



ARTICLE

FIRST RULING BY A US COURT FOR AI-GENERATED CONTENT AND COPYRIGHT PROTECTION:

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PROPRIÉTÉ INTELLECTUELLE

On August 18, 2023, a District Court in Columbia issued a groundbreaking ruling concerning the copyright eligibility of content generated by an AI system. In a meticulously reasoned judgment, the court held that a work entirely created by an AI cannot be protected under copyright law. The case involved Stephen Thaler, the CEO of Imagination Engines, in a legal dispute with the US Copyright Office.

In this case, Stephen Thaler presented himself as the developer and proprietor of a software known as the "Creativity Machine," an AI with the capability to produce visual content. Following his request, this AI generated an image titled "A Recent Entrance to Paradise" (see attached reproduction). Subsequently, Stephen Thaler endeavored to register this creation with the US Copyright Office, designating the AI system as the author and himself as the holder of the copyright, which he asserted had been conveyed to him through the *work-for-hire* doctrine.

Nevertheless, the US Copyright Office dismissed his copyright application on the basis that the work had not originated from a human author, a prerequisite stipulated by the Office for the bestowal of copyright safeguard under US law. Stephen Thaler challenged this refusal of protection before the District Court in Columbia, culminating in the deliberated decision.

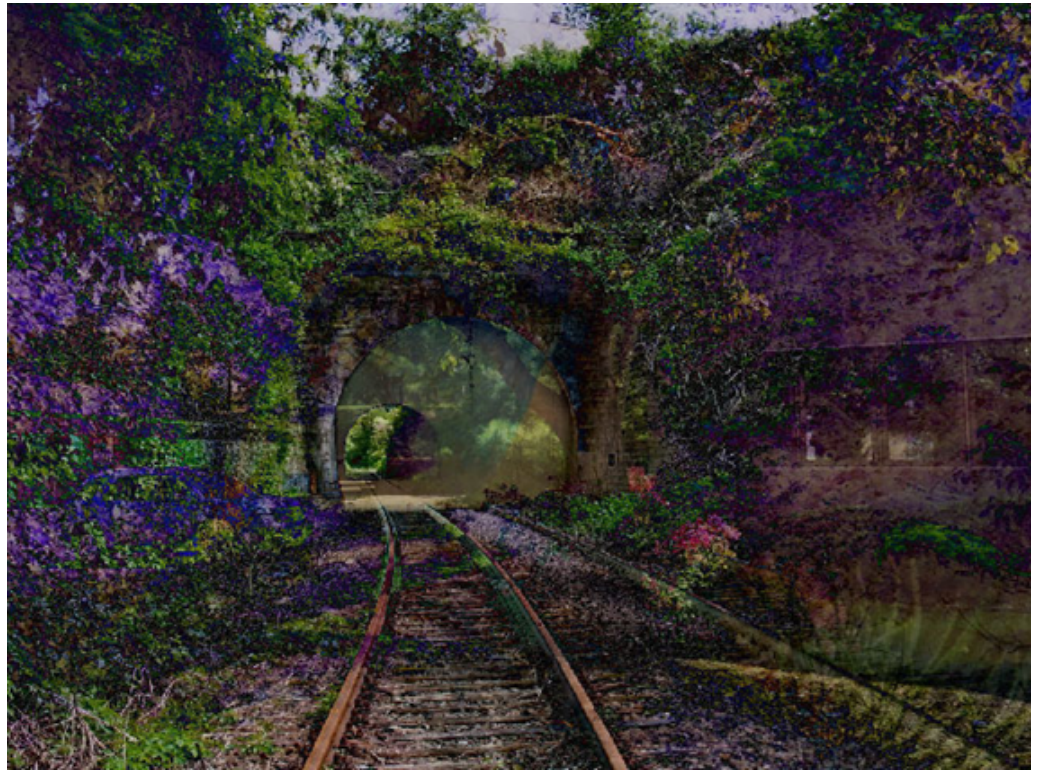
The central quandary in this case revolved around whether a creation wholly produced by an AI system, devoid of any human intervention, is entitled to copyright protection.

In its verdict, the US court indicated that while "*copyright law has demonstrated its adaptability in safeguarding works engendered by, or intertwined with, emerging technologies,*" the court asserted that "*human authorship remains an essential precondition of copyright law.*" Consequently, in the absence of human input, a work exclusively generated by an AI cannot avail itself of copyright protection under prevailing US law.

Significantly, within the judgment, the court underscored its observations on the novel challenges presented by AI's engagement in the domain of artistic creation. The court acknowledged that the escalating utilization of AI and the diminishing role of human contribution will give rise to "delicate questions."

The court specifically probed into the degree of human intervention requisite to qualify a user of an AI system as the creator of a work engendered by the algorithm, the ambit of protection conferred upon such a work, and how copyright law can be construed to incentivize artistic expression involving AI utilization.

The impact of this pioneering judgment on European courts, notably those in France, when confronted with analogous queries, remains to be witnessed. It's noteworthy that Stephen Thaler intends to challenge this decision from the US District Court, signifying its non-definitive status.



"A Recent Entrance to Paradise," an image generated by the AI Creativity Machine
