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AI IP Ownership

SRED Stakeholder Webcast

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Agenda

1. Copyright Ownership
2. Ownership of AI Models
3. Patent Ownership
4. Trademark Ownership and AI-Generated Marks

Copyright Ownership

Human Authorship Remains Critical

U.S. copyright law protects original works of human authorship.

Purely AI-generated content is generally not copyrightable.

Human-created:

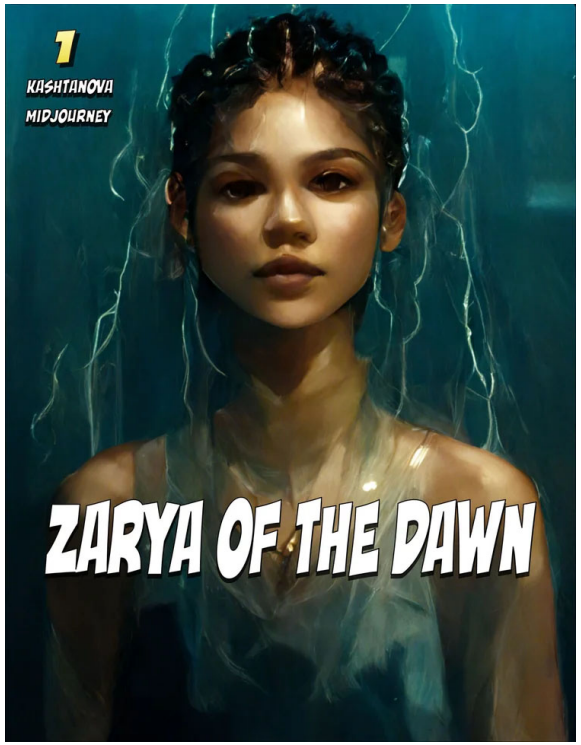
- text
- editing
- selection
- arrangement
- compilation may still receive protection.

The U.S. Copyright Office requires disclosure of AI-generated material in copyright registrations.

Copyrightability depends on the degree of human authorship embodied in the final work.

Source: U.S. Copyright Office, “Copyright and Artificial Intelligence” (AI Initiative), https://www.copyright.gov/ai/

Zarya of the Dawn



Key Facts

Graphic novel created by Kris Kashtanova.

Text, storyline, and arrangement were created by a human author.

Illustrations were generated using Midjourney.

The U.S. Copyright Office concluded that:

- text was copyrightable;
- selection and arrangement were copyrightable;
- the compilation was copyrightable.

The Midjourney-generated images themselves were not protected by copyright.

Registration was limited to the human-authored portions of the work.

Why It Matters

A single work may contain both:

- copyrightable human-authored content; and
- non-copyrightable AI-generated content.

Established one of the first major Copyright Office decisions concerning generative AI.

Source: U.S. Copyright Office, “Copyright and Artificial Intelligence” (AI Initiative), https://www.copyright.gov/ai/

Théâtre d'Opéra Spatial

Key Facts

Artwork created using Midjourney by Jason Allen.

Won first place in a Colorado State Fair digital-art competition.

Copyright registration was sought for the image.

The U.S. Copyright Office concluded that Midjourney generated the expressive elements of the work.

Prompting alone was insufficient to establish human authorship.

Registration was refused.



Why It Matters

Demonstrates the limits of copyright protection for AI-generated visual works.

Reinforces the requirement for human authorship under U.S. copyright law.

Frequently cited alongside Zarya of the Dawn as a leading AI copyright decision.

Source: U.S. Copyright Office, “Copyright and Artificial Intelligence” (AI Initiative), https://www.copyright.gov/ai/

Anthropic Books Litigation

Background

Authors and publishers alleged that Anthropic used copyrighted books to train Claude models.

The litigation distinguished between:

use of books for model training; and

acquisition and retention of allegedly pirated copies.

AI training was treated separately from how the books were obtained.

Key Issues

Whether AI training constitutes transformative fair use.

Whether possession of allegedly pirated books creates separate copyright liability.

Reported Settlement

Reported settlement amount: approximately US$1.5 billion

Reported compensation: approximately US$3,000–US$3,100 per eligible book

Why It Matters

Suggests AI model training may qualify as transformative fair use.

Demonstrates that training and data acquisition may be treated as separate legal issues.

