UNESCO Judges Initiative Webinar Series
THE NEXT FRONTIER: IP IN THE ERA OF GENERATIVE AI

Partners: National Judicial College, Lawyers Hub, Center for Communication Governance, and the Inter-American Court of Human Rights
Date: Thursday 25 May 2023
Time: 15:00 - 16:30 CET (90 minutes) via Zoom
Register for the event: https://articles.unesco.org/en/articles/next-frontier-ip-era-generative-ai
Language: English/Spanish Interpretation

SHORT BACKGROUND:

The webinar "IP in the Era of Generative AI" will focus on educating judicial actors, especially judges, public prosecutors and attorneys, about the relationship between intellectual property and Artificial Intelligence (AI) in the context of generative AI. The discussion will cover the potential for AI to create novel forms of IP and the associated legal complexities.

OBJECTIVE: The goal of the webinar is to provide an overview of the relationship between intellectual property and generative AI and underline the role of judicial operators in efficiently managing the emerging challenges at the intersection of AI and IP.

TARGET AUDIENCE: The webinar is aimed at legal professionals, including judges, lawyers, attorneys, public prosecutors, law enforcement officers, and legal scholars.

FORMAT: Following Opening Remarks, there will be a keynote speech by the artist Ms. Chung who works with AI, and an overview of technical aspects of GenAI by Dr. Marielza Oliveira. The Moderator will then engage with one expert at a time. These engagements will take on the format of a lively conversation rather than individual presentations, with the Moderator posing relevant questions to the invited experts, within their respective thematic fields. These conversations will be followed by a Q&A session enabling the audience/participants to interact with the experts, and a closing summarizing the key points discussed and ways forward.

AGENDA:

1. Introduction: An artist's perspective
2. Introduction to the relationship between AI and creativity intellectual property and generative AI
3. Understanding the legal complexities associated with AI-generated intellectual property
4. Overview of the existing legal frameworks for intellectual property and AI
5. Role of judicial actors to manage issues related to AI and intellectual property
6. Q&A session

LIST OF EXPERTS:

Moderator: Dr. Miriam Stankovich, Principal Digital Policy Specialist Center for Digital Acceleration DAI)

Opening Keynote: Sougwen Chung, Artist, Researcher and Founder of Scilicet to give participants the artist's perspective

Experts:

◊ Dr. Marielza Oliveira, Director for the Division for Digital Inclusion and Policies and Digital Transformation UNESCO
◊ Neil Turkewitz, President of Turkewitz Consulting Group and copyright activist and a member of the Artist Rights Alliance
◊ Liz Lenjo, Chairperson copyright tribunal of Kenya, Founder & Managing legal consultant of MYIP Legal Studio
◊ Prof. Thomas Margoni, Research Professor of Intellectual Property Law at the Faculty of Law and Criminology, KU Leuven, and a member of the Board of Directors at the Centre for IT & IP Law (CiTiP)

SESSION FLOW:

15:00: STILL IMAGE + HOUSEKEEPING RULES

15:00 – 15:10 INTRODUCTION/OPENING REMARKS (3min/speaker)

- Tawfik Jelassi, Assistant Director-General for Communications and Information, UNESCO
- Ricardo C. Pérez Manrique, President of the Inter-American Court of Human Rights
- Ernesto Ottone, Assistant Director-General for Culture, UNESCO

15:10 - 15:15 INTRODUCTION BY MODERATOR (3 Min)

- Introduction of the experts by the moderator

15:15 – 15:25 OPENING KEYNOTE: AN ARTIST'S PERSPECTIVE - Shougwen Chung (10 min)

Introduction to your work on the collaboration between technology and Art + Tentative Talking Points:

- How is AI being used for creating art, and what are the opportunities and challenges you face as an artist in using AI in your creative endeavors?
- Why have you decided to use AI in the creative process, and which AI technologies do you use when creating art?
- How have generative AI models, such as DALL-E, ChatGPT and Midjourney, impacted the creative process and the intellectual property rights of artists? Can AI become an artist on its own and claim copyright? Is this feasible? Can we have artistic AI, or is it more feasible to talk about hybrid intelligence, where humans and machines collaborate?
- How will all these developments impact the future of art and the creative industry?

