

COMPLETION REPORT

School of Law, City University of Hong Kong

Tianxiang He

Subject of Research Project: **The Challenge of Artificial Intelligence to The Copyright Law and The Legislative Response : A Comparative Study between Japan and China**

Introduction

The rapid advancement of Artificial Intelligence (AI) technology has been globally recognized for its potential to drive national progress and competitiveness. Countries like Japan and China have released strategies to advance AI technology. This project examines how copyright law, particularly in China and Japan, impacts AI's progress and explores whether China can learn from Japan's experience.

This research investigated Japan's AI policies and revised copyright law, especially the inclusion of Article 47-7, which addresses AI analysis and data mining, and evaluate its effectiveness. AI can generate content similar to human creations, raising questions about the legal status and copyright exceptions for such content. Japan's proactive legislative approach could serve as a model for China, where copyright law remains relatively unchanged despite significant academic debate.

Research Findings

Japan's 2018 amendment to its copyright law, introducing exceptions for AI-related activities, offers a pragmatic framework that other East Asian countries could adopt. This new provision directly addresses the needs of AI developers, balancing the interests of copyright holders with technological advancements. Japan's approach is unique in that it considered its own legal tradition, rather than merely following the US model, when designing copyright exceptions related to Text and Data Mining (TDM).

In contrast, China's copyright law has not kept pace with these technological advancements. The 2020 revision of the Copyright Law of China did not include necessary amendments to address AI-generated content or related copyright exceptions. This gap could hinder China's AI development, given the ambiguity surrounding the legal status of AI-generated content and the narrow scope of copyright exceptions for activities like TDM.

We published the article "Battle between 'Long' and 'Short' Videos: Fragmented Uses, Diversified Purposes, and the Evolution of China's Copyright L&T Rules in the AI Era" under this project. It highlights the outdated and incomplete nature of China's copyright limitations and exceptions in the context of AI and AI-generated content. The U.S. approach, characterized by fair use analysis and the transformative use doctrine, has influenced China but remains restricted by the Berne Convention's three-step test. This analysis underscores the need for more flexible legal frameworks to support the burgeoning AI and short video sectors.

Impact and Future Directions

This research underscores the importance of adaptive copyright laws in the AI era. Japan's amendments provide a viable model that other East Asian civil law jurisdictions could follow. By adopting similar reforms, countries like China could foster a more conducive environment for AI development, aligning its legal framework with contemporary technological needs and international best practices.

Conclusion

Flexible and adaptive copyright laws are crucial for fostering innovation in the AI era. Japan's copyright law amendments present a model that balances the protection of copyright holders with the facilitation of AI advancements. China, by learning from Japan's legislative approach, could enhance its AI development and align its legal framework with modern technological requirements. This study advocates for legislative reforms that promote innovation while protecting intellectual property rights, contributing to the broader discourse on AI and copyright law.

Publication of the Results of Research Project:

Verbal Presentation (Date, Venue, Name of Conference, Title of Presentation, Presenter, etc.)

1. “The Copyright Limitations of the 2020 Copyright Law of China: A Satisfactory Compromise?”, at *The New Chinese Copyright Law Workshop*, organized by the Center for Law and Intellectual Property at Texas A&M University School of Law and Tsinghua University School of Law in China, on 17 June 2021.
2. “Towards A Regulatory Framework of AI-Copyright Crisis”, at *Asia-Pacific Europe Law Institutes Alliance (APELIA) conference 2021 | Artificial Intelligence (AI), Trade, and the Rule of Law*, organized by the British Institute of International and Comparative Law (BIICL) and APELIA, on 12 July 2021.
3. “The Copyright Limitations of the 2020 Copyright Law of China: A Satisfactory Compromise?”, at *13th IP Conference – the Innovation, Intangible Assets During and After the Global Pandemic*, organized by CUHK Faculty of Law, United States-China Intellectual Property Institute (USCIPI) and Asia Innovation and IP Society (AIIPS), on 30 July 2021.
4. “Towards A Regulatory Framework of AI-Copyright Crisis” at *ALSA Conference: Law, Technology and Change*, organized by Singapore Management University Yong Pung How School of Law and the National Yang Ming Chiao Tung University School of Law, on 8 October 2021.
5. “Towards A Regulatory Framework of AI-Copyright Crisis” at *Chinese law and global development: A past, present and future analysis*, organized by The University of Queensland, School of Law, on 30 November 2021.
6. “ChatGPT and Future Regulation of AI-generated Contents: Is Copyright Still a Suitable Solution?”, at the *Regime Evolution and Paradigm Shift: New Frontiers of International IP*, organized by Shandong University School of Law, on 19 August 2023.
7. “ChatGPT, Copyright and Future Regulation of AI-generated Contents”, at *2023 APCA Conference: Creative Content and New Technologies*, organized by Faculty of Social Sciences, Srinakharinwirot University, Bangkok, Thailand on 14-15 November 2023.
8. “Generative AI and Copyright Protection in China”, at *Seminar on AI and Copyright – Recent Developments of Japan and China*, organized by Waseda University School of Law, Tokyo, Japan on 11 December 2023.
9. “Generative AI and Human Authors: the Way Forward”, at *3rd IAS Annual Conference*, organized by the Institute of Advanced Studies in Humanities and Social Sciences, University of Macau, Macau on 2 December 2023.

Thesis (Name of Journal and its Date, Title and Author of Thesis, etc.)

Xie, Q. & He, T.* (2023), “Battle between “Long” and “Short” Videos: Fragmented Uses, Diversified Purposes, and the Evolution of China’s Copyright Limitation Rules in the AI Era,” 11(3) *Chinese Journal of Comparative Law*. <https://doi.org/10.1093/cjcl/cxae001>

Book (Publisher and Date of the Book, Title and Author of the Book, etc.)