

How Artificial Intelligence Generated Content may go against Intellectual Property Rights

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Abstract

Artificial Intelligence, or shortened as AI, has immense ability to generate creative content such as text, images, music, designs and much more. However this raises the question about authorship, authenticity and the ownership of AI generated works. Intellectual property rights (IPR) frameworks may face hardships to accommodate AI driven innovation and production, especially with the lack of laws regarding Artificial Intelligence relating with Intellectual Property Rights, Which necessitates a re-examination of existing laws and regulations. Additionally, the potential of AI to analyze vast amounts of data in the internet and identify patterns, challenges the concept of originality, which is a key criterion for Intellectual Property Rights and protection. However, on the other hand, Artificial Intelligence may boast benefits and actually be a powerful tool for IPR as AI powered systems can effectively analyze large volumes of data to identify potential infringements, streamline patent searches, and enhance IPR monitoring.

Keywords: Artificial Intelligence; generated content; Intellectual Property Rights (IPR)

Abstrak

Kecerdasan Buatan, atau disingkat AI, memiliki kemampuan luar biasa untuk menghasilkan konten kreatif seperti teks, gambar, musik, desain, dan banyak lagi. Namun, hal ini menimbulkan pertanyaan tentang kepengarangan, keaslian, dan kepemilikan karya yang dihasilkan AI. Kerangka kerja hak kekayaan intelektual mungkin menghadapi kesulitan untuk mengakomodasi inovasi dan produksi yang digerakkan oleh AI, terutama dengan kurangnya undang-undang tentang Kecerdasan Buatan yang berkaitan dengan Hak Kekayaan Intelektual, yang memerlukan pemeriksaan ulang terhadap undang-undang dan peraturan yang ada. Selain itu, potensi AI untuk menganalisis sejumlah besar data di internet dan mengidentifikasi pola, menantang konsep orisinalitas, yang merupakan kriteria utama untuk Hak Kekayaan Intelektual dan perlindungan. Namun, di sisi lain, Kecerdasan Buatan dapat membanggakan manfaat dan benar-benar menjadi alat yang ampuh untuk HKI karena sistem yang didukung AI dapat secara efektif menganalisis data dalam jumlah besar untuk mengidentifikasi potensi pelanggaran, menyederhanakan pencarian paten, dan meningkatkan pemantauan HKI.

Kata Kunci: Kecerdasan Buatan; Hak Kekayaan intelektual; Konten Kreatif

A. Introduction

To further understand the effect on Intellectual Property Rights due to the rise of Artificial Intelligence, an understanding on both points should be made to further understand that while this may sound like a small issue, In reality it could be one that would take vast amounts of efforts and time to find a solution for, as it is a simple, yet very complex topic especially with the involvement of the Internet, which is where Artificial Intelligence originates from.

Intellectual property refers to the creation of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce (World Intellectual Property Organization-WIPO). Intellectual Property is protected in law, by for example, patents, copyright and trademarks, which enable people to earn recognition or financial benefit from what they invent or create. By striking the right balance of innovators and the wider public interest, the Intellectual Property system aims to foster an environment in which creativity and innovation can flourish. Intellectual Property shall be understood in the broadest sense and shall apply not only to industry and commerce property, but likewise to agricultural and extractive industries and to all manufactured or natural products. Intellectual Property Rights, are the rights given to people over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creation for a certain period of time (World trade organization).

What exactly is Artificial Intelligence? According to ChatGPT, which is a large language model chatbot powered by Artificial Intelligence and designed to interact with users in a conversational way. So according to a Artificial Intelligence when asked about what a Artificial Intelligence is:

Artificial Intelligence refers to the simulation of human intelligence in machines that are programmed to perform tasks that typically require human intelligence. These tasks include learning, reasoning, problem-solving, understanding language, recognizing patterns, and making decisions.

According to IBM (Contributed by Cole Stryker and Eda Kavlakoglu), Artificial intelligence is a technology that enables computers and machines to simulate human learning, comprehension, problem solving, decision making, creativity and autonomy. In general Artificial Intelligence is technology that simulates and performs tasks which normally requires the intellect of a human, and when the first time I myself have understood about this, I do not see much connection with how Intellectual Property may be affected by this as I thought Artificial Intelligence is going to be for robots to help with basic tasks, However during the time of the outbreak of COVID-19. The majority of the use of Artificial Intelligence has been used for programs such as ChatGPT and DALL-E , which the use of these kinds of programs is for providing users with a fast, automated result of whatever is asked, such as information, data, images and much more.¹

During the rapid progression of Artificial Intelligence. Artificial Intelligence has been used for programs to generate audio, text, images and data. These kinds of generated results could be designs, answers, art. The role of AI in today's digital landscape has been widely used by the world. Whether its for research, for YouTube videos, for movies or even for the knack of it. Artificial Intelligence generated content has been used and taken advantage of for content production.

