if the material is significantly transformed from its original purpose. It is this principle that determines the boundary between permissible and infringement (Office of the General Counsel, Harvard University, n.d.).

It is worth noting that this kind of legal uncertainty is not the first time technology has faced such a challenge. *Google* has successfully defended itself in the past, arguing that extracting short snippets of text from books for its search engine constituted a transformative use (Authors Guild, Inc. v. Google, Inc., 2015). While that decision remains a precedent, it is unclear how the case will translate to the next generation of AI systems.

In addition to the technological litigation, the U.S. Supreme Court is currently considering a case (Goldsmith v. Warhol Foundation) that concerns when a work of art can be considered sufficiently distinct from its underlying source. The court ruled 7-2 that Andy Warhol's use of a photograph of Lynn Goldsmith did not constitute fair use. The decision sets an important precedent (US Supreme Court, 2023) for copyright protection and the interpretation of the fair use doctrine.

For Georgia, which still practically does not even formulate legal policy in the direction of generative technologies, these processes are highly important. Academic institutions and individuals and legal entities in general that are already actively using AI may find themselves under legal threats—whether it is indirect infringement (e.g. mosaic plagiarism, etc.) or the input of data into the system that contains protected content or commercially confidential information.

Responsible use of AI systems and protection of intellectual property

With the digital landscape becoming increasingly complex, every organisation needs a clearly defined approach that ensures both short-term and long-term protection of intellectual property rights (Miller, 2024).

First, AI platform developers must ensure that their training data is obtained legally—this means licencing or paying appropriate compensation to copyright holders or at least sharing the revenue. Even organisations that simply use

generative systems are required to study the platform's terms of service, privacy policies and make sure that the system's training data is based on licenced or open sources.

In addition, those who use AI systems in research, development or for other purposes should establish rules that prevent accidental copyright infringement or unauthorised disclosure of trade secrets.

Developer responsibilities and legal framework for data use

In today's technological reality, generative AI developers have a serious responsibility towards the materials that their platforms use as a 'training ground'. This is especially true when it comes to the uncontrolled use of large-scale data from the Internet, which often includes unauthorised use of copyrighted materials. For example, systems such as *Stable Diffusion* and *Midjourney* rely on huge datasets (e.g. LAION-5B) to build their models, which contain several billion summarised images and most likely also include protected content (Tech Policy Press, 2023).

Although some platform developers claim the ability to 'opt out' specific authors for future versions, this approach places all responsibility on the authors, not the developers (AIIM, 2023). Based on the principle of fairness, a system should be implemented that requires the creator's prior consent (opt-in) to use their work and not the other way around.

Legal transparency of AI-generated content requires a technical framework that provides detailed traceability of each work. Logging—for example, which platform and settings were used, what the initial text prompt was, when and how it was generated and what the metadata of the data source is. This is not just technical—it is a legal defence mechanism that can help companies defend themselves against potential intellectual property infringement claims.

In the long term, companies and developers will have to create systems where everything is written in a perfect way.

Creators' rights in the digital age

Individual creators, trademark owners and organisations alike need to keep track of their intellectual property portfolios in the digital world. This involves not only systematically (Matsuura, 2003) monitoring existing works but also their potential future. Adaptation to large-scale databases by AI systems. Although manual 'scanning' is practically impossible, modern search and analysis tools enable automated methods such as detecting branded visual elements, textual inscriptions or stylistic cues (Scaleflex, 2025).

However, for well-known brands that rely on the uniqueness of their visual identity, simply detecting symbols is not enough. It is necessary to deepen the so-called 'stylistic observation' to identify cases in which the AI model creates a work that may not directly contain the brand name or logo but repeats

its visual line, which leads to a mistaken perception by the user (similarity to confusion).

It is worth noting that Georgian legal practice is still in its infancy, although legal mechanisms for trademark protection already exist. That is why well-known brands must pay more attention—whether it is filing specialised applications, warning letters or going to court—to establish practice.

Business, contracts and legal liability

Businesses should clearly define the rules for interacting with AI platforms. This means that companies should require a statement in the terms of service that confirms the licencing of the data used, and they should demand a guarantee that the product they receive does not violate the rights of third parties.

It is also advisable to include special clauses in contracts that define the responsibilities of the parties if generative AI is used. For example, it should be written that the parties are obliged not to include confidential information in the form of commands to be input by the AI and to take responsibility for the results obtained by the platform.

Some leading companies are already creating special 'AI sections' in their contracts to avoid unforeseen risks and legal uncertainties (Martin, 2024).

