UiO : Department of Private Law
University of Oslo

Artificial Intelligence and Copyright - Ownership

EU copyright, quo vadis?

From the EU copyright package to the challenges of Artificial Intelligence

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Professor dr. juris Ole-Andreas Rognstad

AI and Copyright – Ownership Problems

- AI – wide and ambiguous concept

- Principled approach: Ownership issue conceptually not problematic as long as there is a causal relationship between the copyrightable 'input' and the result

- For 'strong' AI systems: The causal link is weaker and the ownership issue more problematic

Current Legal Situation (EU)

- No ownership (authorship) if the creative choices are undertaken by the AI system and not a human creator

- Follows from the concept of 'authorship' implicit in the CJEU case law

- But also from the fact that AI systems are not legal entities

- The latter situation hardly different for 'computer generated works-solutions' (eg. UK/Ireland)

Alternatives to 'no ownership'

- (1) Ownership allocated to the AI system
    - Objection # 1: The AI system needs no incentives to create
    - Objection # 2: AI systems should not be accepted as legal entities

Alternatives to 'no ownership'

- (2) Work Made for Hire-solution
  - 'US suggestions': Adjustment of the WMFH based on the premise (construction) that the AI system is 'employed'
  - But different views as to who is the employer
  - Solution not particular suitable for European law. Introduction of 'sui generis solutions' instead?

Alternatives to 'no ownership'

- (3) Allocation of rights to the producer of AI systems
    - If so, who?: Software producer, hardware producer, input providers, joint ownerships?

- (4) Allocation of rights to the owner of AI systems

- (5) Allocation of rights to the user of AI systems

- And what about the terms of protection?

Justification of copyright to works created by AI systems

- Incentive and/or labor claims; no personality claims

- Who have the justified claims; producers, owners or users?

- Proof problems: Argument in favor of rights allocation to users?

- Is there a need for new ownership rules?
    - Or should AI creations fall under the public domain with possibilities to invoke national rules 'outside' of the copyright sphere (eg. unfair competition rules)?