

AN EXAMINATION OF NIGERIAN COPYRIGHT LAW IN AN AGE OF ARTIFICIAL
INTELLIGENCE.

OLAWOLEMI OGIDAN¹

OBAFEMI AWOLowo UNIVERSITY, ILE-IFE.

¹ OLAWOLEMI OGIDAN || OBAFEMI AWOLowo UNIVERSITY, ILE-IFE.

INTRODUCTION

“Chat GPT, I intend to put in an entry for an essay contest. So generate a 1700-word essay that addresses the theme ‘Navigating Nigerian Copyright Law in the Age of Artificial Intelligence: Emerging Challenges and Proposed Solutions’. Make sure to maintain an academic language and ensure to include accurate references.”

If a student inputted the prompt above into ChatGPT’s chat box or that of any generative AI model, the big question is: are they entitled to own the copyright to such generated material? What happens if they made a number of modifications and edits to the generated material, can they then attach their name as the bona fide author of the essay? Or is it the AI itself that owns the work after all?

These questions represent a wider array of copyright considerations and debates that have arisen since the application of Artificial Intelligence (AI) has exploded into the widespread phenomenon it is today. From artworks and poems to novels and paintings, AI has evolved into sophisticated content generators, thanks to constant technological research and unceasing innovation.

As AI models are poised to develop even more technical capabilities, industry regulators in the world of Intellectual Property today are, more than ever before, seeking solutions to the challenges that AI has engendered. This essay represents my contribution to the ongoing debate. Particularly, this essay examines the stance of Nigerian copyright law in an age of Artificial Intelligence. I also map out the grey areas where Nigerian legislation is not so clear-cut, while drawing lessons and policy recommendations from other jurisdictions.

ABRIEF EXPOSÉ ON THE CORE IDEA OF A COPYRIGHT

Essentially, copyright is a category of intellectual property protection that affords creators exclusive rights over their original works of authorship for a specified period upon fixation in a tangible medium of expression¹. Simpliciter, it ensures that authors and creators enjoy the sole rights to exploit, reproduce and distribute their creations for a period of time before it is made accessible to the general public. Copyright covers a number of unique creations such as novels, poetry, graphic designs, computer software, etc. In essence, copyrightable content must exude a measure of intentional creation and at least “a [minimal level or] modicum of creativity” as the US Supreme Court put in the famed case of **Feist Publication Inc. vs. Rural Telephone Service**². Generally, copyright accrues upon original fixation of a copyrightable piece in a tangible medium (ideas themselves are not copyrightable), however registration is also advised for sake of formal proof in instances of legal disputes.

The Copyright Act 2022 highlights six categories of copyrightable creations: sound recording and broadcasts as well as literary, musical, artistic and audiovisual works. In Nigeria, copyright spans for 70

¹ World Intellectual Property Organization, ‘What is Copyright?’ (5 August 2025) <<https://www.wipo.int/en/web/copyright>> accessed 4 August, 2025.

² *FEIST PUBLICATIONS, INC. V. RURAL TEL. SERV. CO.*, 499 U.S. 340 (1991)

years after the death of the author of a literary, artistic or musical piece, and in the instance of photographs, broadcasts and sound recordings, 50 years after it was created or made available to the public.³

At present, the **Copyright Act 2022** operates as the regulatory framework for copyright-related matters in Nigeria, after replacing & repealing the **Copyright Act of 2004** which was itself a recodification of the **1988 Copyright Act**. The various modifications of copyright law in Nigeria reveal a major truth: that the regulatory frameworks for copyright change to suit societal progress over a given period. And considering the age of Artificial Intelligence we currently find ourselves, we just might be on the brink of another major amendment to our copyright law in Nigeria.

THE BIG QUESTIONS: HOW HAS ARTIFICIAL INTELLIGENCE IMPACTED THE COPYRIGHT LANDSCAPE, AND HOW DOES THE COPYRIGHT ACT 2022 CATER FOR AI CONSIDERATIONS?

