Generative AI and Copyright Law

In recent times, Artificial Intelligence (AI) has gained rapid popularity, and has increasingly become part of an individual's life. Generative AI is a form of artificial intelligence that has the ability to generate content in response to prompt through a large database of examples being fed to the AI model.

GENERATIVE AI AND THE NIGERIAN LEGAL FRAMEWORK

Under Section 2(2) of Nigeria's Copyright Act 2022, a work must reflect sufficient human effort to possess original character before it can be protected. While Generative AI can produce content such as articles, logos, these outputs often rely on pre-fed data and lack the human creativity required by law. As a result, such AI-generated works may not qualify for copyright protection in Nigeria due to the absence of direct human intellectual contribution.

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Furthermore, the act states under S.3 that ideas, procedures, processes, formats, systems, methods of operation, concepts, principles, discoveries or mere data are not eligible for copyright. With Generative AI, it is the prompts that is given to the model which develops a response based on the existing database. However, the Nigerian courts have not yet been faced with cases of infringement of copyright by Generative AI, there is still room for the Nigerian legal framework to be further developed through litigation.

COMPARATIVE ANALYSIS

Under the European Union Law, copyright law in similar fashion, protect original works of authorship. The Court of Justice of the European Union held in the case Infopaq International A/S v Danske Dagblades Forening (C-5/08), that copyright protection requires that the work in question should contain elements which are the expression of the intellectual creation of the author of the work. Likewise in the U.S Courts, the case of Thaler v Perl mutter, further enhance the notion that without meaningful human involvement, works are not eligible for copyright protection

CONCLUSION

These show the general dissuasion against using Generative AI when developing one's creative works. This is as it is uncertain which content the AI model may be using to generate one's content. As such, although the prompt from the author may be original, the content created from Generative AI may not be.