

Copyright Issues in AI-Generated Videos Based on Copyrighted Literature

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Abstract. This paper examines the copyright implications of AI-generated videos that utilize copyrighted literature as source material, within the context of an increasingly visual culture. As technological advancements have democratized video creation, the potential for infringement on original works has escalated, necessitating a thorough exploration of legal frameworks. The study employs a combination of case analysis, literature review, and the novel Verb-Noun Inspection Method to assess the relationship between AI-generated content and its literary foundations. By analyzing landmark cases such as *Kalem Co. v. Harper Brothers* and recent judicial decisions in China, the paper illustrates the complexities of copyright ownership and derivative works in the age of AI. The findings underscore the importance of recognizing the originality of both literary works and AI-generated outputs, advocating for clear legal standards to protect creators' rights while fostering innovation. Ultimately, this research contributes to a deeper understanding of copyright challenges in the evolving digital landscape.

Keywords: AI-generated; video; literature; copyright; infringement.

1. Introduction

1.1. Background

Contemporary culture has, in fact, evolved into a predominantly visual culture rather than a print-based one. Since its invention in the late 19th century, film has rapidly conquered the capitalist world, giving rise to a vast industry. As a composite art form, film directly appeals to the audience's senses through an intricate combination of visual and auditory elements, including composition, shot scale, camera angles, movement, color, lighting, sound effects (action, natural, background, and special sounds), dialogue (whether spoken, narrated, or monologued), and music (diegetic or non-diegetic). With the advent of striking new communication technologies, the evolution of film's audiovisual format has expanded into the limitless realm of video, with the TV and video market encompassing a wide range of audiovisual content distribution methods, from traditional broadcast TV to streaming services and digital platforms. This market includes various aspects such as revenue streams, advertising expenditures, audience size, average revenue per user (ARPU), and penetration rates. Revenue is primarily driven by purchases and subscription fees, with an expected compound annual growth rate (CAGR) of 2.90% from 2024 to 2029, potentially reaching a market size of US\$807 billion by 2029 [1]. The scale of the video market and its intrinsic artistic qualities have, from the beginning, inevitably introduced a fascinating array of legal questions.

In recent years, the rapid evolution of media forms through the internet, combined with breakthroughs in AI-generated video technology, has dismantled traditional barriers to video creation. Individuals can now generate videos by simply inputting text prompts into mobile devices, seamlessly sharing their creations on social media. In this new video production ecosystem, it becomes evident that the development of visual culture is deeply rooted in the creation, dissemination, and interpretation of literary works.

1.2. Purpose of the Study

This paper focuses on the rise of AI-generated videos that use copyrighted literature as source material, emphasizing the importance of understanding copyright implications in this emerging field,

and proposes methods for identifying potential infringements on original texts by AI-generated content.

The landmark case *Kalem Co. v. Harper Brothers* in 1911 set an early precedent for recognizing the role of literature as a significant component of film copyright [2]. In this case, the Supreme Court ruled that adapting a novel into a film without permission infringed upon the literary work's copyright, even though the film did not directly reproduce the text. This decision established literature as a foundational element in the creation of films, affirming that the transformation of written narratives into visual media must respect the underlying intellectual property rights. In the contemporary AI era, this principle becomes even more crucial. The increasing use of AI-generated videos that rely on copyrighted literature as input requires a thorough evaluation to establish a universal doctrinal framework for addressing copyright infringement. Given the scale and accessibility of AI video creation, the risk of potential violations has grown exponentially, demanding careful legal scrutiny to protect the integrity of original works. The development of clear legal standards can effectively manage the potential for unchecked expansion of AI-generated works that exploit literary texts without authorization. If technological advancements continue unchecked by copyright law, we may soon face a future where AI can generate films based on copyrighted literature with no involvement from traditional production studios, posing significant threats to intellectual property rights.

2. The Copyright Challenges Posed by AI-generated Videos Based on Copyrighted Literature

AI-generated video is a medium that combines a sequence of moving images, often accompanied by sound, created using artificial intelligence technologies. By harnessing machine learning algorithms, AI-generated videos visualize text descriptions or scripts to produce engaging content. Through the production and distribution of text-based AI-generated videos, users can gain influence and generate revenue. Consequently, two key issues arise due to the convenience of content generation brought about by technological advancements.

