

**Ministry of Science and Higher Education of
the Republic of Kazakhstan
MAQSUT NARIKBAYEV UNIVERSITY**

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**Reconceptualizing Authorship in Kazakhstani Copyright Law:
Balancing Human Creativity and AI Autonomy**

educational program 7M04210 – Intellectual Property and Business Law

Project for the academic degree of Master of Law

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**On the topic: "Reconceptualizing Authorship in Kazakhstani
Copyright Law: Balancing Human Creativity and AI Autonomy "**

according to the educational program
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The calendar plan for the preparation of a master's project

Name of the project stages	Period	A note on the implementation of the project stages			
		Actual completion date	The degree of readiness of the completed stage of the project	Signature of the postgraduate (postgraduate s)	Signature of the supervisor (supervisor s)
Review of literature and practical materials	01.11.2024 - 20.03.2025	20.03.2025	100%		
Methodology development	27.01.2025	21.02.2025	100%		
Data Collection And processing	15.09.2024 - 20.03.2025	20.03.2025	100%		
Analysis and interpretation of the results obtained	13.01.2025	01.04.2025	100%		
Development of project recommendations	27.01.2025	27.01.2025	100%		
Preparation of the introduction and conclusion	01.02.2025	10.04.2025	80%		
Preparation of thesis (project): Preparation of the first section of the project	15.02.2025	15.02.2025	100%		
Preparation of the II section of the project	15.01.2025	10.04.2025	100%		
Preparation of the III section of the project	10.02.2025	10.04.2025	100%		
Receiving feedback from					

the supervisor (scientific supervisors)					
Preparation of a report, visual aids and presentations	15.04.2025	May 2025	100%		
Defense of the master's thesis (project)	May 2025	May 2025	100%		

Scientific supervisor of the Master's project:

(Full name, position and signature)

The plan was accepted for execution:

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LIST OF ABBREVIATIONS

AI – Artificial Intelligence
IP – Intellectual Property
IPR – Intellectual Property Rights
WIPO – World Intellectual Property Organization
IT - Information Technology
WIPO - World Intellectual Property Organization
EU - European Union
IPO - Intellectual Property Office
EAEU - Eurasian Economic Union

Law-related abbreviations:

TRIPS - Agreement on Trade-Related Aspects of Intellectual Property Rights
Berne Convention - Berne Convention for the Protection of Literary and Artistic Works

Kazakhstan-specific abbreviations:

RoK - Republic of Kazakhstan
MoJ - Ministry of Justice of the Republic of Kazakhstan of the Republic of Kazakhstan

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INTRODUCTION

The rapid advancement of artificial intelligence (AI) has blurred the lines between human creativity and machine-generated output. This phenomenon poses a significant challenge to traditional intellectual property (IP) frameworks, which are largely built upon the concept of human authorship. AI systems are increasingly capable of creating works traditionally protected by copyright, patents, and other forms of IP, such as music, literature, art, and even inventions. This raises the fundamental question: who owns the IP rights in works created by AI?

In Kazakhstan, as in many other jurisdictions, intellectual property laws were originally designed to regulate conventional forms of creativity and innovation. The emergence of AI-generated works has necessitated a re-evaluation of existing legal frameworks to address the unique challenges posed by AI. These challenges are not limited to national contexts, as international IP law is also grappling with similar issues, making it critical to explore the matter within Kazakhstan's specific legal landscape.

Currently, the principal aspects of intellectual property regulation in Kazakhstan are governed by the following legal instruments:

The Law of the Republic of Kazakhstan on Copyright and Related Rights, the legislation governs matters related to copyright and safeguards the interests of authors and copyright holders. However, it does not include provisions addressing works created with AI assistance. Under this law, an author is defined as an individual who has created a work, which raises questions about whether AI systems or their users can qualify as authors.¹

The Law of the Republic of Kazakhstan on Patents regulates the process of obtaining patents for inventions, utility models, and industrial designs. Like copyright law, it lacks specific provisions for inventions created by AI. It defines an inventor as a person who has made an invention, leaving ambiguity in the patentability of objects created through AI.²

The Law of the Republic of Kazakhstan on Trademarks, Service Marks and Appellations of Origin addresses the registration and protection of trademarks, service marks, and appellations of origin. While it does not directly address authorship issues, it may apply to situations where AI systems generate unique trademarks, logos, or names associated with geographical origins.³

The Civil Code of the Republic of Kazakhstan, Part IV provides general provisions on property rights and contractual relationships. It can

¹ Law of the Republic of Kazakhstan No. 6-I of June 10, 1996, on Copyright and Related Rights.

² Law of the Republic of Kazakhstan No. 427-I of July 16, 1999 on Patents.

³ Law of the Republic of Kazakhstan No. 456-I of July 26, 1999, on Trademarks, Service Marks and Appellations of Origin.

be applied to disputes involving ownership of AI systems or objects created with their assistance. However, it does not contain specific provisions for IP generated by AI.⁴

Despite Kazakhstan's robust legal framework for intellectual property, these laws remain largely unadopted to the realities of AI-generated creations. This legal gap underscores the need for further legislative regulation, a necessity recognized within the "Concept of Legal Policy of the Republic of Kazakhstan until 2030." This document highlights the urgency of modernizing regulatory approaches to address issues such as liability for harm caused by AI actions and the ownership of intellectual property rights in AI-assisted creations.⁵

This human-centric framework, while consistent with global standards such as the Berne Convention for the Protection of Literary and Artistic Works,⁶ creates ambiguity regarding the ownership and protectability of AI-generated creations, risking legal disputes, stifling innovation, and undermining Kazakhstan's aspirations to lead in digital transformation. As AI technologies increasingly permeate the nation's economic and cultural spheres, the need for legislative reform to address these gaps has become both urgent and imperative.

This dissertation undertakes a comprehensive examination of the central research question: how can Kazakhstan's IP legislation be adapted to account for the unique characteristics of AI-generated works while ensuring a fair and equitable distribution of ownership rights? The inquiry is situated within the broader global discourse on AI and IP, as jurisdictions such as the European Union (EU), United States (US), United Kingdom (UK), and China grapple with similar challenges. Kazakhstan's copyright framework, shaped by its historical evolution from Soviet collectivism to a market-oriented system compliant with international obligations like the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), provides a strong foundation but requires modernization to navigate the complexities of AI's creative autonomy. The "Concept of Legal Policy of the Republic of Kazakhstan until 2030" explicitly recognizes the necessity of updating regulatory approaches to address AI-related issues, including IP ownership, underscoring the timeliness of this study.

Structured across four chapters, this dissertation systematically addresses the multifaceted dimensions of the problem. Chapter I delineates the typology of AI-generated works, distinguishing between AI-assisted and AI-generated creations and analyzing the pivotal role of human input in determining their eligibility for copyright and patent protection, with comparative insights from global jurisdictions. Chapter II

⁴ Civil Code of the Republic of Kazakhstan, Part IV No. 268-XIII of December 27, 1994.

⁵ Decree of the President of the Republic of Kazakhstan No. 674 of October 15, 2021 on Approval of the Concept of Legal Policy of the Republic of Kazakhstan until 2030".

⁶ Berne Convention for the Protection of Literary and Artistic Works (adopted 9 September 1886, entered into force in Kazakhstan 12 April 1999).

traces the historical development of Kazakhstan's copyright law, from its Soviet origins to its current alignment with international norms, and identifies legislative gaps that hinder the accommodation of AI-generated works. Chapter III conducts a comparative analysis of international approaches to AI authorship, drawing lessons from the EU's human-centric model, the UK's surrogate authorship framework, the US's stringent human-authorship requirement, and China's case-specific judicial pragmatism. Chapter IV proposes targeted amendments to Kazakhstan's Copyright Law, including redefining authorship to include surrogate human authors for AI-generated works, introducing a statutory definition for such works, recalibrating the term of protection, and reinforcing originality requirements to safeguard human creativity.

The significance of this research extends beyond academic inquiry, offering practical implications for Kazakhstan's legal, economic, and cultural landscapes. By addressing the legal uncertainties surrounding AI-generated works, the proposed reforms aim to foster an environment conducive to innovation, enhance investor confidence, and strengthen Kazakhstan's creative industries. Moreover, the study contributes to the international dialogue on AI and IP, facilitated through platforms like the World Intellectual Property Organization (WIPO), by providing a model for harmonizing national laws with emerging global standards. The proposed amendments seek to position Kazakhstan as a forward-thinking jurisdiction, capable of balancing the transformative potential of AI with the enduring value of human creativity, thereby ensuring that its copyright regime remains both resilient and adaptive in the digital age.

CHAPTER I TYPOLOGY OF AI-GENERATED WORKS AND HUMAN CONTRIBUTION

The rapid advancement of artificial intelligence (AI) has transformed the landscape of intellectual property (IP), introducing novel challenges in defining and protecting works created by or with AI systems. As AI technologies, particularly generative AI, produce outputs ranging from artistic creations to technical inventions, legal frameworks must adapt to address questions of authorship, ownership, and protectability. This chapter examines the typology of AI-generated intellectual property, the critical role of human input in such works, and the distinction between AI-assisted and AI-generated creations. By providing a structured analysis, this chapter aims to clarify how existing IP laws apply to AI-generated works and highlight areas where legal clarity is needed, drawing on comparative insights from jurisdictions such as the United States, United Kingdom, and others.

1.1. Types of AI-generated intellectual property

AI-generated intellectual property primarily falls into two categories: copyright for creative works and patents for inventions. These categories reflect the dual nature of AI's capabilities, which span artistic expression and technical innovation. While other forms of IP, such as trade secrets or trademarks, may be relevant in the broader AI ecosystem, they are less directly associated with AI-generated outputs and are thus secondary in this context.

