Comparison of Laws Related to the Copyright of Visual Artworks Based on Generative AI (Artificial Intelligence) Reviewed from Indonesian and UK Laws

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Abstract

AI has demonstrated its limitless potential in bringing innovation and increasing efficiency. However, this raises new problems regarding the status of Generative AI-based works of art, where the work is the result of data processing from AI technology. The way AI works, which uses creations as input data to produce music, articles and paintings, can open up the potential for rights violations. copyright because its exclusive use is protected from being duplicated or used for profit (commercial) and raises a question regarding the ownership status of Generative AI-based painting works of art. Another consideration in providing ownership status protection for Generative AI-based works of art is the possibility of copyright infringement. The method used in compiling this research is research with a normative juridical method approach. The approaches used are the conceptual approach, comparative approach and statutory approach. Authenticity is very important in copyright protection. In Indonesia, copyright protection is regulated in Law Number 28 of 2014 concerning Copyright, article 1 numbers 1 and 2 do not clearly explain the authenticity of a work, from the definition of the creator and creation, there are elements that become limitations or benchmarks, namely elements independent creation (independent creation). CDPA 1988, or the Copyright, Designs and Patents Act 1988, is the copyright law applicable in the United Kingdom. This law is an important legal framework for copyright protection in the country. The 1988 CDPA provides copyright protection for created works, this Act further defines computer-generated works.

Keywords: Artificial Intelligence; Legal protection; Copyright; Artworks.

Abstrak

AI telah menunjukkan potensinya yang tak terbatas dalam menghadirkan inovasi dan meningkatkan efisiensi. Namun hal ini menimbulkan problematika baru terkait status hasil Karya seni lukis berbasis Generative AI, yang mana karya tersebut merupakan hasil olah data dari teknologi AI, Cara kerja AI yang menggunakan ciptaan sebagai data masukan untuk menghasilkan music, artikel, hingga lukisan dapat membuka potensi pelanggaran hak cipta karena secara eksklusif penggunaannya dilindungi untuk tidak digandakan atau digunakan untuk mencari keuntungan (komersial) dan menghadirkan sebuah pertanyaan mengenai status kepemilikan

terhadap Karya seni lukis berbasis Generative AI. Pertimbangan lain dalam memberikan Perlindungan status kepemilikan terhadap Karya seni lukis berbasis Generative AI adalah adanya kemungkinan pelanggaran hak cipta. Metode yang digunakan dalam menyusun penelitian ini adalah penelitian dengan pendekatan metode adalah yuridis normatif. Pendekatan yang digunakan yakni pendekatan konseptual (conseptual approach), pendekatan perbandingan (comparative approach) dan Pendekatan Perundang-Undangan (statute approach). Keaslian (originality) merupakan hal yang sangat penting dalam perlindungan Hak Cipta. Di Indonesia perlindungan hak cipta diatur dalam Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta, pasal 1 angka 1 dan 2 tidak secara gamblang menjelaskan terkait keaslian suatu karya, dari definisi pencipta dan ciptaan tersebut, terdapat unsur yang menjadi batasan atau tolak ukur yaitu unsur kreasi mandiri (independen creation). CDPA 1988, atau Copyright, Designs and Patents Act 1988, adalah undang-undang hak cipta yang berlaku di Britania Raya. Undang-undang ini merupakan kerangka hukum yang penting dalam perlindungan hak cipta di negara tersebut. CDPA 1988 memberikan perlindungan hak cipta bagi karya-karya yang diciptakan, Undang-undang ini lebih jauh mendefinisikan computer-generated works.

