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The Role of Prompts in the Copyright Originality of Generative AI Text-to-Image Works

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Abstract. The rapid rise of generative AI-generated image-based technologies is profoundly challenging the traditional copyright law paradigm, which is centered on human intellectual creation. In this technological architecture, the user's "prompt" becomes the key medium connecting human intent and machine-generated results, and its legal attributes directly relate to the copyright ability of the final generated work. This article aims to analyze existing scholarly debates, focusing on the core legal issues of prompts as a carrier of originality. Through a review of relevant theories and key judicial cases, this article clarifies that when prompts possess a certain information density, demonstrate the user's continuous control over the generation process, and to a certain extent reflect the user's conception of and control over the work's expression, they can serve as important evidence of originality for the copyright of AI-generated image works.

Keywords: Originality, Copyright, Artificial Intelligence

1. Introduction

The rapid development of generative artificial intelligence has brought the issue of copyright protection of "text-generated images" to the core of academic and judicial practice. Especially after the Beijing Internet Court confirmed the copyrightability of AI-generated images in the "Spring Breeze Brings Gentleness" case in 2023, the formal controversy over whether AI-generated content can be protected has been initially quelled, and the focus of research has gradually shifted to the legal role of user prompts in the determination of originality [1]. Current research generally focuses on the relationship between prompts and originality, and has generated relatively rich discussions around the "idea-expression dichotomy", author identification, and user control. However, there are still obvious gaps in existing research: first, no unified standard has been formed on whether prompts belong to "idea" or "expression"; second, the judgment of the originality carried by prompts is still based on static result analysis; third, there is a lack of pratical standards for the determination of user control [2, 3].

Based on this, this paper takes the legal characterization of prompt words in generative AI "text-to-image" as its research topic and focuses on exploring three questions: First, can prompt words serve as a source of originality and be incorporated into the originality evaluation system? Second, under what conditions can prompt words be transformed from abstract ideas into strong evidentiary elements that can support the originality of the work?

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In terms of research methods, this paper will adopt a combination of normative analysis, case analysis, and comparative research. Based on relevant judicial precedents in China and integrating original theories such as the "author's personality theory" [4], this paper will systematically examine the legal function of prompts in the dynamic creation process.

While adhering to the fundamental position that works should be the result of human intellectual creation, this article provides a clearer theoretical path for the legal recognition of prompts, and puts forward feasible suggestions for the determination of originality, author identification, and the improvement of evidence rules in future AI-assisted creation cases, so as to respond to the new challenges posed to copyright law by the continuous development of generative artificial intelligence.

2. The status of prompt words in the copyright of AI-generated works

In copyright theory, as long as the user makes personalized choices and arrangements for the final expression of the work, it can constitute an original intellectual creation [5]. In the process of users creating text-to-image works using AI, they need to input a series of prompts to interact with the AI through continuous input and modification. It can be seen that the prompt words are the bridge for users to create, which, to a certain extent, reflect the user's choice and arrangement of the final expression.

As more users explore the potential of AI, the scope of prompts has expanded beyond traditional phrases and words, evolving into a comprehensive set of information that encompasses creative instructions, aesthetic standards, and modification boundaries. During the creative process, the author doesn't just input once, but rather sketches a pre-defined image using initial prompts, and then iterates multiple times by adding or deleting elements and adjusting parameters based on the initial results produced by AI. This iterative debugging process is essentially a process in which human intent continuously refines the algorithm's outputs, gradually bringing the work closer to the user's intended concept.

Case law from both China and abroad shows that, in the creative mode of generative artificial intelligence, the prompts input by human authors often become an important factor in determining original contributions. However, some scholars argue that prompts are merely technical instructions and do not constitute "expression" in the copyright law sense, and therefore should not be protected by copyright law [6, 7]. In this regard, it is necessary to further explore the specific role of prompts in the determination of originality.

In copyright law theory, "originality" is a relatively abstract evaluation standard. Judicial practice typically relies on external manifestations during the creative process to determine whether the author has invested intellectual activity with personalized characteristics. In the creative context of generative artificial intelligence, users do not directly complete image drawing through traditional methods, but primarily influence the final expression of the work through the design, adjustment, and selection of prompts. Therefore, prompts effectively serve as an important objective carrier for observing the degree of users' intellectual investment, and also a crucial basis for determining whether they have made personalized choices and arrangements in the work's expression.

Therefore, prompts are a bridge created by users in the process of human participation in AI generation. The intervention of prompts reflects the originality of human authors and the participation of human authors [8]. Prompts are not only a tool for generation, but also a carrier of original elements. If we want to determine that AI-generated works have originality in the sense of copyright law, the core basis must be the intellectual input of human authors in the process of inputting and optimizing prompts.

