LEGAL PROTECTION OF AI-GENERATED WORKS: APPRAISING THE ADEQUACY OF NIGERIA'S INTELLECTUAL PROPERTY FRAMEWORK*

Abstract
Artificial intelligence (AI) is transforming creativity and innovation, generating content that rivals human creations. AI produces music, fashion, and recipes with minimal human involvement, challenging traditional intellectual property (IP) regimes. This research examines Nigeria's IP laws and their adequacy in protecting AI-generated content. Using a qualitative, doctrinal approach, the study identifies gaps and challenges in the current framework. Nigeria lacks comprehensive legislation governing AI-generated content protection, highlighting the need for policy and legal reforms. The research recommends enacting legislation to protect AI-generated works and establishing a specialized IP court for timely adjudication. This study provides insights into the evolving landscape of IP and AI, offering recommendations for policymakers and stakeholders to navigate emerging challenges.

Keywords: Artificial Intelligence, Intellectual Property, Infringement, Patentability, Authorship, Nigeria

1. Introduction

Artificial Intelligence (AI) is transforming global systems of production and creativity, generating outputs that rival human creations. AI composes music, creates art, and invents technologies, raising profound legal and ethical questions about Intellectual Property (IP) law. The existing IP framework, designed around human authorship, struggles to accommodate AI-generated works. In Nigeria, the IP laws lack explicit provisions for AI-generated works, creating uncertainty and hindering innovation. The Copyright Act 2022 protects literary, musical, and artistic works, but recognizes only human authors. AI-generated works fall into a legal grey area, with no clear protection. Nigerian law faces challenges in determining ownership, originality, and inventorship of AI-generated works. For instance, who holds the copyright to AI-composed music? Is it the AI's inventor, owner, or the AI itself? Patent law also grapples with AI-driven inventions, raising questions about patentability and ownership. One of the key challenges is determining the criteria for inventorship when AI plays a significant role in the inventive process. When AI, as against the traditional model, autonomously generates a novel invention, it becomes unclear who should be entitled to the patent; should the patent be attributed to the AI, its developers, or the organization that owns the AI system.[1]

In Nigeria, while the IP laws[2] provide frameworks for protecting IP works, none explicitly addresses the status of AI-generated works or inventions. This legal vacuum creates uncertainty, hinders innovation, and discourages investment in AI research and development. At the same time, Nigeria's objective of evolving into a digital economy and knowledge-driven society accentuates the urgent need to align its IP laws with evolving technological realities. Thus, this research seeks to critically examine the adequacy of Nigerian IP laws in protecting AI-generated products, identifying existing gaps and proposing necessary reforms. The study aims to provide a foundation for developing a robust and adaptive legal framework that fosters innovation, encourages technological advancement, and safeguards creative outputs in the age of AI. Trademark law faces similar challenges, with AI-generated marks raising questions about originality and distinctiveness. Nigeria's IP laws must adapt to address these emerging complexities and foster innovation.

2. Nigerian Intellectual Property Laws & Protection of AI-Generated Product

The extent to which the Nigerian intellectual property (IP) laws protect AI-generated works is currently uncertain as the legal framework is not explicitly designed to address creations made by non-human agents like AI. For clarity and precision, this study will examine the subject across the various categories of intellectual property rights recognized in Nigeria.

Copyright Law

Nigeria's Copyright Act 2022 protects literary, musical, and artistic works, recognizing only human authors. Such a work enjoys automatic protection so long as it satisfies the condition of originality and fixation.[3] The Act doesn't contemplate AI authorship by combined effect of sections 28(1) and 108, creating uncertainty for AI-generated works. If a person generates a work with AI, they're considered the author if they've expended sufficient effort.[4] However, if AI generates a work independently, it falls into a legal grey area. Nigerian law lacks clear protection, as there's no human author to attribute the work to. Human guidance or input might establish authorship, but the law is unclear. This ambiguity hinders innovation and investment in AI research and development in Nigeria, highlighting the need for IP law reform to address AI-generated works.