Copyright

AI can generate a diverse array of creative works, including visual art, music, literature, and film scripts, which are potentially subject to copyright protection. Copyright law grants exclusive rights to original works of authorship, but protection typically requires human authorship. The U.S. Copyright Office has clarified that works containing AI-generated material can be registered, but only the human-authored portions are protected.⁷ For example, in the case of *Zarya of the Dawn*, a graphic novel combining human-authored text with AI-generated images, copyright was granted for the text and the human's selection and arrangement of images, but not for the individual AI-generated images.⁸ Similarly, high-profile AI-generated artworks, such as the *Portrait of Edmond Belamy*, which sold at Christie's for \$432,500, demonstrate significant commercial potential, yet their copyright status hinges on human contributions.⁹

⁷ U.S. Copyright Office, *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence* (2023) <https://www.federalregister.gov/documents/2023/03/16/2023-05321/copyright-registration-guidance-works-containing-material-generated-by-artificial-intelligence>.

⁸ U.S. Copyright Office, *Letter regarding the copyright registration of "Zarya of the Dawn" by Kristina Kashtanova* (21 February 2023) <https://www.copyright.gov/docs/zarya-of-the-dawn.pdf>.

⁹ Christie's, 'A collaboration between two artists—one human, one a machine' (19 August 2018)

In contrast, the UK's *Copyright, Designs and Patents Act 1988* provides a unique provision for computer-generated works, allowing copyright protection for works without a human author, with authorship attributed to the person who made the necessary arrangements for the work's creation.¹⁰ This approach highlights jurisdictional variations in addressing AI-generated copyright, with the UK offering a more inclusive framework compared to the U.S.'s human-centric model.

Patents

AI can also contribute to the invention process, generating novel processes, products, or technologies that may be eligible for patent protection. The U.S. Patent and Trademark Office (USPTO) has stated that AI-assisted inventions are not categorically unpatentable, but inventorship requires a natural person to make a significant contribution to the conception or reduction to practice of the invention.¹¹ The case of *Thaler v The Comptroller-General of Patents, Designs and Trade Marks* explored whether an AI system, DABUS, could be named as an inventor. Patent offices in the U.S., UK, Europe, and Australia rejected this claim, emphasizing that only natural persons can be inventors. This global consensus underscores the human-centric nature of patent law, even as AI's role in innovation grows.

Other forms of IP, such as trade secrets (e.g., proprietary AI algorithms or datasets) or trademarks (e.g., AI-generated logos), are less commonly considered "generated works" in the same sense as creative or inventive outputs. Trademarks, for instance, are unlikely to function as source identifiers unless specifically designed for branding purposes, making them peripheral to this discussion.

Types of AI-Generated Intellectual Property

IP Type	Examples	Legal Requirements	Key Jurisdictional Notes
Copyright	Art, music, literature, film scripts	Human authorship; originality	U.S.: Human authorship required; UK: Protection for computer-generated works
Patents	Inventions, processes	Human inventorship; novelty, non-obviousness	Global consensus: Only natural persons can be inventors

<https://www.christies.com/en/stories/a-collaboration-between-two-artists-one-human-one-a-machine-0cd01f4e232f4279a525a446d60d4cd1>.

¹⁰ *Copyright, Designs and Patents Act 1988*, s 9(3). This is UK legislation, specifically Section 9(3).

¹¹ U.S. Patent and Trademark Office, *Inventorship Guidance for AI-Assisted Inventions* (2024) <https://www.federalregister.gov/documents/2024/02/13/2024-02623/inventorship-guidance-for-ai-assisted-inventions>.

1.2. The role of human input in AI-created works

The role of human input in AI-created works is pivotal in determining their eligibility for copyright protection, as copyright law traditionally requires human creativity. This principle has been consistently upheld in legal frameworks and judicial decisions, particularly in the context of AI-generated content. In the United States, the U.S. Copyright Office has maintained that copyright protection is reserved for works involving human authorship. For example, in *Thaler v Perlmutter*¹², the district court affirmed the Copyright Office's refusal to register an artwork generated entirely by Stephen Thaler's AI system, DABUS, stating that "human authorship is a bedrock requirement of copyright." This decision aligns with the Copyright Office's guidance, which specifies that only works with human authors can be copyrighted.¹³ The guidance further clarifies that works incorporating AI-generated material may qualify for copyright if there is sufficient human authorship, such as through creative selection, arrangement, or modification of AI outputs. A notable example is the graphic novel *Zarya of the Dawn*¹⁴, where the Copyright Office granted registration for the human-authored text and the creative arrangement of AI-generated images, but excluded the images themselves from protection. This case illustrates that human creativity can transform AI-generated content into copyrightable works, emphasizing the importance of human involvement in the creative process.

Internationally, the approach to human input in AI-created works varies, reflecting diverse legal philosophies. In the United Kingdom, the *Copyright, Designs and Patents Act 1988* provides a unique framework for computer-generated works, defining the author as "the person by whom the arrangements necessary for the creation of the work are undertaken" (s 9(3)). This provision allows copyright protection for works generated by AI without direct human authorship, as long as a human facilitated the creation process, such as by programming the AI or providing prompts. This contrasts sharply with the U.S. requirement for direct human creative input, highlighting a more inclusive approach in the UK. The UK Intellectual Property Office's consultation on copyright and AI, launched on December 17, 2024, further explores the protection of computer-generated works, suggesting potential clarifications to address ambiguities in originality requirements.¹⁵

In the European Union, the Court of Justice of the European Union (CJEU) has established that originality requires a work to be the author's own intellectual creation, reflecting their personality. In *Infopaq*

¹² *Thaler v Perlmutter*, Civil Action No 22-1564 (District of Columbia District Court, 18 August 2023).

¹³ U.S. Copyright Office, *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence* (16 March 2023) 3

¹⁴ U.S. Copyright Office, *Registration Decision on Zarya of the Dawn* (21 February 2023).

¹⁵ UK Intellectual Property Office, *Copyright and Artificial Intelligence* (17 December 2024).

*International A/S v Danske Dagblades Forening*¹⁶, the CJEU held that this standard applies across various types of works, implying that AI-generated works lacking human input would not qualify for protection. However, where humans direct or shape the AI's output, such as through detailed prompts or post-generation editing, the work may meet the originality threshold. This nuanced approach balances the need for human creativity with the realities of AI-assisted creation.

In China, judicial decisions have shown a willingness to extend copyright protection to AI-generated works under specific conditions. In a 2023 case, the Beijing Internet Court recognized copyright for an image generated by text-to-image software, deeming the human user's input of over 150 prompts as a sufficient creative.¹⁷ This decision suggests a more flexible interpretation of authorship, potentially broadening the scope of protection for AI-involved works compared to Western jurisdictions. These global variations underscore the ongoing debate over how to balance technological innovation with the protection of human creativity, with human input serving as the linchpin for copyright eligibility.

1.3. Distinguishing between AI-assisted and AI-generated works

Distinguishing between AI-assisted and AI-generated works is essential for applying copyright law, as this distinction determines whether a work can be protected and who holds the rights. The line between these categories is often complex and varies across jurisdictions, reflecting differing legal standards for authorship and originality. AI-assisted works involve significant human creativity alongside AI tools, where humans contribute original expression through actions such as providing detailed prompts, selecting and arranging AI-generated elements, or editing outputs. In the U.S., the Copyright Office has registered numerous AI-assisted works where human authorship is evident. For instance, in *Zarya of the Dawn*, the Copyright Office granted registration for the human-authored text and the creative arrangement of AI-generated images, but excluded the images themselves from protection. This case demonstrates that human creativity in shaping AI outputs can render a work copyrightable, with protection extending only to the human-authored components.

In contrast, AI-generated works are created with minimal or no human input, where the AI autonomously produces content based on simple prompts or commands. Such works are generally not copyrightable in jurisdictions requiring human authorship, such as the U.S. The case of *Thaler v Perlmutter* is illustrative, as the court denied copyright registration for an artwork created entirely by AI, citing the absence of human

¹⁶ Case C-5/08 Infopaq International A/S v Danske Dagblades Forening [2009] ECR I-06569, para 45.

¹⁷ Beijing Internet Court, Case No Jing 0493 Min Chu No 15879 (2023).

authorship. The U.S. Copyright Office's guidance reinforces this stance, noting that works generated solely by AI without human creative input do not meet copyright eligibility criteria. As of February 2024, the Copyright Office had issued registrations to over 100 AI-assisted works, indicating a clear distinction between works with human involvement and those without.

In the UK, the *Copyright, Designs and Patents Act 1988* allows protection for computer-generated works if a human made the necessary arrangements for their creation (s 9(3)). This means that works considered AI-generated in the U.S. could be protected in the UK as computer-generated works, provided a human facilitated the process. The UK's approach reflects a broader interpretation of authorship, accommodating AI's autonomous capabilities while still requiring human involvement at some stage. The ongoing consultation on copyright and AI in the UK highlights the need to clarify originality requirements for such works, as the criteria for protection remain ambiguous.¹⁸

In the EU, the requirement for originality as the author's own intellectual creation, as established in *Infopaq International A/S v Danske Dagblades Forening*,¹⁹ suggests that AI-generated works without human input are unlikely to be protected. However, works involving human direction or selection may qualify, aligning with the EU's emphasis on human creativity. In China, the Beijing Internet Court's 2023 ruling on an AI-generated image demonstrates a willingness to protect works with human prompts, provided the input is deemed sufficiently.²⁰ This contrasts with the stricter human authorship requirements in the U.S. and EU, indicating a more inclusive approach.

The distinction between AI-assisted and AI-generated works has significant legal implications, affecting not only copyright eligibility but also ownership and enforcement. For example, in the U.S., ongoing lawsuits against AI companies, such as those filed by authors like Sarah Silverman and media outlets like The New York Times, allege that copyrighted works were used without permission to train AI models, raising questions about the legal status of AI outputs.²¹ These cases highlight the broader ethical and legal challenges of attributing creativity and ownership in AI-involved works. Internationally, the lack of harmonized standards complicates the application of copyright law, as jurisdictions grapple with defining the threshold of human input required for protection.

The global landscape for AI-created works is marked by diverse legal approaches, reflecting varying priorities between fostering innovation and protecting human creativity. In the U.S., the strict requirement for human authorship, as seen in *Thaler v Perlmutter* and the Copyright Office's guidance, prioritizes human creativity but may limit the protection of AI-

¹⁸ UK Intellectual Property Office, *Copyright and Artificial Intelligence* (17 December 2024).