Kata kunci: Artificial Intelligence; Perlindungan Hukum; Hak Cipta; Karya Seni

Introduction

In this rapidly evolving digital era, technology is increasingly playing a significant role, The development of technology is marked by the emergence of new inventions. Development or progress in the field of technology will run along with the emergence of changes in the field of society. Changes in society can be related to social values, social rules, patterns of behavior, organizations, and the structure of community institutions[1], one form of technological development, namely the emergence of artificial intelligence or known as *Artificial Intelligence* (*AI*). Artificial intelligence or in English is called *Artificial Intelligence* (*AI*) is a technique used to imitate the intelligence possessed by living things, especially humans, to work and overcome a problem.[2] *Artificial Intelligence* is a computer system that is able to perform tasks that

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[1] Soejono Soekanto, Principles of Legal Sociology, (Jakarta: Rajawali Pers, 1980), p. 87.

[2] Abu Ahmad, *Getting to Know Artificial Intelligence*, Machine Learning, Neural Network, and Deep Learning, Yayasan Cahaya Islam Jurnal Teknologi Indonesia, 2017, p.2

usually require human intelligence.[3] *AI* has become the center of attention in various fields, from technology, business, to everyday applications. With increasingly sophisticated algorithms and blazing-fast calculations, *AI* has changed the way we work, interact, and live our daily lives in the art world.

One art form that has emerged rapidly is painting based on Generative Artificial Intelligence (AI). Generative AI is a form of artificial intelligence in which a model is trained to generate new original content based on natural language input. In other words, you can describe the desired output in normal everyday language, and the model can respond by generating text, images, or even the appropriate code output.4 AI has shown its limitless potential in delivering innovation and improving efficiency.

However, this raises new problems related to the status of Generative AI-based paintings, where the work is the result of data processing from AI technology, not the work of direct human hands. One of the important issues regarding Intellectual Property Rights is essentially a right with special and special characteristics, because these rights are granted by the State.

The state based on the provisions of the Law grants these special rights to those who are entitled to them, in accordance with the procedures and conditions that must be met.5 In people's lives, recognition of intellectual works already exists, but only in the form of moral and ethical recognition. Indonesian society is basically a communal community with a high level of togetherness, so that individual rights even though they exist are still inferior to common interests. Individual rights are still respected, but the regulation is limited to unwritten rules and norms.6 The way AI works that uses creations as input data to produce music, articles, and paintings can open up the

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[3] Afrizal Zein, *Artificial Intelligence in terms of Service Automation*, Journal of Computer Science JIK Vol. IV No.02, p. 18, https://jurnal.pranataindonesia.ac.id/index.php/jik/article/view/96
[4] Introduction to Generative AI, https://learn.microsoft.com/id-id/training/paths/introduction-generative-ai/ (accessed on Saturday, November 08, 2023, at 09:55 AM)
[5] Syafrinaldi, Fahmi and M. Abdi Almaksur, *Intellectual Property Rights*, Pekanbaru: Suska Press, 2008,.39
[6] Much Nurahmad, *All About Indonesian Intellectual Property* Rights, Jogjakarta: Blue Book, 2012, p.17

potential for copyright infringement because its use is exclusively protected from being duplicated or used for profit (commercial), [7]and presents a question about the ownership status of Generative AI-based paintings involves consideration of whether the machine or algorithm can be considered the "creator" of the painting. In general, intellectual property rights recognize the creator as the owner of the copyright. However, in *Generative AI-based* paintings, legal constraints arise because the machines that create the paintings are not directly created by humans. Humans just write down ideas, and let machines do the work. The question arises, the main actor in creating Generative AI-based paintings is the human who creates the algorithm or the machine itself. Another consideration in providing Ownership Status Protection for Generative AI-based paintings is the possibility of copyright infringement. Currently, AI regulation in IPR law still has gaps and challenges regarding the application of balance for the benefit of the fair interest as an assessment of the substance needed to provide restrictions on the use of works.[8]