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[1] R Abbot, *Artificial Intelligence, Big Data and Intellectual Property: Protecting Computer-Generated Works in the United Kingdom* (California: Edward Elgar Publishing Ltd) pp. 2-5 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3064213> accessed 25 November 2024

[2] Copyright Act 2022, Trademarks Act, Cap T13 LFN 2004 and Patent and Designs Act, Cap P1 LFN 2004

[3] Copyright Act 2022, s 2 (2)

[4] Copyright Act 2022, s 2 (2)

Patent and Industrial Designs

This law equally confines the grant of patents to human inventors and creators alone.[5] Inventorship must be tied to a natural person. Section 2 of the Act provides thus:

> …the right to a patent in respect of an invention is vested in the statutory inventor, that is to say, the person who whether or not he is the true inventor, is the first to file, or validly to claim a foreign priority for, a patent application in respect of the invention. AI-generated inventions or designs cannot be patented or protected under this regime unless a human can be linked to the inventive step.[6]

The repeated use of the pronouns 'his' and 'him' bears testament to the fact that the rights created under the Act are intended to apply to natural persons and not to extend to machines. For example, section 15 (1) of the Act requires, as part of the criteria for application for patent (in appropriate cases), a declaration signed by the true creator requesting that 'he' be named as such in the register and giving his name and address. If the application is made by an agent, a signed power of attorney.[7]

Trade Marks

There is no doubt that AI can **assist** in creating brand names or logos, but only humans or legal persons can register trademarks. The Act recognizes only human creators referred to in the Act as 'persons' and 'proprietors' interchangeably.[8] Section 18(1) provides that any person claiming to be the 'proprietor' of a trade mark used or proposed to be used by him who is desirous of registering it must apply in writing to the Registrar in the prescribed manner for registration either in Part A or in Part B of the register. The purport of this provision is that a trade mark, whether created with AI assistance or by AI itself independent of any human contribution, cannot be recognized for registration in its own right. The work must be tied to a human being.

3. Authorship of AI-generated Work

The concept of authorship in AI-generated works raises complex legal and practical questions. Determining the author depends on factors like human participation, AI nature, and cultural context. The current legal framework emphasizes human involvement, excluding purely AI-generated works. If a human uses AI, they may be considered the author, depending on their contribution. The more human input, the stronger the authorship claim. Advocates of 'only human' authorship argue AI lacks emotion and creativity, raising concerns about machine replacement. Artists object to AI using their work to train models, potentially profiting from their style. This raises questions about fairness and creative integrity. Alternatively, AI can be seen as a tool extending human creativity, like cameras or synthesizers. A balanced perspective acknowledges AI's capabilities but questions its output's depth and meaning. Originality alone may not satisfy authorship, especially without moral rights. AI's potential to replace human creators raises concerns about job displacement and fairness. Trademark law is less challenged, as rights stem from commercial use. A company using AI-generated logos can register and own trademarks, provided they meet distinctiveness criteria. However, the prevalent opinion on the issue is that, if a work is created by AI without any human involvement, the claim of authorship can generally not succeed, as there is no human creator.[9] This perspective highlights the human role in prompting, curating, and directing the AI, arguing that this constitutes sufficient creative input deserving of recognition and protection. Accordingly, denying rights to the human user could suppress innovation and disregard their intellectual contribution.[10] A balanced perspective acknowledges AI's generative capabilities but questions whether the output possesses the depth and meaning of human creation. Thus, originality alone may not satisfy the moral weight of authorship, especially considering the lack of moral rights like personality connection applicable to AI. Significant ethical challenges also arise from AI's potential to replace human creators. Concerns about job displacement in creative fields are widespread, raising questions of fairness and the societal value placed on human creative labor.[11] Unlike copyright and patent, Trademark law appears less directly challenged, as rights stem from commercial use identifying a source, rather than inherent creativity. A company using an AI-generated logo can typically register and own the trademark, provided it meets distinctiveness criteria.[12]There is less confusion with works created by humans but with the assistance of AI. The main problem lies with the ownership of a work purported to be created by a machine independent of human assistance.