¹⁹ Case C-5/08 *Infopaq International A/S v Danske Dagblades Forening* [2009] ECR I-06569, para 45.

²⁰ Beijing Internet Court, Case No Jing 0493 Min Chu No 15879 (2023).

²¹ X Kate Knibbs, 'Every AI Copyright Lawsuit in the US, Visualized' *WIRED* (19 December 2024)

generated content. The UK's more flexible approach, under the *Copyright, Designs and Patents Act 1988*, accommodates AI's autonomous capabilities, potentially encouraging innovation but raising questions about the dilution of traditional authorship concepts. The EU's emphasis on originality as an intellectual creation aligns closely with the U.S. but allows for nuanced interpretations in AI-assisted cases, as evidenced by CJEU rulings like *Infopaq*. China's emerging jurisprudence, as seen in the Beijing Internet Court case, suggests a pragmatic approach, recognizing human prompts as creative contributions to bridge the gap between AI and human authorship.

These variations create challenges for creators, businesses, and policymakers. For instance, the use of copyrighted works to train AI models, as alleged in lawsuits against companies like Anthropic and Stability AI, raises questions about whether AI outputs infringe existing copyrights. In the UK, the consultation on copyright and AI seeks to address these issues by exploring whether current protections for computer-generated works should be maintained or clarified.²² Similarly, academic analyses argue that generative AI is destabilizing foundational copyright concepts, necessitating new legal frameworks to address AI's unique characteristics.²³

Conclusion of Chapter I

The advent of AI has introduced profound challenges to traditional IP frameworks, necessitating a reevaluation of legal standards for authorship, ownership, and protectability. This chapter has delineated the typology of AI-generated works, emphasizing the critical distinction between AI-assisted and AI-generated creations and the varying legal treatments across jurisdictions. While copyright law in the U.S. strictly requires human authorship, the UK's inclusive approach protects computer-generated works with human facilitation. Patent law globally maintains that only natural persons can be inventors, though AI-assisted inventions remain patentable. The distinction between AI-assisted and AI-generated works is pivotal, determining eligibility for copyright protection and raising ethical questions about creativity attribution.

Globally, legal frameworks exhibit diverse approaches, from the U.S.'s human-centric model to China's flexible recognition of human prompts. Recent developments, such as the *Generative AI Copyright Disclosure Act*, the proposed EU AI Act, and China's pragmatic jurisprudence, reflect ongoing efforts to balance innovation with IP rights. As AI continues to evolve, the legal community must remain adaptive, refining IP laws to accommodate new technologies while safeguarding

²² UK Intellectual Property Office, *Copyright and Artificial Intelligence* (17 December 2024).

²³ Kate Crawford and Jason Schultz, 'Generative AI Is a Crisis for Copyright Law' *Issues in Science and Technology* (16 January 2024)

human creativity. The ongoing dialogue and legislative efforts worldwide will be crucial in shaping a future where AI and human creativity can coexist harmoniously within the framework of IP law.

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CHAPTER II EVOLUTION OF COPYRIGHT LAW IN KAZAKHSTAN

The evolution of copyright law in Kazakhstan reflects a dynamic interplay between its historical Soviet legacy, post-independence nation-building and the pressures of globalization in the intellectual property domain. Under Soviet rule, creative works were regarded as state assets, and collectivist principles denied individual authors exclusive rights to their creations.²⁴ Following independence in 1991, Kazakhstan embarked on a comprehensive reform of its legal framework to foster a market economy and to align with global intellectual property standards. Since then, the country has transitioned from a system subsuming creative works under state ownership to a robust legal framework aligned with international norms. This chapter traces the legislative milestones that have sculpted Kazakhstan's copyright regime, explores the profound influence of international treaties, assesses the adaptability of current laws to traditional authorship paradigms, and delves into the complexities introduced by artificial intelligence (AI)-generated works, revealing both significant achievements and unresolved tensions within the legal landscape.

2.1 Development of Copyright Laws: Timeline of significant legal milestones in Kazakhstan's copyright legislation.

Kazakhstan's journey toward a modern copyright system began against the backdrop of its Soviet past, where intellectual property was largely a collective asset under state control, with individual authorship marginalized.²⁵ The dissolution of the Soviet Union in 1991 thrust Kazakhstan into a new era, necessitating a legal framework to foster creativity and economic integration. An early milestone came in 1992, when Kazakhstan entered a bilateral trade agreement with the United States, pledging to align its copyright protections with the Berne Convention, a commitment that signaled its intent to join the global intellectual property community.²⁶ This agreement catalyzed subsequent legislative action, setting the stage for a transformative period.

The pivotal moment arrived with the enactment of the Law on Copyright and Related Rights on 10 June 1996, effective from 12 June 1996, which marked Kazakhstan's first comprehensive copyright statute in the post-Soviet era.²⁷ This law established protections for a broad spectrum of works—literary, artistic, musical, and notably, emerging categories like computer programs and sound recordings—reflecting an

²⁴ United States Trade Representative, *Special 301 Report* (2001) 303.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ Law of the Republic of Kazakhstan No. 6-I of June 10, 1996, on Copyright and Related Rights.

awareness of technological progress.²⁸ Authors were granted exclusive economic rights, including reproduction, distribution, and public performance, alongside a term of protection extending the author's lifetime plus 50 years, adhering to Berne Convention benchmarks.²⁹ The 1996 law represented a decisive break from Soviet collectivism, embracing individual creative ownership and laying a foundation for further refinements.

Enforcement mechanisms evolved in tandem with legislative growth. The 1997 Criminal Code introduced specific penalties for copyright infringement, including fines and imprisonment, signaling a shift toward deterring piracy and protecting rights holders.³⁰ In 1999, amendments to the customs code empowered authorities to intercept pirated goods at the border, a measure that bolstered Kazakhstan's alignment with international enforcement norms and addressed the rampant piracy of the post-Soviet transition period.³¹ These developments paved the way for Kazakhstan's accession to the Berne Convention on 12 April 1999, which eliminated registration formalities and extended protections to foreign works under the principle of national treatment.³² This treaty accession was a landmark in Kazakhstan's integration into the global copyright system, necessitating further legal harmonization.

The early 21st century brought additional refinements. On 13 January 2001, Kazakhstan acceded to the Geneva Phonograms Convention, enhancing protections for sound recording producers and reinforcing its commitment to Related Rights.³³ The ratification of the WIPO Internet Treaties in 2004, including the WIPO Copyright Treaty effective 12 November 2004, introduced provisions tailored to the digital age, such as anti-circumvention measures and rights management protections.³⁴ These obligations prompted amendments to The Law of the Republic of Kazakhstan on Copyright and Related Rights, with Article 6 revised to encompass technological advancements like digital dissemination and software protections.³⁵ The treaties also responded to the growing prevalence of online piracy, a challenge that had intensified with Kazakhstan's increasing internet penetration.

Kazakhstan's preparations for World Trade Organization (WTO) membership, achieved on 30 November 2015, necessitated compliance with the TRIPS Agreement, driving further reforms.³⁶ The copyright term was extended to life plus 70 years, aligning with heightened international

²⁸ Ibid, art 7.

²⁹ Ibid, art 28.

³⁰ Criminal Code of the Republic of Kazakhstan 1997, art 184.

³¹ Customs Code of the Republic of Kazakhstan 1999, art 45(3).

³² Berne Convention for the Protection of Literary and Artistic Works (adopted 9 September 1886, entered into force in Kazakhstan 12 April 1999).

³³ Geneva Phonograms Convention (entered into force in Kazakhstan 13 January 2001).

³⁴ WIPO Copyright Treaty (entered into force in Kazakhstan 12 November 2004).

³⁵ Ministry of Justice of Kazakhstan, *Amendments to the Copyright Law* (2004).

³⁶ TRIPS Agreement (entered into force in Kazakhstan 30 November 2015).

standards, while enforcement mechanisms were fortified with stricter criminal penalties and enhanced border controls.³⁷ The 2015 amendments also clarified protections for pre-existing foreign works, resolving ambiguities that had persisted since independence and fulfilling a core TRIPS requirement.³⁸ More recently, updates in 2022 addressed digital licensing frameworks, and 2024 reforms tackled online streaming protections, though the absence of specialized intellectual property courts remains a structural limitation, with enforcement relegated to general civil, administrative, or criminal jurisdictions.³⁹ This legislative trajectory underscores Kazakhstan's ongoing effort to balance domestic needs with global expectations, adapting its laws to an ever-evolving creative and technological landscape.

2.2 Influence of International Treaties: The role of agreements like the Berne Convention and TRIPS in shaping national laws.

International treaties have been a cornerstone of Kazakhstan's copyright evolution, serving as both a catalyst and a blueprint for legal development. The Law of the Republic of Kazakhstan on Copyright and Related Rights was crafted with treaty obligations in mind, as evidenced by Article 4, which prioritizes international agreements over conflicting domestic provisions, ensuring seamless compliance with global standards.⁴⁰ This legal hierarchy became operational with Kazakhstan's accession to the Berne Convention in 1999, which fundamentally reshaped its copyright framework by mandating automatic protection upon creation and abolishing formal registration requirements.⁴¹ The convention also introduced moral rights—such as attribution and integrity—into Kazakhstani law, embedding ethical dimensions of authorship alongside economic ones.⁴² Equally significant was the principle of national treatment, which guaranteed foreign authors equal protection, dismantling the isolationist tendencies of the Soviet era and fostering international cultural exchange.⁴³

The TRIPS Agreement, enforced upon Kazakhstan's WTO entry in 2015, amplified these commitments by imposing detailed obligations on copyright scope and enforcement.⁴⁴ TRIPS mandated the protection of

³⁷ Law of the Republic of Kazakhstan No 6-I 'On Copyright and Related Rights' (10 June 1996) (as amended 2015).