15:25 - 16:15 PANEL

1. Marielza Oliveira: What is AI, and what is generative AI in particular? How is generative AI a game changer with its memory capacity? (5min)
2. Marielza Oliveira: As we witness the remarkable capabilities of generative artificial intelligence models like ChatGPT, Dall-E, and Midjourney, among others, in creating a wide range of content with remarkable ease and speed, it begs the question: how this emerging technology impacts intellectual property? (5min)
3. Neil Turkewitz: The recent rise in popularity of generative AI–powered applications create copyright challenges regarding plagiarism and content creation, content use, publication and enforcement, as well as infringement liability. How does generative AI impact the copyright system, and how are traditional copyright laws challenged with systems such as DALL-E, MidJourney, and ChatGPT4?[1] (5min)

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[1] **Discussion prompt:** As to whether and to what extent companies can actually protect content created using ChatGPT and other similar AI tools, the recent US Copyright Office decision regarding the copyrightability of an AI-generated graphic novel is instructive. "Zarya of the Dawn" is a comic book with original text authored by a human but comprised of individual images created by Midjourney, a prompt-based AI program for image generation. The generated images were selected, arranged, and partly edited by the human author. The Copyright Office initially granted the registration of the work but—upon learning that AI-generated images were used—limited the scope of the copyright to cover only the original text and final product in its entirety as a compilation while revoking the copyright protection for the individual AI-generated images. Source: https://www.morganlewis.com/pubs/2023/03/generative-artificial-intelligence-and-copyright-current-issues. Also, EU is considering regulating copyright issues in generative AI.

4. **Neil Turkewitz:** Can you please highlight the key challenges around data ownership and control? How do data-related issues intersect with copyright? Do we need novel data ownership rights under the umbrella of IP law? (5min)
5. **Liz Lenjo:** In the context of the Global South what are the unique challenges and opportunities presented by generative AI in relation to intellectual property laws, particularly regarding access to and protection of traditional knowledge, cultural expressions, and indigenous innovations? (5min)
6. **Thomas Margoni:** How will judicial operators address IP-based challenges posed by generative AI systems? For example, in a class action comprised of "at least thousands" of other creators, Midjourney, Stability AI and DeviantArt are being sued for copyright infringement, violations of publicity rights, and unfair competition. Getty Images has also filed suit against Stability AI in the United States and separately in the United Kingdom based on Stability AI's alleged use of more than 12 million images from Getty's database for machine learning purposes. (5min)
7. **Neil Turkewitz and Thomas Margoni:** How can the newly proposed rule on copyright for generative AI in the draft EU AI Act strike a balance between fostering AI innovation and protecting the rights of creators? Is regulation enough? (Each 2 min)
8. **Liz Lenjo:** In your opinion, how can intellectual property frameworks be effectively adapted or developed in the Global South to balance the promotion of generative AI innovation with the preservation of cultural heritage, local community rights, and equitable access to the benefits generated by AI-generated creations? (5min)
9. **Thomas Margoni:** What are the key skills and knowledge gaps that judicial operators and other legal stakeholders would need to address to deal effectively with IP issues related to AI generative systems? (5min)

15:15 - 16:30 + Q&A (15 Min)

Time for participants to ask questions and receive answers from the expert(s)

16:25 - 16:30 Conclusion/Closing of the webinar by Moderator (5 Min)

- Summarize the key points of the webinar
- Share UNESCO's role in this context (future projects, the training toolkit, and role in capacity building for judicial operators on AI and the rule of law)
- Thank the experts and participants for their time and participation