The Developer

Developers are responsible for designing, training, and fine-tuning the AI. They delineate the model's aptitudes, dataset, architecture, and behaviors. The tenet of this view is that developers infuse control and creativity by designing AI to think, and do so creatively, by controlling its inputs.[13] It has been argued that without the developer's intellectual labor, the system would not exist. The debate against ascribing ownership to developers is that they typically do not control or foresee every output of

[5] Patent and Designs Act cap P2 LFN 2004, ss 2 and 14

[6] Similarly, s 14 of the Act vests the right to industrial designs in the statutory creator.

[7] See also TMA, s 3

[8] For example, see ss 15, 17 and 18 of the Act

[9] DV Voinea, 'AI and Copyright-Who Owns AI Generated Content?' (2023) (10) (1) *Social Sciences and Education Research Review*, pp. 262-623 <https://sserr.ro/wp-content/uploads/2023/07/sserr-10-1-262-267.pdf> accessed 26 June 2025; S Eugene-Okorie 'Legal Illusion of Ownership: Why AI-generated Content Cannot be Protected by Copyright Law' *The* Nation Newspaper, 9 June 2025 <https://thenationonlineng.net/legal-illusion-of-ownership-why-ai-generated-content-cannot-be-protected-by-copyright-law/> accessed 26 June 2025.

[10] M Caldwell (n. 11)

[11] DV Voinea (n 10)

[12] TMA, ss 9 and 10; DV Voinea (n. 10)

[13] M Caldwell (n.11)

the system. They create only a *tool but* not a specific creative work. Furthermore, developers of AI are already afforded legal protections and affording them copyright protection of the end user's artistic works created with the developer's AI poses a 'double dipping' concern.[14] Considering the fact that the developer's algorithms are eligible for copyright protections as computer programs,[15] ascribing authorship to them, of AI generated works will result in a weakened incentive for end users who utilize AI to advance new ideas.

The User: Prompt-Giver or Curator

The reason for proposing 'the user' authorship is not farfetched. The user is the person who initiates the creation by prompting the AI, often in reiterative or highly organized ways. The process can involve human inventiveness in designing prompts, curating outputs, and making editorial decisions. In some cases, the user guides the AI with the intention of achieving a specific creative vision. Caldwell opines that recognizing the end user as the author of AI-generated work appears to be the most appropriate option. There is a unique but most often invisible relationship between the end user and the developer; the developer depends on the end user's interest in the developer's work. He posits that by furthering the copyrights of end users in AI art, the developers' copyrights in AI software are also furthered, thereby avoiding the 'double dipping' concerns and promoting the purpose of copyright. Furthermore, authorship is inherently creative, and to exclude the creativity of a person from the authorship of work is to exclude the author from the work, thereby undermining the idea of copyright. Caldwell makes a corollary from camera photography; it is the end user that fixed the idea of capturing the image by pressing a button on the camera, by determining which of the many photos the camera took best and arriving at the intended result. It is the same with AI where the end user chooses the words or characters to inspire the outcome. Within this process of choosing the prompt, the end user makes a host of decisions. The issue is that the human is less involved with the actuation. The AI is the mechanical creator of the work, whereas the end user is the intellectual creator of the work. Thus, when the end user develops a string of words to enter as a text prompt, sifts through the outputs and rests on the output that captures their creative idea, they have labored.[16] The point is that in most cases, AI is not creating this work on its own; there is a form of human interaction or labour. The obvious limitation to the 'end user' authorship lies in the degree of human creativity which varies from trivial to substantial. If the human role is minimal say, one-word prompt, courts may not recognize this as sufficient for copyrightable authorship.