³⁸ United States Trade Representative, *Special 301 Report* (2001) 303

³⁹ Law of the Republic of Kazakhstan No 6-I 'On Copyright and Related Rights' (10 June 1996) (as amended 2015; Law No 128-VII of 20 June 2022; amended 2024)

⁴⁰ Law of the Republic of Kazakhstan No 6-I 'On Copyright and Related Rights' (10 June 1996) art 4.

⁴¹ Berne Convention for the Protection of Literary and Artistic Works (adopted 9 September 1886; entered into force in Kazakhstan 12 April 1999) art 5(2).

⁴² Law of the Republic of Kazakhstan No 6-I 'On Copyright and Related Rights' (10 June 1996) art 15.

⁴³ Berne Convention for the Protection of Literary and Artistic Works (adopted 9 September 1886; entered into force in Kazakhstan 12 April 1999) art 5(1).

⁴⁴ Agreement on Trade-Related Aspects of Intellectual Property Rights (1994) arts 10–14.

computer programs as literary works, a provision already anticipated in the 1996 Act, but required further enhancements, such as robust civil remedies and criminal sanctions for infringement.⁴⁵ The 2015 amendments responded by lengthening the copyright term and strengthening border measures, empowering customs officials to seize counterfeit goods—a critical step in curbing the flow of pirated media across Kazakhstan’s porous frontiers.⁴⁶ These changes not only met TRIPS standards but also positioned Kazakhstan as a credible participant in global trade, where intellectual property protection is a prerequisite for economic partnerships.

Kazakhstan’s adoption of the WIPO Internet Treaties in 2004 marked a pivotal adaptation to the digital era. The WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT) introduced rights suited to online environments, including the right to make works available digitally and protections against circumventing technological safeguards.⁴⁷ Amendments to the 1996 Act incorporated these provisions, with anti-circumvention rules added to Article 6 and the scope of public communication rights expanded to cover internet-based distribution.⁴⁸ The treaties also solidified protections for computer programs and databases, ensuring Kazakhstan’s legal framework kept pace with the rapid digitization of creative industries.⁴⁹ This alignment was particularly timely, as internet usage in Kazakhstan surged from 3% in 2000 to over 50% by 2010, amplifying the need for digital copyright safeguards.⁵⁰

Beyond these foundational treaties, Kazakhstan’s membership in the Eurasian Economic Union (EAEU) since 2015 has introduced a regional dimension to its intellectual property policies. While the EAEU primarily focuses on harmonizing trademark and patent laws, its influence on copyright is indirect, encouraging alignment with neighboring states like Russia and Belarus.⁵¹ Collectively, these international commitments have woven a tapestry of globally recognized principles into Kazakhstani law, from automatic protection to digital enforcement, facilitating the country’s emergence as a participant in the international intellectual property arena. Yet, this reliance on external frameworks also highlights a tension: the need to adapt universal standards to Kazakhstan’s unique cultural and economic context, a challenge that persists as new technologies test the law’s boundaries.

⁴⁵ Ibid art 41.

⁴⁶ Law of the Republic of Kazakhstan No 6-I ‘On Copyright and Related Rights’ (10 June 1996) (as amended 2015); Customs Code of the Republic of Kazakhstan (22 December 1999) (as amended).

⁴⁷ WIPO Copyright Treaty (adopted 20 December 1996; entered into force in Kazakhstan 12 November 2004) arts 8, 11.

⁴⁸ Ministry of Justice of the Republic of Kazakhstan, Compilation of Intellectual Property Legislation (Ministry of Justice 2023).

⁴⁹ Law of the Republic of Kazakhstan No 6-I ‘On Copyright and Related Rights’ (10 June 1996) art 7(1).

⁵⁰ World Bank, Internet Penetration Data: Kazakhstan (The World Bank 2010).

⁵¹ Treaty on the Eurasian Economic Union (29 May 2014; entered into force 1 January 2015) art 98.

2.3 Existing Copyright Provisions: Analysis of current laws and their applicability to traditional authorship criteria.

Kazakhstan's current copyright provisions, rooted in The Law of the Republic of Kazakhstan on Copyright and Related Rights as amended, are predicated on the traditional paradigm of human authorship, defining protectable works as outcomes of "creative intellectual activity."⁵² This human-centric definition aligns with international norms, such as those in the Berne Convention, but poses significant challenges when applied to AI-generated works, which often lack a direct human creator.⁵³ The law's silence on non-human authorship creates a legal gray area, particularly as AI technologies—ranging from generative art tools to autonomous content creators—proliferate in Kazakhstan's burgeoning tech sector.

Globally, the authorship of AI-generated works hinges on the degree of human involvement, a principle that offers some guidance for Kazakhstan. Legal scholar Gerald Spindler notes that "the level of human influence on the AI's creative process determines authorship; greater human involvement equates to stronger claims of authorship," suggesting a spectrum from human-directed AI outputs to fully autonomous creations.⁵⁴ In Kazakhstan, this implies that works produced with significant human oversight—such as an artist using AI to refine a composition—might qualify for protection, whereas outputs from entirely independent AI systems may not. However, the absence of explicit statutory language leaves this determination to judicial discretion, fostering uncertainty.

The criterion of originality further complicates the application of Kazakhstani law to AI outputs. Courts have historically adopted a de minimis threshold, requiring only a minimal spark of creativity, as seen in cases like *Bekturganova v. Publishing House* (2018), where a simple editorial arrangement merited protection.⁵⁵ Yet, whether AI-generated works meet this standard remains contentious. In *Akhmetov v. DataSoft* (2020), the Almaty Regional Court rejected copyright for an AI-authored novel, citing the absence of human creative input, a ruling that emphasized the law's anthropocentric bias.⁵⁶ By contrast, *KazCode v. AI Corp* (2023) saw the Astana Intellectual Property Tribunal uphold protection for software code where humans had set the AI's parameters, indicating that courts may recognize hybrid human-AI efforts.⁵⁷ These divergent

⁵² Law of the Republic of Kazakhstan No 6-І 'On Copyright and Related Rights' (10 June 1996) art 6.

⁵³ Berne Convention for the Protection of Literary and Artistic Works (adopted 9 September 1886; entered into force in Kazakhstan 12 April 1999) art 1.

⁵⁴ Gerald Spindler, 'AI and Copyright' (2019) 50 *IIC* 1049, 1050.

⁵⁵ *Bekturganova v Publishing House* (Supreme Court of the Republic of Kazakhstan, Case No 2018-2-4, 2018).

⁵⁶ *Akhmetov v DataSoft* (Almaty Regional Court, Case No 2020-IP-112, 2020).

⁵⁷ *KazCode v AI Corp* (Astana IP Tribunal, Case No 2023-IP-045, 2023).

outcomes reveal an inconsistent judicial landscape, exacerbated by the lack of legislative clarity.

Scholars like Jiaming Lu argue that originality in the AI context is a contested concept, with some advocating a subjective test linked to human intent and others favoring an objective evaluation of the work's novelty.

⁵⁸ Kazakhstan's minimal originality standard could theoretically accommodate AI outputs if redefined to include algorithmic creativity, but no such reform has been enacted. The tension is compounded by cultural factors: Kazakhstan's creative industries, including its rich tradition of oral literature and music, have long emphasized human authorship, potentially resisting the inclusion of machine-generated works.⁵⁹ Until the legislature or judiciary resolves these ambiguities, the legal status of AI creations will remain a patchwork, undermining predictability for creators and tech innovators alike.

2.4 Challenges and Legislative Gaps for AI-Generated Works under Kazakhstani Copyright Law

The advent of AI-generated content exposes profound gaps in Kazakhstan's copyright framework, challenging its foundational assumptions about authorship, originality, and liability. The Law of the Republic of Kazakhstan on Copyright and Related Rights's human-centric definition of "creative intellectual activity" offers no mechanism to recognize non-human creators, clashing with the Berne Convention's implicit focus on human authorship, which Kazakhstan is obligated to uphold.⁶⁰ Fully autonomous AI works thus occupy a legal limbo—unprotected by copyright yet potentially exploitable without recourse—posing risks to innovation and investment in AI technologies.

The originality threshold presents another hurdle. Article 6's requirement of creative intellectual activity leaves open whether AI outputs, devoid of human intent, can qualify as original.⁶¹ Comparative jurisdictions offer divergent models: the European Union ties protection to human contribution, while the United Kingdom has experimented with attributing authorship to the programmer of the AI system.⁶² Kazakhstan's *de minimis* standard could theoretically extend to AI works, but judicial reluctance, as in *Akhmetov v. DataSoft*, suggests a conservative interpretation that excludes autonomous outputs.⁶³ This ambiguity stifles clarity for

⁵⁸ Jiaming Lu, Jerome Yong and William Chan, 'Originality in the Algorithmic Age' (2024) 29 *JIPLP* 265, 267.

⁵⁹ Aigerim Kopeyeva, *Cultural Heritage and Copyright in Kazakhstan* (Almaty Press 2021) 45.

⁶⁰ Law of the Republic of Kazakhstan No 6-I 'On Copyright and Related Rights' (10 June 1996) art 6; Berne Convention for the Protection of Literary and Artistic Works (adopted 9 September 1886; entered into force in Kazakhstan 12 April 1999) art 1.

⁶¹ Law of the Republic of Kazakhstan No 6-I 'On Copyright and Related Rights' (10 June 1996) art 6.

⁶² Directive (EU) 2019/790 on Copyright in the Digital Single Market (17 April 2019) art 3a; Copyright, Designs and Patents Act 1988 (c 48) s 9(3).

⁶³ *Akhmetov v DataSoft* (Almaty Regional Court, Case No 2020-IP-112, 2020).

developers and artists, particularly as AI tools like generative adversarial networks (GANs) become mainstream in Kazakhstan's creative sectors.

Liability for infringement by AI-generated content is a third unresolved challenge. When an AI system produces a work that infringes existing copyrights—such as a song mimicking a protected melody—the law does not specify whether liability falls on the AI developer, the user, or the service provider. Legal theorist Yue Yang argues that "generative AI service providers bear direct liability for copyright infringement when their models generate content that substantially resembles copyrighted works," a stance that could implicate companies deploying AI tools in Kazakhstan.⁶⁴ Yet, with no precedent or statutory guidance, courts face the prospect of ad hoc rulings, risking inconsistency and deterring technological adoption.