Taking a comparison of the law from the United Kingdom, namely based on the British Copyright Design and Patterns Act 1988 (CDPA) which in the CDPA recognizes the concept of Computer-Generated-Work which resembles the concept of AI in the current era although it is not the same, and uses Law No. 28 of 2014, which is related to Copyright. Generative AI-based paintings are a new thing, especially in this country, unlike conventional paintings that use human effort in creating a work, the role of technology is more dominant in Generative AI-based paintings, and because of the different creation process, it is considered to have a difference with conventional paintings that are clearly created by the artist's hand. This problem raises questions about the copyright status of a painting based on Generative AI technology. An alternative solution to the recognition of the status of Generative AI-based paintings is

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[7]   Ari Juliano Gema, "The Problem of Using Creations as Input Data in the Development of Artificial Intelligence in Indonesia," Technology and Economics Law Journal" 1, (1) (2022): 10-13.

[8] Jeanette Jade Wangsa, Kalam Fransisca Fortunata, and Salma Zhafira Hanunisa, "Impact of Artificial Intelligence on Intellectual Property Rights in Indonesia," Anthology: Inside Intellectual Property Rights 1, no. 1 (2023): 67-69

to apply the same rules as conventional paintings, on the basis that AI-based paintings are the result of human brainpower through technological intermediaries, as contained in the UK copyright rules (CDPA) which recognize the existence of Computer-Generated-Work.

Generative AI-based paintings can carry elements or patterns from existing paintings so that they become similar to paintings that are already protected by copyright. This can give rise to legal conflicts about whether Generative AI-based paintings infringe copyright or have sufficient original value to be granted ownership status.

Research Methods

The method used in compiling this study is research with a normative juridical approach that is research focused on testing the application of rules or norms in law. The approaches used are the *conceptual approach*, the *comparative approach* and the *statute approach*. The conceptual approach is an approach that is carried out by looking at legal norms from the background of a case being studied.[9] The conceptual approach starts from the views and doctrines that develop in legal science. A comparative approach, this approach is carried out by comparing the laws of a country with the laws of one or more other countries regarding the same. The legislation-legislation approach is an approach that is carried out by analyzing the rules and regulations related to the legal issue.[10]

There are three types of legal materials used in legal research, namely primary legal materials consisting of laws and regulations, and all official documents containing legal provisions, secondary consisting of books, articles, journals, research results, papers, and so on that are still related to the issues discussed, and tertiary, namely consisting of dictionaries and encyclopedias that help primary legal materials and

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[9] Jonaedi Effendi and Johnny Ibrahim, 2018, *Normative and Empirical Legal Research Methods*, First Edition Second Edition, Depok: Prenadamedia Group (Kencana Division), p. 135
[10] *Op.Cit.* p. 93

secondary legal materials to provide further explanations.[11] The data collection technique in this study is library research or document/literature study.[12]Furthermore, the data is then analyzed qualitatively, namely by analyzing the materials that have been collected, which studies and reviews various literature related to issues related to laws and regulations related to the Protection of Copyright of Generative AI-based Paintings Reviewed from Indonesian and English Laws

Results and Discussion

Originality Standards for *Generative AI-based* Paintings according to Law Number 28 of 2014 concerning Copyright

Keaslian (*originality*) is a very important hal in the protection of Hak Cipta. In Indonesia, copyright protection is regulated in Law Number 28 of 2014 concerning Copyright, the [13] meaning of this protection refers to immaterial objects, namely the rights of the creator to the work that has been made. Originality basically indicates that the copyrighted work is not a copy or imitation of another creator's work but rather becomes the creator's original work.[14] In the Copyright Law, there is an article that restricts and becomes the basis for the authenticity of a work, as seen in article 1 number 1 of the Copyright Law, namely "Copyright is the exclusive right of the creator that arises automatically based on the declarative principle after a work is realized in a tangible form without reducing restrictions in accordance with the provisions of laws and regulations".

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[11] Muhaimin, 2020, *Legal Research Methods*, First Edition, Mataram: Mataram University Press, pp. 60-62.