AI as the Author

Nigeria's Copyright Act 2022 protects literary, musical, and artistic works, recognizing only human authors. The Act doesn't contemplate AI authorship, creating uncertainty for AI-generated works. If a person generates a work with AI, they're considered the author if they've expended sufficient effort. However, if AI generates a work independently, it falls into a legal grey area. Nigerian law lacks clear protection, as there's no human author to attribute the work to. Human guidance or input might establish authorship, but the law is unclear. This ambiguity hinders innovation and investment in AI research and development in Nigeria, highlighting the need for IP law reform to address AI-generated works. Ryan Abbott[17] argues that AI should be considered the legal inventor because the human instructing the AI does not significantly contribute to the AI's innovative process. Where human expression is not an issue but rather, inventiveness or novelty, AI authorship might make some sense. Patents protect the invention which is mechanical in nature and void of human expression. This is in sharp contrast with copyright which protects the human expression in the work. In copyright, the AI itself does not communicate, create, or express, unlike the end user's role in AI art. Authorship traditionally implies intention**,** creativity, and accountability; which qualities AI lacks. Therefore, AI cannot be an author in the moral or legal sense. The author submits that authorship should be reserved for the human who meaningfully shapes the work, be it the developer, user, or another curator. **A**uthorship of AI-generated work is therefore, context-dependent; and the cap may fit different heads in different situations. Given the divergent opinions on the topic, there is a dire need for legal frameworks to stem the tide and establish certainty and clarity. The landmark rulings and judgments already point to the disposition or leanings of the different jurisdictions on the topic. Legislative intervention will precisely streamline these divergent interests by expressly stating the circumstances, criteria or quantum of creative input that will entitle a person or an entity to IP right over a work created by AI.

4. The Intersection of Artificial Intelligence and Intellectual Property Rights

In *Disney & Universal v. Midjourney*[18] where Hollywood giants Disney and Universal sued AI-image generation company Midjourney in U.S. federal court, California, alleging copyright infringement for generating unauthorized versions of iconic characters like Yoda, Elsa, and Minions. This marks the first major legal face-off between Hollywood studios and an Artificial Intelligence company. Midjourney, which enables users to create realistic-looking images from a text prompt in just seconds, is one of the most popular AI image generators. The movie companies allege that Midjourney trained its AI models on their intellectual property and that it generates images featuring their famous characters in violation of copyright law. In their complaint, the studios referred to Midjourney as a 'virtual vending machine' and 'bottomless pit of plagiarism' that generates endless unauthorized copies of Disney's and Universal's copyrighted works. The studios argue that these outputs are not

[14] *ibid*

[15] Copyright Act 2022, s 108

[16] M Caldwell (n.11)

[17] R Abbott 'I Think, Therefore, I Invent: Creative Computers and the Future of Patent Law' (2016) (56) *Boston College Law Review*, p. 1083-1095 <https://bclawreview.bc.edu/articles/566/files/63ad75da29a73.pdf> accessed 29 June 2025

[18] CNN Business 'Disney and Universal Team up to Sue AI photo Generator Midjourney, Claiming Copyright Infringement' <https://edition.cnn.com/2025/06/11/tech/disney-universal-midjourney-ai-copyright-lawsuit> accessed 12 June 2025

transformative and represent blatant piracy.[19] The studios gave examples of Midjourney-generated images that included Disney characters such as Star Wars' Yoda and Marvel's Spiderman, the Incredible Hulk and Iron Man.[20] This case is the first time major studios have led the charge against AI imagery, and it could set powerful precedents for AI IP law. Images or photographs are categorized as artist work and eligible for copyright protection.[21] As such, any interference with the rights of the author – in respect of the whole or substantial part of the work, without the licence of the author, amounts to an infringement.[22] The fact that the Defendant acquired economic gains from the use of the Plaintiffs' work removes it from the protection of the fair use doctrine.[23]

In *Thomson Reuters v Ross Intelligence*[24] Thomson Reuters has a database of nearly every US judicial decision, creating headnotes that summarize court decisions and assigning unique Key Numbers to each. Ross Intelligence, Inc. built an AI legal search tool using natural language processing (NLP) and trained it with 'supervised learning'. Ross initially asked to license Westlaw data, but Thomson Reuters declined. Ross then engaged LegalEase Solutions to generate 'Bulk Memos' summarizing legal issues, using Westlaw's resources, including headnotes and Key Numbers. Thomson Reuters sued Ross, claiming copyright infringement. Ross argued fair use, but the court granted partial summary judgment in favor of Thomson Reuters, ruling Ross's use wasn't fair. The court found Ross infringed Thomson Reuters' copyrights in the headnotes, rejecting Ross's argument that headnotes lacked originality. The court concluded headnotes attain the minimal threshold of creativity required for copyright protection, introducing creativity by distilling, synthesizing, or explaining opinions. Headnotes quoting judicial opinions verbatim were also deemed sufficiently original. The court considered the four fair use factors and with respect to the purpose and character of the usage, found that Ross' use of the copyrighted material was purely commercial and not transformative because it was using copyrighted headnotes as AI training data to create a competing legal research product. Though Ross used the headnotes as training data rather than in its final product, Judge Bibas ultimately concluded that this was not a transformative use. The purpose and character of Ross's use was to copy the data to create an AI model to retrieve judicial opinions – the same purpose as Thomson Reuters's headnotes and Key Number System.[25] On the market effect of copying the work, the Court noted that Ross, in using Thompson Reuters works as training data intended to compete with Thomson Reuters.[26]

