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# *Artificial Intelligence and Copyright Protection in Nigeria, Legal Impact and Challenges*

## **Introduction**

Artificial intelligence is developing rapidly around the world, with Nigeria seeing growing adoption and investment in AI technologies across various industries. As AI systems become more advanced and autonomous in their capabilities, questions have emerged regarding the application of copyright law to the works created by AI. Nigeria's current copyright statutes were established prior to the emergence of AI and do not provide explicit guidance on authorship and ownership issues involving AI-generated outputs.

This article examines the potential impacts of advancing AI technologies on copyright protection in Nigeria, as well as the challenges involved in appropriately applying and updating intellectual property law for an AI-driven era. The development of AI carries significant potential to drive innovation and economic growth. However, without clear copyright frameworks, uncertainty AI. Conversely, overbroad or restrictive IP policies risk stifling further innovation.

This work provides background on the rising prominence of AI in Nigeria and the unresolved copyright questions that now arise. It establishes the need to carefully consider how intellectual property law may require modernization to support continued AI progress while balancing the interests of creators, businesses, and the public interest.

## **Current State of AI Development and Use in Nigeria**

Artificial Intelligence (AI) stands at the forefront of technological advancement, poised to reshape various sectors globally, including healthcare, finance, and education. Nigeria, Africa's most populous nation, has recognised the transformative potential of AI. However, the current state of AI development in the country remains in its infancy, prompting the National Information Technology Development Agency (NITDA), Nigeria's primary IT regulatory body, in 2022 to actively seek contributions for the formulation of the National Artificial Intelligence Policy (NAIP).<sup>1</sup> This initiative reflects the government's

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<sup>1</sup> OECD, AI Policies in Nigeria. Retrieved from <<https://oecd.ai/en/dashboards/countries/Nigeria>> accessed 28th December 2023

acknowledgment of AI's significance and its dedication to creating an environment conducive to AI innovation.

Despite the government's efforts, assessments at the Lagos Startup Week in 2023 indicated that AI in Nigeria is still in its nascent stages. Some experts went as far as characterising it as not even "crawling" yet, emphasising the considerable challenges hindering the nation from fully unlocking the potential of AI.<sup>2</sup> One of the major obstacles identified is the educational landscape in Nigeria. Experts argue that the journey towards AI innovation must commence with an overhaul of the current education system.<sup>3</sup> Integrating AI and other emerging technologies into the curriculum is imperative to equip the upcoming generations with the requisite skills for driving AI innovation in the future.

Despite these challenges, Nigeria boasts promising AI startups like Uniccon Group, the creator of Nigeria's first humanoid robot.<sup>4</sup> These startups underscore the nation's talent pool and determination to make significant strides in AI. However, they grapple with obstacles such as limited funding and inadequate infrastructure, hindering their growth and impeding the overall development of AI in the country. Connectivity, compute power and infrastructure emerge as additional stumbling blocks for AI growth in Nigeria. Many regions within the country still lack reliable internet access, a critical component for AI development. Moreover, the absence of necessary infrastructure, including data centers and cloud services, poses significant challenges for AI research and development.<sup>5</sup>

While Nigeria may currently lack a comprehensive AI policy, the government has demonstrated a keen interest in technological advancement. Several initiatives have been launched to promote digital literacy and cultivate a culture of innovation such as establishment of the National Digital Literacy Framework (NDLF) by NITDA to provide a consistent definition of digital literacy and to

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<sup>2</sup> Bolu Abiodun, "AI in Nigeria has not even started crawling" (2023)

<<https://techpoint.africa/2023/07/19/state-of-ai-in-nigeria/>> accessed 28 December 2023

<sup>3</sup> Ibid.