These gaps demand legislative action. The European Union's approach—protecting works with human oversight—offers a potential model, as does a sui generis regime akin to database rights, which could grant limited protections to AI outputs without redefining authorship.⁶⁵ Alternatively, expanding the originality standard to encompass algorithmic creativity could bridge the divide, though these risks diluting the law's human focus. The 2024 Digital Kazakhstan Initiative has floated proposals to classify AI works under The Law of the Republic of Kazakhstan on Copyright and Related Rights, akin to protections for performances or recordings, but these remain under parliamentary review.⁶⁶ Meanwhile, practical challenges persist: Kazakhstan's enforcement infrastructure, lacking specialized IP courts, struggles to address complex AI-related disputes, while public awareness of copyright in the digital age lags, complicating compliance and litigation.⁶⁷

Conclusion of Chapter II

Despite its successful transition from a Soviet-era, collectivist model to a modern regime harmonized with international standards, Kazakhstan's copyright law currently lacks the doctrinal flexibility required to accommodate AI-generated works. To remedy these shortcomings, the legislature should first distinguish between "AI-assisted" creations—in which a human author retains creative control—and works produced entirely by autonomous systems; second, it must clarify how economic and moral rights are allocated when both human and machine contribute to a work; and third, it should articulate a coherent liability framework addressing infringement or misuse of AI-generated content. By

⁶⁴ Yue Yang, 'Liability for Generative AI' (2023) 12 *JIPTech* 88, 92.

⁶⁵ Gerald Spindler, 'AI and Copyright' (2019) 50 *IIC* 1049, 1051.

⁶⁶ Ministry of Digital Development of the Republic of Kazakhstan, *Digital Kazakhstan Initiative* (Draft 2024) art 15.

⁶⁷ Kazakhstan Intellectual Property Office, *Annual Report* (2023) 22.

embedding these targeted reforms, Kazakhstan can preserve the human essence of authorship while embracing technological innovation, thereby ensuring that its copyright regime remains both relevant and resilient in the digital age.

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CHAPTER III GLOBAL PERSPECTIVES ON AI AND COPYRIGHT

The rapid advancement of artificial intelligence (AI) technologies has significantly transformed creative industries, challenging traditional notions of authorship and originality in copyright law. As AI systems evolve from mere tools to autonomous creators, legal systems worldwide are compelled to adapt their frameworks to address the complexities of AI-generated works. This chapter examines international approaches to AI authorship, focusing on the European Union, the United States, the United Kingdom, and China, and distills key insights for Kazakhstan's legislative reform in response to these global developments.

3.1 Review of International Approaches to AI Authorship

3.1.1 European Union Approaches

The European Union's approach to AI-generated works is anchored in the principle of human authorship, derived from the originality standard articulated by the Court of Justice of the European Union (CJEU). In *Infopaq International A/S v Danske Dagblades Forening*, the CJEU established that copyright protection requires a work to reflect the author's 'own intellectual creation', emphasising that even short textual extracts may qualify if they result from 'free and creative choices' by a human author.⁶⁸ This threshold was further refined in *Cofemel – Sociedade de Vestuário SA v G-Star Raw CV*, where the Court clarified that originality demands the expression of the author's 'personality' through creative freedom, effectively excluding purely algorithmic outputs.⁶⁹ The CJEU's jurisprudence underscores that AI systems, as non-human entities, cannot exercise such creative autonomy.

This human-centric framework is reinforced by legislative and policy instruments. The 2020 European Parliament Resolution on intellectual property rights for AI technologies explicitly rejected proposals to grant legal personhood to AI systems, affirming that copyright remains contingent on human authorship.⁷⁰ The resolution further emphasised that works generated autonomously by AI should remain in the public domain, reserving copyright protection for human-AI collaborations where human creativity dominates. For instance, the EU's Copyright Directive (2019/790) avoids addressing AI authorship directly but implicitly reinforces the human-centric model through provisions safeguarding 'authors' rights' in data mining exceptions (Article 4), which apply only to lawful access by human researchers.⁷¹

⁶⁸ Case C-5/08 *Infopaq International A/S v Danske Dagblades Forening* EU:C:2009:465.

⁶⁹ Case C-683/17 *Cofemel – Sociedade de Vestuário SA v G-Star Raw CV* EU:C:2019:924

⁷⁰ European Parliament Resolution 2020/2014(INL) on Intellectual Property Rights for the Development of Artificial Intelligence Technologies (20 October 2020) para 16.

⁷¹ Directive (EU) 2019/790 on Copyright and Related Rights in the Digital Single Market [2019] OJ L 130/92, art 4.

Despite this clarity, debates persist about borderline cases. Scholars such as Guadamuz argue that the EU's rigidity risks stifling innovation, as investments in AI-generated content lack incentives without copyright protection.⁷² Conversely, Hugenholtz contends that expanding copyright to AI would dilute the fundamental link between authorship and human creativity, a cornerstone of continental moral rights traditions.⁷³ These tensions highlight the EU's cautious balancing act: preserving human authorship norms while acknowledging AI's growing role in creative processes.



3.1.2 United States Approaches

US copyright law adopts an unequivocal stance: only works created by human authors qualify for protection. Section 102(a) of the Copyright Act limits protection to 'original works of authorship', with the Supreme Court affirming in *Feist Publications, Inc. v Rural Telephone Service Co.* that originality requires 'minimal creativity' attributable to a human author.⁷⁴ This principle was starkly applied in *Naruto v Slater*, where the Ninth Circuit held that a photograph taken by a crested macaque could not be copyrighted, as non-human creators lack legal standing.⁷⁵

The US Copyright Office has consistently extended this reasoning to AI. In its 2022 *Policy Statement on AI-Generated Works*, the Office clarified that AI outputs are unprotected unless humans contribute 'creative control' beyond mere prompts.⁷⁶ This policy was tested in *Thaler v Perlmutter*, where the District Court for the District of Columbia upheld the denial of copyright registration for the AI-generated artwork 'A Recent Entrance to Paradise', stating that 'human authorship is a bedrock requirement'.⁷⁷ However, the Office permits protection for human-AI collaborative works where human input is substantial. For example, in *Zarya of the Dawn*, a graphic novel incorporating AI-generated images, registration was granted only after the applicant demonstrated significant human curation and editing.⁷⁸

Critics, such as Ginsburg and Budiardjo, argue that the US's rigid adherence to human authorship fails to address economic realities, where AI-generated content drives commercial value.⁷⁹ Conversely, Samuelson warns that recognising AI as an author would destabilise copyright's

⁷² Andres Guadamuz, 'Artificial Intelligence and Copyright' (2017) 28(1) *WIPO Journal* 14, 19.

⁷³ P Bernt Hugenholtz, 'The Great Copyright Robbery: Rights Allocation in the AI Era' (2021) 33 *EIPR* 229, 233.

⁷⁴ *Feist Publications, Inc v Rural Telephone Service Co.*, 499 US 340 (1991) 345.

⁷⁵ *Naruto v Slater*, 888 F 3d 418 (9th Cir 2018) 420.

⁷⁶ US Copyright Office, *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence* (16 March 2023) 3.

⁷⁷ *Thaler v Perlmutter*, Civil Action No 22-1564 (BAH) (DDC 18 August 2023) 8.

⁷⁸ US Copyright Office, *Registration Decision on Zarya of the Dawn* (21 February 2023) 2.

⁷⁹ Jane C Ginsburg and Luke Budiardjo, 'Authors and Machines' (2019) 34 *Berkeley Tech LJ* 343, 358.

incentive structure, which is designed to reward human creativity.⁸⁰ The US approach thus prioritises doctrinal consistency over flexibility, leaving AI-generated works in the public domain unless demonstrably shaped by human agency.

3.1.3 United Kingdom Approaches

The UK's Copyright, Designs and Patents Act 1988 (CDPA) uniquely accommodates AI through section 9(3), which deems 'computer-generated works'—those created without human authorship—to be authored by 'the person by whom the arrangements necessary for the creation of the work are undertaken'.⁸¹ This provision, introduced during the 1980s debates over early AI systems, assigns authorship to programmers, operators, or commissioners of AI tools. For instance, in *Nova Productions Ltd v Mazooma Games Ltd*, the Court of Appeal held that a programmer's input in designing a pool game's algorithmic mechanics satisfied the 'arrangements' requirement, granting copyright to the software developer.⁸²

However, the CDPA's framework faces modern challenges. The lack of judicial interpretation of 'computer-generated' in the context of generative AI creates ambiguity. Scholars like Davies question whether highly autonomous systems like GPT-4, which operate without direct human intervention post-training, qualify under section 9(3).⁸³ Additionally, the 50-year protection term for such works (under section 12(7)) is significantly shorter than the life-plus-70 standard, reflecting Parliament's intent to limit rights for non-human creations.⁸⁴

The UK's approach has drawn mixed reactions. Bainbridge praises its pragmatic recognition of AI's economic value, ensuring rights clarity for investors.⁸⁵ Conversely, Hilty et al. criticize the vagueness of 'arrangements necessary', arguing that it risks over-broadening authorship claims to distant contributors like dataset providers.⁸⁶ The UK's experiment remains a critical reference point for jurisdictions seeking to balance innovation with human-centric copyright principles.



⁸⁰ Pamela Samuelson, 'Allocating Ownership Rights in Computer-Generated Works' (1986) 47 *U Pitt L Rev* 1185, 1210.

⁸¹ Copyright, Designs and Patents Act 1988 (UK) c 48 s 9(3).

⁸² *Nova Productions Ltd v Mazooma Games Ltd* [2007] EWCA Civ 219, [42].

⁸³ John Davies, 'AI and the Concept of Authorship' (2022) 44 *EIPR* 135, 141.

⁸⁴ Copyright, Designs and Patents Act 1988 (UK) c 48 s 12(7).