A study on 2023 by Salesforce has shown that the most common use of Artificial Intelligence for content generation is:

Basic content creation: 71%

Text Data: 76%

Inspiration for creative thinking: 71%

Analyzing Data: 63%

Image generation: 62%

¹ <https://www.ibm.com/topics/artificial-intelligence>

Seven in ten marketers expect generative Artificial intelligence to support us in eliminating time consuming work that can be handled by the AI, thus leading to us being able to focus more on strategic work.²

It is no doubt that Artificial Intelligence is a big help in our lives, whether you have seen your friends use it, seen articles, news or information based on how Artificial Intelligence helps a lot for others, or even you yourself used it before to support you with your work. The advantages of Artificial Intelligence include a highly enhanced efficiency and scalability of the user, as Artificial Intelligence creates content at an inhumane speed which is a huge benefit for people as it saves the time and effort from people, and this includes complex content such as translations or graphic image generation. Artificial Intelligence is also extremely cost effective as a product that is made by a quality creator could cost hundreds whilst Artificial Intelligence could do it for free or at a much lower cost. It is also not surprising that Artificial Intelligence has the ability to minimize human errors ensuring accuracy and consistency, and the fact that Artificial Intelligence has multilingual capabilities as it has the ability to generate content in multiple languages expands the reach of its usability and the content to a possible global audience.³

However, Artificial Intelligence has great advantages which can be easily accessed by the public. Artificial Intelligence has downsides to it as well. Content generated by Artificial Intelligence lacks originality and creativity, as Artificial Intelligence generates its content based on data on the internet, thus its generation is based on existing patterns and data which could lead to repetitive or similar content. This also leads to Artificial Intelligence lacking unique insights since the generated content is always based on existing data, it struggles to produce original idea or innovative perspectives. Artificial Intelligence also suffers from potentially biased content. If the artificial Intelligence uses biased data, it could replicate those biases in

² [https://www.salesforce.com/au/news/stories/generative-ai-statistics/#:~:text=Salesforce's%20research%20found%20the%20leading,customer%20service%20communications%20\(67%25\)](https://www.salesforce.com/au/news/stories/generative-ai-statistics/#:~:text=Salesforce's%20research%20found%20the%20leading,customer%20service%20communications%20(67%25))

³ Niteesh Kumar Upadhyay and Mahak Rathee, "Impact of Artificial Intelligence on Intellectual Property Rights," *Proceedings of International Young Scholars Workshop* 9 (2020): 52–71, <https://doi.org/10.47344/iysw.v9i0.192>.

the generated content, which could lead to unintentional discrimination. Artificial Intelligence also raises ethical concerns, firstly due to the fact that data generated by artificial intelligence could be used as hoaxes to manipulate public opinion or cause concerns based on false information. Secondly, artificial Intelligence raises the concern of the possibility of job losses in content creation industries, some examples of this are article writers, digital artists, video editors, etc. It is to be understood as well that Artificial Intelligence is not perfect and may cause inaccuracies. Since Artificial Intelligence used data that is made by Humans to generate content, it could also generate content that consists of the factual errors or inconsistencies from the source the data has been taken from, as well as at in the current present and at the time of writing this journal, While artificial intelligence has improved significantly overtime. It still may struggle to understand complex topics requested by the user, which could lead to misinformation or wrong generated content.

So, what does Artificial Intelligence has to do with Intellectual Property Rights? Well one of the biggest concerns of Artificial Intelligence Generated content is the quality concerns and the possibility of plagiarism, which includes aspects of Intellectual Property Rights such as copyright for instance. This journal would help us understand the issues of Artificial Intelligence Generated Content and the effect it brings to Intellectual Property Rights

B. Research Method

The research method used in this Journal would be a mix of Qualitative and Quantitative Research method, with both Research methods being used based on the required information during the process of producing this Journal. We will be utilizing different types of approaches and data acquisition methods such as but not limited to: Legal approach, comparative approach, and literature studies during the production of this Journal. This study will have a focus on current relevant legal frameworks in Indonesia such as Law Number 28 Year 2014 and Law Number 13 Year 2016.

C. Analysis and Discussion

Following up on the issue that Artificial Intelligence generated content poses for Intellectual Property Rights. AI Generated content concerns the possibility of plagiarism which would not adhere to Intellectual Property Right laws, such as Copyright. The impact of Artificial Intelligence generated content on plagiarism and copyright is a subject of academic, legal and policy debate which involves a variety of stakeholders from many kinds of entrepreneurs or companies, such as artists and newspaper companies. Artificial Intelligence content from existing data. Therefore, Artificial Intelligence is not creating something brand new, but instead reshaping various existing data to create a new one. With the highly advancements of AI technology, the legislation around Artificial Intelligence needs to be kept updated to remain relevant and useful, However is the current legislation of Indonesia enough to ensure that Artificial Intelligence does not break Indonesian IPR laws, legislation that is not overly prescriptive and would stifle developments and regulations that is not underdeveloped which could result in rapid disruption and negative consequences due to the abuse of Artificial Intelligence?