Commenting on the considerable impact of AI in the past few decades, Ola Williams, the Country Director, Microsoft Nigeria, remarked “*AI has come to stay. It is already influencing our lives.*”⁴. Truly, AI has had profound impact on virtually every sector of human endeavour. From artworks to literary compositions and even film-making, AI is now taking on tasks that were once considered to be exclusive to humans. As a consequence, this challenges the traditional notion of copyright protection which required considerable human effort and creativity.

The major requirements of copyright under **the Act** are *originality*, *fixation* and *competent authorship*, however the most disputed duo in the AI discourse are *originality* and *competent authorship*. Accordingly, the challenge of whether or not AI fits into these requirements is explored subsequently.

- **Originality.**

Section 2(1) of the Nigerian Copyright Act 2022 provides that “*literary, musical or artistic work shall not be eligible for copyright unless some effort has been expended on making the work, to give it an original character...*” The Abridged 8th Edition of **Black’s Law Dictionary** characterizes the term ‘originality’, as “*The quality or state of being the product of independent creation and having a minimum degree of creativity or the degree to which a product claimed for copyright is the result of an author’s independent efforts.*” This reveals that the standard imposed for originality under the Act is that a creator expends sufficient effort and at least a minimal amount of creativity to intentionally craft a product. In legal lingo, this standard is referred to as the “sweat of the brow” coupled with “a modicum of creativity”⁵. This simply means that such work must be reflective of the creator’s personal thought process and experiences, and not merely copied from other works in the public space.

³ Copyright Act 2022. s19.

⁴ TSJ REPORTER 1, ‘It’s Already Influencing Our Lives,’ Microsoft Country Director, Ola Williams Speaks On How Nigeria Can Utilize AI For Innovations’ (TS reporter.org, Feb 6 2024) <<https://thestreetjournal.org/its-already-influencing-our-lives-microsoft-country-director-ola-williams-speaks-on-how-nigeria-can-utilize-ai-for-innovations/>> accessed 5 August, 2025

⁵ Sucshi Meta, ‘Analysis of doctrines: ‘Sweat of the brow’ & ‘Modicum of creativity’ vis-à-vis Originality in Copyright Law’ (India law.org, 8 January 2015) <<https://www.indialaw.in/blog/law/analysis-of-doctrines-sweat-of-brow-modicum-of-creativity-originality-in-copyright/>> accessed 5 August 2025.

But then the pivotal challenge arises: **do AI-generated material fulfil the “sufficient effort” prerequisite for originality?** Admittedly, I believe that AI models do. This is because these large languages models are the very systems responsible for the entire process of analyzing and compiling bits of data into the final output. In my opinion, this satisfies the condition of “some [or sufficient] effort” which Section 2 of the Act prescribes. However, even if AI models tick the box of originality, the debate about whether AI can legally be regarded as an owner/author still persists.

- **Competent authorship and ownership:**

Authorship and ownership are probably the most interchanged terms of the century, but their meanings differ quite distinctly in copyright. Authorship refers to the creation or origination of a work, while ownership refers to the legal rights to control and profit from that work.⁶ An author is usually the first owner of a work, but by license in writing, other persons may also possess the right to exploit that work.⁷

