Can Nonhuman Author? – Rethinking Copyright Through Algorithmic Authorship

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Copyright law grants copyright to authors for their works of originality. Authoring has been seen as a uniquely human activity. As a result, current copyright systems generally consider only humans to be capable of relevant intelligence and creativity and only permit a human person to author a work. With the rise of artificial intelligence (AI), machines seem to be capable of learning and produce works on its own. Whether copyright should be a uniquely human domain is not a new question, yet the development in AI has reopened it in a way that intelligent nonhuman animals have never been able to. This study discusses why AI attracts more attention in the legal scholarship than other nonhuman origins of potentially copyrightable works, how AI differ from a natural person in the process of producing new cultural works, and whether it is legitimate to treat AI works as non-copyrightable if audience is unable to tell their nonhuman origin. This study will attempt to address who can claim the copyrights of AI-generated works are copyrightable, but will mostly take the surge of the AI technologies and related copyright scholarship as an opportunity to rethink some basics of copyright law – what are the basic requirements, should the originality threshold remain so minimal, why we incentivize, who do we incentivize, etc.