

# Chapter 15

## Who Owns This Artwork? AI-Based Art Creation and Copyright Issues

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### **ABSTRACT**

*Does the use of digital technology in the creation of an artwork classify that technology as the artist? This question can likely be answered with relative certainty. However, if the same technology generates entirely new content by “learning” from various artists' works, does the resulting product qualify as a new “artwork”? And if it does, who owns this “new” creation? At this juncture, finding a clear answer is not straightforward. The issue of copyright, a long-debated topic in the realm of ideas and artistic works, has been reignited with the advent of artificial intelligence. In this chapter, the issue of artificial intelligence-based artworks produced “without inspiration” or “without human intervention” will be discussed from the perspective of copyright. Through the examination of case studies, we will address the potential problems arising from the use of AI technologies in art creation and the possible consequences they might have in the future.*

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## INTRODUCTION

*“They’re just going to steal my body and do whatever they want with it via digital A.I. . . . God, I hope not A.I. I’m terrified of that. I’ve been very vocal about it.” These words from the famous Hollywood star Nicolas Cage actually express a fundamental concern shared by many of his colleagues. In an interview with *The New Yorker*, Cage questions the use of generative artificial intelligence technologies in the film industry, asking, “it makes me wonder, you know, where will the truth of the artists end up? Is it going to be replaced? Is it going to be transmogrified? Where’s the heartbeat going to be? I mean, what are you going to do with my body and my face when I’m dead?” He adds, “I don’t want you to do anything with it!” (Orlean, 2024).*

Hollywood owes its global dominance not only to its star actors but also to digital technologies. Digital effects and special software have been the lifeblood of the film industry, particularly Hollywood, for years. However, while the spread of generative artificial intelligence technologies today is considered in terms of reducing production costs in the film industry, it has also sparked debates on ethical issues and copyright, especially among those on the more creative side of the industry, such as actors and screenwriters.

Cage’s question, “Where will the heartbeat be?” echoes the slogan “AI HAS NO SOUL,” which was written in large letters on the placards held by Hollywood workers during a strike a year before this interview. One of the reasons for the actors’ strike, which occurred 43 years after the last one in Hollywood, is said to be the problems caused by or expected to be caused by artificial intelligence. This comprehensive strike reveals that we are facing a much more significant problem than the dystopian imaginations of some actors who have stayed away from technology.

Members of the Screen Actors Guild - American Federation of Television and Radio Artists (SAG-AFTRA) in the US went on strike, citing that “artificial intelligence poses an existential threat to creative professions” and complaining about the lack of an agreement that would better protect them against AI. SAG-AFTRA’s chief negotiator, Duncan Crabtree-Ireland, warned that film studios wanted to scan actors’ faces in exchange for a one-day payment, allowing them to use the actors’ performances “forever in any project without consent and compensation.” Members of the Writers Guild of America (WGA), who could not reach an agreement with the Alliance of Motion Picture and Television Producers (AMPTP), also went on strike, and published a list of demands. Screenwriters and writers argued that “AI cannot write or edit literary material; it cannot be used as source material, and MBA-covered material cannot be used to train AI” (Haysom, 2023).

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