



Is AI-generated content copyrightable?

CopyrightTips from experts* at [CopyrightsNow.com](https://www.copyrightsnow.com)

If your book includes AI-generated images or text from Chat-GPT or other tools... can you copyright it?

The topic of AI (Artificial Intelligence) is front-and-center in the news, as Congress is considering new laws to regulate its use - and many 'tech gurus' like Elon Musk and Steve Wozniak have advocated a temporary halt on artificial intelligence systems that are more powerful than GPT-4.

Despite these concerns, AI is becoming more prevalent and available to authors and creators... including ChatGPT plug-ins that enable writers to easily generate text. But will AI-generated content be copyrightable?

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Is AI-generated content copyrightable?

According to the U. S. Copyright Office, works created by AI - known as "generative AI" are technologies that generate "original" content based on prompts from humans.

USCO has received many "copyright applications that name AI as the Author or Co-Author or statements in the 'Author Created' or 'Notes' fields indicating content was produced by or with the assistance of AI.

Other applications have not disclosed the inclusion of AI-generated material but have mentioned the names of AI technologies in the title of the work or the 'acknowledgments' section of the deposit."

In response, the U.S. Copyright Office (USCO) recently announced new policy guidelines* on "Works Containing Material Generated by Artificial Intelligence".

How does U. S. copyright law treat AI-generated content?

USCO currently interprets AI-generated text and images as not protected under copyright law since they were produced by a machine based on prompts from humans.

In a recent case involving a graphic novel "Zarya of the Dawn", featuring AI-generated images, USCO determined that 'the text of the graphic novel as well as the selection, coordination, and arrangement of the Work's written and

visual elements' are protectable under copyright law'... but that AI-generated images were not protected.

For AI-generated material, USCO will consider whether the AI contributions are the result of "mechanical reproduction" or of an author's "own original mental conception, to which [the author] gave visible form."

If a work's traditional elements of authorship were produced by a machine, the work lacks human authorship and USCO will not register it.

For example, when an AI technology receives a prompt from a human and automatically produces complex written, visual, or musical works in response, then "traditional elements of authorship" were produced by the technology — not a human user — and therefore not copyrightable.

When your content includes an AI technology as part of the expressive elements, the generated material is not the product of human authorship and therefore that material is not protected by copyright and must be disclaimed in a copyright registration application.

When registering your work with software like CopyrightsNow**, an applicant should check: 'Pre-Existing 3rd Party Material' to limit the copyright claim by listing AI-generated contributions that are excluded from registration, such as:

Limitations:

- AI-generated Text
- AI-generated Images
- AI-generated Music

Applicants have a duty to disclose inclusion of AI-generated content in their work submitted for registration and an obligation to specifically disclaim that AI content from the copyright registration.

For example, a work that incorporates AI-generated text into a larger textual work should only claim the portions of the text that is human-authored. And an applicant who creatively arranges the human and non-human content within a work should fill out the "Author Created" contribution as: "Selection, coordination, and arrangement of [describe human-authored content] created by the author and [describe AI content] generated by AI."

Applicants should not list the AI technology or company that provided it as an Author or Co-Author simply because they used it when creating their work.

Applicants who fail to disclose material generated by AI risk losing the benefits of the registration. If the Office becomes aware that essential information to its evaluation of registrability "has been omitted from the application or is questionable," it may deny or cancel the registration.

Separately, a court may disregard a registration in an infringement action pursuant to section 411(b) of the Copyright Act if it concludes that the applicant knowingly provided the Office with inaccurate information, and the accurate information would have resulted in the refusal of the registration.

Therefore it is essential that authors and publishers fully disclose the use of AI-generated content in the original copyright application.

Note: Always consult with your attorney for specific legal advice based on your specific situation.

To start your copyright protection, click to [learn more](#) about registration NOW!

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** Federal Register: Works Containing Material Generated by Artificial Intelligence Reference
<https://federalregister.gov/d/2023-05321>*

*** CopyrightsNow has context-sensitive on-line help on each screen to provide more detailed information on how to fill-out the data-fields and recommended solutions for common situations*

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