In general on how Artificial Intelligence presents a complex relationship with Intellectual Property Rights. Raising challenges, Artificial Intelligence raises copyright infringement as it's entirely possible that Artificial Intelligence could be using data that is copyrighted. Determining patentability of AI inventions could be challenging as AI generated creations may not meet traditional patentability criterias. Usage of Artificial Intelligence also raises questions whether or not trade secrets can be protected if Artificial Intelligence is used in the process. And lastly if the Artificial Intelligence creates the content, who owns the copyright, would it be the AI developer, the AI system itself or the user who prompts the Artificial Intelligence.⁴

Intellectual Property Laws globally struggling to keep up with the pace of the development of AI. It is required that brands and companies need to educate themselves on the possible risks associated with AI generated content. If a brand is

⁴ Kelvin Chendrawan and Nathaniel Hardynatha, "Legal Analysis on The Digital Works Generated by Artificial Intelligence Under the Indonesian Copyright Law" 2, no. 1 (2024): 270–83.

considering employing AI-generated material for its own marketing or product design, it should be aware that AI can create content that violates third-party intellectual property, such as trademarks or copyright images.⁵ It is critical that they have the legal right to use AI-generated content.

According to an article published by James Godefroy.⁶ Some of the steps that brands or companies should take are:

- a. **IP Assessment:** Companies will need to perform audits of their intellectual assets to find value that is not already protected. Potential infringement of third-party rights must also be investigated and risks estimated with professional aid. This will also help students comprehend the extent of their own and third-party rights.
- b. **Copyright Protection:** Clear evidence of copyright protection should be in place, so that if AI-generated content threatens the brand's ownership, the brand owner can provide sufficient evidence to prevail in a dispute. This should be implemented in all nations where a brand has a presence. Blockchain-based solutions can help secure immutable evidence when traditional recordkeeping systems are unavailable or too expensive.
- c. **Patenting:** AI solutions are notoriously difficult to patent, and IP professionals and courts are always discussing what is and is not patentable. Companies will need to contact an intellectual property consultant to determine which aspects of their idea to patent in order to provide the most protection against infringement. An expert can also offer advice on the 'how'.
- d. **IP Policy Development:** Companies should create explicit IP policies outlining their expectations for using and protecting their intellectual property assets. This can help to guarantee that employees, partners, and third parties understand their rights and obligations related to intellectual property protection.

⁵ Natasha Nathalie Ratulangi, Ivone Sianjaya, and Ivena Alodia, "Analisa Yuridis Mengenai Tanggung Jawab Penyelenggara Sistem Elektronik Atas Counterfeit Goods Dari Merek Terdaftar," *Anthology: Inside Intellectual Property Rights* 2, no. 1 (2024): 169, 174, 175, <https://ojs.uph.edu/index.php/Anthology/article/view/8258>.

⁶ <https://rouse.com/insights/news/2024/how-does-artificial-intelligence-affect-intellectual-property-protection#:~:text=AI%20technologies%20can%20help%20to,of%20AI%20on%20IP%20rightsholders>.

Even with the steps taken, it is still unsure if the risks have been mitigated and the process of Artificial Intelligence generating content will still come with legal risks.

C.1 Legal Risks

To further understand the legal risks of Intellectual Property Rights. We have to understand what laws and regulations in Indonesia which could possibly not be adhered to by users who create Artificial Intelligence generated content. According to Article 27:

1. Everyone has the right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author

There are serious questions about whether using artificial intelligence (AI) to create content complies with Article 27 of the Universal Declaration of Human Rights (UDHR). Which asserts the right to participate in cultural life and to benefit from scientific advancement. Artificial Intelligence often generates content that mimics or reproduces existing works. This practice may go against the original authors' property rights, undermining their ability to benefit from what they created.

The use of copyrighted materials to train Artificial Intelligence models could lead to the unauthorized reproduction of content which would affect the economic interests of the original creators.⁷ This infringement could go against the essence of Article 27 which emphasizes the protection and authorship and the right to benefit from one's own work. Artificial Intelligence may also produce misleading or false information which may manipulate public opinion and hinder the citizens of Indonesia's ability to form independent thoughts on the matter, this manipulation poses a direct threat to the freedom of thought and opinion, which are integral

⁷ Fajar Sugianto, Astrid Athina Indradewi, and Yohanie Mareta, "Book Pirates and Copycats : Infringement That Speaks For Itself" 2, no. 1 (2024): 259–69.

components of Article 27. The impact on freedom and expression due to Artificial intelligence content generation has a effect. Artificial Intelligence role in content moderation can lead to misinterpretation of legitimate expressions. AI can erroneously censor content which is legal and protected under freedom of expression laws, which would affect marginalized voices. This overreach could stifle cultural participation and the diversity of ideas, which are essential for a vibrant cultural life as outlined in Article 27.

