Intellectual property rights in the age of AI: a comparative analysis of Chinese and us legal perspectives. [Blog post]

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Intellectual Property Rights in the Age of AI: A Comparative Analysis of Chinese and US Legal Perspectives

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The landmark ruling by the Beijing Internet Court on the copyright infringement of AI-generated images heralds a new era in the legal treatment of artificial intelligence's creative outputs. This decision, the first of its kind concerning AI-generated artwork, starkly contrasts with the stance of the United States ("US"), particularly the US Patent and Trademark Office ("USPTO"), on similar matters.

The Beijing Internet Court's Ruling: A Detailed Analysis

The case involved the plaintiff, Mr Li, who used an AI to create an image he published on the Xiaohongshu platform. The defendant, a blogger on the Baijiahao platform, used this AI-generated image in a publication, prompting the lawsuit.

The court held that the AI-generated image possessed the element of originality, reflecting a significant intellectual contribution by a human being. This judgment sets a precedent for AI-generated works to be considered creations eligible for copyright protection under Chinese law.

The court outlined several critical factors in determining the copyrightability of AI-generated artwork:

- Intellectual Contribution: The entire process, from conceptualising the image to selecting the final product, involved significant intellectual input by the plaintiff, such as designing presentation methods, choosing prompt words, arranging their order, setting relevant parameters, and deciding which image met the expectations.

- Originality: The plaintiff's design of characters and their presentation, as well as the arrangement and setting of the image layout, reflected personal choices and arrangements. The adjustments and modifications made after obtaining the initial image also demonstrated the plaintiff's aesthetic choice and individual judgement, ensuring that the final artwork was not a mere result of "mechanical intellectual achievement."

- Artwork Recognition: Utilising AI models to generate images is fundamentally a process of human creation using tools. The intellectual input in the creative process comes from humans, not the AI model. If they reflect human originality and intellectual input, such creations should be recognised as works protected under copyright law.

- Classification as Artwork: The court recognised the image as a visual art piece, characterised by lines and colours, and classified it as fine art. The image was not deemed to fall under the "other intellectual works" category since it could be attributed to a specific type of artwork.

It is pertinent to note that China is not a common law jurisdiction, meaning that this ruling does not set a legal precedent in the way it would in common law countries. In civil law systems like China's, court decisions do not have the same precedential value as in common law jurisdictions. Therefore, while this ruling is significant and influential, it does not automatically guide future cases in a similar manner. This distinction is critical in understanding the broader

impact of the Beijing Internet Court's decision within the Chinese legal landscape and its potential influence on future AI-related copyright cases.

US Perspective: A Contrast in Legal Interpretation
In contrast, the US has maintained a cautious approach to recognising AI-generated works as copyrightable. The USPTO's position stems from a traditional understanding of authorship and creativity, emphasising human involvement. This divergence is not merely a difference in legal opinion but also a reflection of the fundamental distinctions between common law and civil law systems.

In the US, a common law jurisdiction, legal precedents play a crucial role in shaping the application and interpretation of laws. Decisions made in one case can significantly influence future cases, creating a dynamic legal environment where laws evolve in response to new technological advancements like AI. However, this flexibility is tempered by a cautious approach, ensuring that any extension of copyright laws to new domains such as AI-generated art is carefully considered and aligned with existing legal principles.

Implications for the Global Legal Landscape
This dichotomy in legal approaches between China's civil law system and the US's common law system underscores the evolving nature of copyright law in the digital age. The recognition of AI-generated artwork in China, a civil law jurisdiction where court decisions do not set binding precedents, may encourage other nations to consider similar protections. However, this does not necessarily imply a shift towards a more harmonised global standard, given the diversity in legal systems and the distinct approach taken by influential jurisdictions like the US.

In this fragmented legal landscape, creators and entities involved in AI-generated artwork face a complex patchwork of protections and challenges. In jurisdictions like China, where AI-generated works receive legal recognition, creators can capitalise on their intellectual contributions. Conversely, in the US, the ambiguity and lack of explicit legal recognition may limit the commercial and creative potential of AI-generated art.

Moving Forward: Adapting Legal Frameworks for AI Innovation
The legal recognition of AI-generated artwork, in light of differing legal traditions, raises profound questions about creativity, authorship, and the role of AI in the creative process. As AI technology continues to advance, legal systems around the world, irrespective of being civil or common law jurisdictions, will need to grapple with these emerging challenges. Observing the outcomes of varying regulatory approaches across different legal systems will be crucial in shaping future laws and policies around AI and creativity.

In conclusion, the Beijing Internet Court's ruling, while significant, does not set a legal precedent in China's civil law system. However, it represents a substantial milestone in the recognition of AI-generated artwork. As the global legal community continues to navigate these uncharted waters, careful consideration is needed to balance innovation with the protection of traditional concepts of creativity and authorship, mindful of the diverse legal landscapes across the world.