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3. Specific characteristics of prompts contributing to originality

3.1. Specificity and expressiveness

The legal status of prompts in generative AI works has been preliminarily confirmed through multiple judicial practices both domestically and internationally. Although the basic principle of copyright law adheres to the "idea-expression dichotomy"—meaning that the law protects only expression, not ideas—in the specific context of text-to-image works, complex and specific prompts often transcend the scope of abstract instructions, constituting "expressive instructions" with copyright legal significance, and serving as an externalized carrier of the user's intent.

The judgment logic of judicial practice provides strong support. In the case of "Spring Breeze Brings Gentleness" by the Beijing Internet Court, it was determined that the plaintiff used complex prompts that were iterated in multiple rounds to adjust and select, such as designing the presentation of the characters, selecting prompts, arranging the order of prompts, setting relevant parameters, and selecting which picture met the expectations [1]. This process, based on the plaintiff's personal aesthetic preferences and individual judgments, gradually transformed abstract ideas into concrete expressions, reflecting the plaintiff's intellectual creation and satisfying the requirements of originality. Ultimately, the image was determined to constitute a work and be protected by copyright. At the same time, in the case of "Accompanying Heart" by the Changshu People's Court of Jiangsu Province, the plaintiff input and continuously modified the prompts of the expected picture in the AI software, and finally generated a picture with the city, water surface, buildings, heart, and reflection in the water as the main elements. With regard to elements, perspectives, and their composition, the court held that the work reflected the user's unique choices and arrangements, possessed originality, constituted an artistic work within the meaning of copyright law, and was therefore entitled to copyright protection [9].

From the historical perspective of technological evolution, the changes brought about by generative artificial intelligence are highly similar to the popularization of photography technology. When the camera was first invented, people questioned whether mechanical recording had artistic value; but it turns out that as long as the photographer can still select and set the photographic object, light, and photographic parameters during the photography process, it still reflects the photographer's original intellectual input, and its protected status will not be shaken by the intelligence of the tool [10]. It can be seen that the more advanced the technology and the more intelligent the tool, the less time and energy people spend on creation, but this does not affect our continued application of the copyright system to encourage the creation of works. Because in essence, using AI to generate pictures is still an extension of "humans using tools to create", and the only legitimate source of intellectual input can only be human users.

3.2. "Interactive control" in the generation process

When discussing the copyright ownership of generative AI works, scholars often cite the "randomness" in the algorithm generation process to deny the user's control over and predictability of the creation process, and question whether it can form an original intellectual achievement [11]. However, from the perspective of copyright law theory, the fixedness of the expression of a work does not mean that it must be completely determined or accurately predictable before it is generated. The fixedness required by copyright law is that, as long as the creator exerts a directional influence on the formation of the expression of the work through his intellectual activities and makes it ultimately presented in a perceptible form, the fixedness requirement in the sense of copyright law

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can be met [12]. In the generative AI creation context, the user limits the content, style, and elements of the image through prompts, which actually sets certain semantic boundaries at the expression level, thereby establishing basic control over the direction of the work's final presentation.

On this basis, the original expression of AI users is undoubtedly fixed in the final generated painting. In the case of "Spring Breeze Brings Gentleness" heard by the Beijing Internet Court, the plaintiff's input prompt words included "dreamy black eyes" and "reddish-brown braids" [1]. If we follow the logic of AI generating "random statements", since the AI's interpretation of "dreamy black eyes" and "reddish-brown braids" can have countless specific forms, the user cannot predict which one the AI will choose. Therefore, these two choices from the user are not fixed in the painting. However, the problem is that no matter how uncontrollable and unpredictable the AI is, in terms of the generated content containing the meaning of "dreamy black eyes" and "reddish-brown braids", it can be seen that the AI is absolutely controlled and predictable within these defined semantic categories. This indicates that even with a single input prompt, the user still has a certain degree of control over the key expressive elements of the work.

Furthermore, in the actual creation process of "text-based images", the user's originality is often not limited to a single prompt input, but is reflected in the continuous interactive control with artificial intelligence [13]. This interaction is not a simple instruction, but a dynamic process of continuously clarifying details, gradually limiting randomness, and finally realizing the preset concept.

From the perspective of the creative mechanism, this multi-round interaction can be essentially compared to the "collage" behavior in art creation.

(1) Initial selection of materials:

When the user enters the first round of prompts (such as "girl with pigtails in the garden"), the AI-generated draft contains the elements requested by the user, but it is also full of details randomly filled in by the algorithm. At this time, this draft is essentially a material package for the user. The user selects one image from countless potential outputs as a reference, and this act of selection in itself constitutes an expression of personalized aesthetic judgment.

(2) The refined "collage" of discrete visual components:

Subsequently, the creative process enters a stage of more in-depth interaction. At this stage, the user tends to perceive the selected image as an assemblage of numerous discrete visual components, including specific expressive elements such as hairstyle, accessories, and background lighting and shadow. Conceptually, the user is in a position where they face a multitude of adjustable elements, issuing prompts to direct AI to modify, replace, or enhance specific components. Although from a technical perspective, the user engages with the system only through textual instructions, within each component, the user is in fact continuously selecting and recombining from the nearly infinite range of possibilities generated by the AI. This repeated, meticulous process of choice within each partial component ultimately converges into a coherent final image that embodies the user's specific ideas and emotions.