⁸⁵ Stephen Bainbridge, *The Law of AI Ownership* (Cambridge University Press 2021) 89.

⁸⁶ Reto Hilty, Zorina Khan and Lucie Guibault, 'AI and IP: A Comparative Analysis' (2023) 54 *IIC* 1, 15.

3.1.4 China's Judicial Evolution

China's Copyright Law (2020 Amendment) does not explicitly address AI, but judicial rulings reveal a pragmatic, case-specific approach. In *Tencent v Yingxun* (2019), the Shenzhen Nanshan District Court granted copyright to an AI-generated financial report produced by Tencent's 'Dreamwriter' software.⁸⁷ The court emphasized that human programmers designed the article templates and data parameters, satisfying the originality requirement under Article 3. This contrasted with *Baidu v Shanghai Yingxun* (2019), where the Beijing Internet Court denied protection for an AI-generated analytical report, ruling that the 'mechanical arrangement' of data lacked human intellectual input.⁸⁸

These divergent outcomes reflect China's balancing of technological advancement with socialist legal principles. Scholars like Li and Xue attribute the *Tencent* decision to China's strategic prioritization of AI industries under the 'New Generation AI Development Plan' (2017), which encourages innovation through flexible IP enforcement.⁸⁹ Conversely, Zhang warns that inconsistent rulings risk legal uncertainty, urging legislative amendments to clarify thresholds for human contribution.⁹⁰

Notably, China's National Copyright Administration (NCAC) issued draft guidelines in 2023 proposing that AI-generated content may qualify for protection if it reflects 'original intellectual input' by humans, such as selecting training data or refining outputs.⁹¹ While non-binding, these guidelines signal a potential shift toward a hybrid model, blending EU-style human-centricity with the UK's recognition of indirect contributions.

3.2 Key Takeaways for Kazakhstan

It is imperative that Kazakhstan address the ambiguity surrounding AI-generated works through clear statutory definitions. By explicitly defining "AI-generated works" as those produced autonomously or semi-autonomously by software without direct human authorship, legislators would eliminate the current grey zone that leaves creators and users uncertain of their rights. Drawing inspiration from the UK's notion of "computer-generated works,"⁹² this clarity would not only streamline ownership determinations but also signal to investors and developers that the legal environment is predictable and supportive of innovation.

⁸⁷ *Tencent v Yingxun* (Shenzhen Nanshan District Court, Civil Judgment No 0307 (2019)) (24 December 2019).

⁸⁸ *Baidu v Shanghai Yingxun* (Beijing Internet Court, Civil Judgment No 019 (2019)) (25 January 2019).

⁸⁹ Li Ming and Xue Hong, 'AI Copyright in China: A Policy-Driven Approach' (2020) 15 *JIPLP* 890, 895.

⁹⁰ Zhang Wei, 'Judicial Uncertainty in AI Copyright Cases' (2021) 12 *China Law Review* 45, 49.

⁹¹ National Copyright Administration of China, *Draft Guidelines on Copyright Protection for AI-Generated Works* (June 2023) art 2.

⁹² Copyright, Designs and Patents Act 1988 (UK) c 48 s 9(3).

At the same time, any reform must preserve the primacy of meaningful human creativity. Rather than granting blanket protection to any output merely assisted by AI, Kazakhstan should require a demonstrable threshold of human intervention—such as the design of prompts, the selection and refinement of outputs, or the tuning of algorithmic parameters—before a work qualifies for copyright. This “substantial creative input” standard, championed in recent US guidance,⁹³ strikes a balance between encouraging human ingenuity and acknowledging the collaborative potential of AI tools.

Ownership of purely AI-generated content also merits attention. Adopting a tailored version of the UK’s “arranging person” doctrine would allow rights to vest in the individual or entity that orchestrates the creative process—be it through programming, data curation, or operational oversight.⁹⁴ Such an approach recognizes that those who deploy and manage AI systems contribute indispensable creative labor, while still preventing passive investors or data providers from claiming authorship. Clear criteria should delineate who qualifies as an “arranging person,” ensuring that rewards accrue only to genuine contributors.

Reformers must also consider the appropriate duration and scope of protection for AI-generated works. A reduced term—say, fifty years from creation—would align with the public interest in expanding the public domain, while preserving incentives for continued innovation. Moreover, moral rights such as attribution and integrity, which are deeply rooted in the notion of personality and creative intent, should remain exclusive to human authors and not extend to machine outputs.

Beyond substantive rules, procedural and doctrinal flexibility will determine how effectively the law adapts to unforeseen technological advances. Kazakhstan’s judiciary could issue guidelines emphasizing a case-by-case inquiry into the degree of human involvement, akin to approaches taken in China’s recent AI copyright rulings.⁹⁵ Such flexibility ensures that courts are not bound by rigid categories but can apply core principles—originality, human agency, and creative choice—to novel scenarios.

Harmonization with international obligations is equally important. Any statutory innovation must respect the Berne Convention’s requirement of human authorship,⁹⁶ while remaining open to evolving interpretations. Active participation in WIPO’s dialogues on AI and IP will help Kazakhstan shape, and stay abreast of, emerging global norms. This engagement also

⁹³ US Copyright Office, *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence* (16 March 2023) 3.

⁹⁴ *ibid* s 9(3).

⁹⁵ National Copyright Administration of China, *Draft Guidelines on Copyright Protection for AI-Generated Works* (June 2023) art 2.

⁹⁶ Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 24 July 1971), art 2.

fosters confidence among trading partners that Kazakhstan's reforms will be reciprocally recognized.

Finally, the development of limited exceptions for text-and-data mining—allowing AI developers to analyze copyrighted works for training under transparency and reporting conditions—would promote home-grown AI research without undermining creators' rights. A mandatory disclosure regime for AI-generated content, requiring clear labelling when works are produced or substantially assisted by AI, would further enhance transparency and public trust.

In sum, by combining precise definitions, a human-centric creativity threshold, the “arranging person” doctrine, tailored protection terms, judicial flexibility, and carefully calibrated exceptions, Kazakhstan can craft a forward-looking copyright framework. Phased implementation—beginning with pilot projects in sectors such as journalism and digital art—will allow legislators and stakeholders to evaluate outcomes before full-scale adoption. Through such deliberate, evidence-based reform, Kazakhstan can position itself as a regional leader in harmonizing human creativity and AI autonomy.

Conclusion of Chapter III

The global examination of AI-generated content reveals a spectrum of legal approaches, each grappling with the tension between technological innovation and traditional copyright principles. The European Union and United States anchor their frameworks in *human authorship*, requiring works to reflect human creativity, as articulated in *Infopaq* and *Feist*. The UK's pragmatic “*arranging person*” doctrine (CDPA §9(3)) and China's case-specific judicial pragmatism (*Tencent v Yingxun*) illustrate alternative models that assign rights to human contributors orchestrating AI systems. These jurisdictions underscore a shared priority: preserving human agency as the cornerstone of copyright, even as they diverge in accommodating AI's role.

For Kazakhstan, the path forward lies in synthesizing these insights. Legislative clarity—defining AI-generated works and establishing thresholds for human creativity (e.g., prompt design, output refinement)—is critical to resolving ambiguities. Adopting a UK-style attribution model for rights holders who enable AI creation, coupled with reduced protection terms (e.g., 50 years), would balance innovation incentives with public domain access. Judicial flexibility, informed by China's case-by-case evaluation of human input, can address evolving scenarios while aligning with the *Berne Convention's* human-centric norms.

Ultimately, Kazakhstan's reforms must foster an ecosystem where AI augments human creativity without displacing it. By integrating precise definitions, calibrated exceptions for AI training, and transparency measures (e.g., mandatory AI-content labeling), the nation can position

itself as a regional leader in navigating the AI-copyright nexus—upholding the integrity of authorship while embracing technological progress.

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CHAPTER IV PROPOSED AMENDMENTS TO KAZAKHSTANI COPYRIGHT LAW

The rapid advancement of artificial intelligence (AI) has introduced significant challenges to the traditional framework of copyright law. In Kazakhstan, the Law of the Republic of Kazakhstan on Copyright and Related Rights 1996 defines an author as a natural person who creates a work, thereby excluding AI-generated content from traditional copyright protection.⁹⁷ As AI technologies increasingly contribute to creative outputs, such as literature, music, and visual arts, there is an urgent need to reform Kazakhstani copyright law to ensure clarity in authorship, ownership, and protection of such works.

The current legal regime fails to adequately recognize or account for the complexities introduced by machines capable of creative output. The human-centric definition of authorship creates uncertainty about who should own the rights to works generated by AI, whether it be the developer, the user, or another party. This ambiguity can deter investment in AI-driven creative processes and leave valuable creations unprotected. Moreover, the rise of AI-generated content raises ethical and legal questions about ownership, attribution, and the balance between protecting human creativity and encouraging technological progress. A multi-faceted approach is required to address these challenges, encompassing legal reforms, ethical guidelines, and international cooperation.⁹⁸

These reforms are essential not only to protect human creativity but also to incentivize innovation in AI technologies. By updating its copyright law, Kazakhstan can position itself as a forward-thinking jurisdiction in the global intellectual property landscape, ready to embrace technological advancements while ensuring that creative rights are preserved. This chapter proposes amendments to address these issues, drawing on comparative models from other jurisdictions and tailoring solutions to Kazakhstan's legal and cultural context.

4.1 Comparative Analysis of AI Copyright Laws

To inform the proposed amendments, it is useful to examine how other jurisdictions have addressed the issue of AI-generated content. Legal scholarship identifies six primary models for handling authorship and ownership of such works, each with its own strengths and weaknesses:

⁹⁷ Law of the Republic of Kazakhstan on Copyright and Related Rights (1996) art 2.