The recent ruling has sparked debate, with some arguing it undermines fair use defenses in AI cases, others dismiss its significance due to unique facts. Xu[27] criticizes the court's opinion as poorly reasoned, rejecting the ruling that Westlaw headnotes are original and protected by copyright. He argues 'originality' under US law requires human creativity, which is lacking in the headnotes. The headnotes consist of verbatim copying and basic paraphrasing, making it hard to find creativity. Xu raises concerns about the court's position: it blurs fact and expression, expands copyright enforcement to intermediate copies, and creates a new market for AI training data. This could lead to large AI companies dominating the industry, as only they can afford training licenses regardless of whether such a licensing market is legitimate or even likely to exist.[28] The implications are significant, and the court's decision may have far-reaching consequences for AI development and copyright law. Only major players like Microsoft and Meta will be able to afford AI training licenses, consolidating control over the industry.[29] Expectedly, the AI developer, ROSS Intelligence has filed an interlocutory appeal to challenge the ruling. ROSS Intelligence's petition requests the U.S Court of Appeals for the Third Circuit to reconsider the district court's determinations that Westlaw's headnotes and Key Number System are original, and that ROSS' use of those materials to train its AI model for legal research was not transformative.[30]

The Nigerian Copyright Law[31] has no explicit provision excluding records or compilation of judicial decisions from enjoying copyright.[32] However, the right is restricted to only the compiled work. The copyright in a compilation shall not confer any exclusive right in the pre-existing material or data.[33] Considering this case within the Nigerian context, the work under review

[19] CNN Business, 'Disney and Universal Team Up to Sue AI Photo Generator Midjourney, Claiming Copyright Infringement' <https://edition.cnn.com/2025/06/11/tech/disney-universal-midjourney-ai-copyright-lawsuit> accessed 12 June 2025

[20] BBC, 'Disney and Universal Sues AI Firm Midjourney Over Images' <https://www.bbc.com/news/articles/cg5vjqdm1ypo> accessed June 12 2025

[21] Copyright Act 2022, sections 2 (1) (c) and 108

[22] Copyright Act 2022, section 36

[23] *Getty Images Inc v. Stability AI (UK & US)* [2025] EWHC 38

[24] Published on David Wright Tremaine LLP Blog https://www.dwt.com/blogs/artificial-intelligence-law-advisor/2025/02/reuters-ross-court-ruling-ai-copyright-fair-use accessed 12 June 2025

[25]Court Rules AI Training on Copyrighted Works Is Not Fair Use; What It Means for Generative AI' <https://www.dglaw.com/court-rules-ai-training-on-copyrighted-works-is-not-fair-use-what-it-means-for-generative-ai/> accessed 26 June 2025

[26]*ibid*

[27] Xu, 'Thompson Reuters v. Ross 'The First AI Fair Use Ruling Fails to Persuade' published by Authors Alliance <https://www.authorsalliance.org/2025/02/13/thomson-reuters-v-ross-the-first-ai-fair-use-ruling-fails-to-persuade/> accessed 26 June 2025

[28] Y Xu (n. 29)

[29]*ibid*

[30] S Brachman 'ROSS Intelligence Appeals Originality, Fair Use Rulings in Thomson Reuters AI Legal Tool Lawsuit' Published on https://ipwatchdog.com/2025/04/15/ross-intelligence-appeals-originality-fair-use-rulings-thomson-reuters-ai-legal-tool-lawsuit/id=188205/# accessed June 12 2025