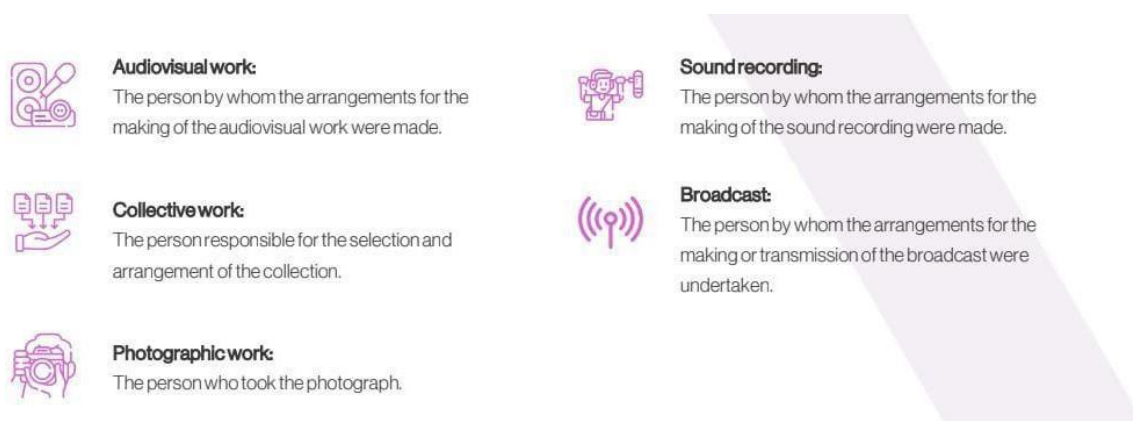


Figure 1- sourced from Olaniwun Ajayi

Many jurisdictions hold that only humans are capable of crafting or owning works of art. However, that position is up for debate today, due to the popularity of **Artificial Intelligence** models. In the context of ‘AI ownership/authorship’, three of the most commonly-touted solution recommendations must be examined: **the AI itself as the author/owner of the work, the owner of the AI as the author/owner of the work or the user as the author/owner of the work.** I will also weigh in on what becomes of situations where the **AI sources the works of others** to develop its output.

A. **AI as the Author/Owner of the Work:** Some stakeholder bodies posit that an AI model should ‘own’ a copyright to a generated work because the AI is responsible for the internal mechanisms of creatively generating the work.⁸ This was the position of the Indian Copyright Commission in the

⁶ Olaniwun Ajayi ‘AI-Generated Works and Copyright Law: Defining Authorship and Ownership in the Age of Machine Creativity’ [2025] PL 3

⁷ Copyright Act 2022. s30

⁸ Wei Li et al. ‘AI Creativity And Legal Protection For AI-Generated Works In Post-human Societal Scenarios’ (ScienceDirect, June 2025) <<https://www.sciencedirect.com/science/article/pii/S2666188825003156>> accessed 5 August 2025

case involving the RAHGAV Painting App.⁹ However, an examination of the Copyright Act, 2022 expressly reveals that an AI model cannot be the author of an artistic work in Nigeria. The Act mandates, in Section 5, that the author must be “an individual who is a Nigerian citizen or is habitually resident in Nigeria; or a body corporate incorporated by or under the laws of Nigeria.” As an AI model is not an individual or a person, it cannot a validly author a work or own proprietary rights to such a work. Even more, the timeline of copyright validity of literary works in Nigeria “lifetime of author and 70 years **after the death of the author**” cements ‘AI authorship/ownership’ as a truly foreign concept to copyright law in Nigeria.

- B. The Developer of the AI as the Author/Owner of the Work:** Some proponents argue that the owner of AI-generated works is the entity that designed the functionality of the AI model in the first place¹⁰. They further justify this stance by positing that since AI developers can be liable for copyright infringement, they should also be capable of owning copyright to AI-generated works. However, in my opinion, this position does not satisfy the requirement of exerting independent and creative effort in the process of generating the particular work in question. In fact, this position is analogous to suggesting that the right of ownership of all photos should accrue to the maker of the camera absurd indeed. The above also suffices as a response to scholars who opine that creators whose works were consulted by the AI models can claim copyright to AI-generated content: these secondary creators did not exert significant effort in the creation process hence they should not own copyright. What’s more, **Section 29(1) of the Copyright Act**, vests ownership in the person on whose initiative or direction the work was created, which in this case was the AI user not the secondary creators.
- C. The User of the AI as the Author/Owner of the Work:** This position is one that most accurately aligns with the body and spirit of the **Copyright Act, 2022**. As the US Copyright Office succinctly put it in a 2023 statement, “AI-assisted works can be registered for copyright if there is sufficient human authorship and artists can select or arrange AI-generated materials in sufficiently creative ways or modify something AI-generated to such a degree, to merit copyright protection.”¹¹ This position also derives backing from Section 2 of the Act which mandates “some [original] effort as a requirement for copyright. It is therefore apparent that works that are generated merely upon inputting prompt texts into AI models cannot be copyrighted by an individual. As such, the student in the scenario represented in the introduction does not legally own copyright to the essay generated because no intentional or creative effort was expended by that student himself. However, if the student undertook some significant effort in editing and changing that material to fit his

⁹ Sukanya Sarkar, ‘Exclusive: India Recognises AI As Co-Author Of Copyrighted Artwork’ (ManagingAI.com, August 5 2021) <<https://www.managingip.com/article/2a5bqo2drurt0bx17ab24/exclusive-india-recognises-ai-as-co-author-of-copyrighted-artwork>> accessed 5 August 2025.