First, it is essential to establish the legal status of AI-generated videos, ensuring that original text authors can legally and adequately profit from their works. This involves clarifying copyright ownership and whether AI-generated videos can be considered derivative works, which could affect the rights of the original creators. Second, it is crucial to identify infringement actions and prevent unauthorized use of copyrighted texts in AI-generated videos. This includes monitoring AI systems to ensure they do not exploit protected works without permission, thus safeguarding the interests of original authors and promoting a fair marketplace.

Building on the above points, advancing three areas of legal work will greatly benefit the property rights of individuals and socio-economic development: Clearly defining the scope of "copyrighted literary works", recognizing the copyright of AI-generated video works; and proposing methods for identifying infringement in AI-generated videos.

2.1. The Scope of "Copyrighted Literary Works" (Copyrighted Literature)

To grasp how literary works endure through their aesthetic objects rather than merely existing as schematic formations, one must interpret the essence of a literary work dynamically, as Hegel conceptualizes the term *Wesen* "Literary works" possess an infinite variety in terms of genres and themes, with a common attribute being that they constitute any collection of written works [3]. This broad definition encompasses not only fiction and non-fiction intended for reading but also scripts from performance arts, thus highlighting that all these forms fall under the umbrella of literary expression. "Whatever we do, something of our own and of our age's making will remain in our experience of all literature [4]". According to Title 17, Section 101 of the United States Code, "Copyright protection subsists in original works of authorship fixed in any tangible medium of expression [5]." The tangible medium, such as written text, digital files, or recorded performances. This means that the moment an author expresses their creative idea in a fixed form, they hold

exclusive rights to that work, including the right to reproduce, distribute, and display it [5]. Based on the expansive nature of literary works, coupled with copyright law's protection of original authorship, contemporary individuals can clearly understand that when a novel is completed, when non-fiction writing conveys authentic experiences, when a stand-up comedy performance is staged, when a film is in the preparatory phase, and when a short video is shared--regardless of whether it is presented in front of an audience or not--as long as the content meets the criteria of originality and fixation, they are all considered protected literary works. Protection is not only limited to expression but specifically to "original" expression. In the context of literary property law, "originality" has a unique definition [6]. Next, it should clarify how U.S. law defines the doctrine of originality in the literary context.

Originality is a constitutional requirement that does not take into account the effort, time, or cost involved in creating the work, it also does not consider the author's skill, experience, or artistic judgment [7]. The Copyright Act specifies that protection is granted exclusively to "original works of authorship." This threshold has been interpreted by the U.S. Supreme Court as necessitating "at least some minimal amount of creativity [8]." Authors can demonstrate that their works possess at least a minimal amount of creativity, required for copyright protection, through several approaches. They can highlight original expression by showcasing unique choices in language, style, structure, or formatting. In the law of literary property, originality refers to expressing an idea in a completely new manner, and while incidents copied from the public domain are generally considered unoriginal, they can be protected if combined in a novel and effective way. Additionally, even if a work does not differ significantly from others, if it results from the plaintiff's independent effort rather than copying prior works, the entire production is deemed "original" and will be protected [6]. By comparing their work to existing pieces within the same genre, authors can underscore their originality by illustrating how their contributions deviate from common themes and tropes. Documenting creative decisions made during the writing process, such as character development or thematic exploration, further supports their claims. Moreover, maintaining drafts and notes can serve as evidence of the creative evolution of their work. Expert testimony from critics or scholars can lend credibility to their assertions of creativity, while audience reception--reflected in positive reviews or awards--can suggest the work's innovative elements. Authors may also emphasize their distinctive writing styles, employing unique narrative techniques or dialogue, and reference legal precedents that demonstrate similar works meeting the originality threshold. Together, these approaches help authors substantiate the creativity embedded in their works, distinguishing them from existing material and ensuring their eligibility for copyright. It is worth noting that creativity cannot be measured by any objective criteria. The creative process is inherent in everyone, as each person's individuality holds something unique. This uniqueness is evident even in handwriting. Even the simplest forms of art carry an unmistakable quality that belongs solely to the artist [7].