[31] Copyright Act 2022

[32]*ibid*, s 2 (5)

[33] Copyright Act, s 2 (5)

is entitled to copyright as it is a compilation of judicial decision (not excluded from copyrightability). Assigning to each case report, a unique headnote and Key Number System, is evidence of labour and skill required to adjudge the work 'original'; and same has been fixed in a tangible form from which it is now being retrieved.[34] The use of the work by Ross to train its AI is an infringement of the copyright in the work. This is however, without prejudice to the right of Ross Intelligence under section 2 (5) of the Copyright Act to make use of the original data or judgment.

In *Stephen L Thaler v. The Comptroller-General of Patents, Designs and Trademarks*[35] this case involves British patent applications for two inventions that the appellant, Dr Stephen L Thaler, stated (in the Applications) were created by an AI machine known as DABUS in the absence of a traditional human inventor. Dr Thaler is the sole owner, creator and user of DABUS. On 17 October 2018, Dr Thaler filed an application for the grant of a patent to Dabus for what was said to be an invention for a new kind of food or beverage container (United Kingdom patent application GB1816909.4). On 7 November 2018, Dr Thaler filed another application for the grant of a patent to Dabus for what was said to be an invention for a new kind of light beacon and a new way of attracting attention in an emergency (United Kingdom patent application GB1818161.0). Dr Thaler made both applications under the 1977 Act. Neither application designated a human inventor, and no separate document designating a human inventor was ever filed. Instead, the request for grant forms accompanying the applications stated that Dr Thaler was not an inventor of the inventions described in the applications. The Comptroller-General of Patents Designs and Trade Marks, the Respondent, on 4th December 2019, handed down a decision refusing to accept the designations of DABUS as the inventor in the Applications pursuant to section 13(2) of the 1977 Act on the ground that DABUS is not a person, as envisaged by sections 7 and 13 of the 1977 Act. Dr Thaler's appeal of the Respondent's decision was dismissed in the High Court and the Court of Appeal. He further appealed to the Supreme Court and the issues before the court were:

(a) Does section 13(2)(a) of the Patents Act 1977 (the '1977 Act') require a person to be named as the inventor in all cases, including where the applicant believes the invention was created by an AI machine in the absence of a traditional human inventor?
(b) Does the 1977 Act provide for the grant of a patent without a named human inventor?
(c) In the case of an invention made by an AI machine, is the owner, creator and user of that AI machine entitled to the grant of a patent for that invention?

The court held, among others, that section 7 of the Patent and Designs Act 1977 confers the right to apply for and obtain a patent and it provides a complete code for that purpose. As a starting point, under section 7(2)(a), there must be an inventor, and that inventor must be a person. DABUS was not and is not a person. Dabus is a machine with no legal personality, is not and has never been an inventor within the meaning of the 1977 Act. The Appeal was accordingly, dismissed.

In *Stephen Thaler v. Commissioner of Patents (Australia)*[36] Dr. Stephen Thaler filed his patent application in several other countries, including Australia, naming DABUS as the inventor and arguing that the AI had autonomously conceived the inventions without human intervention. The Australian Patent Office initially rejected the application, sticking to the traditional view that only a natural person can be an inventor. The Commissioner of Patents maintained that an inventor must be a legal person under the Patents Act 1990, a position consistent with the practice in many jurisdictions worldwide, including Nigeria. Thaler appealed the decision to the Federal Court, challenging this interpretation and advocating for a broader understanding of inventorship in light of advancements in AI. In a decision that shocked many, the Court ruled in favor of Thaler, allowing DABUS to be accepted as an inventor under the Australian Patents Act. The Court reasoned that the concept of inventorship should not be confined to natural persons, given the growing capabilities of AI systems. And also, that the language of the Patents Act did not explicitly exclude non-human inventors and that the Act was intended to encourage innovation.