<sup>4</sup> Na'ankwat Dariem, Nigeria to unveil Africa's First Humanoid Robot "Omeife" *Voice of Nigeria (VON)* (2022)

<<https://von.gov.ng/nigeria-to-unveil-africas-first-humanoid-robot-omeife/>> on accessed 28<sup>th</sup> December 2023 -

Omeife stands as the inaugural African humanoid, exhibiting a striking resemblance to humans and possessing proficiency in language, mobility, navigation, and behavioral intelligence through the utilization of AI and Computer Vision capabilities. This multipurpose assistance robot is intricately programmed to possess a profound understanding of African culture and behavioral norms. Notably, Omeife displays linguistic versatility by fluently speaking 8 distinct languages beyond English. This linguistic repertoire includes Yoruba, Hausa, Igbo, French, Arabic, Kiswahili, Pidgin, Wazobia, and Afrikaans. The introduction of Omeife took place at the Gulf Information Technology Exhibition (GITEX) in Dubai. The unveiling was executed by Professor Isa Pantami, the Nigerian Minister of Communications and Digital Economy. Professor Pantami commended Uniccon Group for its dedicated efforts in spearheading technological innovation on the African continent, marking a significant stride in advancing the field of robotics.

<sup>5</sup> Bolu Abiodun, "AI in Nigeria has not even started crawling" (2023)

<<https://techpoint.africa/2023/07/19/state-of-ai-in-nigeria/>> accessed 28 December 2023

develop relevant curricula<sup>6</sup>, launching the Digital Nigeria online portal and the NITDA academy, which are self-learning platforms.<sup>7</sup> These initiatives, coupled with Nigeria's dynamic tech ecosystem, lay the foundation for potential growth in AI.

To this end, Nigeria stands at a crossroads in the journey towards AI development. Challenges persist, particularly in education, funding, and infrastructure. However, the country exhibits potential for significant growth with the right policies, improved infrastructure, and an education system aligned with the demands of emerging technologies. Nigeria, with concerted efforts and strategic initiatives, could emerge as a notable player in the global AI landscape, contributing to the ongoing evolution of this transformative technology.

### **Determining Authorship and Ownership of AI-Generated Works**

The advent of artificial intelligence (AI) has revolutionised various sectors, including the creative industry. AI's ability to generate original works has raised complex questions about authorship and ownership. AI's impact on copyright regulations is profound. A cursory look into international legal frameworks such as the Berne Convention, EU Copyright Law, and national legislation highlights the need for legislative updates to address the challenges and opportunities of AI-generated works. It highlights the necessity to adapt legal systems to the realities of the digital age, where AI plays an increasingly significant role in content creation.

In the United States for instance, the Copyright Office's Review Board opined on the registrability of works generated by AI. The Board, citing the case of *Burrow-Giles Lithographic Co. v. Sarony*<sup>8</sup> reiterated the position under U.S. copyright law that human intervention is necessary for a work to qualify for copyright registration. The Court defined an "author" as "he to whom anything owes its origin; originator; maker; one who completes a work of science or literature." It repeatedly referred to such "authors" as human, describing authors as a class of "persons" and a copyright as "the exclusive right of a man to the production of his own genius or intellect." This stance emphasises the traditional view that creativity is a uniquely human attribute. However, it also raises questions about how to define and measure 'human intervention' in an era where AI systems can autonomously generate sophisticated and original content.<sup>9</sup>

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<sup>6</sup> Luminous Jannamike, "FG targetd 95% digital literacy in Nigeria by 2030' (12 October 2021) <<https://www.vanguardngr.com/2021/10/fg-targets-95-digital-literacy-in-nigeria-by-2030/>> accessed 28 December 2023

<sup>7</sup> Na'ankwat Dariem, 'Nigeria Launches Digital Literacy Framework to Boost Skills, Technology Export'. *Voice of Nigeria (VON)* (29 July 2023) <<https://von.gov.ng/nigeria-launches-digital-literacy-framework-to-boost-skills-technology-export/>> accessed 28 December 2023

<sup>8</sup> 111 U.S. 53, 56 (1884)

<sup>9</sup> Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence; United States Copyright Office <[https://www.copyright.gov/ai/ai\\_policy\\_guidance.pdf](https://www.copyright.gov/ai/ai_policy_guidance.pdf)> accessed 6 March 2026