Law Number 28 of the Year 2014 on copyright, Is the Indonesian Legislation that regulates copyright. Copyright is an intellectual property in the fields of scientific, artistic and literary works that has a strategic role in supporting the development of the nation and promoting general welfare as mandated by the 1945 Constitution of the Republic of Indonesia. Article 1 Paragraph 1 of Law Number 28 Year 2014 states that Copyright means an exclusive right of the author vested automatically on the basis of declaratory principle after works are embodied in a tangible form without reducing by virtue of restrictions in accordance with the provisions of laws and regulations.⁸ Article 1 Paragraph 2 states that the meaning of Author is person or several persons who individually or jointly produce works that are unique and personal. Article 1 Paragraph 3 states that Works mean any scientific, artistic, and literary works resulted from inspiration, ability, thought, imagination, dexterity, skill or expertise expressed in a tangible form. Article 1 Paragraph 4 states that Copyright Holder means an Author as the Copyright owner, the party acquiring a lawful right from the Author, or other parties who acquire subsequent rights from the party acquiring lawful rights. Indonesian copyright law does not address these AI-related issues explicitly and urgently needs more detailed regulation. The scope of the fair use doctrine is provided for under Articles 43 to 51, featuring educational, research, and critical uses. However, the aspect of fair use within AI training remains highly

⁸ S R Giovani and S S Entoh, "Peran Hak Kekayaan Intelektual Terhadap UMKM Ditinjau Dari Aspek Hukum Dan Ekonomi Indonesia," *Anthology: Inside Intellectual Property Rights*, 2024, 184–207, <https://ojs.uph.edu/index.php/Anthology/article/view/8259%0Ahttps://ojs.uph.edu/index.php/Anthology/article/viewFile/8259/3881>.

controversial, especially in cases where AI-generated works compete with original works or hurt their market value.

Likewise Artificial Intelligence generated content may cause conflict against Law Number 28 of year 2014. According to Article 1 paragraph 3, a work must be original and fixed in a tangible form to qualify for copyright. This raises two issues as first, Artificial Intelligence generated content possibly might not be work resulted from inspiration, ability, thought, imagination, dexterity, skill or expertise in a tangible form. Second, Artificial Intelligence may generate content based on someone's skills or expertise that has been copyrighted. The law stipulates that only creations made by individuals or groups can be copyrighted, which emphasizes that the creator must exhibit personal expression and originality in their works. As Artificial Intelligence generated content lacks human authorship. Works generated by AI would not meet the originality requirement of Article 1 Paragraph 3 of the copyright law and consequently these works could not be granted copyright as it lacks the necessary human authorship. Artificial Intelligence also generates content based on existing datasets which may include copyrighted materials. This raises the issue of going against Article 9 paragraph 3 of Law number 28 Year 2014, where it states that Every person is prohibited from exercising Reproduction and/or Commercial Use without any permission from the Author or the Copyright Holder. Failure to acknowledge any original creator works used in the AI generated content could lead to potential copyright infringement.⁹ Currently, Indonesian law does not recognize Artificial Intelligence as a legal entity capable of holding rights or obligations, because of this, it complicates the process of copyright ownership for AI generated works and without legal personhood, AI cannot be considered an author under the law. Similarly stated by Mr Justriari P Kusumah¹⁰ there are two conditions that a work must meet to be granted copyright protection under the Indonesian Copyright Law. The first condition is that the work must be original, personal, and the product of the author's inspiration,

⁹ Sergio Felix, Akhsa Soendoero, and Arizal Tom Liwafa, "Mengungkap Melodi : Membongkar Hak Royalti Atas Hak Cipta Lagu Di Industri Musik Digital Indonesia," *Anthology: Inside Intellectual Property Rights* 2, no. 1 (2024): 1–27.

¹⁰ <https://www.kk-advocates.com/news/read/copyright-and-generative-ai-does-indonesian-copyright-law-protect-ai-generated-works>

talent, creativity, imagination, dexterity, skill, or knowledge. Except for entering text prompts, generative AI involves little to no human intervention in the creation of the works; instead, an algorithm creates them. The second prerequisite relates to who is deemed an author under the Indonesian Copyright Law. "A person or several persons who individually or jointly produce works that are unique and personal" is how the Indonesian Copyright Law defines an author. Indonesian legal doctrine divides people into "natural persons" and "legal persons," even though the country's copyright law does not precisely define who is a person. Legal persons are entities established by or in conformity with the law, such as sovereign governments or limited liability businesses, whereas natural persons are actual, live human beings.

Law Number 13 of the Year 2016 on patent, Is the Indonesian Legislation that regulates patents. Patent is an intellectual property granted by the state to the inventor for his/her invention in the field of technology entailing strategic roles to support the development of the nation and improving public welfare. In this law Article 1 paragraph 1 defines Patent as an exclusive right granted to the inventors by the state as the result of his/her invention in the field of technology for a definite period of time to exclusively implement his/her given invention or to give consent to other party. Invention as defined in Article 1 Paragraph 2, means an idea of an inventor embodied into a specific problem-solving activity in the field of technology in the form of product or process, or refining and developing product or process. Inventor as defined in Article 1 Paragraph 3 means the person or persons collectively executing an idea in an activity to produce an invention.