The Commissioner of Patents, being unsatisfied with the judgment of the Federal Court, appealed to the Full Court of the Federal Court of Australia. In April 2022, the Full Court reversed the earlier decision, ruling that under Australian law, an inventor must be a natural person, effectively overturning the lower court's decision. The Full Court held that the term 'inventor' as understood within the Patents Act and the common law implies a human agent. The judges reasoned that the legislation presumes that inventors are individuals capable of legal rights and responsibilities, which AI systems currently do not possess. Further, that interpreting the Patents Act to include AI as an inventor would require legislative amendment, as the existing statutory framework did not anticipate non-human inventors. The judges noted that any significant change in patent law, such as recognizing AI as an inventor, should be made by Parliament rather than through judicial interpretation.[37]

In *Li v. Liu,*[38] the case was initiated at the Beijing Internet Court in May 2023 by the plaintiff, who used text-to-image AI software 'Stable Diffusion' to create an image of a woman and posted it on China's Instagram-like platform Xiaohongshu. The Defendant who is a blogger, used the images as illustrations and published them on an online platform through a personal

[34] Copyright Act, s 2 (2) (a) and (b)
[35] [2023] UKSC 49 <https://supremecourt.uk/uploads/uksc_2021_0201_judgment_3f445a5dc7.pdf> accessed 13 June 2025
[36] *Thaler v Commissioner of Patents [2021] FCA 879* <https://murraytrento.com.au/articles/patents/thaler-v-commissioner-of-patents-2021-fca-879/> *accessed 29 June 2025.*
[37] Thaler V Commissioner of Patents: The Landmark Case About AI as an Inventor an Australia' Published on <https://www.legallawyers.com.au/uncategorized/thaler-v-commissioner-of-patents-the-landmark-case-about-ai-as-an-inventor-in-australia/> accessed 14 June 2025.
[38] Global Times Blog 'Chinese Court Declares AI-Generated Image Protected by Copyright, a First Ruling of its Kind' <https://www.globaltimes.cn/page/202312/1304471.shtml> accessed 14 June 2025

account, allowing the public to access the pictures. The defendant also removed the signature on the pictures, a move that violated the plaintiff's right of authorship. The court recognized the picture generated via text-to-image AI image generator should be considered 'artwork' under the protection of copyright laws based on the 'originality' and intellectual input of its human creator. According to the court, the essentials of people using AI models to generate images are that people use tools to make a creation. As long as an AI-generated image reflects the original intellectual investment of a human being, it should be considered an artwork and protected under copyright law.

In *Rozsudek Městskéhosoudu v Praze,*[39]*a* dispute arose after the Defendant, a Prague law firm published an image on its website that was generated using the DALL-E AI tool. The image was allegedly created based on input provided by the plaintiff, which included a specific command or 'prompt': The image depicts two parties signing a formal business contract in a professional setting, such as a conference room or a law firm in Prague. The plaintiff alleged that he had creatively generated the image using a prompt, and consequently demanded recognition for his copyright to the work. He insisted that the law firm should take down the image from its website and cease all future use of it. The Municipal Court in Prague dismissed the plaintiff's claim, ruling that he had failed to demonstrate sufficient creative input to be entitled to claim authorship of the graphics. Under Section 5 of the Copyright Act, only natural persons can be considered authors, which excludes AI systems. While the plaintiff claimed to have participated in the work's creation by commissioning a specific prompt, he failed to provide any convincing evidence to support this assertion, offering only personal allegations. The court ruled that the plaintiff failed to meet his burden of proof, as he did not demonstrate that the AI's output was based on the plaintiff's specific instructions or that those instructions provided sufficient creative input. According to the court, without concrete evidence of significant human involvement in the creative process, the conditions for authorship under the Copyright Act has not been satisfied. The court ruled that the AI-generated work did not qualify as a work of authorship under the Copyright Act, as it was not the unique product of a human's creative activity. The court determined that the prompts themselves were merely suggestions or ideas, and therefore not eligible for copyright protection. Accordingly, the court held that, as a result, the AI-generated output cannot be considered a work of authorship or the plaintiff's own creation**.** The court also indicated that future copyright claims for AI-generated works will require stronger evidence demonstrating significant human creative input.[40]