¹⁰ Olaniwun Ajayi ‘AI-Generated Works and Copyright Law: Defining Authorship and Ownership in the Age of Machine Creativity’ [2025] PL 3

¹¹ United States Copyright Office, ‘Copyright and Artificial Intelligence’ (Copyright, 2025) <<https://www.copyright.gov/ai/>> accessed 5 August 2025.

personal idealization, then he may validly own the copyright to such material. As such, AI was only employed as a tool in his research methodology. In instances of uncertainty, a reasonable man test is the standard determinant of whether a modification process makes a work sufficiently different from a plain AI-generated output.

THE WAY ONWARD: PROPOSED RECOMMENDATIONS

First, to avoid controversies and prolonged disputes, I believe the Copyright Act 2022 should be amended to reflect the well-reasoned standpoint at present: that for AI-generated works, the user of the AI owns the copyright upon exertion of considerable modification efforts. However, as AI is a fast-evolving kettle of fish, stakeholders in Nigeria are obliged to pay attention to developments on the international scene, and take cues & lessons from other climes which may incentivize considerable progress here in Nigeria. This is especially so as there is a paucity of Nigerian cases on this subject.

Then, widespread orientation will also prove useful in this regard. The Nigerian Copyright Commission and other industry stakeholder's e.g student's organizations and NGOs can take on publicity roles through essay contests, IP symposiums & rallies etc., to educate the populace about the Nigerian stance on AI and copyright. This will ensure that creators are more well-informed, avoiding controversies in the first place.

CONCLUSION

AI has indeed brought along with it, a major debate with respect to copyright matters. However, relevant amendments as proposed in the essay coupled with intentional public orientation will serve to mitigate conflicts & challenges to a bare minimum.

Bibliography

Cases

Feist Publications Inc v Rural Telephone Service Co 499 US 340 (1991).

Legislation

Copyright Act 2022, s 19.

Copyright Act 2022, s 30.

Secondary Sources

Li W and others, 'AI Creativity and Legal Protection for AI-Generated Works in Post-human Societal Scenarios' (ScienceDirect, June 2025)

<https://www.sciencedirect.com/science/article/pii/S2666188825003156> accessed 5 August 2025.

Meta S, 'Analysis of Doctrines: "Sweat of the Brow" & "Modicum of Creativity" vis-à-vis Originality in Copyright Law' (IndiaLaw.org, 8 January 2015) <https://www.indialaw.in/blog/law/analysis-of-doctrines-sweat-of-brow-modicum-of-creativity-originality-in-copyright/> accessed 5 August 2025.

Olaniwun Ajayi, 'AI-Generated Works and Copyright Law: Defining Authorship and Ownership in the Age of Machine Creativity' [2025] PL 3.

Sarkar S, 'Exclusive: India Recognises AI as Co-Author of Copyrighted Artwork' (ManagingAI.com, 5 August 2021) <https://www.managingip.com/article/2a5bqo2drurt0bxl7ab24/exclusive-india-recognises-ai-as-co-author-of-copyrighted-artwork> accessed 5 August 2025.

TSJ Reporter 1, "'It's Already Influencing Our Lives": Microsoft Country Director, Ola Williams, Speaks on How Nigeria Can Utilize AI for Innovations' (TSReporter.org, 6 February 2024) <https://thestreetjournal.org/its-already-influencing-our-lives-microsoft-country-director-ola-williams-speaks-on-how-nigeria-can-utilize-ai-for-innovations/> accessed 5 August 2025.

United States Copyright Office, 'Copyright and Artificial Intelligence' (Copyright.gov, 2025) <https://www.copyright.gov/ai/> accessed 5 August 2025.

World Intellectual Property Organization, 'What is Copyright?' (5 August 2025) <https://www.wipo.int/en/web/copyright> accessed 4 August 2025.