Artificial Intelligence generated content, or inventions in this case, causes potential challenges to the Law Number 13 of the Year 2016 which governs patents. According to Article 1 paragraph 2, this law defines an inventor as one or more than one person who jointly implements ideas that are poured into the activities that produce the invention. This definition explicitly states that an inventor must be a human, which means Artificial Intelligence is excluded from this law as they do not identify as humans and therefore cannot be recognized as an inventor under this law. The inability of Artificial Intelligence to qualify as an inventor would mean that

inventions produced by Artificial Intelligence systems could not be patented, which means that the current laws of Indonesia lack protection under the current patent laws and potentially stifling innovation in fields that artificial Intelligence is heavily reliant on. The case of the Geprek Bensu trademark is one of the most exciting examples that Indonesian Trademark Law Law No. 20 of 2016 underlines for determining critical problems in ascertaining ownership rights and tackling disputes related to similar marks. The case was that of a famous public figure, Ruben Onsu, who filed a lawsuit against the mark Geprek Bensu derived from his name for which he claimed exclusive rights.¹¹ The Supreme Court ruled that PT Ayam Geprek Benny Sujono defeated Putusan No. 575 K/Pdt.Sus-HKI/2020, after which the Court ordered that AGBS could prove that it had applied and used the "I Am Geprek Bensu Sedep Bener" trademark before the defendant of the claimant Ruben Onsu. This decision developed the first-to-file rule of Indonesian trademark law which also clearly decided that a brand name must be judged from the standpoint of former applications and public recognition and not based upon the identity or celebrity status of an applicant. This case also raised concerns over possible marketplace confusion and stated that searches while registering a trademark should be transparent, particularly when AI-assisted tools are being used for conflict discovery.¹² The argument was also a good example of how legal certainty and the application of strict processes could prevent incorrect grants or rejections based on similar marks.

Law Number 20 of the year 2016 on trademark is the Indonesian Legislation that regulates trademarks. In this law, Trademarks means any mark used for goods traded collectively by a person or several persons or a legal entity to distinguish other similar goods. A mark means any sign capable of being graphically in the form of drawings, logos, names, words, letters, numerals, colors arrangement, in 2 (two) and/or 3 (three) dimensional shape, sounds, holograms, or combination of 2 (two) or more of those

¹¹ <https://ejournal.unis.ac.id/index.php/JournalMahasiswa/article/view/3223>

¹² Dean Kermite, Denis Mercury, and Enge Christina, "Hak Merek Untuk Memperkuat Citra Bisnis," *Inside Intellectual Property Rights* 2, no. 1 (2024): 110–28.

elements to distinguish goods and/or services produced by a person or legal entity in trading goods and/or services.¹³

Artificial Intelligence generated content may have issues considering the law on the trademark law of Law Number 20 of 2016 which governs trademarks. The contents of Law Number 20 of 2016 regulates that trademarks must be able to be distinctive and capable of distinguishing goods or services from those of other entities. It does not allow similarity to a level, and that marks that are similar to existing trademarks cannot be registered if they could cause confusion, and only people can own trademarks. Due to how Artificial Intelligence produces generated content. Trademarks generated by Artificial Intelligence may not be allowed as according to Article 21 the mark would not be allowed and refused if a mark is substantively similar to or identical with a prior registered mark or a well known mark. Since Artificial Intelligence generates their content based on existing data, this could end up as a issue.

Law Number 31 Year 2000 on industrial designs is the Indonesian Legislation that regulates Industrial Designs. In this law, to advance the industry which is competitive both in the national and international trade, it is necessary to create a conducive climate for the creations and innovations of the people in the field of industrial designs as a part of the intellectual property rights system.¹⁴ This is also stimulated by the diversity of the cultural and ethnic wealth of Indonesia which is a source for the development of industrial designs.

Artificial Intelligence generated content could cause issues when adhering to Law Number 31 Year 2000. Article 1 paragraph 2 states that a designer shall mean a person or several persons who produce an industrial design. Since Artificial Intelligence is not considered a person or a human, therefore cannot be recognized as a designer in this law. Similarly questions on authorship and originality arise in this case as copyrighting a industrial design requires a human creator. Since the work has

¹³ Cindy Rahmatya, Fobo Arazi, and Russell Victory, "Legal Protection Against Trade Secrets in Indonesia," *Universitas Pelita Harapan Academic Journal* 5, no. 8 (2019): 241–62.

¹⁴ Fajar Sugianto, "Butir-Butir Pemikiran Dalam Sejarah Intelektuil Dan Perkembangan Akademik Hukum Dan Ekonomi," *DiH: Jurnal Ilmu Hukum* 10, no. 19 (2014), <https://doi.org/10.30996/dih.v10i19.280>.

been created by an Artificial Intelligence and cannot hold copyrights or patents. This causes conflict on who owns the rights to the generated design. Article 1 paragraph 5 states that Right to Industrial Design shall mean an exclusive right granted by the State of the Republic of Indonesia to a designer for his creation for a given period to exploit his creation by himself or to give permission to another party to do so. If the designer is not a human, then who would own the rights? Article 2 paragraph 1 states that the right to Industrial design shall be granted for an Industrial design that is new. Due to how Artificial Intelligence generation works. There could be problems as the design could use a lot of data from various existing sources thus not making it new.