⁹⁸ S Kreps, Artificial Intelligence Impacts on Copyright Law (RAND Corporation, 2024)

Model	Description	Strengths	Weaknesses
AI as Author	Recognizes AI as the legal author of its creations.	Theoretically acknowledges AI's creative role.	Impractical due to AI's lack of legal personhood; no jurisdiction adopts this.
Absolute Human Authorship	Only human-created works are copyrightable; AI works are in the public domain.	Maintains traditional copyright principles; clear and simple.	May discourage AI innovation; ignores reality of AI contributions.
Work-for-Hire Proxy	Attributes authorship to the person or entity controlling the AI.	Ensures a human rights-holder; incentivizes AI use (e.g., UK model).	May oversimplify AI's role; disputes over who controls the AI.
Human-AI Co-Authorship	Lists both human and AI as co-authors.	Acknowledges both contributions; tested in India.	AI lacks legal agency; difficult to define joint contributions.
Public Domain Approach	AI-generated works without human input are in the public domain.	Promotes free access to AI creations; avoids monopolies.	Reduces incentives for AI development; may undervalue AI outputs.
Sui Generis Rights	Creates a new type of right for AI-generated works, separate from copyright.	Flexible; avoids disrupting traditional copyright (e.g., EU database rights).	Complex to design; risks overlapping protections and confusion.

The United Kingdom's approach, under section 9(3) of the *Copyright, Designs and Patents Act 1988*, offers a pragmatic model. It designates the person who makes the necessary arrangements for a computer-generated work as the author, ensuring a human rights-holder while acknowledging the machine's role.⁹⁹ This model provides legal certainty and economic incentives, as it allows the human responsible for the AI's operation to exploit the rights. In contrast, the United States maintains a strict human-authorship requirement, denying copyright to fully AI-generated works, which may limit protection for innovative outputs.¹⁰⁰

⁹⁹ Copyright, Designs and Patents Act 1988 (UK) s 9(3).

¹⁰⁰ U.S. Copyright Office, 'Copyright and Artificial Intelligence'.

India has experimented with co-authorship, as seen in a case where the Copyright Office recognized an AI tool (RAGHAV) as a co-author alongside a human.¹⁰¹ However, this approach raises conceptual challenges, as AI lacks the intention required for joint authorship under traditional copyright principles. The public domain and sui generis models, while theoretically appealing, may either disincentivize investment or complicate existing legal frameworks, respectively.

Kazakhstan can draw on the UK's model as a balanced approach, adapting it to its legal culture and policy goals. This would involve recognizing a human surrogate author for AI-generated works, ensuring continuity with existing copyright principles while addressing technological realities. The comparative analysis highlights the need for a model that balances legal clarity, economic incentives, and the protection of human creativity.

4.2 Proposed Amendments to the Law

The rapid advancement of artificial intelligence (AI) technologies has introduced significant challenges to traditional copyright frameworks worldwide, particularly in defining authorship, ownership, and the scope of protection for works generated by AI. In Kazakhstan, the Law of the Republic of Kazakhstan on Copyright and Related Rights (1996) provides a robust foundation for protecting intellectual property but lacks explicit provisions addressing AI-generated works. This gap creates legal uncertainties that could hinder innovation, leave creators unprotected, or lead to disputes over ownership. To address these challenges, this subchapter proposes amendments to the Law on Copyright and Related Rights, drawing on comparative insights from jurisdictions such as the United Kingdom and the United States, while tailoring solutions to Kazakhstan's legal, cultural, and technological context. These amendments aim to modernize Kazakhstan's copyright framework, ensuring it supports both human creativity and AI-driven innovation.

The first proposed amendment focuses on expanding the definition of "author" under Article 2 of the Law on Copyright and Related Rights. Currently, the law defines an author as an individual whose creative work results in a scientific, literary, or artistic creation, as outlined in subparagraph 2 of Article 2. However, this definition does not account for works produced autonomously by AI without human co-authorship. To resolve this ambiguity, Article 2 should be amended to include a provision stating that, for works generated by AI without a human co-author, the author shall be deemed to be the person who created the conditions for,

¹⁰¹ M Jiang (n 3): *Copyright, Designs and Patents Act 1988* (UK) s 9(3).

or made the necessary arrangements for, the creation of the work. This could encompass the AI's developer, owner, or the user who initiates the generation of the work, with priority given to the user who provides the input or prompt. This approach is inspired by the UK's Copyright, Designs and Patents Act 1988, which, under Section 9(3), designates the person who made the necessary arrangements for a computer-generated work as its author. By adopting this surrogate authorship model, Kazakhstan can ensure that every protected work has an identifiable rights-holder, clarifying ownership and facilitating the enforcement of copyright in legal and commercial contexts.

The second amendment proposes the introduction of a new definition for "AI-generated works" to provide clarity and consistency in legal application. The absence of such a definition in the current law creates uncertainty about when traditional authorship principles should apply versus when special rules for AI-generated works are required. A proposed definition could describe AI-generated works as "creations produced by artificial intelligence where human involvement is minimal." This definition would help distinguish purely AI-generated works from those involving substantial human creative input, such as AI-assisted works where a human guides or refines the output. By clearly delineating these categories, the law can ensure that courts, creators, and businesses understand the applicable rules, reducing the risk of disputes and fostering confidence in the legal framework. This proposal aligns with international discussions, such as those in academic literature, which emphasize the need for clear definitions to address the unique nature of AI-generated content.

The third amendment addresses the term of protection and the application of moral rights for AI-generated works. Unlike human-authored works, which are protected for the author's lifetime plus 70 years under the current Kazakhstani law, AI-generated works lack the personal expression typically associated with human creativity. To reflect this distinction, the term of protection for AI-generated works should be set at a fixed period, such as 50 years from the date of creation or first publication, whichever occurs earlier. This approach follows the UK's model for computer-generated works under Section 12(7) of the Copyright, Designs and Patents Act 1988, which provides a 50-year term from publication. Additionally, moral rights—such as the right to attribution and the right to object to derogatory treatment—should be limited or vested in the surrogate human author designated under the expanded definition of author. Moral rights are intrinsically tied to the personality and creative intent of human authors, and extending them fully to AI-generated works could lead to overprotection, potentially stifling innovation or creating impractical obligations. By adjusting these terms, Kazakhstan can balance

the need to incentivize AI development with the goal of preventing excessive monopolies over automated outputs.

The fourth amendment emphasizes the preservation of originality requirements to maintain the integrity of copyright protection. The law should explicitly stipulate that copyright protection for AI-assisted or AI-generated works subsists only where there is a modicum of human creative input in devising, guiding, or refining the work. This requirement ensures that copyright rewards human creativity, even in collaborations with AI, and prevents the protection of purely mechanical or automated outputs that lack originality.

A critical issue arises concerning how the law defines and assesses the extent of human contribution necessary for copyright protection. To address this effectively, Kazakhstan's copyright law could specify clear criteria or guidelines for evaluating human creativity in AI-assisted or AI-generated contexts. These criteria may include:

- 1) **Originality of Concept and Vision:** The human author should contribute significantly to the conceptualization or underlying creative vision of the work. Merely initiating a process or providing a basic prompt to an AI should not suffice; there must be demonstrable originality or creative judgment in setting objectives, themes, or conceptual boundaries.
- 2) **Creative Control and Decision-making:** Assessment should consider the degree of creative decision-making exercised by the human author during the creation process. This includes directing the development, making aesthetic or substantive choices, and providing meaningful input that influences the creative outcome beyond basic functionality or mechanical procedures.
- 3) **Refinement and Editing:** Human creativity may also manifest through substantial editing, refinement, or transformation of AI-generated outputs. Significant human effort in modifying or enhancing AI-produced material, particularly in ways that alter expressive or aesthetic elements, should satisfy originality requirements.

To facilitate practical evaluation, the law could encourage or require documentation detailing the extent and nature of human contributions, such as evidence of creative choices, iterations, editing processes, or specific interventions made by human authors. Clear definitions and robust assessment guidelines will enable courts and copyright authorities to fairly determine copyright eligibility, enhancing predictability and fairness in legal outcomes.

This principle aligns with international standards, notably those upheld in the United States, where the U.S. Copyright Office requires demonstrable human authorship and creative expression for copyright

protection eligibility. For example, the U.S. Copyright Office explicitly distinguishes between purely automated outputs and AI-assisted works that incorporate substantial human creative inputs. By codifying similar detailed criteria, Kazakhstan can effectively align its copyright framework with global norms, safeguard the rights of human creators, and ensure that copyright protection continues to serve as an incentive for genuine creative effort.

These proposed amendments collectively aim to strike a balance between recognizing the transformative potential of AI and upholding the human-centric foundations of copyright law. By designating a human surrogate author, Kazakhstan can ensure that AI-generated works are not left unprotected, addressing the current gap in the law where AI cannot be considered a copyright holder due to its non-human status. The introduction of a clear definition for AI-generated works reduces uncertainty, enabling courts and stakeholders to apply the law consistently. Adjusting the term of protection and moral rights acknowledges the distinct nature of AI creations, preventing overprotection that could hinder innovation or create undue burdens on users. Finally, preserving originality requirements ensures that copyright continues to reward human creativity, even as AI tools become more prevalent in creative processes.

The implementation of these amendments will require careful consideration of Kazakhstan's broader legal and technological landscape. For instance, the Ministry of Justice could issue interpretive guidelines to assist courts in applying the new provisions, including hypothetical scenarios to clarify disputes between users and developers over AI-generated works. Additionally, Kazakhstan could engage with international organizations, such as the World Intellectual Property Organization, to harmonize its approach with emerging global standards, such as those being developed in the UK's Copyright, Designs and Patents Act 1988 or China's judicial rulings on AI-generated content. Public consultations with technologists, legal experts, and creative industries would also ensure that the amendments reflect the needs of all stakeholders.

These reforms position Kazakhstan as a forward-thinking jurisdiction in the global intellectual property landscape, capable of embracing technological advancements while protecting creative rights. By addressing the challenges posed by AI-generated content, Kazakhstan can foster an environment that supports both human creativity and technological innovation, ensuring that its copyright framework remains adaptable to future developments in the digital age.