[12] Jakobus A. Rahajaan and Sarifa Niapele, Juridical Studies on Underage Marriage, Journal of Public Policy and Business Applications 2 (1) : 94, accessed 27 October 2023 https://doi.org/10.51135/PublicPolicy.v2.i1.p88-101

[13] H. Ok. Saidin, 2007, Legal Aspects of Intellectual Property Rights, ed. 6, (Jakarta: PT Raja Grafindo Persada), p. 55.

[14] Anna Shtefan, "Creativity and Artificial Intelligence: A View from the Perspective of Copyright," Journal of Intellectual Property Law & Practice 16, no. 7 (2021): 720–28, https://doi.org/10.1093/jiplp/jpab093.

It is also explained in article 1 number 2 of the Copyright Law, namely "An author is a person or several people who individually or jointly produce a distinctive and personal work". From this article, it is explained that the creator is a person or several people who produce a distinctive and personal work, in this case it has a uniqueness that cannot be confused with others, however, Article 1 numbers 1 and 2 in essence do not clearly define what is meant by the authenticity of a work in the copyright law, so that it becomes a separate complexity in assessing and determining the originality of a work. A copyrighted work to be declared to have originality does not have to have a high level of creativity, but the important point of originality is that the copyrighted work comes from a person so that it is not an imitation of someone else's copyright.[15]

Although article 1 numbers 1 and 2 do not clearly explain the authenticity of a work, from the definition of the creator and the work, there are elements that are limitations or benchmarks, namely the element of independent creation or the requirement that the creator of the work will not get copyright if he copies the work from elsewhere. However, it is possible to obtain copyright to a work that is identical to the previous work, as long as the creator does not copy from the previous work, either consciously or unconsciously.[16] A work of art must meet the requirements of authenticity or originality. This means that the artwork must be the result of original creativity and not just a reproduction of other works. In the context of generative AI-based paintings, the issue of authenticity becomes more complex because the artwork is generated by computer algorithms. AI can connect big data or big data by processing complex big data using software algorithms, after obtaining existing data, AI uses a concept called Machine Learning, where this concept uses mathematical flow and modeling that will help in processing various data.

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[15] Andrew F. Christie, 1984, "Copyright Protection For Ideas: An Appraisal Of The Traditional View," Monash University Law Review, vol. 10 (December), p. 176.

[16] Rahmi Aulia Putri, "Independent Creation as One of the Evidences to Refute the Accusation of Imitation of Creation," SALAM: Journal of Social and Cultural Syar-i 8 (6) (2021): 1873 https://doi.org/10.15408/sjsbs.v8i6.23377

AI can learn human language by using natural language processing and using intelligent flows to process and search for patterns in data, then, In modeling human intelligence, AI utilizes data and algorithms to learn and find complex patterns. AI also utilizes technologies such as *deep learning, machine learning, NLP, computer vision* and *robotics* to process data and make human-like decisions.[17] Understanding how *Generative AI* works in creating visual artwork, explains that the concept of creating using AI is not like the process of creating artworks that are directly created by human hands. AI needs data from various sources to create something new, in this case, the data that has been collected then becomes the basis for the creation of new works.

The restriction of authenticity is based on two criteria contained in article 1, namely independently created and proof based on the similarity of the substance of the previously existing work, in this case the Generative AI-based artwork, of course, created from a diverse set of data, which is the basis for the creation of a new work, so, when referring to the point "created independently, Generative AI certainly does not create independently, because there are commands from AI users and data sources that are used as the basis for the formation of generative AI works. The similarity of substance from the previous work refers to the uniqueness and creativity produced by the creator of the artwork. In the context of generative AI-based paintings, this uniqueness and creativity is often the subject of debate. While generative AI algorithms are capable of generating never-before-created artwork, the question is whether the work has distinctive features and uniqueness that reflect its original creator.