Law Number 30 Year 2000 on Trade secret is the Indonesian Legislation that regulates Trade secrets. In this law. To advance the industry which is competitive both in the national and international trade, it is necessary to create a conducive climate for the creations and innovations of the people by providing legal protection for trade secret as a part of the intellectual property rights system.

Law Number 30 Year 2000 was created and amended to ensure that the trade secret of whoever could have legal protection as a part of the intellectual property rights system. Article 1 states that Trade Secret shall mean information in the field of technology and/or business that is not known by the public and has economic values as it is useful in business activities, and the confidentiality of which is maintained by its owner.¹⁵ However, the usage of Artificial Intelligence to generate content that someone may consider a trade secret could conflict with the laws. Artificial Intelligence could possibly expose sensitive information if confidential data is imputed into AI tools or if the confidential data is created by AI itself.

C.2 In Depth discussions and studies on the current Matter

By now it is a given fact that Artificial Intelligence generated content could easily go against Intellectual Property Rights and the legislation around it. But what makes it a huge problem? The biggest problem is the fact that First, the users may not

¹⁵ Fajar Sugianto, Stevinell Mildova, and Felicia Christina Simeon, "Increasing Economic Performance Through the Rule of Law in Indonesia: Law and Economics Perspective" 140, no. *Icleh* (2020): 92–99, <https://doi.org/10.2991/aebmr.k.200513.019>.

understand, do not understand, or have little knowledge on the laws of Intellectual Property Rights, and second is the fact that Artificial Intelligence is so easy to use that as long as someone knows what the website of the AI content generator is, even a 5 year old kid with access to the internet would be able to use Artificial Intelligence content generators with ease.

Below will be an example of me using Artificial Intelligence, specifically ChatGPT, to write an article on why fish is great to have in meals. Without any editing, the content below will solely be created by Artificial intelligence.

Example of the use on Artificial Intelligence (ChatGPT):

“Why Fish is a Great Addition to Your Meals”

Fish has long been a staple in diets worldwide, and for good reason. This versatile protein source not only offers a delightful range of flavors and textures but also boasts a treasure trove of health benefits that make it a standout choice for meals. Here’s why incorporating fish into your diet is a fantastic idea.

1. Nutritional Powerhouse

Fish is packed with essential nutrients that support overall health. It’s a rich source of high-quality protein, which is crucial for muscle repair, growth, and energy. Additionally, fish provides a variety of vitamins and minerals, such as vitamin D (important for bone health), iodine (essential for thyroid function), and B vitamins (key players in energy production and brain function).

Fatty fish, such as salmon, mackerel, and sardines, are particularly prized for their omega-3 fatty acids—healthy fats that your body cannot produce on its own. Omega-3s are linked to numerous health benefits, including improved heart health, brain function, and reduced inflammation.

2. Heart Health Benefits

One of the standout advantages of eating fish is its heart-protective properties. Studies consistently show that consuming fish reduces the risk of cardiovascular diseases. Omega-3 fatty acids found in fish help lower triglyceride levels, reduce blood pressure, and decrease the risk of irregular heartbeats. The American Heart Association even recommends eating at least two servings of fish per week to reap these cardiovascular benefits.

3. Brain Boost

Fish is often referred to as "brain food" for a good reason. The omega-3 fatty acids, especially DHA (docosahexaenoic acid), play a crucial role in brain development and function. Regular fish consumption has been associated with improved memory, cognitive function, and a reduced risk of neurodegenerative diseases like Alzheimer's. In children, eating fish can support brain development and learning.

4. Weight Management

If you're looking to manage your weight, fish is an excellent addition to your meals. It is low in calories and high in protein, making it a filling and satisfying option that supports weight loss and muscle maintenance. The protein in fish also boosts metabolism and helps regulate appetite by increasing levels of satiety hormones.

5. Sustainability and Variety

Fish offers an incredible variety to suit all tastes, from the delicate flavor of cod to the rich, buttery texture of salmon. It can be prepared in countless ways—grilled, baked, steamed, or raw in sushi—making it a versatile choice for every cuisine.

Additionally, with a focus on sustainable fishing practices, enjoying fish can support the environment when sourced responsibly. Opting for sustainably sourced seafood ensures that fish populations remain healthy and ecosystems are preserved.

6. Boosts Mood and Mental Health

The benefits of fish extend to mental health as well. Omega-3 fatty acids have been shown to alleviate symptoms of depression and anxiety, contributing to an overall improved mood. Fish is also a natural source of tryptophan, an amino acid that the body uses to produce serotonin, often referred to as the "happiness hormone."

7. Easy and Quick to Prepare

For those with busy lifestyles, fish is a dream ingredient. It cooks quickly, making it a convenient choice for healthy, home-cooked meals. A simple grilled fillet with herbs, a squeeze of lemon, and a side of vegetables can be ready in under 20 minutes, making it an ideal option for weeknight dinners.