The images formed by multiple rounds of meticulous selection are logically consistent with the "collages", video clips, or compilations based on selection protected by the Copyright Law [13]. Their common legal core is that even if the materials are not drawn by the author, the selection, arrangement, and logical combination of the materials can still reflect the author's original will. Therefore, when users continuously modify the AI-generated images through text commands, they are actually exercising substantial control over the final presentation of the work. Since the law recognizes the copyright of collage works, the overall images based on this multi-round interaction and condensing the user's personalized choices should also be recognized as original intellectual

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achievements. Of course, whether the content generated by artificial intelligence constitutes a work cannot be generalized. The certainty of this originality still needs to be determined on a case-by-case basis in combination with the specific number of interaction rounds and the depth of modification [10].

3.3. The personal connection and intellectual input of the final outcome

In the context of generative AI-generated image creation, whether the final product reflects the author's personal connection and intellectual input is the core issue in determining its originality. By comparing the "Spring Breeze Brings Gentleness" case decided by the Beijing Internet Court with the first AI prompt–related copyright case heard by the Huangpu District People's Court of Shanghai, the crucial role of prompts in establishing personal creative identity and intellectual contribution can be clearly demonstrated.

In the case of "Spring Breeze Brings Gentleness" [1], the plaintiff used an AI model to generate images. The process was not a simple input and output, but rather involved multiple iterations: the plaintiff first input initial prompts, set parameters, and obtained a draft; then continuously adjusted the prompts and modified the parameters, such as adding positive prompts like "shy," "elegant," and "cute," and adjusted the relevant parameters, ultimately generating the image in question. The court held that, through the design, revision, and selection of prompts during the generation process, the plaintiff had made personalized selections and arrangements concerning the work, amounting to original intellectual expression; the image in question therefore qualified as an artistic work.

In Shanghai's first copyright case involving AI prompts [2], the plaintiff drafted six sets of prompts, claiming that these prompts constituted literary works, and that the defendant's use of the same prompts to generate and publish images constituted infringement. The prompts in question, such as "Art Nouveau style illustration - giant aquamarine Styx jellyfish" and "ancient hand-drawn manuscripts," were merely simple lists of artistic styles, main elements, and material details, lacking grammatical and logical connections between the elements, and were disordered combinations of keyword phrases. The plaintiff could only prove that it wrote these prompts, but failed to provide evidence that it had undergone multiple iterations or personalized adjustments during the generation process. The court ultimately determined that the prompts in question were merely an abstract collection of creative ideas and instructions, belonging to the realm of thought, and did not reflect the author's personalized intellectual investment at the level of expression, and therefore did not constitute works.

By comparing these two cases, we can see that the key to enabling a work to express the author's personality and intellectual investment lies in the input of the prompt words. In Shanghai's first copyright dispute case involving AI prompt words, the prompt words merely remained a parallel listing of artistic elements, lacking internal logical connections and hierarchical progression. These prompts failed to form unique expressive content reflecting the user's personal choices, and the plaintiff was unable to prove that they had exercised continuous control and optimization over the generation process. Therefore, the prompt words themselves could not reflect personal connection and intellectual investment, and the final result naturally could not obtain copyright protection. However, in the "Spring Breeze Brings Gentleness" case, the prompt words were not isolated keyword stacking, but a dynamic process of layered progression and gradual optimization, covering multiple levels such as art type, subject description, environmental atmosphere, and style reference. This continuously reinforced the author's aesthetic judgment, artistic choices, and creative intentions, showcasing their personal choices. This type of creative process—where the user

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participates in and makes choices at every stage, from prompt input to generation to final selection —ensures that the resulting work carries the user's personal creative intent.

4. Conclusion

The development of generative AI "text-to-image" technology has made the legal status of prompts in the creative process an important issue in copyright law research. Prompts are not only a technological tool for users to interact with AI, but also reflect, to some extent, the user's conception and control over the expression of the work. Based on the above research, three basic requirements must be met to determine the originality of prompts input by users into AI: First, the prompts should have sufficient expressive density, capable of evolving from abstract thought instructions into expressions with individual characteristics; Second, the creative process should contain verifiable iterative traces, demonstrating the user's continuous control over the generation process; and third, the final result should embody the author's unique aesthetic choices and individual characteristics, distinguishing it from the works of others.

Therefore, when determining the copyright attributes of AI-generated works, a comprehensive judgment should be made based on the specificity of the prompts, the user's modification process, and their impact on the generated output—rather than simply denying their originality based solely on the form of the prompts. By examining the prompts within the context of the complete creative process, we can maintain the fundamental position of copyright law centered on human creation and also help provide a more reasonable legal interpretation for AI-assisted creation.

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