Some scholars suggest an alternative approach, known as the AI-owner approach, for determining copyright ownership of AI-generated works.<sup>10</sup> This approach proposes that the owner of the AI should be considered the legal author of the works it generates. This approach was highlighted in the case of *Thaler v The Comptroller-General of Patents, Designs and Trade Marks (DABUS)*<sup>11</sup>, where it was held that an AI owner can possibly claim patent ownership over an AI-generated invention based on their ownership and control of the AI system. While this approach simplifies the issue of authorship, it also raises ethical and legal questions. For instance, it could potentially lead to situations where large corporations that own powerful AI systems could monopolise the production and ownership of creative content.

In Nigeria, the Copyright Act 2022, provides for works that qualify for copyright protection.<sup>12</sup> The eligible works for copyright protection under the Act are literary works, musical works, artistic works, audiovisual works, sound recordings, and broadcasts. The prerequisite for legal protection of a work under copyright is that it meets the requirement of being original. Originality in this sense means that the work must be the author's intellectual creation.<sup>13</sup> Thus, the test of originality entails sufficient effort being expended in making the work to give it an original character.<sup>14</sup> It therefore implies that the work must not have been copied. Where a literal interpretation of originality is taken, one may ask whether an AI is capable of producing copyright works that have an original character. In this regard, an AI machine can expend time, energy and effort in creating such work without copying; hence, the resultant copyright work can satisfy the requirement of originality under this standard.

Consequently, copyrighted works are perceived as a manifestation of the author's ingenuity. One may wonder if AI systems are capable of expressing their personalities in this way. Does an AI system have feelings or emotions that it may represent through its work? One may argue that AI isn't human at this point in its evolution; it doesn't have feelings or a soul to leave its mark on a piece of art. One may object that, because AI is still human and makes some decisions while creating a work that is protected by copyright, the work still bears the AI's unique signature. However, the decisions made by an AI computer are often restricted to the options that were preprogrammed into it.

It must be noted that in terms of personality, the Copyright Act<sup>15</sup> has defined an author as in the case of —

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<sup>10</sup> R. Matulionyte & J. Lee; Copyright in AI-generated Works: Lessons from Recent Developments in Patent law, Research paper, The Chinese University of Hong Kong, <<https://ssrn.com/abstract=3974280>> accessed 6 March 2024

<sup>11</sup> [2021] EWCA Civ 1374

<sup>12</sup> Section 1 (1) of the Copyright Act 2022

<sup>13</sup> A. O. Oyewunmi, Nigerian Law of Intellectual Property, (University of Lagos Press; 2015). Pp. 32-33

<sup>14</sup> Section 1 (2) (a) of the Copyright Act 2022

<sup>15</sup> Section 108

- a) audiovisual work to means the person by whom the arrangements for the making of the audiovisual work were made, unless the parties to the making of the audiovisual work, provide otherwise by contract between themselves;
- b) collective work, to means the person responsible for the selection and arrangement of the collection; With the expression of an idea and the expansion of sufficient effort being the determining factors for originality in Nigeria, creative works produced by AI systems without human intervention may seem to qualify as original where sufficient effort has been expended by an AI system during the making of a work;
- c) a photographic work, means the person who took the photograph;
- d) sound recording, means the person by whom the arrangements for the making of the sound recording were made; and
- e) a broadcast transmitted from within any country, means the person by whom the arrangements for the making or the transmission from within that country were undertaken.

Furthermore, the author of the work must be a Nigerian citizen, a person domiciled in Nigeria, or a company incorporated in Nigeria and the work must have been first published in Nigeria.

From the above it is given that although the expression of an idea and the expansion of sufficient effort being the determining factors for originality in Nigeria, creative works produced by AI systems without human intervention may not seem to qualify as original where sufficient effort has been expended by an AI system during the making of a work. Additionally, AI has no legal personality and it is not recognized under our law, hence, AI related work will not be able to enjoy any proprietary right to copyright in Nigeria.