8. Final Thoughts

Fish is more than just a delicious and versatile protein; it's a powerhouse of nutrition that supports your heart, brain, and overall well-being. Whether you're trying to improve your health, manage your weight, or simply enjoy new flavors, fish can be an excellent addition to your meals. To make the most of this superfood, aim for two to

three servings a week and explore the wide variety of fish available to suit your palate and dietary preferences.

By embracing fish as part of your diet, you'll not only enjoy delicious meals but also set yourself on a path to a healthier, happier life.

This entire article on fish I have created with the use of ChatGPT, had taken me approximately around a minute and a half, Most of the time taken was waiting for the Artificial Intelligence to deliver the results, and around 10 seconds was what it took combined for me to type and start using the results on the article created by Artificial Intelligence. This alone shows the point on why Artificial Intelligence is very popular and widely used, as it barely takes any effort. However, while it is easy to use. As stated many times before, This article created solely by Artificial Intelligence could go against Intellectual Property Rights and its laws. This entire article was made out of existing data from the internet that is accessible by ChatGPT.

Let's assume the existing data used by ChatGPT has been copyrighted, patented or trademarked by various individuals or companies.

Like this text which uses data published by Creator 1:

If you're looking to manage your weight, fish is an excellent addition to your meals. It is low in calories and high in protein, making it a filling and satisfying option that supports weight loss and muscle maintenance. The protein in fish also boosts metabolism and helps regulate appetite by increasing levels of satiety hormones

And this text which uses data published by Creator 2:

Fish offers an incredible variety to suit all tastes, from the delicate flavor of cod to the rich, buttery texture of salmon. It can be prepared in countless ways – grilled, baked, steamed, or raw in sushi – making it a versatile choice for every cuisine.

Assuming that both creators had copyrighted their articles. ChatGPT has created an article that has used copyrighted articles as a part of its article without the consent of the owners of the articles. If I were to publish this article publicly created by ChatGPT. There are possibilities of getting in legal trouble. As I am going against Article 9 paragraph 3 of Law Number 28 of Year 2014, which states that the use of the copyright owner article without the consent of the owner is not allowed. This article

also denies me the ability to copyright the article. As Article 1 Paragraph 3 states that a work must be original and fixed in a tangible form to qualify for this work, which in this case this article is not. Article 1 Paragraph 2 states that the meaning of author is a person or several people who individually or jointly produce works that are unique and personal. The article about fish is not unique since it is solely created by Artificial Intelligence using existing data, and the fact that this was created by Artificial Intelligence and not a person. This further solidifies the prevention of me copyrighting the Artificial Intelligence generated article on Fish. This example goes similarly to other types of Intellectual Property such as trademarks and patents, where key factors such as the fact that a human is required and originality renders the Artificial Intelligence generated content to be unable to be copyrighted, patented, trademarked, or instead go against those laws.

A study by KK Advocates, Mr Justisiari P Kusumah, spreads awareness on this matter with similar thoughts on the journal. To be afforded copyright protection. There are two requirements that have to be fulfilled, the first requirement being that the work has to be unique and person, created from a result of inspiration, dexterity, expertise and skill. And the second requirement is whom the Indonesian copyright law, Law Number 28 of year 2014 considers a author. For the first requirement. Artificial Intelligence isn't eligible to this requirement as the creation is based on an algorithm of existing data, and that there is little to no human involvement on the process of creation. The second requirement, Artificial Intelligence isnt eligible either due to how the Indonesian Copyright Law considers an author. The Indonesian Copyright Law considers a author as a person or persons who jointly involves in the produce of a work which is unique and personal. A research done by Evita Isretno Israhadi states similar points to what have been discussed, but stated an important fact of information. Users of an Artificial Intelligence are still bound to the terms and conditions set by the Artificial Intelligence platform.

C.3 Potential Solutions

As we have come to the understanding on what the problem of Artificial Intelligence generated content may cause, there are potential solutions that based on our understanding and studies we may apply to hopefully improve the situation that we are facing currently.¹⁶ According to an Article by James Godefroy. Companies or entrepreneurs should take steps in IP Assessment, Copyright protection and Patenting. To determine unprotected value and evaluate possible risks of third-party infringement, businesses should perform comprehensive audits of their intellectual property. When conventional record-keeping is inadequate, blockchain can provide safe, unchangeable proof, and clear copyright protection is crucial, particularly in situations involving AI-generated content. Companies should consult with IP specialists to decide which components of their ideas to patent and how to best protect against infringement, given the difficulties involved in patenting AI technologies. A good solution to control the abuse of Artificial Intelligence generated content, is by ensuring that companies regarding AI implement a terms and service which adheres to Indonesia's laws, if companies refuse, failure to do this as a result we could block their web services and websites from being accessible in Indonesia¹⁷

It is also a known fact that the current legislation of Indonesia lacks laws and regulations specifically for Artificial Intelligence. Some potential solutions for the Indonesian legislation include:

Establishing a new legal framework. Indonesia should develop specific regulations that recognizes the role of Artificial Intelligence and the potential legal issues it may face in the future. To prevent this, new legislation is suggested to govern the use of Artificial Intelligence and how its generated content would adhere to Intellectual Property Rights. Some suggestions for a law for the different kinds of Intellectual Property Rights so we would be able to understand what may and may not be done with Artificial Intelligence would be that,

¹⁶ Akbar Nugroho and Davi Pandi, "The Issue of No Benchmark in Determining the Economic Value of Intellectual Property" 2, no. 1 (2024): 284-99.