The future of the ethical use of AI

Society is now at a crossroads where it is necessary to harness the potential of technology in a way that does not infringe on the rights of creators. Legal entities and individuals who have rich archives of content can independently create their learning bases and build generative platforms that are protected, licenced and legally transparent.

Also, collaborating with stakeholders—whether users, subscribers or partners—creates new opportunities for co-creation and fair compensation. In such cases, agreements should reflect the basis for consent and the rules for using content.

Generative AI is changing the nature of content creation. It is enabling many things that were previously only possible for technologically equipped groups (Eapen et al., 2023). But with this change comes a responsibility to protect the rights of the people whose labour the systems themselves rely on. And while AI technologies transform the creative economy, we need to strike a balance between innovation and respect for rights—to protect both the individual creator and the commercial interest.

CONCLUSION

The widespread use of generative AI has changed the legal approaches to intellectual property. Although these

technologies offer new opportunities for creative and commercial spheres, their use raises serious legal, ethical and contractual difficulties. It is essential that both AI developers and individuals, as well as legal entities and creators, actively engage in the formation of new legal norms and practices.

Georgian reality is still in the early stages of this process. Therefore, the use of generative AI must be based on transparent mechanisms, licencing, contractual relationships and the principle of author consent. Only under such conditions will it be possible to use this technology in the legal system in a way that protects both the novelty and the intellectual property of the creator.

These findings indicate that generative AI challenges foundational assumptions of intellectual property law, particularly by blurring the boundaries between human and machine authorship. Georgia must, therefore modernise its legal system and adopt complementary ethical and institutional standards that reflect the hybrid nature of AI-generated works. A coherent and multidimensional strategy is essential to ensure both legal certainty and the continued advancement of innovation.

REFERENCES

- AIIM. (2023). AIIM's take on AI input transparency policy. <https://info.aiim.org/aiim-blog/aiims-take-on-ai-input-transparency-policy>. Accessed February 1, 2025.
- Artnet News. (2023). Dutch museum sparks controversy by hanging an AI "girl with a pearl earring". <https://news.artnet.com/art-world/mauritshuis-museum-girl-with-a-pearl-earring-ai-facsimile-2263100>. Accessed February 5, 2025.
- Authors Guild, Inc. v. Google, Inc., 804 F.3d 202 (2d Cir. 2015). <https://law.justia.com/cases/federal/appellate-courts/ca2/13-4829/13-4829-2015-10-16.html>. Accessed February 12, 2025.
- Brittain, B. (2025). 'Judge explains order for New York Times in OpenAI copyright case', *Reuters*, 4 April. <https://www.reuters.com/legal/litigation/judge-explains-order-new-york-times-openai-copyright-case-2025-04-04/>. Accessed February 12, 2025.
- Capraro, V., Lentsch, A., Acemoglu, D., Akgun, S., Akhmedova, A., Bilancini, E., Bonnefon, J.-F., Brañas-Garza, P., Butera, L., Douglas, K. M., Everett, J. A. C., Gigerenzer, G., Greenhow, C., Hashimoto, D. A., Holt-Lunstad, J., Jetten, J., Johnson, S., Kunz, W. H., Longoni, C., Lunn, P., Natale, S., Paluch, S., Rahwan, I., Selwyn, N., Singh, V., Suri, S., Sutcliffe, J., Tomlinson, J., van der Linden, S., Van Lange, P. A. M., Wall, F., Van Bavel, J. J., & Viale, R. (2024). The impact of generative artificial intelligence on socioeconomic inequalities and policy making. *PNAS Nexus*, 3(6), e191. <https://doi.org/10.1093/pnasnexus/pgae191>. Accessed February 20, 2025.
- Eapen, T.T., Finkenshtadt, D.J., Folk, J., Venkataswamy, L. (2023). 'How Generative AI can Augment Human Creativity', *Harvard Business Review*. <https://hbr.org/2023/07/how-generative-ai-can-augment-human-creativity>. Accessed February 15, 2025.
- Getty Images (US), Inc. v. Stability AI, Inc. (2023). *Complaint for Damages and Injunctive Relief*. United States District Court for the District of Delaware. <https://docs.justia.com/cases/federal/district-courts/delaware/dedce/1:2023cv00135/81407/1>. Accessed February 5, 2025.
- Greengard, S. (2025). 'Shining a Light on AI Hallucinations', *Communications of the ACM*, 3 April. <https://cacm.acm.org/news/shining-a-light-on-ai-hallucinations/>. Accessed February 20, 2025.
- Guinness, H. (2024). 'Midjourney vs. Stable Diffusion: Which AI image generator should you use?', *Zapier*, 2 October. <https://zapier.com/blog/midjourney-vs-stable-diffusion/>. Accessed February 20, 2025.
- Hawley, M. (2024). 'Midjourney vs. DALL-E vs. Stable Diffusion: Which Is Best?', *CMS Wire*, 23 September. <https://www.cmswire.com/digital-marketing/midjourney-vs-dall-e-2-vs-stable-diffusion-which-ai-image-generator-is-best-for-marketers/>. Accessed February 20, 2025.
- Hwang, Y., Shin, D., Ho Lee, J. (2025). Who owns AI-generated artwork? Revisiting the work of generative AI based on human-AI co-creation. *Computers and Education*, 123. 45–56. <https://doi.org/10.1016/j.tele.2025.102266>. Accessed February 12, 2025.
- JIPEL (Journal of Intellectual Property & Entertainment Law). (2023). *Andersen v. Stability AI: The Landmark Case Unpacking the Copyright Risks of AI Image Generators*, NYU School of Law. <https://jipel.law.nyu.edu/andersen-v-stability-ai-the-landmark-case-unpacking-the-copyright-risks-of-ai-image-generators/>. Accessed February 15, 2025.
- Klingler, N. (2024). 'The Guide to Understanding and Using AI Models', *Viso.ai*, 2 December. <https://viso.ai/deep-learning/ml-ai-models/>. Accessed February 5, 2025.
- Liebenson, D. (2023). 'Copyright Office Rules AI art can't be Copyrighted Unless a Human had a Hand in it', *Associated Press (AP)*. <https://apnews.com/article/ai-copyright-office-artificial-intelligence-363f1c537eb86b624bf5e81bed70d459>. Accessed February 20, 2025.
- Martin, N. (2024). 'Navigating legal issues in contracting for AI solutions', *Wotton + Kearney*. <https://www.wottonkearney.com/navigating-legal-issues-in-contracting-for-ai-solutions/>. Accessed February 10, 2025.
- Matsuura, J.H. (2003). *Managing Intellectual Assets in the Digital Age*, Boston, MA: Artech House.
- Miller, S. (2024). 'Intellectual property protection challenges in the digital age', *Thomson Reuters Legal*. <https://legal.thomson-reuters.com/blog/intellectual-property-protection-challenges-in-the-digital-age/>. Accessed February 25, 2025.
- NVIDIA. (2023). AI Helps the Museum of Modern Art Explore Its Vast Collection in a New Light. <https://blogs.nvidia.com/blog/moma-ai-art>. Accessed February 20, 2025.