There was no injunction award to remove these datasets (not clear if this was requested)

Sources: CourtListener, https://www.courtlistener.com/
CTV News, "Judge approves a US$1.5B Anthropic settlement over pirated books used to train the Claude chatbot," https://www.ctvnews.ca/business/article/judge-approves-a-us15b-anthropic-settlement-over-pirated-books-used-to-train-the-claude-chatbot/

News Publishers v. OpenAI

Allegations

Unauthorized use of copyrighted journalism.

AI model training using publisher content.

Reproduction of publisher content through AI outputs.

Harm to publisher licensing and subscription markets.

Key Legal Issues

Fair use.

Licensing rights.

Market substitution.

Output infringement.

Training-data rights.

Why It Matters

Could significantly influence future AI-content licensing models.

AI companies may be charging ahead and paying penalties later

Sources: CourtListener, https://www.courtlistener.com/
U.S. District Court for the Southern District of New York, https://www.nysd.uscourts.gov/

Ownership of AI Models

AI Models as Intellectual Property

AI models generally consist of:

- model weights
- parameters
- architectures
- training methodologies

Model weights themselves may not qualify for copyright protection because they may not constitute human-authored expressive works.

Copyright may protect:

- source code
- documentation
- training materials
- copyrighted datasets

Sources: U.S. Copyright Office, "Copyright and Artificial Intelligence" (AI Initiative), https://www.copyright.gov/ai/
U.S. Patent and Trademark Office, "Artificial Intelligence Resources," https://www.uspto.gov/artificial-intelligence

Protection Strategies

AI developers commonly rely upon:

Trade secrets

NDAs

Confidentiality agreements

Licensing agreements

API access controls

Open-source models generally rely on licensing frameworks governing use and redistribution.

Why It Matters

Trade secrets often provide the primary protection mechanism for foundation models.

Public disclosure of model weights may eliminate trade-secret protection.

Contractual restrictions often provide stronger protection than copyright.

Patent Ownership and Inventorship

Fundamental Principles

Patent ownership generally follows inventorship and assignment principles.

Inventors must be natural persons.

AI systems may be used as tools during the inventive process.

The use of AI does not create a different inventorship test.

Key Principle

Traditional U.S. patent law governs inventorship regardless of whether AI was used.

DABUS (Thaler v. Vidal)

Background

Stephen Thaler filed patent applications naming DABUS as the sole inventor.

The USPTO rejected the applications.

Holding

The Federal Circuit held that inventors under the Patent Act must be natural persons.

AI systems cannot be named as inventors.

Why It Matters

Clarifies who may be an inventor.

Does not prohibit patents covering AI-assisted inventions.

Source: Federal Circuit, Thaler v. Vidal, decision dated Aug. 5, 2022, https://law.justia.com/cases/federal/appellate-courts/cafc/21-2347/21-2347-2022-08-05.html

USPTO Revised Inventorship Guidance (Nov. 28, 2025)

Key Changes

USPTO rescinded the February 2024 AI inventorship guidance.

The AI-specific inventorship framework was withdrawn.

The same legal standard applies whether or not AI is used.

There is no separate inventorship standard for AI-assisted inventions.

AI systems are treated as tools, not inventors.

Why It Matters

Returns inventorship analysis to traditional patent-law principles.

Eliminates reliance on the withdrawn AI-specific framework.

Sources: Federal Register, "Revised Inventorship Guidance for AI-Assisted Inventions" (Nov. 28, 2025), https://www.federalregister.gov/documents/2025/11/28/2025-21457/revised-inventorship-guidance-for-ai-assisted-inventions
U.S. Patent and Trademark Office, "Revised Inventorship Guidance for AI-Assisted Inventions" (2025), https://www.uspto.gov/subscription-center/2025/revised-inventorship-guidance-ai-assisted-inventions

Trademark Ownership and AI-Generated Marks

Key Principle

Trademark rights arise through use in commerce, not authorship.

AI-Generated Marks

AI-generated:

- names
- logos
- slogans
- branding concepts

may all function as trademarks if adopted and used by a business.

Why It Matters

Human authorship is not required for trademark ownership.

AI-generated trademarks can acquire enforceable trademark rights through use in commerce.

Registration may strengthen and expand protection.

Source: U.S. Patent and Trademark Office, "Trademark Basics," https://www.uspto.gov/trademarks/basics