¹⁷ <https://www.kk-advocates.com/news/read/copyright-and-generative-ai-does-indonesian-copyright-law-protect-ai-generated-works>

Suggestions on Adjustments/Improvements to Law 28 2014:

Eligibility on Copyright for Artificial Intelligence generated content is permitted if the generated content is considered personal and unique with the involvement of the person who used Artificial Intelligence to support their creation.

Artificial Intelligence generated content is not eligible for copyright if it lacks personal effort and uniqueness.

Artificial Intelligence generated content is not eligible for copyright if the generated content is entirely made up by the Artificial Intelligence. Or if it is believed that the Artificial generated content lacks any Human involvement, thus lacking personal and uniqueness.

Artificial Intelligence generated content is not allowed to replicate or reproduce existing data that has been copyrighted, with the exception of permission being granted by the copyright owner

Any use of Artificial Intelligence generated content without any human effort for the purpose of commercial use would not be eligible for copyright.

Suggestions on a Law that supports Article 27 of the Universal Declaration of Human Rights.

Article 27 of the Universal Declaration of Human Rights state that Everyone has the right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits and Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author. In my opinion what is required is a Law that allows Artificial Intelligence to support a person to freely has the rights of Article 27 without abusing the rights of others. Such as for example the support of Artificial Intelligence generated content used by the author for any production is allowed with the exception that Artificial Intelligence do not go against other people's rights.

Suggestions on Adjustments/Improvements for Law 13 Year 2016:

Law 13 Year 2016 laws on patent are about rights to protect inventions, and its key points includes originality and that inventors are required to be human. For my suggestion on Patent laws for Artificial intelligence, I suggest that a law regarding

Artificial Intelligence be added, such as a law stating that Artificial Intelligence generated content may be granted patent if Artificial Intelligence is used to support the inventor to a certain extent, let's say the invention is supported by Artificial Intelligence 20%. If the concept of the invention is original and only supported by artificial intelligence with the intent of the inventor to use AI as a supportive or inspiration tool. I would like to think that this would make Artificial Intelligence generated content acceptable. It is to be noted as well that copyrighted or patented works that Artificial Intelligence uses will definitely not be allowed, unless permission is requested by the inventor.

Suggestions on Adjustments/Improvements for Law Number 20 of the year 2016.

I would make a similar adjustment by addition of a law to how I suggested patent laws be improved/adjusted. Artificial Intelligence may be used to a certain extent to support the creator of a mark and be eligible for a trademark, without going against current Trademark laws, such as not allowing Artificial Intelligence to use data from a current existing trademark.

Suggestions on Adjustments/Improvements for Law Number 31 Year 2000.

Law Number 31 Year 2000 on Industrial Design regulates industrial design, Its key points in this problem includes that designers are to be human and that Artificial Intelligence created designs would have conflict with who owns the rights. In this case. I would suggest a law that Artificial Intelligence be allowed to support a designer in their design to a certain extent similar to my suggestion above, Allowing Artificial Intelligence supported designs that are considered original to be granted a exclusive right similar to other original designs by the State of the Republic of Indonesia.

Suggestion on Adjustments/Improvements for Law Number 30 Year 2000 on Trade Secret:

Law Number 30 Year 2000 on trade secret regulates trade secrets. In my opinion the use of Artificial Intelligence generated content to produce a trade secret must have a terms and services from the Artificial Intelligence platform. Stating that the use of Artificial Intelligence for confidential Information would not be the responsibility of the Artificial Intelligence or anyone involved with the development of the Artificial

Intelligence, This is because Artificial Intelligence is linked to the internet which already has its risks in the first place. This suggestion would be a way if People still would like to use Artificial Intelligence as a tool for their trade secret while knowing the risks.

D. Conclusion

In Conclusion. Artificial Intelligence generated content and Intellectual Property Rights currently do not align within each other and may cause many legal issues in the upcoming future. Currently this is a topic that is not discussed often by the public due to the very recent rise of Artificial Intelligence, causing people to not understand the potential risks, and the legislations of Indonesia which regulate Intellectual Property Rights lacking laws on Artificial Intelligence generated content. The current situation on the use of Artificial Intelligence generated content is very mainstream to the point that many kinds of digital content such as videos and logos are created with either the support of Artificial Intelligence or straight up created by Artificial Intelligence. Due to Indonesia lacks of Artificial Intelligence laws relating to Intellectual Property Rights, This raises many questions as to whether generated content by Artificial Intelligence is legal or not, Therefore an update or a new legislation on Artificial Intelligence specifically in this case in relation to Intellectual Property Rights is required to ensure that the use of Artificial Intelligence will not be abused for unfair situations, but at the same time to ensure that Artificial Intelligence can be a valuable tool for the citizens of Indonesia.

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