2.2. The Recognizability of AI-Generated Works' Copyright

AI generators serve as intelligent tools that enhance productivity by transforming instruction texts into videos. If the instruction text used in creating these AI-generated videos consists of copyrighted literary works, then the resulting videos should also be afforded copyright protection [5]. In such cases, all beneficial rights to the work should remain with the original copyright holder. This situation aligns with the principle of derivative works in copyright law, which stipulates that any work created based on an existing copyrighted work retains the rights of the original author. Using artificial intelligence to generate visual works based on original literary creations constitutes a derivative work because it directly draws upon the original narrative and themes, transforming and adapting existing copyrighted material. Consequently, such creations require permission from the original copyright holder, as they are fundamentally linked to the protected elements of the original work. Vice versa, if the AI-generated video demonstrates at least some minimal amount of creativity while the instruction text is original, then that original instruction text should also be protected by copyright. Recognizing and respecting these distinctions is essential for safeguarding the rights of creators in the evolving landscape of AI technology.

In fact, not only AI-generated videos (which are considered motion pictures) but also the latest legal developments indicate that even standalone AI-generated images can be granted copyright protection. For example, in November 2023, the Beijing Internet Court ruled that images created by artificial intelligence can be eligible for copyright protection under specific circumstances [9]. The judgment and reasoning in this case quickly drew criticism from legal scholars both domestically and abroad. A representative critique stated: “AI lacks the substantial human contribution and creativity that characterize traditional forms of intellectual expression, a point overlooked by the Chinese court in the 'Japanese Girl' case when granting copyright protection to the image [10].” However, this criticism overlooks the fact that the process of learning artistic creation for humans is not fundamentally different from AI. AI generation technology shifts the direct labor and effort involved in creating art--delegating physical labor to machines while allowing humans to focus on conceptualization and writing (for Hegel, it is “realisation of spirit” [11].) Human imagination and descriptive ability, which distinguish humans from other species and machines, are innate and irreplaceable. These capacities, along with the time needed to apply them, are always scarce in human demand and supply. If that were not the case, everyone would generate AI illustrations for commercial purposes without directly copying and appropriating AI-generated images created by others. In other words, the fact that images produced by a human's carefully written and adjusted descriptive text can be used by themselves or appropriated by others for commercial profit demonstrates that the input text used in AI generators is an original literary work deserving of copyright protection.

The court's ruling, though highly debated, remains a valuable reference for the legal community. The judge concluded that the use of multiple prompts, along with the further reworking and adjusting of the prompts after receiving the AI-generated results, demonstrated that the author contributed a significant amount of intellectual and original input, making the AI-generated illustration in the case distinguishable from other creations made with Stable Diffusion [10].

Individuals who utilize AI to create art generate ideas and have authority over the resulting output. The copyright holder is not just a mechanical operator but actively considers and directs the creation of the work [7]. It is worth acknowledging that in the age of AI, inputting instructions into AI generators can be considered a form of value-creating labor. Original instruction texts, as unique and monetizable creative content, naturally deserve copyright protection. The input text, filled with detailed adjustments and devoid of traditional literary appreciation value, has seemingly evolved into a new literary genre designed specifically for AI generators--capable of producing visual works that align with the aesthetic preferences of internet users. This new genre tailored for AI generators, due to its obscurity and complexity, often necessitates that the originality and market value recognized by the general rational public through the dissemination of its produced visual works are used to retroactively establish its copyright as original literary works. In contrast, all forms of literature from the pre-AI era, as long as they are copyright-protected, inherently possess an undeniable value as the original texts that serve as the foundation for this new genre designed for AI generators.

2.3. A Novel Method Proposed for Identifying Copyright Infringement in AI-Generated Videos

People can examine whether an AI-generated video constitutes infringement or deserves copyright protection in actu by considering the fundamental nature of literature. “Every piece of literature is a sequence of words; and sounds (or their graphic equivalent) are words precisely because they carry the mind beyond themselves [4].” Based on this, this paper proposes A Novel Method for Identifying Copyright Infringement in AI-Generated Videos: the Verb-Noun Inspection Method. This method involves examining the relationship between verbs (actions or processes) and nouns (subjects or objects) in both the original text and the AI-generated content. By analyzing how the AI interprets and transforms the core elements of the original work into visual representation, individuals can identify whether substantial similarities exist that may constitute infringement.