- Office of the General Counsel, Harvard University. (n.d.) *Copyright and Fair Use*. <https://ogc.harvard.edu/pages/copyright-and-fair-use>. Accessed February 10, 2025.
- Scaleflex. (2025). 'Prevent Brand Risks with AI Reputation Management'. <https://blog.scaleflex.com/ai-reputation-management-for-your-brand-with-visual-ai/>. Accessed February 15, 2025.
- Tech Policy Press. (2023). 'LAION-5B, Stable Diffusion 1.5, and the Original Sin of Generative AI'. <https://www.techpolicy.press/laion5b-stable-diffusion-and-the-original-sin-of-generative-ai/>
- The Dalí Museum. (2023). *DALL·E at the Dalí: The Museum's Collective Dream Experience*. <https://thedali.org/press-room/dalle-at-the-dali-the-museums-collective-dream-experience>. Accessed February 11, 2025.
- Tu, X., He, Z., Huang, Y., Zhang, Z.-H., Yang, M., Zhao, J. (2024). An Overview of Large AI Models and their Applications. *Visual Intelligence*, 2. Article 34. <https://link.springer.com/article/10.1007/s44267-024-00065-8>. <https://doi.org/10.1007/s44267-024-00065-8>. Accessed February 20, 2025.
- US Copyright Office. (2025). *Copyright and Artificial Intelligence: Part 2: Copyrightability*. <https://www.copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-2-Copyrightability-Report.pdf>. Accessed February 20, 2025.
- US Supreme Court. (2023). *Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith*, 598 US _____. https://www.supremecourt.gov/opinions/22pdf/21-869_87ad.pdf. Accessed February 20, 2025.
- Yildiz Durak, H., Eğin, F., Onan, A. (2025). A Comparison of Human-Written Versus AI-Generated Text in Discussions at Educational Settings: Investigating Features for ChatGPT, Gemini and BingAI. *European Journal of Education*, 60 (1). e70014. <https://onlinelibrary.wiley.com/doi/full/10.1111/ejed.70014>. <https://doi.org/10.1111/ejed.70014>. Accessed February 20, 2025.