Basically, copyright is a part of intellectual property that can only protect human intellectual products. In article 64 number 2 of the Copyright Law it is stated that "The registration of Works and Related Rights products as referred to in paragraph (1) is not a requirement to obtain copyright and related rights", in this article it can be understood that the birth of copyright does not require registration, so the work will be protected

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[17] The Concept and How Artificial Intelligence (AI) Works According to the Journal, https://ardata.co.id/cara-kerja-artificial-intelligence/#1_Menghubungkan_Data_Besar accessed on September 30, 2023

automatically when it is created through the declarative principle, This principle can be supported by the publication and announcement of the work.[18] A copyrighted work is also declared as imitation by comparing the copyright work and looking at the details of the similarities that occur, for the sameness is also assessed whether the level of similarity is high to be said to be an act of imitation.[19]

If referring to the restriction of authenticity based on the two criteria contained in article 1, namely being created independently and proof based on the similarity of the substance of the work that has existed before, it can be understood that a work of art based on Generative AI still cannot be a work that has standards of authenticity or originality, as long as the work does not have these two criteria, however, there needs to be further review regarding copyright protection for generative AI-based paintings. Copyright laws need to be updated to include generative AI technology and provide clear clues about the standards for the authenticity of computer-generated artworks. This is important so that artists, technology developers, and copyright holders can have clear and fair legal protection

Differences in Copyright Protection Between Indonesian and UK Laws Against AI-Based Generative AI Paintings

A work of art must meet the requirements of authenticity or originality. This means that the artwork must be the result of original creativity and not just a reproduction of other works. The term copyright comes from a country with a *Common Law* system that has a difference from the *Civil law* system (as embraced by Indonesia), where Civil Law is more familiar with copyright with the term author's right (*droit d'auteur, derecho de autor*, *Urheberrecht*).[20]

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[18] Karuniawan Nurahmansyah, "Consideration of the Obligation of Declarative Principles on the Copyright of Journalistic Photography through Internet Media," Jurnal Rechtens 8, no.1 (2019): 34. https://doi.org/10.36835/rechtens.v8i1.485

[19] Andrew F. Christie*, Op.Cit*, 186.

[20] Graeme B. Dinwoodie, William O. Hennessey, and Shira Perlmutter, 2001, International Intellectual Property Law and Policy, LexisNexis, p. 770.

Currently, in Indonesia, Law No. 28 of 2014 applies as a positive law in the field of Copyright. Looking at its history, legal instruments in the field of Copyright are not new in the development of the IPR protection system in Indonesia, the law on copyright has been promulgated in Law Number 6 of 1982 concerning Copyright, which was amended by Law Number 7 of 1987. The revision of the Law was then carried out with the passage of Law Number 12 of 1997, in 2002 it was amended in Law Number 19 of 2002, and finally, in 2014 it was amended again in Law No. 28 of 2014 as a positive law in the field of Copyright.

In the context of generative AI, as explained in the previous discussion, an approach can be taken, namely a work is distinctive and personal, in this case it is done by testing whether the person claiming copyright for the work has knowledge of the work itself. In the case of copyright disputes over software, the characteristics of "distinctive and personal", namely referring to article 1 number 1, namely "Copyright is the exclusive right of the creator that arises automatically based on the declarative principle after a work is realized in a tangible form without reducing restrictions in accordance with the provisions of laws and regulations" where the paragraph represents "distinctiveness" and in number 2, namely "The creator is a person or persons who individually or together produce a distinctive and personal creation" which represents "personal".

Regarding the work of Generative AI, there is a track record that may be printed, to show the layers and nodes involved when creating a creation. However, layers and nodes don't always explain how the creation is generated. In other words, it does not represent AI knowledge to work. In addition, the only person who can explain how AI generates a creation is the AI programmer himself. Therefore, in the current regulations, AI-generated works cannot be said to have "distinctive and personal" characteristics towards their own work.[21] Based on the current Copyright Law, AI then