While the above cases do not rule out the possibility of AI-generated works receiving Intellectual Property Rights protection in the future, authorship of such works can only be granted to a human being, and only when there is clear evidence of significant human involvement in the creative process. The South African Companies and Intellectual Property Commission (CIPC) has however, made history by being the first Patent Office in the world to grant a patent to an artificial intelligence (AI) system, rather than a person, as an inventor. On 28 July 2021, the CIPC published the acceptance of South African patent no. 2021/03242 ('the SA DABUS patent') in the South African Patent Journal. The publication of the acceptance of the application for a patent in the Patent Journal signifies the grant of the patent by the CIPC. The patent lists 'DABUS' (Device for the Autonomous Bootstrapping of Unified Sentience) as the inventor and noted that the invention was autonomously generated by an artificial intelligence. The developer of the AI system, Dr Stephen L Thaler, is listed as the patentee.[41]

The patent applications filed by Dr. Thaler in UK and Australia were rejected, mainly on the finding that a natural person must be listed as an inventor on a patent application. The listing of DABUS as an inventor in South Africa has been widely criticized mainly because the current patent laws do not make provision for AI being recognized as an inventor. For this to happen, there would be a legislative intervention.

5. Conclusion and Recommendations

This study has shown that Nigeria's current Intellectual Property (IP) laws are not adequately equipped to address the challenges posed by AI-generated works. The existing legal framework anchored on human authorship and inventorship fails to accommodate the autonomous creative and inventive capabilities of artificial intelligence. This legal gap creates uncertainty over ownership, originality, and enforcement, thereby hindering innovation and investment in the Nigerian economy. It is necessary to adopt measures that will strengthen Nigeria's IP regime, encourage innovation, and position the country to harness the whole benefits of Artificial Intelligence in the creative and industrial economy. To bridge this gap, the work recommends:

Legislative Reform: There is a pressing need to expand Nigeria's Intellectual Property (IP) laws to expressly recognize and accommodate AI-generated creations within the existing copyright, patent, and related IP frameworks. To ensure clarity and inclusiveness therefore, explicit statutory provisions should be enacted to define and categorize AI-generated works, specifying the criteria for authorship, ownership, originality, and liability. Such provisions should also address the extent of human involvement required, if any, for protection to apply. This will provide legal certainty to creators, inventors, and investors in the AI ecosystem.

[39]A Decision of the Municipal Court Prague from 11. October, no 10 C 13/2023, published on <https://justice.cz/documents/14569/1865919/10C_13_2023_10/108cad3e-d9e8-454f-bfac-d58e1253c83a.> The translated version is published on <https://merlin.obs.coe.int/article/10047> accessed June 14 2025

[40] Havel and Partners, 'First judgment on AI-generated works in the Czech Republic: Where Does Mechanical Use End and Human Creativity Begin?' <https://en.havelpartners.blog/first-judgment-on-ai-generated-works-in-the-czech-republic-where-does-mechanical-use-end-and-human-creativity-begin> accessed 14 June 2025

[41]C Mhangwane and D Cochrane 'DABUS, the Rise of the Inventive Machines' <https://spoor.com/dabus-the-rise-of-the-inventive-machines/> accessed June 15 2025

Establishment of specialized IP Courts: This is necessary to handle complex, technology-related disputes for a speedy and efficient adjudication of cases. The judges and staff of the court must be persons who possess the relevant skills in technology to be capable of understanding the complex technology-based issues and also, navigating the intricate procedures of receiving and interpreting electronic evidence.

Policy Development: The dynamic nature of AI and its impact on creativity, innovation, and ownership requires a proactive, inclusive, and well-coordinated policy response. There is the need for broad policy development and stakeholder engagement to ensure that Nigeria's Intellectual Property (IP) framework is brought into line with global best practices in addressing the challenges and opportunities presented by artificial intelligence. Government agencies such as the Nigerian Copyright Commission (NCC), the Trademarks, Patents and Designs Registry, and the National Information Technology Development Agency (NITDA) should collaborate with key stakeholders, including policymakers, legal practitioners, academics, technology developers, and industry representatives, to formulate robust regulatory guidelines for the protection and use of AI-generated works. Such engagement will enhance the country's competitiveness, attract foreign investment, and strengthen Nigeria's position in the global digital economy.