Also, Copyright protection entitles an author to both economic and moral rights. The economic right gives the owner the right to exploit their work through reproduction, publication, performance, translations, adaptations, and turning it into a sound recording or film among others.<sup>16</sup> Under section 14 of the Copyright Act, the moral right entitles an author to claim paternity over a work which they have created and aims at preventing the authorship over such work from being attributed to anyone other than the author of such work. It also gives the author the right to object in connection to any distortion of their work, a right that cannot be transferred and also lasts forever.

As stated above, moral rights are considered to be personal to authors and aim to protect their honour, reputation, and connection to their work. While AI systems have the ability to produce works that are indistinguishable from human creations, they lack honour, reputation, and personality, which raises the question of whether moral rights can be given to them. Furthermore, an author is inherently associated with moral rights. AI cannot attempt to maintain its honour, reputation, or attachment to a work since it lacks the status of an author

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<sup>16</sup> Sections 9-13

or legal personality; doing so would require further reason that would broaden the definition of moral rights.<sup>17</sup>

In conclusion, determining authorship and ownership of AI-generated works is a complex and evolving issue. It requires a careful balance between protecting individual creativity, acknowledging the capabilities of AI, and ensuring fair access to AI-generated content. As technology continues to evolve, so too must our legal frameworks. For the most accurate information, it's recommended to consult with a legal professional or refer to the latest legal texts and rulings. The debate is ongoing, and the need for further exploration in this area is evident. The future of AI and creativity promises to be an exciting and challenging frontier.

### **Conclusion/Recommendations**

Today's world is becoming more and more integrated with technology, which is employed in many different contexts. As technology progresses, its uses become more feasible and are given more thought. With the advancement of technology, one cannot credit intellect to a human being alone these days. Similar to employment, artificial intelligence (AI) has the potential to stifle human creativity since a person will not have the same resources as a machine. In addition to providing a scenario of assurance that the transaction has been completed in compliance with the law, resolving copyright ownership will provide a situation of dependability throughout the seller-buyer negotiation. Although legislation is a dynamic instrument, its rate of response is extremely slow when compared to the rate at which technology is developing.

The legislation on authorship of creation by autonomous machine must be updated so that someone can be held responsible for any errors, for economic and patrimonial exploitation, according to the specific rules and legislation of each case, so that there are mechanisms and legal instruments for resolving doubts, generating legal certainty and minimizing conflicts.

The ownership of works created by AI should be defined by current legislation in the near future. The winning chain is thought to be the one that establishes the work's insertion as "public domain" from its generation. This will increase the barrier to technology companies' commercial exploitation of the work, as they already stand to gain financially from market exploitation during their public exposure. When third parties utilize the program, there is an additional benefit through the usage license.

The scope and speed of technological evolution is much greater than the capacity for legislative progress. The legislator should look for ways to keep

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<sup>17</sup> Miernicki, M., & Ng (Huang Ying), I. (2020). Artificial intelligence and moral rights. AI & SOCIETY. <<https://doi.org/10.1007/s00146-020-01027-6>> 6 March 2024

legislation less backward and with the capacity to define issues related to technology, especially in relation to IP ownership resulting from the creation made by an AI, in a way that brings security to the legal system.

For Nigeria, new frontiers of copyright issues are yet to be determined by Nigerian courts. The legal status of AI-generated works and ideas in regard to intellectual property is now a topic of new and complex problems for copyright offices and courts throughout the world. These entities have been weighing in on whether current rules provide protection of AI-generated works.

There is a need for new legal frameworks that address direct technological growth, promote societal benefit, and enable today's investments in tomorrow's innovation. This discourse is long needed, especially since the law is now having to catch up to AI, which is quite worrisome. The stance that only people, not AI systems, may be credited as writers or inventors is not changing as we wait for laws and regulations to keep up with the advancement of AI especially in Nigeria.