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[21] Swapnil Tripathi and Chandni Ghatak, 2018 "Artificial Intelligence and Intellectual Property Law," Christ University Law Journal, 7 (1) : 26 https://doi.org/10.12728/culj.12.5

cannot be considered as the creator of a work because it is not a person and does not have special and personal characteristics that can be associated with the work, with this thing, the work based *on Generative AI* cannot be protected by copyright, however, there is a chance that it can be protected if the status of AI is considered a "person" before the law. AI can be considered a legal entity. However, establishing AI as a legal entity is not an easy thing to do. This raises further questions about its ability to carry out obligations and receive rights; to sue and be sued; and owning property.22

The copyright law known as CDPA 1988, or the Copyright, Designs and Patents Act 1988, is the copyright law in force in the United Kingdom. This law is an important legal framework for copyright protection in the country. The 1988 CDPA provides copyright protection for works created, such as works of art, music, films, and literature. This law also protects works produced by companies, organizations, or individuals who have gone through the creative process to create a result. This provides a sense of security for creators and provides an incentive for them to continue to create new works.23

The 1988 CDPA also regulates the economic rights of the creators. This includes the right to receive royalties or payments for the use of their works, as well as the right to demand unauthorized use of the works. With this protection, creators can benefit financially from their works and encourage them to continue working. The 1988 CDPA also covers industrial design and patent protection. This refers to the protection of the design of the products and technological processes created, as well as the exclusive right to use and disseminate such innovations.24 Overall, the CDPA 1988 is an

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22 Laurensia Andrini, "Redesigning Indonesia Copyright Act to Accommodate Autonomous Intelligent System: Status Quo and Room for Improvement," Asian Journal of Law and Economics, Vol. 9, No. 3, November, 2018, p. 15

23 Jyh-An Lee, 2021, Computer-generated Works under the CDPA 1988, *The Chinese University Of Hong Kong Faculty Of Law Research Paper* No. 2021-65 : 177-178 https://ssrn.com/abstract=3956911

24 Taylor, Amanda, 2012, Evaluation of the Effect the Copyright Designs and Patents Act 1988 have had in the Entertainment Business, University of Westminster, 4-5 http://dx.doi.org/10.2139/ssrn.2035808

important law in regulating copyright, industrial design, and patents in the United Kingdom. This law provides strong protection for creators and innovators, as well as creates a fair and equitable legal framework for the use of intellectual works.

This law grants copyright to the "creator" who is defined as the person who created the work. This raises the question of whether algorithms can be considered "creators" in the context of generative AI paintings. (including artists, composers, and other creators). A creator of a work is defined as the person who makes it; with additional clarification for certain types of work, for example the producer of the sound recording is considered the author. For literary, artistic, dramatic, or musical works, which include software, to be eligible for copyright protection, they must be "original." Moreover, jurisprudence stipulates that in order for a work to be original, it must be the intellectual work of its own creator.

Legal ownership of computer-generated works may at first glance be quite simple in the UK. For example, in the case of a work of literature, drama, music or computer-generated art, the author will be considered the person who makes the necessary arrangements for the creation of the work. The law further defines computer-generated works as one that is "produced by a computer in such a state that there is no creator of a human work."25

Since the introduction of computer-generated works in English law in 1988, it has resulted in only one court decision, which has not clarified the issue. If the UK government does protect computer-generated works without an "author", this would imply that an artificial intelligence-assisted output that does not meet the standards of authenticity (and therefore without an "author") can still be granted copyright protection under English and Irish law, with the producer ("the person who makes the necessary arrangements to create the work") as the author and copyright owner. 26

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25 Rahmadi Indra Tektona, Nuzulia Kumala Sari, Maulana Reyza Alfaris, Quo Vadis Indonesian Copyright Law: A Comparison of the Concept of Artificial Intelligence Creations in Several Countries, *Journal of Law State*, 12, no. 2 (2021)

26Fr. Bernt Hugenholtz. Joa̅o Pedro Quintais, 2021, Cpyright and Artificial Creation: Does EU Copyright Law Protect AI-Assisted Output?, *IIC*, 52: 1211-1212