Not all content of copyrighted original literary works possesses a unique value that exclusively belongs to the author; therefore, the Verb-noun Inspection Method is used solely to examine the parts

that genuinely fall under the author's copyright. The parts that genuinely fall under the author's copyright include original characters, plot structure, and unique dialogue in novels; the specific wording and rhetorical devices in speeches; and the jokes and delivery style in stand-up comedy. In non-fiction, it encompasses original analysis, organization, and narrative style, while poetry is protected for its specific wording, imagery, and sound devices. These elements reflect the author's unique expression of ideas, establishing copyright eligibility and serving as the basis for identifying potential infringement.

Taking some viral videos on the Chinese platform Bilibili as an example, we can apply the Verb-noun Inspection Method. One particular content creator, known for his absurd and humorous monologue "Pasta should be mixed with concrete No. 42", gained immense popularity, with view counts soaring into the tens of millions. Concurrently, numerous unauthorized adaptations of his monologue have also gone viral, each accumulating millions of views. These adaptations recreate the well-known absurdity through smooth combinations and movements of visual elements. Applying the Verb-Noun Inspection Method reveals that these unauthorized works infringe on copyright. This can be achieved by extracting the distinctive verbs, such as "mix," along with nouns like "pasta" and "concrete," from the original text and comparing them with the visual elements in the AI-generated videos. Such a comparison highlights the similarities, establishing the infringement present in these unauthorized adaptations.

With the advancement of AI generation technology, what once seemed challenging in adapting literary IP into films is now perceived as relatively straightforward, as it can similarly be transformed into a series of instructional texts. Taking the Hollywood blockbuster *Dune* as an example, *Dune* is, by almost any set of criteria, a difficult novel to adapt into film [12]. However, streaming platforms and traditional film studios operate under different sets of realities, with the maturation of AI-generated video technology making it increasingly feasible for ordinary internet users to visualize the science fiction novel *Dune*, thus posing significant infringement risks for copyright holders. Through the Verb-noun Inspection Method, individuals can similarly identify which AI-generated videos violate the copyright of *Dune* on video platforms. The originality and appeal of *Dune* are deeply rooted in its complex character relationships, such as the ruthless Harkonnen family, the resilient Fremen people, and the interactions with the prophesied alien savior. The engaging plot features dynamic actions like "riding giant sandworms" and "navigating ornithopters", showcasing unique scenarios that heighten the tension and excitement. Set against the backdrop of the desert planet Arrakis, known as the "spice" hub, the iconic elements of "sandworms" and "harsh climates" create a compelling and immersive environment that enriches the narrative.

The Verb-Noun Inspection Method serves as a technique for identifying potential infringement based on the fundamental nature of literature. Through this perspective, it reconstructs both the copyrighted portions of literary works and the examined video segments into descriptive texts composed of verbs and nouns, comparing their similarities to provide a clear impression of whether infringement exists. This method is particularly crucial in the era of AI-generated videos, as the accessibility of AI generators increases, yet creativity remains a valuable treasure.

3. Conclusion

The convergence of AI-generated videos and copyright law creates a challenging environment that necessitates careful management to safeguard the rights of original creators while encouraging innovation in artistic expression. The swift progress of audiovisual media, fueled by AI advancements, introduces notable difficulties concerning copyright violations, particularly when literary works serve as source material. This paper has explored the importance of recognizing AI-generated content as potentially derivative, emphasizing the need for clear legal standards to safeguard the interests of original creators. By introducing the Verb-Noun Inspection Method as a practical approach to identify potential infringements, it can create a framework for assessing the originality and authenticity of AI-generated works. As the digital landscape evolves, it is crucial for copyright laws to adapt, ensuring

a balance between the rights of authors and the prospects for creative innovation, thereby fostering a fair environment for all participants in the creative ecosystem.

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