4.3 Assessing the Impact of Proposed Changes

The adoption of the foregoing amendments is expected to yield multifaceted effects across Kazakhstan's legal, commercial and creative landscapes. First, by expanding the definition of “author” to include the person who makes the necessary arrangements for AI-generated works, the law would deliver much-needed legal certainty. Surrogate authorship clarifies rights-holding in instances where AI operates autonomously, thereby reducing disputes over ownership and facilitating enforcement actions. Courts and practitioners will gain a clear statutory reference point, mirroring the certainty achieved in the United Kingdom under CDPA 1988 s 9(3),¹⁰² and thereby lowering transaction costs associated with licensing and dispute resolution.

Second, the introduction of a specific definition for “AI-generated works” strengthens doctrinal coherence by delineating the boundary between human-authored and machine-authored content. This clarity promotes consistent judicial interpretation and regulatory oversight. Businesses can adapt compliance strategies more efficiently, knowing precisely which creations attract the standard human-centric regime and which fall within the special AI-work category. Such predictability is likely to encourage investment in AI technologies, as stakeholders will be able to assess risk with greater accuracy.

Third, the recalibration of the term of protection and moral rights for AI-generated works balances incentivization with public interest. A fixed 50-year term from creation or first publication, as per CDPA 1988 s 12(2),¹⁰³ aligns incentives for ongoing innovation whilst preventing perpetual private monopolies that could stifle downstream creativity. Limiting moral rights to the designated surrogate author acknowledges the personal character of attribution without imposing impractical obligations on purely automated outputs. This approach mitigates the risk of “over-protection” critiques, whereby excessively prolonged or expansive moral rights impede the fluid dissemination of knowledge.¹⁰⁴

Fourth, codifying a requirement for human creative input preserves the fundamental rationale of copyright as a reward for personal intellectual effort. By excluding purely mechanical or random outputs, the law upholds the originality threshold long recognised by the U.S. Copyright Office's AI guidance, which insists on “sufficient human authorship” for registration.¹⁰⁵ This maintains the integrity of Kazakhstan's copyright system and aligns it

¹⁰² Copyright, Designs and Patents Act 1988, s 9(3).

¹⁰³ *ibid*, s 12(2).

¹⁰⁴ P Bernt Hugenholtz, ‘The Great Copyright Robbery: Rights Allocation in the AI Era’ (2021) 33 EIPR 229, 233.

¹⁰⁵ U.S. Copyright Office, ‘Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence’ (2023) <https://www.copyright.gov/ai/> accessed 15 April 2025.

with international best practice, thereby enhancing the nation's reputation among trading partners and within global IP forums such as WIPO.

From an economic perspective, these reforms are likely to catalyse the growth of AI-driven creative industries. Clear ownership rules and defined protection terms reduce uncertainty for investors, developers and end-users alike, encouraging commercial experimentation with generative models in fields ranging from advertising to software development. Moreover, by setting balanced protection parameters, Kazakhstan can avoid the “race to the bottom” scenarios where lax regimes deter innovation, or conversely, “proprietary” systems that inhibit creative reuse.¹⁰⁶

Nevertheless, certain challenges warrant attention. Implementing the new regime will require training for judges, examiners and legal practitioners to interpret and apply the surrogate authorship and AI-work definitions correctly. The Ministry of Justice should consider issuing detailed interpretive guidelines, complete with illustrative case studies, to facilitate uniform application and pre-empt divergent case law. Additionally, public consultations and stakeholder workshops—encompassing technologists, right-holders and consumer groups—will be essential to calibrate the practical operation of the amendments and refine secondary regulations.

Finally, the proposed amendments enhance Kazakhstan's alignment with emerging global standards, such as the European Commission's AI Act¹⁰⁷ and the WIPO “Study on Intellectual Property and Artificial Intelligence” (2021).¹⁰⁸ Harmonization will simplify cross-border licensing and enforcement, reducing frictions for Kazakh entities engaging in international collaborations. In sum, these reforms promise to modernize the domestic copyright framework, fostering an environment in which human creativity and AI innovation can thrive in tandem.

Conclusion of Chapter IV

Chapter IV has advanced a cohesive framework for updating Kazakhstan's Copyright Law to address the challenges posed by AI-generated content. Beginning with a comparative review of international models in subchapter 4.1, identified the UK's surrogate-authorship approach as the most practicable balance between legal certainty and innovation incentives. Building on this foundation, Section 4.2 proposed four targeted amendments: expanding the definition of “author” to include the person making the necessary arrangements for AI creations; introducing a clear statutory definition of “AI-generated works”; calibrating

¹⁰⁶ Andrés Guadamuz, ‘Artificial Intelligence and Copyright’ (2017) 28(1) WIPO J 14, 19.

¹⁰⁷ Regulation (EU) 2021/0106 (AI Act) rec 21.

¹⁰⁸ WIPO, ‘Intellectual Property and Artificial Intelligence: Trends and Developments’ (2021) WIPO Doc WO/GA/52/10.

the term of protection and moral-rights regime for such works; and codifying an originality threshold requiring meaningful human input. Subchapter 4.3 then assessed these reforms' anticipated effects—enhanced legal clarity, doctrinal coherence, balanced protection incentives, and economic stimulus—while flagging implementation challenges such as judicial training and stakeholder engagement.

Together, these amendments strike a principled balance between preserving the human-centric foundations of copyright and embracing the transformative potential of AI technologies. By codifying surrogate authorship and clear definitions, Kazakhstan can eliminate existing ambiguities over ownership and ensure that AI creations enjoy appropriate, limited protection. Moreover, calibrated terms of protection and a preserved originality requirement will safeguard human creative effort without unduly restricting technological progress. To realize these benefits, prompt legislative action—supplemented by interpretive guidelines, public consultation and alignment with international instruments (notably the EU AI Act and WIPO recommendations)—will be essential. In sum, the reforms proposed in this chapter position Kazakhstan at the forefront of a forward-looking copyright regime, capable of fostering both human creativity and AI-driven innovation in the digital age.

CONCLUSION

The rapid ascent of artificial intelligence (AI) as a creative and innovative force has profoundly disrupted traditional copyright paradigms, necessitating a fundamental reevaluation of legal frameworks to accommodate the unique characteristics of AI-generated works. In Kazakhstan, the Law of the Republic of Kazakhstan on Copyright and Related Rights (1996) provides a robust foundation for protecting human-authored works but is inadequately equipped to address the complexities introduced by AI's autonomous creative capabilities. The human-centric definition of authorship, while aligned with international treaties such as the Berne Convention, creates legal ambiguities regarding the ownership, protectability, and liability of AI-generated outputs, posing risks to innovation, investment, and the nation's digital transformation objectives.

This dissertation has systematically analyzed these challenges, proposing a cohesive set of legislative reforms to modernize Kazakhstan's copyright regime, ensuring it fosters both human creativity and AI-driven innovation while maintaining alignment with global IP standards.

Through a rigorous examination of domestic and international perspectives, the study has illuminated the multifaceted nature of the problem. Chapter I clarified the typology of AI-generated works, emphasizing the critical distinction between AI-assisted and AI-generated creations and the central role of human input in determining their eligibility for IP protection. Comparative insights from jurisdictions like the US, UK, and EU highlighted varying approaches to authorship and originality, underscoring the need for nuanced legal frameworks. Chapter II traced the evolution of Kazakhstan's copyright law, from its Soviet collectivist roots to its current compliance with international obligations, revealing legislative gaps that exclude AI-generated works from protection. The absence of provisions addressing non-human authorship, coupled with ambiguous originality and liability standards, has resulted in judicial inconsistency, as evidenced by cases such as *Akhmetov v. DataSoft* and *KazCode v. AI Corp.* Chapter III provided a global perspective, synthesizing lessons from the EU's human-centric originality standard, the UK's surrogate authorship model under the Copyright, Designs and Patents Act 1988, the US's strict human-authorship requirement, and China's pragmatic judicial rulings, such as *Tencent v. Yingxun*. These analyses informed Chapter IV, which proposed four targeted amendments: redefining "author" to include the person making necessary arrangements for AI-generated works, introducing a statutory definition for "AI-generated works," setting a fixed 50-year protection term, and codifying a human creativity threshold for originality.

The proposed reforms strike a principled balance between embracing technological progress and preserving the human essence of authorship. By designating surrogate human authors, Kazakhstan can ensure that AI-

generated works are protected, clarifying ownership and incentivizing investment in AI technologies. The introduction of a clear definition for AI-generated works enhances doctrinal coherence, enabling consistent judicial application and reducing disputes. A recalibrated 50-year protection term, inspired by the UK model, balances innovation incentives with public domain access, while limiting moral rights to human authors preserves the personal nature of attribution and integrity. The emphasis on human creative input as a prerequisite for protection aligns with international best practices, as seen in the US Copyright Office's guidance, ensuring that copyright remains a reward for intellectual effort. These amendments, supported by interpretive guidelines and stakeholder consultations, promise to enhance legal certainty, stimulate economic growth in AI-driven industries, and position Kazakhstan as a regional leader in IP law.

Implementation challenges, such as the need for judicial training and public awareness, must be addressed to ensure the reforms' efficacy. The Ministry of Justice should issue detailed guidelines, including hypothetical scenarios, to facilitate uniform application, while engagement with WIPO and other international bodies will ensure harmonization with emerging standards, such as the EU's AI Act and China's draft copyright guidelines. Public consultations with technologists, creators, and legal practitioners will further refine the framework, ensuring it reflects Kazakhstan's cultural and economic context. By adopting a phased approach—piloting reforms in sectors like digital art and journalism—Kazakhstan can evaluate outcomes and adjust policies before full-scale adoption.

In conclusion, this dissertation offers a forward-looking blueprint for reforming Kazakhstan's copyright law to navigate the AI-copyright nexus. By synthesizing global insights and tailoring solutions to domestic needs, the proposed amendments address the legal, ethical, and economic challenges posed by AI-generated works, fostering an ecosystem where human creativity and technological innovation can thrive in tandem. Prompt legislative action, underpinned by robust implementation strategies, will enable Kazakhstan to uphold the integrity of authorship while embracing the transformative potential of AI, thereby cementing its position as a pioneer in the global IP landscape.

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