The introduction of computer-generated works in the 1988 CDPA has raised important questions about copyright in the context of computer-generated works. Although legal references have existed since 1988, there has been no decision that has been able to fully explain this issue. When it comes to Generative AI and Computer-generated works in the 1988 CDPA, then authenticity standards are the main value. However, there is a decision related to AI in the UK, namely Thaler v Comptroller General of Patents Trade Marks And Designs. The UK Court of Appeal has ruled that artificial intelligence (AI) machines cannot be recognized as the "creator" of a patent because they are not "natural persons." Because it does not have the necessary personality, the AI machine is also unable to transfer the rights in the patent to someone else, namely the developer.27

However, if we look at it from a legal point of view, copyright protection for computer-generated works can provide incentives for the person who created it. However, on the other hand, it also opens up loopholes for obscurity and potential copyright abuse. In this context, it is important for the law to continue to evolve and adapt to technological developments, including artificial intelligence and computer-generated works. In the context of a comparison between Indonesian and British law, it can be seen that both have different approaches in regulating copyright protection for AI-based paintings. Indonesian law recognizes the role of humans in the process of creating artworks, and does not recognize the term technology-based artworks, either computer-generated works or artificial intelligence, while English law in the 1988 CDPA already recognizes the term Computer-generated works that create artworks from computerized systems, but both laws still do not recognize the copyright status of based artworks Generative AI. Therefore, adjustments are needed in the legal framework that can accommodate the development of such technology to protect the rights of art creators.

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27 Thaler v Comptroller General of Patents Trade Marks And Designs [2021] EWCA Civ 1374, https://www.clydeco.com/en/insights/2022/01/thaler-v-comptroller-general-of-patents-trade-mark accessed on October 2, 2023

Conclusion

Keaslian (originality) is a very important hal in the protection of Hak Cipta. In Indonesia, copyright protection is regulated in Law Number 28 of 2014 concerning Copyright, article 1 numbers 1 and 2 do not clearly explain regarding the authenticity of a work, from the definition of the creator and the work, there are elements that are limitations or benchmarks, namely the element of independent creation (*independent creation*) or terms meaning that the terms of the creator of the work will not be copyrighted if he copies the work from elsewhere. When referring to the restriction of authenticity based on the two criteria contained in article 1, namely independently created and proof based on the similarity of the substance of the work that has existed before, it can be understood that a work of art based on Generative AI still cannot be a work that has a standard of authenticity or originality. Under the current Copyright Act, AI cannot then be considered the creator of a work because it is not a person and does not have any special and personal characteristics that can be attributed to the work, the CDPA 1988, or the Copyright, Designs and Patents Act 1988, is the copyright law in force in the United Kingdom. This law is an important legal framework for copyright protection in the country. The 1988 CDPA provides copyright protection for works created, this law further defines computer-generated works. When it comes to Generative AI and Computer-generated works in the 1988 CDPA, then authenticity standards are the main value. However, there is an AI-related ruling in the UK where the UK Court of Appeal has ruled that artificial intelligence (AI) machines cannot be recognized as the "creator" of a patent because the machine is not a "natural person". In the context of the comparison between Indonesian and British law, it can be seen that Indonesian law recognizes the role of humans in the process of creating works of art, and does not yet recognize the term technology-based artworks, either *computer-generated works* or *artificial intelligence*, while English law in the 1988 CDPA already recognizes the term *Computer-generated works* that create artwork from computerized

systems, but the two laws still do not recognize the copyright status of Generative AI-based artwork

In the face of this challenge, Indonesian and UK laws need to continue to evaluate the existing legal framework to ensure that the copyright of generative AI-based paintings can be guaranteed fairly and appropriately. It can also involve collaboration between countries in regulating copyright in this digital era, to find solutions that can balance the protection of art creators and technological advancements. Thus, generative AI-based paintings can continue to grow without sacrificing the rights of their creators.

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